

## **City of Flemingsburg Zoning Ordinance**

### ***PREAMBLE***

**WHEREAS**, the provisions of the Kentucky Revised Statutes (KRS 100.201-100.991) empower the City of Flemingsburg to divide the territory within the city's jurisdiction into zones in order to:

- promote public health, safety and general welfare;
- facilitate orderly and harmonious development and the visual and historic character of the city;
- regulate the density of population and intensity of land use in order to provide for adequate infrastructure, open space, light and air;
- provide for vehicle parking and loading space as well as to facilitate fire and police protection;
- prevent the overcrowding of land, blight, danger and congestion in the circulation of people and commodities, and the loss of life, health, or property from fire, flood or other dangers; and
- protect natural resources, public grounds and facilities, housing, transportation systems, the historic and central business districts, and other specific areas of the jurisdiction which need special protection by the City; and

**WHEREAS**, the City of Flemingsburg Planning Commission has prepared and adopted a statement of goals and objectives to act as a guide for the preparation of the Comprehensive Plan elements and this statement has been considered and adopted by the City of Flemingsburg and the Flemingsburg Planning Commission;

**WHEREAS**, the City of Flemingsburg Planning Commission has prepared a Comprehensive Plan, including a land use element, which is designed to serve as a guideline in the implementation of the goals and objectives, development principles and policies and in the establishment of standards, and said plan has been adopted by the Planning Commission;

**WHEREAS**, the Planning Commission has prepared a text and map of all zoning regulations in accordance with the City's Comprehensive Plan and has held a public hearing as required in Kentucky Revised Statutes; and

**WHEREAS**, the Planning Commission has submitted the text and map to the City of Flemingsburg and has obtained the City of Flemingsburg's approval: now

**THEREFORE BE IT ORDAINED AND ORDERED BY THE CITY OF FLEMINGSBURG AS FOLLOWS:**

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# **ZONING REGULATIONS OF FLEMINGSBURG, KENTUCKY**

## **1 GENERAL PROVISIONS AND DEFINITIONS**

### **1.1 TITLE**

This document shall be known and may be cited as the "City of Flemingsburg Zoning Ordinance".

### **1.2 PROVISIONS OF REGULATIONS DECLARED TO BE MINIMUM REQUIREMENTS**

In their interpretation and application, the provisions of these regulations shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and general welfare. Whenever the requirements of these regulations are at variance with the requirements of other lawfully adopted rules, regulations, ordinances, or resolutions, the most restrictive, or that imposing higher standards shall govern.

### **1.3 SEVERABILITY CLAUSE**

Should any section or provision of these regulations be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the regulations as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

### **1.4 REPEAL OF CONFLICTING ORDINANCES AND REGULATIONS, EFFECTIVE DATE**

All regulations, ordinances, or parts thereof in conflict with this zoning regulation or inconsistent with the provisions herein are hereby repealed to the extent necessary to give this regulation full force and effect. This regulation shall become effective from and after the date of its approval and adoption, as provided by law.

### **1.5 PLANS AND CONSTRUCTION IN PROGRESS**

To avoid any undue hardship, nothing in this zoning regulation shall be deemed to require changes in the plans, construction, or designated use of any building or premises on which an application for a permit was filed with the City of Flemingsburg prior to the date of adoption of this zoning regulation or amendment thereto, providing that the application meets all zoning and other requirements in effect on the date of said application. The issuance of said permit shall be valid only if it is exercised within one hundred and eighty (180) days from the date of issuance of said permit.

### **1.6 DEFINITIONS**

For the purpose of this ordinance, certain terms or words used herein shall be interpreted as follows:

- A. The word "person" includes a firm, association, organization, partnership, trust, company, or corporation, as well as an individual.
- B. The present tense includes the future tense, the single number includes the plural, and the plural number includes the singular
- C. The word "shall" is a mandatory requirement, the word "may" is a permissive requirement, and the word "should" is a preferred requirement.

D. The words "used" or "occupied" include the words "intended", "designed", or "arranged" to be used or occupied.

E. The word "lot" includes the words "plot" or "parcel".

**ACCESSORY USE OR STRUCTURE** - A use or structure on the same lot with, and of a nature customarily incidental and subordinate to the principal use of the primary structure. In residential zones, no accessory structure may exceed one-half the floor area of the primary structure.

**ACCESS, PRIMARY** - The vehicular way leading from a major street to the front of a shopping center, commercial enterprise or manufacturing facility, or to the primary entrance point.

**ACCESS, SECONDARY** - The vehicular way leading from a minor street to the primary access route, or from the main entrance point to other entrances.

**ADMINISTRATIVE OFFICIAL** - means any department, employee or advisory, elected or appointed body which is authorized to administer any provision of the zoning ordinance; subdivision regulations, and if delegated, any provision of any housing or building regulation or any other land use control regulation.

**AGRICULTURE** - The use of land for farming, dairying, pasturage, agriculture, horticulture, floriculture, viticulture, animal and poultry husbandry and the necessary accessory uses which are secondary to other agricultural activities such as packing, treating, or storing the produce. Agriculture does not include the feeding of garbage to animals or the operation or maintenance of a commercial stockyard or feed yard.

**ALTERATION, STRUCTURAL** - Any change in the supporting members of the building, such as bearing walls, columns, beams, or girders.

**AMUSEMENT** - A means of amusing or entertaining; recreation; diversion; games.

**BED AND BREAKFAST INN** - A small inn consisting of sleeping rooms with either shared or individual bathroom and kitchen facilities used by house guests for short durations and not intended for permanent residence except for owner/operators.

**BOARD OF ADJUSTMENT AND ZONING APPEALS** - An appointed board responsible for hearing requests for variances and conditional use permits as outlined in the zoning regulations. The board is also responsible for hearing appeals of determinations made by the administrative official.

**BUILDING** - Any structure designed or intended for the support, enclosure, shelter, or protection of persons, animals, or personal property.

**BUILDING, ACCESSORY** - A subordinate building detached from, but located on the same lot as the principal building, the use of which is incidental and accessory to that of the main building or use.

**BUILDING, HEIGHT** - The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs, and the mean height between eaves and ridge for gable, hip, and gambrel roofs.

**BUILDING PERMIT** - A document issued by a Building Inspector authorizing the construction, modification or renovation of structures.

**CAPACITY** - The maximum number of vehicles that have a reasonable expectation of passing over a given roadway or section in one direction during a given time period under prevailing roadway and traffic conditions.

**CEMETERY** - Land used or intended to be used for the burial of animal or human dead and dedicated for cemetery purposes, including crematories, mausoleums, and mortuaries if operated in connection with and within the boundaries of such cemetery.

**CLINIC** - A place used for care, diagnosis and treatment of sick, ailing, infirm, or injured persons , and those who are in need of medical and surgical attention, but who are not provided with board or room or kept overnight on the premises.

**COMMERCIAL RECREATION**- A privately owned and operated facility that offers activities related to fitness, purposeful relaxation and/or games.

**COMPREHENSIVE PLAN** - A plan, or any portion thereof, adopted by the Planning Commission and/or the legislative authority of the City of Flemingsburg, Kentucky, showing the general location and extent of present and proposed physical facilities including housing, industrial and commercial uses, major streets, parks, schools, and other facilities. This plan establishes the goals, objectives, and general development policies of the community.

**CONDITIONAL USE** - A use permitted within a district other than a principally permitted use, requiring a conditional use permit and approval of the Board of Adjustment.

**CONDITIONAL USE PERMIT** - A document issued by the Administrative Official upon approval of the Board of Adjustment to allow a use other than a principally permitted use to be established within the district.

**CONVENIENCE STORE** - A small retail store selling general merchandise usually located off of arterial roads or highways.

**CORNER LOT** - A lot located at the intersection of two or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines of the foremost points of the side lot lines to the foremost point of the lot meet at one interior angle of less than 135.

**DENSITY** - A unit of measurement; the number of dwelling units per acre of land.

A. Gross Density: The number of dwelling units per acre of land to be developed.

B. Net Density: The number of dwelling units per acre of land when the acreage involved includes only the land devoted to residential uses.

**DWELLING** - Any building or structure, except a house trailer or mobile home of less than 960 square feet of living space, which is wholly or partly used or intended to be used for living or sleeping by one or more human occupants.

**DWELLING, SINGLE FAMILY** - Family dwelling consisting of a single dwelling unit only, separated from other dwelling units by open space.

**DWELLING, DUPLEX** - A dwelling consisting of two dwelling units intended for the use of two separate families, which may be either attached side by side, or one above the other, and each unit having a separate or combined entrance or entrances.

**DWELLING, MULTI- FAMILY** - A dwelling consisting of three or more dwelling units including condominiums with varying arrangements of entrances and party walls.

**DWELLING UNIT** - A single unit providing complete independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation.

**EASEMENT** - A legally authorized use for a defined area by a property owner to the public, a corporation, another person, or an entity for a specified purpose.

**FAMILY** - Any number of persons all of whom are related by blood, adoption, or marriage and are occupying a single family dwelling unit. Also includes one or more unrelated persons occupying a dwelling unit. No such family shall contain over five (5) unrelated persons.

**FLOODPLAIN** - The 100 year floodplain as shown on National Flood Insurance program maps or as determined by hydrologic calculations.

**FLOODWAY** - The channel of a water course and that portion of adjacent land needed for the passage of a 100-year flood. If no maps or hydrologic calculations are available, floodplain soils as designated in the Soil Survey for Fleming County, Kentucky (October 1993) shall be presumed to be within the floodway. These soils are designated by the following map symbols: Bs, Me, Mo, Ne, No, and Sx.

**FLOOR AREA OF A BUILDING** - The sum of the gross horizontal area of the several floors of a building, excluding basement floor areas not devoted to residential use, but including the area of roofed porches and roofed terraces. All dimensions shall be measured between interior faces of walls.

**GARAGES, PRIVATE** - A detached accessory building or portion of a principal building for the parking or temporary storage of automobiles, travel trailers, and/or boats of the occupants of the premises.

**GARAGES, PUBLIC** -A principal or accessory building other than a private garage, used for parking or temporary storage of passenger automobiles, and in which no service shall be provided for remuneration.

**HOME OCCUPATION** - Professional offices or personal services carried out for gain by a resident conducted as an accessory use in the residents dwelling unit.

**HOMEOWNERS ASSOCIATION** - A private, nonprofit corporation of homeowners and/or residents of a defined area for the purpose of owning, operating, and maintaining various common properties.

**HOTEL OR MOTEL AND APARTMENT HOTEL** - A building in which boarding or lodging are provided and offered to the public for compensation. As such it is open to the public unlike a boarding house, rooming house, lodging house, or dormitory which are separately defined.

**INFRASTRUCTURE**- The total composition of public, semi-public and private utilities, facilities and service which make urban areas sustainable. The term infrastructure includes roads,

rail, transit, sewer, water, storm drainage, all public utilities, educational facilities, police and fire services, recreation, general public health, public administration and revenue.

**INSTITUTION** - A facility designed and specifically used for a church, school, hospital, club, museum, civic, fraternal or charitable organization or entity conducting similar activities.

**JUNKYARDS**- The storage, salvaging, and sale of secondhand materials or old dilapidated machinery. Materials include motor vehicles, mobile homes, trailers, machinery, appliances, furniture, tires, building materials and scrap metal. The presence of two or more non operational motor vehicles on a lot for a time period exceeding thirty (30) days shall constitute evidence regarding the establishment of a junkyard.

**KENNEL** - A lot or facility in which dogs greater than four (4) months of age are maintained for sporting, show or commercial purposes. Commercial purposes include the grooming, breeding, boarding, training, raising and selling of dogs.

**LANDSCAPING** - The preservation, addition and maintenance of trees, bushes, plants, and/or other natural features for an area to produce an aesthetic appearance for socio-environmental reasons.

**LANDSCAPE SCREEN or BUFFERYARD** - A defined area composed of vegetation and/or structures located between conflicting types or intensities of land uses or activities. A landscape screen or bufferyard may include a combination of trees, bushes, earthen berms and/or landscaping fences. The purpose of a landscape screen or bufferyard is to minimize the potential negative impacts of noise, light, dust, dirt and differing visual effects of one use or activity upon another.

**LOADING SPACE, OFF STREET** - Space logically and conveniently located totally outside any street or alley right-of-way for bulk pickups and deliveries, scaled to delivery vehicles expected to be used and accessible to such vehicles when required off-street parking spaces are filled. Required off-street loading space is not included as off-street parking space in computation of required off-street parking space.

**LOT** - For the purpose of these regulations, a lot is a parcel of land of sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an existing public street. Street rights-of-ways shall not be included in the calculation of lot area.

**LOT COVERAGE** - The ratio of enclosed ground floor area of all buildings on a lot to the horizontally projected area of the lot, expressed as percentage.

**LOT FRONTAGE** - The front of a lot shall be constructed to be the portion nearest the street. For the purpose of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as indicated under Yards in this section.

**LOT, MINIMUM AREA OF** - The area of a lot is computed exclusive of any portion of the right-of-way of any public or private street.

**LOT MEASUREMENTS** - A lot shall be measured as follows:

- A. Depth of a lot shall be considered to be the distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rear most points of the side lot lines in the rear.
- B. Width of a lot shall be considered to be the distance between straight lines connecting front and rear lot lines at each side of the lot, measured at the building setback line, provided however, that the width between side lot lines at their foremost points (where they intersect with the street line) shall be less than eighty (80) percent of the required lot width.

**LOT OF RECORD** - A lot which is part of a subdivision recorded in the office of the county recorder, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

**LOT TYPES** - Terminology used in reference to corner lots, flag lots, interior lots, non-buildable lots and through lots is as follows:

1. *Corner Lot*: A lot located at the intersection of two or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than one hundred thirty five feet (135').
2. *Flag Lot*: A lot with access provided to the bulk of the lot through the means of a panhandle access corridor.
3. *Interior Lot*: A lot with only one frontage on a street.
4. *Non-Buildable Lot*: A lot which cannot be built upon due to its inability to comply with the minimum zoning requirements.
5. *Reversed Frontage Lots*: A lot on which frontage is at right angles to the general lot layout of the development. A reversed frontage lot may also be a corner lot.
6. *Through Lot*: A lot other than a corner lot with frontage on more than one street. Through lots abutting two streets may be referred to as double frontage lots.

**MANUFACTURING (INDUSTRY), HEAVY** - Manufacturing, processing, assembling, storing, testing, and similar industrial uses which are generally major operations and extensive in character; require large sites, open storage and service areas, extensive services and facilities, ready access to regional transportation, and normally generate some nuisances such as smoke, noise, vibration, dust, glare, air pollution, and water pollution, but not beyond the district boundary.

**MANUFACTURED HOME**.- A dwelling unit that: (1) is not constructed in accordance with the standards set forth in the Kentucky Building Code, and (2) is composed of one or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported to the home site on its own chassis, and (3) has a minimum living space of at least four hundred (400) square feet.

**MANUFACTURED HOME, CLASS A**.- A manufactured home constructed after July 1, 1976, that meets or exceeds the construction standards promulgated by the U.S. Department of Housing

and Urban Development that were in effect at the time of construction and that satisfies each of the following additional criteria:

- A. The minimum width of the main body of the home, as assembled in the site is not less than twenty four (24) feet as measured across sixty-five (65 percent of the total length);
- B. Has a minimum area of at least nine hundred sixty (960) square feet;
- C. The pitch of the home's roof has a minimum vertical rise of one (1) foot for each four (4) feet of horizontal run, and the roof is finished with a type of shingle that is commonly used in standard residential construction;
- D. The exterior siding consists of vinyl, wood, hardboard, or aluminum 7m (vinyl covered or painted, but in no case exceeding the reflectivity of gloss white paint) comparable in composition, appearance, and durability to the exterior siding commonly used in standard residential construction;
- E. A continuous permanent masonry foundation, solid except for required ventilation and access, is installed under the home; and even if said wall is not structurally required by the manufacturer's installation specifications; and
- F. The tongue, axles, transporting lights, and removable towing apparatus are removed after placement on the lot and before occupancy.

**MANUFACTURED HOME, CLASS B** -A mobile home constructed after July 1, 1976, that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction but that does not satisfy the criteria necessary to qualify the house as Class A manufactured home.

**MANUFACTURED HOME, CLASS C**- Any manufactured home that does not meet the definitional criteria of a Class A or Class B manufactured home including any dilapidated unit.

**MODULAR HOME** -A dwelling unit constructed in accordance with the standards set forth in the Kentucky Building Code and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation. Among other possibilities, a modular home may consist of two sections transported to the site in a manner similar to a mobile home (except that the modular home meets the Kentucky Building Code) or a series of panels or room sections transported on a truck and erected or joined together on the site.

**MOBILE HOME PARK**- A residential use located on a single lot where more than one (1) manufactured home (used for habitation) are parked, either free of charge or for revenue purposes; including any roadway, building, structure, vehicle, or enclosure used or intended for use as a part of the facilities for such park.

**NONCONFORMING USE OR STRUCTURE**- A building, structure, or use of land existing at the time of enactment of this regulation and which does not conform to the regulations of the district or zone in which it is situated.



**NURSING HOME-** A home or facility for the care and treatment of elderly or disabled people where the care is provided for twenty-four hours per day. This does not include residential care facilities as defined in KRS 100.984 or adult day care facilities as defined in KRS 205.010.

**OPEN SPACE-** An area open to the sky which may be on the same lot with a building. The area may include, along with the natural environmental features, swimming pools, tennis courts, and other recreational facilities that the Planning Commission deems permissive. Streets, structures for habitation, and the like shall not be included.

**PARKING SPACE, OFF-STREET-** For the purpose of this regulation, off-street parking space shall consist of an area adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room, but shall be located totally outside of any street or alley right-of-way.

**PERFORMANCE BOND OR SECURITY BOND-** As agreement by a subdivider or developer with the city for the amount of the estimated construction cost guaranteeing the completion of physical improvements according to approved plans and specifications within the time prescribed by the construction agreement.

**PLANNED DEVELOPMENT -** A defined land area to be planned and developed as a single development or an ordered series of developments. A planned development may include a variety of land use types and densities that are characterized by innovative designs. A planned development's design shall creatively address architectural design, location of structures, integration of differing land uses, access management, interior vehicular and pedestrian movement and access, stormwater management, landscaping, signage and the preservation of natural topography, drainage and vegetation.

**PLANNING COMMISSION-** Public agency empowered to prepare a comprehensive plan, zoning ordinance, subdivision regulations, special regulations and corridor or special studies. The planning commission is responsible for evaluating proposed land use changes and their conformance with any applicable plans or regulations.

**PUBLIC USES-** Public parks, schools, administrative, and cultural buildings and structures, not including public land or buildings devoted solely to the storage and maintenance of equipment and materials and public service facilities.

**RECREATION FACILITIES-** Public or private facilities that may be classified as either "extensive" or "intensive" depending upon the scope of services offered and the extent of use. Extensive facilities generally require and utilize considerable areas of land and include, but need not be limited to hunting, fishing, and riding clubs and parks. Intensive facilities generally require less land (used more intensively) and include, but need not be limited to, miniature golf courses, amusement parks, stadiums, and bowling alleys.

**RECYCLING CENTER -** A completely enclosed facility that collects, sorts and processes for shipment to a recycling plant recoverable resources such as newspapers, glassware, plastics and aluminum cans.

**RECYCLING COLLECTION POINT -** A neighborhood collection point for the temporary storage of recoverable resources. Does not include the processing of recoverable resources for shipment to a recycling plant.

**RECYCLING PLANT** - A facility that is not a junkyard and in which recoverable resources are recycled, reprocessed and treated in order to return such materials to a condition in which they may be used in the production of additional goods.

**RESIDENTIAL CARE FACILITY**- A facility designed and used to aid individuals in need of mental, therapeutic counseling, rehabilitation or other correctional facilities.

**RIGHT-OF-WAY**- A strip of land taken or dedicated for use as a public way. In addition to the roadway, it normally incorporates the curbs, lawn strips, sidewalks, lighting, and drainage facilities, and may include special features, required by the topography or treatment, such as grade separation, landscape areas, viaducts, and bridges.

**ROOMING AND BOARDING HOUSE** - A building designed or used to provide living accommodations for not more than six (6) occupants in which there are no cooking facilities for each occupant, or in which all occupants share common cooking facilities.

**SEAT**- For the purposes of determining the number of off-street parking spaces for certain uses, the number of seats is the number of seating units installed or indicated, or each twenty-four (24) linear inches of benches, pews, or space for loose chairs.

**SEMI-PUBLIC USE**- Churches, Sunday schools, parochial schools, colleges, hospitals, and other facilities of an educational, religious, charitable, philanthropic, or nonprofit nature.

**SERVICE STATION** - Buildings and premises where gasoline, oil, grease, batteries, tires, and motor vehicle accessories may be supplied and dispensed at retail, and where in addition motor vehicle services may be rendered secondary to retail sales.

**SETBACK LINE**- A line established by the subdivision regulations and/or zoning regulations, generally parallel with and measured from the lot line, defining the limits of a yard in which no building, other than accessory building, or structure may be located above ground, except as may be provided in said codes; (see Yards.)

**SIDEWALK** - That portion of the road right-of-way outside the roadway, which is improved for the use of pedestrian traffic.

**SIGHT DISTANCE** - The length of roadway ahead visible to the driver. The minimum sight distance available should sufficiently enable a vehicle traveling at or near the design speed to stop before reaching a stationary object in its path.

**SIGN** - Any device designated to inform or attract the attention of persons not on the premises on which the sign is located.

**SHOPPING CENTER** - A group of commercial establishments planned, developed, owned and managed as a unit, with off-street parking provided on the property.

**SITE OR DEVELOPMENT PLAN** - A plan prepared to scale showing accurately and with complete dimensioning the location of all proposed uses and all site development features for a specific site. A site or development plan addresses physical design, location of structures, access management, interior vehicular and pedestrian access, stormwater management, landscaping, signage, provision of all required improvements and the interrelationship of the various plan components (See Article 7).

**STORY** - The portion of a building between the surface of a floor and the ceiling immediately above.

**STRUCTURE**- Anything constructed or erected, the use of which requires location on the ground, or attachment to something having a fixed location on the ground. Among other things, structures include buildings, manufactured homes, modular homes, walls, fences and billboards.

**THOROUGHFARE, STREET, OR ROAD** - The full width between property lines bounding every public way of whatever nature, with a part thereof to be used for vehicular traffic and designed as follows:

- A. Alley: A minor street used primarily for vehicular access to the back or side of properties abutting on another street.
- B. Arterial Street: A general term denoting a highway primarily for through traffic, carrying heavy loads and large volumes of traffic, usually on a continuous route.
- C. Collector Street: A thoroughfare, whether within a residential, industrial, commercial, or other type of development, which primarily carries traffic from local streets to arterial streets, including the principal entrance and circulation routes within residential subdivisions.
- D. Cul-De-Sac: A local street of relatively short length with one end open to traffic and the other end terminating in a vehicular turnaround.
- E. Dead-end Street: A street temporarily having only one (1) outlet for vehicular traffic and intended to be extended or continued in the future.
- F. Expressway: A limited access multi-lane highway designed exclusively for unrestricted vehicular traffic having no private access with only interchanges at select arterials or major streets.
- G. Local Street: A street primarily for providing access to residential, commercial, or other abutting property.
- H. Parallel Street: A local street, parallel and adjacent to an arterial or collector street, providing access to abutting properties and protecting from arterial or collector streets. (also referred to as a frontage road).

**TOWNHOUSE** - A group of three or more single-family dwelling units constructed in a row of attached units separated by a common vertical wall and each having a separate lot and entrance at street level.

**USE** - The specific purpose for which land or a building is designated, arranged, intended, or for which it is or may be occupied or maintained.

**VARIANCE** - A variance is an exception granted from the literal enforcement of the zoning ordinance where, by reasons of exceptional narrowness, shallowness or unusual shape of a site, topographic conditions, or some other extraordinary situation or condition of that site, the literal enforcement of the dimensional requirements (height or width of a building or setbacks, but NOT intensity) of the zoning ordinance would deprive the applicant of reasonable capacity to make use of the land in a manner equivalent to those permitted other landowners in the same zone or

district. It is a departure from the dimensional terms of the ordinance where such departure meets the requirements of KRS 100.241 to 100.247.

**VETERINARY ANIMAL HOSPITAL OR CLINIC** - A place used for the care, grooming, diagnosis, and treatment of sick, ailing, infirm, or injured animals, and those who are in need of medical or surgical attention, and may include overnight accommodations on the premises for the treatment, observation and/or recuperation.

**VICINITY MAP** - A drawing located on a plat or development plan that sets forth by dimensions or other means, the relationship of the proposed subdivision or use to other nearby developments, landmarks, community facilities and services within the general area in order to better locate and orient the area in question.

**YARD** - A required open space other than a court unoccupied and unobstructed by any structure or portion of a structure from three (3) feet above the general ground level of the graded lot upward; provided accessories, ornaments, and furniture may be permitted in any yard, subject to height limitations and requirements limiting obstruction of visibility.

- A. Yard, Front: A yard extending between side lot lines across the front of a lot and from the front lot line to the front of the principal building.
- B. Yard, Rear: A yard extending between side lots across the rear of the principal building.
- C. Yard, Side: A yard extending from the principal building to the side lot line on both sides of the principal building between the lines establishing the front and rear yard.

**ZONING DISTRICT** - A mapped area to which different land use controls are imposed. These controls specify the allowed uses of land and building, the intensity of such uses, and the maximum height and minimum setbacks for any proposed structures.

**ZONING MAP AMENDMENT**- A change to the existing zoning district boundaries.

**ZONING ORDINANCE/REGULATIONS** - The minimum land use requirements for each zoning district, adopted for the promotion of the public health, safety and general welfare. Whenever the requirements of these regulations conflict with the requirement of any other lawfully adopted rules, regulations, ordinances, order or resolutions, the most restrictive, or that imposing the higher standards shall govern.

**ZONING PERMIT**- A permit issued by the Administrative Official authorizing the permitted use of a lot and/or structure and its accompanying characteristics.

## **2 GENERAL ZONING REGULATIONS**

### **2.1 APPLICATION OF REGULATIONS**

All existing and future structures and uses of premises within the City of Flemingsburg shall conform with all applicable provisions of this regulation. Each zoning district is established to permit only those uses specifically listed as permitted, except as hereinafter provided under the nonconforming provisions, and is intended for the protection of those uses. No other uses are permitted

### **2.2 GENERAL DEVELOPMENT REGULATIONS**

#### **2.2.1 COORDINATION WITH SUBDIVISION REGULATIONS**

In all cases where the ownership of land is divided for the purpose of eventual development of lots or installation of improvements of any kind (residential, commercial, or industrial) the provisions of the Flemingsburg Subdivision Regulations, including any and all amendments thereto, shall apply in addition to the provisions of the Zoning Regulations.

#### **2.2.2 COORDINATION WITH BUILDING CODES**

In all cases involving the construction of a building - whether for residential, commercial, or industrial purposes and without regard to densities therein, the builder shall be required to furnish a signed and duly notarized statement from a certified electrician that state electrical codes have been fully complied with. In addition, all building construction projects must obtain a building permit prior to construction and a certificate of occupancy upon completion and prior to occupancy.

#### **2.2.3 APPROVED WATER SUPPLY AND SEWAGE DISPOSAL FOR BUILDINGS**

All primary structures located within the City shall be connected to the public water system. All commercial, industrial and multi-family facilities shall be connected to the public sewage system. Single-family residential structures located within 200 feet of the City's sewage collection lines shall be connected to the public sewage treatment system unless a written exemption is obtained from the manager of the Flemingsburg Sewer Department. Such exemption shall only be granted if physical obstructions, surface elevations or other factors prohibit providing service.

In every other case, individual water supply and sewage disposal must meet the requirements set by the state regulations. The County Health Department's certificate approving proposed and completed water and sewerage facilities must accompany applications for zoning permits.

#### **2.2.4 CONSTRUCTION WITHIN FLOODPLAINS AND FLOODWAYS**

No buildings or structures may be constructed within a 100-year floodplain or floodway which will increase flood heights or obstruct the flow of water. All development must be in conformance with the Flemingsburg Floodplain Ordinance.



## 2.3 CONDITIONAL USE REGULATIONS

Conditional uses may be permitted in districts as designated under the zoning district regulations, but only when specifically approved by the Board of Adjustment in accordance with KRS 100. Subdivisions, when permitted, shall be subject to the respective regulations governing their approval. All other conditional uses shall be subject to the following regulations:

- A. All Districts: The following conditional uses may be approved in all zoning districts:
1. Non-local public utility and private transmission lines and pipes.
  2. Radio, TV, and telephone transmission structures (including wireless facilities when approved by the planning commission in accordance with the city's wireless facilities ordinance).
  3. Large utility structures and public service buildings.
  4. Government buildings and uses.
- B. Specified Districts: Other conditional uses may be approved only in those zoning districts where they are designated as conditional uses after the zoning district regulations schedule.
- C. Procedure: An applicant shall submit an application for a conditional use permit to the Administrative Official, and the applicant shall follow all procedures set forth in this regulation and KRS 100. The Administrative Official shall refer the application to the Board of Adjustment.

The Board of Adjustment is authorized by KRS 100 to grant, modify, or deny a conditional use permit. Other regulations for conditional use permits are as follows:

1. The Board of Adjustment may attach necessary conditions such as time limitations, requirements that one or more things be done before the request can be initiated, or conditions of a continuing nature. Any such conditions shall be recorded in the Board's minutes and on the conditional use permit, along with reference to the specific section in the zoning regulation listing the conditional use under consideration. The Board of Adjustment shall have the power to revoke conditional use permits or variances for noncompliance with conditions thereof. Furthermore, the Board shall have the right of action to compel offending structures or uses removed at the cost of the violator and may have judgment in person for such cost.
2. Granting of a conditional use permit does not exempt the applicant from complying with all of the requirements of this regulation and any other regulations and ordinances of the City of Flemingsburg that may relate to the specified use.
3. A conditional use permit shall be exercised within one (1) year from the date of issuance within the meaning of KRS 100 or shall be void unless an extension has been granted by the Board of Adjustment.
4. The Administrative Official shall review all conditional use permits, except for those for which all conditions have been permanently satisfied, annually and shall have the power to inspect the land or structure where the conditional use is located in order to ascertain that the landowner is complying with all of the conditions which are listed on the conditional use permit. If the landowner is not complying with all conditions listed on the permit the Administrative Official shall report this fact in writing to the Chairman of

the Board of Adjustment. The report shall state specifically the manner in which the landowner is not complying with the conditions on the conditional use permit, and a copy of the report shall be furnished to the Chairman of the Board of Adjustment. If upon hearing the report as required by KRS 100, the Board of Adjustment finds the facts alleged to be true and that the landowner has taken no steps to comply with them between the date of the report and the date of the hearing, the Board may authorize the Administrative Official to revoke the conditional use permit and to take the necessary legal action to cause the termination of the activity on the land which the conditional use permit authorizes.

5. Once the Board of Adjustment has completed a conditional use permit and all conditions required are of such type that they can be completely and permanently satisfied, the Administrative Official, upon the request of the applicant, may if the facts warrant, make a determination that the conditions have been satisfied and note the conclusion in the margin of the copy of the conditional use permit which is on file with the **Fleming** County Court Clerk, as required by KRS 100. Therefore, said use, if it continues to meet the other requirements of the regulations, will be treated as a permitted use.
6. All final plats approved by the Planning Commission and all variances and conditional use permits approved by the Board of Adjustment shall be recorded at the expense of the applicant in the office of the County Clerk within ten (10) working days of issuance of the variance or permit.

## **2.4 SPECIAL REGULATIONS**

### **2.4.1 MOBILE HOME PARKS**

- A. Intent: It is the intent of this section to regulate the location of and to encourage, stabilize, and protect the development of well-planned mobile home parks.
- B. Approval procedures: Mobile home parks shall contain no lots smaller than five thousand (5,000) square feet and shall be located only in an MHP district, and shall be developed according to the general standards and regulations stated in Item C, below. A development plan approved in accordance with Section 7.4 is required prior to the construction or occupation of any mobile home park. All homes placed for occupation in a mobile home park are required to have a zoning permit. Only Class A and Class B manufactured homes are permitted in mobile home parks. Class C manufactured homes are considered nonconforming structures.
- C. General standards for mobile home parks: The Planning Commission, shall review the particular facts and circumstances of each proposed mobile home park in terms of the following standards and shall find adequate evidence, as a condition of approval, showing that the mobile home park development:
  1. Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the character of the general vicinity.
  2. Will not be hazardous or detrimental to existing or future neighborhood uses.

3. Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, fire hydrants, street lights, drainage, refuse disposal, and schools or that the persons or the agencies responsible for the establishment of the proposed park shall be able to provide adequately any such services.
  4. Will be consistent with the intent and purpose of this regulation and the Comprehensive Plan.
  5. Will have vehicular approaches to the property which shall be so designed as not to create an interference or safety hazard with traffic on surrounding public streets or roads.
  6. Will not result in the destruction, loss, or damage of natural, scenic, or historic features of major importance.
- D. Mobile home park requirements: Mobile home parks shall meet the requirements of the Kentucky Mobile Home and Recreational Vehicle Park Act of 1972, Chapter 219.

