

TITLE XV: LAND USAGE

Chapter

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- 152. FLOOD DAMAGE PREVENTION CODE
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Land Usage

CHAPTER 150: BUILDING REGULATIONS

Section

General Provisions

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150.02 Enforcement of codes

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150.15 Schedule of permit fees

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GENERAL PROVISIONS

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

(A) Pursuant to KRS 198B.060(8), a building inspection program is hereby established in the City of Pikeville for application to all buildings, including single-family dwellings as provided in KRS 198B.060 and the Kentucky Building Code.

(B) The Kentucky Building Code, as contained in 815 KAR 7:120 and the Kentucky Residential Code, as contained in 815 KAR 7:125 of the Kentucky Administrative Regulations; the Kentucky Plumbing Code, as contained in 815 KAR 20:001 - 195 of the Kentucky Administrative Regulations; the Kentucky Standards of Safety, as contained in 815 KAR 10:060 of the Kentucky Administrative Regulations, together with any amendment, are hereby adopted by reference as if fully set forth in this code of ordinances. Copies of the above codes and any amendments thereto shall be placed on file in the office of the Finance Director/City Clerk/Tax Administrator where they shall be available for public inspection during normal business hours.
(Am. Ord. 2005-0-018, passed 9-12-05) Penalty, see § 150.99

§ 150.02 ENFORCEMENT OF CODES.

(A) The Building Inspector is charged with enforcement of the provisions of the State Building Code adopted in § 150.01. All building code inspections shall be performed by persons certified by the Kentucky Department of Housing, Building and Construction. All electrical inspections shall be performed by a certified electrical inspector specifically approved by this jurisdiction.

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(B) The Fire Chief is hereby charged with enforcement of the provisions of the State Standards of Safety adopted by reference in § 150.01.

(C) An attested copy of Ord. 2005-0-018, passed 9-12-05, shall be transmitted to the Department of Housing, Building & Construction of the Commonwealth of Kentucky. (Am. Ord. 2005-0-018, passed 9-12-05)

BUILDING PERMITS

§ 150.15 SCHEDULE OF PERMIT FEES.

(A) Pursuant to Section 116.0 (Fees) of the Kentucky Building Code, the following schedule of fees shall be the approved rates and fees for functions performed pursuant to the Kentucky Building Code.

(Ord. 0-84-008, passed 7-9-84)

- (1) Schedule of permit fees.

Total Valuation	Fee
\$1,000.00 and less	No fee, unless inspection required, in which case a \$24.00 fee shall be charged.
\$1,001.00 to \$6,000.00	\$24.00 minimum fee
\$6,001.00 to \$25,000.00	.4% of valuation
\$25,001.00 to \$50,000.00	\$100.00 plus .4% over \$25,000.00
\$50,001.00 to \$100,000.00	\$200.00 plus .33% over \$50,000.00
\$100,001.00 to \$500,000.00	\$365.00 plus .25% over \$100,000.00
\$500,001.00 and up	\$1,365.00 plus .15% over \$500,000.00

- (2) All fees are based on the nearest thousand dollars.

(3) A twenty-five dollars (\$25.00) one (1) time fee for the moving of any mobile home or mobile structure into the city limits.

- (4) A fifty dollar (\$50.00) fee for the moving of any building or structure.

- (5) A fifty dollar (\$50.00) fee for state inspected projects.

(B) (1) In the event that construction is begun before the valid issuance of building/job permit as required herein or by the Kentucky Building Code, the schedule of

AN ORDINANCE RELATED TO THE AMENDMENT OF §150.15(B) OF THE SCHEDULE OF BUILDING PERMIT FEES TO PROVIDE FOR AN INCREASED FEE IN THE SUM OF ONE HUNDRED DOLLARS (\$100.00) OR DOUBLE THE FEE PROVIDED FOR IN §150.15(A), WHICHEVER FEE IS GREATER WHEN CONSTRUCTION IS STARTED WITHOUT A BUILDING PERMIT; PROVIDING FOR A HABITUAL VIOLATOR FEE OF FIVE HUNDRED DOLLARS (\$500.00) AND PROVIDING FOR A LIEN UPON THE REAL ESTATE UPON WHICH THE CONSTRUCTION OCCURS FOR UNPAID BUILDING PERMIT FEES

05-O- 04

NOW, THEREFORE, BE IT ORDAINED by the City of Pikeville that § 150.15(B) is amended as follows:

§ 150.15 SCHEDULE OF PERMIT FEES

~~(B1) All fees shall be double the original fee when construction is started without a permit.~~ In the event that construction is begun before the valid issuance of a Building/Job Permit as required herein or by the Kentucky Building Code, the schedule of Building/Job permit fees shall be double the amount set forth in § 150.15(A) and in no case less than One Hundred dollars (\$100.00) to cover the increased cost associated with determining the identity of the contractor, notifying the contractor of his obligation to obtain a building permit, to assess the job site for building code violations and to take emergency action if necessary.

(2) Any person or company that has been assessed the double Building /Job permit fee provided for herein three (3) times shall be deemed a habitual violator and thereafter shall be required to pay in addition to the fees provided for in § 150.15(A) or § 150.15(B) a habitual violator fee of Five Hundred dollars (\$500.00) to offset the increased cost to monitor and inspect the construction activities of the habitual violator. The habitual violator fee shall be assessed to a habitual violator regardless of whether a valid building permit is obtained before construction begins on any specific job. The habitual violator status will terminate if the habitual violator is issued timely (before commencement of construction) five- (5) building/Job permit without the intervention of an untimely permit.

(3) All building/Job permit fees provided for in § 150.15 (A) and/or (B)(1) and/or (2) shall after thirty (30) day of being due and payable become a lien upon the real estate.

and improvements thereon, for which the building/Job permit was or was required to be issued upon.

(4) No job/building permit shall be issued to an applicant if the applicant owes the City of Pikeville any building or job permit fees.

The above ordinance was given first reading this ___ day of _____, 2005.

The ordinance was given a second reading on the 28th day of March, 2005.

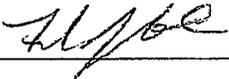
Passed this 28th day of March, 2005.

Commissioner Layne moved the adoption of the foregoing ordinance. Commissioner Hall seconded the motion.

Upon roll call, the votes were as follows:

	<u>YES</u>	<u>NO</u>
FRANKLIN D. JUSTICE, II, MAYOR	<u>✓</u>	<u> </u>
JAMES A. CARTER, COMMISSIONER	<u> </u>	<u>absent</u>
EUGENE W. DAVIS, COMMISSIONER	<u>✓</u>	<u> </u>
SHANE HALL, COMMISSIONER	<u>✓</u>	<u> </u>
DALLAS LAYNE, COMMISSIONER	<u>✓</u>	<u> </u>

The Mayor declared the within ordinance adopted.



FRANKLIN D. JUSTICE, II, MAYOR

ATTEST:



KAREN W. HARRIS, CITY CLERK

Schedule of Building Permit Fees
CITY OF PIKEVILLE

<u>Total Valuation</u>	<u>Fees</u>
\$1,000.00 and Less	No Fee, unless inspection is required. \$24.00 if inspection is necessary.
\$ 1,001.00 to \$6,000.00	\$60.00 Minimum Fee
\$6,001.00 to \$25,000.00	.6% of Valuation
\$25,001.00 to \$ 50,000.00	\$150.00 + .6% over \$25,000.00
\$50,001.00 to \$100,000.00	\$300.00 + .5% over \$50,000.00
\$100,001.00 to \$500,000.00	\$550.00 +.33% over \$100,000.00
\$500,001.00 and UP	\$2,150.00 + .25% over \$500,000.00

please note

All Fees are based to the nearest thousand.

A \$50.00 Fee for the moving of any mobile structure into the city limits.

A \$100.00 Fee for the moving of any building or structure.

A \$50.00 Fee for all State inspected projects.

ALL FEES WILL BE DOUBLE THE
ORIGINAL FEE WHEN CONSTRUCTION
IS STARTED WITHOUT THE PROPER
PERMIT.

ELECTRIC PERMIT AND INSPECTION FEES
CITY OF PIKEVILLE

RESIDENTIAL

\$25.00 Permit Fee
\$75.00 per Inspection
\$150.00 New Homes up to \$250,000.00
\$300.00 New Homes over \$250,000.00

COMMERCIAL

\$100.00 Permit Fee
1.5% (of total electric cost) Inspection Fee
Minimum Fee \$150.00

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building/job permit fees shall be double the amount set forth in division (A) above and in no case less than one hundred dollars (\$100.00) to cover the increased cost associated with determining the identity of the contractor, notifying the contractor or his or her obligation to obtain a building permit, to assess the job site for building code violations and to take emergency action if necessary.

(2) Any person or company that has been assessed the double building/job permit fee provided for herein three (3) times shall be deemed a habitual violator and thereafter shall be required to pay in addition to the fees provided for in divisions (A) or (B)(1) above a habitual violator fee of five hundred dollars (\$500.00) to offset the increased cost to monitor and inspect the construction activities of the habitual violator. The habitual violator fee shall be assessed to a habitual violator regardless of whether a valid building permit is obtained before construction begins on a specific job. The habitual violator status will terminate if the habitual violator is issued timely (before commencement of construction) five (5) building/job permits without the intervention of an untimely permit.

(3) All building/job permit fees provided for in divisions (A) and/or (B)(1) and/or (B)(2) above shall after thirty (30) days of being due and payable become a lien upon the real estate, and improvements thereon, for which the building/job permit was or was required to be issued upon.

(4) No job/building permit shall be issued to an applicant if the applicant owes the City of Pikeville any building or job permit fees.
(Ord. 0-83-001, passed 1-10-83; Am. Ord. 0-92-007, passed 3-23-91; Am. Ord. 0-98-019, passed 9-28-98)

(C) In cases where the state Building Inspector has assumed the responsibility to do codes enforcement inspections or where the state by law is required to perform the codes inspection, the permit fee shall be fifty dollars (\$50.00).

(D) In cases where the Building Inspector has reason to believe that because of the nature of the type of construction to be done in connection with all building permits that damage may occur to any public sidewalk, street or roadway, the Inspector shall defer issuing a building permit until such time as the City Engineer has been given an opportunity to review the plans and specifications for construction. In the event that the City Engineer determines that because of the nature or extent of the construction to be undertaken by the applicant, that damage may result in any public sidewalk, street or roadway because of the construction undertaken or which may result from vehicles or materials accessing the building site of such a weight so as to cause damage to a public roadway or sidewalk, the City Engineer shall immediately advise the Building Inspector of this fact and shall estimate in a dollar amount the potential damages that may occur to public sidewalks, streets or roadways. Upon receipt by the Building Inspector of such notification, the Building Inspector shall not issue a building permit until such time as the applicant shall file with the city a bond in the amount set forth by the City Engineer, with surety to be approved by the Inspector. Said bond shall be conditioned to indemnify the city for any loss or damage resulting from the work undertaken or the manner in doing the same to public

Building Regulations

sidewalks, streets or roadways. The bond shall further be conditioned that the city will be paid by the surety thereupon in the event that the principal fails to pay. Any damage to public sidewalks, streets or roadways shall be restored by the applicant under the direction and satisfaction of the Building Inspector and Codes Enforcement Officer. Upon failure or refusal of the applicant to restore the same, the city may proceed without notice to make restoration and shall forfeit the bond required to be posted herein. In no case shall the bond be determined to be the limit on the amount of damages which can be sought against the applicant. In the event that the cost of restoration performed by the city should exceed the amount of the bond, the city shall proceed to collect the remainder due from the applicant.

(Ord. 0-92-007, passed 3-23-91; Am. Ord. 05-0-04, passed 3-28-05; Am. Ord. 05-0-08, passed 4-24-05; Am. Ord. 2005-0-018, passed 9-12-05)

ELECTRICAL PERMITS; CONTRACTORS

§ 150.30 [RESERVED].

§ 150.31 STANDARDS FOR ELECTRICAL WIRING.

(A) Reasonable standards for the construction, alteration, and repair of any electrical wiring shall be those adopted in the Kentucky Building Code, and shall have as a minimum standard the requirements of the National Electrical Code, which is a part of the Kentucky Building Code. The Electrical Inspector in making his or her inspections shall use these standards. The Electrical Inspector shall be Kentucky State certified each year as required.

(B) The City of Pikeville, since adopting the Kentucky Building Code, requires any person to obtain written permits before commencing construction, alterations or repairs of any electrical wiring, and requires such inspection, as it deems necessary for the safety of life and property.

(C) The cost of electrical permits shall be:

(1) Twenty-five dollars (\$25.00) for electrical permit.

(2) One hundred fifty dollars (\$150.00) for inspection (covers three (3) inspections, rough, mid-project, completion).

(Ord. 0-84-005, passed 5-14-84; Am. Ord. 04-0-12, passed 8-9-04)

§ 150.32 EXAMINATION AND LICENSE FOR ELECTRICAL CONTRACTOR AND ELECTRICIANS.

(A) The city shall require all electrical contractors and electricians, except those who have had a least five (5) years of experience as an electrician or electrical contractor, to be examined by an Examining Board before being issued a license to engage in their occupation. The city shall require all nonresident electrical contractors and electricians to conform to reasonable standards prior to engaging in their occupation within the jurisdiction of the city.

Building Regulations

(B) Electricians and electrical contractors shall have sixty (60) days from the date of enactment of this section to apply for an electrical license. Persons applying for a license shall furnish proof of five (5) years experience in the electrical field. Proof considered as valid shall be: letters on company letterheads stating employment and job responsibility, signed by a company official; vocational school time shall count as experience; contract documents and other proof shall be considered. Upon furnishing such proof, the contractor shall be issued a license by the city.

(C) Upon the expiration of the sixty (60) day grace period, all persons applying for a license shall be examined, except as set forth in divisions (A) and (B) above.

(D) Examining Board.

(1) The Examining Board shall be composed of seven members appointed by the city, where the provisions of KRS 227.450 to 227.500 are accomplished. The Board members shall consist of two (2) Fire Department officials, two (2) consulting electrical engineers or architects, two (2) electrical contractors, and one utility company official. No appointee shall serve more than two (2) consecutive years.

(2) The members of the Examining Board shall serve without salary.

(3) In order to administer KRS 227.450 through 227.500, the Examining Board shall issue and revoke licenses; conduct and make regulations for conducting examinations of applicants; govern the method and time of making application for examination and the time within which the applicants shall be examined after application has been filed. The examination shall be made within one (1) month after application has been filed.

(E) Electrical contractors and electricians may be required to pay a reasonable fee before issuance of a license to them.

(Ord. 0-84-005, passed 5-14-84) Penalty, see § 150.99

§ 150.99 PENALTY.

(A) Any person who violates any provision of this chapter for which another penalty is not specified shall be guilty of a misdemeanor and shall be fined not more than five hundred dollars (\$500.00).

(B) Any person who violates any provision of the state codes adopted in § 150.01 shall be subject to the following penalties:

(1) Violators of the State Building Code shall, upon conviction, be subject to a fine of not less than ten dollars (\$10.00) nor more than one thousand dollars (\$1,000.00) for each offense.

(KRS 198B.990(1))

Building Regulations

(2) Violators of the State Standards of Safety shall, upon conviction, be subject to a fine of not less than twenty five dollars (\$25.00) nor more than one thousand dollars (\$1,000.00), imprisonment for not more than sixty (60) days, or both, for each offense. (KRS 227.990(1))

(3) Violators of the State Plumbing Code shall be guilty of a misdemeanor and shall be fined not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100.00), imprisonment for not more than ninety (90) days, or both, for each offense. Each day the violation continues shall constitute a separate offense.
(KRS 318.990)

CHAPTER 151: DIRT FILLS

Section

151.01	Permit required
151.02	Written application for permit
151.03	Lowest point of fill
151.04	Deflection of thread of streams prohibited
151.05	Bond; indemnification
151.99	Penalty

§ 151.01 PERMIT REQUIRED.

It shall be unlawful for any person, firm, or corporation, in person or by his agent, employee, or servant, to make fills with dirt, or other material, or to throw, cast, drop, or deposit, or to permit the throwing, casting, dropping, or depositing of material so as to cause a permanent and immovable barricade adjacent to and parallel with the banks of the Levisa Fork of the Big Sandy River within the corporate limits of the city, or upon the banks of any other stream within the city, without first obtaining a permit from the City Codes and Zoning Enforcement Officer. (Ord. 1010.2, passed 5-22-78) Penalty, see § 151.99

§ 151.02 WRITTEN APPLICATION FOR PERMIT.

(A) Any person desiring to make a fill with dirt, rock, or any other substance suitable to make a permanent improvement or fill shall make written application for a permit on forms provided for that purpose in the office of the City Manager, or his designee, which permit shall be issued upon the approval of the Codes and Zoning Enforcement Officer and upon compliance with the conditions herein stipulated.

(B) Application for a proposed plan for a fill shall state and include the following:

(1) A plot-plan shall be submitted to the scale of one (1) inch equals two hundred (200) feet, showing the river miles from Louisa, which is shown on the Engineers River Survey Map of the proposed fill, together with five (5)-foot contours from the United States Geological Survey Data.

(2) There shall also be submitted with the plot-plan, cross sections to the scale of one (1) inch equals ten (10) feet, both vertical and horizontal. The cross section shall show the fill to be made, together with computations showing the cubic yardage in that fill.

(3) Approval of the proposed fill by the United States Army Corps of Engineers stating that the proposed fill will not interfere with navigation of the Levisa Fork of the Big Sandy River.

(4) The purpose of the proposed fill.

(5) Evidence of approval of the proposed fill by any other agencies of the city

Building Regulations

from whom approval is required for filling certain areas, such as the Urban Renewal and Community Development Agency in the case of a fill in a development plan.
(Ord. 1010.2, passed 5-22-78)

§ 151.03 LOWEST POINT OF FILL.

Under no circumstances shall the top of the fill project, project below a point on the shoreline which is ten (10) feet above the low water mark and adjacent to the proposed area to be filled. The lowest point of the fill shall be at a minimum of ten (10) feet vertically above the established low water mark adjacent to the fill area.
(Ord. 1010.2, passed 5-22-78) Penalty, see § 151.99

§ 151.04 DEFLECTION OF THREAD OF STREAMS PROHIBITED.

Under no circumstances shall a fill be made on either shore of the Levisa Fork of the Big Sandy River within the corporate limits of the city which will deflect or have a tendency to deflect the thread of the streams.
(Ord. 1010.2, passed 5-22-78) Penalty, see § 151.99

§ 151.05 BOND; INDEMNIFICATION.

Each applicant shall fill a bond in the amount of two thousand five hundred dollars (\$2,500.00) with surety to be approved by the Codes and Zoning Enforcement Officer. The bond shall be conditioned to indemnify the city for any loss or damage resulting from the work undertaken or the manner of doing the same. The bond shall further be conditioned that the city will be paid by the surety thereupon for the removal of any unlawful fill, or for the removal of any prohibited material within the fill such as used car bodies.
(Ord. 1010.2, passed 5-22-78)

§ 151.99 PENALTY.

(A) Any person, firm, or corporation, or other individual convicted of any violation of this chapter shall be guilty of a misdemeanor and shall be fined not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00), or be imprisoned for not more than thirty (30) days, or both. Each day that an unlawful condition is allowed to exist shall constitute a separate offense.

(B) The occupant of any premises, and the owner of any unoccupied premises, upon which a violation of this chapter is apparent, shall be deemed prima facie responsible for the violation so evidenced and subject to the penalty provided therefor.
(Ord. 1010.2, passed 5-22-78)

CHAPTER 152: FLOOD DAMAGE PREVENTION CODE

Section

General Provisions

152.01	Statutory authorization; findings of fact; purpose; objectives
152.02	Definitions
152.03	Lands to which this chapter applies
152.04	Basis for establishing special flood hazard areas
152.05	Establishment of development permit
152.06	Compliance
152.07	Abrogation and greater restrictions
152.08	Interpretation
152.09	Warning; disclaimer of liability

Administration

152.20	Designation of local administrator
152.21	Establishment of development permit
152.22	Duties and responsibilities of Floodplain Administrator
152.23	Appeals; variance procedures
152.24	Enforcement; violation notice

Flood Hazard Reduction

152.30	General construction standards
152.31	Specific standards
152.32	Standards for streams without established base flood elevation (unnumbered A zones) and/or floodways
152.33	Standards for shallow flooding zones
152.34	Standards for subdivision proposals
152.35	Standards for accessory structures in all zones beginning with letter 'A'
152.36	Critical facilities
152.99	Penalty

GENERAL PROVISIONS

§ 152.01 STATUTORY AUTHORIZATION; FINDINGS OF FACT; PURPOSE; OBJECTIVES.

(A) Statutory authorization. The Legislature of the Commonwealth of Kentucky has in Kentucky Revised Statutes delegated to local government units the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City

Flood Damage Prevention Code

Commission of Pikeville, Kentucky, hereby adopts the following floodplain management ordinance, as set forth in this chapter.

(B) Findings of fact.

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

(2) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increased flood height and velocity, and by the location in flood hazard areas of uses vulnerable to floods or hazardous to other lands which are inadequately elevated, flood-proofed, or otherwise protected from flood damage.

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

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

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

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

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

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

(D) Objectives. The objectives of this chapter are to:

(1) Protect human life and health;

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

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

Flood Damage Prevention Code

- (4) Minimize prolonged business interruptions;
 - (5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
 - (6) Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard or other floodprone areas in such a manner as to minimize future flood blighted areas caused by flooding;
 - (7) Ensure that potential homebuyers are on notice that property is in a special flood hazard area; and
 - (8) Ensure that those who occupy a special flood hazard area assume responsibility for their actions.
- (Ord. 0-92-010, passed 4-27-92; Am. Ord. 0-2008-007, passed 1-28-08)

§ 152.02 DEFINITIONS.

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

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

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

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

ADDITION (TO AN EXISTING STRUCTURE). Any walled and roofed expansion to the perimeter of a structure in which the addition is connected by a common load-bearing wall other than a firewall. Any walled and roofed addition, which is connected by a firewall or is separated by independent perimeter load-bearing walls, is new construction.

AI-30 AND AE ZONES. Special flood hazard areas inundated by the one percent (1%) annual chance flood (100-year flood). Base flood elevations (BFEs) are determined.

Flood Damage Prevention Code

AH ZONE. An area of 100-year shallow flooding where depths are between one (1) and three (3) feet (usually shallow ponding). Base flood elevations are shown.

AO ZONE. An area of 100-year shallow flooding where water depth is between one (1) and three (3) feet (usually sheet flow on sloping terrain). Flood depths are shown.