#### 2.4.2 MANUFACTURED HOMES

- A. Class A manufactured homes are permitted in R-2 districts.
- B. Class B manufactured homes are **permitted in mobile home parks within the MHP district and as a conditional use in the R-2 district.**
- C. Class C manufactured homes are nonconforming structures in all districts.
- D. No manufactured homes shall be erected or placed for occupation within the city unless a zoning permit has been issued by the Administrative Official.
- E. Manufactured homes shall be oriented on lots in a manner similar to most surrounding homes unless otherwise approved by the Administrative Official as part of the zoning permit. For example, the narrow side of the base shall not be facing the street when surrounding homes have the long side of the house facing the street.

#### 2.4.3 SHOPPING CENTERS

Shopping centers are permitted only in the C-1 business district. A development plan must be approved in accordance with Section 7.4 prior to the issuance of a building permit for any shopping center.

- A. Intent: It is the intent of this section to regulate the location of, and to encourage the development of, well-planned shopping centers; and to fully integrate the development of shopping centers with the community's overall land-use, transportation, and utility potentials and goals. These intents provide for the specific purposes of:
  1. Minimizing any adverse effects of a shopping center on adjacent property values while providing for safe and efficient use of the shopping center itself.
  2. Providing for a functionally-efficient and aesthetically pleasing area in which to shop.
  3. Assuring that the area is designed and located so as to minimize traffic congestion on public highways and streets in the vicinity and to best fit the general land use patterns of the area to be served.



4. Assuring that adequate street and utility access is available.

**B. Dimensional and Design Standards for Shopping Centers:**

1. No permanent building or structure shall be located within thirty (30) feet of the right-of-way line of any public road, street or highway containing a right-of-way width of fifty (50) feet or less. No permanent building or structure shall be located within twenty feet of the right-of-way line of any public road, street, or highway with a right-of-way width of between fifty-one (51) and seventy-five (75) feet. No permanent building or structure shall be located within fifteen (15) feet of the right-of-way line of any public road, street, or highway containing a right-of-way width of seventy-six (76) or more feet.
2. The above requirement may be waived by the Planning Commission if it finds that said street is unlikely to be widened past current right-of-way limits within the next twenty (20) years, and that the literal enforcement of the above provision would result in an unnecessary and undue hardship to the applicant.
3. No primary access route from any arterial public road, street, or highway to any shopping center shall be located closer than one hundred (100) linear feet from the nearest intersection or within one hundred (100) feet of another primary access drive along the same arterial.
4. Marginal access streets (frontage roads) may be required parallel to and adjacent to any public road, street, or highway if deemed necessary by the Planning Commission to avoid traffic problems and congestion along adjacent arterial streets. When required, such frontage roads shall be not less than twenty-six (26) feet wide, which shall be improved and paved in accordance with accepted standards.
5. Parking spaces shall be required at the ratio of eight (8) spaces for the first one thousand (1,000) square feet gross floor area for all shopping centers, in addition to parking required by the appropriate schedule of district regulations.
6. Each shop or business shall be provided with a rear or side entrance that is accessible to a service drive. The service drive shall be in addition to and shall not be a part of the drive or circulation system used by the vehicles of customers or shoppers. The arrangement of truck loading and unloading facilities for each shop or business shall be such that in the process of loading and unloading no truck will block the passage of any other vehicles using the service drive or extend into any other private drive, street, avenue, or vehicular circulation system.
7. All shopping centers shall be permanently screened from adjoining residential districts that are immediately contiguous to the shopping center property.

#### **2.4.4 MULTI-FAMILY DWELLING UNITS & TOWNHOUSES DEVELOPMENT PLAN REQUIRED**

For all multi-family dwelling units (4 or more units) and townhouses, a development plan approved in accordance with Section 7.4 is required prior to issuance of a zoning permit.

Before approving the development plan, the Planning Commission may impose additional requirements pertaining to landscaping, screening, road requirements, open space and similar requirements. These additional requirements are to insure that the proposed development does not pose a safety hazard, will not adversely affect surrounding properties and will be aesthetically pleasing

Small apartment houses (up to four units) shall be permitted uses in the R-2 and R-3 residential zones, as indicated in the Schedule of District Regulations for these zones. Apartment complexes are a permitted use within the R-3 residential zone, except that the Planning Commission may attach both fencing and evergreen screening requirements as a condition for final plat or plan approval.

#### **2.4.5 HOME OCCUPATION**

- A. No person other than members of the family residing in an owner occupied residence shall be engaged in the home occupation except in a single family residence. In single family residences, up to two additional persons may be employed. However, one additional off-street parking space must be provided per employee.
- 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 floor area of the dwelling unit shall be used in the conduct of the home occupation.
- C. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of a home occupation. Only one sign, not exceeding four (4) square feet in area, non-illuminated, yard or wall mounted sign may be posted.
- D. No traffic shall be generated by such home occupation in greater volume than would normally be expected in a residential neighborhood. Any need for parking generated by the conduct of such home occupation shall meet the off street parking requirements as specified in this regulation, and shall not be located in a required front yard.
- E. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers, or causes fluctuations in line voltage off the premises.
- F. A home occupation permit shall be issued by the Board of Adjustment as a conditional use only in accordance to Section 2.3 of this regulation.

## 2.4.6 DAY CARE FACILITIES

### A. Definitions -

- a. **Child day care** means the provisions of supplemental parental care and supervision: (1) for a non-related child or children; (2) on a regular basis; (3) for less than 24 hours a day; and (4) under license or certification by the Kentucky Department of Human Resources. As used in this regulation, the term is not intended to include baby-sitting services of a casual, nonrecurring nature or in the child's own home. Likewise, the term is not intended to include cooperative, reciprocative child care by a group of parents in their respective domiciles.
- b. **Adult day care** means the provision of care for adults: (1) not related to the operator of the facility by blood, marriage, or adoption; (2) on a regular basis; (3) for less than 24 hours a day, and (4) in conformance with the regulations of the Kentucky Department of Human Resources.
- c. **Day care center** means a building or structure wherein an agency, person, or persons regularly provides care for a group of children or adults for periods of less than 24 hours a day. Day care facilities include family day care homes, Type I day care facilities, and Type II day care facilities. They do not include preschools, nursery schools or nursing homes.
- d. **Family day care home** means a family abode of a person or persons who regularly provides direct care during part of the 24-hour day to six or fewer children, under 12 years of age or three (3) or fewer adults, who are not related to the operator by blood, marriage or adoption.
- e. **Type II day care center** means a licensed or certified home or dwelling unit that regularly provides for the care of seven through 12 children or four through ten adults.
- f. **Type I day care center** means a licensed or certified facility other than a dwelling unit that regularly receives 4 or more children or adults for day care, or any facility, including a dwelling unit, which regularly provides day care for 13 or more children or eleven or more adults.

B. Intent: The City Council finds that affordable, good-quality, and licensed day care within the City of Flemingsburg is critical to the well-being of the community. Furthermore, it is the purpose of this regulation to make it easier to set up and operate licensed or certified day care facilities by simplifying the review and approval process. At the same time, these standards are intended to preserve the residential character of neighborhoods.

C. Family Day Care Home: A family day care home shall be permitted by right in all districts permitting residences, provided that:

- 1. State regulations are met, including those pertaining to building, fire safety, and health codes.

2. Lot size, building sizes setbacks, and lot coverage conform to those applicable to the zoning district.
3. One (1) off-street parking space is provided for each nonresident or non family member employee in addition to the two (2) spaces per single family or duplex unit required. The residential driveway is acceptable for this purpose.
4. If located on a major arterial street, an off-street drop-off/pick-up area must be provided.
5. Signage, if any, conforms to the requirements for the zoning district.
6. No structural or decorative alternation that will alter the single-family character of an existing residential structure or be incompatible with surrounding residences is permitted.

D. Type II Day Care Centers: A state licensed or certified Type II day care center is allowed in the designated zoning districts as follows;

1. A zoning permit (along with a copy of state license or certification) is obtained from the city.
2. Type II Day Care Centers providing adult day care must meet handicapped accessibility standards for walkways, entrances, doorways and bathrooms.
3. Residential Zoning Districts (R-1, R-2, and R-3). A Type II day care center may be allowed only upon issuance of a conditional use permit and provided the conditions set forth in Section 2.46(C) are met.
4. All Other Zoning Districts. A Type II day care center is permitted by right in all other zoning districts provided the conditions set forth in Section 2.46(C) of this regulation are met.

E. Type I Day Care Centers: A state certified or licensed Type I day care center may be allowed in the designated zoning districts as follows:

1. Limitation in Use of Family Residence. No Type I day care center shall be located in a private family residence unless the portion of the residence where those being cared for have access is used exclusively for their care during the hours the center is in operation or is separate from the usual living quarters of the family.
2. All Residential Zones. A Type I day care center may be allowed in R-2 and R-3 residential zoning districts only upon issuance of a conditional use permit and subject to the following conditions:
  - a. State licensing or certification requirements are met, including those pertaining to building, fire safety, and health codes.
  - b. Lot size, building size, setbacks, and lot coverage conform to those applicable to the zoning district.
  - c. Type I Day Care Centers providing adult day care must meet handicapped accessibility standards for walkways, entrances, doorways and bathrooms.

- d. Signage, if any, will conform to the requirements of the zoning district.
- e. A zoning permit (with a copy of a state license) is obtained from the city.
- f. At least one (1) on-site parking space must be provided for each on-duty staff person.
- g. An on-site vehicle turnaround, or separate entrance and exit points, and passenger loading area must be provided.
- h. A solid fence at least six (6) feet high must be installed along each side and rear-yard lot line.
- i. No structured area for active play or play structures may be located in a front yard or within ten (10) feet of a side or rear lot line.
- j. The site must be landscaped in a manner compatible with adjacent residences.
- k. No structural or decorative alteration that will alter the residential character of an existing residential structure used for day care is permitted. Any new or remodeled structure must be designed to be compatible with the residential character of the surrounding neighborhood.
- l. A Type I day care center shall not be located within three hundred (300) feet of another Type I or Type II day care center, excluding any day care center that is an accessory use in a community service facility.

3. All Other Zoning Districts: A Type I day care center is permitted by right in all other zoning districts subject to the following conditions:

- a. State licensing and certification standards and requirements are met.
- b. Setbacks, screening, and landscaping shall conform to the pertinent portions of the zoning code.
- c. Structure shall meet building, sanitation, health, traffic safety, and fire safety code requirements including handicapped accessibility standards.
- d. A minimum of one (1) off-street parking space shall be provided for each employee, plus an off-street drop-off/pick-up area.
- e. A zoning permit (along with a copy of a state license) is obtained from the city.

## **2.5 GENERAL REGULATIONS FOR LOTS AND YARDS**

### **2.5.1 OBSTRUCTION TO VISION AT STREET INTERSECTIONS**

The following shall apply in all but central business districts. Within the area defined by the intersection of any two right-of-way lines of streets, or of streets and railroads, and a straight line intersecting those two right-of-way lines at points forty (40) feet from their intersection, no obstruction to vision between a height of two and one-half (2 1/2) feet, and ten (10) feet above the imaginary plane defined by those three points of intersection are permitted. This regulation shall not, however, be deemed to prohibit any necessary retaining walls.

### **2.5.2 FRONT YARD REGULATIONS FOR DOUBLE-FRONTAGE LOTS**

Double-frontage lots shall, on both of the streets involved, meet the front yard regulations of the district in which they are located.

### **2.5.3 SIDE YARD REGULATIONS FOR CORNER LOTS**

On a corner lot, the front yard shall be determined by the orientation of the building located on the site. The setback for the front yard shall remain the same as that required in the applicable zoning district. However, the minimum side yard setback for side (including the corner) of the principal building facing the right-of-way shall be no more than five (5) feet less than the required front yard setback. Therefore, if a front yard setback requirement is twenty-five (25) feet, the side yard abutting the right-of-way must be a minimum of twenty (20) feet. Accessory buildings shall conform to setback lines established on both streets and conform to the requirements of Section 2.51 of this regulation. See also definition for “Yard” in Article 1.

### **2.5.4 APPLICATION OF YARDS TO ONE BUILDING ONLY**

No part of a yard required for any building may be included as fulfilling the yard requirements for an adjacent building.

### **2.5.5 USE OF YARDS FOR ACCESSORY BUILDING**

No accessory buildings are permitted in front yards or within six (6) feet of other buildings. Accessory buildings are permitted in rear or side yards but must comply with dimensional and area regulations.

### **2.5.6 FENCES, WALLS, HEDGES**

Notwithstanding other provisions of this regulation, fences, walls, and hedges may be permitted in any required yard, or along the edge of any yard as long as they do not obstruct the visibility at intersections as required in Section 2.5.1

## **2.6 USE EXCEPTIONS**

Several types of structures and uses which may or may not be listed as permitted uses in any district are nevertheless not prohibited from any district. These structures and uses, with required permits are:

A. No building permit, zoning permit or certificate of occupancy required:

1. Local public utility distribution and collection structures such as pipes and transmission lines, transformers, meters, etc. Large utility structures such as substations or wireless facilities (cellular towers) are permitted only as a conditional use.
2. Public streets and all appurtenances necessary for traffic direction and safety.
3. Private drives, private parking areas, and the parking of vehicles incidental to the principal use on the same premises.
4. Real estate signs located on the premises being advertised for sale or for rent, not to exceed a total of ten (10) square feet in area.



5. Signs not over four (4) square feet in area identifying permitted home occupations on the same premises.
6. Horticulture and landscaping of any premises.
7. Agriculture, but not including agricultural structures.

B. Churches are conditional uses in all zones, and must comply with overall yard and access requirements for the neighborhood as a whole and for the zone in question.

## **2.7 REGULATION OF PRINCIPAL BUILDING**

Only one (1) principal building and permitted accessory structures may be erected on any lot or parcel of land, unless a development plan has been approved by the Commission pursuant to Article 7 allowing multiple principal structures. Temporary structures are permitted *for office use only* during the construction phase of a project or a maximum of one (1) year. The administrative official may grant an extension of time for good cause shown. All temporary structures must be identified on the zoning permit application and approved prior to the issuance of a zoning permit.

## **2.8 EXCEPTIONS TO HEIGHT REGULATIONS**

The height regulations contained in the schedule of district regulations do not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.

## **2.9 STRUCTURES TO HAVE ACCESS**

Every building hereafter erected or moved shall either be on a lot adjacent to a public street, or with access or an approved private street or drive, and all structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection and required off-street parking.

## **2.10 SAFETY**

All lots and subdivisions shall be so laid out, and all structures shall be constructed so as to provide for the maximum in visibility during accessing and parking vehicular movements. Driveways shall be so constructed as to prevent children-vehicular conflict to the maximum degree possible.

## **2.11 WIRELESS FACILITIES**

The City of Flemingsburg, while recognizing the need to provide essential utilities to its citizens, shall require that all proposed cellular towers, antennas and other wireless facilities (referred to collectively as “wireless facilities”) be developed in a manner which retains the integrity of neighborhoods and the overall character, property values and aesthetic quality of life of the community at large. General development policies for the location of wireless facilities within zoning districts as conditional uses shall:

1. Ensure that wireless facilities are constructed in practical locations by allowing facilities that minimize the impact to residential neighborhoods.
2. Minimize the number of wireless facilities by requiring the use of existing structures and co-location where feasible.

3. Ensure that there is a minimal impact upon the visual environment by requiring adequate screening and/or aesthetically pleasing design.
4. Protect the public health, safety and welfare by requiring that the wireless facilities are adequately secured and encouraging the timely maintenance of structures. In addition, provisions for the removal of abandoned facilities is required.
5. All wireless facilities must be in conformance with the City of Flemingsburg Wireless Facilities Ordinance.



### **3 NONCONFORMING SITUATIONS**

#### **3.1 INTENT**

Within the districts established by this regulation or amendments that may later be adopted there are existing lots, structures, and uses of land, and structures which were lawful before this regulation was passed originally or amended but which would be prohibited, regulated, or restricted under the terms of this regulation or future amendment. It is the intent of this regulation to permit these non-conformities to continue until they are removed (they are “grandfathered in”), but not to encourage their survival. It is further the intent of this regulation that non-conformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

- A. Incompatibility of nonconforming uses: Nonconforming uses are declared by this regulation to be incompatible with permitted uses in districts in which the use is located. A nonconforming use of a structure and land in combination shall not be extended or enlarged after passage of this regulation by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which would be generally prohibited in the district in which such use is located.
- B. Avoidance of undue hardship: To avoid undue hardship, nothing this regulation shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this regulation and upon which actual building construction has been carried on diligently. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun prior to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

#### **3.2 NONCONFORMING LOTS OF RECORD**

- A. If any lot of record does not meet the minimum square footage requirements that are generally applicable in the district wherein said lot is located, and that lot existed at the effective date of adoption or amendment of this order, the owner may develop that lot in conformance with the dimensional (square footage) regulations, including the front yard setback requirements previously in effect. However, at least six (6) feet of open space must be left between the primary residential (and accessory structure) and the nearest existing building or residential structure located on adjacent property. The lot must then be developed in conformance with all other requirements of this order. Any variance of yard requirements shall be obtained only through action of the Board of Adjustment. Subdivisions which have been granted preliminary plat approval prior to the adoption of this order may be developed in conformance with dimensional regulations under which the preliminary plat approval was given. However, all other requirements of this ordinance must be met.
- B. If two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this regulation and if all or part of the lots do not meet the requirements established for lot width and area, the lands

involved shall be considered to be an undivided parcel for the purposes of this regulation and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this regulation nor shall any division or any parcel be made which creates a lot with width or area below the requirements stated in this regulation.

- C. The Board of Adjustment may amend the requirements for a landscaped separation strip where such a strip is required by the "Schedule of District Regulations", and where the lot in question does not conform to the width and general yard or lot requirements of the schedule, or where the restriction is unnecessary due either to a vacancy of the adjoining residential lot or its large size combined with relatively distant structural spacing. In no case, however, shall the width of the separation strip be reduced by more than 50 percent.

### **3.3 CONTINUATION OF NONCONFORMING STRUCTURES**

- A. Alterations: A nonconforming structure shall not be enlarged, replaced or structurally altered except as provided for in this regulation. Minor repairs to and routine maintenance of property where nonconforming situations exist are permitted and encouraged. Major alterations, i.e., work estimated to cost more than 25 percent of the appraised valuation of the structure to be altered may be done only in accordance with a zoning permit (and building permit, if applicable) issued pursuant to this regulation.
- B. Restoration: If a structure located on a lot where a nonconforming situation exists is *damaged* to an extent that the costs of repair or replacement would exceed 25 percent of the appraised valuation of the damaged structure, then the damaged structure may be repaired or replaced only in accordance with a zoning permit (and building permit, if applicable). This section does not apply to structures used for single-family residential purposes, which structures may be reconstructed pursuant to a building permit just as they may be enlarged and replaced in Section 3.3(E)
- C. For purposes of Section 3.3 (A) and (B):
1. The "cost" of renovation, repair or replacement shall mean the fair market value of the materials and services necessary to accomplish such renovation, repair or replacement.
  2. The "cost" of renovation, repair or replacement shall mean the total cost of all such intended work, and no person may seek to avoid the intent of Subsections (A) or (B) by doing such work incrementally.
  3. The "appraised valuation" shall mean either the appraised valuation for property tax purposes, or the valuation determined by a licensed property appraiser.
- D. The administrator shall issue a zoning permit authorized by this section if they find that in completing the renovation, repair or replacement work:
1. No violation of Section 3.3 will occur, and
  2. The permittee will comply to the extent reasonably possible with all provisions of this regulation applicable to the existing use (except that the permittee shall not lose their right to continue a nonconforming use).

Compliance with a requirement of this chapter is not reasonably possible if compliance cannot be achieved without adding additional land to the lot where the nonconforming situation is maintained or moving a substantial structure that is on a permanent foundation. However, mere financial hardship caused by the cost of meeting such requirements as paved parking does not constitute grounds for finding that compliance is not reasonably possible.

- E Notwithstanding Section 3.3(A), any structure used for residential purposes including existing manufactured homes and maintained as a nonconforming use may be enlarged or replaced with a similar structure of a larger size, so long as the enlargement or replacement does not create new non-conformities or increase the extent of existing non-conformities with respect to such matters as setback and parking requirements. This paragraph is subject to the limitations stated in Section 3.4(B) (abandonment and discontinuance of nonconforming situations).

### **3.4 CONTINUATION OF NONCONFORMING USES/SITUATIONS**

The lawful use of a building or premise existing at the time of adoption of any zoning regulation affecting it may be continued, although such use does not conform to the provisions of such regulations, except as otherwise provided herein:

- A. Extension: A nonconforming use shall not be extended, enlarged, or moved to occupy any portion of the premises, either land or structure, which was not originally occupied by the nonconforming use.
- B. Discontinuance: Whenever a nonconforming use of any premises or use of a nonconforming structure has been abandoned or discontinued for a period of three hundred sixty (360) days (with the exception of agricultural uses), no nonconforming use may be re-established on those premises. A use shall be considered discontinued when city utilities have been disconnected for a period of three hundred sixty (360) days.
- C. Changes: The Board of Adjustment shall not permit a change from one nonconforming use to another unless the new nonconforming use is in the same or a more restrictive classification.

## **4 ZONING DISTRICTS AND ZONING MAP**

### **4.1 ZONING DISTRICTS**

In order to classify, regulate, and restrict the use and location of buildings designed for specified uses, to regulate and determine the area of yards, courts, and other open spaces surrounding buildings, and to realize the general purposes set forth in the Preamble of this Ordinance, the City is divided into zoning districts. The specific purpose of each zoning district is set forth in Sections 4.2 through 4.10.

The City is divided into the following zoning districts. The schedule of District Regulations which follows this list sets forth the purpose and requirements for each zoning district.

- R-1 Low Density Residential
- R-1A Low-Moderate Density Residential
- R-2 Moderate Density Residential
- R-3 High Density Residential
- MHP Mobile Home Park
- C-1 Commercial District
- CBD Central Business District
- I-1 Light Industrial
- I-2 General Industrial
- P Public and Semi-Public
- ESA Environmentally Sensitive Area Overlay District

### **4.2 LOW DENSITY RESIDENTIAL (R-1)**

- A. Intent: The intent of this district is to provide for low density single family detached homes and supporting uses. This district consists of larger lot residential areas and located in areas where adequate infrastructure is available or proposed.
- B. Principal Uses: (Other uses substantially similar to those listed herein shall also be deemed permitted).
  - 1. Detached single-family residences.
  - 2. Ornamental parks, landscaped areas, open spaces, bikeway systems, trails and other pedestrian networks.
- C. Accessory Uses: (Uses and structures which are customarily accessory as clearly incidental and subordinate to permitted uses).
  - 1. Private garages and parking areas.
  - 2. Private swimming pools, tennis courts, and swing sets.
  - 3. Storage sheds, private greenhouses and gazebos.
  - 4. Private, noncommercial parks and open space.

5. Living quarters without cooking facilities and not rented for guests and employees of the premises.
  6. Family day care homes as regulated in Section 2.4.6.
- D. Conditional Uses: (Permitted only with Board of Adjustment approval).
1. Type II day care centers.
  2. Home occupations.
  3. Churches, Sunday schools and parish houses.(Site/Development Plan Required)
  4. Utility facilities.

#### **Lot, Yard and Height Requirements**

- A. Minimum lot size - 10,000 square feet
- B. Minimum lot frontage - 75 feet
- C. Minimum front yard depth - 25 feet
- D. Minimum side yard depth - 20 feet
- E. Minimum rear yard depth - 15 feet
- F. Maximum lot coverage - No limitation
- G. Maximum height of building - 35 feet
- H. Accessory uses shall only be located within the backyard, at least six (6) feet from an adjoining side or back lot boundary, the primary structure and other buildings.
- I. Off-street parking - A paved driveway and at least one paved off-street parking space.
- J. For lots of record and lots containing single family dwellings existing at the time of the adoption of this ordinance, a single family home may be constructed if the following regulations can be met:
  - a. Minimum lot area - Seven thousand five hundred square feet (7,500)
  - b. Minimum width - Fifty feet (50)
  - c. Minimum yards - Front yard: fifteen (15) feet, Side yard: ten (10) feet, Rear yard: Fifteen (15) feet

#### **4.3 LOW-MODERATE DENSITY RESIDENTIAL (R-1A)**

- A. Intent: The intent of this district is to provide for a more compact single family residential environment including those areas with small lots that were in existence prior to the adoption of zoning regulations. This zone is suitable for single family homes and supporting uses. Such districts shall be located where adequate infrastructure is available.
- B. Principal Uses: (Other uses substantially similar to those listed herein shall also be deemed permitted).

1. Detached single family homes.
  2. Ornamental parks, landscaped areas, open spaces, bikeway systems, trails and other pedestrian networks.
- C. Accessory Uses: (Uses and structures which are customarily accessory and clearly incidental and subordinate to permitted uses).
1. Private garages and parking areas.
  2. Private swimming pools, tennis courts, and swing sets.
  3. Storage sheds, private greenhouses and gazebos.
  4. Private, noncommercial parks and open space.
  5. Family day care homes as regulated in Section 2.4.6.
- D. Conditional Uses: (Permitted only with Board of Adjustment approval).
1. Home occupations.
  2. Type II day care centers.
  3. Utility facilities.
  4. Churches, Sunday schools and parish houses (site development plan required).

#### **Lot, Yard and Height Requirements**

- E. Minimum lot size - 5,000 square feet
- F. Minimum lot frontage - 50 feet
- G. Minimum front yard depth - 15 feet.
- H. Minimum side yard depth - 10 feet.
- I. Minimum rear yard depth - 15 feet
- J. Maximum lot coverage - No limitation.
- K. Maximum height of building - 35 feet.
- L. Accessory uses shall only be located within the backyard, at least six (6) feet from an adjoining side or back lot boundary, the primary structure and other buildings.
- A. Off-street parking - A paved driveway and at least one paved off-street parking space.
- N. For lots of record and lots containing single family dwellings existing at the time of the adoption of this ordinance, a single family home may be constructed if the following regulations can be met:
  - a. Minimum lot area - Four thousand two hundred fifty square feet (4,250)
  - b. Minimum width - Fifty feet (50)



- c. Minimum yards - Front yard: fifteen (15) feet, Side yard: eight (8) feet, Rear yard: Fifteen (15) feet

#### **4.4 MODERATE DENSITY RESIDENTIAL (R-2)**

- A. Intent: This district is intended to encourage moderate density residential development, including a compatible mixture of duplexes and triplexes with single-family residences in areas where adequate infrastructure is available. In new developments containing a mixture of densities, single-family homes shall be grouped separately from duplexes and triplexes.
- B. Principal Uses: (Other uses substantially similar to those listed herein shall also be deemed permitted).
1. Single family homes.
  2. Duplexes and triplexes.
  3. Class A manufactured homes.
  4. Apartments and townhouses with four or less units.
  5. Ornamental parks, landscaped areas, open spaces, bikeway systems, trails and other pedestrian networks.
- C. Accessory Uses: (Uses and structures which are customarily accessory and clearly incidental and subordinate to permitted uses).
1. Private garages, storage sheds and parking areas.
  2. Private swimming pools, tennis courts, and swing sets.
  3. Private, noncommercial parks and open space.
  4. Family day care homes as regulated in Section 2.4.6.
- D. Conditional Uses: (Permitted only with Board of Adjustment approval).
- |                                    |  |
|------------------------------------|--|
| 1. Home occupations.               | 4. Class B Manufactured homes containing   |
| 2. Utility facilities.             | a minimum area of 400 sq.ft. that meet     |
| 3. Type I and II day care centers. | the specifications of Class A Manufactured |
|                                    | Homes (except width and area requirements) |

#### **Lot, Yard and Height Requirements**

- E. Minimum lot size - 10,000 square feet (10,800 sq. ft. for duplexes, 11,700 sq. ft. for triplexes). For lots of record containing single family dwellings at the time of adoption of this ordinance, the minimum lot area size is 9,600 square feet. Connection to a public sewer system is mandatory for duplexes, triplexes and other multifamily units.
- F. Minimum lot frontage - 50 feet for single family, 75 feet for multifamily
- G. Minimum front yard depth - 20 feet.
- H. Minimum side yard depth - 10 feet.
- I. Minimum rear yard depth - 20 feet

- J. Maximum lot coverage - No limitation.
- K. Maximum height of building - 35 feet.
- L. Accessory uses shall only be located within the backyard, at least six (6) feet from an adjoining side or back lot boundary, the primary structure and other buildings.
- M. Off-street parking - A paved driveway and two parking spaces per unit, parking in the rear of multifamily units is preferred.

#### **4.5 HIGH DENSITY RESIDENTIAL (R-3)**

- A. Intent: This district is intended for multi-family residential uses containing four or more units with adequate open space and recreational facilities. It is mandatory for development in this district to be connected to a publicly maintained sanitary sewer system. A development plan must be submitted.
- B. Principal Uses: (Other uses substantially similar to those listed herein shall also be deemed permitted).
  - 1. Multifamily residential uses containing four or more units.
  - 2. Apartments, townhouses and condominiums.
  - 3. Parks and playgrounds.
  - 4. Laundromats for use of occupants only.
  - 5. Offices for administration and maintenance of multi-family complexes.
  - 6. Family day care homes as regulated in Section 2.4.6.
- C. Accessory Uses: (Uses and structures which are customarily accessory and clearly incidental and subordinate to permitted uses).
  - 1. The accessory uses permitted in the R-2 Zone.
- D. Conditional Uses: (Permitted only with Board of Adjustment approval).
  - 1. Home occupations.
  - 2. Utility facilities.
  - 3. Type I and Type II day care centers.

#### **Lot, Yard and Height Requirements**

- E. Minimum lot size - 10,800 square feet for multifamily units.
- F. Minimum lot frontage - 100 feet
- G. Minimum front yard depth - 25 feet.
- H. Minimum side yard depth - 10 feet.
- I. Minimum rear yard depth - 25 feet.



- J. .Maximum height of building - 50 feet, 35 feet if lot adjoins R-1, R-1A or R-2 district.
- K. Accessory uses shall only be located within the backyard, at least five (5) feet from an adjoining side or back lot boundary and at least six (6) feet from the principal structure.
- L. Off-street parking - A paved driveway and two parking spaces per unit if less than four units, 1.5 per unit for multi-family. Parking in the rear is preferred for multifamily units.

#### **4.6 MOBILE HOME PARKS (MHP)**

- A. Intent: The purpose of the Mobile Home Park District is provide an alternative type of dwelling within well-planned and desirable environments for individuals or families who do not prefer conventionally constructed dwellings and may not desire private property ownership. Such parks must have adequate open space, recreational facilities and be located in areas with adequate infrastructure and convenient accessibility. It is mandatory for development in this district to be connected to a publicly maintained sanitary sewer system. A development plan must be submitted.
- B. Principal Uses: (Other uses substantially similar to those listed herein shall also be deemed permitted).
  - 1. Individual Class B manufactured homes (mobile homes) having floor areas greater than four hundred (400) square feet. Site plan review will be required for a Mobile Home Park with individually owned lots and public streets.
  - 2. Recreational facilities as defined below:
    - a. General leisure, ornamental and other parks, spaces, trails, bikeways and similar uses;
    - b. Play lots or tot lots, playgrounds, play fields or athletic fields and other activities;
    - c. Basketball or tennis courts;
    - d. Swimming pools;
    - e. Picnicking, hiking areas and trails
- C. Accessory Uses: (Uses and structures which are customarily accessory and clearly incidental and subordinate to permitted uses).
  - 1. Offices for administration and maintenance.
  - 2. Carports and parking areas.
  - 3. Structures such as trailer skirting, fences and walls.
  - 4. Buildings such as storage sheds, private greenhouses and gazebos..
  - 5. Storage of recreational vehicle or unit where appropriate.
  - 6. Family day care homes as regulated in Section 2.4.6.

7. A dwelling unit of the family of the mobile home park owner-operator and/or resident manager including the accessory uses listed above and including a private garage, private swimming pools and recreational courts.

D. Conditional Uses: The following uses and appropriate accessories subject to the approval and qualifications of the Board of Adjustment provided: a) the activity is an integral and subordinate function of a permitted use; or b) is a functional activity of a mobile home park; c) the activity (except mobile home sales) is only for residents of the mobile home park; and d) the arrangement of uses, buildings or structures will be mutually compatible with the organization of permitted and accessory uses in this district.

1. Self service laundering and dry cleaning services.
2. Postal services.
3. Type I day care centers not located in a dwelling unit.
4. Clubhouses, community centers and similar common assembly or shared facilities.

#### **Lot, Yard and Height Requirements**

- E. Intensity - The intensity of use in a Mobile Home Park shall not average more than seven (7) mobile home units per acre.
- F. Minimum park size - The minimum size and extent of a Mobile Home Park district, including all the contiguous private property so designated shall not be less than five (5) acres.
- G. Minimum low width per mobile home - 50 feet
- H. Minimum front yard depth - 25 feet.
- I. Minimum side yard depth - 10 feet.
- J. Minimum rear yard depth - 25 feet
- K. Maximum height of mobile homes and accessory buildings - 35 feet.
- L. Accessory uses shall only be located within the backyard, at least six (6) feet from an adjoining side or back lot boundary, the primary structure and other buildings.
- M. Minimum standards - All permitted, accessory and conditional uses, buildings and structures in this district are subject to:
  - a. The supplemental parking/loading and signage regulations as defined in Article 5 and 6 of this ordinance.
  - b. Requirements of Kentucky Mobile Home and Recreation Vehicle Park regulations including KRS 219.310 through KRS 219.410; permits as required under KRS 219.310 through 219.410 shall be included with the application for site plan review.
  - c. Each mobile home shall be provided with adequate anchorage and tie-downs.
  - d. Any other requirements imposed by the Fleming County Health Department or local building codes.

- e. Each mobile home park shall have an appropriate landscape buffer, which shall be located along the perimeter of the site (see Article 5).

#### 4.7 COMMERCIAL DISTRICT (C-1)

- A. Intent: It is the intent of this district to provide areas for commercial development outside of the central business district. This development should be located along major highways and should be clustered with common highway access points wherever possible. Strip development with numerous highway access points is discouraged.
- B. Principal Uses: (Other uses substantially similar to those listed herein shall also be deemed permitted).
1. Professional offices such as real estate, insurance, financial, postal services and others that have low traffic generation rates (does not include medical offices or government offices).
  2. Physician, dental, optical goods and services.
  3. Veterinary services and pet grooming services (excluding the outdoor boarding of animals).
  4. Laundering, dry cleaning, alteration and garment repair and shoe repair operations.
  5. Establishments for the retail sale of food such as grocery stores, bakeries, meat stores.
  6. Restaurants including small fast food restaurants, ice cream parlors, bakeries, etc.
  7. Convenience stores.
  8. Banking services (including drive-thru facilities), savings and loan associations, credit unions and other credit services.
  9. Hardware stores.
  10. Recreation centers, gymnasiums, clubs and similar athletic uses.
  11. Personal service establishments such as beauty shops, barber shops, tanning salons, shoe repair, clothing repair, laundromats and cleaners.
  12. Other clearly retail uses which are considered to be compatible by the Planning Commission. Examples are stores selling clothing, shoes, fabric, electronics, hardware, hobby items, photo finishing, gifts and antiques, books, stationery and prescription drugs, florists and home decorating stores.
  13. Quick copy services not utilizing offset printing methods.
  14. Type I and Type II day care centers.
  15. Motion picture theaters (indoor).
  16. Motor vehicle sales and services.
  17. Hotels and motels.

18. Department stores (including those for home furnishings and apparel), mail order businesses, direct retail establishments.
  19. Places of amusement (bowling alley, skating rinks, miniature golf, etc.), assembly or commercial recreational facilities.
  20. Wholesale or retail outlet stores.
  21. Shopping centers.
  22. Manufacturing or processing establishments incidental to retail functions only with no more than 10 employees which are nonhazardous and nonpolluting and conducted fully within an enclosed building.
  23. Mobile home sales and services.
- C. Accessory Uses: (Uses and structures which are customarily accessory and clearly incidental and subordinate to permitted uses).
1. Parking areas or structures.
  2. Drive through facilities for the sale of permitted goods or services.
- D. Conditional Uses (Permitted only with Board of Adjustment approval).
1. Gasoline service stations and vehicle maintenance (car wash) facilities.
  2. Churches, synagogues, temples and other places of religious worship.
  3. Storage units.
  4. Public buildings, trade or vocational schools.
  5. Private clubs, lodges and social centers.
  6. Printing and typesetting operations that employ fewer than 25 persons.
  7. Shops of special trade and general contractors such as plumbing, heating, electrical, carpentry, painting, metal work, printing, publishing, major automobile and truck repair, sign painting, etc.
- E. Minimum lot size - 7,500 square feet.
- F. Minimum lot frontage - 75 feet.
- G. Minimum front yard depth - 20 feet.
- H. Minimum side yard depth - 10 feet.
- I. Minimum rear yard depth - 10 feet.
- J. Maximum lot coverage - No limitation.
- K. Maximum building height - 50 feet, 35 feet if located within 100 feet of a residential structure.
- L. Off-street parking spaces (paved):
1. Accessory dwelling and lodging units - two (2) spaces per unit
  2. Restaurants - one (1) per 100 sq. ft. of floor area
  3. Fast food establishments - one (1) per 30 sq.ft. of floor area
  4. Professional Offices - one (1) per 300 sq. ft. of floor area

5. Other Commercial Uses - one (1) per 200 sq. ft. of floor area

M. Special provisions:

1. A five foot privacy fence is required between shopping centers and residential properties.
2. Landscape buffers are required as regulated in Section 5.4.
3. Lighting or signage which causes a significant glare to adjacent residential uses is prohibited.

**4.8 CENTRAL BUSINESS DISTRICT (CBD)**

A. Intent: The intent of this district is to encourage sound expansion and renewal of the City's central business district.

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

1. Retail businesses and retail services.
2. Places of amusement and assembly, offices, hotels, motels, garages, automotive sales and services.
3. Manufacturing or processing establishments that do not create dust, smoke, noise, odor or other pollution outside the lot on which it is located and not employing more than 10 persons.
4. Personal service establishments.
5. Restaurants, convenience stores, grocery stores.
6. Professional offices, governmental offices, laboratories and facilities.
7. Public/semi-public uses such as libraries, vocational or technical schools, churches, nursing homes, funeral homes, medical offices.
8. Public utility installations, offices, storage and maintenance facilities.
9. Wholesale retail outlets.
10. Family day care homes, Type I and Type II day care centers as regulated in Section 2.4.6.
11. Single family homes with two off street parking spaces.

C. Accessory Uses: (Uses and structures which are customarily accessory and clearly incidental and subordinate to permitted uses).

1. Wholesale, warehouse and storage facilities.
2. Parks and open space.
3. Dwelling units occupying the same building as the principal business that are located behind or above the business when at least two off-street parking spaces are provided

#### 4.9 LIGHT INDUSTRIAL (I-1)

- A. Intent: The intent of this district is to provide for the manufacturing, wholesale businesses and related uses not involving a potential nuisance in terms of smoke, noise, odor, dust, heat, light, vibration or industrial waste. They should operate mostly within enclosed structures and generate low to moderate amounts of traffic. Consideration should be given to the relationship of this zone to surrounding land uses.
- B. Principal Uses: (Other uses substantially similar to those listed herein shall also be deemed permitted).
1. Wholesale business, storage, and warehousing
  2. Shops of special trade and general contractors such as plumbing, heating, electrical, carpentry, painting, metal work, printing, publishing, major automobile and truck repair, sign painting, etc.
  3. Laundry, clothes cleaning or dyeing shops.
  4. Ice plants.
  5. Tire retreading and recapping.
  6. Parking lots and structures.
  7. Machine shops
  8. Kennels, animal hospitals or clinics providing that such structures or area used (not including parking areas) shall be at least 100 feet from any residential zone.
  9. Sales, purchasing or feed, grain or other agricultural supplies or products.
  10. Establishments for the sale, display, rental or repair of all types of motor vehicles, farm equipment or contractor equipment.
  11. Establishments for the display and sale of precut, prefabricated or shell homes.
  12. Retail sale of building materials lumber, garden supplies, plant materials.
  13. The manufacturing, assembling, processing, packaging or similar treatment of such products as bakery goods, candy, ceramics, clothing, cabinets, electrical parts, signs, electronic instruments, food products, pottery, china, shoes, television receivers, toys, watches, clocks, optical goods, and plastics. Recycling, storing, baling and processing of glass, cardboard, nontenuous, metals and plastics.
  14. Recycling, sorting, storage, baling and processing of paper scrap shall be permitted only when wholly conducted in an enclosed building. This does not include automobile wrecking yards or junk yards.
  15. Transfer stations for handling of solid waste when conducted within an enclosed building and located more than 100 feet from any residential zone.
- C. Accessory Uses: (Uses and structures which are customarily accessory and clearly incidental and subordinate to permitted uses).



1. Off-street parking areas, structures and loading zones.
2. Recreational facilities.
3. Office buildings.
4. Retail sale of commodities manufactured, fabricated or processed on the premises.
5. Type I child care centers primarily for children of employees of the premises.

D. Conditional Uses: (Permitted only with Board of Adjustment approval).

1. Any manufacturing operation that will employ more than fifty (50) persons.
2. Concrete mixing and concrete products.
3. Cable television system facilities.
4. Any heavy industry producing moderate amounts of noise, odor, dust, smoke or other types of pollution.

**Lot, Yard and Height Requirements**

- E. Minimum lot size - 15,000 square feet.
- F. Minimum lot frontage - 100 feet.
- G. Minimum front yard depth - 20 feet.
- H. Minimum side yard depth - 25 feet.
- I. Minimum rear yard depth - 50 feet
- J. Maximum lot coverage - 50 percent
- K. Maximum height of building - 50 feet, 35 feet if within 100 feet of a residential structure.
- L. Off-street parking spaces:
  - a. Industrial Plants - Fifteen (15) spaces plus one (1) space for every two (2) employees on a single shift at maximum employment. In addition, one space shall be provided for every truck operated by the plant.
  - b. Other industrial or retail uses - one (1) for every 400 sq. ft. of floor area.
  - c. Vehicle repair or service shops shall have additional parking for estimated number of vehicles to be kept on site temporarily.
- M. Special provisions
  1. All uses shall be conducted in a completely enclosed building, except for outdoor storage uses which shall be enclosed on all sides by a solid wall or fence not less than six (6) feet in height.
  2. Landscape buffers are required as regulated in Section 5.4.
  3. No industrial building shall be located close than 100 feet to any residential district.
  4. Lighting or signage which causes a glare to adjacent residential districts is prohibited.



#### **4.10 GENERAL INDUSTRIAL (I-2)**

- A. Intent: This zone is intended for manufacturing, industrial and related uses that involve potential nuisance factors.
- B. Principal Uses: (Other uses substantially similar to those listed herein shall also be deemed permitted).
1. Any principal use permitted in the I-1 zone provided that all provisions outlined therein shall apply.
  2. Manufacturing, fabrication, assembly of any commodity.
  3. Wholesaling or storage of any article manufactured on site.
- C. Accessory Uses: (Uses and structures which are customarily accessory and clearly incidental and subordinate to permitted uses).
1. The accessory uses permitted in the I-1 Zone.
- D. Conditional Uses: (Permitted only with Board of Adjustment approval).
1. Boiler and tank works, mixing plants for the manufacture of cement, mortar, plaster, paving materials; coke ovens; plants for coal, wood, tar, foundries and metal fabrication plants.
  2. Fat rendering plants and establishments that cure, tan or store raw hides or skins.
  3. Soap and tar products.
  4. Slaughter houses and stockyards.
  5. Plants for the manufacture, processing or storage of acetylene, bleaches, ammonia, acid, disinfectants, dyes, turpentine, varnish and chemicals.
  6. Gasoline, oil or other petroleum products refining and storage.
  7. Manufacturing or storage facilities for explosives.
  8. Any planned industrial project which may employ more than 150 persons.
  9. Automobile wrecking, scrap iron storage or wrecking, junk yards.
  10. Solid waste transfer stations with facilities or operations not within an enclosed building.
  11. Fertilizer manufacturing.

#### **Lot, Yard and Height Requirements**

- E. Minimum lot size - 15,000 square feet
- F. Minimum lot frontage - 100 feet
- G. Minimum front yard depth - 20 feet
- H. Minimum side yard depth - 25 feet.

- I. Minimum rear yard depth - 50 feet.
- J. Maximum height of building - 50 feet, 35 feet if within 100 feet of a residential structure.
- K. Maximum lot coverage - 50% for structures
- L. Off-street parking spaces: Industrial Plants- Fifteen (15) spaces plus one (1) space for every two (2) employees on a single shift at maximum employment. In addition, one space must be provided for every truck operated by the plant.
  - a. Other industrial or retail uses - one (1) for every 400 sq. ft. of floor area.
  - b. Vehicle repair or service shops shall have additional parking for estimated number of vehicles to be kept on site temporarily.

M. Special provisions

- 1. All uses shall be conducted in a completely enclosed building, except for outdoor storage uses which shall be enclosed on all sides by a solid wall or fence not less than six (6) feet in height.
- 2. Landscape buffers are required as regulated in Section 5.4.
- 3. Lighting and signage which causes a significant glare to adjacent residential districts is prohibited.

**4.11 PUBLIC AND SEMI-PUBLIC (P)**

A. Intent: This district is intended for large scale or complex public and semi-public uses.

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

- 1. Public owned or noncommercial recreational facilities and conservation areas, fairgrounds, parks, play areas.
- 2. Schools, colleges or training schools.
- 3. Churches, cemeteries or places of worship.
- 4. Hospitals, clinics, nursing homes or medical buildings.
- 5. Type I day care centers.
- 6. Government buildings, offices or facilities.
- 7. Private clubs, lodges, social centers or community centers.
- 8. Private non-profit institutions.
- 9. Libraries, museums or art galleries.

C. Accessory uses:

- 1. Informational or admission booths.
- 2. Garages, storage buildings or maintenance buildings.

per dwelling unit for fewer than four units and 1.5 parking spaces per unit for four or more units in the same building.

D. Conditional Uses: (Permitted only with Board of Adjustment approval).

1. Drive-through facilities for sale of goods or products or provision of services otherwise permitted.
2. Private clubs, lodges, social centers, athletic clubs.
3. Printing, typesetting and newspaper publications that employ fewer than ten (10) employees.
4. Commercial buildings renovated for apartment usage when 1.5 off-street parking spaces are provided per unit.

**Lot, Yard and Height Requirements**

- E. Minimum lot size - 5,000 square feet.
- F. Minimum lot frontage - 50 feet.
- G. Minimum front yard depth - No limitation.
- H. Minimum side yard depth - No limitation.
- I. Minimum rear yard depth - No limitation.
- J. Maximum lot coverage - 80%
- K. Maximum height of building - 75 feet, 50 feet if lot adjoins residential district with no intervening street.
- L. Off-street parking - A paved off-street parking area with two (2) spaces for one to three dwelling units, 1.5 spaces for four or more dwelling units; restaurants, one (1) per 100 sq. ft. of floor area; other commercial uses, one (1) per 100 sq. ft. of floor area. For off street commercial uses, parking shall be located within 500 feet of the establishment served. Hotels or motels shall provide one (1) parking space per suite. Off street parking requirements for commercial structures may be modified by the Board of Adjustment for existing structures if warranted by general parking demand and availability; however, no new residential structures shall be approved unless off-street parking is provided as required.
- M. Exception to lot, yard and height requirements. Existing lots containing structures at the time of adoption of this ordinance may be excepted from the lot size and frontage requirements if an existing structure has been significantly damaged or destroyed due to fire or natural disaster. Where lot size and frontage requirements cannot reasonably be complied with, the administrative official is authorized to issue a permit for the repair or reconstruction of the structure if the following findings can be made:
1. The property cannot reasonably be redeveloped for the existing or proposed use without such deviations.
  2. These deviations are necessitated by the size or shape of the nonconforming lot, and
  3. The property can be developed as proposed without any significant adverse impact on surrounding properties, character of the central business district and the public health or safety.

3. Dormitories.

4. Dwelling units exclusively for employees, owners or operators of the facility.

5. Parking areas and structures.

D. Conditional Uses:

1. Type B manufactured homes for public park or facility care takers.

**Lot, Yard and Height Requirements**

E. Minimum lot size - 7,500 square feet

F. Minimum lot frontage - 75 feet

G. Minimum front yard depth - 20 feet

H. Minimum side yard depth - No limitation

I. Minimum rear yard depth - No limitation

J. Maximum lot coverage - No limitation

K. Maximum height of building - 50 feet, 35 feet if within 70 feet of a residential structure.

L. Off-street parking spaces:.

1. Places of public assembly - 20% of capacity.

2. Public buildings - 2 times the number of employees per shift.

3. Offices - 1 per 400 sq. ft. of floor area.

4. Hospitals, clinics, medical buildings - 3 times the number of employees per shift.

5. Parks and playgrounds - 5 spaces plus 1 per 500 square feet of use area.

M. Special provisions

1. Landscape buffers are required as regulated in Section 5.4.

2. Lighting or signage which causes a significant glare to adjacent residential districts is prohibited.

**4.12 ENVIRONMENTALLY SENSITIVE AREA OVERLAY DISTRICT (ESA)**

A. Intent: Environmentally Sensitive District - is defined as a geographic area of the city exhibiting sensitive and distinctive environmental characteristics. These environmental characteristics are of concern due to flooding, slope stability and include certain geologic formations, soil types, slopes, vegetation, natural drainage systems, scenic views and other similar natural features.

B. Purpose: The purpose of the ESA is to assist developers in identifying environmentally sensitive sites and providing guidelines for developments in order to make them compatible with the environment. It is also the purpose of this district to protect those characteristics of the environment which are vulnerable to damage by development permitted under

conventional zoning and building regulations. The ESA distinguishes specific areas which require additional site planning and engineering. The end result is to protect the public and property owners from unsafe buildings or unstable land caused by improper development in environmentally sensitive areas.

C. Location: The general location of ESAs are identified on the Flemingsburg Future Land Use and/or Zoning Map. These areas have one or more of the following characteristics:

1. Located within a floodplain.
2. Slopes of 20 percent or greater for a minimum height of 60 feet;
3. Areas where soil types severely limit development;
4. Existence of geologic formations which limit development;

D. Development Guidelines: The Flemingsburg Planning Commission and prospective developers should utilize the following development guidelines for the construction of any type of structure in developmentally sensitive areas. The Planning Commission shall use these guidelines as general parameters for reviewing site/development plan proposals as well as any reviews concerning zoning map amendments and subdivision plats. The planning commission may require additional studies or geotechnical reports when considering development proposals in these identified areas. General development guidelines are as follows:

1. Cluster new development, retaining surrounding tree cover, vegetation and minimizing changes in topography.
2. Plan buildings to fit into a hillside rather than altering the hillside to fit the buildings.
3. Stagger or step building units according to the topography.
4. Plan buildings, drives and parking areas to acknowledge the natural contour of the site.
5. Respect the site's conditions of steepness, soil, bedrock and hydrology so as to insure hillside stability both during and after development. Utilize erosion control measures during and after grading.
6. Minimize large cuts, fills and any other earth modification.
7. Respect and retain natural site features such as streams, slopes, ridge lines, wildlife habitat, existing vegetation and trees.
8. Employ sufficient and in some cases, additional stormwater runoff systems that control the amount and rate of flow of stormwater leaving the post-development site that could affect adjacent steep slopes. Use natural drainage courses wherever possible.

#### **4.13 SPECIAL PROVISIONS FOR AGRICULTURAL AREAS**

For the purposes of this regulation, land which is used solely for agriculture, farming, dairying, stock-raising, or similar purposes shall have no regulations imposed as to building permits, certificates of occupancy, height, yard, location or court requirements for agricultural buildings, except that: a) no structure for feeding or sheltering of animals or poultry shall be located within 100 feet of any dwelling or street; b) setback lines may be required for the protection of existing and proposed streets and highways, with no buildings or structures in a floodway; c) no building or structures shall be constructed in the 100 year floodplain which will increase flood heights or obstruct the flow of flood water; and d) agricultural uses shall be prohibited if they are in violation of the City's Nuisance Ordinance. Any existing agricultural use may be continued (is "grandfathered in") until the property is otherwise developed.

#### **4.14 OFFICIAL ZONING MAP**

The boundaries of these zoning districts are hereby established as shown on the Zoning Map for the City of Flemingsburg, Kentucky. Said zoning map and all notations and references and other matters shown thereon shall be and are hereby made a part of this regulation.

Any new official zoning map constructed from one or several amendments to the aforementioned map shall be identified by the signature of the Mayor, attested by the City Clerk, and bear the seal of the City under the following words: "This is to certify that this is the Official Zoning Map for the City, referred to in Section 4.12 of the Flemingsburg Zoning Ordinance, adopted by the Flemingsburg City Council on \_\_\_\_\_ (date) ".

If, in accordance with the provisions of this regulation and the Kentucky Revised Statutes, changes are made in the zoning district boundaries or other matters portrayed on the official zoning map, such changes shall be made on the official zoning map promptly after the amendment has been approved by the legislative body, together with an entry on the aforementioned official zoning map as follows: "By official action of the Flemingsburg City Council, this map was amended as authorized by Ordinance as listed below: (amendment, date, brief description of change)," which entry shall be signed by the Mayor and attested by the City Clerk. The amending ordinance shall provide that such changes or amendments shall not become effective until they have been duly entered upon the official zoning map. No amendment to this regulation which involves matter portrayed on the official zoning map, shall become effective until after such change and entry have been made on said map.

In addition, each amendment to the zoning district boundaries shall be individually noted on a copy of the City's lot line map and the boundaries of the change (only) circumscribed by an red felt-tip pen. The words shall also be written: "Official Zoning Map, Amendment number, on \_\_\_\_\_, 19\_\_ (date of final approval) and the amendment shall be filed in the City Clerk's Office. Clearly legible certified copies of the amendment shall be provided to the Mayor, Planning Commission Chairman, and Applicant(s).

No changes of any nature shall be made in the official zoning map or matter shown thereon except in conformity with the procedures set forth in this regulation. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this regulation and punishable as provided under Section 8.7.

Regardless of the existence of purported copies of the official zoning map which may from time to time be made or published, the official zoning map, which shall be located in the office of the City

Clerk, shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the City.

#### **4.15 REPLACEMENT OF OFFICIAL ZONING MAP**

In the event that the official zoning map becomes damaged, destroyed, or lost, the Flemingsburg City Council may by resolution adopt a new official zoning map which shall replace and supersede the prior official zoning map. The new official zoning map may correct drafting or other errors or omissions in the prior zoning map, but no such correction shall have the effect of amending the original zoning boundaries and any subsequent amendments thereof. The new official zoning map shall be identified by the signature of the Mayor, attested by the City Clerk, and bear the seal of the City under the following words: "This is to certify that this official zoning map supersedes and replaces the official zoning map adopted (date of adoption of map being replaced) as part of the Official Zoning Regulation for Flemingsburg, Kentucky." The "official map" appearing as part of this regulation shall be maintained, abridged, and corrected by notation and by coloration, which changes shall be made by the City Clerk. Said map shall be reprinted every three (3) years, if necessary.

#### **4.16 INTERPRETATION OF DISTRICT BOUNDARIES**

Where uncertainty exists with respect to the boundaries of any of the zoning districts as shown on the official zoning map, the following rules shall apply:

- A. Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines.
- B. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- C. Boundaries indicated as approximately following city limits shall be construed as following such city limits.
- D. Boundaries indicated as following electrical transmission lines shall be construed as following the easement boundary, or if unclear, the overhang of main supporting poles.
- E. Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in the event of change in the shore line shall be construed as moving with the actual shore line, boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such center lines.
- F. Boundaries indicated as parallel to or extensions of features indicated in Subsections 4.14(A) through (E) above shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map.
- G. Where physical or cultural features existing on the ground are at variance with those shown on the official zoning map or in other circumstances not covered by Subsections 4.14 (A) through (F) above, the Board of Adjustment shall interpret the district boundaries.
- H. Where a district boundary line divides a lot which was in single ownership at the time of passage of this regulation, the Board of Adjustment may permit, conditionally, the extension



## **5. PARKING, LOADING AREAS, AND LANDSCAPE**

### **5.1 OFF-STREET PARKING SPACE REGULATIONS FOR AUTOMOBILES**

- A. Existing Parking Space: Existing off-street parking space provided for any building or use at the time of adoption of the regulation shall not thereafter be reduced unless it exceeds the requirements of this regulation. Any existing building or use not provided with off-street parking space shall be provided with adequate off street parking in conformance with this ordinance at the time of any expansive structural alteration of the building or expansion of the use creating a need for additional parking.

Parking for commercial purposes must be provided in commercial zones.

- B. Required Off-Street Parking Space: When any building is built or any use of premises is initiated, it shall be provided with sufficient off-street parking space on the premises so that it will not generate additional automotive parking on any street as a result of their normal activity. The Board of Adjustment shall interpret the amount of parking space required for any building or use, assisted by the following standards (Section 5.1C) whenever the Administrative Official is unable to apply these standards literally or when they determine a parking space deficiency. In either case, the Administrative Official shall apply to the Board for an original interpretation. Off-street parking for a pre-existing structure in a central business district shall be approved by the Board of Adjustment.
- C. Off-Street Parking Standards: The minimum off-street parking requirements for the several common types of buildings and uses listed vary by zoning district. In general, requirements are lower in areas of town that presently have a number of parking facilities, and higher in the areas of town that are likely to be targeted for shopping center development or other commercial facilities with very high traffic generation potential. Refer to the appropriate zoning district requirements (Article 4) for actual determination of minimum criteria. In addition to those standards, the applicant shall be required to demonstrate the following:
1. Safety Considerations: The applicant shall present to the Planning Commission a plat or development plan showing the overall design of any shopping centers, commercial or industrial structures as a condition precedent to the issuance of a zoning permit. All plats and development plans must show layout and arrangements for parking facilities and must provide for the maximum possible separation of pedestrian and vehicular traffic. The need for safe pedestrian access as well as vehicular access to the facility shall be incorporated in the overall design concept. In addition, the points of ingress and egress for vehicular traffic shall be at those respective points on the property providing for the maximum possible visibility, yet meeting space-from-intersection requirements.
  2. Parking Space Dimensions and Aisle Widths:
    - a. Except for parallel parking, each parking space shall contain a rectangular area at least nineteen (19) feet long and nine (9) feet wide. Lines demarcating parking spaces may be drawn at various angles in relation to curb or aisles, so long as the parking spaces so created contain within them the rectangular area

required by this section. Wherever parking areas consist of spaces set aside for parallel parking, the dimensions of such parking spaces shall be not less than twenty-two (22) feet by nine (9).

- b. Parking spaces for the physically disabled shall be twelve (12) feet in width or nine (9) feet in width with an adjacent access aisle a minimum of five (5) feet in width. Two (2) accessible parking spaces may share a common access aisle. Accessible parking spaces shall be designated as reserved for the disabled by a sign showing the symbol of accessibility. Such signs shall not be obscured by a vehicle parked in the space.
- c. Parking area aisle widths shall conform to the following table, which varies the width requirements according to the angle of parking.

Parking Angle					
Aisle Width	0°	30°	45°	60°	90°
One-Way Traffic	13	11	13	18	24
Two-Way Traffic	19	20	21	23	24

- d. Driveways shall be not less than ten (10) feet in width for one-way traffic and twenty-four (24) feet in width for two-way traffic, except that twelve (12) foot-wide driveways are permissible for two-way traffic when the driveway is: (1) not longer than fifty (50) feet, (2) provides access to not more than six (6) spaces, and (3) sufficient turning space is provided so that vehicles need not back into a public street.

### 3. General Design Requirements:

- a. Unless no other practicable alternative is available, vehicle accommodation areas shall be designed so that, without resorting to extraordinary movements, vehicles may exit such areas without backing onto a public street. This requirement does not apply to parking areas consisting of driveways that serve one or two dwelling units, although backing onto arterial streets is discouraged.
- b. Vehicle accommodation areas of all developments shall be designed so that sanitation, emergency, and other public service vehicles can serve such developments without the necessity of backing unreasonable distances or making other dangerous or hazardous turning movements.
- c. Every vehicle accommodation area shall be designed so that vehicles cannot extend beyond the perimeter of such area onto adjacent properties or public rights-of-way. Such areas shall also be designed so that vehicles do not extend over sidewalks or tend to bump against or damage any wall, vegetation, or other obstruction.

- d. Circulation areas shall be designed so that vehicles can proceed safely without posing a danger to pedestrians or other vehicles and without interfering with parking areas.
4. Marking: Traffic flow patterns in parking lots shall be clearly marked at all times either by sign or by painted arrows. Painted arrows and letters on a parking lot surface must be repainted at least once annually. Directional signs and appropriate identification signs shall be maintained so as to ensure legibility of all lettering and illustrations at all times.
5. Additional Parking Standards: The Board of Adjustment may raise the standards listed above when necessary to conform with Section 5.1 (B), above, and shall use similar criteria of floor area, employment, or capacity to interpret standards for buildings and uses not specifically listed above.

## **5.2 OFF-STREET LOADING AND UNLOADING SPACE REGULATIONS FOR TRUCKS**

All buildings and uses which generate regular trucking traffic shall be provided with sufficient off-street loading and unloading space on the premises so they will generate no loading or unloading activity on required parking spaces or on any street. The Board of Adjustment shall interpret the amount of loading and unloading space required for any building or use whenever the Administrative Official is unable to apply this standard literally and applies to the Board for an original interpretation.

## **5.3 ADDITIONAL PARKING, LOADING AND UNLOADING REGULATIONS**

- A. Arrangement of off-street parking space: Off-street parking space required for any building or use may be located within walking distance of five hundred (500) feet from the premises it serves but detached therefrom or may be consolidated into a large parking area serving other buildings and uses, either of which arrangements must be approved by the Board of Adjustment. The Administrative Official shall apply to the Board for an original interpretation when zoning permits are requested in such cases. The Board may not authorize the total amount of parking space required for all buildings and uses to be diminished except as follows: if a consolidated parking area serves buildings or uses which do not generate automobile parking at the same times, i.e., churches and stores, total parking space may be diminished to the maximum required by those buildings and uses which do generate the parking of automobiles at the same time.
- B. Proof of availability: The Board of Adjustment may require a plat, deed, and any other proof necessary to show that there is permanent required parking space, if located off the premises it serves, and that it is controlled by and available to the applicant to construct a parking lot.
- C. Surfacing of parking, loading and unloading spaces: Parking, loading, and unloading spaces and the access thereto shall be surfaced in a manner adequate to eliminate dust and mud.

## **5.4 LANDSCAPE REQUIREMENTS**

- A. Landscape Buffer Areas: A landscape buffer area shall be located along all lot lines separating an industrial, public/semi-public, central business district or commercial lot or development from residential areas and other locations as required by the zoning ordinance. Such landscape

buffer is not required on lot lines bordering a street. A planted screen determined by the Planning Commission to be of a height and density sufficient to adequately protect residences from higher density residential, industrial or commercial use shall be placed within such easement at the time of installation of other improvements and prior to final plat approval. If not installed prior to final plat approval, the surety for the subdivision shall include sufficient amounts to assure planting of this screening.

**B. Vehicular Use Area Perimeter Requirements:**

A vehicular use area (V.U.A.) is an open or unenclosed area containing more than 1,800 sq. ft. of area and/or used by five (5) or more types of vehicle, whether, moving or at rest, including, but not limited to, parking lots, loading and unloading areas, mobile home parks, sales and service areas. Driveways are considered to be vehicular use areas whenever they are adjacent to public streets or other vehicular use elements described previously in this paragraph (and intervening curbs, sidewalks, landscape strips, etc., do not eliminate adjacency).

**A. General Requirements:**

1. Existing landscape material which is proposed to be used to fulfill requirements for landscape screening shall be nursery stock and identified on the development plan or subdivision plat.
2. Cars or other objects shall not overhang or otherwise intrude into the required screening/landscaping easement more than two and one-half (2 1/2) feet and wheel stops or curbs will be required. Owner of the property shall be responsible for the proper maintenance of the screening buffer. The required screening buffer may be combined with a utility easement or other easement if planting material is approved by the Utility Department and Planning Commission.
3. Plant material to be used in screening easements shall be identified on the final development plan or subdivision plat.
4. Grass or ground cover shall be planted on all sections of landscape buffers not occupied by other landscape materials.
5. Landscape buffers may not be required along a common boundary if landscape requirements have been fully complied with on the adjoining property.
6. Required trees do not have to be planted at set intervals, they may be grouped together.
7. Landscape materials shall not be planted within the "sight triangle" at all street intersections and driveway intersections within streets.
8. Landscape materials may include plantings such as trees, shrubs, ground covers, perennials, annuals, and other materials such as rocks, water, sculpture, walls, fences and street furniture.

## **6 SIGN REGULATIONS**

### **6.1 INTENT**

The intent of this Article is to provide sign standards and regulations for the identification of residential subdivisions, professional offices, businesses and industrial activities. At the same time these regulations seek to promote signage which: (1) does not unduly detract from the overall aesthetics of the community; (2) reduces intrusions and protects property values; (3) provides for improved public safety by minimizing the undue distraction of the motoring public; (4) provides for the protection and enhancement of the tourist industry by promoting a more harmonious and pleasing community image; (5) is equitably provided in terms of the nature and scale of the activities to be identified and of nonconforming signs; and (6) generally enhances and strengthens the economic stability of the City of Flemingsburg.