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

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

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

AREA OF SHALLOW FLOODING. A designated AO or AH Zone on a community's flood insurance rate map (FIRM) where the base flood depths range from one (1) to three (3) feet, there is no clearly defined channel, the path of flooding is unpredictable and indeterminate: and velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

BAND X ZONES (SHADED). Areas of the two-tenths of one percent (0.2%) annual chance (500-year) flood, areas subject to the 100-year flood with average depths of less than one (1) foot or with contributing drainage area less than one (1) square mile, and areas protected by levees from the base flood.

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

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

BASEMENT. That portion of a structure having its floor subgrade (below ground level) on all four (4) sides.

BUILDING. A walled and roofed structure that is principally aboveground; including a manufactured home, gas or liquid storage tank, or other manmade facility or infrastructure. See definition for "structure."

Flood Damage Prevention Code

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

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

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

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

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

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

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

ELEVATED STRUCTURE. A non-basement structure built to have the lowest floor elevated above ground level by means of fill, solid foundation perimeter walls, piling, columns (post and piers), shear walls, or breakaway walls. (See freeboard requirements for residential and non-residential structures.)

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

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

ENCLOSURE. That portion of a structure below the base flood elevation (BFE) used solely for parking of vehicles, limited storage, or access to the structure.

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

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

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management ordinance adopted by the City of Pikeville based on specific technical base flood elevation data which established the area of special flood hazards.

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

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

FLOOD, FLOODING, or FLOODWATER.

(1) A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters; the unusual and rapid accumulation or runoff of surface waters from any source; and/or mudslides (i.e., mudflows). See “mudslides.”

(2) The condition resulting from flood-related erosion. See “flood-related erosion.”

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

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

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

FLOOD INSURANCE STUDY. The report provided by the Federal Emergency Management Agency (FEMA) or Federal Insurance Administration (FIA) containing flood profiles, the flood insurance rate map (FIRM), and/or the flood boundary floodway map (FBFM), and the water surface elevation of the base flood.

FLOODPLAIN* or *FLOODPRONE AREA. Any land area susceptible to being inundated by flood waters from any source.

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

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

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

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

FLOODPROOFING CERTIFICATE. A certification by a registered professional engineer or architect, on a FEMA-approved form in effect at the time of certification stating that a non-residential structure, together with attendant utilities and sanitary facilities is watertight to a

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specified design elevation with walls that are substantially impermeable to the passage of water and all structural components are capable of resisting hydrostatic and hydrodynamic flood forces, including the effects of buoyancy and anticipated debris impact forces.

FLOODWAY. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot. Also referred to as the **REGULATORY FLOODWAY**.

FLOODWAY FRINGE. That area of the floodplain on either side of the regulatory floodway where encroachment may be permitted without additional hydraulic and/or hydrologic analysis.

FRAUD AND VICTIMIZATION. As related in § 152.23, the variance granted must not cause fraud on or victimization of the public. In examining this requirement, the City Commission will consider the fact that every newly constructed structure adds to government responsibilities and remains a part of the community for fifty (50) to one (100) hundred years. Structures that are permitted to be constructed below the base flood elevation are subject during all those years to increased risk of damage from floods, while future owners of the property and the community as a whole are subject to all the costs, inconvenience, danger, and suffering that those increased flood damages may incur. In addition, future owners may purchase the property, unaware that it is subject to potential flood damage, and can be insured only at very high flood insurance rates.

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

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

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

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

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

HISTORIC STRUCTURE. Any structure that is:

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

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

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

(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

(a) By an approved state program as determined by the Secretary of the Interior; or

(b) Directly by the Secretary of the Interior in states without approved programs.

INCREASED COST OF COMPLIANCE (ICC).

(1) **INCREASED COST OF COMPLIANCE** coverage provides for the payment of a claim for the cost to comply with state or community floodplain management laws or ordinances after a direct physical loss by flood. When a building covered by a standard flood insurance policy under the NFIP sustains a loss and the state or community declares the building to be substantially or repetitively damaged, ICC will help pay up to thirty thousand dollars (\$30,000.00) for the cost to elevate, floodproof, demolish, or remove the building.

(2) **ICC** coverage is available on residential and non-residential buildings (this category includes public or government buildings, such as schools, libraries, and municipal buildings) insured under the NFIP.

KRS 151.250 - PLANS FOR DAMS, LEVEES, ETC TO BE APPROVED AND PERMIT ISSUED BY CABINET - (ENVIRONMENTAL AND PUBLIC PROTECTION CABINET).

(1) Notwithstanding any other provision of law, no person and no city, county or other political subdivision of the state, including levee districts, drainage districts, flood control districts or systems, or similar bodies, shall commence the construction, reconstruction, relocation

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or improvement of any dam, embankment, levee, dike, bridge, fill or other obstruction (except those constructed by the Department of Highways) across or along any stream, or in the floodway of any stream, unless the plans and specifications for such work have been submitted by the person or political subdivision responsible for the construction, reconstruction or improvement and such plans and specifications have been approved in writing by the Cabinet and a permit issued. However, the Cabinet by regulation may exempt those dams, embankments or other obstructions, which are not of such size or type as to require approval by the cabinet in the interest of safety or retention of water supply.

(2) No person, city, county, or other political subdivision of the state shall commence the filing of any area with earth, debris, or any other material, or raise the level of any area in any manner, or place a building, barrier or obstruction of any sort on any area located adjacent to a river or stream or in the floodway of the stream so that such filling, raising, or obstruction will in any way affect the flow of water in the channel or in the floodway of the stream unless plans and specifications for such work have been submitted to and approved by the Cabinet and a permit issued as required in division (1) above.

(3) Nothing in this definition is intended to give the Cabinet any jurisdiction or control over the construction, reconstruction, improvement, enlargement, maintenance or operation of any drainage district, ditch or system established for agricultural purposes, or to require approval of the same except where such obstruction of the stream or floodway is determined by the Cabinet to be a detriment or hindrance to the beneficial use of water resources in the area, and the person or political subdivision in control thereof so notified. The Department for Natural Resources through KRS Chapter 350 shall have exclusive jurisdiction over KRS Chapter 151 concerning the regulation of dams, levees, embankments, dikes, bridges, fills, or other obstructions across or along any stream or in the floodway of any stream which structures are permitted under KRS Chapter 350 for surface coal mining operations.

LETTER OF MAP CHANGE (LOMC). An official FEMA determination, by letter, to amend or revise effective flood insurance rate maps, flood boundary and floodway maps, and flood insurance studies. ***LOMCs*** include the following categories:

(1) ***LETTER OF MAP AMENDMENT (LOMA).*** A revision based on technical data showing that a property was incorrectly included in a designated SFHA. A ***LOMA*** amends the current effective FIRM and establishes that a specific property is not located in a SFHA.

(2) ***LETTER OF MAP REVISION (LOMR).*** A revision based on technical data that, usually due to manmade changes, shows changes to flood zones, flood elevations, floodplain and floodway delineations, and planimetric features.

(3) ***LETTER OF MAP REVISION - FILL (LOMR F).*** A determination that a structure or parcel has been elevated by properly placed engineered fill above the BFE and is, therefore, excluded from the SHFA.

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

LEVEE SYSTEM.

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

(2) For a levee system to be recognized, the following criteria must be met:

(a) All closure devices or mechanical systems for internal drainage, whether manual or automatic, must be operated in accordance with an officially adopted operation manual (a copy of which must be provided to FEMA by the operator when levee or drainage system recognition is being sought or revised).

(b) All operations must be under the jurisdiction of a federal or state agency, an agency created by federal or state law, or an agency of a community participating in the NFIP.

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

LOWEST ADJACENT GRADE. The elevation of the sidewalk, patio, deck support, or basement entry way immediately next to the structure and after the completion of construction. It does not include earth that is emplaced for aesthetic or landscape reasons around a foundation wall. It does include natural ground or properly compacted fill that comprises a component of a structure's foundation system.

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

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

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MANUFACTURED HOME PARK OR SUBDIVISION. A parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

MAP. The flood hazard boundary map (FHBM) or the flood insurance rate map (FIRM) for a community issued by the Federal Emergency Management Agency (FEMA).

MAP PANEL NUMBER. The four (4) digit number on a flood map, followed by a letter suffix, assigned by FEMA. The first four (4) digits represent the map panel. The letter suffix represents the number of times the map panel has been revised. (The letter 'A' is not used by FEMA; the letter 'B' is the first revision.)

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

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

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

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

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

MUDSLIDE (i.e. MUDFLOW) PRONE AREA. An area with land surfaces and slopes of unconsolidated material where the history, geology, and climate indicate a potential for mudflow.

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

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

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

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

NON-RESIDENTIAL. Structures that are not designed for human habitation, including but not limited to: small business concerns, churches, schools, farm structures (including grain bins and silos), pool houses, clubhouses, recreational structures, mercantile structures, agricultural and industrial structures, warehouses, and hotels or motels with normal room rentals for less than six (6) months' duration.

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

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

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

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

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

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

PROBATION. A means of formally notifying participating NFIP communities of violations and deficiencies in the administration and enforcement of the local floodplain management regulations. During periods of probation, each insurance policy is subject to a fifty dollar (\$50.00) surcharge.

PROGRAM DEFICIENCY. A defect in a community's floodplain management regulations or administrative procedures that impairs effective implementation of those floodplain management standards or of the standards of 44 CFR 60.3, 60.4, 60.5, and/or 60.6.

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

RECREATIONAL VEHICLE. A vehicle that is:

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

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

REGULATORY FLOODWAY. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot. See "base flood."

REMEDY A VIOLATION. The process by which a community brings a structure or other development into compliance with state or local floodplain management regulations, or, if this is not possible, to reduce the impact of non-compliance. Reduced impact may include protecting the structure or other affected development from flood damages, implementing the enforcement

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provisions of this chapter or otherwise deterring future similar violations, or reducing state or federal financing exposure with regard to the structure or other development.

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

REPETITIVE LOSS. Flood-related damages sustained by a structure on two (2) or more separate occasions during a ten (10) year period where the value of damages equals or exceeds an average of fifty percent (50%) of the current value of the structure, beginning on the date when the damage first occurred, or four (4) or more flood losses of one thousand dollars (\$1,000.00) or more over the life of the structure, or three (3) or more flood losses over the life of the structure that are equal to or greater than the current value of the structure.

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

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

SHEET FLOW AREA. See “area of shallow flooding.”

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

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

STRUCTURE. A walled and roofed building that is principally above ground; including manufactured homes, gas or liquid storage tanks, or other man-made facilities or infrastructures. See “building.”

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SUBDIVISION. Any division, for the purposes of sale, lease, or development, either on the installment plan or upon any and all other plans, terms and conditions, of any tract or parcel of land into two (2) or more lots or parcels.

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

SUBSTANTIAL DAMAGE.

(1) Any damage to a building for which the cost of repairs equals or exceeds fifty percent (50%) of the market value of the building prior to the damage occurring. This term includes structures that are categorized as repetitive loss.

(2) For the purposes of this definition, repair is considered to occur when the first repair or reconstruction of any wall, ceiling, floor, or other structural part of the building commences.

(3) The term does not apply to:

(a) Any project for improvement of a building required to comply with existing health, sanitary, or safety code specifications which have been identified by the Codes Enforcement Official and which are solely necessary to assure safe living conditions; or

(b) Any alteration of an historic structure provided that the alteration will not preclude the structure's continued designation as an historic structure.

SUBSTANTIAL IMPROVEMENT.

(1) Any combination of reconstruction, alteration, or improvement to a building, taking place during a one (1) year period in which the cumulative percentage of improvement equals or exceeds fifty percent (50%) of the current market value of the building. For the purposes of this definition, an improvement occurs when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building.

(2) The term does not apply to:

(a) Any project for improvement of a building required to comply with existing health, sanitary, or safety code specifications which have been identified by the Codes Enforcement Official and which are solely necessary to assure safe living conditions;

(b) Any alteration of an historic structure provided that the alteration will not preclude the structure's continued designation as an historic structure; or

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

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

SUSPENSION. Removal of a participating community from the NFIP for failure to enact and/or enforce floodplain management regulations required for participation in the NFIP. New or renewal flood insurance policies are no longer available in suspended communities.

UTILITIES. Includes electrical, heating, ventilation, plumbing, and air conditioning equipment.

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

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

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

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

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

X ZONE. The area where the flood hazard is less than that in the SFHA. Shaded ***X ZONES*** shown on recent FIRMs (B zones on older FIRMs) designate areas subject to inundation by the flood with a two-tenths of one percent (0.2%) probability of being equaled or exceeded (the 500-year flood) in any year. Unshaded ***X ZONES*** (C zones on older FIRMs) designate areas where the annual exceedance probability of flooding is less than two-tenths of one percent (0.2%).

ZONE. A geographical area shown on a flood hazard boundary map or a flood insurance rate map that reflects the severity or type of flooding in the area.
(Ord. 0-92-010, passed 4-27-92; Am. Ord. 0-2008-007, passed 1-28-08)

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§ 152.03 LANDS TO WHICH THIS CHAPTER APPLIES.

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

(Ord. 0-92-010, passed 4-27-92; Am. Ord. 0-2008-007, passed 1-28-08) Penalty, see § 152.99

§ 152.04 BASIS FOR ESTABLISHING SPECIAL FLOOD HAZARD AREAS.

The areas of special flood hazard identified by the Federal Emergency Management Agency (FEMA) in the flood insurance study (FIS) for Pike County County, dated May 2, 2008, with the accompanying flood insurance rate maps (FIRMS), other supporting data and any subsequent amendments thereto, are hereby adopted by reference and declared to be a part of these regulations by the City of Pikeville and for those land areas acquired by the City of Pikeville through annexation. This FIS and attendant mapping is the minimum area of applicability of this chapter and may be supplemented by studies for other areas which allow implementation of this chapter and which are recommended to the City Commission by the Floodplain Administrator and are enacted by the City Commission pursuant to statutes governing land use management regulations. The FIS and/or FIRM are permanent records of the City of Pikeville and are on file and available for review by the public during regular business hours at Pikeville City Hall at 118 College Street, Pikeville, KY 41501.

(Ord. 0-92-010, passed 4-27-92; Am. Ord. 0-2008-007, passed 1-28-08)

§ 152.05 ESTABLISHMENT OF DEVELOPMENT PERMIT.

(A) A development permit shall be required in conformance with the provision of this chapter prior to the commencement of any development activities in the special flood hazard areas (SFHA). See § 152.21 for instructions and explanation.

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

(Ord. 0-92-010, passed 4-27-92; Am. Ord. 0-2008-007, passed 1-28-08) Penalty, see § 152.99

§ 152.06 COMPLIANCE.

No structure or land shall hereafter be constructed, located, extended, converted or structurally altered without full compliance with the terms of this chapter and other applicable state regulations. Violation of the requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Nothing herein shall

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prevent the City Commission from taking such lawful action as is necessary to prevent or remedy any violation.

(Ord. 0-92-010, passed 4-27-92; Am. Ord. 0-2008-007, passed 1-28-08) Penalty, see § 152.99

§ 152.07 ABROGATION AND GREATER RESTRICTIONS.

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

(Ord. 0-92-010, passed 4-27-92; Am. Ord. 0-2008-007, passed 1-28-08)

§ 152.08 INTERPRETATION.

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

(A) Considered minimum requirements;

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

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

(Ord. 0-92-010, passed 4-27-92; Am. Ord. 0-2008-007, passed 1-28-08)

§ 152.09 WARNING; DISCLAIMER OF LIABILITY.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damage. This chapter shall not create liability on the part of the City Commission of the City of Pikeville, the Commonwealth of Kentucky, the Federal Insurance Administration, or the Federal Emergency Management Agency, or any officer or employee thereof, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

(Ord. 0-92-010, passed 4-27-92; Am. Ord. 0-2008-007, passed 1-28-08)

ADMINISTRATION

§ 152.20 DESIGNATION OF LOCAL ADMINISTRATOR.

The City Commission of the City of Pikeville hereby appoints the City Codes Enforcement Officer to administer, implement, and enforce the provisions of this chapter by granting or denying development permits in accordance with its provisions, and is herein referred to as the Floodplain Administrator.

(Ord. 0-92-010, passed 4-27-92; Am. Ord. 0-2008-007, passed 1-28-08)

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§ 152.21 ESTABLISHMENT OF DEVELOPMENT PERMIT.

A development permit shall be obtained before any construction or other development begins within any special flood hazard area established in § 152.04. Application for a development permit shall be made on forms furnished by Floodplain Administrator prior to any development activities, and may include, but not be limited to, the following: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Endorsement of the Floodplain Administrator is required before a state floodplain construction permit can be processed. Specifically, the following information is required:

(A) Application stage.

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

(2) Proposed elevation in relation to mean sea level to which any non-residential structure will be flood-proofed;

(3) All appropriate certifications from a registered professional engineer or architect that the non-residential flood-proofed structure will meet the flood-proofing criteria in §§ 152.31(B) and 152.33(B);

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

(B) Construction stage.

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

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

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to submit the survey or failure to make the corrections required hereby, shall be cause to issue a stop-work order for the project.

(Ord. 0-92-010, passed 4-27-92; Am. Ord. 0-2008-007, passed 1-28-08) Penalty, see § 152.99

§ 152.22 DUTIES AND RESPONSIBILITIES OF FLOODPLAIN ADMINISTRATOR.

The Floodplain Administrator and/or staff is hereby appointed, authorized and directed to administer, implement and enforce the provisions of this chapter. The Floodplain Administrator is further authorized to render interpretations of this chapter which are consistent with its spirit and purpose by granting or denying development permits in accordance with its provisions. The duties and responsibilities of the Floodplain Administrator shall include, but not be limited to the following:

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

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

(2) All other required state and federal permits have been obtained; advise permittee that additional federal or state permits may be required, and if specific federal or state permit requirements are known, require that copies of such permits be provided and maintained on file with the development permit;

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

(4) The proposed development does not adversely affect the carrying capacity of affected watercourses. For purposes of this chapter, *ADVERSELY AFFECTS* means that the cumulative effect of the proposed development when combined with all other existing and anticipated development will increase the water surface elevation of the base flood more than one (1) foot at any point.

(B) Review and use of any other base flood data. When base flood elevation data has not been provided in accordance with § 152.04, the Floodplain Administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal or state agency, or other source, in order to administer §§ 152.30 through 152.36. Any such information shall be submitted to the City Commission for adoption.

(C) Notification of other agencies.

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

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

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

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

(1) Certification required by § 152.31(A) (lowest floor elevations) as shown on a completed and certified elevation certificate. Verify and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, in accordance with § 152.21(B);

(2) Certification required by § 152.31(B) (elevation or floodproofing of nonresidential structures) as shown on a completed and certified floodproofing certificate. Verify and record the actual elevation (in relation to mean sea level) to which the new or substantially improved structures have been flood-proofed, in accordance with § 152.21(B);

(3) Certification required by § 152.31(C) (elevated structures);

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

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

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

(7) Review certified plans and specifications for compliance;

(8) Remedial action. Take action to remedy violations of this chapter as specified in §§ 152.24 and 152.99.

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

(1) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in § 152.23(A)(2);

(2) When base flood elevation data or floodway data have not been provided in accordance with § 152.04, then the Floodplain Administrator shall obtain, review, and reasonable utilize any base flood elevation and floodway data available from a federal, state, or other source, in order to administer the provisions of §§ 152.30 through 152.36;

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(3) When flood-proofing is utilized for a particular structure, the Floodplain Administrator shall obtain certification from a registered professional engineer or architect, in accordance with § 152.31(B) a flood-proofing certificate:

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

(F) Right of entry.

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

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

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

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

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

(H) Revocation of permits.

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

(2) The Administrator may revoke a permit upon determination by the Administrator that the construction, erection, alteration, repair, moving, demolition, installation, or

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replacement of the structure for which the permit was issued is in violation of, or not in conformity with, the provisions of this chapter.

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

(J) **Expiration of floodplain construction permit.** A floodplain construction permit, and all provisions contained therein, shall expire if the holder of a floodplain construction permit has not commenced construction within one hundred and eighty (180) calendar days from the date of its issuance by the Floodplain Administrator.

(Ord. 0-92-010, passed 4-27-92; Am. Ord. 0-2008-007, passed 1-28-08) Penalty, see § 152.99

§ 152.23 APPEALS; VARIANCE PROCEDURES.

(A) **Nature of variances.**

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

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

(B) **Designation of Variance and Appeal Board.** The City Commission of the City of Pikeville shall establish an Appeal Board named as the Pikeville/Pike County Joint Planning Commission.

(C) **Duties of Variance and Appeals Board.**

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

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

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

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

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

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

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

(3) Variances shall only be issued upon a determination that the variance is the minimum necessary to afford relief considering the flood hazard. In the instance of an historical structure, a determination shall be made that the variance is the minimum necessary to afford relief and not destroy the historic character and design of the structure.

(4) Variances shall only be issued upon:

(a) A showing of good and sufficient cause;

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

(c) A determination that the granting of a variance will not result in increased flood height, additional threats to public safety, cause extraordinary public expense, create nuisance (as defined in § 152.02 under “public safety and nuisance”), cause fraud or victimization of the public (as defined in § 152.02) or conflict with existing local laws or ordinances.

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

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

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

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

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

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

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

(G) Historic structures. Variances may be issued for the repair or rehabilitation of historic structures (see definition in § 152.02) upon determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

(H) No impact certification within the floodway. Variances shall not be issued within any mapped or designated floodway if any increase in flood levels during the base flood discharge would result.

(Ord. 0-92-010, passed 4-27-92; Am. Ord. 0-2008-007, passed 1-28-08) Penalty, see § 152.99

§ 152.24 ENFORCEMENT; VIOLATION NOTICE.

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

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

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The notice shall also state that a citation may be forthcoming in the event that the requested remedies and corrective actions are not taken, which citation will request a civil monetary fine and shall state the maximum fine which could be imposed.

(C) Notice of citation. If, at any time, a duly authorized employee or agent of the Floodplain Administrator has reasonable cause to believe that a person has caused development to occur which is not in accordance with the provisions of this chapter including obtaining or complying with the terms and conditions of a floodplain construction permit and any approved modifications thereof, a duly authorized employee of the Floodplain Administrator may issue a citation to the offender stating the violation, prior notices of violation issued, how the violation is to be remedied to bring the development into conformity with this chapter or with the approved permit, and within what period of time the remedy is to occur, and what penalty or penalties are recommended. When a citation is issued, the person to whom the citation is issued shall respond to the citation within seven (7) days of the date the citation is issued by either carrying out the remedies and corrections set forth in the citation, paying the civil fine set forth in the citation or requesting a hearing before the governing body. If the person to whom the citation is issued does not respond to the citation within seven (7) days, that person shall be deemed to have waived the right to a hearing and the determination that a violation occurred shall be considered final.

(Ord. 0-2008-007, passed 1-28-08) Penalty, see § 152.99

FLOOD HAZARD REDUCTION

§ 152.30 GENERAL CONSTRUCTION STANDARDS.