### **6.2 SCOPE**

The provisions of this Article shall apply to the display, construction, erection, alteration, use, location, and maintenance of all signs within the City of Flemingsburg, and it shall be unlawful hereafter to display, construct, erect, alter, use or maintain any sign except in conformance with provisions of this Article.

Furthermore, it shall be unlawful to alter or enlarge any sign erected or constructed prior to the enactment of this Article except in conformance with this Article. Except as specifically provided, the following shall be exempt from the provisions of this Article;

- A. Signs which are not visible beyond the boundaries of the lot or parcel upon which they are located and/or from any public thoroughfare or right-of-way.
- B. Official governmental notices and notices posted by governmental officers in the performance of their duties; governmental signs to control traffic, identify streets, to warn of danger or for other regulatory purposes. Identification or bulletin board signs accessory to governmental buildings or other facilities shall not be exempt from the provisions of this Article.
- C. The flag, pennant, or insignia of any nation, organization of nations, state, county or city, any religious, civic or fraternal organization, or any educational institution; except when such are used in connection with a commercial promotion or as an advertising device.
- D. Works of fine art which in no way depict, identify, or advertise a product or business.
- E. Temporary decorations or displays, when such are clearly incidental to and are customarily and commonly associated with any national, local, or religious holiday or celebration.
- F. Temporary or permanent signs erected by public utility companies or construction companies to warn of danger or hazardous conditions, including signs indicating the presence of underground cables, gas lines, and similar devices.
- G. Merchandise, pictures, or models of products or services which are incorporated as an integral part of a window display. Signs displayed on trucks, buses, trailers or other vehicles which are being operated in the normal course of a business, such as signs indicating the name of the owner or business which are affixed or painted onto moving vans, delivery trucks, contractors'

vehicles and equipment, rental trucks and trailers, and the like. However, these types of signs must be clearly incidental to the use of the vehicle in conjunction with a bona fide business and cannot be used for the sole purpose of displaying signs. Such vehicles must be parked or stored in areas appropriate to their use as vehicles, and in such a manner and location on the lot so as to minimize their visibility from any street to the greatest extent feasible.

### 6.3 DEFINITIONS

The following definitions unique to this Article are listed below. The terms to be defined have been grouped according to the specific aspects of sign control to which they pertain in order to provide a clearer understanding of the regulations contained later in this Article.

- A. Sign: Any writing, pictorial representation, form, emblem, trademark, flag, banner, decoration (including material used to differentiate the sign copy from the background) or any figure which is written, printed, projected, painted, constructed, or otherwise displayed upon or designed into a building, board, plate, canopy, awning, window, vehicle, or upon any object or device which by reason of its form, color, wording, symbol, design, illumination, motion or other characteristic is designed to attract attention to the subject thereof or is used as a means of identification, advertisement, announcement, or product illustration.
- B. Basic Sign Types By Function: The following categories of signs are hereby defined based upon the nature of the information they are intended to provide:
1. **ADVERTISING SIGN**- A sign which directs attention to a business, product, service or activity generally conducted, sold or offered at a location different than where such sign is posted.
  2. **ATTENTION BOARD** - A sign which contains no permanent copy, either letters or emblems, on which copy is changed manually with changeable letters and which announces special activities on the property.
  3. **BULLETIN BOARD** - A sign which allows the manual changing of the copy material and is used to notify the public of noncommercial events or occurrences such as church services, political rallies, civic meetings or similar events.
  4. **BUSINESS SIGN** - A sign which directs attention to a business, profession, product, activity, or entertainment, sold or offered upon the premises where such sign is located, and may include information included on identification signs.
  5. **CONSTRUCTION SIGN** - A temporary sign identifying the project name, the architect, engineer, contractor, financing company, material supplier, or others engaged in work on the construction site on which the sign is located. Leasing information, renderings and similar copy shall also be permitted.
  6. **DIRECTIONAL SIGN** - A noncommercial sign of an instructional nature, such as "parking", "exit", or "entrance", displayed solely for the convenience of the public, no more than twenty-five percent (25%) of such sign being devoted to the name or logo of the property, business or profession on the site and containing no business advertising, product trade name identification or listing of any product sold or offered on the premises.



7. **GOVERNMENT SIGN** - A temporary or permanent sign erected by any government body for traffic direction, or for designation or direction to any school, hospital, park, historic site or other service, property or facility.
  8. **HISTORIC MARKER** - A sign or emblem which commemorates or identifies an event, past ownership of property, or age of a building.
  9. **INCIDENTAL SIGN** - A small sign, not exceeding two (2) square feet, limited to information and directions related to the permitted use on the lot or building on which the sign is located, and may not contain direct illumination as defined in this Article. Examples of incidental signs would include "no smoking," "restroom," "no solicitors," "no trespassing," "self service," "vacancy," credit card acceptance signs, signs indicating hours of business and similar information.
  10. **IDENTIFICATION SIGN** - A sign which establishes the identity of a building or building complex by name or symbol. the sign may also contain business name, street address, and/or management but cannot have any direct advertising value.
  11. **INFORMATIONAL SIGN** - A sign whose copy gives only the time, temperature and/or date through an electronic message display system or by mechanical means (including clocks and thermometers), but provides no advertising of any product or business activity.
  12. **MENU BOARD** - A free standing or wall mounted sign primarily designed for the display of menu items and prices for the purpose of placing orders for such items in conjunction with a restaurant or drive through services.
  13. **NAMEPLATE** - A wall sign which gives only the name, address, and/or occupation of the occupant(s) of the building on which it is located.
  14. **POLITICAL SIGN** - A temporary sign supporting the candidacy for office or urging action on any other matter on the ballot of a state, local or national election or referendum.
  15. **REAL ESTATE SIGN** - A temporary sign indicating only sale or rental of property at the same location as the sign is erected.
  16. **TRACT SIGN** - A temporary sign advertising the original sale of property in a subdivision.
  17. **TEMPORARY SIGN** - Any sign or advertising display constructed of cloth, canvas, light fabric, cardboard, wallboard, plywood, or other light materials, with or without frames, and/or intended to be displayed for a limited period of time only.
- C. Sign Types By Means of Mounting or Erecting: The following categories of signs are hereby defined primarily by the means of mounting or erecting and locational placement upon a building or premises:
1. **AWNING SIGN** - A sign painted or printed on, attached flat against the surface of an awning. As used in this article, awning shall be defined as a shelter supported entirely



from an exterior wall of a building consisting of cloth or other similar non-rigid material supported by a frame.

2. **UNDER AWNING OR UNDER CANOPY SIGNS** - A small sign, limited to four (4) square feet, attached to or suspended from the underside of a canopy or awning having a clearance of not less than eight (8) feet.
3. **CANOPY SIGN** - A sign painted, printed or attached flat against a surface of a canopy. As used in this article, canopy shall be defined as a permanently roofed shelter covering a sidewalk, driveway or other similar area, which shelter may be wholly supported by a building or may be wholly or partially supported by columns, poles or braces extended from the ground.
4. **FREE STANDING SIGN** - A sign, not attached to any building, erected using poles, braces, or other means.
5. **MARQUEE** - A sign used in conjunction with a theater which in addition to permanent copy may include changeable letters. This type of sign is typically supported by the building and generally projects away from the structure.
6. **MOBILE SIGNS** - Mobile signs are signs which are: (1) affixed to a frame having wheels or capable of being carried, or otherwise portable; (2) do not have a permanent foundation; (3) cannot withstand the stress and wind loads of the Building Code; and (4) designed to stand free from a building or other structure. Signs designed to be affixed to the surface of real estate shall be deemed free standing signs and not mobile signs, but the mere removal of wheels or temporary securing of a sign to the surface of real estate shall not prevent its being a mobile sign within this definition.
7. **PROJECTING SIGN** - A sign which is attached directly to a canopy, marquee, or wall of a building and which extends horizontally outward from such canopy, marquee or wall more than twenty-four (24) inches.
8. **ROOF SIGN** - A sign which projects above the cornice of a flat roof or above the top edge of any roof including the ridge line of a gabled or hipped roof. Such top edge shall not include any cupolas, pylons, chimneys or other minor projections above the roof line.
9. **WALL MOUNTED SIGN** - A sign attached parallel to and extending not more than twenty-four (24) inches from the wall of the building. Includes painted, individual letter and cabinet signs, signs on a mansard, or on a parapet not exceeding three (3) feet in height (provided the parapet extends on at least three (3) sides of a building) and signs erected on or against the side of a roof but not projecting above the roof line. No copy shall be permitted to be displayed on the sides of the sign which are perpendicular to the wall face.
10. **PAINTED SIGN** - Any sign which is applied with paint or similar substance directly to a wall or other surface. Any painted sign shall be subject to the regulations of the zone in which it is located.

11. **WINDOW SIGNS** - A sign which is painted on, applied or attached to the interior of a window or located within three (3) feet of the interior of a window and which can be seen through the window from the exterior of the structure. Merchandise which is included in a window display shall not be included as a part of a window sign.

D. Sign Types By Design Features: The following categories of signs are hereby defined primarily by certain design features of the sign itself.

1. **NON-ILLUMINATED SIGN** - A sign which does not emit or reflect artificial light from any source either directly or indirectly.
2. **ILLUMINATED SIGN** - A sign which emits or reflects, either directly or indirectly, artificial light from any source.
  - a. **DIRECTLY ILLUMINATED SIGN** - A sign which is lighted by means of an unshielded light source (including neon tubing) which is visible as a part of the sign and where light travels directly from the source to the viewer's eye.
  - b. **INDIRECTLY ILLUMINATED SIGN** - A sign whose light source is so situated as to project light onto the exterior or front of the sign surface, or to project light onto the building facade where the sign is located.
  - c. **INTERNALLY ILLUMINATED SIGN** - A sign whose light source is within the sign, with the sign having a transparent or translucent background or cover which silhouettes, opaque or translucent letters or designs.
3. **ROTATING OR MOVING SIGN** - A sign, any portion of which, moves by mechanical means, motion of the wind or other means. Such motion does not refer to methods of changing copy used on an electronic message display system.
4. **FLASHING OR BLINKING SIGN** - A sign, the illumination of which is not kept constant and which contains an intermittent or sequential flashing light source for the purpose of either attracting attention to the sign or as a method of changing copy.
5. **ELECTRONIC MESSAGE DISPLAY SYSTEM** - A sign with copy which utilizes rotating reflective disc, direct illumination, rotating veins, light emitting diodes (L.E.D.'s), or liquid crystal diodes (L.C.D.'s) and is changed by means of a central computer teletype.

E. Other Sign Types And Definitions: The following phrases are hereby defined for the purposes of this Article:

- X
1. **ABANDONED SIGN** - A sign and/or supporting structure which no longer identifies a business conducted or product sold on the premises; any advertising sign which no longer directs attention to a bona fide business conducted, product sold, or activity or campaign being conducted; or for which no legal owner can be found. A sign shall be deemed as abandoned when the conditions described above have been in evidence for a period exceeding one hundred eighty (180) days. For the purposes of this definition, an advertising sign shall not be deemed abandoned solely because the sign has contained no copy for a period exceeding one hundred eighty (180) days.

**2. AREA OF A SIGN** - Shall be defined and computed as follows:

**a. FREE STANDING OR PROJECTING SIGNS:**

1. Any double-faced sign shall have only one face, the largest, counted in calculating the area.
2. Any sign with three or more sign faces shall have the area calculated by summing the area of the sign faces and dividing by two.
3. If the sign is composed of one or two individual cabinets, the area around and enclosing the perimeter of each cabinet or module shall be summed and totaled to determine the area. The perimeter of the measurable area shall not include embellishments such as pole covers, framing, decorative roofing, etc., provided there is no written copy on such embellishments and their total surface area (excluding pole covers provided such covers do not extend more than six (6) inches at any point from any structural member) does not exceed twenty-five percent (25%) of the otherwise permitted sign area.
4. If the sign is composed of more than two (2) sign cabinets, or modules, the area enclosing the entire perimeter of all cabinets and/or modules within a single continuous geometric figure shall be the area of the sign. The measurable area shall not include embellishments such as pole covers, framing, decorative roofing, etc., provided there is no written copy on such embellishments and their total surface area (excluding pole covers provided such covers do not extend more than six (6) inches at any point from any structural member) does not exceed twenty-five percent (25%) of the otherwise permitted sign area.

**b. WALL SIGNS** - The area shall be within a single continuous perimeter composed of any straight line geometric figure which encloses the extreme limits of the copy including vertical and horizontal spacing between individual letters, logos, etc.

3. **BANNER SIGN, PENNANT, OR STREAMER** - An identification sign made of durable fabric only, and not made of wood, metal or soft or hard plastic, having no enclosing framework. Such banner sign, pennant or streamer may be non-illuminated or indirectly illuminated only.
4. **CLEARANCE OF A SIGN** - The least vertical distance between the lowest point of any sign, including the framework, and the established grade at the sign.
5. **HEIGHT OF A SIGN** - The vertical distance measured from the highest point of the sign including the frame and any embellishments and the established grade at the adjacent street.
6. **FACE OF A SIGN** - The vertical area of the sign on which the copy is placed.

7. **COPY** - Any word, letter, number, or emblem affixed to the sign surface either permanently or in removable form.
8. **DOUBLE-FACED SIGN** - A sign with two faces either set parallel or up to a forty-five degree (45°) shall be considered two (2) separate signs.
9. **ILLEGAL SIGN** - A sign which does not meet the requirements of this Zoning Regulation and which is not non-conforming.
10. **NON-CONFORMING SIGN** - A sign which was legally erected but which does not comply with the adopted sign regulations of this Zoning Regulation for the zone in which it is located.
11. **SETBACK OF A SIGN** - The horizontal distance between any street right-of-way and free standing sign and/or its supporting structure. The measurement shall be taken at the closest point proximity between the right-of-way and any part of the sign or structure.
12. **BUILDING FRONTAGE** - The horizontal, linear dimension of that side of a building which abuts a street, parking area, or other unenclosed circulation area open to the general public. Where more than one (1) use occupies a building, the building frontage shall be the front width of the portion of the building occupied by that use.
13. **STREET FRONTAGE** - The linear distance between the lot lines measured along the abutting public or private street.

#### **6.4 GENERAL PROVISIONS**

A. **PERMIT REQUIREMENTS:** No sign, except as specifically exempted herein, shall be displayed, erected, relocated or altered unless and until a permit has been issued by the Administrative Official. Application materials shall be as required by the Administrative Official, and shall include, but shall not be limited to the following:

1. A completed application form.
2. A site plan and/or building elevation drawing, showing the location of the proposed sign (s) on the lot and/or building, including setbacks.
3. Detailed sign information, including type of construction, method of illumination, dimensions, copy, method of mounting and/or erecting and other similar information.
4. The written consent of the owner of the underlying real property or authorized agent.
5. A permit fee in an amount determined by the City Council.

The Administrative Official shall maintain written records of all permits issued or formally denied and any conditions attached to approval of such permit requests. Signs may be erected or constructed only in compliance with the approved permit.

B. **ENFORCEMENT** - The Administrative Official shall enforce the provisions of this Article and shall utilize its powers to ensure compliance with its provisions and the provisions of any approved permit. The Administrative official shall maintain written records of any enforcement actions taken.

**C. SIGNS EXEMPT FROM PERMIT REQUIREMENT** - The following signs shall not require a permit. However, such signs are subject to applicable restrictions contained within this Article, and the Administrative Official shall take enforcement action against any such sign which does not conform to the specified requirements.

1. Political Signs;
2. Nameplates;
3. Government Signs;
4. Real Estate Signs;
5. Incidental Signs;
6. Window Signs; and
7. The changing of copy on a billboard, attraction board, marquee, informational sign, or electronic message display system.

*m* *↘* **D. All real estate and tract signs shall be removed within ten (10) days after the completion of sales activities in connection with the property or tract to which they pertain.**

**E. Illuminated signs shall be located in a fashion which minimizes, to the greatest feasible, the direct rays of such illumination penetrating into any residential zone or property used for residential purposes.**

**F. No light, sign or other advertising device shall be designed or erected in such a manner or location as to imitate or resemble any official traffic sign, signal or device or use any words, phrases, symbols or characters implying the existence of danger, or the need to stop or maneuver the vehicle.**

*m* **G. No sign shall be attached to or painted on the surface of any tree, utility pole, street light or dilapidated structure.** *valid sales*

**H. Gooseneck and thin line reflectors and lighting shall be permitted on indirectly illuminated signs, provided such do not extend six (6) feet beyond the sign structure to which they are attached and such illumination is directed upon the sign in such a fashion as to reduce the possibility of direct light rays shining onto any adjacent property or public way.**

**I. Neon lighting and tubing and other exposed light sources not exceeding one hundred (100) watts per bulb may be used where signs are permitted to be directly illuminated as defined in this Article. However, no such lighting may be used to outline buildings, structures, or ornamental features.**

**J. No sign (except for government signs), may be located within the required sight triangle of any intersection, nor within or projecting into the public or private street right-of-way, except as specifically permitted herein.**

**K. Signs accessory to legal nonconforming uses shall be permitted and shall be subject to the regulations of the zone in which the use is located.**



- L. Where wall signs are permitted as a percentage of wall area to which it is attached, such wall area shall include all windows, doors, and wall area of the building in one (1) plane of elevation. Where the building or wall face is broken or irregular in relation to a single vertical plane perpendicular to the ground (by such architectural features as dormers, pitched roofs, awnings, etc.) the requirements may be applied in one of two ways:
1. The total building face may be considered as one (1), two-dimensional wall with the number of signs permitted and maximum area requirements applied on that basis.
  2. Where each individual plane created by the architectural feature projects or is recessed by twelve (12) inches or more, each plane may be considered as a separate wall, and number of signs permitted and maximum area requirements applied on that basis. However, the total square footage of the permitted signs shall not exceed the square footage permitted under (6.4(L))(1) above, and no sign shall be oriented in a direction other than that of the building face under consideration.
- M. No incidental sign shall be attached to a free standing advertising sign, business sign, identification sign or directional sign.
- N. Canopy signs shall be counted as part of and limited to the percentage allowable for wall signs. The height of canopy signs shall not exceed twenty (20) feet. For any case where the vertical dimension of the canopy face exceeds three (3) feet, only three (3) feet of the vertical dimension shall be used for computing the area of such facing, and any sign or sign cabinet permitted shall have a maximum vertical dimension of three (3) feet.

## **6.5 PROHIBITED SIGNS IN ALL ZONES**

The following signs and/or sign features shall be prohibited in all zones.

### **A. Projecting Signs.**

- B. Roof Signs.
- C. Flashing or Blinking Signs (except for permitted informational signs).
- D. Rotating or Moving Signs.
- E. Abandoned Signs.
- F. Streamers, pennants and tag signs or similar signs or devices (except when attached to a permitted temporary sign).
- G. Any sign which emits any noise, odor or visible matter for the purpose of attracting attention to the sign.
- H. Any free standing sign, any portion of which overhangs any part of a building.
- I. Any sign erected or maintained in such a manner which would create a traffic hazard or would obstruct the vision clearance at corners or curb cuts.
- J. Any sign not properly secured or which is considered unsafe.

## **6.6 PERMITTED SIGNS IN ALL ZONES**

The following signs shall be permitted within all zones subject to the restriction specified:

- A. Government signs with no restrictions on size, number or location.
- B. Real estate signs, limited to one (1) sign per street frontage; non illuminated; not exceeding six (6) square feet in area and six (6) feet in height; and removed within ten (10) days after completion of the sale or lease of the property to which they pertain.
- C. Construction signs, not exceeding sixty-four (64) square feet, non illuminated and they shall be removed prior to occupancy of the structure to which they pertain.
- D. Tract signs, setback from any street as required for a principal structure within the zone; non-illuminated; and further regulated as follows:
  - 1. Where the subdivision contains twenty-five (25) lots or less, the sign area shall not exceed sixty-four (64) square feet.
  - 2. Where the subdivision contains more than twenty-five (25) lots, the sign area shall not exceed one hundred (100) square feet.
  - 3. Each subdivision shall be permitted one (1) tract sign per street frontage; provided the total number of signs shall not exceed four (4) signs.
- E. Incidental Signs.
- F. Temporary signs, not specifically otherwise regulated, in accordance with the following conditions:
  - 1. Such signs shall be limited to window or wall signs only; shall not exceed one hundred (100) square feet in surface area per use where non rigid materials are used; and shall not exceed thirty-two (32) square feet per use where rigid materials such as wallboard or plywood are utilized; and shall comply with the applicable regulations for the zone in which they are located.
  - 2. Such signs shall not remain in place for a period of more than thirty (30) days, except that the Administrative Official, may for good cause, extend the time period for an additional thirty (30) days upon application. In addition, no use shall be permitted to display a temporary sign for more than a total of one hundred twenty (120) days during any calendar year.
- G. Historic markers not exceeding six (6) square feet in area, limited to one (1) sign per street frontage.



## 6.7 PERMITTED SIGNS BY ZONE

The following sign regulations shall be applicable within the zoning categories indicated. Any sign not specifically permitted shall be deemed as prohibited.

- A. Low To Medium Density Residential Zones (R-1, R-1A, R-2): Permitted signs within these zones shall be wall signs unless otherwise specified; signs shall be either non-illuminated or indirectly illuminated. Minimum setback for any free standing sign permitted under this section shall be one-half (1/2) the minimum front yard requirements for the zone in which the sign is to be located; and no less than ten (10) feet in any case.
1. One nameplate per residence or other permitted use; not exceeding one (1) square foot in area.
  2. One identification sign for a permitted home occupation not exceeding four (4) square feet in area.
  3. One identification sign, for a farm or estate exceeding five (5) acres in size; free standing or wall mounted; not exceeding ten (10) square feet in area; not exceeding ten (10) feet in height in free standing.
  4. One identification sign for a permitted kindergarten, nursery school, day nursery, or child care center; wall mounted not more than seven (7) feet above ground level; not exceeding four (4) square feet in area.
  5. One identification sign for a permitted church or school for academic instruction; free standing or wall mounted; not exceeding thirty-two (32) square feet in area; not exceeding eight (8) feet in height if free standing; in addition, one bulletin board free standing or wall mounted not exceeding twelve (12) square feet in area and eight (8) feet in height.
  6. One identification sign for any permitted use not otherwise specifically provided for; free standing or wall mounted; not exceeding thirty-two (32) square feet in area; not exceeding eight (8) feet in height if free standing.
  7. Subdivision entrance identification signs of permanent construction; free standing or wall mounted; not exceeding eight (8) feet in height if free standing.
- B. High Density Residential Zone and Mobile Home Parks (R-3, MHP): Permitted signs within this zone shall be free standing or wall mounted as specifically noted; signs shall be either non-illuminated or indirectly illuminated.
1. Signs as permitted and regulated under Section 6.7(A) above.
  2. One identification sign for a multifamily residential building containing four (4) or more dwelling units or one identification sign for the mobile home park; free standing or wall mounted; not exceeding thirty-two (32) square feet in area; not exceeding eight (8) feet in height if free standing; minimum setback of at least twenty (20) feet.
- C. Commercial District (C-1), Public/Semi-Public (P) And Industrial Zones (I-1, I-2): Permitted signs may be free standing or wall mounted as specified; signs may be non-illuminated, indirectly illuminated, internally illuminated or directly illuminated unless specified otherwise;

no free standing business sign shall exceed thirty (30) feet in height; no free standing advertising sign shall exceed thirty (30) feet in height. A variance for sign height may be granted for commercial facilities located at or near expressway interchanges.

1. Commercial signs shall be permitted as follows:

- a. The total surface area of business signs shall not exceed two (2) square feet per linear foot of street or building frontage, whichever is greater or thirty-two (32) square feet whichever is greater.
  - b. One free standing business sign per lot shall be permitted per street frontage with a maximum of two (2) free standing signs; not exceeding one hundred (100) square feet per sign; minimum setback shall be one-half (1/2) the setback required for a principal building but not less than ten (10) feet in any case.
  - c. The surface area of wall mounted business signs shall not exceed fifteen percent (15%) of the wall area to which it is attached or thirty-two (32) square feet whichever is greater, each wall to be considered separately. Only one (1) business sign shall be permitted per wall. In the case of a building containing two or more separate business uses, these requirements shall be applied separately to the wall area of the building space leased, rented or owned by the individual business tenant.
  - d. Window signs shall be permitted limited to no more than twenty-five percent (25%) of the total window area.
2. One nameplate per tenant or leasee; not exceeding two (2) square feet in area; non-illuminated or indirectly illuminated.
3. In conjunction with an indoor theater, one marquee not to exceed twenty-four (24) square feet per theater; such marquee shall project no more than eight (8) feet from the building face to which it is attached and shall have a minimum clearance of eight (8) feet. In addition, one attraction board attached to one free standing business sign, not to exceed twenty-four (24) square feet per theater. The area of the marquee and attraction board shall be included in the computation of the maximum permitted sign area.
4. One attraction board, wall mounted or attached to a permitted free standing business sign; the area of the attraction board to be included in the maximum permitted sign area.
5. One menu board per restaurant use, all copy (including any logos, restaurant name, etc.) shall have a maximum letter height and width of six (6) inches containing no direct illumination; not exceeding thirty (30) square feet in area; maximum height of eight (8) feet if free standing, and not located so as to have copy visible to vehicular traffic on any adjacent street.
6. In addition, advertising signs shall be permitted on or in place of business signs; however, all other requirements for business signs such as height, number and size shall be met.

7. Mobile signs may be permitted as temporary signs for a period not to exceed sixty (60) days per year when properly secured.

D. Central Business District (CBD): Permitted signs may be free standing or wall mounted as specified; such signs may be non-illuminated, indirectly illuminated, internally illuminated or directly illuminated unless specified otherwise; painted wall signs shall be prohibited.

1. Business signs shall be permitted as follows:

- a. Permitted signs shall identify only the premises on which they are located and shall contain only the name and type of establishment and one trademark or logo. General products advertising or lists of specific goods or services shall be prohibited.
- b. Only one free standing sign shall be permitted for each street frontage, or face of building. The free standing signs shall have a maximum area of fifty (50) square feet, a maximum height of twenty (20) feet, and a maximum projection into the right-of-way of twelve (12) inches.
- c. One wall mounted sign per building face shall be permitted, placed at a height of fifteen (15) feet or higher. Such signs shall have a maximum area of three (3) percent of the wall area to which it is attached with a maximum projection into the right-of-way of twelve (12) inches.
- d. In addition to the wall sign permitted under (c) above, one additional wall mounted sign shall be permitted per building face. Such signs shall have a maximum lettering height or vertical cabinet dimension of two and one-half (2 1/2) feet; and shall be located at a height of fifteen (15) feet but no more than ten (10) feet on the building.
- e. Window signs shall be permitted, limited to no more than twenty-five percent (25%) of the total window area.

2. Wall mounted identification signs not exceeding five (5) square feet with a maximum letter height of six (6) inches; located no higher than ten (10) feet on the face of the building; one sign per establishment having a separate and direct entrance to the outside; maximum projection into the right-of-way of twelve (12) inches.

3. Nameplates, directional signs, menu boards, informational signs and signs on or under a canopy or awning shall be permitted as regulated in the C-1 zone.

4. In conjunction with an indoor theater, one marquee not to exceed twenty-four (24) square feet per theater; such marquee shall project no more than eight (8) feet from the building face to which it is attached and shall have a minimum clearance of eight (8) feet. In addition, one attraction board attached to one free standing business sign, not to exceed twenty-four (24) square feet per theater. The area of the marquee and attraction board shall be included in the computation of the maximum permitted sign area.

E. Shopping Centers: Signs in shopping centers shall be permitted and regulated as for C-1 (Section 6.7C) except as follows:

1. In place of the free standing signs permitted under Section 6.7(C)(1)(b), the only permitted free standing signs shall be shopping center identification signs. One sign shall be permitted per street frontage, with a maximum of two (2) signs. The maximum square footage of each sign shall be seventy-five (75) square feet with a maximum height of twenty (20) feet. An attraction board may be attached to the free standing sign provided it does not exceed the area of the identification sign and provided that no permanent copy identifying any specific business or product sold within the center is included on the attraction board. The area of the attraction board shall be included in the computation of the area of the freestanding sign. The copy on such an attraction board shall be limited to sales or other events on the premises and civic meetings, rallies or other noncommercial events on or off the premises.
2. The wall mounted signs shall show only the name and/or logo of the business or profession, and shall contain no product trade name identifications. A listing of any products sold or offered on the premises may be an integral part of, and incorporated into each permitted wall sign, provided the listing occupies no more than fifty percent (50%) of the area of the sign.
3. Window signs shall be permitted, limited to no more than twenty-five percent (25%) of the total window area.
4. Non-illuminated or indirectly illuminated projecting signs may be permitted only as a conditional use.

F. Mobile Home Parks: Permitted signs shall be either non-illuminated or indirectly illuminated.

1. One free standing mobile home park identification sign shall be permitted; sign not to exceed thirty-two (32) square feet in area; not exceeding eight (8) feet in height, minimum setback of twenty (20) feet from any street.
2. One nameplate per mobile home; not exceeding one (1) square foot in area.

## 6.8 VARIANCES

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- A. The Board of Adjustment shall have the authority to hear and decide on applications for variances to the dimensional requirements contained herein in accordance with Article 9 of this zoning ordinance. The Board shall not be authorized to increase the number of permitted signs; and may not permit any sign to be erected or mounted to incorporate any design feature, information, or copy, nor to permit a design type that is not specifically permitted in the zone in which the sign is to be located nor to grant any variance which would increase the maximum total permitted sign area on a single lot or building.
  - B. Before granting a variance to the dimensional requirements for a sign, the Board shall find all of the following which shall be recorded along with any imposed conditions or restrictions in the minutes and records and issued in written form to the applicant to constitute proof of the variance:
    1. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or in the same zone.

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2. The strict application of the provisions of the sign regulations of this zoning ordinance would deprive the applicant of a reasonable use of the land or would create unnecessary hardship on the applicant.
  3. Such special circumstances are not the result of actions of the applicant taken subsequent to the adoption or amendment of the sign regulation of this zoning ordinance.
  4. Reasons that the variance will not adversely affect the public health, safety and welfare, and will not alter the essential character of the general vicinity, and will not cause a hazard or a nuisance to the public.
- C. Nonconforming Signs: A legal nonconforming sign may continue in existence and shall be properly maintained in good condition. These sign regulations shall not be construed to prevent the strengthening, repair, or restoring to a safe condition any sign, but a nonconforming sign shall not be:
1. Changed to another nonconforming sign; except where only the faces or the messages are changed, or where the sign is reduced in height, size or area.
  2. Structurally altered (except to meet safety requirements) so as to prolong the life of the sign.
  3. Altered so as to increase the degree of nonconformity of the sign. Expanded or enlarged.
  4. Re-established after its discontinuance for ninety (90) days.
  5. Moved to a new location on the building or lot.
- D. Discontinuance of Illegal Signs: Mobile signs which remain on a property over sixty (60) days per year are illegal signs and are subject to immediate enforcement action.
- E. Discontinuance of Temporary Signs: Any temporary sign erected or displayed more than ninety (90) days prior to the date of passage of this Article shall be removed forthwith.
- F. Signs As Conditional Uses: The Board of Adjustment shall have the authority to approve conditional uses for signs which are specifically listed in the zone in question. Such signs shall be subject to all provisions and procedures as set forth in Article 9 for a conditional use permit.
- G. Maintenance Standards: Every sign including those signs for which a permit is not required, shall be maintained in good condition at all times.
1. Any painted wall sign shall be repainted at least once every three (3) years.
  2. All signs which contain painted parts shall be kept neatly painted including metal parts which are not galvanized or of rust resistant materials.
  3. The Administrative Official shall have the authority to order the repair, repainting, alteration or removal of any sign which constitutes a hazard to the health, safety or public welfare or which is an eyesore to the community by reason of inadequate maintenance, dilapidation or obsolescence.

H. Penalties For Violation: Violation of the provisions of these sign regulations shall constitute a misdemeanor which shall be subject to the fines and penalties as set forth in Article 8 for violation of this zoning ordinance.



## **7 DEVELOPMENT PLANS**

### **7.1 INTENT AND PURPOSE**

The purpose of this section is to establish and define development plans which may be utilized for a wide variety of planning related procedures. This section outlines the content and procedure for submission, review, and approval of all development plans required by the Zoning Ordinance.

### **7.2 APPROVAL OF DEVELOPMENT PLAN BEFORE ZONING PERMIT**

For any case where a development plan is required by this Zoning Regulation, no zoning permits shall be issued until a Final Development Plan is approved by the Planning Commission. The approval of a development plan shall limit and control the issuance of all zoning permits, and restrict the construction, location and use of all land and structures to the conditions as set forth in the plan.

### **7.3 WHERE REQUIRED**

Development plans shall be required as follows:

**A. Development Plans Required in Conjunction with Zone Map Amendment Requests:**  
Development plans shall be required to accompany any zoning map amendment request.

1. All applications for zoning map amendments shall require the submission and approval of both a preliminary development plan and a final development plan prior to development of the property. The preliminary development plan shall be required to be submitted in conjunction with the zoning map amendment request.
2. The Commission in its discretion may waive the requirement for the submission and approval of a preliminary development plan, a final development plan or both, if the Commission finds that there will be minimal impact to the neighborhood or the subject property.

**B. Development Plans Required For Multiple Principle Structures As Permitted By Section 2.7:**  
Development plans required by Section 2.7 to permit more than one principal structure and its accessory structures on a lot or a parcel of land shall be submitted to the Commission, in accordance with the provisions of this article.

**C. Development Plans Required For All Commercial and Industrial Developments.** Development plans are required for all commercial or industrial developments where new facilities are to be built or expanded by twenty-five (25) percent or more. In addition, where improvements are to be installed, standards for these improvements shall be governed by the City of Flemingsburg Subdivision Regulations.

### **7.4 DEVELOPMENT PLAN PROCEDURES**

The following shall be the procedure for Planning Commission consideration of any development plan.



A. Filing: To formally request Planning Commission action on a development plan, the developer shall file three (3) completed copies of the plans, as required, at least fourteen (14) days before the planning commission's next regular meeting date.

B. Review: The Administrative Official shall review the development plan for completeness. The development plan must be complete before the Planning Commission is required to consider the application. An application is complete when it contains all the information necessary for the permit issuing authority to decide whether or not the development, if completed as proposed, will comply with all the requirements of this zoning ordinance. Applicants are encouraged to meet with the Administrative Official prior to submission of the development plan. Upon finding the application complete, the Administrative Official shall review the development plan and make recommendations to the Commission.

C. Commission Action: All development plans shall be approved or disapproved within sixty (60) days of the date they are formally filed for Commission action. However, in case of a development plan filed in conjunction with a map amendment request, the Planning Commission may postpone action of the development plan until after the legislative body has made its decision on the map amendment request.

The Commission will review the Administrative Official's recommendation and the development plan and then act for approval, conditional approval, with conditions noted, postponement, or disapproval. The Commission may modify or disapprove the development plan if it finds the plan does not comply with the requirements of the zoning ordinance, and when applicable, the land subdivision regulations or if it finds there are existing or potential substantial flood, drainage, traffic, topographic or other similar problems relating to the development of the subject property.

## 7.5 TYPES OF DEVELOPMENT PLANS

The two types of development plans (preliminary development plans and final development plans) are defined as follows:

A. Preliminary Development Plans: A preliminary development plan is a site plan by which, at the early stages of development design, the Commission may consider, approve and restrict many major aspects of the development without requiring an undue amount of final design work on the part of the developer. The preliminary development plan is less detailed and specific than a final development plan in terms of exact arrangement of buildings, parking areas, open spaces, access points and any other site design features. No building permits can be issued based upon a preliminary development plan

1. **Contents of Preliminary Development Plan** - A preliminary development plan shall contain the following information at a minimum:

- a. A title block containing the plan name, development plan type, name and address of developer and plan preparer; and written scale.
- b. The boundary of the subject property, deed book/page number (or plat cabinet) reference, owner's name and address, and deed book references and owner's names for all adjoining property.
- c. A vicinity sketch, oriented in the same direction as the design scheme.

- d. Topography with contour intervals as shown on the available USGS sheets.
- e. Location, arrangement, and approximate dimensions of existing and proposed driveways, walkways, parking areas and arrangement of spaces, points of ingress and egress, and other vehicular and pedestrian right-of-way.
- f. Location of any proposed or existing streets within or abutting the subject property.
- g. Screening, landscaping, buffering, recreational, and other open space areas.
- h. Approximate size, location, height, floor area, area arrangement and use of proposed existing building and signs.
- i. Storm drainage areas, floodplains, conceptual drainage controls, storm water retention areas and any other designated environmentally sensitive or geologic hazard area.
- j. Proposed and existing easements for utilities or other purposes.
- k. Areas of substantial existing trees including those located along fence rows and drainage areas along with a general description of the type and size of such trees.
- l. A statistical summary of all pertinent site data, including site area, zoning, building coverage and floor area, parking, open space, etc.
- m. An owner's certification, signed and witnessed as follows: "I (We) do hereby certify that I am (we are) the only owner(s) of the property shown hereon, and do adopt this as my (our) development plan for the property."
- n. A commission's certification to be signed by the commission's secretary or chairman if and when the plan is fully approved, as follows: "I do hereby certify that this development plan was approved by the Planning Commission".

B. **Final Development Plan:** A development plan from which a building permit will be sought. A final development plan is intended to deal with site design issues at a detailed level and to actually dictate the approved locations of building, parking areas, open spaces, access points and any other site design features, that vary from those requirements for the uses permitted and regulated by the dimension and area requirements for that zoning classification.

- 1. **Contents of Final Development Plan:** All information required for preliminary development plans as required under Section 7.5(A)(1); and that the plan information shall be of an exact nature, rather than approximate or general.

## **7.6 AMENDMENTS TO DEVELOPMENT PLANS**

Amendments to approved development plans can be made only by official Planning Commission actions. Content, format, and procedures shall be the same as for the original submission. However, amendments which fully meet the requirements set forth hereinafter for minor amendments may be approved and certified by the Administrative Official without further action by the commission.

- A. Minor Amendments Defined: Minor amendments are intended to expedite approval in those situations where amendments are of minor significance and generally relate to the shifting of previously approved spaces. Such amendments (1) shall not decrease the overall land area in yards, or other open spaces; (2) shall not increase building ground area coverage, floor area, or height; or increase the number of dwelling units; (3) shall not increase the number or size of signs; (4) shall not change the location of any street and shall not increase the number, or change the location of street access points; except that shifts in the approved access location not exceeding twenty-five (25) feet may be approved as a minor amendment where the access point is not located on an arterial street.

#### **7.7 DEVELOPMENT PLANS AND PRELIMINARY SUBDIVISION PLATS MAY BE COMBINED**

It is recognized that for certain development situations it can be advantageous to both the developer and the commission to combine the functions and requirements for development plans and preliminary subdivision plans in order to streamline the development approval process while not reducing the quality of the review.

#### **7.8 PRELIMINARY OR FINAL SUBDIVISION PLATS MAY BE SUBSTITUTED FOR DEVELOPMENT PLANS REQUIRED IN CONJUNCTION WITH MAP AMENDMENT REQUEST**

It is recognized that in certain cases, a preliminary or final subdivision plat would be as appropriate or more appropriate to be considered in conjunction with a map amendment request than a development plan. Generally, such situations involve developments where placements of structures will be tightly controlled by the streets, lot pattern, and the requirements for placement of structures within the zone, and where the developer sees fit to have plans prepared at the required level of detail for a subdivision plat prior to receiving a zone change approval.

#### **7.9 REQUEST FOR VARIANCES OR CONDITIONAL USE PERMITS**

An applicant for a zone change who is required to submit a development plan to the Planning Commission may elect to have the Planning Commission hear any requests for variances or conditional use permits proposed in the development plan. Such request shall be submitted at the time of filing of the application for the zone change. In such cases, the Planning Commission is hereby empowered to hear and finally decide applications for variances or conditional use permits pursuant to KRS 100. The planning commission shall assume all powers and duties otherwise exercised by the Board of Adjustment pursuant to KRS 100 in such circumstances. The application for variances or conditional use permits shall be considered at the same public hearing set for the zone change.

## **8 ADMINISTRATION AND ENFORCEMENT**

### **8.1 ADMINISTRATIVE OFFICIAL**

A fully qualified Administrative Official designated by the Flemingsburg City Council shall administer and enforce this zoning regulation. The Administrative Official may be provided with the assistance of such other persons as directed by the Flemingsburg City Council and Planning Commission.

A. For the purposes of the zoning ordinance, the Administrative Official shall have the following duties:

1. Upon finding that any of the provisions of this ordinance are being violated, notify in writing the person responsible for such violation (s), ordering the action necessary to correct such violations.
2. Order discontinuance of illegal uses of land, buildings or structures.
3. Order removal of illegal buildings, structures, signs or illegal additions or structural alterations.
4. Order discontinuance of any illegal work being done.
5. Take any other action authorized by this zoning ordinance to ensure compliance with or to prevent violation(s) of this zoning ordinance. This may include the issuance of and action on zoning permits and other such similar administrative duties as are permissible under the law.
6. Make records of all official actions of the office relating to the administration and enforcement of the provisions of this zoning ordinance including but not limited to written records of all complaints and actions taken with regard thereto, all violations discovered and actions taken thereto, and the final disposition of all such matters.
7. Make an annual report to the Planning Commission and, at the direction of the Planning Commission, the City Council, listing the total number of buildings and structures constructed and/or demolished, the number of dwelling units added or subtracted from the city total, and the dollar value of all building activity occurring within the City during the preceding year. Said report shall also further break the value of building activity down by land use category in accordance with the number and type of zoning districts authorized by this regulation and any amendments thereto, and shall detail the full scope of enforcement activities including fines, injunctions and the like imposed upon any violators. The report shall be in writing.

### **8.2 PLANNING (ZONING) COMMISSION**

Matters of the Planning Commission pertaining to membership, appointment, terms, vacancies, oath, compensation, removal and officers shall be in accordance with KRS 100. The Commission shall adopt rules necessary to the conduct regular held meetings, those meetings held at the call of the chairman and at such other times as the Commission may determine. All meetings shall be open to the public. The Commission shall keep minutes of its proceedings, including regulations,



transactions, findings, and determinations, and the number of votes for and against each question, and if any member is absent or disqualifies from voting, indicating that fact.

A. For the purpose of this zoning ordinance, the Commission shall have the following duties:

1. Administer and enforce this zoning ordinance as outlined herein.
2. Review all proposed amendments to this zoning ordinance and make recommendations to the City Council.
3. Review and act on all development plans.

### **8.3 ZONING PERMITS REQUIRED**

No building or other structure shall be erected, moved, added to, or structurally altered without a zoning permit issued by the Administrative Official. No zoning permit shall be issued by the Administrative Official except in conformity with the provisions of this zoning regulation, unless they receive a written order from the Board of Adjustment in the form of an administrative review, conditional use permit, or variance as provided by this zoning ordinance. When required by Kentucky Building Code, a building permit must also be obtained. In addition, all construction must be in conformance with the city's Floodplain Ordinance.

If no zoning permit has been issued and a builder begins or continues to build, a restraining order may be obtained upon application to the proper court of record and evidence of the lack of a zoning permit shall establish a prima facie case for the issuance of the restraining order.

#### **8.3.1 APPLICATION FOR ZONING PERMIT**

All applications for zoning permits shall be drawn to a scale as may be required by the Administrative Official. One copy of the plans shall be returned to the applicant by the Administrative Official, after having marked such copy either as approved or disapproved and attested to same by this signature on such copy. The original copy of the plans, similarly marked shall be retained by the Administrative Official.

#### **8.3.2 EXPIRATION OF THE ZONING PERMIT**

If the work described in any zoning permit has not begun within six (6) months from the date of issuance thereof, said permit shall expire; it shall be revoked by the Administrative Official and written notice thereof shall be given to the persons affected. If the work described in any zoning permit has not been substantially completed within two (2) years of the date of issuance thereof, said permit shall expire and be revoked by the Administrative Official and written notice thereof shall be given to the persons affected, together with notice that further work as described in the canceled permit shall not proceed unless and until a new zoning permit has been obtained.

### **8.4 CERTIFICATE OF OCCUPANCY FOR NEW, ALTERED, OR NONCONFORMING USES**

Where required, it shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a certificate of occupancy has been issued.

No nonconforming structure or use shall be renewed, changed, or extended until a zoning permit (and where required, building permit) have been issued by the Administrative Official.

#### **8.5 CONSTRUCTION AND USE TO BE AS PROVIDED IN APPLICATIONS, PLANS, PERMITS, AND CERTIFICATES OF OCCUPANCY**

Zoning permits issued on the basis of plans and applications approved by the Administrative Official authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no otherwise, arrangement or construction. Use, arrangement or construction at variance with that authorized shall be deemed violation of this Regulation and punishable as provided by Section 8.7 hereof.

#### **8.6 COMPLAINTS REGARDING VIOLATIONS**

Whenever a violation of this zoning regulation occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint, stating fully the causes and basis thereof, shall be filed with the Administrative Official. The Administrative Official shall record properly such complaint, immediately investigate, and take action thereof as provided by this zoning regulation.

#### **8.7 PENALTIES FOR VIOLATIONS**

Violation of the provisions of this zoning ordinance or failure to comply with any of its requirements (including violations or conditions and safeguards established in a connection with grants of variances or conditional uses) shall constitute a misdemeanor.

Any person who so violates this zoning ordinance or fails to comply with any of its requirements except as provided in Section 8.71 herein below shall upon conviction thereof be fined not less than ten dollars (\$10.00) but no more than five hundred dollars (\$500.00) for each conviction. Each day of violation shall constitute a separate offense.

##### **8.7.1 VIOLATIONS REGARDING LOTS OR PARCELS**

Any person shall upon conviction be fined not less than one hundred dollars (\$100.00) but no more than five hundred dollars (\$500.00) for each lot or parcel which was the subject of sale or transfer, or a contract for sale or transfer where such sale or transfer, or contract thereof, constitutes a violation of this zoning ordinance.

Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.

#### **8.8 SCHEDULE OF FEES, CHARGES, AND EXPENSES**

The Planning Commission shall enforce a schedule of fees, charges, and expenses established by City Council and shall develop a collection procedure for zoning permits, appeals, and other matters pertaining to this zoning ordinance. The Schedule of Fees shall be posted in the office of the Administrative Official, and may be altered or amended only by the City Council. Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

## **9 BOARD OF ADJUSTMENT**

### **9.1 APPOINTMENT AND PROCEEDINGS OF THE BOARD**

Upon adoption of the Flemingsburg Zoning Ordinance, the Mayor shall appoint a five (5) member Board of Adjustment subject to the approval of the city council. Matters of the Board of Adjustment pertaining to membership, appointment, term, vacancies, oath, compensation, removal and officers, shall be in accordance with KRS 100.217.

The Board of Adjustment shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this zoning ordinance. Meetings shall be held at the call of the chairman and at such other times as the Board shall determine. The chairman, or the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.

The Board of Adjustment shall keep minutes of its proceedings, showing the vote upon each question, or if absent or failing to vote indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be of public record and be immediately filed in the office of the Board (Note KRS 100.221).

#### **9.1.1 AN APPEAL**

An appeal stays all proceedings in furtherance of the action appealed from, unless the Administrative Official from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal is filed, that by reason of facts stated in the certificate, a stay would, in their opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted on due cause shown by the Board of Adjustment. Notice shall be given to the Administrative Official from whom the appeal is taken and on due cause shown.

### **9.2 POWERS AND DUTIES OF BOARD OF ADJUSTMENT**

#### **9.2.1 ADMINISTRATIVE REVIEW**

To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by the Administrative Official. Such decision shall be made within sixty (60) days.

#### **9.2.2 CONDITIONAL USE PERMIT**

The Board shall have the authority to approve or disapprove applications for conditional uses. The Board may approve, modify, or deny any application for a conditional use permit. If it approves such permit, it may attach necessary conditions such as time limitations, requirements that one or more things be done before the request can be initiated, or conditions of a continuing nature. Any such conditions shall be recorded in the Board's minutes and on the conditional use permit. The granting of a conditional use permit does not exempt the applicant from complying with all the requirements of building, housing and other applicable regulations.



### 9.2.3 VARIANCES

The Board shall have the power to hear and decide on applications for dimensional variances where, by reason of the exceptional narrowness, shallowness, or unusual shape of a site or by reason of exceptional topographic conditions, or some other extraordinary situation or condition of that site, the literal enforcement of the dimensional requirements (height or width of building or size of yards, but no population density) of the zoning ordinance would deprive the applicant of reasonable capacity to make use of the land in a manner equivalent to the use permitted other landowners in the same zone. The Board may impose any reasonable conditions or restrictions on any variance it decides to grant.

Before any dimensional variance is granted, the Board must find all of the following, which shall be recorded along with any imposed conditions or restrictions in its minutes and records and issued in written form to the applicant to constitute proof of the dimensional variance.

1. The specific conditions in detail which are unique to the applicant's land and do not exist on other land in the same zone.
2. The manner in which the strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land in the manner equivalent to the use permitted other landowners in the same zoned
3. That the unique conditions and circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning ordinance.
4. Reasons that the variance will preserve, not harm the public safety and welfare, and not alter the essential character of the neighborhood.

### 9.2.4 PROCEDURES

An application to the Board for an original interpretation, a decision or an appeal from a decision of the Administrative Official shall be made in writing on forms provided by the Board and must provide sufficient information for administrative purposes. Additional statements or information with respect to the case involved may also be submitted by the applicant for review by the Board. An appeal must be filed within sixty (60) days after the Administrative Official has refused a zoning permit or the right to appeal shall be waived. The Administrative Official shall transmit to the Board the complete record of the decision appealed.

The board shall hold a hearing at which all pertinent evidence concerning the interpretation, decision, or appeal shall be examined, and the Board shall make their decision within thirty (30) days after the hearing. The following rules shall govern all decisions made by the Board:

- A. **Limits of Authority:** The Board shall act only within the strict limits of its authority as defined in the zoning ordinance. The Board has no authority to vary the use regulations or other regulations not specifically delegated to it. The Board shall not hold hearings on applications or appeals seeking decisions that the Board is not authorized to make.
- B. **Special Conditions:** The Board may attach special conditions to any decision it is authorized to make in order to ensure that the intent of the zoning ordinance will be carried out.

- C. Majority Vote Required: The concurring vote of a majority of the entire membership of the Board shall be necessary in making any decision.
- D. Additional Powers: In exercising the above powers, the Board shall have all the powers of the Administrative Official in addition to its other powers and duties.

## **10 AMENDMENTS**

### **10.1 GENERAL**

Whenever the public necessity, convenience, general welfare, or good zoning practices require, the legislative body may by ordinance, after receiving a recommendation thereon from the planning commission, and subject to procedures by law, amend, supplement, change or repeal the regulations, restrictions, boundaries or classification of property.

### **10.2 APPLICATION FOR AMENDMENT**

A proposal for amendment to the Official Zoning Map may originate with the Planning Commission, the City Council, and other government body, the owner of the subject property, or by a person having written authorization from the owner of the subject property. A proposal for amendment to the text of this ordinance may originate with any person or governmental body. Regardless of the origin of the proposed amendment an application must be filed with the Planning Commission requesting the proposed amendment in such form and accompanied by such information as required by this ordinance and the Planning Commission. The Planning Commission may require the submission of further information subsequent to the filing of an application as provided by the ordinance and the Planning Commission. **At the time of filing an application, a non-returnable filing fee shall be paid according to the schedule of fees; however, there shall be no filing fee for an amendment requested by the City Council, the Planning Commission, or any governmental agency.** Upon the filing of an application for a map amendment by a governmental body, the Planning Commission shall promptly notify the owner of the subject property by registered mail or certified mail, receipt requested.

### **10.3 PLANNING COMMISSION PROCEDURE**

Upon filing of an application for an amendment to the Official Zoning Map or the text of this ordinance, the Planning Commission shall study and review the application as provided in this ordinance and the bylaws of the Planning Commission.

### **10.4 NOTICE OF PUBLIC HEARING**

Before voting upon any proposed amendment, notice of the time, place and reason for holding a public hearing shall be given by one (1) publication in the newspaper of general circulation in the city, not earlier than twenty-one (21) days or later than seven (7) days before the public hearing.

### **10.5 PUBLIC HEARING ON APPLICATION**

After notice of the public hearing as provided for above, the Planning Commission shall hold a public hearing on the proposed amendment.

### **10.6 RECOMMENDATION OF COMMISSION FOR ZONING MAP AMENDMENT**

Before recommending to the City Council that an application for amendment to the Zoning Map be granted, the Planning Commission, in the absence of such a finding that the request is in conformance with the City of Flemingsburg Comprehensive Plan, must make the following findings: (1) the original zoning classification given to the property was inappropriate or improper, or (2) there have been major changes of an economic, physical, or social nature within

the area involved which were not anticipated in the Comprehensive Plan adopted by the Planning Commission and which have substantially altered the basic character of such area. These findings of fact shall be recorded in the minutes and records of the Commission. After voting to recommend that an application for amendment to the Official Zoning Map be granted or denied, the Planning Commission shall forward its findings of fact and recommendations in writing to the City Council.

#### **10.7 ACTION BY CITY COUNCIL ON ZONING MAP AMENDMENTS**

The Flemingsburg City Council shall not act upon a proposed amendment to the Zoning Map until it has received the written findings of fact and recommendations thereon from the planning commission. It shall take a majority of the entire City Council to override the recommendations of the planning commission.

#### **10.8 RECOMMENDATION OF COMMISSION FOR TEXT AMENDMENT**

After voting to recommend that an application for amendment to the text of this zoning ordinance be granted or denied, the Planning Commission shall forward its recommendation in writing to the City Council.

#### **10.9 ACTION BY CITY COUNCIL ON TEXT AMENDMENT**

The City Council shall not act upon a proposed amendment to the text of this zoning ordinance until it has received the written recommendation from the planning commission. It shall take a majority of the entire City Council to override the recommendation of the planning commission.

#### **10.10 SPECIAL CONDITIONS TO THE GRANTING OF ZONING CHANGES**

As a condition to the granting of any zoning change, the Planning Commission may require the submission of a development plan. As a further condition to the granting of a zoning change, the planning unit may require that substantial construction be initiated within two (2) years; provided that such zoning change shall not revert to its original designation unless there has been a public hearing.

#### **10.11 CURRENCY OF ZONING MAP**

The Planning Commission and the Administrative Official shall ensure that amended zoning district boundaries are accurately placed on the certified copies of the Zoning Map and shall initial and date all such additions to them as approved.

PASSED AND RECOMMENDED BY RESOLUTION OF THE FLEMINGSBURG  
PLANNING COMMISSION FOR ENACTMENT: \_\_\_\_\_

ENACTED BY ORDINANCE OF THE FLEMINGSBURG CITY COUNCIL FOR  
ENFORCEMENT BY THE FLEMINGSBURG PLANNING COMMISSION.

Date of First Reading: \_\_\_\_\_

Date of Second Reading: \_\_\_\_\_

SITE DEVELOPMENT STANDARDS  
Flemingsburg, Kentucky

Prepared for the  
FLEMINGSBURG PLANNING COMMISSION  
February, 1982

By the  
Buffalo Trace Area Development District

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## GENERAL REGULATIONS FOR STRUCTURES

1. Regulation of Principal Buildings--Only one principal building and permitted accessory structures may be erected on anyone lot of record, unless a final plat has been approved. Temporary structures are permitted during construction only.
2. Regulation of Agricultural Land and Buildings--Land which is used solely for agricultural, farming, dairying, stock raising, or similar purposes have no regulations imposed as to building permits, certificates of occupancy, height, yard, location of court requirements for agricultural buildings. The only exception is that no agricultural building shall be located any closer than 50 feet to the edge of any existing or proposed public street or highway.

## REGULATION OF SIGNS

All signs shall be subject to the following regulations:

1. Free Standing or Detached Signs--Only one free standing or detached sign shall be permitted on the premises. All free standing or detached signs and all parts shall be located at least 10 feet from the edge of the pavement from public streets and at least five feet from all property lines except where signs exceed 40 sq. ft. in sign area. All free standing or detached signs which exceed 40 sq. ft in sign area and all parts shall be located at least 25 feet from the edge of street pavement and no less than five feet from property lines. No free standing or detached sign shall exceed 150 sq. ft in sign area. A clear space of not less than eight feet shall be provided below all parts of a sign.
2. Attached Signs--No attached signs shall extend or project more than six feet above or beyond the building or building walls. A clear space of not less than eight feet shall be provided below all parts of a sign. In no case shall an attached sign be permitted to extend or project beyond a line drawn perpendicularly upward from two feet inside the curb line facing a public street or alley.
3. Lighting--No sign shall be permitted which involves lighting or motion resembling traffic or directional signals, warnings or other similar devices which are normally associated with highways and safety regulations. In addition, no sign shall be permitted which constitutes safety hazards or hinderance because of light, glare, focus, animation, flashing or intensity of alumination. Lighted signs shall be designed and located as to prevent direct glare or hazardous interference to adjoining streets or properties. If there is any doubt concerning the type of sign permitted, the developer shall request an interpretation from the Planning Commission.
4. Maintenance--All signs shall be adequately maintained. Such maintenance shall include proper alignment of structures, continued readability of the structure and preservation of the structure with paint or other preservations.
5. The following signs are permitted and require no building permit.
  - a. Signs necessary for identification, operation or protection of a public utility installation or a sign incidental to a legal process or necessary for the public's safety or welfare.
  - b. One unlighted real estate sign not over six feet in an area located on a premises being advertised for sale or rent.
  - c. One unlighted sign not over two square feet in an area identifying home occupations.
  - d. On sign not over 16 sq. ft. in an area identifying any public or semi-public building.
  - e. One unlighted sign not over 2 sq. ft. in an area identifying rooming and boarding houses of the lodging of tourist on premises.

6. Existing Nonconforming Signs--Any sign which is existing on the effective date of the standards which does not conform to all provisions of the standards may remain subject to the following regulations:
- a. No sign shall be altered, modified, or replaced except in conformance with provisions of these standards.
  - b. Any sign which is not maintained in conformance with these standards shall be subject to compliance with these standards.
  - c. Any sign which is damaged or deteriorated more than 50 percent of its replacement costs shall not be restored, except in conformance with these standards. If there is any doubt concerning the amount of damage or deterioration, the developer shall request an interpretation from the Planning Commission.

If any sign is not maintained in conformance with these standards, or is not in conformance with other provisions of these standards, the Planning Commission shall give written notice of nonconformance to the owner by a written notice of such nonconformance to the owner of the sign. If the owner of the sign does not comply with the provisions of the notice within 60 days of issuance of such notice, the Planning Commission shall have the right to compel the sign to be removed at a cost to the owner.

## REGULATIONS FOR VEHICLES

1. Off Street Parking Regulations for Automobiles--Off street parking space for automobiles shall be provided for all buildings and uses, within accordance with the following regulations:
  - a. Off street parking space shall be provided on the premises so that there shall be no generation of automobile parking on any street.
  - b. Off street parking space shall be provided with vehicular access to a street or alley.
  - c. Landscape separation strip, a physical barrier at least 10 feet in width shall be provided along all public streets on which the off street parking is located.
  - d. All off street parking space access points on a public street shall be subject to the following regulations.
    1. There shall be only one access point not to exceed 50 feet in width, permitted on the public right-of-way on which the off street parking is located. The Planning Commission may permit additional access points when such access points are justified and necessary and will not substantially increase traffic hazards or congestion.

The developer shall apply to the Planning Commission for a decision when building permits are requested in such cases.
    2. All off street parking space access points of the public street shall be located at least 120 feet from the end of the radius point of intersecting streets, but shall not, however, be permitted to be located on the adjacent or intersecting street right-of-way. The developer shall apply to the Planning Commission for an original interpretation if there is doubt concerning the radius points of the intersecting streets or in cases where this provision cannot be applied literally.
    3. All off street parking space access points on a public street shall be located at least ten (10) feet from all property lines.
    4. All off street parking space points on a state or federal road or highway shall conform with the requirements of the Kentucky Department of Transportation. In such cases, as deemed necessary, the applicant for a building permit shall provide the Planning Commission with written approval from the Kentucky Department of Transportation prior to issuance of a building permit.
  - e. Off street parking space shall be provided on the premises at a ratio of 200 sq. ft (10'X20') per parking space required. (Does not include movement area.)
  - f. Parking, loading and unloading and access thereto shall be surfaced in a manner to eliminate dust and mud.

2. Interpretation of Automobile Off-Street Parking Space Required--The Planning Commission shall interpret the amount of off-street parking space required for any building or use assisted by the off-street parking standards. In either case, the developer shall apply to the Planning Commission for an original interpretation.

3. Exception to Automobile Parking Space Required on the Premises--If approved by the Planning Commission, off-street parking space required for any building or use may be located off the premises, but within walking distance of 400 feet from the premises it serves, and/or may be consolidated into a large parking area serving other buildings and uses. The developer shall apply to the Planning Commission for a decision when building permits are requested in such cases.

The Planning Commission shall not authorize the total amount of parking space to be required for all buildings and uses to be diminished, except in cases where consolidated parking area serves buildings or uses which do not generate automobile parking at the same time, such as churches and stores. Total parking space in such cases may be diminished to only the maximum required by those buildings and uses which do not generate parking of automobiles at the same time. The Planning Commission may require a plat, deed, or other proof necessary to show the required parking space which is controlled by and available to the applicant. Such off-street parking space if approved shall be maintained and regulated as if it was actually located on the premises of the permitted of the use it is designed to serve.

4. Exception to Automobile Parking Space Required in the Central Business District--The Planning Commission may waive the requirement for automobile off street parking space within the central business district, providing the following determinations are made:

- a. Construction of the required automobile off street parking space on premises would prevent continuous development of a compact and coordinated row of commercial buildings fronting on an already established commercial block or shopping area.
- b. Required automobile off street parking space can not be reasonably provided off street premises in accordance with the standards.
- c. Construction of the required automobile off street parking space would detract from the overall shopping desirability of the adjoining buildings and premises and would result in the incompatibility of mixing vehicles, buildings and pedestrian shoppers.

The developer shall apply to the Planning Commission for a decision when building permits are required in such cases. The central business district is identified in Map 1.

5. Existing Non-Conforming Automobile off Street Parking Space--Existing off street parking space provided for any building or use at the time of adoption of these standards shall not thereafter be reduced, unless after the reduction the parking still exceeds the requirements of these standards.

# COMMERCIAL AND INDUSTRIAL PARKING REQUIREMENTS

TYPE OF USE	PARKING SPACES REQUIRED (1)
Automobile, trailer, boat or farm implement sales and repair (outdoor)	1 per 1,000 sq. ft. used for retailing or storage
Automobile, trailer, boat or farm implement sales and repair (indoor)	1 per 200 sq. ft. of floor area
Banks, business offices, professional offices, similar business uses, postal stations, telegraph offices, and similar uses	1 per 500 sq. ft. of floor area
Boarding or lodging house or fraternity, sorority, or student cooperative house	1 per 3 occupants
Bowling Alley	3 per lane plus 1 per 6 spectator seats
Church or temple	1 per 4 seats in main auditorium
Clinic	1 per 2 employees plus 5 per doctor
College, university or trade or business school	1 per 3 students and staff members
Funeral home or mortuary	1 per 250 sq. ft. floor area
Hospital	1 per 4 beds, plus 1 per doctor, plus 1 per 3 employees, plus 1 per hospital vehicle (2)
Industrial, wholesale, warehousing and storage	1 per 2 employees (2)
Motel or hotel	1 per sleeping room
Nursing home or home for the aged	1 per 7 persons in residence
Outdoor commercial recreational use	1 per 3 employees, plus 1 per 500 sq. ft. of use area
Police station or fire station	1 per 3 employees on a shift
Private club or lodge	1 per 6 active members
Public library, museum or municipal or government building	1 per 300 sq. ft. of floor area
Public or private sewage disposal plant	1 per employee per shift

COMMERCIAL & INDUSTRIAL PARKING REQUIREMENTS  
(CONTINUED)

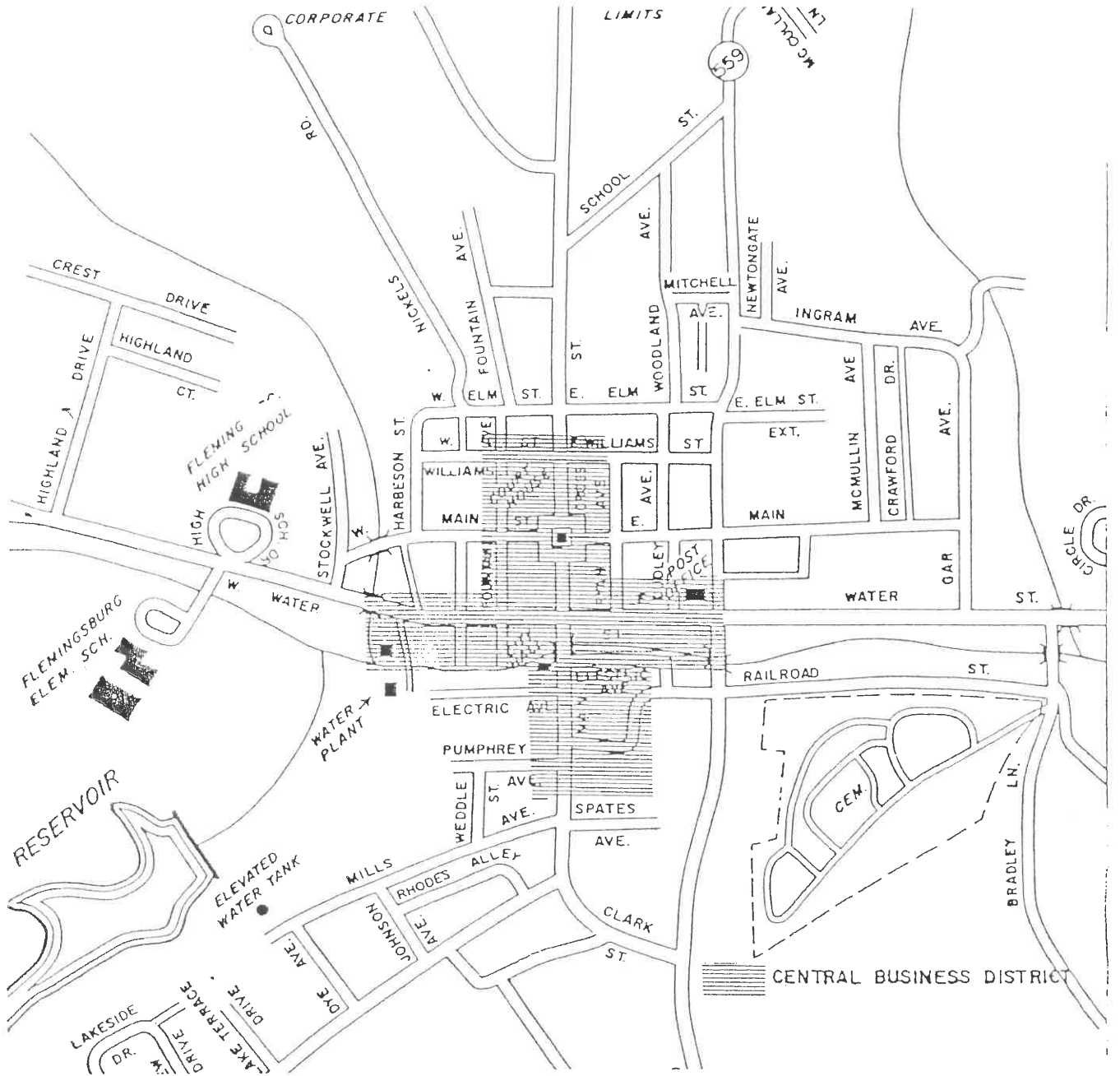
TYPE OF USE	PARKING SPACES REQUIRED (1)
Radio or TV tower or station	1 per employee per shift
Retail sales and service	1 per 125 sq. ft.
Restaurant	1 per 4 seats, plus 1 per 2 employees
School (driving age students)	1 per 3 students, plus staff members
School (nondriving age students)	1 per 2 employees, plus 1 per 5 Children
Shopping Center	1 per 150 sq. ft.
Shopping Center (Regional)	1 per 75 sq. ft. sales area
Stadium, colosseum or auditorium	3 per 4 employees, plus 1 per 5 seats
Telephone exchange or public utility substation	1 per employee at or working out of site
Truck freight terminal	1 per 2 employees, plus 4 per customer
For any use not otherwise listed	As determinated by the Planning Commission

A minimum of 3 parking spaces shall be provided for any non-residential active use. For any combined use, the total requirements equal the sum of the individual parking use requirements that occur concurrently. If the uses are noncurrent in nature, the larger of the requirements shall be used.