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

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

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

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

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

(E) Electrical, heating, ventilation, plumbing, air condition equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

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(F) If within Zones AH or AO, so that there are adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

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

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

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

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

(K) Any alteration, repair, reconstruction, or improvements to a structure, which is not in compliance with the provisions of this chapter, shall be undertaken only if the non-conformity is not furthered, extended, or replaced.

(Ord. 0-92-010, passed 4-27-92; Am. Ord. 0-2008-007, passed 1-28-08) Penalty, see § 152.99

§ 152.31 SPECIFIC STANDARDS.

In all special flood hazard areas where base flood elevation data have been provided, as set forth in § 152.04, the following provisions are required:

(A) Residential construction. New construction or substantial improvement of any residential structure (or manufactured home) shall have the lowest floor, including basement, mechanical equipment, and ductwork elevated no lower than one (1) foot above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of division (C) of this section.

(1) In an AO zone, elevated above the highest adjacent grade to a height equal to or exceeding the depth number specified in feet on the FIRM, or elevated at least two (2) feet above the highest adjacent grade if no depth number is specified.

(2) In an A zone, where no technical data has been produced by the Federal Emergency Management Agency, elevated one (1) foot above the base flood elevation, as determined by this community. The Floodplain Administrator will determine the method by which base flood elevations are determined. Methods include but are not limited to detailed hydrologic and hydraulic analyses, use of existing data available from other sources, use of historical data, best supportable

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and reasonable judgment in the event no data can be produced. Title 401 KAR (Kentucky Administrative Regulations) Chapter 4, Regulation 060, states as a part of the technical requirements for a state floodplain permit: The applicant shall provide cross sections for determining floodway boundaries (and thereby base flood elevations) at any proposed construction site where FEMA maps are not available. All cross sections shall be referenced to mean sea level and shall have vertical error tolerances of no more than + five-tenths (0.5) foot. Cross sections elevations shall be taken at those points which represent significant breaks in slope and at points where hydraulic characteristics of the base floodplain change. Each cross section shall extend across the entire base floodplain and shall be in the number and at the locations specified by the Cabinet. If necessary to ensure that significant flood damage will not occur, the Cabinet may require additional cross sections or specific site elevations which extend beyond those needed for making routine regulatory floodway boundary calculations.

(3) In all other zones, elevated one (1) foot above the base flood elevation, upon the completion of the structure, the elevation of the lowest floor including basement shall be certified by a registered professional engineer or surveyor, and verified by the community Building Inspection Department to be properly elevated. Such certification and verification shall be provided to the Floodplain Administrator.

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

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

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

(3) Have the lowest floor, including basement, mechanical equipment, and ductwork, elevated no lower than one (1) foot above the level of the base flood elevation; or

(4) A registered professional engineer or architect shall certify that the standards of this division (B) are satisfied. Such certification shall be provided to the official as set forth in § 152.21(A)(3);

(5) Manufactured homes shall meet the standards in division (D) of this section;

(6) All new construction and substantial improvement with fully enclosed areas below the lowest floor (excluding basements) that are usable solely for parking of vehicles, building access or storage, and which are subject to flooding, shall be constructed of flood resistant materials

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below an elevation one (1) foot above the base flood elevation, and, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Opening sizes (FEMA Technical Bulletin 1-93) for meeting this requirement must meet or exceed the following minimum criteria:

(a) Be certified by a registered professional engineer or architect; or

(b) Have a minimum of two (2) openings with a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding. The bottom of all openings shall be no higher than one (1) foot above grade. Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwater.

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

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

(a) Provide a minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding;

(b) The bottom of all openings shall be no higher than one (1) foot above foundation interior grade (which must be equal to in elevation or higher than the exterior foundation grade); and

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

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

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

(D) Standards for manufactured homes and recreational vehicles.

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

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1. On individual lots or parcels;
2. In expansions to existing manufactured home parks or subdivisions;
3. In new manufactured home parks or subdivisions;
4. In substantially improved manufactured home parks or subdivisions;
5. Outside of a manufactured home park or subdivision; or
6. In an existing manufactured home park or subdivision on a site upon which a manufactured home has incurred substantial damage as the result of a flood.

(b) All manufactured homes must be:

1. Elevated on a permanent foundation;
2. Have its lowest floor elevated no lower than one (1) foot above the level of the base flood elevation; and
3. Be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

(2) Except manufactured homes that have incurred substantial damage as a result of a flood, all manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that the manufactured home is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement, so that either:

(a) The lowest floor of the manufactured home is elevated no lower than one (1) foot above the level of the base flood elevation; or

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

(3) (a) All recreational vehicles placed on sites located within A, A1-30, AO, AH, and AE on the community's flood insurance rate map (FIRM) must either:

1. Be on the site for fewer than one hundred eighty (180) consecutive days;

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2. Be fully licensed and ready for highway use; or
3. Meet the permit requirements for new construction of this chapter, including anchoring and elevation requirements for manufactured homes.

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

(E) Floodways. Located within areas of special flood hazard established in § 152.04 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and has erosion potential, the following provisions shall apply:

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

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

(Ord. 0-92-010, passed 4-27-92; Am. Ord. 0-2008-007, passed 1-28-08) Penalty, see § 152.99

§ 152.32 STANDARDS FOR STREAMS WITHOUT ESTABLISHED BASE FLOOD ELEVATION (UNNUMBERED A ZONES) AND/OR FLOODWAYS.

Located within the special flood hazard areas established in § 152.04, where streams exist but where no base flood data has been provided or where base flood data has been provided without floodways, the following provisions apply:

(A) No encroachments, including fill material or structures shall be located within special flood hazard areas, unless certification by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

(B) New construction or substantial improvements of structures shall be elevated or flood proofed to elevations established in accordance with § 152.04.

(Ord. 0-92-010, passed 4-27-92; Am. Ord. 0-2008-007, passed 1-28-08) Penalty, see § 152.99

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§ 152.33 STANDARDS FOR SHALLOW FLOODING ZONES.

Located within the special flood hazard areas established in § 152.04 are areas designated as shallow flooding areas. These areas have flood hazards associated with base flood depths of one (1) to three (3) feet, where a clearly defined channel does not exist and the water path of flooding is unpredictable and indeterminate. Therefore, the following provisions apply:

(A) All new construction and substantial improvements of residential structures shall have the lowest floor, including basement, elevated to or above either the base flood elevation or in Zone AO the flood depth specified on the flood insurance rate map above the highest adjacent grade. In Zone AO, if no flood depth is specified, the lowest floor, including basement, shall be elevated no less than two (2) feet above the highest adjacent grade.

(B) All new construction and substantial improvements of non-residential structures shall:

(1) Have the lowest floor, including basement, elevated to or above either the base flood elevation or in Zone AO the flood depth specified on the flood insurance rate map, above the highest adjacent grade. In Zone AO, if no flood depth is specified, the lowest floor, including basement, shall be elevated no less than two (2) feet above the highest adjacent grade.

(2) Together with attendant utility and sanitary facilities, be completely flood-proofed either to the base flood elevation or above or, in Zone AO, to or above the specified flood depth plus a minimum of one (1) foot so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required as stated in § 152.31(B).

(Ord. 0-92-010, passed 4-27-92; Am. Ord. 0-2008-007, passed 1-28-08) Penalty, see § 152.99

§ 152.34 STANDARDS FOR SUBDIVISION PROPOSALS.

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

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

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

(D) In areas where base flood elevation and floodway data is not available (Zone A or unmapped streams), base flood elevation and floodway data for subdivision proposals and other proposed development (including manufactured home parks and subdivisions) greater than fifty (50) lots or five (5) acres, whichever is the lesser, shall be provided.

Flood Damage Prevention Code

(E) All subdivision plans will include the elevation of proposed structure(s) and lowest adjacent grade. If the site is filled above the base flood elevation, the lowest floor and lowest adjacent grade elevations shall be certified by a registered professional engineer or surveyor and provided to the Floodplain Administrator.

(Ord. 0-92-010, passed 4-27-92; Am. Ord. 0-2008-007, passed 1-28-08) Penalty, see § 152.99

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

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

(A) Structure must be non-habitable;

(B) Must be anchored to resist floatation forces;

(C) Will require flood openings/vents no more than one (1) foot above grade, total openings are to be one (1) square inch per one (1) square foot of floor area, at least two (2) openings required on opposite walls;

(D) Built of flood resistant materials below a level one (1) foot above the base flood elevation;

(E) Must elevate utilities above the base flood elevation;

(F) Can only be used for storage or parking;

(G) Cannot be modified for a different use after permitting.

(Ord. 0-2008-007, passed 1-28-08) Penalty, see § 152.99

§ 152.36 CRITICAL FACILITIES.

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the SFHA (100-year floodplain). Construction of new critical facilities shall not be permissible within the floodway; however, they may be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated one (1) foot or more above the level of the base flood elevation at the site. Flood-proofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible.

(Ord. 0-2008-007, passed 1-28-08) Penalty, see § 152.99

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§ 152.99 PENALTY.

Violation of the provisions of this chapter or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with granting of a variance or special exceptions, shall constitute a misdemeanor civil offense. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined no less than one hundred dollars (\$100.00) or imprisoned for not more than ten (10) days, or both, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Floodplain Administrator from taking such other lawful action as is necessary to prevent or remedy any violation.

(Ord. 0-92-010, passed 4-27-92; Am. Ord. 0-2008-007, passed 1-28-08)

CHAPTER 153: MASTER PLAN AND DEVELOPMENT PLAN

Section

153.01 Approval of plans; adoption of reference

§ 153.01 APPROVAL OF PLANS; ADOPTION BY REFERENCE.

The Master Plan and the Development Plan submitted by the Urban Renewal and Community Development Agency of the city is hereby approved and adopted by reference.
(Ord. 910.1, passed 7-18-73)

Master Plan and Development Plan

CHAPTER 154: MOBILE HOMES

Section

154.01	Location of mobile home within Central Business District prohibited
154.02	Mobile homes to be located in approved mobile home parks
154.99	Penalty

§ 154.01 LOCATION OF MOBILE HOME WITHIN CENTRAL BUSINESS DISTRICT PROHIBITED.

(A) For the purpose of this section, **MOBILE HOME** shall mean either a mobile living unit designed to be mounted upon and conveyed by another vehicle, or a dwelling unit, factory-built and factory-assembled, designed for conveyance after fabrication, on streets and highways on its own wheels or on a flatbed or other trailers, and arriving at the site where it is to be occupied as a dwelling unit complete and ready for occupancy, except for minor and incidental unpacking and assembly operations such as locating on jacks or other foundation, or connection to utilities. A prefabricated home or structure shall not be included in this definition. However, a unit shall not cease to be defined as a **MOBILE HOME** merely because the wheel or wheels structures have been removed.

(B) It shall be unlawful for any mobile home, as defined above, to be placed or parked in the Central Commercial District of the city as defined by the zoning code of the city, which under that zoning code is known as the C-3 District.

(C) No building permit shall be issued by the city or its proper authorities for the location of a mobile home within the Central Business District as defined herein.
(Ord. 950.5, passed 1-10-83) Penalty, see § 154.99

§ 154.02 MOBILE HOMES TO BE LOCATED IN APPROVED MOBILE HOME PARKS.

(A) Mobile homes, as defined by ordinance and the Kentucky Revised Statutes, and metal trailers shall not be located other than for purposes of sale of same at retail or wholesale at other than an approved and state licensed mobile home park within the city limits.

(B) No building permit shall be issued for the location, relocation, or other placement of such mobile homes or trailers, and any such location without a building permit shall be a violation of this section..
(Ord. 0-84-006, passed 5-31-84) Penalty, see § 154.99

§ 154.99 PENALTY.

Any person who violates any provisions of this chapter shall be guilty of a misdemeanor and shall be fined not more than five hundred dollars (\$500.00) or be imprisoned for not more than thirty (30) days, or both, for each offense. Each day the violation exists shall constitute a separate offense.

Mobile Homes

CHAPTER 155: SIGNS

Section

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155.35 Holiday signs
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Nonconforming Signs

155.55 Legal nonconforming signs
155.56 Removal and disposition of nonconforming signs

Administration and Enforcement

155.65 Enforcement Officer
155.66 Stricter standard shall prevail

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Signs

GENERAL PROVISIONS

§ 155.01 DEFINITIONS.

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

ABANDONED SIGN. A sign which no longer advertises a bona fide business, product, candidate, or activity.

BANNER SIGN. A temporary sign composed of lightweight material secured or mounted so as to allow movement caused by wind.

BOARD. The Board of Commissioners.

CONSTRUCTION SIGN. A temporary sign identifying a building or construction site and the architects, engineers, financial institutions, contractors, and suppliers involved.

FLAG. A piece of cloth or other flexible material varying in size, shape, color, and design usually attached at one edge to a staff or cord and used as the symbol of a state or organization.

PERSON. Any individual, corporation, association, firm, or partnership.

PUBLIC PROPERTY. Any public right-of-way, road, alley, sidewalk, parking lot, or any other area which has been dedicated to public use or ownership or which has otherwise become public by ownership or use. For these purposes, **PUBLIC PROPERTY** shall include utility poles and structures, trash and garbage receptacles, or other appurtenances on public real property.

UNLAWFUL SIGN. A sign which contravenes this chapter.
(Ord. 0-86-002, passed 1-27-86)

PERMITS

§ 155.15 PERMIT REQUIRED; EXCEPTION.

(A) Except as otherwise provided in this chapter it shall be unlawful for any person to erect, construct, enlarge, move, or convert any sign in the city on public property, or cause the same to be done, without first obtaining a sign permit for each sign from the Codes and Zoning Enforcement Officer.

(B) This chapter shall not be construed to require any permit for a change of copy on any sign, nor for their repainting, cleaning, and other normal maintenance or repair of a sign or sign structure for which a permit has previously been issued, so long as the sign structure is not modified in any way.

(Ord. 0-86-002, passed 1-27-86) Penalty, see § 155.99

Signs

§ 155.16 WRITTEN APPLICATION; PHOTOGRAPHIC REPRODUCTION OR FACSIMILE REQUIRED.

A person desiring a permit to use a sign within the city on public property shall apply in writing to the Codes and Zoning Enforcement Officer and the application shall include either a photographic reproduction of the sign to be proposed or a facsimile sketch.
(Ord. 0-86-002, passed 1-27-86)

§ 155.17 PERMIT FEE.

The application for permit shall be accompanied by a permit fee of five dollars (\$5.00).
(Ord. 0-86-002, passed 1-27-86)

§ 155.18 CERTAIN STANDARDS REQUIRED BEFORE AUTHORIZATION OF PERMIT.

The Codes and Zoning Enforcement Officer shall authorize by permit the use of signs provided they are:

(A) Compatible with their surroundings, pursuant to the objectives of proper design and zoning amenities;

(B) Designed, installed, and maintained to meet the sign user's needs while at the same time promoting the amenable environment desired by the general public;

(C) Designed, constructed, installed, and maintained in a manner that does not endanger public safety or traffic safety;

(D) Legible, readable, and visible in the circumstances in which they are used.

(E) Respectful of the reasonable rights of other advertisers.

(F) Of public benefit. For purposes of this chapter signs on behalf of candidates for public office or measures on election ballots shall not be considered of public benefit.

(Ord. 0-86-002, passed 1-27-86)

EXEMPT SIGNS

§ 155.30 APPLICATION.

The following operations in this subchapter shall not be considered as creating a sign insofar as requiring the issuance of a sign permit, but the signs hereunder must otherwise conform with all other applicable building, structural, or electrical laws and regulations of any governmental agency.

(Ord. 0-86-002, passed 1-27-86)

Signs

§ 155.31 CONSTRUCTION SIGNS.

One construction sign per construction project not exceeding the size permitted by any zoning ordinance, provided that those signs shall be erected not more than five (5) days prior to the beginning of construction for which a valid building permit has been issued, shall be exempt; and shall be confined to the site of construction and be removed five (5) days after completion and prior to occupancy.

(Ord. 0-86-002, passed 1-27-86)

§ 155.32 DIRECTIONAL OR INSTRUCTIONAL SIGNS.

Signs which provide direction or instructions and are located entirely on the property to which they pertain and do not in any way advertise a business, and which identify restrooms, public telephones, walkways, or signs providing directions such as parking lot entrances, exit signs, and those of similar nature shall be exempt.

(Ord. 0-86-002, passed 1-27-86)

§ 155.33 FLAGS.

Flags, emblems, or insignia of any nation or political subdivision or corporate flag shall be exempt.

(Ord. 0-86-002, passed 1-27-86)

§ 155.34 GOVERNMENTAL SIGNS.

Governmental signs for control of traffic and other regulatory purposes, street signs, danger signs, railroad crossing signs, and signs of public service companies indicating danger and aides to service or safety which are erected by, or on the order of, a public officer in the performance of his public duty shall be exempt.

(Ord. 0-86-002, passed 1-27-86)

§ 155.35 HOLIDAY SIGNS.

Signs of a primarily decorative nature, clearly incidental and customary and commonly associated with any national, local, or religious holiday shall be exempt; and any type of holiday decorations that partially camouflage or divert attention from traffic signs or directional signals are specifically prohibited.

(Ord. 0-86-002, passed 1-27-86)

§ 155.36 HOUSE NUMBERS AND NAME PLATES.

House numbers and name plates for each residential building shall be exempt.

(Ord. 0-86-002, passed 1-27-86)

Signs

§ 155.37 MEMORIAL SIGNS OR TABLETS.

Names of buildings, and dates of erection when cut into any masonry surface or inlaid so as to be a part of the building, or when constructed of bronze or other incombustible material shall be exempt.

(Ord. 0-86-002, passed 1-27-86)

§ 155.38 NOTICE BULLETIN BOARDS.

Notice bulletin boards not over twenty four (24) square feet in area for medical, public, charitable, or religious institutions shall be exempt.

(Ord. 0-86-002, passed 1-27-86)

§ 155.39 NO TRESPASSING OR NO DUMPING SIGNS.

No trespassing or no dumping signs shall be exempt.

(Ord. 0-86-002, passed 1-27-86)

§ 155.40 REAL ESTATE SIGNS.

One real estate "for sale" sign on any lot or parcel shall be exempt, provided the sign is located entirely within the property to which the sign applies.

(Ord. 0-86-002, passed 1-27-86)

§ 155.41 SUBDIVISION SIGNS.

Signs identifying by name subdivisions, housing developments, or otherwise identifying for public benefit those areas shall be exempt.

(Ord. 0-86-002, passed 1-27-86)

§ 155.42 TEMPORARY SIGNS.

Temporary signs pertaining to drives or events of civic, philanthropic, educational, or religious organizations shall be exempt, provided that those signs are posted only during the drive. The Codes and Zoning Enforcement Officer may grant a temporary permit for signs or banners over a street or public way.

(Ord. 0-86-002, passed 1-27-86)

§ 155.43 WARNING SIGNS.

Signs warning the public of the existence of danger, but containing no advertising material, of a size as may be necessary, shall be exempt, to be removed upon subsidence of danger.

(Ord. 0-86-002, passed 1-27-86)

Signs

NONCONFORMING SIGNS

§ 155.55 LEGAL NONCONFORMING SIGNS.

(A) Any sign located within the city limits on the date of adoption of this chapter, or located in an area annexed to the city thereafter, which does not conform with the provisions of this chapter shall be characterized as a legal nonconforming sign if the sign was in compliance with applicable law on the date of adoption of this chapter.

(B) A legal nonconforming sign shall immediately lose its legal nonconforming designation if:

(1) The sign is altered in any way in structure, which tends to or makes the sign less in compliance with the requirement of this chapter than it was before its alteration;

(2) The sign structure is relocated to a position making it less in compliance with the requirements of this chapter; or

(3) The sign (except for copy on a changeable copy sign) is replaced.

(C) On the happening of any one of the foregoing the sign shall immediately be brought into compliance with this chapter with a new permit secured therefor, or shall be removed.

(Ord. 0-86-002, passed 1-27-86)

§ 155.56 REMOVAL AND DISPOSITION OF NONCONFORMING SIGNS.

(A) The Codes and Zoning Enforcement Officer shall require compliance with all standards of this chapter. The Codes and Zoning Enforcement Officer shall require the removal in accordance with this section of any unlawful sign. If the Codes and Zoning Enforcement Officer shall certify in writing to the Police and Fire Departments the existence of unlawful signs, then employees of those Departments are authorized to remove signs in accordance with this section.

(B) The Codes and Zoning Enforcement Officer, or the Police or Fire Departments, upon his certificate, shall cause to be removed any sign on public property that endangers the public safety such as an abandoned sign, a dangerous, electrically or structurally defective sign, a sign for which no permit has been issued, or a sign for which a permit has expired. The Codes and Zoning Enforcement Officer shall prepare a notice which shall describe the sign and specify the violation involved and which shall state that if the sign is not removed, or the violation is not corrected within ten (10) days the sign shall be removed in accordance with the provisions of this section. The notice shall be mailed to the owner of the sign if the same can be determined; with regard to political signs in violation the notice shall be mailed to the candidate. If possible with regard to any other nonconforming sign the Codes and Zoning Enforcement Officer shall make reasonable efforts to notify the person responsible for the use stated in the notice, but failure of the Codes and Zoning Enforcement Officer to notify any person of the unlawful nature of the sign shall not prohibit further action under this section.

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(C) Any person having an interest in the sign may appeal the determination of the Codes and Zoning Enforcement Officer ordering removal or compliance, by filing a written notice of appeal with the Board of Commissioners within ten (10) days after the date of the notice of the Codes and Zoning Enforcement Officer.

(D) Notwithstanding the above, in cases of emergency, the Codes and Zoning Enforcement Officer may cause the immediate removal of a dangerous or defective sign without notice.

(E) Any sign removed by the city or its employees pursuant to the provisions of this section shall become the property of the city and may be disposed of in any manner deemed appropriate by the city. The costs of removal of the sign by the city shall be considered a debt owed to the city by the owner of the sign and may be recovered in an appropriate court action by the city. The costs of removal shall include any and all incidental expenses incurred by the city in connection with the sign's removal.

(F) If it shall be necessary for the Codes and Zoning Enforcement Officer to remove a sign pursuant to the provisions hereof, and it should be practicable to sell or salvage any materials derived in the aforesaid removal he may sell the same at private or public sale at the best price obtainable, and shall keep an account of the proceeds thereof. These proceeds, if any, shall be used to offset the costs of removal to be charged to the sign owner. Any excess over those costs, and the costs of the removal shall be considered a debt by the owner of the sign against the city. Should the proceeds exceed the costs, the excess shall be paid to the owner of the signs, whenever the claim therefor is established.

(Ord. 0-86-002, passed 1-27-86)

ADMINISTRATION AND ENFORCEMENT

§ 155.65 ENFORCEMENT OFFICER.

For purposes of this chapter, the individual designated by the city for the enforcement of building code and zoning regulations shall be deemed the Codes and Zoning Enforcement Officer.

(Ord. 0-86-002, passed 1-27-86)

§ 155.66 STRICTER STANDARD SHALL PREVAIL.

If any portion of this chapter is found to be in conflict with any other provision of any zoning, building, fire, safety or health ordinance of the code or of the city, the provision which establishes the higher standard shall prevail.

(Ord. 0-86-002, passed 1-27-86)

§ 155.99 PENALTY.

Any person, firm, or corporation violating any provision of this chapter shall be guilty of a misdemeanor and shall be fined not less than ten dollars (\$10.00) nor more than five hundred dollars (\$500.00), or be imprisoned for not more than thirty (30) days, or both, for each offense. A

Signs

separate offense shall be deemed committed for each day during on or which a violation occurs or continues.

(Ord. 0-86-002, passed 1-27-86)

CHAPTER 156: ZONING CODE

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GENERAL PROVISIONS

§ 156.001 ENACTING CLAUSE.

This zoning code is enacted pursuant to the authority granted by KRS Chapter 100, KRS 100.201 through 100.271, to a legislative body to regulate and restrict the height, number of stories, and the size of buildings and other structures. In addition, zoning may be employed to provide for vehicle parking and loading space, as well as to facilitate fire and police protection, and to prevent the overcrowding of land, premature development, blight, danger, and congestion in circulation of people and commodities, and the loss of life, health, or property from fire or other danger. (Ord. passed 1-27-87)

§ 156.002 TITLE.

This chapter shall be known as the "Zoning Code of Pikeville, Kentucky." The official zoning map is hereby made a part of the zoning code. Certified copies of this chapter and map are on file with the Planning Commission, the Finance Director/City Clerk/Tax Administrator and the County Clerk.

(Ord. passed 1-27-87)

Cross reference:

Zoning code, amendments, see §§ 156.170 - 156.172

Zoning map changes, see T.S.O. VIII

§ 156.003 PURPOSE.

This chapter is enacted for the purpose of promoting the public health, safety, morals, and general welfare; to conserve and protect property and property values; to secure the most appropriate use of the land, and to facilitate adequate and economical provisions for public improvements in accordance with a comprehensive plan for the desirable future development of the city and to provide for administration and to prescribe penalties for violation of provisions thereof. (Ord. passed 1-27-87)

Zoning Code

§ 156.004 DEFINITIONS.

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

ACCESSORY USE OR STRUCTURE. A use or structure subordinate to the principal use of a building or to the principal use of the land and which is located on the same lot serving a purpose customarily incidental to the use of the principal building or land use.

ADMINISTRATIVE OFFICIAL. Any department, employee, or advisory, elected, or appointed body which is authorized to administer any provision of any regulation, subdivision regulation, and if delegated, any provision of any housing or building regulation or any other land use control regulation. ***ADMINISTRATIVE OFFICIAL*** shall include the term "Codes and Zoning Enforcement Officer." The Administrative Official for the city may also serve as the Building Inspector.

ADVERTISING STRUCTURE. A free-standing permanent sign not attached to a building or other permanent structure.

AGRICULTURE or AGRICULTURAL USE. The preservation of land in its natural state; or the use of a tract of five (5) contiguous acres for the production of agricultural or horticultural crops, including but not limited to, livestock, livestock products, poultry, poultry products, grain, hay, pastures, soybeans, tobacco, timber, orchard fruits, vegetables, flowers, ornamental plants, including provision for persons and their families who are engaged in the above agricultural use on the tract, but not including residential building developments for sale or lease to the public, and commercial stockyards or feeding areas.

ALLEY or LANE. A public way not more than thirty (30) feet wide affording only secondary means of access to abutting property.

ALTERATION, STRUCTURAL. As applied to a building or structure, a change or rearrangement in the structural parts or in the means of egress; or an enlargement, whether by extending on a side or by increasing in height; or the moving from one location or position to another.

APARTMENT. A room or suite of rooms in a multi-family building, together with kitchen or kitchenette and sanitary facilities, which is arranged, designed, or intended to be used as a housekeeping unit for a single family.

APARTMENT HOUSE. See ***DWELLING.***

AUTOMOBILE OR TRAILER SALES AREA. An open area, other than a street, used for display, sale, or rental of new or used motor vehicles or trailers in operable condition and where no repair work is done. No vehicles shall be placed or displayed forward of the building line required for the district.

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AUTOMOBILE SERVICE STATION or ***FILLING STATION***. A place where gasoline, kerosene, or any other motor fuel or lubricating oil or grease for operating motor vehicles is offered for sale to the public and deliveries are made directly into motor vehicles, including greasing and oiling on the premises, or when an auto repair business is carried on for profit.

AUTOMOBILE WRECKING. The dismantling or disassembling of used motor vehicles, or the storage, sale, or dumping of dismantled, partially dismantled, obsolete or wrecked vehicles or their parts.

AUTOMOTIVE REPAIR, MAJOR. Repair of motor vehicles or trailers, including rebuilding or reconditioning of engines or transmissions, collision services including body, frame, or fender straightening or repair; overall painting or paint shop; vehicle street cleaning.

AUTOMOTIVE REPAIR, MINOR. Incidental minor repairs, upholstering, replacing of parts, and motor service to passenger cars and trucks not exceeding one and one-half (1-1/2) ton capacity, but not including any operation named under ***AUTOMOTIVE REPAIR, MAJOR*** or any operation similar thereto. Cars and trucks being repaired or under repair shall not be stored outside a building more than forty eight (48) hours.

BASEMENT. A story whose floor line is below grade and any entrance or exit or whose ceiling is not more than five (5) feet above grade at any such entrance or exit.

BLOCK. In describing the boundaries of a district, refers to the legal description. In all other cases, the word ***BLOCK*** refers to the property abutting one side of a street between intersecting streets or a street and a railroad right-of-way or waterway.

BOARD. The Board of Zoning Adjustment unless the context otherwise indicates.

BOARDING or ***LODGING HOUSE***. See ***DWELLING***.

BUILDING LOT AREA. That part of the lot not included within the open areas required by this chapter.

BUILDING. Any structure having a roof supported by columns or walls, used or intended to be used for the shelter or enclosure of persons, animals, or property. When such a structure is divided into separate parts by one (1) or more pierced walls extending from the ground up, each part is deemed a separate ***BUILDING*** except as regards minimum side yard requirements as hereinafter provided.

BUILDING, HEIGHT OF. The vertical distance measured from the established mean grade at the front of the building to the highest point of the building.

BUILDING LINE. The line beyond which no building or part thereof shall project, except as otherwise provided by this zoning code.

BUILDING PERMIT. A document issued by the Codes and Zoning Enforcement Officer

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authorizing the use of lots and structures.

CAMPER. A mobile living unit designed to be mounted upon and conveyed by another vehicle. No camper unit shall be occupied within the city limits except as provided in this zoning code.

CELLAR. That portion of a building between floor and ceiling partly underground, but having half or more than half of its clear height below the adjoining finished grade.

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

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

CLUB. A nonprofit association of persons who are bona fide members, paying regular dues, and are organized for some common purpose, but not including a group organized solely or primarily to render a service customarily carried on as a commercial enterprise.

CODES AND ZONING ENFORCEMENT OFFICER. See **ADMINISTRATIVE OFFICIAL.**

COMMISSION. The Planning Commission.

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

CONDITIONAL USE PERMIT. Legal authorization to undertake a conditional use, issued by the Administrative Official pursuant to authorization by the Board of Zoning Adjustment consisting of two (2) parts:

(1) A statement of the factual determination by the Board of Zoning Adjustment which justifies the issuance of the permit; and

(2) A statement of the specific conditions which must be met in order for the use to be permitted.

CONDOMINIUM. System of separate ownership of individual units in a multiple-unit building.

CONVALESCENT or NURSING HOME. An establishment which provides full-time convalescent or chronic care or both for three (3) or more individuals who are unrelated by blood or marriage to the operator and who, by reason of chronic illness or infirmity, are unable to care for

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themselves. No care for the acutely ill or surgical or obstetrical services shall be provided in such a home; a hospital or sanitarium shall not be construed to be included in this definition.

COURT. An open unoccupied and unobstructed space, other than yard, on the same lot with a building or group of buildings.

DAY NURSERY. A facility for the care of young children.

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

(1) **GROSS DENSITY.** The number of dwelling units per acre of land to be developed.

(2) **NET DENSITY.** The number of dwelling units per acre of land devoted to residential uses.

DEVELOPMENT PLAN. A plat or plan of a development which includes all items required for a major subdivision plat under the existing subdivision regulations.

DIMENSIONAL VARIANCE. A departure from the terms of the zoning regulations 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 zoning regulations would result in unnecessary and undue hardship.

DISPLAY SIGN. A structure that is arranged, intended, designed, or used as an advertisement, announcement, or direction, including a sign, billboard, or advertising device of any kind.

DRIVEWAY. An improved surface connecting a garage or parking area with the street.

DWELLING.

(1) **BOARDING HOUSE or TOURIST HOUSE.** A building arranged or used for lodging, with or without meals, for compensation, by more than five (5) and not more than twenty (20) individuals.

(2) **DORMITORY.** A space in a building where group sleeping accommodations are provided for persons not members of the same family group, in one (1) room, or in a series of closely associated rooms.

(3) **HOTEL or MOTEL.** Any building containing six (6) or more guest rooms intended or designed to be used, or which is used, rented, or hired out to be occupied or which are occupied for sleeping purposes by guests.

(4) **LODGING HOUSE.** Any building or portion thereof containing not more

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than five (5) guest rooms which are used by not more than five (5) guests where rent is paid in money, goods, labor, or otherwise. A **LODGING HOUSE** shall comply with all the requirements for dwellings.

(5) **MULTIPLE-FAMILY APARTMENT HOUSE.** A building or portion thereof containing more than two (2) dwelling units and not classified as a one- or two-family dwelling.

(6) **SINGLE-FAMILY DWELLING.** A detached building containing one (1) dwelling unit.

(7) **TWO-FAMILY DWELLING.** A building containing two (2) dwelling units.

DWELLING UNIT. A single unit providing complete, independent living facilities for one (1) or more persons including permanent provisions for living, sleeping, eating, cooking, and sanitation.

EASEMENT. A right for a person, or the public generally, as the case may be, to use the land of another for access, provision of utilities, or similar uses.

ESSENTIAL SERVICES. The erection, construction alteration, or maintenance, by public utilities or municipal or other governmental agencies, of underground or overhead gas, electrical, steam, or water transmission or distribution systems, collections, communications, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith; and the furnishing of adequate service by such public utilities or municipal or other governmental agencies or for the public health or safety or general welfare, but not including buildings.

FAMILY. A person living alone, or two (2) or more persons related by blood, marriage, or adoption, or not more than five (5) unrelated persons together as a single housekeeping unit, in a dwelling unit, as distinguished from a group occupying a boarding house, lodging house, motel, hotel, or fraternity or sorority house.

FRONTAGE. That boundary of a lot which is along an existing or dedicated public street, or where no public street exists, is along a public way. **FRONTAGE** shall be no less than required lot width if side lot lines are parallel; **FRONTAGE** shall be determined by Chart A if side lot lines are not parallel. Where a lot abuts more than one (1) street, the Board of Zoning Adjustment shall determine the frontage.

GARAGE, PRIVATE. A detached accessory building or a portion of the principal building used by the occupants of the premises for the shelter or storage of vehicles owned or operated by the occupants of the principal building without provision for repairing or servicing such vehicles for profit.

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HOME OCCUPATION. Professional offices, studios, and personal services maintained or conducted within a dwelling, including only those which meet the following performance standards:

- (1) Home occupations shall not result in exterior evidence except a permitted sign that the dwelling is used for a nonresidential use;
- (2) Home occupations shall not generate any atmospheric pollution, light flashes, glare, odors, noise, vibration, or truck or other heavy traffic;
- (3) No more than one (1) person not a member of the occupant family may be employed in a home occupation.

HOSPITAL or SANITARIUM. An establishment which provides accommodations, facilities, and services over a continuous period of twenty four (24) hours or more for observation, diagnosis, and care of two (2) or more individuals suffering from illness, injury, deformity, or abnormality, or from any condition requiring obstetrical, medical, or surgical services.

HOUSING OR BUILDING REGULATION. The Kentucky Building Code, and any regulation incorporating any housing, building, or safety code, including but not limited to, such codes as plumbing, electrical, elevator, boiler, fire safety and minimum housing, or other regulation.

HOTEL or MOTEL. See **DWELLING**.

JUNKYARD. A place where junk, waste, discarded or salvaged materials are bought, sold, exchanged, stored, packed, disassembled, or handled, including auto wrecking yards, house wrecking yards, used lumber yards, and places or yards for storage of salvaged house wrecking and structural steel materials and equipment; but not including such uses when conducted entirely within a completely enclosed building, and not including pawn shops and establishments for the sale, purchase, or storage of used furniture and household equipment, used cars in operable condition, used or salvaged machinery in operable condition or the processing or used, discarded, or salvaged materials as a minor part of manufacturing operations.

KENNEL. Any structure or premises on which five (5) or more dogs over four (4) months of age are kept.

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.

LOADING SPACE. An off-street space or berth on the same lot with a building or contiguous to a group of buildings, for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials, and which abuts upon a street, alley, or other appropriate means of access.

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LOT. 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 improved public street.

- (1) **LOT, AREA.** The computed area contained within the lot lines.
- (2) **LOT, CORNER.** A lot situated at the intersection of two (2) streets, of which the interior angle of such intersection does not exceed one hundred thirty five (135) degrees.
- (3) **LOT, DEPTH.** The mean horizontal distance between the front and rear lot lines.
- (4) **LOT, LINE.** The property lines bounding a lot.
- (5) **LOT, WIDTH.** The length of a line tangent to and no closer than the building setback line. See Chart A.

LOT OF RECORD. A lot which is duly recorded in the office of the County Clerk.

MANUFACTURING. Manufacturing, processing, assembling, storage, testing, and similar industrial uses which are generally major operations and extensive in character; which require large sites, open storage, and service areas, extensive services and facilities, and ready access to regional transportation; however, which operations are generally controlled operations, relatively clean, quiet, and free of objectionable or hazardous elements such as smoke, noise, odor, or dust.

MANUFACTURING, CRAFTS. Any use permitted in an I Zone which does not employ more than three (3) persons.

MINE. Any open pit or any underground workings from which coal is produced for sale, exchange, or commercial use, and all shafts, slopes, drifts or inclines leading thereto, and includes all buildings and equipment, above or below the surface of the ground, used in connection with such workings. Workings that are adjacent to each other and under the same management and which are administered as distinct units shall be considered a separate mine. This term shall refer only to commercial mining and shall in no instance be construed to include a mine where coal is produced for an individual's or household's own use.

MINING. The operation of a mine pursuant to KRS Chapters 350 and 352. **MINING** shall include surface coal mining operations, strip mining, and deep mining.

MOBILE HOME. A dwelling unit, factory-built and factory-assembled, designed for conveyance after fabrication, on streets and highways on its own wheels, and arriving at the site where it is to be occupied as a dwelling unit complete and ready for occupancy, except for minor and incidental unpacking and assembly operations such as locating on jacks or other foundation, or connection to utilities. A prefabricated home or structure, not defined above, which complies with the currently enforceable building code, shall not be included in this definition.

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MOBILE HOME PARK. Any site, or tract of land under single ownership, upon which two (2) or more mobile homes 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 of such park.

MOBILE SIGN. See *SIGN*.

NONCONFORMING USE OR STRUCTURE. An activity, building, sign, structure (or portion), or use of land existing at the time of enactment of this chapter, but which does not conform to the regulations of the district or zone in which it is situated.

NOXIOUS OR TOXIC MATTER. Any matter such as dust, dirt, odors, vapors, gases, fumes, smoke, or radiation which is inherently harmful and likely to destroy life and impair health, or is capable of causing injury to the well-being of persons, or damage to property.

NURSERY or NURSING HOME. A home or facility for the care and treatment of babies, children, pensioners, or elderly people.

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 AREA. An open surface, other than a street or other public way, used for the parking of automobiles and available to the public whether for a fee, free, or as an accommodation for the parking of a motor vehicle.

PLANNED UNIT DEVELOPMENT. An area of land, in which a variety of housing types or related commercial facilities are accommodated in a preplanned environment under more flexible standards, such as lot sizes and setbacks, than those restrictions that normally apply under those regulations. The procedures for approval of such development contains requirements in addition to those of the standard subdivision, such as building design principles and landscaping plans.

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

PLAT. The map of a subdivision.

PRINCIPAL BUILDING. The building in which the primary activity on a certain lot is carried out.

PRINCIPAL USE. A use which is permitted outright in a district for which a building permit may be issued by the Building Official in accordance with the provisions of this chapter.

PROFESSIONAL CENTER. A building, either connected or under one (1) roof, in which

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professionals, each practicing the different branch of his profession, having joined together in some form of association, unification, or central control for the use of the building, facilities of the building, and the site.

PUBLIC USE. Any use of land whether publicly or privately owned, for transportation, utilities, or communication, or for the benefit of the general public, including but not limited to, libraries, schools, streets, fire or police stations, county buildings, municipal buildings, and recreational centers, including parks and cemeteries.

RECREATIONAL VEHICLE. Any vehicle or similar portable structure used or constructed as to permit its being used as a conveyance upon streets, as a dwelling for one (1) or more persons, with or without wheels; or any vehicle or similar portable structure used off the premises for recreational purposes, excluding any structure or vehicle included in the definition of **MOBILE HOME**.

REGULATION. Any enactment by the legislative body of the city or the county whether it is an ordinance, resolution, or an order and shall include regulations for the subdivision of land adopted by the Planning Commission.

RIGHT-OF-WAY. The portion of land which the general public, either by declaration or by prescription, has the right to travel upon; also denominated herein as **WAY** or **PUBLIC WAY**.

ROADWAY. That portion of a street between the regularly established curb lines, or that part of a street or alley devoted to vehicular traffic.

SIDEWALK. That portion of a street not included in the roadway and devoted in whole or in part to pedestrian traffic.

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

(1) **MOBILE SIGN.** A sign affixed to a frame having wheels or capable of being carried, or otherwise portable, and designed to stand free from a building or other structure. 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.

(2) **OFF-PREMISES** or **NONACCESSORY SIGN.** A sign not directly relating to the use of the premises on which the sign is located.

(3) **PERMANENT SIGN.** A sign of permanent nature, either free-standing or attached.

(4) **TEMPORARY SIGN.** A sign or banner of nonpermanent nature, designed to give notice of:

(a) Architectural, engineering, or construction firm engaged in work on

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a construction site;

- (b) Political campaigns;
- (c) Campaign, drive, or event of a civic, philanthropic, educational, or religious organization.

SIGN, GROSS SURFACE AREA OF. The entire area within a single continuous perimeter enclosing the extreme limits of such sign and in no cases passing through or between any adjacent elements of the same. Such perimeter, however, shall not include any structural elements lying outside the limits of such sign and not forming an integral part of the display.

STANDARD, PERFORMANCE. A criterion established in the interest of protecting the public health and safety for the control of noise, odor, smoke, toxic or noxious matter, vibrations, fire and explosive hazards, and other objectionable or dangerous elements generated by or inherent in uses of land or buildings.

STORY. That part of the building between a floor and the floor or roof next above which is not a basement or an attic.

STORY, HALF. A partial story under a gable, hip, or gambrel roof, the wall plates of which on at least two (2) opposite exterior walls are not more than four (4) feet above the floor of such story; provided, however, that any partial story used for residence purposes shall be deemed a full story.

STREETS. A right-of-way for vehicular traffic, excluding, however, private easements. ***STREETS*** are classified as follows:

(1) ***EXPRESSWAYS.*** Expressways rank first in the classification of streets and are used only for vehicular movement without access to abutting properties. Interchange of traffic between expressways and other streets (only arterial streets when possible) is accomplished by grade separated interchange with merging deceleration and acceleration lanes.

(2) ***ARTERIALS.*** Arterial streets rank second in the classification of streets, with possible access to abutting properties and are used primarily for vehicular movement. Access to abutting properties, if permitted, should be provided by means of a marginal access street in order to serve several abutting properties rather than provide each abutting property its own individual access thereto. Arterial streets are the link between expressways and collector streets, and generally rank next to expressways in traffic volume, speed limit control, and right-of-way limits.

(3) ***COLLECTOR STREETS.*** Collector streets rank third in the classification of streets, and they are principally used for vehicular movement; however, access to abutting properties is planned and controlled so that minimum disturbance is made to the traffic flow on the collector street. Collectors are the link between arterial and minor streets and generally rank next to minor streets in right-of-way widths and speed control.

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(4) **MINOR STREETS.** Minor streets rank fourth in the classification of streets and are used primarily for providing access to abutting properties. Vehicular movement on minor streets should have an origin or destination in the immediate vicinity, whereas all types of through traffic should be eliminated. Minor streets are primarily links between generator points (homes, offices, stores, and the like) and collector streets. **MINOR STREETS** may be further classified into five (5) categories as follows:

(a) **ALLEYS.** Streets generally having two (2) open ends with each end connecting to different streets. Such streets generally provide service and access to the rear of abutting properties on both sides.

(b) **CONTINUING STREETS.** Minor streets having two (2) open ends; each end generally connects with a different street. One (1) or more streets may intersect such a street between its two (2) open ends, and property abuts both sides of such a street.

(c) **CUL-DE-SACS.** Minor streets having only one (1) open end and providing access to another street, and a closed end providing a turnaround circle for vehicular movement. No street of this type shall dead end at the closed end, unless future plans provide for continuation of the street, or unless topography prohibits continuation. Turnaround circles of a radius of not less than fifty (50) feet shall be required where deemed necessary by the Planning Commission.

(d) **LOOP STREETS.** Minor streets having two (2) open ends, each generally connecting with the same street. No other streets intersect between the two (2) ends, and property abuts both sides thereof.

(e) **MARGINAL ACCESS STREETS.** Minor streets generally having two (2) or more access points to the major street system by connecting to a street of higher classification. Property abuts only one (1) side of such a street, whereas the other side thereof should generally be parallel and adjacent to a street of higher classification. **MARGINAL ACCESS STREETS** are sometimes called access or frontage roads.

STRIP MINING. The breaking of the surface soil in order to facilitate or accomplish the extraction or removal of minerals, ores, or other solid matter; any activity or process constituting all or part of a process of the extraction or removal of minerals, ores, and other solid matter from its original location; and the preparation, washing, cleaning, or other treatment of minerals, ores, or other solid matter so as to make them suitable for commercial, industrial, or construction use; but shall not include the extraction of coal by a landowner for his own noncommercial use from land owned or leased by him; the extraction of coal as an incidental part of federal, state, or local government financed highway or other construction under regulations established by the cabinet; the extraction of, or intent to extract, two hundred fifty (250) tons or less of coal by any person by surface coal mining operations within twelve (12) successive calendar months; nor shall it include the surface effects or surface impacts of underground coal mining.