Each parking space required by this section must be at least 10 feet wide and 20 feet long, exclusive of passage ways.

- a. Parking space requirements are determined by calculating the used building area unless otherwise indicated. Used building area is the total ground floor area plus the actively used space above the first floor.
- b. Apply the requirements to the combined employment of the 2 largest successive shifts.





Any existing building or use not provided with in the conforming off street parking space shall be provided with off street parking space in conformance with these standards at the time of any structural alteration of the building or expansion of the use.

## COMMERCIAL AND INDUSTRIAL PARKING REQUIREMENTS

1. Off Street Loading and Unloading Space Regulations for Trucks--The Planning Commission shall interpret the amount of loading and unloading space required for any building or use. Whenever the developer is unable to apply this provision literally, a Waiver of the loading requirements can be considered by the Planning Commission for the identified official central business district.

### MINIMUM COMMERCIAL & INDUSTRIAL LOADING REQUIREMENTS

TYPE OF USE	GROSS FLOOR AREA (In sq. ft.)	LOADING & UNLOADING BERTHS REQUIRED
Retail, Wholesale Storage and Other Business Uses	30,000	1
	30,000 to 100,000	2
	For Each Additional 30,000	1 Additional
Office Buildings	4,000 to 100,000	1
	100,001 to 335,000	2
	For Each Additional 200,000	1 Additional
Industrial	5,000 to 25,000	1
	25,001 to 75,000	2
	75,001 to 125,000	3
	For Each Additional 80,000	1 Additional

The minimum size of each loading berth required shall be 12 feet by 50 feet, with a height clearance of 15 feet.

## DEVELOPMENT REGULATIONS

1. Coordination with Subdivision Regulations--In all cases where the ownership of land is divided for the purpose of eventual development of lots of any type (residential, commercial or industrial) the provisions of the Flemingsburg Subdivision Regulations shall apply in addition to these standards.
2. Lot Dimensions--The size, shape and orientation of lots shall be such as the Planning Commission deems appropriate for the type of development and use contemplated.
  - a. Developments with sewers will have lots that meet only the minimum lot width, setback, side yard and rear yard requirements. They are:
    1. Minimum Lot Width--All lots will be a minimum of 60 feet at the street and at the building setback line. Lots located on a cul-de-sac may have a minimum of 40 feet fronting the street and 60 feet at the building setback line.
    2. Setbacks--The building setback line shall not be located closer to the street right of way line than a distance equal to one-half ( $\frac{1}{2}$ ) of the total width of the street right of way on which the building will front. But in no case shall the building setback line be located closer than twenty-five (25) feet from the right of way line of the street. A greater distance between the building setback line and the street right of way line is permissible.
    3. Corner Lots--Corner lots shall have sufficient extra width to meet the building setback lines established on both the front and the street side.
    4. Yard Requirements--
      - (a) Side--Minimum side yard are will be measured from property line to overhang of building and shall total at least 20 feet with a minimum of 8 feet on one side.
      - (b) Rear--Minimum rear year total shall be 20 feet measured from building overhand.
  - b. Developments without Sewers--Developments without sewers will have lots that meet the minimum requirements outlined in subsection (a.) above, plus will have as much additional area as required by the County Health Office to facilitate the alternative sewage system.

3. Utility and Drainage Placements and Easements--

- a. General Requirements--Utilities shall be provided in rear lot easements whenever possible. Whenever it is necessary to install utilities in the street right of way, they shall be placed in accordance with the specifications in this article.

After grading is completed and approved and before any pavement base is applied, all of the in-street underground work; water mains, gas mains, and other improvements, and all service connections shall be completely installed and approved throughout the length of the street and across the flat section. Where the utility mains are outside the pavement area, the developer may be allowed to omit the installation of service connections provided that at such time as these service connections are needed. They may be jacked or bored across the street without breaking or weakening the existing pavement. Where rock is known to exist beneath the pavement area and at such depth as to interfere with the jacking or boring of service connections, the Planning Commission shall require the complete installation of service connections before any base is applied. In cases where underground utilities must be provided within the right-of-way of a street, they should not be installed under the paved portion of such streets.

- b. Water Supply System--Where, in the opinion of the Planning Commission, the public water supply is reasonably accessible or available to the proposed development, the developer shall construct a complete water distribution system which shall adequately serve the lot(s) and shall include appropriately spaced fire hydrants. This system shall be properly connected with the public water supply.

Where a public water supply is not within a reasonable distance or otherwise available, the developer shall normally be required to construct a similar water distribution system and connect it with an alternative supply approved by the city or county health officer. If the Planning Commission approves the use of individual wells, lot sizes will have to meet the approval of the county health officer.

- c. Sanitary Sewers--Where, in the opinion of the Planning Commission, the public sanitary system is reasonably accessible or available to the proposed development, the developer shall construct a sewer system to adequately serve the lot(s) and connect the system to the public system after the city or county engineer approves the size of the lines. Where a lot(s) cannot be served by the extension of an existing public sanitary sewer, the developer shall either obtain approval of lot size(s) for an individual septic tank and disposal field from the city or county health officer, or obtain approval from the city or county health officer for a neighborhood disposal system.

- d. Storm Drainage--An adequate drainage system including necessary open ditches, pipes, culverts, intersectional drains, drop inlets, bridges, and other improvements shall be provided for the proper drainage of all surface water. Cross drains shall be provided to accommodate all natural water flow and they shall be of sufficient length to permit full width roadways and the required slopes.

- e. Utility Drainage Easements--Where topography or other conditions are such as to make practical the inclusion of utilities or drainage facilities within street right-of-way, perpetual unobstructed easements at least 16 feet in width for such utilities shall be provided across property outside the street lines and with satisfactory access to the street.

Where a development is transversed by a watercourse, drainage way, channel, or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such watercourse.

- f. Gas, Electric and Telephone Utilities--The Planning Commission may accept assurance from each public utility company whose facilities are proposed to be installed. Such assurances shall be in the form of a letter addressed to the Planning Commission stating that such public utility company will make the necessary installations for furnishing its services within a specified time.

-- The Planning Commission shall require placing electric and telephone lines underground in new developments unless hardship can be demonstrated.

- g. Sidewalks--The Planning Commission may require, when it deems it necessary, to facilitate pedestrian access and perpetual unobstructed easements at least 10 feet in width. The Planning Commission may require a paved walk for pedestrian safety within such an easement.

Sidewalks, if required, shall be 3 feet wide except along commercial developments where they shall be 10 feet wide. Sidewalks shall be constructed at least 2 feet from the ditch line or from the curb. Sidewalks shall be constructed of a "permanent" wearing surface, (ie. concrete, brick, cobblestone, etc.), and constructed by generally accepted procedures. Sidewalks must be distinct and separate from a parking lot surface. Width requirements may be waived or reduced at the discretion of the Planning Commission.

Where a development borders on a watercourse in an area designated in the Comprehensive Plan for public recreational use, the Planning Commission may require easements for public access to the water.

## MOBILE HOME REGULATIONS

1. Mobile Homes--All mobile homes located outside of an approved mobile home park shall conform with the following standards:
  - a. No mobile home shall be placed on any lot on which a principle structure already exist.
  - b. A mobile home must be located on a lot which abutts at least one public street for a distance of not less than 40 feet.
  - c. All mobile home lots shall comply with the following standards:  
(All setback requirements are measured from the street right-of-way)

Lot Width	40 Feet
Lot Depth	100 Feet
Side Yards	10 Feet
Rear Yards	10 Feet
Front Building Setback Line	25 Feet
Minimum Lot Area	4000 Feet
  - d. A mobile home shall not be connected to electric, gas, telephone, sewer, or any other utility or service in through or at any structure. All such utility and service connections must be made directly to the mobile home from the regular utility service lines in the same manner that connections are provided to other dwellings within these standards.
  - e. It shall be unlawful to occupy any mobile home permitted until the occupant has received a certificate of occupancy.
2. Mobile Homes other than for Occupants--Mobile homes which are intended for sale, resale or processing shall not be occupied either temporarily or permanently for residential purposes.
3. Non-Conforming Mobile Homes--All mobile homes in existence within Flemingsburg which are not in compliance with these standards shall conform with the above standards if replaced or relocated.



## REQUIREMENTS FOR STREETS

1. The arrangements, character, extent, width, and location of all streets shall conform with the transportation element of the Flemingsburg Comprehensive Plan and shall be considered in their relocation of existing and planned streets, topographic conditions, public convenience and safety, and the proposed use of land to be served by such streets.

In designing a street system, the developer shall be guided by the following principals:

- a. Adequate vehicular and pedestrian access should be provided to all parcels.
  - b. Local street systems shall be designed to minimize through traffic movement.
  - c. Blocks shall be between 400 feet and 1200 feet in length.
  - d. The arrangements of local streets shall permit economical and practical patterns, shapes and sizes of development parcels.
2. Street Extensions--The street layout proposed shall provide for continuation of existing streets in areas adjacent to the area being developed, unless the Planning Commission deems continuation or extension undesirable for specific reasons of topography or design.

If, in the opinion of the Planning Commission, it is desirable to provide street access to adjoining property, proposed streets shall be extended by dedication to the boundaries of such properties. Where the Planning Commission deems necessary, such dead-end streets shall be provided with a temporary turn-around, having a radius of 40 feet.

The street system for the proposed development shall provide for extending existing streets of the same or greater width, but in no case shall a street extension be of less width than the minimum width required in these regulations for a street in its category.

3. Street Classification--All streets in a proposed development shall be classified as one of the following:

<u>Street Classifications</u>	<u>Minimum Dedicated Right of Way Width</u>	<u>Pavement Width With On Street Parking</u>	<u>One Side Parking</u>
Arterial	60 Feet	24 Feet	No Parking
Collector	60 feet	30 Feet	30 Feet Minimum
Local	50 Feet	22 Feet	No Parking
Frontage Road or Service Road	60 Feet	20 Feet	No Parking
Alleys	24 Feet	30 Feet	30 Feet Minimum
		16 Feet	No Parking

4. Dedication of Right of Ways--

- a. New Streets--The classification of streets, which determine the required right-of-way, shall be shown on the major streets plan. Partial streets shall not be permitted. The entire minimum right-of-way shall be dedicated when a proposed development is located on one or both sides of the street.
- b. Existing Streets--Developments planned along existing streets shall dedicate additional right-of-way, necessary to meet minimum width requirements specified in these regulations. Should the possibility of obtaining additional rights-of-way on the other and remaining side of the right of way exist, the Commission may, on its motion to reduce the increased dedication up to one-half of the total necessary to meet the minimum width requirements specified.

5. Street Design Standards--

a. Street Intersections--

- (1) Streets shall intersect as nearly as possible at right angles and no street shall intersect with any other at less than 75 degrees.
- (2) Multiple intersections involving junctions of more than two streets shall be prohibited.
- (3) On a corner lot within the areas formed by the right of lines with intersection streets and a line joining portion on such right of lines at a distance of 25 feet from their intersection, there shall be no obstruction to vision between a height of 2 feet and a height of 10 feet above the average grade of each street at the center line. Exceptions include street name signs, fire hydrants, street lighting poles and associated apputures.
- (4) Streets entering opposite sides of a street shall be laid out either directly opposite one another or with a minimum off-set of 125 feet between their centerlines.
- (5) Minimum curved radius at street intersections shall be 20 feet.
- (6) To the fullest extent possible, intersections with arterial streets shall be located not less than 400 feet apart, measured from centerline to centerline.
- (7) No lot or other parcel of land which abutts on or has access to either a collector or local street shall have a service drive, curb cut, or other means of access to an arterial street without 60 feet of right-of-way along the arterial street.

b. Curves and Streets (Horizontal and Vertical)--

- (1) A tangent of at least 100 feet long shall be introduced between reverse curves on local streets and 200 feet on collector streets.
- (2) Where there is a deflection angle of more than 10 degrees on the alignment of a street, a curve with a radius adequate to assure safe site distance shall be made. Minimum radius of curves shall be:

<u>Street Type</u>	<u>Minimum Horizontal Curves Radius</u>
Arterial	400 Feet
Collector	300 Feet
Minor	175 Feet

- (3) All changes in grade for arterial, collector or minor street shall be connected by a vertical curve, as indicated below:

Minimum Length of Vertical Curves--Arterial - 300 feet, but not less than 50 feet for each algebraic difference in grade. Collector and Minor - 100 feet, but not less than 20 feet for each algebraic difference in grade.

c. Street Grades and Evaluations

- (1) Grades of streets shall conform as closely as possible to original topography and shall be designed to produce usable lots and reasonable grades.
- (2) Grade of streets shall be arranged to obtain as many building sites as possible, at or above the grade of the street abutting the building.
- (3) Street grades, whenever feasible, shall not exceed the following, but allow for reasonable vertical curves:

<u>Street Type</u>	<u>Maximum Percent Grade</u>
Arterial	5 Percent
Collector	5-8 Percent
Minor	8-10 Percent
Marginal Access	10 Percent

Note: The Planning Commission may permit steeper grades in special circumstances.

- (4) Grades at street intersections shall be held to a maximum of 2 percent for a distance of 75 feet in any direction from the point of intersection of the streets' centerlines.
- (5) All streets shall be designed so as to provide for the discharge of surface water from pavement and from the right-of-way by grading and drainage. For adequate drainage, the minimum street grade shall not be less than one-half of one percent. The storm water collection shall be so designed to eliminate water draining across streets.
- (6) The Planning Commission shall not approve streets which will be subject to inundation or flooding. All streets must be located at elevations which will make them flood free.

Fill may be used in areas subject to flooding in order to provide flood-free streets if such fill does not unduely increase flood heights. Drainage openings shall be designed so as to restrict the flow of water and thereby unduely increase flood heights.

- d. Marginal Access Streets--Where a development abuts or contains an existing or proposed arterial street or railroad right-of-way, the Planning Commission may require the separation of local and through traffic. This shall be achieved by a marginal access street, separated from the arterial street by a planting strip; or reverse frontage lots, with the lots fronting on an interior local street and having a nonaccess reservation along rear property line.

Where any of the aforementioned arrangements are used, the statement "vehicular ingress and egress, restricted" shall be shown on the Final Plat and no driveways shall have direct access to the arterial street.

- e. Dead-End Streets (Cul-de-sacs)--Minor terminal or dead-end streets or courts which are designed so as to have one end permanently closed shall not be longer than 600 feet and shall be provided at the closed end with a turnaround having a radius at the outside of the pavement of at least 40 feet and a radius at the outside of the right-of-way of at least 50 feet.

- f. Street Names--

- (1) Proposed streets which are obviously in alignment with other already existing and named streets shall bear the names of such existing streets.
- (2) The name of a proposed street which is not in alignment with an existing street shall not duplicate the name of any existing street, irrespective of the use of the suffix street, avenue, boulevard, drive, place, court, lane, road, pike, highway, parkway, or similar suffix.

- g. Private Streets and Reserve Strips--

- (1) There shall be no private streets platted within a development.
- (2) There shall be no reserve strips in a development except where their control is definitely vested in the city or county under conditions approved by the Planning Commission as authorized in these regulations.

- h. Alleys--

- (1) Alleys may be required for service access, if necessary.
- (2) The minimum width of an alley shall be 16 feet.
- (3) Alley intersections and sharp changes in alignment shall be avoided. But where necessary, corners shall be cut off sufficiently to permit safe vehicular movement.
- (4) Dead-end alleys shall be avoided. If unavoidable, they shall be provided with adequate turnaround facilities at the deadend, as determined by the Planning Commission.

i. Street Construction--

- (1) Preparation of the Subgrade--Before grading is started, the entire right-of-way shall be first cleared of all tree stumps, roots, brush, and other objectionable materials and of all trees not intended for preservation. The subgrade shall be properly shaped, rolled and uniformly compacted to conform with the accepted cross-section and grades.
- (2) Cuts--In cuts, all tree stumps, boulders, organic material, soft clay, spongy material, and other objectionable material shall be removed to a depth of at least 2 feet below the graded surface. Rock, when encountered, shall be scarified to a depth of at least 12 inches below the graded surface.
- (3) Fills--In fills, all tree stumps, boulders, organic material, soft clay, spongy material, and other objectionable material shall be removed to a depth of at least 2 feet below the natural ground surface. This objectionable matter shall be removed from the right-of-way area and disposed of in such a manner that it will not become incorporated in fills or hinder proper operation of the drainage system. All suitable material from roadway cuts may be used in the construction of fills, approaches, or at other places as needed. The fill shall be spread in layers not to exceed 12 inches loose and shall be compacted by a roller. The filling of utility trenches and other places not accessible to a roller shall be mechanically tamped, but where water is used to assist compaction, the water content shall not exceed the optimum of moisture.
- (4) Pavement Specifications for Streets--The subdivider shall provide street pavements which shall be designed to carry the expected traffic loads and which shall conform with the Kentucky Department of Highway's current standard specifications for concrete pavement or bituminous pavement. Minimum specifications for asphalt pavement shall be 8 inches dense graded aggregate, laid down in 2 courses and rolled and 2½ inches of surface asphalt. Minimum specifications for a concrete surface shall be 4 inches of dense grade aggregate, laid in one course and rolled; and 4 inches of reinforced concrete.

The subdivider shall not be required to grade or provide a pavement base or surface in excess of that required for collector streets since such additional construction is required for the benefit of the general public. The Planning Commission will recommend that the city (or county) bear the extra expense of constructing the street to meet arterial street standards.

## NATURAL ENVIRONMENTAL CONSIDERATIONS

1. Preservation of Existing Features--Existing features which would add value to developments, or natural or man-made assets such as trees, groves, woodlands, watercourses, vistas, historic spots, historic or architecturally significant buildings, and similar irreplaceable assets, should be preserved, insofar as possible, through harmonious and careful design of the development.
2. Preservation of Natural Cover--Developments shall be laid out and improved in reasonable conformity to existing topography, in order to minimize grading and cut and fill, and to retain, insofar as possible, the natural contours, limit storm water runoff, and conserve the natural cover and soil.
3. Sediment Control--The developer shall provide effective sediment control measures during and after construction. Practical combinations of the following technical principles shall be applied:
  - a. The smallest practical area of the land shall be exposed to any one time during development.
  - b. When land is exposed during development, the exposure shall be kept to the shortest practical period of time.
  - c. Provisions shall be made to effectively accommodate the increased runoff caused by changed soil and surface conditions during the after development.
  - d. The permanent final vegetation and structures shall be installed as soon as possible in the development.
  - e. The development plan shall be fitted to the topography and soils as to create the least erosion potential.
  - f. Whenever feasible, natural vegetation shall be retained and protected.
  - g. All seeding and fertilizing shall be done in conformance with the guidelines of the Soil Conservation Service, as a minimum.
4. Protection of Water Quality--No development may occur within the identified watershed area for the Flemingsburg Reservoirs, which may adversely affect the water quality for the City of Flemingsburg and Fleming County.

## ADMINISTRATION

1. Administrative Official--The Mayor of Flemingsburg shall appoint, subject to the approval of the Flemingsburg City Council, an administrative official who shall be charged and provided with the authority to administer and enforce ordinances, regulations, and goals governing land development and use to issue building permits and certificates of occupancy. The Flemingsburg City Council may establish a schedule of reasonable fees to be charged for the issuance of such permits and certificates by the administrative official. The administrative official in performance of his duties and functions may enter upon and make examinations and surveys that do not occasion damage or injury to private property.
2. Building Permits--
  - a. Required prior to construction or operation, it shall be unlawful to commence any excavation or construction or any alteration of any structure until the administrative official has issued a building permit authorizing such work. If no building permit has been issued and the builder builds or continues to build, a restraining order may be retained upon application through the proper court of record in evidence of the lack of a building permit shall establish a case for the issuance of a restraining order. Permits issued for the lawful rebuilding of the damaged building shall be exempt from the fee.
  - b. Exceptions--No building permit or certificate of occupancy shall be required in the following cases:
    - (1) Reoccurring maintenance work regardless of cost.
    - (2) Installation of required improvements according to an approved preliminary plat.
    - (3) Those structures and uses listed below:
      - (a) Local public utility distributing and collecting structures such as pipes, transmission lines, transformers, meters, etc. Large utility structures such as substations.
      - (b) Public streets and all appurtenances necessary for traffic direction and safety.
      - (c) Private drives, private off-street parking areas, and the parking of vehicles incidental to the principle use on these premises.
      - (d) Horticulture and landscaping of any premises.
  - c. Procedure--Procedures for securing a building permit are as follows:
    - (1) Application--Applying to an administrative official for a building permit, the applicant shall submit a plat along with the application, drawn to scale showing the dimensions of the lot to be built upon, the outside dimensions of all structures to be constructed or altered,



and all existing structures, size of the structures, yard depths, and any other information necessary for the determining conformance with these standards. County health officer's certificate approving the proposed water and sewer facilities must accompany applications as applicable.

- (2) Permanent File--The administrative official shall keep a permanent file of all applications with accompanying plats and all permits issued.
- (3) Issuance--If proposed construction or alteration conforms with all applicable provisions of these standards and all other applicable ordinances, regulations and codes, the administrative official shall issue a building permit authorizing such construction or alteration. If the proposed construction or operation fails to conform, the administrative official shall refuse to issue a building permit and shall deliver written notice to the applicant stating the reasons for the refusal. The administrative official shall act upon application for building permits within two weeks from their date of submission.
- (4) Validity--The issuance of a building permit by the administrative official shall not waive any provision of regulation in these standards.
- (5) Duration--Building permits shall become void 6 months from the date of issuance unless substantial progress has been made by that date on the construction or alteration of authorized therein.

### 3. Certificate of Occupancy--

- a. Required Prior to Occupancy, Change of Use and Under Other Conditions--It shall be unlawful to use any newly erected or altered structure or to change the use of any premises, even though no structure was erected or altered, until the administrative official has issued a certificate of occupancy authorizing such use.
- b. Procedure--The procedure for securing a certificate of occupancy is as follows:
  - (1) Application--In applying to the administrative official for a certificate of occupancy, the applicant shall notify the administrative official in writing of the date on which the use of any new or altered structure or the new use of any premises will be ready to commence.
  - (2) Permanent File--The administrative official shall keep a permanent file of all applications and all certificates issued.
- c. Issuance--If a newly erected or altered structure and the new use of the premises conform with all applicable provisions of these standards and all other applicable standards, regulations and codes, the administrative official shall issue a certificate of occupancy authorizing the use thereof. If the structure or use fails to conform, the administrative official shall refuse to issue a certificate of occupancy and shall deliver written notice to the applicant stating the reason for refusal.

The administrative official shall inspect a new structure or the premises for which a new use is proposed and shall issue or refuse a certificate of occupancy within three days after the date on which the new use is ready to commence.

- d. Validity-- The issuance of a certificate of occupancy by the administrative official shall not waive any provision of the standards provided herein.
- 4. Interpretation Request--A developer encountering a situation of where an interpretation by the Planning Commission is required, should prepare a written request for interpretation and submit to the Planning Commission at least five (5) working days prior to the next meeting.

## GENERAL PROVISIONS

1. Violations--Violations of the adopted development standards will result in the following actions(s) by the Planning Commission.
  - a. Written notification by the Planning Commission to the person or entity in violation. Notification will specify a 14-day time period to correct the violation. The time period for resolving the violation may be extended if just cause is provided.
  - b. If following the 14-day period after notification no response or corrective actions are taken, a second written notification will be given advising the person or entity of the violation and if no action is taken to correct the violation within 10 days, legal action will be pursued by the Planning Commission.
  - c. Actions available to the Planning Commission:
    - (1) Penalties
    - (2) Injunctions
    - (3) Other court actions
2. Penalties--Any person or entity who violates any of the provisions of the development standards adopted shall upon conviction be fined not less than \$10 but no more than \$250 for each conviction.
3. Injunction--The Planning Commission shall have the power to apply for an injunction against any type of development construction or excavation by the developer or landowner when the development standards have been violated.
4. Appeal--A decision or ruling of the Planning Commission concerning adopted site development standards may be appealed to the Fleming County Circuit Court. Such an appeal must be filed within thirty days after the final action of the Planning Commission.

## DEFINITIONS

The words are defined are those which have special or limited meanings as used in these Site Development Standards and might not otherwise be clear. Words whose meaning is self-evident as used in these Site Development Standards are not defined here. Words used in the present tense shall include the future; the singular includes the plural, and vice versa; the word "shall" is mandatory, the word "may" permissive.

1. Accessory Building: A detached building, the use of which is customarily incidental to that of the principal building on the same lot.
2. Accessory Use: A use customarily incidental to the principal use of the property.
3. Agriculture or Agricultural: The use of land for the cultivation of crops or the raising of animals or for preservation of land in its natural state.
4. Agricultural Building or Structure: Any building or structure accessory to the principal agricultural use of the land.
5. Alley: A minor way used primarily for vehicular service access, to the back or side of properties which otherwise abut on a street.
6. Altered: Any change or addition to the load-bearing members or the foundation of a structure.
7. Building: Any structure which fully enclosed space for the occupancy by persons or their activities.
8. Building Area: The total ground area, taken on a horizontal plane at the mean grade level, of each building and accessory building but not including uncovered entrance platforms, terraces and steps.
9. Building Height: The vertical distance measured from the established mean grade at the front building line to the highest point of the building.
10. Building Permit: A permit which may be required by appropriate authority in connection with the location, construction, alteration, demolition, or relocation of structures within the area of jurisdiction.
11. Conditional Use: A use which is essential to or would promote the public health, safety, or welfare in one or more districts, but which would impair the integrity and character of the district in which it is located, or in adjoining districts unless restrictions on location, size, extent, and character or performance are imposed in addition to those imposed in the Site Development Standards.

12. Consumer Service: Sale of any service to individual customers for their own personal benefit, enjoyment, or convenience, and for fulfillment of their own personal needs. For example, consumer services include the provision of the personal services such as cleaning and barbering, the provision of lodging, entertainment, specialized instruction, financial services, automobile storage, transportation and similar services.
13. Dimensional Variance: A departure from the terms of the Site Development Standards pertaining to height or width of structures and size of yards and open spaces, where such departure will not be contrary to the public interest, and where, owing to conditions peculiar to the property because of its size, shape or topography, and not as a result of the actions of the applicant, the literal enforcement of the Site Development Standards would result in unnecessary and undue hardship.
14. Dwelling: A dwelling is a building providing shelter, sanitation, and the amenities for permanent human habitation. It does not include dormitories, fraternity or sorority houses, temporary lodging or sleeping rooms, boarding houses, tourist homes, hotels, motels, mobile homes or any structure designed for transient residence.
15. Dwelling Unit: The dwelling accommodations designed for one family unit maintaining separate and independent housekeeping and including at least one kitchen.
16. Floor Area: The total floor area of all stories including halls, stairways, elevator shafts, and other related uses, measured to outside faces or exterior walls.
17. Home Occupations: Occupations or activities which are customarily maintained or conducted within a dwelling, provided such activities are incidental to the principal residential use and involve the employment of no more than one person who does not reside on the premises. Such activities shall not occupy more than twenty-five percent of the total floor area of the dwelling.
18. Industry: The processing of raw materials, products or personal property.
19. Land Area: The total land area within the property lines.
20. Land Use Intensity: The overall structural-mass and openspace relationship in a developed property. It correlates the amount of floor area, open space, livability space, recreation space and car storage space of a property with the size of its site or land area.
21. Land Use Intensity Standards: The land use intensity standards are defined as follows:
  - A. Maximum Gross Floor Area Ratio: The ratio of gross floor area that can be built for each square foot of land area. (Floor Gross Area Ratio X Land Area = Gross Floor Area Permissible).
  - B. Minimum Open Space Ratio: The ratio of open space that must be provided for each square foot of gross floor area. (Minimum Open Space Ratio X Gross Floor Area = Square Feet of Open Space Required).
  - C. Minimum Livability Space Ratio: The ratio of open space per square foot of gross floor area that must be provided other than that provided in roads and

parking area. (Minimum Livability Space Ratio X Gross Floor Area= Square Feet of livability Space Required.)

- D. Minimum Recreation Space Ratio: The Ratio of square feet of land per square foot of floor area that must be devoted to recreation. (Minimum Recreation Space Ratio X Gross Floor Area=Square Feet of Recreation Space Required.)
- E. Minimum Total Car Ratio: The ratio of car spaces that must be provided for each dwelling unit. Minimum Total Car Ratio X Dwelling Units= Number of Parking Spaces Required.)

- 22. Lot: A parcel of land under one ownership occupied by or to be occupied by one principal building and its accessory buildings and including the open spaces and yards required under this ordinance.
  - A. Lot Line: The boundary dividing a lot from a right-of-way, adjoining lot, or other adjoining tract of land.
  - B. Corner Lot: A lot which abuts on two intersecting streets at their intersection.
  - C. Double Frontage Lot: Any lot other than a corner lot which abuts on two streets.
  - D. Lot of Record: A lot which is duly recorded in the office of the County Clerk.
- 23. Mobile Home: Any vehicle, trailer or similar portable structure, with or without its own motive power, having no integral foundation other than wheels, jacks, or skirting, and used, designed or constructed to be used as a conveyance on the public streets and designed or constructed to permit occupancy either permanent or temporary, for dwelling or sleeping purposes. Removal of the means of conveyance from a mobile home or the construction of a permanent foundation for a mobile home does not change the meaning of the word mobile home as defined or used in these Site Development Standards. The term mobile home when applicable, shall include the terms trailer, trailercoach, cabin, camper, and similar terms.
- 24. Nonconforming Structure or Use: A structure or use of any premises which does not conform with these Development Standards but which lawfully existed before its designation as nonconforming by the adoption or amendment of these Standards.
- 25. Non-Retail Sales and Services: Sales and services to customers who intend resale of the products or merchandise sold or handled. For example, non-retail sales includes wholesaling, warehousing, trucking terminals and similar enterprises.
- 26. Open Space: The land area minus the building area.
- 27. Outdoor: Refers to that which is not within a building.
- 28. Plat: A map, plan or chart of a tract of land or property which is drawn to scale and shows the existing or proposed location of boundary lines, buildings, structures or any other required data or information.
- 29. Public Service Building: Any building necessary for the operation and maintenance of a utility.
- 30. Premises: A lot or other tract of land under one ownership and all the structures on it.