STRUCTURE. Anything constructed or made, the use of which requires permanent location in or on the ground or attachment of something having a permanent location in or on the

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ground, including buildings and signs.

SUBDIVISIONS. The division of a parcel of land into two (2) or more lots or parcels for the purpose, whether immediately or future, of sale, lease, or building development, or if a new street is involved, any division of a parcel of land; providing that a division of land for agricultural purposes into parcels of five (5) acres or more and not involving a new street shall not be deemed a ***SUBDIVISION***. The term includes resubdivision and, when appropriate to the context, shall relate to the process of subdivision or the land subdivided. Any division or redivision of land into parcels of less than one (1) acre occurring within twelve (12) months following a division of the same land shall be deemed a ***SUBDIVISION***.

SURFACE COAL MINING OPERATIONS. Activities conducted on the surface of lands in connection with a surface coal mine and surface impacts incident to an underground coal mine. Such activities include excavation for the purpose of obtaining coal including such common methods as contour, strip, auger, extended depth secondary recovery systems, mountaintop removal, box cut, open pit, and area mining, the use of explosives and blasting, and in situ distillation or retorting, leaching or other chemical or physical processing, and cleaning, concentrating, or other processing or preparation, and the loading of coal at or near the mine site. Such activities shall not include the extraction of coal by a landowner for his own noncommercial use from land owned or leased by him; the extraction of coal as an incidental part of federal, state, or local government financed highway or other construction under regulations established by the Cabinet; or the extraction of, or intent to extract, two hundred fifty (250) tons or less of coal by any person by surface coal mining operations within twelve (12) successive calendar months. ***SURFACE COAL MINING OPERATIONS*** shall also include the areas which such activities occur or where such activities disturb the natural land surface. Such areas shall also include any adjacent land the use of which is incidental to any such activities, all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of such activities and for haulage, and excavations, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas, and other areas upon which are site structures, facilities, or other property or materials on the surface resulting from or incident to such activities. This definition includes the terms “strip mining” of coal and the “surface effects of underground mining” of coal.

TEMPORARY SIGN. See ***SIGN***.

TOWNHOUSE. A single-family dwelling unit containing one (1) or more stories, attached on one (1) or both sides to another single-family dwelling and usually arranged in rows of three (3) or more units.

TRAILER. Includes automobile trailer or house trailer. Any vehicle or structure constructed in such a manner as to permit occupancy thereof as sleeping or living quarters or the conduct of business, trade, or occupation or use for storage or conveyance of tools, equipment, or machinery, and so designed that it is or may be mounted on wheels and used as a conveyance on highways and streets propelled or drawn by its own or other motor power.

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UNIT. See *PLANNING UNIT.*

YARD. The open space surrounding the principal building on any lot, measured from the edge of the lot line to the foundation line allowing a two (2) inch overhang.

YARD, FRONT DEPTH – HOW MEASURED. Such depth shall be measured from the right-of-way line (front lot line) of the existing street on which the lot fronts to the building line; however, if the proposed location of such street as established on the official map of the city differs from that of the existing street, then the required front yard depth shall be measured from the right-of-way of such street as designated on the official map. See Chart B.

YARD, SIDE, LEAST WIDTH – HOW MEASURED. Such width shall be measured from the nearest side lot line and, in case the nearest side lot line is a side street lot line, from the right-of-way line of the existing street; however, if the proposed location of the right-of-way line of such street as established on the official map of the city differs from that of the existing street, then the required side yard least width shall be measured from the right-of-way of such street as designated on the official map.

VARIANCE. A departure from the strict conformance with the dimension and area regulations which must first receive the approval of the Board of Zoning Adjustment.

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 or recuperation.

(Ord. passed 1-27-87)

ADMINISTRATION AND ENFORCEMENT

§ 156.015 ADMINISTRATIVE OFFICIAL.

(A) An Administrative Official designed by the Mayor, with the approval of the Board of Commissioners, shall administer and enforce this chapter. The Administrative Official may be provided with the assistance of such other persons as the Board of Commissioners may direct.

(B) For the purpose of this chapter the Administrative Official shall:

(1) Issue building permits or zoning compliance, or both, but may not have the power to permit any use or any change or use which does not conform to the literal terms of the zoning regulations;

(2) Upon finding that any of the provisions of this chapter are being violated, notify in writing the person responsible for the violation and order the action necessary to correct such violation;

(3) Order discontinuance of illegal uses of land, buildings, or structures;

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(4) Order removal of illegal buildings or structures or illegal additions or structural alterations;

(5) Order discontinuance of any illegal work being done;

(6) Take any other action authorized by this chapter or Article 119.0 of the State Building Code to ensure compliance with or to prevent violations of this chapter.

(7) Make records of all official actions of his office relating to the administration and enforcement of the provisions of this chapter 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.

(Ord. passed 1-27-87)

§ 156.016 FEE SCHEDULE.

The Codes and Zoning Enforcement Officer is the Administrative Official for the enforcement of this chapter. All applications for action by the Planning Commission or Board of Zoning Adjustment relating to the zoning code shall be made to the Secretary/Treasurer of the Board of Zoning Adjustment and shall be accompanied by the following fees:

	<u>Fee</u>
Building permits (See § 150.15)	
Certificates of zoning compliance	\$10.00
Sign permits	
Signs up to \$1,000.00 in value	25.00 (minimum)
For each \$1,000.00 additional value	10.00
Temporary sign	35.00
(Fees shall be doubled where conforming sign is erected without permit).	
Applications for variance	15.00
Conditional use applications	20.00
Additional fee to be paid when a variance for mining operations is requested	75.00
Development plan (PUD)	5.00 Per structure on plan
Zoning change application nonreturnable filing fee plus \$75.00 deposit for costs	25.00

(Ord. passed 1-27-87)

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§ 156.017 BUILDING PERMIT REQUIRED; EXCEPTIONS.

(A) No building or other structure shall be erected, moved, added to, or structurally altered without a permit therefor issued by the Administrative Official except as specified in division (F) of this section or Section 114 of the State Building Code. No building permit shall be issued by the Administrative Official except in conformity with the provisions of this chapter, unless he receives a written order from the Board of Zoning Adjustment in the form of an administrative review, conditional use permit, or variance as provided by this chapter.

(B) If no building 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 building permit shall establish a prima facie case for the issuance of the restraining order.

(C) All applications for building permits shall be accompanied by plans in duplicate, drawn to scale, showing the actual dimensions and shape of the lot to be built upon, the exact size and location of the buildings already existing, if any, and the locations and dimensions of the proposed building or alteration. The application shall include such other information as lawfully may be required by the Administrative Official, including existing or proposed building or alteration; existing or proposed uses of the building or the land, the number of families, housekeeping or rental units the building is designed to accommodate; conditions existing on the lot; and such matters as may be necessary to determine conformance with and provide for the enforcement of this chapter and Section 113 of the State Building Code.

(D) One copy of the plans shall be returned to the applicant by the Administrative Official after he shall have marked such copy either approved or disapproved and attested to same by his signature on such copy. The second copy of the plans, similarly marked, shall be retained by the Administrative Official.

(E) If the work described in any building permit has not begun within one (1) year, twelve (12) months from the date of issuance thereof, the permit shall expire; it shall 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 cancelled permit shall not proceed unless and until a new building permit has been obtained.

(F) Exceptions. No building permit or certificate or occupancy shall be required in the following cases:

(1) Recurring maintenance work regardless of cost.

(2) Installation of required improvements according to an approved and recorded planned development project final plat.
(Ord. passed 1-27-87) Penalty, see § 156.999

§ 156.018 CERTIFICATE OF ZONING COMPLIANCE.

(A) It shall be unlawful to use any newly erected or altered structure or to change the use

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of any premises even though no structure was erected or altered until the Administrative Official has issued a certificate of zoning compliance authorizing such use.

(B) Applications for certificate of zoning compliance. The applicant shall notify the Administrative Official in writing of the date on which the use of any new or altered structure or the changed use of any premises will be ready to commence. Certification of service by public sewer and water from the city water and sewer system or State Department of Plumbing approval of an installed septic system must accompany all applications.

(C) The Administrative Official shall keep a permanent file of all applications and all certificates issued.

(D) If the newly erected or altered structure and the new use of the premises conform with all applicable ordinances, regulations, and codes, the Administrative Official shall issue a certificate of zoning compliance authorizing the use thereof. If the structure or use fails to conform, the Administrative Official shall refuse to issue a certificate of zoning compliance and shall deliver written notice to the applicant stating the reasons for refusal.

(E) Inspections. The Administrative Official shall inspect the newly constructed or altered structure or the premises for which a changed use is proposed and shall issue or refuse to issue a certificate of zoning compliance thirty (30) days after the date on which the new use is ready to commence and where the thirty (30) day notice period expires on or before the date shown in the application for the new use to commence, without the inspection by the Administrative Official above provided for, the new use shall be deemed to have been approved without a certificate of occupancy.

(F) The issuance of a certificate of zoning compliance by the Administrative Official shall not waive any provision or regulation of this chapter.
(Ord. passed 1-27-87) Penalty, see § 156.999

§ 156.019 COSTS OF ADVERTISEMENT AND NOTIFICATION.

Applicants will be responsible for paying the necessary costs of advertisement and notification.
(Ord. passed 1-27-87)

BOARD OF ZONING ADJUSTMENT

§ 156.030 ESTABLISHMENT; MEMBERS; MEETINGS.

(A) A Board of Zoning Adjustment is hereby established in accordance with KRS 100.217. The Board of Zoning Adjustment shall consist of five (5) citizen members, not more than two (2) of whom may be members of the Planning Commission. The initial terms of the membership shall be as follows: one (1) member for a two (2) year term; two (2) members for a three (3) year term; and two (2) members for a four (4) year term. Subsequent appointments shall be for a term of four (4) years. They shall be appointed by the Mayor, with the approval of the Board of Commissioners. Vacancies on the Board of Zoning Adjustment shall be filled within sixty (60)

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days by the appropriate appointing authority. If the authority shall fail to act within that time, the Planning Commission shall fill that vacancy. When a vacancy occurs other than through expiration of the term of office, it shall be filled for the remainder of that term.

(B) The Chairperson, or in his or her absence the acting chairperson, may administer oaths and the Board of Zoning Adjustment may compel the attendance of witnesses. All meetings of the Board of Zoning Adjustment shall be open to the public. The Board of Zoning Adjustment shall keep minutes of its proceedings.

(C) Three (3) members of the Board of Zoning Adjustment shall constitute a quorum. The Board shall act by resolution, and the concurring vote of three (3) members of the Board shall be necessary to reverse any order, requirement, decision, or determination of the Building Official or any other duly authorized administrative officer, or to decide in favor of an applicant in any matter on which it is required to pass under this chapter, or to grant any variance from the requirements stipulated in this chapter. The grounds of every such determination shall be stated. A member of the Board shall not be qualified to vote if he or she has not attended the public hearing or if he or she has a direct interest in the issue appealed.

(Ord. passed 1-27-87; Am. Ord. 07-0-002, passed 2-26-07)

§ 156.031 POWERS AND DUTIES.

The Board of Zoning Adjustment shall have the following powers and duties:

(A) Administrative review. The Board of Zoning Adjustment shall hear and decide appeals where it is alleged by an applicant that there is error in any order, requirement, permit, decision, determination, or refusal made by the Building Inspector or other administrative official in the carrying out or enforcement of any provision in this chapter and the interpretation of the zoning map. The concurring vote of three (3) members of the Board shall be necessary to reverse or modify any order or decision of the Administrative Official.

(B) Bylaws. The Board shall adopt bylaws for its own government subject to approval of the Board of Commissioners.

(C) Conditional uses. The Board shall have the power to hear and decide applications for conditional use permits to allow the proper integration into the community of uses which are specifically named in the zoning regulations which may be suitable only in specific locations in the zone, only if certain conditions are met.

(D) Variances. The Board shall have the power to hear and decide on applications for off-street parking and loading variances as provided in § 156.130(B)(1) and for dimensional variance where by reason of the exceptional narrowness, shallowness, or unusual shape of the site on the effective date of the zoning code 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 buildings, size of yards, but not population densities) of the zoning regulations would deprive the applicant of the 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.

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(1) Before any variance is granted, the Board of Zoning Adjustment 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:

(a) The specific conditions in detail which are unique to the applicant's land and do not exist on other land in the same zone;

(b) The manner in which the strict application of the provisions of the regulations would deprive the applicant of the reasonable use of the land in the manner equivalent to the use permitted other landowners in the same zone;

(c) Reasons that the variance will preserve, not harm, the public safety and welfare, and will not alter the essential character of the neighborhood;

(d) Proof that the unique conditions and circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning code.

(2) Limits of authority. The Board of Zoning Adjustment shall not possess the power to grant a variance, to permit a use of any land, building, or structure which is not permitted by the zoning regulations in the zone in question or to alter density requirements in the zone in question. The Board of Zoning Adjustment does not possess the power to permit a use not authorized by this chapter.

(3) Application of variance. A dimensional variance applies to the property for which it is granted and not to the applicant. A variance also runs with the land, but it cannot be transferred by the applicant to a different site.

(4) Additional powers. In granting a variance, the Board of Zoning Adjustment may attach thereto such conditions regarding the location, character, and other features of the proposed building, structure, or use as it may deem advisable to the furtherance of the purpose of this chapter.

(5) Limitations. Before any variance is granted, the Board of Zoning Adjustment must find present conditions which must be sustained by evidence presented by the applicant that the property will not yield a reasonable return if used in compliance with this chapter; that the conditions causing the hardship are unique and are not shared by neighboring property in the same zone; that the granting of the variance will not be in conflict with the zoning code. These conditions must be alleged by the applicant and evidence must be produced by him or her to substantiate those allegations.

(6) Parking. Where there is no clear standard for off-street parking, the Board shall determine adequacy.

(Ord. passed 1-27-87; Am. Ord. 0-95-007, passed 10-25-95; Am. Ord. 07-0-002, passed 2-26-07)

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§ 156.032 APPLICATIONS; APPEALS; HEARINGS.

(A) Applications. An application (including conditional use permit requests), in cases in which the Board of Zoning Adjustment has original jurisdiction under the provisions of this subchapter, may be taken by any property owner, including a tenant, or by a governmental officer, department, board, or bureau. All applications hereunder shall be accompanied by payment of the fee prescribed herein, except when the city is the applicant. Such application shall be filed with the Administrative Official who shall transmit same to the Board of Zoning Adjustment.

(B) Appeals. An appeal to the Board of Zoning Adjustment may be taken by any person aggrieved or affected by any decision of the Administrative Official. Such appeal shall be taken within thirty (30) days after the date of the decision and is taken by filing with the Administrative Official a notice of appeal specifying the grounds thereof together with the filing fee required by the Board. The Administrative Official shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

(C) Hearings. If any application or appeal is received at least five (5) working days before a regularly scheduled meeting of the Board of Zoning Adjustment, it shall act within forty-five (45) days after such meeting. Failure to act within such period shall be considered approval. Before making an decision on an application or appeal, the Board shall hold a public hearing at such times as shall be determined by the Board itself. Special hearings can be arranged at the call of the Chairperson. Notices of the time and place of hearings shall be mailed to applicants and be published for one (1) week prior thereto in a newspaper of general circulation in the city. Each application or appeal shall be accompanied by a check payable to the City Treasurer or a cash payment in the following amounts as specified in § 156.016. If additional costs are incurred, the applicant shall pay upon receipt of a statement from the appropriate city official.

(Ord. passed 1-27-87; Am. Ord. 07-0-002, passed 2-26-07)

§ 156.033 COMPENSATION AND FEES.

Compensation shall be limited to expenses allowed by the Board of Zoning Adjustment for special assignments. The Board may establish a schedule of reasonable fees in all matters to come before it and may require the applicant to pay, directly, any necessary publication costs.

(Ord. passed 1-27-87; Am. Ord. 07-0-02, passed 2-26-07)

GENERAL DEVELOPMENT REGULATIONS

§ 156.045 CONFORMANCE WITH REGULATIONS REQUIRED.

No land, building, structure, or premises shall hereafter be used, and no building or part thereof, or other structure shall be located, erected, moved, reconstructed, extended, enlarged, or altered except in conformity with the regulations herein specified for the district in which it is located. Each district is established to permit only those uses specifically listed as permitted, except

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as hereinafter provided and is intended for the protection of those uses.
(Ord. passed 1-27-87) Penalty, see § 156.999

§ 156.046 COORDINATION WITH SUBDIVISION REGULATIONS.

In all cases arising under this zoning code, including but not limited to, change of zoning classification, eventual development of any kind, or application for approval of a development plan, the provisions of the city subdivision regulations shall apply in addition to the provisions of the zoning code.

(Ord. passed 1-27-87)

§ 156.047 ADDITIONAL USES.

A use other than those specifically mentioned in each district also may be allowed by the Board of Zoning Adjustment if, in the judgment of the Board, such use will not be incompatible with the character of the district in which it is located and will have no adverse influence on adjacent properties, the neighborhood, or the community.

(Ord. passed 1-27-87)

§ 156.048 CONVERSION OF DWELLINGS.

The conversion of any building into a dwelling or the conversion of any dwelling so as to accommodate an increased number of dwelling units or families, shall be permitted only within the district in which a new building for similar occupancy would be permitted, and only when the resulting occupancy will comply with requirements governing new construction in that district, with respect to minimum lot size, lot area per dwelling unit, percentage of lot coverage, dimension of yards and other open spaces, and off-street parking.

(Ord. passed 1-27-87) Penalty, see § 156.999

§ 156.049 RURAL USES.

Agricultural land or buildings which are used solely for agricultural purposes or uses shall have no regulations imposed as to building permits, certificates of occupancy, height or yard, for agricultural building including and limited to one (1) mobile home used as a dwelling except as otherwise provided in this chapter, and as otherwise provided by state law.

(Ord. passed 1-27-87)

§ 156.050 CONDITIONAL USES.

Conditional uses may be permitted in districts as designated under this zoning code but only when specifically approved by the Board of Zoning Adjustment. All conditional uses shall be subject to the following regulations unless otherwise stated in this chapter.

(A) Conditional approval in all districts. The following conditional uses only may be approved in all zoning districts:

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- (1) Local public utilities and private transmission lines and pipes;
- (2) Radio, television, or telephone transmission towers;
- (3) Large utility structures and public service buildings;
- (4) Expansion of railroads and appurtenances;
- (5) Agricultural uses which are preferred (and conditional) uses in all districts where use existing at time of adoption of this chapter is agricultural;
- (6) Mining which is subject to approval by the Kentucky Natural Resources and Environmental Protection Cabinet pursuant to KRS Chapters 350 and 351, as amended.
- (7) Other conditional uses may be approved in only those zoning districts where they are designated as conditional uses under the zoning district regulations of this chapter.

(B) In applying for a conditional use permit, the applicant shall submit an application to the Administrative Official and shall follow all procedures set forth in this chapter, regarding the procedure for building permit application. The Administrative Official shall then refer the application to the Board of Zoning Adjustment. The Board shall charge a fee, as provided in § 156.016, for reviewing all conditional use permit applications, and shall notify all adjacent property owners by certified mail of the time and place of the meeting at which such review will occur. The applicant shall pay costs of notification upon receipt of a statement from the appropriate city official.

(C) The Board of Zoning Adjustment may approve, modify, or deny any application for a conditional use permit. If it approves the permit, it may attach necessary conditions such as time limitations, requirements that one (1) or more things be done before the request can be initiated or conditions of a continuing nature that there shall be no departure from this zoning code. The Board of Zoning Adjustment shall especially consider the effect of the conditional use on surrounding uses in determining whether a conditional use should be approved, modified, or disapproved. In such conditions, it shall be recorded in the Board's minutes and on the conditional use permit along with reference to the specific section of the zoning code listing the conditional use under consideration. If the conditional use application is approved by the Board of Zoning Adjustment it shall issue written authorization to the Administrative Official to issue a conditional mining permit, building permit, or certificate of occupancy in conformance with this chapter. This written authorization by the Board of Zoning Adjustment shall include a statement of the factual determination by the Board of Zoning Adjustment which justifies the issuance of the permit and a statement of the specific conditions which must be met in order for the use to be permitted. Granting of a conditional use permit does not exempt the applicant from complying with all of the requirements of building, housing, and other regulations.

(D) No request for a conditional use permit for mining shall be considered until the owner, operator, or lessee of each mine shall submit to the Board of Zoning Adjustment a copy of the Preliminary Mining Application Document as submitted to the Kentucky Natural Resources

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and Environmental Protection Cabinet (KNREP). The Board of Zoning Adjustment may issue an Interim Conditional Use Permit for Mining, after all other requirements of this chapter have been met, contingent upon the permittee receiving a permit from KNREP to operate such a mine. Such final conditional use permit shall be applicable to the specific property and transferred with the property if the property is sold.

(1) The Board of Zoning Adjustment will not issue a final conditional use permit for mining until the permittee presents the state mining permit as issued by KNREP.

(2) As a stipulation of a conditional use permit for mining within the city limits, the owner, operator, or lessee of each mine shall be required to meet and comply with all requirements and regulations of the Kentucky Department of Surface Mining Reclamation and Enforcement, Kentucky Department of Mines and Minerals, the Federal Mine Safety and Health Administration, and the Federal Office of Surface Mining.

(E) All conditional use permits and accompanying final plats approved by the Board of Zoning Adjustment shall be recorded at the expense of the applicant in the office of the County Court Clerk, as provided by KRS 100.329.

(1) The Administrative Official shall not issue any building permits or certificates of occupancy for any conditional use permit or accompanying final plats until the conditional use permit and final plat, if any, have been properly recorded by the applicant.

(2) An approved and recorded conditional use permit shall limit and control the issuance of all building permits and shall restrict the construction, location, use, and operation of all land and structures to all conditions set forth in the conditional use permit and accompanying final plat; provided, however, that upon application to and approval by the Board of Zoning Adjustment, minor changes in the location of structures and other minor details, may be permitted. No change shall be authorized which violates the spirit and intent of the originally approved conditional use permit of the provisions of this chapter. A conditional use permit applies to the property for which it is granted and not to the individual who applied for it. A conditional use permit and accompanying final plat also run with the land and is transferable to any future owner of the land, but it cannot be transferred by the applicant to a different site.