31. Principal Building: The building in which is conducted the principal use of the lot on which it is situated.
32. Processing: Manufacturing, packaging, repairing, cleaning, and any other similar original or restorative treatment applied to raw materials, products, or personal property. Processing does not refer to the fabrication of structures.
33. Property Line: The recorded boundary of a lot or other tract of land under one ownership.
34. Retail Sales: Sale of any product or merchandise to customers for their own personal consumption and use, not for resale.
35. Road: A traffic-carrying way. As used in these Site Development Standards a road may be privately owned.
36. Sign: A structure designed and erected for the purpose of showing directions, giving information, advertising, or otherwise urging some specified act.
37. Sleeping Room: A single room rented for dwelling purposes but without amenities for separate and independent housekeeping.
38. Street: Any highway or other public traffic-carrying way.
39. Structure: Any combination of materials fabricated to fulfill a function in a particular location on the land, includes buildings and signs.
40. Use: Use broadly refers to the activities which take place on any land or premises and also refers to the structures located thereon and designed for those activities.
41. Yard: The open space surrounding the principal building on any lot, unoccupied and unobstructed by any portion of that building from the ground to the sky except where specifically permitted by these Site Development Standards. Yards are further defined as follows:
  - A. Front Yard: That portion of the yard extending the full width of the lot as measured between the front lot line and a parallel line tangent to the nearest part of the principal building, which line shall be designated as the front yard line.
  - B. Rear Yard: That portion of the yard extending the full width of the lot as measured between the rear lot line and parallel line tangent to the nearest part of the principal building.
  - C. Side Yards: Those portions of the yard extending from the front yard to the rear yard and measured between the side lot lines and parallel lines tangent to the nearest parts of the principal building.



# FLEMINGSBURG SUBDIVISION REGULATIONS

Flemingsburg Planning Commission

*Out Dated  
New Copy of  
New Sub. Regs.*

December, 1997

Prepared By

BUFFALO TRACE AREA DEVELOPMENT DISTRICT  
MAYSVILLE, KENTUCKY

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#### APPENDIX:

#### CERTIFICATIONS

# SUBDIVISION REGULATIONS

Flemingsburg, Kentucky

## ARTICLE I

### GENERAL PROVISIONS

#### 1.1 TITLE

These regulations shall be known, cited and referred to as the "Subdivision Regulations of the City of Flemingsburg".

#### 1.2 POLICY

It is hereby declared to be the policy that:

- A. The subdivision of land and the subsequent development of the subdivided plat shall be subject to the control of Planning Commission under authority granted by the Kentucky Revised Statutes, Chapter 100 and pursuant to any Land Use Plans adopted by the City of Flemingsburg or Fleming County Fiscal Court.
- B. Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood, or other menace, and land shall not be subdivided until proper provision has been made for drainage, water, fire suppression, sewerage, natural resource protection and needed capital improvements.
- C. Existing and proposed public improvements shall conform to and be properly related to any Land Use Plans in effect, and it is intended that these regulations shall supplement and facilitate the enforcement of the provisions and standards contained in the Site Development Ordinance and other applicable regulations.

#### 1.3 PURPOSES

These regulations are adopted for the following purposes:

- A. To protect and provide for the public health, safety, convenience, comfort, prosperity and general welfare.
- B. To guide the future growth and development of the City of Flemingsburg, and the area extending two miles beyond the corporate limits of the City of Flemingsburg.


**AMENDMENT TO SECTION 1.5  
OF THE  
FLEMINGSBURG SUBDIVISION REGULATIONS**

**1.5 AREA OF JURISDICTION**

The provisions of these regulations shall apply to all lands within the corporate limits and within the area extending two (2) miles beyond the corporate limits of Flemingsburg, Kentucky. The two (2) mile extended area of jurisdiction shall be measured by a direct line from the nearest point of the corporate limits of the City of Flemingsburg to the property being developed.

This amendment has been adopted by the Flemingsburg Planning Commission at its regular meeting on October 25, 1999.

Vote Unanimous

  
\_\_\_\_\_  
**Chairman**,

<tr/Misc/AmendToReg-Fburg(1.5)>

approval entered thereon in writing by the chairman, secretary, or other duly authorized officer of the Commission.(KRS 100.277(2))

- C. No person owning land composing a subdivision as defined in section 1.8, or his agent, shall transfer or sell or agree to sell any lot or parcel of land located within a subdivision by reference to, or by exhibition, or by any other use of a plat of such subdivision, before such plat has received final approval of the Planning Commission and has been recorded. Any such instrument of transfer, sale, or contract shall be void and shall not be subject to be recorded, but all rights of such purchaser to damages are hereby preserved. The description of such lot or parcel by metes and bounds in any contract or instrument of transfer or other document used in the process of selling or transferring same shall not exempt the person attempting to transfer from penalties provided or deprive the purchaser of any rights or remedies he/she may otherwise have. Provided, however, any person, or his agent, may agree to sell any lot or parcel of land located within a subdivision by reference to an unapproved or unrecorded plat or by reference to a metes and bounds description of such lot and any such executory contract of sale or option to purchase may be recorded and shall be valid and enforceable so long as the subdivision plat subsequently receives final approval of the Planning Commission. (KRS 100.277 (3))
- D. Any street or other public ground which has been dedicated shall be accepted for maintenance by the legislative body after it has received final plat approval by the Planning Commission. Any street that has been built in accordance with specific standards set forth in these Subdivision Regulations shall be, by operation of law, automatically accepted for maintenance by a legislative body forty-five (45) days after inspection and final approval. (KRS 100.277 (4))

## 1.7 ADMINISTRATION

These regulations shall be administered by the Flemingsburg Planning Commission. All applications, maps, and documents relative to subdivision approval shall be submitted to the Commission. All fees shall be directed to or made payable to the City of Flemingsburg

The Planning Commission shall appoint an Enforcement Officer to handle the daily administration of these regulations and may seek advice from planning consultants or other local, regional, and state agencies, regarding subdivision proposals.

## 1.8 DEFINITION OF SUBDIVISION

“Subdivision” means the division of a parcel of land into three (3) or more lots or parcels, for the purpose, whether immediate or future, of sale, lease, or building development, or if a new street is involved, any division of a parcel of land; provided that a division of land for agricultural use not involving a new street shall not be deemed a subdivision. The term includes re-subdivision and when appropriate to the context, shall relate to the process of



## ARTICLE II

### PROCEDURES FOR SUBMITTING AND APPROVING PLATS

#### 2.1 PURPOSE

These subdivision regulations are intended to ensure sound subdivision development that is consistent with community goals and plans and to safeguard the interest of the homeowner, the subdivider, the investor and the units of local government. Subdivision regulations are enforced by the Planning Commission through the process of reviewing preliminary and final plats of proposed subdivisions. The purpose of this Article is to establish the procedures which shall be followed by the developer and Planning Commission in preparing, reviewing and approving all subdivision plats.

#### 2.2 MINOR AND MAJOR SUBDIVISION

- A. "Minor Subdivision: A type of residential subdivision that involves the division of land into a maximum of five buildable lots from the parent tract (record tract at the time of adoption of these regulations). A minor subdivision does not require the extension of a public street or public utility improvements (for example water or sanitary sewer). A minor plat is used for minor subdivisions. If an applicant or property owner follows the minor subdivision procedure, but later subdivides further to create more than five lots from the parent tract, then the applicant will be required to follow the major subdivision procedure and requirements. Planning Commission approval is required prior to recording such plat in the County Clerk's office. The minor plat requirement are outlined in Section 3.4 of these regulations.
- B. Major Subdivision: A type of subdivision that involves the division of land into a minimum of six buildable lots or more (as defined above) from the parent tract (recorded tract at the time of adoption of these regulations) or which includes public improvements such as streets and utilities (for example, water and sanitary sewer). The review procedure for major subdivisions are the submittal of a preliminary plat, an improvement plan and a record plat.

#### 2.3 DIFFERENCES BETWEEN "PRELIMINARY" PLAT AND "FINAL" PLAT

The preliminary plat is the community's (through the Planning Commission) first opportunity to review the proposed development and coordinate it with other existing and proposed developments. Prior to the approval of the preliminary plat, there should be no physical improvements or installation of utilities. The approved preliminary plat drawings are those from which specific construction work on the subdivision can proceed.

The final plat includes more precise and more inclusive engineering data on lot dimensions and bearings as well as engineering construction drawings for major improvements such as

## SUBDIVISION APPROVAL PROCESS

STEP	ACTION	RESPONSIBILITY
1.	Prepare Sketch Plat and Submit to Planning Commission prior to preapplication conference.	Subdivider
2.	Pre-application Conference with Chairman or designee of Chairman. (Section 2.4 (C))	Planning Commission and Subdivider
3.	Prepare Preliminary Plat (Section 3.2)	Subdivider & Engineer
4.	Prepare Construction Plans for Streets, Utilities and stormwater drainage.	Engineer
5.	Submit Preliminary Plat and Improvement Plans <u>14 Days</u> Prior to Planning Commission Meeting.	Subdivider
6.	Planning Commission will notify adjacent property owners as listed on preliminary plat.	Planning Commission
7.	Planning Commission will Review Plats and Plans	Planning Commission & Staff, Other Appropriate Agencies
8.	Upon review by Planning Commission on Preliminary Plat, approval, conditional approval or disapproval notification will be given within 60 days of Planning Commission Meeting	Planning Commission & Staff, Other Appropriate Agencies
9.	Installation of Public Facilities and Markings of Lots. (Public Facilities Should Be Inspected by Codes Enforcement Officer During Construction).	Subdivider
10.	Provide final construction drawings and specifications for review and approval before submission of final plat. Construction cannot begin until after approval of construction specifications.	Subdivider & Engineer
11.	Submit Final Plat 14 Days Prior to Meeting	Subdivider
12.	Approval, Conditional Approval or Disapproval of Final Plat	Planning Commission
13.	File Final Plat with County Clerk	Subdivider
14.	Advise of approval of final plat.	Planning Commission

Approval of the preliminary plat does not constitute acceptance of the final plat.

The final plat must be submitted within twelve (12) months from the date of approval of the preliminary plat or the approval will lapse. The Planning Commission may approve an extension if just cause is shown by the Developer.

In the event where a subdivision is to be developed in stages, final plats covering portions of the preliminary plat may be submitted extending beyond the 12 month limit, providing the first final plat is submitted within twelve (12) months and succeeding final plats are submitted within twelve (12) months of each other.

- ii) Conditional Approval With Modifications - If the plat is recommended for approval pending some changes in the format or design, the Developer must make the corrections before approval can be obtained. All modifications will be in writing and prior to any construction must be approved by Planning Commission.
- iii) Disapproval - If the plat requires more than basic modifications, the Planning Commission may disapprove it. The reasons for disapproval will be given in writing. In order to proceed with this development, the developer must start the process over with a new plat meeting the requirements set forth by the Planning Commission. Fees will have to be repaid.
- iv) In the event where resubmitted plats obviously do not meet the specifications set forth by the Planning Commission, the plat may be returned to the developer without review.
- v) The developer may appeal any decision made by the Planning Commission or the enforcement officer to the Fleming County Circuit Court within thirty (30) days after the date of the final action.
- h. Once preliminary plat has been approved, the developer may proceed to work with engineer in preparing final construction plans.
- i. Once the construction plans have been approved, the developer may proceed with the engineer in preparing the final plat. The developer may also proceed with making physical improvements but may not sell lots.
  - i) Improvements to be made include:
    - a) Monuments; page 35, Section 4.6
    - b) Construction of streets; pages 21-30, Section 4.3
    - c) Construction of curbs and gutters; page 35, Section 4.5-D-8

- m. The commission will then review the final plat and render a decision within ninety (90) days of submission. The Planning Commission shall take one of the following actions:
- i) Approval - Approval means the final plat has been signed by the chairman of the Planning Commission and may be recorded with the Fleming County Clerk within twenty (20) days. After recording, the developer may sell or agree to sell lots by reference to the approved and recorded final plat.
  - ii) Disapproval - means complete denial of the final plat. Reasons for disapproval will be stated in the minutes of the Planning Commission. To request another review and action, the developer must revise his plat to conform to requirements and resubmit a new final plat along with appropriate fees.
  - iii) Conditional Approval - means the developer may proceed as outlined in the approval section, but only after the attached conditions have been met.
  - iv) Appeal - A developer may appeal any final action of the Planning Commission to the Fleming County Circuit Court within thirty (30) days of the date of the final action.

## 2.6 FEES

The Planning Commission has adopted these fees to cover expenses required in having subdivision plats reviewed by staff, engineers, and public agencies. The fees are also designed to compel potential subdividers to make serious efforts in subdivision design and plat preparation as opposed to repeatedly submitting proposals that do not meet the adopted regulations.

### Fees:

Preliminary Plat	\$100
Final Plat	\$100 + \$5 Per Lot
Interim & Final Construction Inspection (2 Inspections)	\$350

The Preliminary Plat Fee is to be paid to the City of Flemingsburg prior to official review of the plat by the Flemingsburg Planning Commission. The Interim & Final Construction Inspection Fees shall be paid to the City Clerk when the preliminary plat has been approved by the Planning Commission. The Final Plat Fee shall be paid upon review and acceptance of the Planning Commission and prior to recording of the plat with the County Clerk.

The Planning Commission reserves the right to waive any or all fees for subdivisions undertaken by recognized public entities.

**AMENDMENT TO SECTION 2.6  
OF THE  
FLEMINGSBURG SUBDIVISION REGULATIONS**

**MINOR PLAT:**

The fee for submission of a minor subdivision plat for approval by the Flemingsburg Planning Commission is \$200.00 plus \$10.00 per lot. Said fee shall be paid to the City of Flemingsburg at the time the plat is submitted for approval.

This amendment has been adopted by the Flemingsburg Planning Commission at its regular meeting on August 23, 1999.

Vote Unanimous

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**Chairman**

<tr/Misc/AmendToReg-Fburg(2.6)>

relationship to existing and proposed features such as major traffic arteries, schools, recreation areas, shopping area and industrial areas.

- d) Subdivision Name: The proposed name of the subdivision, which shall not duplicate or closely approximate the name of any other subdivision in the County or City.
- e) Subdivider/Engineer:
  - A) The name and address of the owner of the land to be subdivided, and the name and address of the subdivider, if other than owner.
  - B) The name and address of the person responsible for the preparation of the plat.
- f) Zoning: Zoning Classification on the tract and adjoining properties and any other changes from existing zoning, if applicable.
- g) Legend: The title block should appear at the bottom of the sheet and contain the following:
  - a) North arrow
  - b) graphic and written scale
  - c) date
  - d) acreage of land to be subdivided.

c. SITE DATA

The data required below provides the essential information upon which the Planning Commission (and the subdivider) can make decisions on the appropriateness of the subdivision and its preliminary design. Section C lists the data required to illustrate the proposed design.

- i) Boundaries: Subdivision boundaries with bearings, to the nearest 30 seconds, and distances, to the nearest hundredth of a foot, (include entire area proposed to be subdivided and remainder of the tract in the same ownership); all existing easements, railroad and utility rights-of-way and the purpose for which such easements and rights-of-way have been established; parks and other public open spaces.
- ii) Abutting Property: The names of all property owners abutting the boundaries of the subdivision as their names appear on the tax records; subdivision names of adjacent platted land; lot pattern surrounding proposed subdivision and typical lot size in adjacent subdivisions.
- iii) Utilities: Fire hydrants, existing water, sewer and storm drain facilities on and adjacent to the tract showing size, elevation, and direction of flow.

- shall be shown at the beginning and the end of each street, and at street intersections.
- v) Typical Street Section: The cross-section of each new street from one right-of-way to the other at a scale of ten feet or less to the inch, showing the width and type of pavement, the size and type of gutters, the location and width of sidewalks.
  - vi) Monument: Location of existing monuments and proposed new monuments.
  - vii) Easements: The approximate location, dimensions and area of all property proposed to be dedicated or temporarily reserved for public use, or to be reserved by a blanket covenant for use of all property owners in the subdivision and conditions for such conveyance or reservation. Also, the location, dimensions, area, and purposes of any proposed easements.
  - viii) Drainage: Proposed drainage system with typical cross sections of all proposed drainage facilities including underground drains, culvert headwalls, ditch lines, and necessary easements. Also, the location, size, and invert elevation of storm sewers and appurtenances thereto.
  - ix) Sewers: proposed layout and connections with existing sanitary sewer system (with size of line) or alternative means of sewage treatment and disposal and location.
  - x) Water: Proposed layout and connections with existing water system showing size and location of lines.
  - xi) Fire Suppression: Location of developer provided fire hydrants or other fire suppression system.
- e. Additional Data Required: When applicable, the following additional data shall appear on or be attached to the preliminary plat.
- i) One copy of an application, in the form of a letter, for preliminary plat approval and appropriate fees.
  - ii) When the developer proposes to regulate land (deed restrictions) use or dimensional criteria in a subdivision and otherwise protect a development, one draft copy of such covenants shall be submitted as a part of the preliminary plat materials.



6. Summary of construction quantities.
7. Standard construction details. Any construction and material specification not covered shall be governed by the latest edition of the State of Kentucky Department of Transportation Construction & Material Specification.
8. A final landscape plan: A landscape plan shall be prepared by a licensed architect by the Commonwealth of Kentucky. The final landscape plan shall contain the following information:
  - a) Plant name and size.
  - b) Planting location.
  - c) Number of plants in any one location.
  - d) Total number of plants to be provided.
  - e) Landscape buffer between commercial and residential and multi-family and residential.
  - f) A plan for any ornamental entranceway structure which is proposed for the subdivision.
  - g) All plant material shall meet or exceed the standards for nursery stock as outlined in the American Standards for Nursery Stock.

### 3.3 FINAL PLAT

- a. Application. Applications for final plat approval shall contain such information as may be required from time to time by the Planning Commission but in all instances shall contain at a minimum the following:
  - i) Format and Identification: The Final Plat shall show the following information.
    - a) Basic Information: The Final Plat shall have the same basic information required on the preliminary plat including sheet size, vicinity map, subdivision name, subdivider/engineer, legend and abutting property.
    - b) Label: The Final Plat shall be labeled "FINAL RECORD PLAT" in large letters.
  - ii) Subdivision Design, Data and Dimensions: The following are intended to depict the accurate design of the subdivision and shall appear on the plat.
    - a) Basic Information: The Final Plat shall have the same basic data found on the Preliminary Plat including boundary lines, monuments, easements, setback lines.

### 3.4 MINOR PLAT

The minor plat shall meet the minimum state surveying requirements and the design standards as set forth in these regulations and shall contain the following information:

- A. Scale: Date, north arrow and a standard engineering scale of not less than 1" = 100'.
- B. Seal: Name, address and seal of the state registered surveyor responsible for the survey plat and the land surveyor's certificate.
- C. Boundary limits: Boundary of the parcel and subdivision of that parcel including bearings and distances of each tangent course and all the necessary data for curve courses.
- D. Plat size: Area in acres of the parcel and the plat shall be drawn no larger than on an 8 1/2" x 14" sheet unless permitted by the Planning Commission. If more than one sheet is used, an index shall be included, and each sheet shall be numbered.
- E. Lots: Location, bearings, dimensions and acreage of each lot. Each lot shall be numbered.
- F. Streets: Location and names of public or private rights-of-way that adjoin the subdivision.
- G. Encroachments: Encroachments discovered in the survey.
- H. Name of subdivision and location: Name of subdivision and names of adjacent property owners and recorded subdivisions and a vicinity map showing the parcel at an appropriate scale.
- I. Ownership information: Names and addresses of the subdivider. Source of land title shall be indicated on the plat or previous deed reference shall be shown. Deed Book references as established by the County Clerk's office shall be shown as they relate to the parent tract and all previously recorded divisions of land.
- J. Building Information: If the lot(s) does not meet the minimum requirements for building purposes or does not have street frontage, the following statement shall appear on the minor plat:  

"Lot(s) \_\_\_\_\_ shall be conveyed only to an adjacent property owner, and shall not be used as a building site unless combined with the property of that adjacent property owner."
- K. Easements: All public and private (both public and private) easements and their purpose shall be shown on the plat. Size of water and sewer lines shall be noted.

## ARTICLE IV

### SUBDIVISION DESIGN AND CONSTRUCTION STANDARDS

#### 4.1 PURPOSE

The purpose of this article is to establish minimum principles and standards of design to govern the layout and physical improvements of subdivisions.

#### 4.2 SUITABILITY OF THE LAND FOR SUBDIVISION DEVELOPMENT

- A. Physical Limitations: If the Planning Commission finds that land proposed to be subdivided is unsuitable for subdivision development due to flooding, bad drainage, steep slopes, rock formations, and other such conditions as may increase the danger to health, life, or property or aggravate erosion or flood hazards; and, if from adequate investigations, conducted by all the public agencies concerned, it has been determined that in the best interest of the public the land should not be platted and developed for the purpose proposed, the Planning Commission shall not approve the land for subdivision unless adequate methods are formulated by the subdivider for meeting the problems that will be created by the subdivision and development of the land.

#### 4.3 STREETS

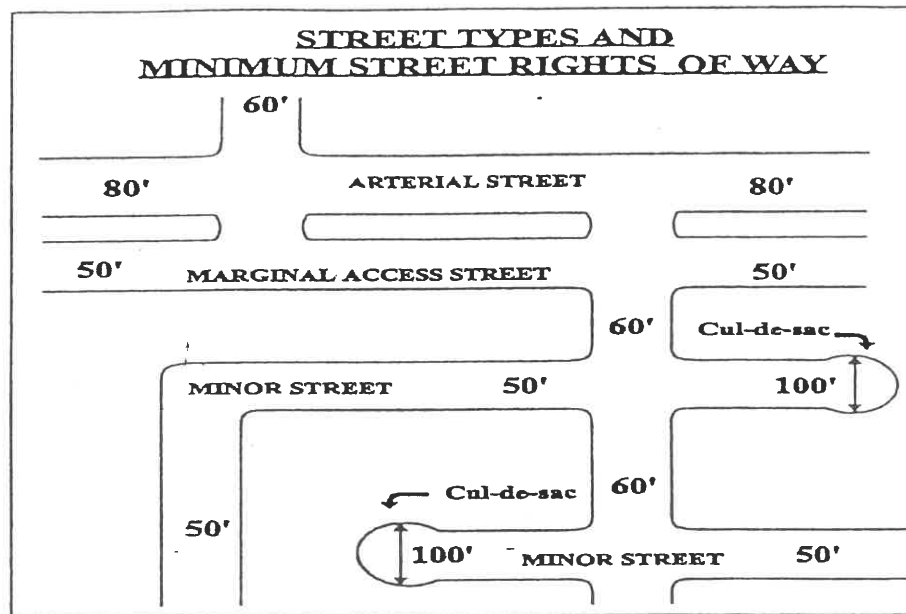
- A. General Requirements: The arrangements, character, extent, width and location of all streets shall conform to the transportation element of the Flemingsburg Comprehensive Plan and shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety, and to their appropriate relation to the proposed use of the land to be served by such streets.

In designing a street system, the subdivider shall be guided by the following principles:

1. Adequate vehicular and pedestrian access shall be provided to all parcels.
2. Local street systems shall be designed to minimize through traffic movement.
3. Residential blocks shall be between 400' and 1200' in length.
4. The arrangement of local streets shall permit economical and practical patterns, shapes and sizes of development parcels.

D. Dedication of Right-of-Way

1. New Streets: The classification of streets which determine the required right-of-way shall be shown on the Major Street Plan, or if not shown thereon, shall be defined in Section 5.5.



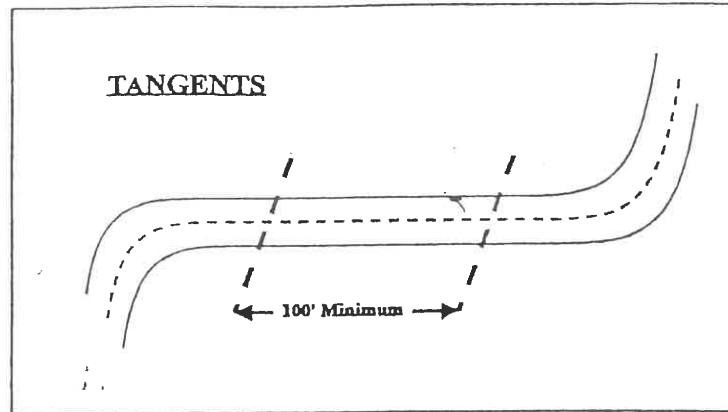
2. Existing Streets: Subdivisions platted along existing streets shall dedicate additional right-of-way if necessary to meet the minimum street width requirements set forth in Section 4.3C.

Partial streets shall not be permitted. The entire minimum rights-of-way shall be dedicated when a proposed subdivision is located on one or both sides of a street.

Subdivisions platted along existing streets shall dedicate additional rights-of-way necessary to meet the minimum width requirements specified in these regulations. Should the possibility of obtaining additional rights-of-way on the other and remaining side of the rights-of-way exist, the Commission may on its motion reduce the increased dedication up to one-half ( $\frac{1}{2}$ ) the total necessary to meet the minimum width requirements specified.

- g. No lot or other parcel of land which abuts on and has access to either a collector or a local street shall have a service drive, curb cut, or other means of access to an arterial street within seventy-five (75) feet of the right-of-way of any street which intersects such arterial street on the side on which such lot or parcel is located.

2. Curves in Streets - Horizontal and Vertical



- a. A tangent at least one hundred (100) feet long shall be introduced between reverse curves on local streets and 200 feet on collector streets.
- b. Where there is a deflection angle of more than ten (10) degrees in the alignment of a street, a curve with a radius adequate to ensure safe sight distance shall be made. The minimum radii of curves shall be:

<u>Street Type</u>	<u>Minimum Horizontal Curve Radius</u>
Arterial	400 feet
Collector	300 feet
Minor	175 feet

- c. All changes in grade for arterial, collector and minor streets shall be connected by a vertical curve as indicated below.

Minimum Length of Vertical Curves:

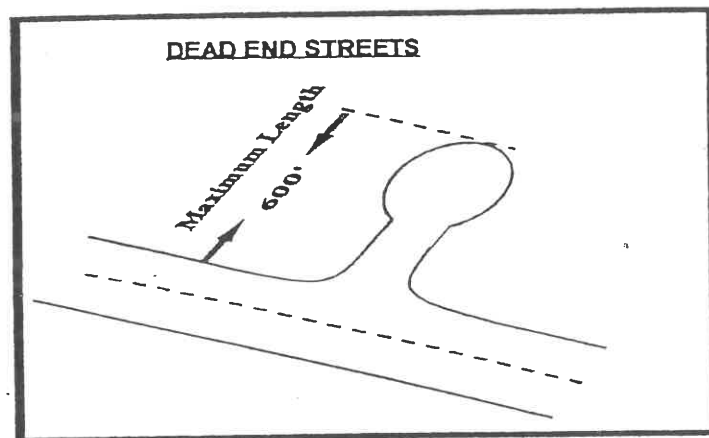
Arterial - 300 feet, but not less than 50 feet for each algebraic difference in grade.

Collector and Minor Roads - 100 feet, but not less than 20 feet for each algebraic difference in grade.

4. Marginal Access Streets: Where a subdivision abuts or contains an existing or proposed arterial street or railroad right-of-way, the Planning Commission may require the separation of local and through traffic. This shall be achieved by a marginal access street, separated from the arterial street by a planting strip; or reverse frontage lots, with the lots fronting on an interior local street and having a non-access reservation along the rear property line.

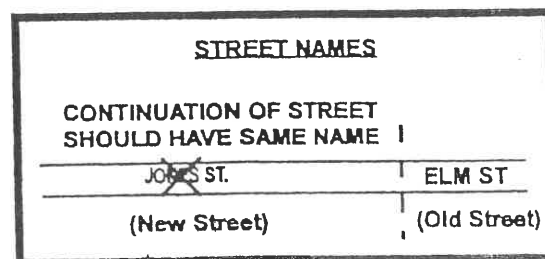
Where any of the aforementioned arrangements are used, the statement "vehicular ingress and egress, restricted" shall be shown with limits on the Final Subdivision plat and no driveways shall have direct access to the arterial street.

5. Dead-End Streets (Cul-de-sacs): Minor terminal or dead-end streets or courts which are designed so as to have one end permanently closed shall not be longer than six hundred (600) feet and shall be provided at the closed end with a turnaround having a radius at the outside of the pavement of at least forty (40) feet and a radius at the outside of the right-of-way of at least fifty (50) feet.



6. Street Names:

- a. Proposed streets which are obviously in alignment with other already existing and named streets shall bear the names of such existing streets.



F. Street Construction

1. Preparation of the Subgrade: Before grading is started, the entire right-of-way shall be first cleared of all tree stumps, roots, brush, and other objectionable materials and of all trees not intended for preservation. The subgrade shall be properly shaped, rolled and uniformly compacted to conform with the accepted cross-section and grades.
2. Cuts: In cuts, all tree stumps, boulders, organic material, soft clay, spongy material and other objectionable material shall be removed to a depth of at least two (2) feet below the graded surface. Rock, when encountered, shall be scarified to a depth of at least twelve (12) inches below the graded surface.
3. Fills: In Fills, all tree stumps, boulders, organic material, soft clay, spongy material and other objectionable material shall be removed to a depth of at least two (2) feet below the natural ground surface. This objectionable matter as well as similar cuts shall be removed from the right-of-way area and disposed of in such a manner that it will not become incorporated in fills or hinder proper operation of the drainage system. All suitable material from roadway cuts may be used in the construction of fills, approaches, or at other places as needed. The fill shall be spread in layers not to exceed eight (8) inches loose and shall be compacted by a roller. The filling of utility trenches and other places not accessible to a roller, shall be mechanically tamped, but where water is used to assist compacting the water content shall not exceed the optimum of moisture.
4. Pavement Specifications for Streets: The subdivider shall provide street pavements which shall be designed to carry the expected traffic loads and which shall conform with the Kentucky Department of Highway's current standard specifications. Bituminous concrete pavement shall be six (6) inches dense graded aggregate, laid down in two (2) courses and rolled and 2" of asphalt base Class I and 1" surface Class I Type A, bituminous concrete.

The subdivider shall not be required to grade or provide a pavement base or surface in excess of that required for collector streets, since such additional construction is required for the benefit of the general public. The Planning Commission will recommend that the city (or county) bear the extra expense of constructing the street to meet arterial street standards.

**AMENDMENT TO SECTION 3.4  
OF THE  
FLEMINGSBURG SUBDIVISION REGULATIONS**

**3.4(Q)** The enforcement officer of the Flemingsburg Planning Commission, after consultation with the attorney representing the Flemingsburg Planning Commission, if needed, shall have the authority to approve minor subdivision plats consisting of no more than two (2) lots used for residential purposes, as long as no variances are requested by the developer.

This amendment has been adopted by the Flemingsburg Planning Commission at its regular meeting on August 23, 1999.

Vote Unanimous

\_\_\_\_\_  
**Chairman**

<tr/Misc/AmendToReg-Fburg(3.4)>



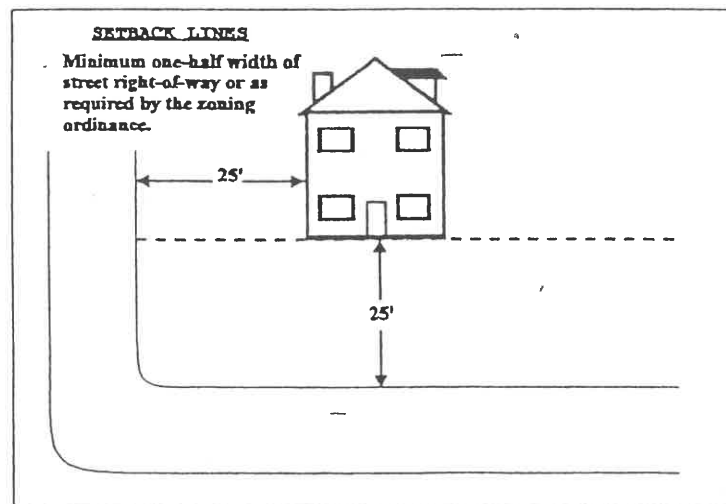
#### 4.4 LOTS

A. Dimensions: The size, shape and orientation of lots shall be such as the Planning Commission deems appropriate for the type of development and use contemplated.

1. Subdivisions with sewers will have lots that meet only the minimum lot width, setback, side yard and rear yard requirements. They are:

a. Minimum Lot Width - all lots will be a minimum of 75 feet at the street and at the building setback line. Lots located on a cul-de-sac may have a minimum of forty (40) feet fronting the street and sixty (60) feet at the building setback line.

b. Setbacks - In areas with no zoning, the building setback line shall not be located closer to the street right-of-way line than a distance equal to one-half ( $\frac{1}{2}$ ) of the total width of the street right-of-way on which the building will front, but in no case shall the building setback line be located closer than twenty-five (25) feet from the right-of-way line of the street. A greater distance between the building setback line and the street right-of-way line is permissible. In areas with zoning, the requirements of the zoning ordinance shall apply.



c. Corner Lots - Corner lots shall have sufficient extra width to meet the building setback lines established on both the front and side streets.