(F) The Administrative Official shall review all conditional use permits, except those for which all conditions have been permanently satisfied, at least once annually and shall have the power to inspect the land or structure where the conditional use is located in order to ascertain that the owner is complying with all of the conditions listed on the conditional use permit. A written report of the annual review shall be submitted to the Mayor and Council. If the owner is not complying with all the conditions listed on the conditional use permit, the Administrative Official shall report the fact in writing to the Chairman of the Board of Zoning Adjustment. The report shall state specifically the manner in which the owner 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 Zoning Adjustment. The Board of Zoning Adjustment shall hold a hearing on the report within a reasonable time, and notice of the time and place of the hearing shall be furnished to the owner at least one (1) week prior to the meeting. If the Board of Zoning Adjustment finds that the facts

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alleged in the report of the Administrative Official are true and that the owner has taken no steps to comply with them between the date of the report and the date of the hearing, the Board of Zoning Adjustment shall have the power to authorize the Administrative Official to revoke the conditional use permit authorized. Furthermore, the Board of Zoning Adjustment shall have a right of action to compel offending structures or uses removed at the cost of the violator and may have judgment in personam for such cost.

(G) In any case where a conditional use permit has not been exercised within the time limit set by the Board of Zoning Adjustment or within one (1) year, if no specific time has been set, the conditional use permit shall revert to its original designation. *EXERCISED*, as set forth herein, shall mean that binding contracts for the construction of the main building, buildings, or other improvements have been awarded, or in the absence of contracts that the main building, buildings, or other improvements are under construction to a substantial degree, or that prerequisite conditions involving substantial investment shall be under contract, in development, or completed. When construction is not a part of the use, *EXERCISED* shall mean that the use is in operation in compliance as set forth in the permit. In respect to conditional use permits for mining, *EXERCISED* shall be satisfied by presentation of the KNREP mining permit to the Board of Zoning Adjustment.

(H) Once the Board of Zoning Adjustment has completed a conditional use permit and all the conditions required are of such type that can be completely and permanently satisfied, the Administrative Official, upon request of the applicant, may, if the facts warrant, make a determination that the conditions have been satisfied and enter the facts which indicate that the conditions have been satisfied and the conclusion in the margin of the copy of the conditional use permit which is on file with the County Court Clerk. Thereafter, the use, if it continues to meet the other requirements of the regulations, will be treated as a permitted use.

(Ord. passed 1-27-87)

§ 156.051 DEVELOPMENT PLAN.

Unless a development plan, as required in this chapter, has been approved, only one (1) principal building may be erected on any lot of record. Temporary structures are permitted during construction only.

(Ord. passed 1-27-87) Penalty, see § 156.999

§ 156.052 NONCONFORMITIES.

(A) It is the intent of this chapter to recognize that the eventual elimination, as expeditiously as is reasonable, of existing uses or structures that are not in conformity with the provisions of this chapter is as much a subject of health, safety, and welfare as is the prevention of the establishment of new uses or structures that would violate the provisions of this chapter. It is also the intent of this chapter that any elimination of nonconformities shall be affected so as to avoid any unreasonable invasion of established private property rights.

(B) Nonconforming lots.

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(1) Definition. A *NONCONFORMING LOT* is a lot that was lawfully created prior to the effective date of this chapter or a subsequent amendment thereto, but does not conform to the minimum gross land area or minimum lot width requirements established in this chapter for the zoning district in which it is located.

(2) Required combination or recombination of nonconforming lots.

(a) Where a nonconforming lot abuts another lot of record, whether conforming or nonconforming, held in the same ownership at or subsequent to enactment of this chapter, such lots shall be combined or recombined as necessary to form a conforming lot or lots and shall not thereafter be subdivided except in compliance with all of the requirements of this chapter.

(b) Where a nonconforming lot was created by public taking action or as a result of a court order, the above combination or recombination of lots shall not be required.

(3) Use of nonconforming lots. Where a nonconforming lot cannot be combined or recombined with other lots to form a conforming lot or lots, such nonconforming lot may be used subject to the compliance of the intended use and structure with applicable use regulations and with applicable setback and height regulations. However, any use (such as two-family or multi-family dwelling) that requires a greater gross land area than the minimum gross land area listed in this chapter for the appropriate zoning district shall not be permitted on a lot which does not conform to such minimum gross land area requirement. If compliance of the structure intended on the nonconforming lot with applicable setback regulations is not reasonably possible, the nonconforming lot may be used as a building site subject to the granting of a variance from such setback regulations by the Board of Zoning Adjustment in accord with the provisions §§ 156.030 through 156.033.

(C) Nonconforming uses.

(1) Definition. A *NONCONFORMING USE* is a use of land, buildings, or structures that was lawfully established prior to the effective date of this chapter, or a subsequent amendment thereto, but does not conform to the use regulations of this chapter for the zoning district in which it is located.

(2) Regulations. Nonconforming uses may be continued subject to the following limitations:

(a) A nonconforming use shall not be extended, expanded, enlarged, or moved to occupy a different or greater area of land, buildings, or structures than was occupied by such use at the time it became nonconforming, provided that a nonconforming use may be extended throughout any parts of a building which were specifically designed and arranged for such use at the time it became nonconforming.

(b) No building or structure devoted to a nonconforming use shall be

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enlarged, extended, reconstructed, moved, or structurally altered unless that building or structure is thereafter devoted to a conforming use.

(c) When a building or structure devoted to a nonconforming use is damaged to the extent of fifty percent (50%) or more of its current assessed taxable value, such building, if restored, shall thereafter be devoted to conforming uses.

(d) If a nonconforming use ceases for more than a twelve (12) month period, subsequent use of the land, or structures previously devoted to such use shall thereafter be devoted to conforming uses.

(3) Discontinuance.

(a) Any nonconforming use of land and any nonconforming use involving structures with a total replacement cost of less than five thousand dollars (\$5,000.00) at the time such use became nonconforming shall cease with five (5) years after the date of the notice of nonconformity required in division (F) of this section.

(b) Any nonconforming use involving structures with a total replacement cost of five thousand dollars (\$5,000.00) or more at the time such use became nonconforming shall cease with fifteen (15) years after the date of the notice of nonconformity required in division (F) of this section, or within forty (40) years after the construction of such structures, whichever is later.

(D) Nonconforming features.

(1) Definition. A **NONCONFORMING FEATURE** is a physical feature or characteristic of a use, building, structure, or other development of land that was lawfully established prior to the effective date of this section or a subsequent amendment thereto, but does not conform to the regulations of the performance standards of this chapter applicable to such use, building, structure, or development of land, including but not limited to, nonconforming structures, nonconforming signs, nonconforming parking facilities and nonconforming lighting.

(2) Regulations. Nonconforming features may be continued subject to the following limitations:

(a) No enlargement, extension, or structural alteration of any building, structure, or other development of land having a nonconforming feature shall increase the degree or extent of the nonconforming feature.

(b) When a building, structure, or other development of land having a nonconforming feature is damaged to the extent of fifty percent (50%) or more of its assessed taxable value, such building, structure, or development of land may be reconstructed only if the nonconforming feature is eliminated and the building or structure shall thereafter conform to the provisions of this section.

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(3) Discontinuance.

(a) Any sign having a nonconforming feature shall be either eliminated, or made to conform with the provisions of this section within twelve (12) months after the date of the notice of nonconformity required in division (F).

(b) Any building, structurally independent or free-standing structure other than a sign, or other development of land (lighting, fencing, parking area, or accessory structure) having a nonconforming feature and having a replacement or correction cost of less than five thousand dollars (\$5,000.00) shall be either eliminated or made to conform with the provisions of this section within five (5) years after the date of the notice of nonconformity required in division (F).

(E) Repairs and maintenance. Minor repairs to and routing maintenance of land, buildings, structures, or other development of land, or portion thereof, devoted to a nonconforming use or having nonconforming features are permitted, provided the cost of such repairs and maintenance within any twelve (12)-month period does not exceed ten percent (10%) of the current assessed taxable value of the land, buildings, structure, or other development of land, or portion thereof.

(1) Any structure or other development of land, or portion thereof, devoted to a nonconforming use or having a nonconforming feature, that is declared unsafe by the Building Inspector because of lack of repairs and maintenance shall not be restored, repaired, reconstructed, or used except in conformity with the provisions of this section.

(2) Any structure or other development of land, or portion thereof, devoted to a nonconforming use or having a nonconforming feature, that is declared unsafe by the Building Inspector, but not because of lack of repairs and maintenance, may be repaired and restored subject to the requirements of divisions (C) (2) and (D) (2) of this section.

(F) Nonconformity survey and notice. Within eighteen (18) months after the effective date of this chapter, or subsequent amendment thereto, the Codes and Zoning Enforcement Officer shall make an inventory of all nonconforming uses, signs having nonconforming features, and other significant nonconforming features existing within the city jurisdiction. On completion of the inventory, the Codes and Zoning Enforcement Officer shall notify the owner of the property on which each nonconformity is located of the determination of nonconformity, and reasons therefor, and the deadlines, where applicable, for compliance with the provision of this chapter. This requirement shall not preclude the further inventory and subsequent notices of nonconformity.

(G) Applications for permit to repair or re-establish nonconforming use.

(1) In any of the above cases where the owner of the property on which the nonconforming use exists desires to obtain a permit for re-establishment or repair of the nonconforming use, application for that permit shall be made within six (6) months of damage to structure, discontinued use, or declaration of unsafe status to the Administrative Official with payment of the appropriate fee.

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(2) The Board of Zoning Adjustment shall consider such applications within sixty (60) days of receipt, and, if the Board reasonably concludes that strict application of the nonconforming use provisions of this chapter practically destroys or greatly decreases the value of specific pieces of property and adjacent property, it may set conditions for re-establishment or repair of the nonconforming use which promote substantial justice for all persons concerned. Such conditions may include, but are not limited to, presentation of a security bond acceptable to the City Attorney. A unanimous vote of the entire Board of Zoning Adjustment shall be required for approval.

(H) Appeal. Appeal of the decision may be made as provided in KRS Chapter 100.

(I) Restrictions. The Board of Zoning Adjustment shall be governed by the following restrictions pursuant to KRS 100.253:

(1) The Board shall not allow the enlargement or extension of a nonconforming use beyond the scope and area of its operation at the time the regulation which makes its use nonconforming is adopted;

(2) The Board 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;

(3) In addition, the Board shall not permit replacement or repair of nonconforming mobile homes.
(Ord. passed 1-27-87) Penalty, see 156.999

§ 156.053 EXCEPTION TO HEIGHT REGULATIONS.

The height limitations contained in the district regulations shall not apply to antennas, water tanks, ventilators, chimneys, or other appurtenances.
(Ord. passed 1-27-87)

§ 156.054 LOTS AND YARDS.

(A) Visibility. No wall, fence, sign, or shrubbery, or any other similar obstruction, shall be erected, maintained, or planted on any lot which unreasonably obstructs or interferes in traffic visibility on a curb or at a street intersection.

(B) Application of yards to one building only. No part of a yard required for any building may be included as filling the yard requirement for an adjacent building.

(C) Use of yards for accessory building. No accessory structures shall be permitted in front yards. They are permitted in rear or side yards according to dimensional and area regulations in each zone.
(Ord. passed 1-27-87) Penalty, see § 156.999

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§ 156.055 PROHIBITED OR RESTRICTED USES.

(A) The following uses are prohibited in all districts:

(1) Stockyards.

(2) Recreational vehicles within the city limits used for habitation, over seven (7) days, except in a conditionally approved commercial location.

(B) The Administrative Official shall ensure that all junkyards existing as nonconforming uses maintain valid permits to operate issued by the State Department of Transportation, as required by KRS 177.905 through 177.951, and shall ensure that all screening required by the State Department of Transportation is maintained as long as the junkyard remains in operation.

(C) No manufacturing or other process shall be carried on that is objectionable by reason of odor, dust, smoke, gas, fumes, noise, vibration, refuse matter, or water-carried waste. (Ord. passed 1-27-87) Penalty, see 156.999

§ 156.056 FEES FOR SUBDIVISION PLAN REVIEW.

(A) Any person, firm, entity, or corporation seeking a review of a subdivision plan by the Technical Advisory Committee pursuant to the subdivision regulations adopted by the Pike County, Elkhorn City and City of Pikeville Planning Commission pursuant to KRS 100.273 shall be required to compensate the city for fees paid to the members of the Technical Advisory Committee for review of the applicant's subdivision proposal. The applicant will be required to pay to the city these fees prior to the Technical Advisory Committee rendering its final report to the Planning Commission.

(B) The fees for the members of the Technical Advisory Committee for which the applicant will be required to reimburse the city are as follows:

(1) Twenty-five dollars (\$25.00) per hour, per member, for actual time spent in the review of the applicant's subdivision proposal, not to exceed two (2) hours per proposal;

(2) Twenty-five dollars (\$25.00) per hour, per member, for actual time spent in on-site inspection of the applicant's proposed subdivision, not to exceed four (4) hours per site inspection;

(3) Twenty-five dollars (\$25.00) per hour, per member, for actual time spent in committee meetings considering the applicant's proposed subdivision, not to exceed one (1) hour per Committee meeting.

(C) If the applicant's proposed subdivision plan is not approved as originally submitted and requires additional on-site inspections, the applicant shall be required to pay the aforementioned fee for the additional inspection(s).

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(D) The Technical Advisory Committee before rendering its final report to the Planning Commission for a subdivision proposal shall submit to the applicant, its fees as set out above. The applicant shall be required to make payment to the city for the amount of said fees prior to the Technical Advisory Committee's submission of its final report to the Planning Commission.
(Ord. 0-95-010, passed 12-21-95)

PLANNED UNIT DEVELOPMENT REGULATIONS

§ 156.070 WHERE PLANNED UNIT DEVELOPMENT PERMITTED.

A planned unit development project, which may depart from conformance with the regulations for principal building and single lot development may be permitted in those districts where it is designated as a conditional use under the zoning district regulations or may be permitted in any district after an amendment to the zoning map. All Planned Unit Development (PUD) projects shall be subject to the regulations of this subchapter.
(Ord. passed 1-27-87)

§ 156.071 PROCEDURE FOR REVIEW AND APPROVAL.

The procedure for review and approval of all planned unit development projects shall be as follows:

(A) The developer of a planned PUD project shall meet with the Planning Commission prior to the preparation or submission of a preliminary plat of a proposed planned development project. The purpose of this meeting shall be to discuss informally with the Planning Commission the minimum requirements and performance standards for PUD projects as well as to discuss existing or proposed development which may affect or be affected by the proposed development. For the purpose of this discussion, the developer shall provide a sketch plan indicating the proposed project area, its relationship to the surrounding area, and the general development schedule. The advisory meeting and informal review is designed to prevent unnecessary and costly revisions in the design and development plan to be presented in the preliminary plat application. Formal application or filing of a plat is not required for this advisory meeting.

(B) After the advisory meeting, the developer of a proposed planned unit development project shall submit an application for a conditional use permit or zoning amendment, as applicable, to the Planning Commission along with a preliminary plat of the proposed PUD project. The preliminary plat shall reflect the standards of design set forth in this chapter for planned unit development projects and shall provide at least the following information.

(1) The preliminary plat shall be drawn to scale appropriate to the size and nature of the project and shall show the proposed dimensions, size, location, and arrangement of the following:

- (a) Buildings.
- (b) Parking areas with arrangement and number of parking spaces. (For

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the CBD (C-3), if parking is not available on-site, a statement assuring compliance with § 156.130 (D) (1) (5).

(c) Entrance and exist roads and their relationship to existing and proposed streets, alleys, and other public ways.

(d) Setback lines, permanent open spaces separation strips, and landscaped areas.

(e) The name of the planned unit development project.

(f) Date, approximate north arrow, and graphic scale.

(g) Acreage of land within the project.

(h) Names and addresses of the owner, contractor, architect, engineer or surveyor, and all owners of adjacent properties.

(i) Boundary lines of the project and their bearings and distances.

(j) Existing and proposed easements and their locations, widths, and distances.

(k) Streets on and adjacent to the project and their names and widths.

(l) Utilities on and adjacent to the project.

(2) Proposed restrictions or mandatory dedications, if any, shall be attached to the preliminary plat.

(3) The Planning Commission may also require that the developer provide additional supporting data such as economic justification, financing, and construction scheduling when deemed necessary for project review.

(C) Planning Commission's review of the preliminary plat. The Planning Commission shall review the preliminary plat in regard to its design and compatibility with surrounding uses, major streets, the regulations of the planned unit development provisions, and the performance standards of this chapter. Since a planned unit development project is inherently more complex than individual lot development and because each project must be tailored to the topography and neighboring uses, the conditions for the project cannot be inflexible. The Planning Commission may require revised or additional plats, data, drawings, or profiles of the proposed project when necessary to insure that there will be no departure from the intent of this zoning code.

(D) Public hearing and recommendation. After complete review of the proposed project, the Planning Commission shall hold a public hearing after notice as required as KRS Chapter 424 and make its recommendation to the Board of Zoning Adjustment if the project is

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being proposed as a conditional use and to the Board of Commissioners if the project is being proposed as a zoning amendment. Such recommendation shall include a statement of the Planning Commission's determination and a statement of any special conditions which may have been attached by the Planning Commission.

(E) Action by the Board of Zoning Adjustment or Board of Commissioners on preliminary plat. Upon receipt of the proposed PUD project preliminary plat and Planning Commission's recommendation, the Board of Commissioners or Board of Zoning Adjustments, as applicable shall follow their normal procedure of action regarding conditional use permits or zoning amendments.

(1) If the Board of Zoning Adjustment approves the proposed project preliminary plat, it shall issue written authorization to the applicant to prepare a final plat to be submitted to the Planning Commission for review and approval.

(2) If the Board of Commissioners approves the proposed project preliminary plat, it shall issue written authorization to the applicant to prepare a final plat to be submitted to the Planning Commission for review and approval.

(F) Final plat review. Upon receiving written authorization by the Board of Zoning Adjustment or the Board of Commissioners, as applicable, the applicant shall submit the final plat of the proposed planned unit development project to the Planning Commission for its review and approval within one (1) year from the date of such written authorization.

(1) The final plat shall be drawn at a scale appropriate to the size and nature of the project and shall be essentially and substantially the same as the preliminary plat and shall reflect all special conditions attached during the project preliminary plat review and shall contain all information required in the project preliminary plat with the following exceptions:

- (a) The final plat shall show a true north line.
- (b) All dimensions, angles, bearings, and similar data on the plat shall be tied to primary control points. Location and description of such control points shall be given.
- (c) Certification, on plat, of title showing that the applicant is the owner and statement by the owner dedicating street, rights-of-way, and any other site or payment in liens of sites as may be required.
- (d) Certification, on plat, by surveyor or engineer as to the accuracy of survey and plat.
- (e) All special conditions attached to preliminary approval and any restriction specified by the owner shall be placed directly on the final plat or attached thereto.
- (f) Certification attached to plat stating that the owner has posted with

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the city a surety bond or certified check in sufficient amount to assure completion of all such required improvements.

(g) Certification on plat by the Chairperson of the Planning Commission and Board of Zoning Adjustment that the final plat has been approved for recording in the office of the County Court Clerk.

(2) Planning Commission action on final plat. Upon receipt of the final plat of the proposed PUD project, the Planning Commission shall review the plat for completeness and adherence to the approved preliminary plat and attached special conditions. If the Planning Commission finds that the final plat is in accord with the approved preliminary plat and fulfills the attached special conditions of preliminary approval, the Planning Commission may approve the final plat and the Chairperson of the Planning Commission shall indicate such approval. The approved final plat, including those PUD projects approved under the zoning amendment procedure of this chapter, shall be referred to the Board of Zoning Adjustment for final approval.

(3) Board of Zoning Adjustment action on final plat. If the Board of Zoning Adjustment approves the final plat, the Chairman of the Board of Zoning Adjustment shall indicate such approval on the final plat and shall follow all procedures set forth in § 156.050 regarding the approval of a conditional use permit application. The Planned Unit Development project shall thereafter be subject to all of the provisions of this chapter regarding conditional use permits including recording, effect, non-compliance, time limits, and permanently satisfied permits. The Board of Zoning Adjustment shall not issue approval final plat unless all fees required by this chapter are paid, except that:

(a) No fee shall be charged for the advisory meeting and informal review with the Planning Commission.

(b) The fees to be charged for reviewing preliminary and final plats are shown in § 156.016.
(Ord. passed 1-27-87)

§ 156.072 GENERAL REGULATIONS FOR ALL PLANNED UNIT DEVELOPMENT PROJECTS.

The following general regulations shall apply to all planned unit development projects:

(A) Construction of all planned unit development projects shall be started within one (1) year after approval of the final plat.

(B) The applicant of a planned unit development project may be required to provide a detailed statement of proposal, including covenants, agreements, or other specific documents showing the ownership and the method of assuring perpetual maintenance to be applied to these areas within the project that are to be used for open space, recreational, or other common or public purposes. Such a statement, if required, shall be attached to the preliminary and final plats as special conditions.

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(C) The posting of a surety bond or certified check payable to the city shall be required of the applicant of a planned unit development project to assure the installation of improvements as required as special conditions. The bond or check shall be subject to the condition that the improvements will be completed within two (2) years after final plat approval.

(D) There shall be no change, alteration, amendment, or extension of any approved planned unit development project final plat unless the change, alteration, amendment, or extension is approved in conformance with §§ 156.050 or 156.071 of this chapter.

(E) Whenever there is a conflict or difference between the provisions of this subchapter and those of other provisions of this zoning code, the provisions of this subchapter shall prevail for the development of planned unit development projects. Subjects not covered by this subchapter shall be governed by the respective provisions found elsewhere in this chapter or in the subdivision regulations. Regulations particular to the zone in which the proposed planned unit development is situated shall apply except to the extent that the departure therefrom is specifically allowed as a result of the planned unit development.

(F) All buildings constructed in a planned unit development project shall conform to all local, state, and federal regulations pertaining to the particular type of building or buildings proposed. The Planning Commission may require that any building construction be of an approved fire-resistant material or that before a certificate of occupancy is approved the developer must provide the Administrative Official with a written certificate of approval from the State Fire Marshal.

(Ord. passed 1-27-87) Penalty, see § 156.999

§ 156.073 RESIDENTIAL PLANNED UNIT DEVELOPMENT.

All residential planned unit developments shall be subject to the following regulations:

(A) The premises of a residential planned unit development project shall be used only for single-family and multi-family dwelling units and accessory buildings normally used with such units.

(B) The proposed site must be suitable for residential development by virtue of its location, shape, topography, and the nature of surrounding development.

(C) Land use intensity standards, minimum land area, and regulations are as follows:

(1) Land use intensity standards are contained in the following table:

	<u>PDR-1</u>	<u>PDR-2</u>	<u>PDR-3</u>
Maximum Land Area	15,000	15,000	20,000
Maximum Floor Area Ratio*	.2	.3	.4
Minimum Open Space Ratio**	.76	.50	.36
Minimum Livability Space Ratio	.52	.32	.22

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	<u>PDR-1</u>	<u>PDR-2</u>	<u>PDR-3</u>
Minimum Recreational Space Ratio	.036	.030	.026
Minimum Total Car Ratio	1.5	1.0	.98

*All ratios are multiplied by land area.

**Open space contains both the livable space and the recreation space.

(2) The maximum number of dwelling units permitted shall not exceed the total gross floor area divided by six hundred fifty (650) square feet.

(3) All project access points on a public street shall be located at least one hundred (100) feet from the intersection of any street right-of-way lines.
(Ord. passed 1-27-87) Penalty, see § 156.999

§ 156.074 COMMERCIAL PLANNED UNIT DEVELOPMENT.

All planned commercial development projects shall be subject to the following regulations:

(A) The premises of a planned unit commercial development project shall be used only for the following commercial uses and those accessory buildings normally associated with these uses.

(1) Retail sales. Processing of products is permitted only if all products are sold at retail on the premises.

(2) Consumer services.

(3) Professional, business, and government offices.

(4) Organizational meeting places.

(B) The development site must be suitable for commercial purposes by virtue of its location, shape, topography, access to arterial and collector streets, and by the nature of surrounding development.

(C) Development standards:

(1) Commercial planned development projects shall contain at least fifteen thousand (15,000) square feet of land area.

(2) Parking requirements shall be the same as provided in the performance standards in §§ 156.125 through 156.132.

(3) Access points on a public street shall be at minimum of two hundred (200) feet apart and shall be located at least two hundred fifty (250) feet from the intersection of any

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street right-of-way lines. The Planning Commission may require wider spacing between access points and intersecting street right-of-way lines. All access points must be approved by the Planning Commission.

(4) All buildings shall be located at least thirty five (35) feet from all property lines and at least fifty (50) feet from the right-of-way of any public street on which access to the development is located.

(5) No building shall exceed seven (7) stories in height.

(6) Landscaped separation strips shall be installed in compliance with the performance standards of this chapter. The project shall be permanently screened from adjoining and contiguous properties in the manner set forth in the performance standards of this chapter.

(Ord. passed 1-27-87) Penalty, see § 156.999

§ 156.075 INDUSTRIAL PLANNED UNIT DEVELOPMENT.

All industrial planned development projects shall be subject to the following regulations:

(A) Uses. The site of an industrial planned unit development project shall be used for the following buildings and uses and accessory building and uses only:

(1) Nonretail sales and services.

(2) Light industry. The Board of Zoning Adjustment shall upon application by the Administrative Official when the classification is in doubt distinguish between light and heavy industry according to the definition in these zoning regulations.

(3) Research laboratories.

(4) Heavy industry; extractive uses. Outdoor storage or processing; retail sales and consumer services accessory to and provided for employees of the planned industrial project shall be permitted only if they are approved along with the final plat of the planned industrial project or if they are subsequently approved as conditional use by the Board of Zoning Adjustment.

(B) Compatibility. The tract of land must be suitable for an industrial development by virtue of its location, shape, topography, and the nature of surrounding development.

(C) Standards. Minimum land area, dimensions, standards, and regulations for planned industrial projects are as follows:

(1) Planned unit industrial projects shall contain at least ten (10) acres of land.

(2) At least one (1) parking space shall be provided for every two (2) employees employed during the largest single shift, and one (1) parking space for each vehicle operated by the plant, where no conflict exists, the parking standards shall comply with the parking provisions

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established in § 156.030. Where conflict exists this section shall prevail.

(3) Loading standards. In addition to the loading and unloading standards established in § 156.130, additional loading and unloading facilities shall be provided as required by the Planning Commission.

(4) The minimum lot frontage on a public street should be five hundred (500) feet.

(5) All project access points shall be located on a collector arterial or marginal street and should be located at least six hundred (600) feet apart. All project access points should be located at least six hundred (600) feet from the intersection of any street right-of-way lines. The Planning Commission may require wider spacing between access points and intersecting street right-of-way lines when the project has more than the minimum required lot frontage on a collector arterial or marginal street. All access points shall be specifically approved by the Planning Commission.

(6) All buildings shall be located at least seventy-five (75) feet from all property lines and at least seventy-five (75) feet from the right-of-way of any public street on which the project is located. The Planning Commission may reduce the required building setbacks where such buildings would be adjacent to railroad sidings if such reductions would not be detrimental to surrounding areas.

(7) No building shall exceed three (3) stories in height.

(8) Landscaping and screening shall be required along all property lines as provided § 156.132. The Planning Commission may reduce the required separation strip where such separation strips would prevent building from locating adjacent to railroad sidings provided such reductions would not be detrimental to surrounding areas.

(9) Signs and signage shall conform to the sign regulations contained in §§ 156.145 through 156.151.

(Ord. passed 1-27-87) Penalty, see § 156.999

§ 156.076 MIXED-USE PLANNED UNIT DEVELOPMENT.

All planned unit development combining more than one (1) of the uses described in this subchapter shall be subject to the following regulations:

(A) Uses. A mixed-use planned unit development project may include any two (2) or more of the following planned unit development projects: residential, commercial, or industrial. The site shall conform to the uses permitted in the respective planned unit development project regulations of this subchapter.

(B) Compatibility. The tract of land must be suitable for a mixed use planned development project by virtue of its location, shape, topography, and the nature of surrounding

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development.

(C) Standards. In any mixed-use planned unit development project, although it is permissible to provide a mixed and integrated development, there shall be no reduction in the required land area, parking and circulation area, open spaces, dimensions, standards, and regulations that would be required for each type of building and use if it were submitted as separate planned unit development projects.

(Ord. passed 1-27-87) Penalty, see § 156.999

ZONING DISTRICTS

§ 156.090 ESTABLISHMENT AND DESIGNATION.

(A) 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 regulate and limit the density of population, and to realize the general purposes set forth in § 156.003, the city is divided into zoning districts. The specific purpose of each zoning district is set forth in the following subchapter.

(B) For purposes of this chapter, the city is hereby divided into the following categories:

- R-1, One-Family Residential District
- R-1A, Inner-City One-Family Residential District
- R-1T, Townhouses Residential District
- R-2, One- and Two-Family Residential District
- R-3, One- and Multiple-Family Residential District
- MP, Mobile Home Park District
- C-1, Neighborhood Commercial District
- C-2, Highway Commercial District
- C-3, Central Business District
- I, Manufacturing District
- INS, Institutional District
- PUD, Planned Unit Development District
- Riverfill District
- Overlay Zoning District

(Ord. passed 1-27-87)

§ 156.091 OFFICIAL ZONING ATLAS.

(A) The boundaries of the zoning districts are hereby established as shown on a map entitled "Official Zoning Atlas for the City of Pikeville, Kentucky." The Official Zoning Atlas and chapter.

(B) The Official Zoning Atlas shall be identified by the signature of the Mayor attesting by the Finance Director/City Clerk/Tax Administrator, and shall bear the seal of the city under the

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following words: "This is to certify that this is the Official Zoning Atlas for the City of Pikeville, Kentucky, referred to in § 156.091 of the Official Zoning Code for Pikeville, Kentucky, adopted by all notations, references, and other matters shown thereof shall be and are hereby made a part of this the Board of Commissioners on January 27, 1987."

(C) If, in accordance with the provision of this chapter and the state statutes, changes are made in zoning district boundaries or other matters portrayed on the Official Zoning Atlas, such changes shall be made on the Official Zoning Atlas promptly after the amendment has been approved by the legislative body, together with an entry on the Official Zoning Atlas as follows: "By official action of the Board of Commissioners, this map was amended as authorized by ordinance as listed below: (amendment, date, brief description of nature of change)," which entry shall be signed by the Mayor and attested by the Finance Director/City Clerk/Tax Administrator.

(D) No change of any nature shall be made in the Official Zoning Atlas or matter shown thereon except in conforming with the procedures set forth in this chapter. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this chapter and punishable as provided in § 156.999.

(E) Regardless of the existence of purported copies of the Official Zoning Atlas which may from time to time be made or published, the Official Zoning Atlas which shall be located in the office of the Finance Director/City Clerk/Tax Administrator shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the city.

(F) In the event that the Official Zoning Atlas becomes damaged, destroyed, lost, or difficult to interpret because of the nature or the number of changes and additions, the Board of Commissioners may, by resolution, adopt a new Official Zoning Atlas which shall supersede the prior Official Zoning Map. The new Official Zoning Atlas may correct drafting or other errors of omissions in the prior zoning map. The new Official Zoning Atlas shall be identified by the signature of the Mayor attested by the Finance Director/City Clerk/Tax Administrator, and bear the seal of the city under the following words: "This is to certify that this Official Zoning Atlas supersedes and replaces the Official Zoning Map adopted as part of the Official Zoning Code for Pikeville, Kentucky."

(Ord. passed 1-27-87)

§ 156.092 INTERPRETATION OF DISTRICT BOUNDARIES.

Where uncertainty exists with respect to the boundaries of any of the zoning districts as shown in the Official Zoning Atlas, the following rules shall apply:

(A) Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed to following such centerlines.

(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

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following such city limits.

(D) Boundaries indicated as approximately following railroad lines shall be construed to be midway between the main tracks.

(E) Boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such centerlines.

(F) Boundaries indicated as parallel to or extensions of features indicated in divisions (A) through (D) above shall be so construed. Distances not specifically indicated on the Official Zoning Atlas shall be determined by the scale of the maps contained in the atlas.

(G) Where physical features existing on the ground are at variance with those shown in the Official Zoning Atlas, or in other circumstances not covered by divisions (A) through (E) above, the Board of Zoning Adjustment shall interpret the district boundaries.

(H) Where a district boundary divides a lot which was in single ownership at the time of passage of this chapter, the Board of Zoning Adjustment may permit, conditionally, the extension of the regulations for either portion of the lot not to exceed fifty (50) feet beyond the district line into the remaining portion of the lot.

(I) Whenever any street, alley, or other public way is vacated by official action as provided by law, the zoning district adjoining the side of the public way shall be extended automatically, depending on the side or sides to which such land reverts, to include the right-of-way of such vacated public way; thus, all regulations of the adjoining district or districts shall be extended to include such public ways or rights-of-way.

(J) In every case where property has not been specifically included in a particular zoning district, the same is hereby declared to be in the R-1 District.

(K) Territory annexed to, or consolidated with, the city subsequent to the effective date of this chapter shall be temporarily zoned per current use, as of date of annexation or consolidation. Such districting shall be temporary, and within one year, the Planning Commission shall recommend to the Board of Commissioners final zoning atlas maps for the annexed territory. In the absence of such action by the Planning Commission, the temporary zoning classification at time of annexation or consolidation shall remain as the applicable zoning of the area until amendment upon proper application and the Official Zoning Atlas shall be updated accordingly.

ZONING DISTRICT REGULATIONS

§ 156.100 R-1 ONE-FAMILY RESIDENTIAL DISTRICT.

(A) The purpose of this district is to establish and preserve low density single-family residences on large lots.

(B) Principal permitted uses. Single-family dwellings, except that no more than one (1)

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such residential structure shall be permitted on any one (1) tract of land without approval of a development plan by the Planning Commission.

(C) Conditionally permitted uses. The following uses shall be permitted only if expressly authorized by the Board of Zoning Adjustment:

- (1) Agricultural uses.
- (2) Churches and other places of worship and Sunday school buildings located not less than twenty (20) feet from any other lot in any District and fronting on an arterial or collector street.
- (3) Schools and colleges for academic instruction located not less than forty (40) feet from any other lot in any R District and fronting on an arterial or collector street.
- (4) Public libraries, public museums, public art galleries, and similar public cultural uses, located not less than twenty (20) feet from any other lot in any R District and fronting on an arterial or collector street.
- (5) Public parks, playgrounds, golf courses, country clubs, provided that any principal buildings used therefor shall be located not less than forty (40) feet from any other lot in any R District.
- (6) Private, noncommercial recreation areas and facilities not listed above including tennis courts and club swimming pools, provided that no such swimming pool is nearer than one hundred (100) feet from any other lot in any R District.
- (7) Any hospital for human care, sanitariums, medical centers, religious and charitable institutions, provided that any buildings which are used for the treatment of contagious disease, the care of drug addicts, or the mentally ill shall be at least one hundred (100) feet from any lot in any R District and are located on an arterial, collector, or marginal street.
- (8) Cemeteries.
- (9) Lodging houses.
- (10) Day nurseries.
- (11) An office or studio in the residence of a physician, dentist, artist, lawyer, engineer, teacher (with musical instruction limited to one pupil at a time), accountant, architect, realtor, insurance agent, but not including beauty parlors, barbershops, schools of any kind with organized classes; provided that:
 - (a) Not more than one-half (1/2) of the floor area of the dwelling is devoted to such uses;

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(b) Not more than one (1) person not as resident of the premises is employed;

(c) No such use shall require structural alterations or involve construction not customary in dwellings.

Such use shall result in no exterior evidence, except a permitted sign, that the residence is used for a nonresidential use; and such use shall not generate any atmosphere pollution, light flashes, glare, odors, noise, vibration, or truck or other heavy traffic.

(12) Two-family dwellings, except that no more than one (1) such residential structure shall be permitted on any lot of record.

(13) Planned Unit Developments - PDR-1.

(14) Buildings or other structures customarily incidental to any aforesaid permitted or conditionally permitted uses may be established, erected, or constructed; provided, that such accessory uses shall not involve the conduct of any business, trade, or industry.

(15) Any other uses that are deemed compatible with the above-mentioned uses and which are acted upon the Board of Zoning Adjustment.

(D) Parking. Parking spaces for all detached residential uses shall be located on the same lot as the use which they are intended to serve. A minimum of one (1) off-street parking space shall be provided for each dwelling unit.

(E) Lot area, yard and height regulations. The following table stipulates the minimum lot area, yard, and height requirements which shall be observed, except as otherwise provided in this zoning code.

Minimum Lot Area and Yard Requirements (R-1)

	Lot Area (Square Feet)	Front Yard Depth (in Feet)	Side Yard (in Feet)	Rear Yard Depth (in Feet)	Lot Width (in Feet)
Dwellings:					
One and one-half stories	5,000	15	8	20	50
Two and one-half stories	5,000	15	10	20	50
Conditionally permitted uses:					
Two-family dwellings:					
One and one-half stories	10,000	25	10	25	80
Two and one-half stories	10,000	25	10	25	80
Accessory buildings	Same as principal use				
Hospitals	Five acres				

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(F) Accessory uses permitted are garages, swimming pools, storage sheds, carports, greenhouses, or the like.
 (Ord. passed 1-27-87) Penalty, see § 156.999

§ 156.101 R-1A INNER-CITY ONE-FAMILY RESIDENTIAL DISTRICT.

(A) The purpose of this district is to allow single-family housing on small lots where the surrounding neighborhood consists of similar development.

(B) Principal permitted uses shall be the same as in R-1.

(C) Conditionally permitted uses shall be the same as in R-1.

(D) Planned Unit Development PDR-2;

(E) Accessory uses shall be the same as in R-1.

(F) Parking shall be the same as in R-1.

(G) Lot area, yard, and height regulations. The following table stipulates the minimum lot area, yard, and height requirements which shall be observed, except as otherwise provided in this zoning code.

Minimum Lot Area and Yard Requirements (R-1A)

	Lot Area (Square <u>Feet</u>)	Front Yard Depth <u>(in Feet)</u>	Side Yard <u>(in Feet)</u>	Rear Yard Depth <u>(in Feet)</u>	Lot Width <u>(in Feet)</u>
Dwellings:					
One and one-half stories	4,000	15	8	25	40
Two and one-half stories	4,000	15	10	25	40
Conditionally permitted uses: (except agriculture)					
One and one-half stories	8,000	15	10	25	80
Two and one-half stories	8,000	15	10	25	80
Accessory buildings	Same as principal use				
Hospitals	Five acres				

(Ord. passed 1-27-87) Penalty, see § 156.999

§ 156.102 R-1T TOWNHOUSES RESIDENTIAL DISTRICT.

(A) The purpose of this district is to provide for attached and detached single-family dwellings and supporting uses, at a higher density than would be possible in other single-family

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districts. Zero lot line houses and patio houses are permitted.

(B) Principal permitted uses are single-family attached or detached residences except that no more than twelve (12) shall be attached. No such development shall be permitted on any one (1) tract of land without approval of a development plan by the Planning Commission.

(C) Conditionally permitted uses shall be as follows:

(1) Same as in R-1 and R-1A.

(2) Temporary real estate offices.

(3) Other uses which are deemed compatible with the above-mentioned uses and which are acted upon by the Board of Zoning Adjustment.

(D) Accessory uses shall be the same as in R-1.

(E) Parking. A minimum of two (2) off-street parking spaces shall be provided for each dwelling unit.

(F) Lot area, yard, and height regulations. The following table stipulates the minimum lot area, yard, and height requirements which shall be observed, except as otherwise provided in this zoning code.

Minimum Lot Area and Yard Requirements (R-1T)

	Lot Area (Square Feet)	Front Yard Depth (in Feet)	Side Yard (in Feet)	Rear Yard Depth (in Feet)	Lot Width (in Feet)
Dwellings:					
Minimum	1,500	10	(See division (G))	10	16

(2) Height: maximum of thirty-five (35) feet.

(3) Open space: not less than ten percent (10%) of the total lot area for any townhouse shall be devoted to private usable open space either on each lot or on land adjacent and accessible to each lot. Such open space shall be for the private use of the residents of the townhouse and shall be physically separated from other private open space by planting, fences, or walls. The least dimension for such open space shall be eight (8) feet.

(G) Special provisions.

(1) The final plat of record shall designate the lots are to have zero lot lines under this provision.

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(2) No more than three (3) contiguous townhouse units may be established the same setback. A variation of at least three (3) feet shall be required where there is a break in setback. Buildings may penetrate up to eighteen (18) inches over the building line into the required front yard, but the average setback of the contiguous units shall be at least as great as the required front yard setback.

(3) Required side yard for unattached sides of townhouses shall be six (6) feet or more when no unit or only one (1) unit fronts on a side yard. Side yard of twenty (20) feet shall be required when more than one (1) unit fronts on that side yard.

(4) Side yard of twenty-five (25) feet shall be required where the R-1T zone abuts another zoning classification.

(5) Where one (1) wall of the structure is to be located on the side lot line, the yard on the opposite side shall be at least six (6) feet.

(6) All other structures shall have a minimum side yard of three (3) feet on each side.

(Ord. passed 1-27-87) Penalty, see § 156.999

§ 156.103 R-2 ONE- AND TWO-FAMILY RESIDENTIAL DISTRICT.

(A) The purpose of this district is to establish and preserve neighborhoods of single- and two-family homes.

(B) Principal permitted users shall be as follows:

(1) Any principal permitted use and as regulated in the R-1 District, and as hereinafter specified in this subchapter.

(2) Duplexes, except that no more than one (1) such residential structure shall be permitted on any tract of land without approval of a development plan by the Planning Commission.

(C) Conditionally permitted uses shall be as follows:

(1) Same as in R-1 and R-1A.

(2) Professional offices, offices of financial use, insurance, real estate, civic, educational, or religious establishments or organizations.

(3) Nursing homes, rest homes, and lodging or boarding houses.

(4) Mobile homes.

(5) Funeral homes.

Zoning Code

(6) Ambulance service.

(7) Any other uses which are deemed compatible with the above-mentioned uses and which are acted upon by the Board of Zoning Adjustment.

(D) Accessory uses shall be the same as in R-1.

(E) Parking shall be the same as in R-1.

(F) Lot area, yard, and height regulations. The following table stipulates the minimum lot area, yard, and height requirements which shall be observed, except as otherwise provided in this zoning code.

Minimum Lot Area and Yard Requirements (R-2)

	Lot Area (Square Feet)	Front Yard Depth (in Feet)	Rear Yard Depth (in Feet)	Lot Width (in Feet)	Side Yard (in Feet)
One-family dwellings:					
One and one-half stories	5,000	25	25	50	8
Two and one-half stories	5,000	25	25	50	10
Two-family dwellings:					
One and one-half stories	10,000	25	25	80	10
Two and one-half stories	10,000	25	25	80	10

(Ord. passed 1-27-87) Penalty, see § 156.999

§ 156.104 R-3 ONE- AND MULTIPLE-FAMILY RESIDENTIAL DISTRICT.

(A) The purpose of this district is to establish and preserve high density residential areas.

(B) Principal permitted uses shall be as follows:

(1) Apartment buildings.

(2) Any principal use permitted and as regulated in the R-1 and R-2 Districts, and as hereinafter specified in this subchapter, except that no more than one (1) such use shall be permitted on any one (1) tract of land without approval of a development plan by the Planning Commission, and further exception that no more than one (1) apartment building shall be permitted on any one tract of land without approval of a development plan by the Planning Commission.

(C) Conditionally permitted uses shall be as follows:

(1) Same as in R-1 and R-2 Districts.

Zoning Code

(2) Planned Unit Development PDR-3.

(3) Boarding houses, lodging houses, nursery schools, day nurseries, senior citizen facilities, private kindergartens, and mobile home parks.

(4) Any other uses which are deemed compatible with the above-mentioned uses and which are acted upon by the Board of Zoning Adjustment.

(5) Mobile homes on individual lots shall be conditionally permitted provided the structure conforms with all other district regulations.

(D) Accessory uses shall be the same as in R-2.

(E) Parking shall be the same as in R-1 for one- and two-family dwellings; one and one-half (1-1/2) parking spaces per unit for multiple-family dwellings.

(F) Lot area, yard, and height regulations. The following table stipulates the minimum lot area, yard, and height requirements which shall be observed, except as otherwise provided in this zoning code:

Minimum Lot Area and Yard Requirements (R-3)

	<u>Lot Area</u> (Square Feet)	<u>Front Yard</u> Depth (in Feet)	<u>Rear Yard</u> Depth (in Feet)	<u>Lot Width</u> (in Feet)	<u>Side</u> Yard (in Feet)
One-family dwellings:					
One and one-half stories	7,000	25	20	70	8
Two and one-half stories	7,000	25	20	70	8

Multi-family dwellings:

Six stories maximum
height - 6,000 square feet
for the first unit, plus
1,500 square feet for each
additional multi-family
dwelling

(G) Additional yard requirements for certain multiple-family structures. In addition to other yard requirements, whenever the principal entrances to individual dwelling units in a multiple-family structure face side lot lines, side yard requirements shall be no less than front yard requirements.

(Ord. passed 1-27-87) Penalty, see § 156.999

Zoning Code

§ 156.105 MP MOBILE HOME PARK DISTRICT.

(A) The purpose of this district is to regulate the location of and to encourage, stabilize, and protect the development of well-planned mobile home parks.

(B) Nonconforming mobile homes. All mobile homes not in conforming mobile home parks but existing in the city before the passage of this chapter shall continue as nonconforming uses. No other mobile home will be permitted within the “horseshoe” of the city as that area is described in § 531 of the city zoning ordinance passed 1-27-87, unless located in an approved mobile home park.