- C. Sanitary Sewers: Where, in the opinion of the Planning Commission, the public sanitary system is reasonably accessible or available to the proposed subdivision, the subdivider shall submit plans for the proposed sanitary sewage collection system with the filing of the preliminary plat for Commission approval. Such plans shall be prepared by a Registered Civil Engineer and shall show pipe sizes, gradients, type of pipe, invert and finished grade elevations, location and type of manholes, the location, type and size of all lift or pumping stations and treatment facilities, if on site. The proposed sewage system must be designed to adequately serve all lots and connect the subdivision system to the public system after the city representative approves the size of the lines. Where lots cannot be served by the extension of an existing public sanitary sewer, the subdivider shall either obtain approval of lot sizes for individual septic tanks and disposal fields from the City or County Health Officer, or obtain approval from the City or County Health Officer for a neighborhood disposal system. Said approval from City or County Health Officer for septic systems must appear on the preliminary and final plat. Sanitary sewers will not be designed for the disposal of storm drainage.
- D. Storm Drainage: An adequate drainage system including necessary open ditches, pipes, culverts, intersectional drains, drop inlets, bridges and other improvements shall be provided for the proper drainage of all surface water. Cross drains shall be provided to accommodate all natural water flow, and they shall be of sufficient length to permit full width roadways and the required slopes.
1. Design Storm Drainage Criteria - All storm runoff shall be calculated by accepted methods of calculation. Drainage structures shall be designed to accommodate the one hundred (100) year storm of one hour duration.
  2. Ditches - Ditches shall be designed and constructed as needed on both sides of the roadway outside of the shoulder line. Ditches, where required, shall have maximum slopes of four to one (4:1) on the roadway side and three to one (3:1) on the property side. Maximum ditch gradient without erosion protection shall be two percent (2%). If a ditch gradient exceeds two percent (2%), the ditch shall be protected from erosion by means of sodding, ditch checks, storm sewers or combination thereof as deemed necessary by the Planning Commission or its representative. Other creative means of erosion control to be considered on an individual basis. Minimum ditch gradient shall be three-tenths of one percent (0.3%). If this gradient cannot be maintained, storm sewers shall be installed.
  3. Culverts - Minimum culvert sizes shall be twelve inches (12") for driveways and fifteen inches (15") for roadway crossings. At locations where culverts cross roadways, a minimum depth of six inches (6") will be maintained between the top of the pipe and the finished roadway subgrade.

8. Curbs and gutters - shall be required in all subdivisions on both sides of the street. Curbs shall not be less than six, nor more than eight inches in height above the gutter line, with the fill behind the curbs sloping toward the curb to ensure proper drainage into the gutters. Curbs shall be constructed of concrete. The gutters shall be of adequate size to carry the run-off water and to prevent flooding. To avoid erosion, such ditches may be required to be concrete lined. The shoulder, ditch and balance of unpaved right-of-way and sidewalks shall be seeded.

E. Gas, Electric and Telephone Utilities: The Planning Commission may accept assurance from each public utility company whose facilities are proposed to be installed. Such assurance shall be in the form of a letter addressed to the Planning Commission stating that such public utility company will make the necessary installations for furnishing its services within a specified time.

The Planning Commission shall require placing electric and telephone lines underground in new subdivisions.

F. Sidewalks: Are required on both sides of street to facilitate pedestrian access to community facilities or other nearby streets, perpetual unobstructed easements at least 10 feet in width. The Commission requires a paved walk for pedestrian safety, within such an easement.

Residential Sidewalks shall be four feet wide except along commercial developments where they shall be 10 feet wide. Sidewalks shall be constructed at least two feet from the ditch line or from the curb. Sidewalks shall be concrete four inches thick with 4" dense grade gravel base. Handicapped access ramps will be provided at ends and intersections.

Where a subdivision borders on a watercourse in an area designated in the Comprehensive Plan for public recreational use, the Planning Commission may require easements to be reserved for public access to the water.

#### 4.6 MONUMENTS

A. Concrete monuments - At least thirty-six (36) inches in length and four (4) inches in diameter or four (4) inches square, shall be set at major corners of the subdivision. The top of the monument shall be flat and shall have an indented cross or other such mark to properly identify the exact points of reference.

B. Iron pipe monuments - Not less than three-fourths (3/4) inch in diameter and not less than twenty-four (24) inches in length, shall be set at all lot corners not marked by concrete monuments, all block corners, at all points where street lines intersect the exterior boundaries of the subdivision, and at all intersections of curves and tangents along street property lines.

4. The permanent final vegetation and structures shall be installed as soon as practical in the development.
5. The development plan shall be fitted to the topography and soles as to create the least erosion potential.
6. Wherever feasible, natural vegetation shall be retained and protected.
7. All seeding and fertilizing shall be done in conformance with the guidelines of the Soil Conservation Service, as a minimum.

#### 4.9 SELF-IMPOSED RESTRICTIONS

The subdivider may place restrictions on the development more restrictive than those required by these subdivision regulations and requirements included in the City's Site Development Standards. Such restrictions, if any, shall be indicated on the Subdivision Plat and recorded in the deed books with cross referencing between plat and deed book.

Questions regarding the placement of other permanent structures such as detached buildings and garages, swimming pools, driveways, fences and walls are to be decided upon by the developer. The Planning Commission recommends that such restrictions be detailed in the subdivision covenants.

### NON-RESIDENTIAL SUBDIVISIONS

#### 4.10 COMMERCIAL AND INDUSTRIAL SUBDIVISIONS

##### A. GENERAL REQUIREMENTS

Non-residential developments include commercial and industrial developments. The Planning Commission recognizes that the subdivider creating non-residential subdivisions faces unique problems of lot design not normally encountered in residential subdivisions. For this reason, the initial emphasis of the Planning Commission shall be upon street layout and block arrangement. Generally, the procedure requirements shall be for the owner to follow the regular procedure outlined in Article II and to show the entire tract to be subdivided with necessary improvements and as many parcels as he cares to show, but at least two. As prospective buyers express interest in lots sized to their required specifications, the owner shall submit to the Planning Commission an amendment to the approved Final Subdivision Plat for consideration. Regular procedural requirements shall then apply. In addition to the principles and standards in these regulations which are appropriate to the planning of all subdivisions, the subdivider shall demonstrate to the satisfaction of the Planning Commission that the street, parcel and block pattern proposed is specifically adapted to the uses anticipated and takes into

possible to arterial or collector streets in such a way that the number of intersections with such arterial or collectors shall be minimized.

- d. Street rights-of-way and pavement shall be adequate to accommodate the type and volume of traffic anticipated to be generated thereon. Curb radii at intersections shall be at least twenty (20) feet.
3. **Building Setback Lines:** A building line to establish a front yard for all buildings and structures shall be established at a distance from the center line of the street equivalent to the width of the right-of-way of the street on which the building fronts. In no case shall this distance be less than twenty-five (25) feet from the right-of-way, or shall meet the requirements of any existing zoning ordinance.
4. Utilities: Non-residential subdivisions shall be provided with water and sewerage systems and fire suppression which are adequate to maintain adequate health standards, and to dispose of commercial and industrial wastes. These facilities shall be approved by the City and County Health Department and the Kentucky Division of Water.
5. Drainage: The Planning Commission with assistance from the City or County qualified representative shall require adequate provisions for the discharge of surface water which will result from commercial and industrial developments with large roof areas and large paved parking areas.
6. Off-street Loading and Parking Facilities: In commercial and industrial subdivisions, and in the portions of residential subdivisions reserved for commercial or industrial uses, the lots or parcels platted for commercial or industrial sites shall be large enough to provide for the off-street parking facilities required by the City of Flemingsburg.
7. Lighting: Shall not be constructed as to not interfere with neighboring lots or residential areas. Preference of down lighting (aimed other than outward). (Not to aim off property).-

E. CURBS, GUTTERS AND SIDEWALKS

There shall be provided curbs, gutters and sidewalks (See also guidelines other than mobile home subdivisions under Subdivision Standards).

F. PARKING

At least two (2) asphalt or concrete surface parking spaces shall be provided for each mobile home lot. At least one of these spaces shall be off-street and shall be at least nine (9) feet wide and twenty (20) feet in length. Other required parking spaces may be located within the minor street if the street is increased from 22 feet to 34 feet.

G. LOT REQUIREMENTS

1. Utilities: All lots within the mobile homes park shall be provided with sewer, water, fire suppression (see fire suppression section) and electrical facilities meeting the standards specified by city and state regulations, and each mobile home shall be properly connected with said utilities.
2. Accessory Structures: No accessory structures or buildings, including patios, shall be located within five (5) feet from any individual lot line.
3. Lot Standards: All mobile home subdivision lots shall comply with the following minimum standards:

Lot Width	60 Feet
Lot Depth	70 Feet
Side Yards	10 Feet
Rear Yards	10 Feet
Front Building Setback Line	25 Feet
Minimum Lot Area	4,200 Feet

All lots shall front on a public street and have a minimum width at the building line of 40 feet. The hitch area of the mobile home is considered to be the front of the trailer. The mobile home should be located on a lot with its front door facing the public street.



- A. No Subdivision of Land Before Approval: No person, or his agent, shall subdivide any land before securing the approval of the Planning Commission of a plat designating the areas to be subdivided.
- B. No Selling of Land Before Approval: No person owning land composing a subdivision, or his agent, shall transfer or sell or agree to sell any lot or parcel of land located within a subdivision by reference to, or by exhibition, or by any other use of a plat of such subdivision, before such plat has received final approval of the Planning Commission and been recorded by the County Clerk. Any such instrument of transfer, sale, or contract shall be void and shall not be subject to be recorded.
- C. Metes and Bounds Descriptions: The description of lots or parcels by metes and bounds in any contract or instrument of transfer or other document used in the process of selling or transferring same shall not exempt the person attempting to transfer from penalties provided or deprive the purchaser of any right or remedies he may otherwise have.
- D. No Recording Before Approval: No plat of a subdivision of land shall be recorded by the County Clerk until the plat has been approved by the Commission and the approval entered thereon in writing by the Chairman of the Commission. Admission to the County Clerk's records shall not be construed as approval.
- E. Injunctions: The Planning Commission shall have the power to apply for an injunction against any type of subdivision construction by a subdivider or a landowner where the subdivision regulations have been violated.
- F. Penalties:
1. Any person or entity who violates any of the provisions of KRS 100.201 to 100.347 or any of the regulations adopted pursuant hereunder for which no other penalty is provided, shall upon conviction be fined not less than ten but no more than five hundred dollars for each conviction. Each day of violation shall constitute a separate offense.
  2. Any person, owner or agent who violates this chapter shall, upon conviction be fined not less than ten but no more than five hundred dollars for each conviction. Each day of violation shall constitute a separate offense.
  3. The Commission may appoint enforcement officers who shall have authority to issue citations for violations which the officer has observed, but shall not have powers of peace officers to make arrests. The defendant shall appear within a designated time pursuant to the citation.

land, or other physical barriers. For this definition an alley is not considered a street but part of the block.

BOARD: The board of adjustment unless the context indicates otherwise.

BUILDING: Any man-made physical structure, or part thereof, affixed to the land and intended for work, residence, or other occupancy.

BUILDING PERMIT: A permit issued by an authorized City employee allowing a proprietor or his agent to construct, alter, or remove a building, or engage in similar activity which would alter the character of the lot in question.

BUILDING SETBACK LINE: A line in the interior of a lot which is generally parallel to, and a specified distance from, the street right-of-way line, or lines. No building shall then be placed in the space between the building setback line and the right-of-way line.

CITIZEN MEMBER: Any member of the Planning Commission or board of adjustment who is not an elected or appointed official or employee of the city or county.

COMMISSION (OR PLANNING COMMISSION): The Flemingsburg Planning Commission, Commonwealth of Kentucky.

COMPREHENSIVE PLAN: The adopted plan for Flemingsburg which serves as a guide for public and private actions and decisions to assure the development of public and private property in the most appropriate relationships. Such plan shall include all elements whether expressed in words, graphics, or other forms.

CONDITIONAL USE: A use which is essential to or would promote the public health, safety, or welfare in one (1) or more zones, but which would impair the integrity and character of the zone in which it is located, or in adjoining zones, unless restrictions on location, size, extent, and character of performance are imposed in addition to those imposed in the zoning regulation.

CONDITIONAL USE PERMIT: Legal authorization to undertake a conditional use, issued by the administrative official pursuant to authorization by the board of adjustment, consisting of two (2) parts:

- (a) A statement of the factual determination by the board of adjustment which justifies the issuance of the permit; and
- (b) A statement of the specific conditions which must be met in order for the use to be permitted.

DEVELOPER: An individual, partnership, corporation or other legal entity or agent thereof, which undertakes the activities covered by these regulations. Inasmuch as the subdivision plan drawings are merely a necessary means to the end of assuring satisfactory



GRADE: The inclination, with the horizontal, of a road, unimproved land, etc., which is generally expressed by stating the vertical rise or fall as a percentage of the horizontal distance.

HOUSING OR BUILDING REGULATION: The Kentucky Building Code, the Kentucky Plumbing Code and any other building or structural code promulgated by the Commonwealth or by its political subdivisions.

IMPROVEMENTS: Physical changes made to raw land, and structures placed on or under the land surface, in order to make the land more useable for man's activities. Typical improvements in these regulations would be grading, street pavement, curbs, gutters, drainage ditches, storm and sanitary sewers, utility lines of all types, street name signs, property number signs, trees, etc.

LAND SURVEYOR: A person licensed as a "Land Surveyor" by the State of Kentucky.

LEGISLATIVE BODY: The chief body of the city with legislative power, whether it is the board of aldermen, the general council, the common council, the city council, the board of commissioners, or otherwise; at times it also implies the county's fiscal court.

LOT: A portion of a subdivision or other parcel of land intended for transfer of ownership, or for building development. Generally "lots" are the basic unit of a subdivision plan, i.e., the smallest division of a plan designed to be owned by one person.

LOT AREA: The amount of surface land contained within the property lines of a lot, including land within easements on the lot, but excluding any land within street rights-of-way.

LOT, CORNER: A lot abutting upon two or more streets at a street intersection, or abutting upon two adjoining and deflected lines of the same street and thereby forming an interior angle of less than one hundred thirty-five (135) degrees.

LOT, DEPTH: The average horizontal distance between the front and rear property lines of a lot.

LOT, FLAG: A lot having a narrow frontage on a street, a long thin strip of land which provides access to a wider area

LOT, INTERIOR: Any lot other than a corner lot.

LOT LANDLOCKED: A lot having no street frontage and no access to the street.

LOT, WIDTH: Generally, the distance, measured along the building setback line, between the two side property lines of a lot--although at times the measurement will be along the right-of-way line or back property line.

MOBILE HOME PARK: A parcel of land, under control of any person, available to the public in which two or more mobile home lots are occupied or intended for occupancy by mobile homes and included any service building, structure, enclosure or other facility used as a part of the park.

MODULAR HOMES: (Also known as precut, sectional component, or panelized homes) A dwelling unit fabricated in an off-site manufacturing facility for installation or assembly at the building site, bearing a seal certifying that it is built in compliance with the Federal Manufactured Housing Construction and Safety Standards Code. This type of manufactured home is considered the same as a single-family residence.

NONCONFORMING USE OR STRUCTURE: An activity or a building, sign, structure or a portion thereof which lawfully existed before the adoption or amendment of the zoning regulation, but which does not conform to all of the regulations contained in the zoning regulation which pertain to the zone in which it is located.

PERSONS WITH A DISABILITY: A person with a physical, emotional, or mental disability, including, but not limited to, mental retardation, cerebral palsy, epilepsy, autism, deafness or hard of hearing, sight impairments, and orthopedic impairments, but not including convicted felons or misdemeanants on probation or parole or receiving supervision or rehabilitation services as a result of their prior conviction, or mentally ill persons who have pled guilty but mentally ill to a crime or not guilty by reason of insanity to a crime. "Person with a disability" does not include persons with current, illegal use of or addiction to alcohol or any controlled substance as regulated under KRS Chapter 218A.

PLANNING OPERATIONS: The formulating of plans for the physical development and social and economic well-being of a planning unit, and the formulating of proposals for means of implementing the plans.

PLANNING UNIT: Any city or county, or any combination of cities, counties, or parts of counties engaged in planning operations.

PLAT: A map of the Subdivision.

- a. Final Plat - Is a professionally prepared drawing of a proposed subdivision development, containing all the data required by these regulations and the Planning Commission for their consideration of the proposal.
- b. Preliminary Plat - Is a drawing of a proposed subdivision development which is not a Final Plat, but which contains sufficient information concerning the proposed development to enable the Planning Commission to approve the proposal subject to the late resubmission of a Final Plat and to the actual construction of the development conformance with the approved plat(s).

ARTERIALS: Hold the second rank in the classification, and should be used only for the movement of vehicles, and preferably should not provide for vehicular access to adjacent properties. Interruption of traffic flow should be permitted only at street intersections which should contain medians, deceleration lanes, and left turn storage lanes. Arterials are the link between freeways and collectors, and rank next to freeways in traffic volumes, speed limit, and right-of-way width.

Arterials may be further divided into two (2) classes, "principal" and "minor". Principal arterials carry the major portion of trips entering and leaving the urban area, as well as the majority of through movements desiring to bypass the central city. In addition, significant intra-area travel, such as between the downtown and outlying residential areas, between major inner city communities or between major suburban centers is to be served by this class of facilities. Minor arterials interconnect with and augment the principal arterial and provide service for trips of moderate length at a somewhat lower level of travel mobility.

COLLECTORS: Hold the third rank in the classification of streets, and are used both for vehicles and for providing access to adjacent properties. Access to adjoining properties should be planned and controlled so that minimum disturbance is made to the traffic moving efficiency of the collector street. Intersections should contain medians, deceleration lanes, and left turn storage lanes. Collectors are the link between arterials and local streets, and generally rank next to arterials in traffic volumes, speed limits, and right-of-way width.

LOCALS: Hold the fourth rank in the classification of streets, and are used primarily for providing access to adjacent properties. Vehicles moving on these streets should have an origin or destination in the immediate vicinity, and all types of through traffic should be eliminated through initial design of its connections with other streets. Local streets are the primary link between trip generation points (homes, offices, stores, work) and collector streets. Locals have the least right-of-way, the lowest speed limit, and the least amount of vehicular traffic. Local streets can be subdivided further into six sub-classes, all but one (dead-end streets) of which are permitted in these regulations:

CONTINUING STREETS: Are local streets having two open ends; each end generally connects with different streets; one or more other streets may intersect it between its two open ends; and property fronts on both sides of the streets.

SERVICE ROAD OR FRONTAGE ROAD: Are local streets generally having two or more open ends which are sometimes referred to as access points, but herein are considered to be full part of the service road; the ends generally connect with the same street, other streets may intersect between the ends, and property fronts on only one side of the street (the other street side is parallel, and adjacent, to a higher classification street such as a

VARIANCE: A departure from dimensional terms of the zoning regulation pertaining to the height, width, or location of structures, and the size of yards and open spaces where such departure meets the requirements of KRS 100.241 to 100.247.

5.6 AMENDMENTS

The Commission may revise, modify, or amend these regulations by appropriate action taken at a regularly scheduled meeting after the required notice and public hearing.

5.7 PREVIOUS REGULATIONS

Any previous regulations adopted by the City of Flemingsburg, or a Planning Commission appointed by it are hereby repealed.

5.8 ADOPTION AND EFFECTIVE DATE

- A. The Subdivision Regulations shall take effect and be in force immediately upon adoption thereof.

Adopted by the Flemingsburg Planning  
Commission, Commonwealth of Kentucky

12/15/97  
\_\_\_\_\_  
Date  
James L. Haman  
\_\_\_\_\_  
Chairman

- b. A security bond or certified check has been posted with the City or County legislative body in sufficient amount to assure such completion of all required improvements.

#### CERTIFICATION OF THE APPROVAL OF STREETS AND UTILITIES

I hereby certify: (1) that streets, utilities and other improvements have been installed in an acceptable manner and according to the City and County specifications in the subdivision entitled: \_\_\_\_\_ or, (2) that a security bond in the amount of \$\_\_\_\_\_ has been posted with the City or County legislative body to assure completion of all required improvements in case of default.

\_\_\_\_\_  
Date

\_\_\_\_\_  
City or County Engineer or Other Approving Agent

5. Certification on plat by the Chairman of the Planning Commission that the plat has been approved for recording in the office of the County Clerk.

#### CERTIFICATION OF APPROVAL FOR RECORDING

I hereby certify that the subdivision plat shown hereon has been found to comply with the Subdivision Regulations for Flemingsburg, Kentucky, with the exception of the variances hereinafter set out and noted in the minutes of the Planning Commission, and that this plat has been approved for recording in the Clerk's Office of the Fleming County Fiscal Court.

Variances:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Chairman or Secretary Planning Commission

6. A certificate that can be signed when the plat is recorded.

#### CLERK AND RECORDER'S CERTIFICATION

Accepted For filing in the Office of the County Clerk and Recorder of Fleming County at the City of Flemingsburg, Commonwealth of Kentucky, this \_\_\_\_\_ day of \_\_\_\_\_ AD 19\_\_\_\_\_.

\_\_\_\_\_  
County Clerk & Recorder

Reception No. \_\_\_\_\_  
Time \_\_\_\_\_

# REGULATIONS FOR CELLULAR TOWER TELECOMMUNICATION SERVICES OR PERSONAL COMMUNICATIONS SERVICES

## Fleming County Municipal Planning Commission

An antenna tower for cellular telecommunications services or personal communications services may be allowed in any area of the city after receiving Planning Commission review and approval in accordance with KRS Chapter 100, and these regulations.

1. **Purpose:** The purpose of the Cellular Antenna Tower Application and Procedures are: to provide for the safest and most efficient integration of cellular antenna towers for cellular telecommunications services or personal communications services within the community; to provide for such facilities in coordination with the recommendations of the comprehensive plan; and to allow for such facilities with the intention of furthering the public health, safety, and general welfare.
2. **Applicability:** Every utility, or a company that is engaged in the business of providing the required infrastructure to a utility, that proposes to construct an antenna tower for cellular telecommunications services or personal communications services shall submit a completed uniform application to the planning commission. The planning commission shall not regulate the placement of antennas or related equipment on an existing structure.
3. **Definitions:** For the purpose of these regulations, the following definitions shall apply:
  - a. "CELLULAR ANTENNA TOWER" means a tower constructed for, 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.
  - b. "CELLULAR TELECOMMUNICATIONS SERVICE" means a retail telecommunications service that uses radio signals transmitted through cell sites and mobile switching stations;
  - c. "CO-LOCATION" means locating two (2) or more transmissions antennas or related equipment on the same cellular antenna tower;
  - d. "PERSONAL COMMUNICATION SERVICE" has the meaning as defined in 47 U.S.C. sec. 332(c);
  - e. "UNIFORM APPLICATION" means an application to construct a cellular antenna tower submitted to a planning commission in conformity with KRS 100.9865 and 100.987;
  - f. "UTILITY" has the meaning as defined in KRS 278.010(3); and
  - g. "ANTENNAS OR RELATED EQUIPMENT" means transmitting, receiving, or other equipment used to support cellular telecommunications service or personal communications service. This definition does not include towers.
4. **General:** Cellular antenna towers for cellular telecommunications services or personal communications services may be allowed in any zone after planning commission review

in accordance with the following procedures to ascertain agreement with the adopted comprehensive plan and other regulations.

5. **Documentation:** Every utility or a company that is engaged in the business of providing the required infrastructure to a utility that proposes to construct an antenna tower for cellular telecommunications services or personal communications services within Fleming County shall tender a completed uniform application to the Planning Commission, which shall include the following:
- a. A grid map showing the location of all existing cellular antenna towers and indicating the general position of proposed construction sites for new cellular antenna towers within an area that includes:
    - i. All of the planning unit's jurisdiction; and
    - ii. A one-half (1/2) mile area outside of the boundaries of the planning unit's jurisdiction, if that area contains either existing or proposed construction sites for cellular antenna towers.
  - b. The full name and address of the applicant;
  - c. The applicant's articles of incorporation, if applicable;
  - d. A geotechnical investigation report, signed and sealed by a professional engineer registered in Kentucky, including boring logs and foundation design recommendations;
  - e. A written report, prepared by a professional engineer or land surveyor, of findings as to the proximity of the proposed site to flood hazard areas;
  - f. The lease or sale agreement for the property on which the tower is proposed to be located, except that, if the agreement has been filed in abbreviated form with the county clerk, an applicant may file a copy of the agreement as recorded by the county clerk and if applicable, the portion of the agreement demonstrating compliance with KRS 100.987 (2);
  - g. The identity and qualifications of each person directly responsible for the design and construction of the proposed tower;
  - h. A site development plan or survey, signed and sealed by a professional engineer registered in Kentucky, that shows the proposed location of the tower and all easements and existing structures within five hundred (500) feet of the proposed site on the property which the tower will be located, and all easements and existing structures within two hundred (200) feet of the access drive, including the intersection with the public street system;
  - i. A vertical profile sketch of the tower, signed and sealed by a professional engineer registered in Kentucky, indicating the height of the tower and the placement of all antennas;
  - j. The tower and foundation design plans and a description of the standard according to which the tower was designed, signed and sealed by a professional engineer registered in Kentucky;
  - k. A map, drawn to a scale no less than one (1) inch equals two hundred (200) feet, that identifies every structure and every owner of real estate within five hundred (500) feet of the proposed tower;

1. A statement that every person who, according to the records of the property valuation administrator, owns property within five hundred (500) feet of the proposed tower or property contiguous to the site upon which the tower is proposed to be constructed, has been:
  - i. Notified by certified mail, return receipt requested, of the proposed construction which notice shall include a map of the location of the proposed construction;
  - ii. Given the telephone number and address of the local planning commission; and
  - iii. Informed of his or her right to participate in the planning commission's proceedings on the application;
- m. A list of the property owners who received the notice, together with copies of the certified letters sent to the listed property owners;
- n. A statement that the chief executive officer of the affected local governments and their legislative bodies have been notified, in writing, of the proposed construction.
- o. A copy of the notice sent to the chief executive officer of the affected local governments and their legislative bodies;
- p. A statement that;
  - i. A written notice, of durable material at least two (2) feet by four (4) feet in size, stating the "[Name of applicant] proposes to construct a telecommunications tower on this site" and including the addresses and telephone numbers of the applicant and the planning commission, has been posted and shall remain in a visible location on the proposed site until final disposition of the application; and
  - ii. A written notice, at least two (2) feet by four (4) feet in size, stating that "[Name of applicant] proposes to construct a telecommunications tower near this site" and including the addresses and telephone numbers of the applicant and the planning commission, has been posted on the public road nearest the site;
- q. A statement that notice of the location of the proposed construction has been published in a newspaper of general circulation in the county in which the construction is proposed;
- r. A brief description of the character of the general area in which the tower is proposed to be constructed, which includes the existing land use for the specific property involved;
- s. A statement that the applicant has considered the likely effects of the installation on nearby land uses and values and has concluded that there is no more suitable location reasonably available from which adequate service to the area can be provided, and that there is no reasonably available opportunity to locate its antennas and related facilities on an existing structure, including documentation of attempts to locate its antennas and related facilities on an existing structure, if any, with supporting radio frequency analysis, where applicable, and a statement indicating that the applicant attempted to locate its antennas and related facilities on a tower designed to host multiple wireless service providers' facilities or on an existing structure, such as a telecommunications tower or other suitable structure capable of supporting the applicant's antennas and related facilities; and
- t. A map of the area in which the tower is proposed to be located, that is drawn to scale, and that clearly depicts the necessary search area within which an antenna tower should, pursuant to radio frequency requirements, be located.



6. **Application fee:** An applicant for the construction of cellular antenna towers for cellular telecommunications services or personal communications services shall pay an application fee in the amount of \$2,500 upon submission of each uniform application.
7. **Procedure:** After an applicant's submission of a completed uniform application to construct an antenna tower, the Planning Commission shall:
- Review the uniform application in light of its agreement with the Adopted Comprehensive Plan for Fleming County, consistency with these regulations, and other applicable regulations;
  - The Planning Commission shall hold at least one public hearing on each tower application with written notice by U. S. Mail, to all persons specified in paragraph 5(m), to be mailed between at least 7 and not more than 21 days before the hearing. The applicant shall provide preaddressed envelopes for this purpose. The Commission shall also publish the time and place of the public hearing in a newspaper of general circulation in Fleming County in accordance with KRS 424.
  - Make its final decision to approve or disapprove the uniform application along with supporting bases for their decision; and
  - Advise the applicant in writing of its final decision within sixty (60) days commencing from the date that the completed uniform application is submitted to the Planning Commission or within a date certain specified in a written agreement between the Planning Commission and the applicant. 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 applicant to a specific date for the Planning Commission to issue a decision, the uniform application shall be deemed approved.

Very Important →

Permit →

If the Planning Commission disapproves of the proposed construction, it shall state the reasons for disapproval in its written decision and may make suggestions, which, in its opinion, better accomplish the objectives of the Comprehensive Plan and the Land Development Code. No permit for construction of a cellular or personal communications service antenna tower shall be issued until the Planning Commission approves the uniform application or the sixty (60) day time period has expired and the Planning Commission has failed to issue a decision.

The Planning Commission may require the applicant to make a reasonable attempt to co-locate additional transmitting or related equipment. The Planning Commission may provide the location of existing cellular antenna towers on which the Commission deems the applicant can successfully co-locate its transmitting and related equipment. If the Planning Commission requires the applicant to attempt co-location, the applicant shall provide the Planning Commission with a statement indicating that the applicant has:

- Successfully attempted to co-locate on towers designed to host multiple wireless service providers' facilities or existing structures such as a telecommunications tower or another suitable structure capable of supporting the applicant's facilities,

- and that identifies the location of the tower or suitable structure on which the applicant will co-locate its transmission and related facilities; or
- ii. Unsuccessfully attempted to co-locate on towers designed to host multiple wireless service provider's facilities or existing structures such as a telecommunications tower or another suitable structure capable of supporting the applicant's facilities and that:
    - (1) Identifies the location of the towers or other structures on which the applicant has attempted to co-locate; and
    - (2) Lists the reasons why the co-location was unsuccessful in each instance.
- e. The Planning Commission may deny a uniform application to construct a cellular antenna tower based on an applicant's unwillingness to attempt to co-locate additional transmitting or related equipment on any new or existing towers or other structures.

Very  
Important

- Upon the approval of an application for the construction of a cellular antenna tower by the Planning Commission, the applicant shall notify the Public Service Commission within ten (10) working days of the approval. The notice to the Public Service Commission shall include a map showing the location of the construction site. If an applicant fails to file notice of an approved uniform application with the Public Service Commission, the applicant shall be prohibited from beginning construction on the cellular antenna tower until such notice has been made.
- i. Guarantee: Any contract with an owner of property upon which a cellular antenna tower is to be constructed, shall include a provision that specifies, in the case of abandonment, the method that will be followed for dismantling and removing a cellular antenna tower, including a timetable for removal.
  - ii. New towers: All new cell antenna towers are to be designed and constructed to accommodate a minimum of (3) service providers.
  - iii. Confidentiality: With the exception of the map or other information that specifically identifies the proposed location of the cellular antenna tower then being reviewed, all other information contained in the uniform application and any updates shall be recognized as confidential and proprietary within the meaning of KRS 61.878. The Planning Commission shall deny any public request for the inspection of such information, whether submitted under Kentucky's Open Record Act or otherwise, unless ordered to disclose such records by a court of competent jurisdiction or unless confidentiality is waived in writing by the applicant.
8. **Waiver:** The Planning Commission may approve a modification, reduction or waiver of standards or requirements set forth in the Section upon a finding that:
- a. The modification, reduction or waiver will not unduly affect adjacent property owners in an adverse manner; and,
  - b. The modification, reduction or waiver will not violate the Comprehensive Plan; and,

- c. The modification, reduction or waiver is the minimum necessary to afford relief to the applicant.

**9. Adoption, Amendment and Effective Date**

- a. Public Hearing: Before recommendation of these regulations or any amendments thereto by the Planning Commission, the Planning Commission shall hold a public hearing. A public notice of the time and place of the public hearing shall be published in a newspaper of general circulation in Fleming County, in accordance with KRS Chapter 424.
- b. Effective Date: These Regulations shall take effect and be in force upon their recommended as provided for in KRS Chapter 100.

**ADOPTED BY THE FLEMING COUNTY MUNICIPAL PLANNING COMMISSION**  
**COMMONWEALTH OF KENTUCKY**

**Date:** Aug 28, 2006

**Chairman:** [Signature]