(C) Mobile home park requirements. Mobile home parks shall meet all requirements of state law, including KRS 219.310 through 219.410, and any regulations adopted thereunder.

(D) Application to construct, alter, or zone. Application to construct or alter any existing mobile home park shall be made in writing to the appropriate state agency or agencies and to the Planning Commission, and shall contain the following:

- (1) Name and address of applicant.
- (2) Name and location of mobile home park.
- (3) Number and size of all mobile home lots.
- (4) Number and size of lights.
- (5) Source of water supply.
- (6) Type of sewage and solid waste disposal.
- (7) Source of electric service.
- (8) Appropriate fees.
- (9) Construction plan.

Application for a change of zoning to Mobile Home Park District shall be the same as that described in §§ 156.170 through 156.172. In addition, the applicant shall provide a construction plan as outlined below.

(E) Construction plan. Each application for a permit to construct or alter a mobile home park in existing Mobile Home Park Districts, or each application for a change of zoning to Mobile Home Park District shall be accompanied by a complete construction plan, drawn to scale, submitted in triplicate, of the proposed construction or alteration, showing the following:

- (1) A vicinity map showing the location of the park.

Zoning Code

(2) A site plan showing all the existing facilities and proposed facilities as follows:

- (a) Area and dimension of the tract to be developed.
- (b) Number, location and size of all mobile home lots.
- (c) Area within lots planned for location of mobile homes including setback distances.
- (d) Location and width of roadways, driveways, parking areas and walkways.
- (e) Location of all utilities: public and private water, sewage, drainage, and electrical facilities and easements.
- (f) Numbers of each lot.
- (g) Location of planned landscaping and protective screening as required.
- (h) Protective screening as required by the Planning Commission.
- (i) Location and dimension of open spaces intended for recreational purposes of residents.

(F) Standards. All mobile home parks shall conform to the following standards for development:

- (1) All mobile home parks shall include lots for at least ten (10) mobile homes.
- (2) Each mobile home lot shall have four thousand (4,000) square feet with public sewer, or one (1) acre if not connected to a public sewer.
- (3) All mobile home parks shall front on an arterial or collector street for at least one hundred (100) feet.
- (4) No mobile home shall be located closer than twenty (20) feet from another mobile home.
- (5) Front yard setback shall be at least twenty five (25) feet if fronting on a public right-of-way. Rear yard setback shall be at least fifteen (15) feet unless adjacent to any R zone in which case rear yard setback shall conform to nearest R District requirements. Minimum side yard requirements shall be ten (10) feet unless adjacent to any R zone in which case side yard requirements shall conform to nearest R District requirements.

Zoning Code

(6) An accessory structure which has a floor area exceeding twenty-five (25) feet, with an opaque top or roof that is higher than the nearest window, shall if attached to the mobile home or located within ten (10) feet of its window, be considered a part of the mobile home.

(7) All mobile home parks shall be located in well-drained areas, not subject to recurring flooding. Lots shall be properly graded so as to prevent the accumulation of storm water.

(8) Two (2) paved automobile parking spaces shall be provided on every mobile home lot.

(9) Streets shall be twenty-seven (27) feet in width and shall be paved according to city specifications, excluding curbs and gutters. Streets shall be maintained in good condition.

(10) Adequate lighting shall be provided at park entrances, intersections, and at two hundred (200) foot intervals within the park.

(11) All construction plans shall be reviewed by the City Engineer who will report to the Planning Commission if plans are received no less than ten (10) days before public hearing on the matter.

(12) The Planning Commission may attach reasonable special conditions to its approval of a mobile home park.

(G) Procedure.

(1) Upon receipt of an application to construct or alter sections of existing mobile home park districts, the Planning Commission shall hold a public hearing, advertised according to KRS Chapter 424, with notification of adjacent property owners by certified mail no less than five (5) days before the hearing.

(2) Upon receipt of an application for amendment to the official zoning map, the Planning Commission shall follow the procedure outlined in §§ 156.170 through 156.172. The construction plan shall be considered as the *DEVELOPMENT PLAN* required for map amendments, pursuant to § 156.171.

(H) Issuance of mobile home park permit. The Administrative Official shall not issue a permit until all conditions in the construction plan have been met and the Planning Commission has approved the plan. The applicant shall not start construction until he has received this permit and valid construction permit from the appropriate state agency.

(I) Certificate of occupancy. The Administrative Official shall issue a certificate of occupancy only after he has determined that the mobile home park has been prepared according to all applicable regulations. The applicant must also obtain a valid permit to operate from the appropriate state agency. A certificate of occupancy shall be issued on each individual mobile home.

Zoning Code

(J) Access limitations. No vehicular entrance to or exit from any tourist court, trailer park, recreational vehicle park, or mobile home park shall be within two hundred (200) feet along street frontage from any school, public playground, church, hospital, library, or institution for dependents or for children, except where such building or property is in another block, or fronts on a street on which facility has no entrance or exit.

(Ord. passed 1-27-87; Am. Ord. 0-90-033, passed 10-22-90) Penalty, see § 156.999

§ 156.106 C-1 NEIGHBORHOOD COMMERCIAL DISTRICT.

(A) The purpose of this district is to encourage development for commercial purposes of small areas of land located in largely residential neighborhoods where such purposes are compatible with residential uses.

(B) Principal permitted uses in this district are any retail businesses or service establishments which supply services primarily for residents of the neighborhood, or which generate small traffic volume which is not disruptive to the neighborhood. Such businesses or establishments must front on arterial, collector, or major streets. Uses include the following:

- (1) Apparel and accessories (clothing, bridal, shoes).
- (2) Banks.
- (3) Bicycle shops.
- (4) Bookstores or newsstands.
- (5) Business offices.
- (6) Churches.
- (7) Credit agencies.
- (8) Drug stores.
- (9) Eating and drinking places without drive-in windows or drive-through service.
- (10) Florist shops.
- (11) Food stores (grocery, bakery) with less than four thousand five hundred (4,500) square feet of usable space.
- (12) Gift shops, coin shops, and art supply stores.
- (13) Jewelry stores.

Zoning Code

- (14) Laundry.
- (15) Musical equipment and supply stores.
- (16) Photo studios.
- (17) Shoe repair shops.
- (18) Travel services.
- (19) Watch and clock repair facilities.

(C) Conditionally permitted uses shall be as follows:

- (1) Agricultural uses.
- (2) Automobile repair, minor.
- (3) Filling stations.

(4) Other uses compatible with the character of surrounding residential districts as authorized by the Board of Zoning Adjustment including any use permitted in or C-2 Districts which would not overburden the street on which the use fronts.

(D) Prohibited uses shall include eating and drinking places with drive-in windows or drive-through service.

(E) Required conditions.

(1) All businesses, services, or processing shall be conducted wholly within a completely enclosed building except in filling stations (a conditional use). All products processed shall be sold primarily on the premises.

(2) Processes and equipment used shall be limited to those which are not objectionable by reason of odor, dust, smoke, gas fumes, noise vibration, refuse matter, or water-carried waste.

(F) Residential uses. All residences existing before the adoption of this chapter shall be permitted to continue as conforming structures. All future residential development within this district shall conform to R-3 requirements.

(G) Height and yard regulations.

(1) No principal structure shall exceed two and one-half (2-1/2) stories or thirty (30) feet in height.

Zoning Code

- (2) Lot frontage shall be no less than fifty (50) feet.
- (3) Front yard depth shall be at least ten (10) feet.
- (4) Rear yard depth shall not be less than twenty (20) feet.

(5) Side lot requirements in business establishments adjacent to any R District shall be the same as those of the adjacent R District; otherwise, no side lot requirement shall apply.

(H) Accessory uses. Any accessory use of buildings customarily incidental to the above-mentioned permitted uses shall be permitted.

(I) Parking and screening. See the performance standards in §§ 156.125 through 156.132.

(Ord. passed 1-27-87) Penalty, see § 156.999

§ 156.107 C-2 HIGHWAY COMMERCIAL DISTRICT.

(A) The purpose of this district is to encourage logical and timely development of land for commercial purposes which generate large amounts of traffic and which require separation from residential uses of major parking facilities.

(B) Principal permitted uses include any use permitted and as regulated in the C-1 District, and as hereinafter specified, except that all such uses must front on arterial, collector, or marginal access streets. Uses include the following:

- (1) Advertising and public relations firms.
- (2) Amusement, recreation facilities (including dancing, theater, bowling, billiards, skating, riding, or electronic games center).
- (3) Auto parts, tires.
- (4) Auto repair services, garages, service stations.
- (5) Building materials, hardware, home improvements.
- (6) Business, professional, or civic clubs.
- (7) Computer, data processing.
- (8) Credit bureaus.
- (9) Eating and drinking places (including drive-ins).
- (10) Farm supplies and equipment.

Zoning Code

- (11) Food sales with over four thousand five hundred (4,500) square feet of usable space.
- (12) Funeral services.
- (13) Furniture, furnishings, and appliances.
- (14) General merchandise (department or variety stores).
- (15) Glass dealers.
- (16) Government services (city and county offices, fire and police offices or stations, community centers, auditoria, schools, libraries, courts, and the like).
- (17) Health clubs, spas.
- (18) Health services (including professional offices, hospitals, clinics, medical and dental labs, nursing, and personal care facilities).
- (19) Heating, plumbing, and air-conditioning repair or sales.
- (20) Hospitals.
- (21) Hotels and motels.
- (22) Janitorial and maintenance services.
- (23) Mobile home sales and repairs.
- (24) Monument sales.
- (25) Office supplies and equipment.
- (26) Printing and copying.
- (27) Professional offices and office parks.
- (28) Rentals.
- (29) Research, testing.
- (30) Reupholstery shops.
- (31) Steno/typing, and answering services.
- (32) Taverns.

Zoning Code

- (33) Used merchandise, antiques, pawn shops.
- (34) Vehicle dealers (autos, boats, trucks, and motorcycles).
- (35) Veterinary services.
- (36) Wholesale trade (motor vehicles, furniture, hardware, paper, food, drugs).

(C) Conditionally permitted uses shall be as follows:

- (1) Agricultural uses.
- (2) Contract construction firms.
- (3) Recreational vehicle parks.
- (4) Planned unit development - commercial.

(5) Any other use decided upon by the Board of Zoning Adjustment which is substantially similar to either principal or conditional uses listed above.

(D) Required conditions shall be the same as for the C-1 District.

(E) Height and yard regulations shall be the same as for C-1, except that maximum height may be seven (7) stories or seventy-five (75) feet.

(F) Residential uses.

(G) Accessory uses. Accessory uses and structures are permitted and as regulated in the C-1 District and such other accessory uses and structures not otherwise prohibited, customarily accessory and incidental to any of the foregoing C-2 uses.

(H) Parking. See the performance standards in §§ 156.125 through 156.132.

(I) Screening. See the performance standards in §§ 156.125 through 156.132.
(Ord. passed 1-27-87) Penalty, see § 156.999

§ 156.108 C-3 CENTRAL BUSINESS DISTRICT.

(A) Purpose. The Central Business District Zone (CBD) is intended to provide for the continuing development of this district as the commercial, service, and social center of the city; to maintain its existing character as a pedestrian-oriented concentration of business, administrative, financial, governmental, and other support functions serving the entire city and county and to encourage further residential development in this central area.

(B) Principal permitted uses shall be as follows:

Zoning Code

(1) Permitted principal uses at street level. All uses permitted in C-1 and C-2 except those prohibited in division (D) (2) and those permitted with conditions as provided in division (D).

(2) Principal uses permitted at levels other than street level:

- (a) All uses permitted in division (B) (1) above.
- (b) Clubs and other professional, social, or civic organizations.
- (c) Business, office type.

(C) Accessory uses shall be as follows:

(1) At street level: business, office type, business, wholesale; business, service; places of assembly; publishing and printing; temporary building, construction related only.

(2) Parking and loading space and structures intended primarily for use by employees, customers, or visitors to the related primary structure and not as a separate commercial enterprise available to the public-at-large.

(3) Agricultural, non-livestock.

(D) Conditionally permitted uses. After public notice and hearing and appropriate conditions and safeguards, the Board of Zoning Adjustment may approve and permit as special exceptions:

(1) Business, office type, and clubs at street level when, and only when, none of the enumerated uses of division (B) (1) are to occupy space at levels above the office space.

(2) Multi-family dwellings above the first story of any structure having the first story devoted to uses enumerated in division (B) (1) and as a special use and none of the uses enumerated in these sections are to occupy space in levels above the dwelling units.

(3) Multi-family dwellings at ground level provided the entire structure is devoted exclusively to residential use.

(4) Parking lots and parking structures.

(5) Drive-in windows, banks only.

(6) Child care or group care facility.

(7) Churches when located along arterial or collector street.

(8) Funeral home.

Zoning Code

(9) Planned unit development; PDR-3 or PDC.

(E) Prohibited uses shall be as follows:

(1) Agricultural, livestock.

(2) Automobile, trailer, or farm implement sales or rental.

(3) Automotive repair.

(4) Cemetery.

(5) Dwellings, single-family, or two-family detached, mobile home, or mobile home park.

(6) Gasoline and filling stations.

(7) Hospital.

(8) Maintenance or storage facility.

(9) Manufacturing.

(10) Veterinary hospital or clinic.

(F) Use limitations shall be as follows:

(1) Except for enumerated accessory uses all business establishments shall be retail or service establishments dealing directly with consumers. All goods produced on the premises shall be sold at retail on the premises where produced.

(2) No use shall produce noise of such volume or pitch as to cause any nuisance in any adjacent residential district at any time or within any residential dwelling unit in any district between the hours of 10:00 p.m. and 7:00 a.m.

(3) Exterior lighting fixtures shall be shaded so that no district light is cast upon any property located in a residential district.

(4) All business, service, and storage of goods other than off-street parking and loading shall be conducted within completely enclosed structures except for outdoor restaurant seating.

(5) No business except a private bank when permitted as a special exception, shall offer goods or services directly to customers waiting in parked motor vehicles, or sell beverages or food for consumption on the premises in parked motor vehicles.

Zoning Code

(G) Minimum lot requirements shall be as follows:

- (1) Minimum lot area: Two thousand (2,000) square feet.
- (2) Minimum street frontage: Fifteen (15) feet.
- (3) Minimum lot width: Fifteen (15) feet.

(H) Minimum yard requirements. No yard setback is required except where a use of one intensity use group is directly adjacent to a use of a different intensity use group. Where properties with different intensity use groups are adjacent, buffer yards must be constructed in accordance with the city Design Manual.

(I) Maximum lot coverage by all buildings shall be as follows:

- (1) Interior lot: One hundred percent (100%).
- (2) Corner lot: One hundred percent (100%).

(J) Maximum height of principal structures. The maximum height of principal structures will be twelve (12) stories.

(K) Floor area requirements.

(1) Minimum floor area requirements for conditionally permitted multi-family dwelling units. The following minimum livable floor area, as defined in this chapter shall apply:

- (a) Bedroom or efficiency: Three hundred fifty (350) square feet.
- (b) Two (2) Bedroom: Five hundred fifty (550) square feet.
- (c) Three (3) Bedroom: One thousand one hundred (1,100) square feet.

(2) Floor area ratio. In the CBD Zoning District, buildings and their required service area shall be allowed to occupy the total site, if the building is no higher than four (4) stories. The ratio of gross floor area of the principle structures to the gross lot area shall be 4.0, subject to the following bonus adjustments:

- (a) If a developed exterior public plaza or landscaped open space is provided, the building floor area ratio may be increased by 0.25.
- (b) If first floor setbacks are provided, the building floor area ratio may be increased by 0.1.
- (c) If an internal public pedestrian arcade is provided, the building floor area ratio may be increased by 0.25.

Zoning Code

(d) If elevated pedestrian-ways are provided, the building floor area ratio may be increased by 0.5.

(e) If parking requirements are met by contributions to the city Parking Authority Fund, rather than by on-street parking, the building floor area may be increased by sixty-five percent (65%) of the required parking space area.

(L) Minimum parking and loading requirements. All off-street parking and loading facilities must be in compliance with the performance standards, in §§ 156.125 through 156.132. (Ord. passed 1-27-87)

(M) Prefabricated metal-sided buildings prohibited.

(1) No person, entity, or corporation shall within the C-3 Central Business District of the city, construct or build a prefabricated metal-sided building or similar structure in which the outside walls of said building or structure consists of more than thirty percent (30%) of metal, steel, aluminum, or other metal or plastic in relation to the total outside wall space.

(2) There shall be an exemption for such building or structures temporarily constructed for a period of less than ninety (90) days.

(3) The Building Inspector shall not issue any permits of any type for the construction of any building or structure prohibited herein and shall be required to issue permits for the construction or building of any such temporary structures for a period not to exceed ninety (90) days.

(Ord. 0-88-004, passed 4-25-88) Penalty, see § 156.999

§ 156.109 I MANUFACTURING DISTRICT.

(A) The purpose of the I District is to encourage the development of manufacturing and wholesale business establishments that are clean, quiet, and free of hazardous or objectionable elements such as odor, dust, smoke, or glare, and that are located along arterials or collector streets with adequate city services.

(B) Principal permitted uses shall be as follows:

(1) Manufacturing or storage of:

(a) Beverage bottling.

(b) Electronics.

(c) Fabricated metals.

(d) Food and related manufacturing or storage.

Zoning Code

- (e) Furniture and fixtures.
- (f) Glass manufacturing.
- (g) Instruments, optical goods, watches, jewelry, and the like.
- (h) Light sheet metal products.
- (i) Lumber and wood products.
- (j) Metal working shops.
- (k) Pharmaceuticals.
- (l) Pottery.
- (m) Printing and publishing.
- (n) Signs, electrical.
- (o) Textile products.
- (p) Toys, novelties.
- (q) Wearing apparel.

(2) Experimental firms or testing laboratories, provided no operation shall be conducted or equipment used which would create hazards and noxious or offensive conditions.

(3) Transportation equipment and other similar manufacturing processes as may be approved by the Planning Commission.

(C) Conditionally permitted uses shall be as follows:

(1) Agricultural uses; and

(2) Provided that the property improvements, and schedule of operation meets with the conditions set forth by the Planning Commission:

- (a) Extractive uses.
- (b) Mining, gas or oil wells.
- (c) Quarrying.
- (d) Logging.

Zoning Code

(D) Accessory uses. Any use is permitted which is customarily accessory and incidental to any of the foregoing principal permitted uses.

(E) Prohibited uses. Dwellings and residences of any kind, including motels, schools, hospitals, clinics, or nursing homes, and other institutions for human care, except where incidental to the permitted principal use.

(F) Structural regulations.

(1) Minimum lot size: Ten thousand (10,000) square feet.

(2) Minimum lot width: Fifty (50) feet.

(3) Minimum front yard depth: Twenty-five (25) feet.

(4) Minimum rear yard depth: Thirty (30) feet, with five (5) additional feet for each additional story in excess of one (1) story.

(5) No industrial structure shall be erected less than one hundred (100) feet from any R District.

(G) Parking.

(1) Adequate off-street parking space must be provided for each separate building in this zoning classification. Parking areas and structures shall be located in the rear of the building whenever possible.

(2) Guidelines for parking area shall be one space per four hundred (400) square feet of gross floor area.

(3) Notwithstanding any other requirement of this chapter there shall be provided one (1) off-street loading space for each ten thousand (10,000) square feet or fraction thereof of aggregate floor space of all buildings on the site. At least one-third (1/3) of the space required shall be sufficient in area and vertical clearance to accommodate trucks of the tractor-trailer type.

(4) Development plan. All development in the I District shall require the submission of a development plan to the Commission; such plan shall include all parking, and loading facilities as well as screening from residential uses, which shall be the responsibility of the industrial developer.

(Ord. passed 1-27-87) Penalty, see § 156.999

§ 156.110 INS INSTITUTIONAL DISTRICT.

(A) The purpose of this district is to preserve and provide for development of institutional uses with the city.

Zoning Code

(B) Permitted uses shall be as follows:

(1) Educational activities directly related to an institution offering full-time courses leading to an accredited degree.

(2) Propriety-type functions which are customarily performed by private businesses or entities for a profit, not directly related to the educational purposes of the institution, shall not be permitted in the INS District.

(C) Accessory uses. Activities incidental to the function of the institution which are managed and operated by the institution, but not including propriety-type functions.

(D) Development. All proposed development within the INS District which alters the traffic patterns on existing city streets shall be presented to the Planning Commission for review. No building permit shall be issued until such development is approved by the Planning Commission.

(Ord. passed 1-27-87) Penalty, see § 156.999

§ 156.111 PLANNED UNIT DEVELOPMENT DISTRICT.

The following regulations shall apply in all Planned Unit Development Districts:

(A) Conditional uses.

(1) Residential planned unit development: PDR-1, PDR-2, PDR-3.

(2) Commercial planned unit development, PDC.

(3) Industrial planned unit development, PDI.

(4) Mixed use planned unit development, PD-MU.

(B) Dimension and area regulations for structures and uses in planned unit development districts shall be provided for in the planned unit development project and conditional use regulations of this chapter.

(Ord. passed 1-27-87) Penalty, see § 156.999

Cross reference:

Planned unit development regulations, §§ 156.070 through 156.076

Conditional use regulations, see § 156.050

§ 156.112 RF RIVERFILL DISTRICT.

(A) Intent. To provide for high density development of commercial and residential uses adjacent to the Central Business District.

(B) Permitted uses shall be as follows:

Zoning Code

- (1) High density residential planned unit development, PDR-3.
 - (2) Commercial planned unit development, PD-C.
 - (3) Mixed use planned development, PD-MU.
- (Ord. passed 1-27-87) Penalty, see § 156.999

§ 156.113 OVERLAY ZONING DISTRICT.

(A) It is the intent of this section to provide for Flood Hazard Districts, Historic Districts, Airport Hazard Districts, and Special Appearance Districts which shall overlay zoning districts enumerated in § 156.090 and which shall provide for special review of development within such Overlay Districts in accord with the intents, procedures, and standards established for the underlying districts.

(B) Flood Hazard District. For the purposes of this chapter, land subject to flood shall be considered land below the one hundred (100) year flood boundary elevations as is shown on Floodway: Flood Boundary and Floodway Map, City of Pike, Kentucky, Pike County; Community Panels: 210193 0001, 210193 0002, 210193 0003, published by the Federal Emergency Management Agency and dated September 5, 1984, and which is made part of this chapter.

(C) Floodway. The floodway as shown on the Community Panels is established to meet the needs of the Levisa Fork of the Big Sandy River to carry abnormal flows of water in time of flood. To prevent encroachments into the floodway which will unduly increase flood heights and damage and to prevent the loss of life and excessive damage to property in the area of the greatest flood hazard the following regulations shall apply. The following uses are permitted within the floodway subject to the approval of the Planning Commission and to such conditions as the Planning Commission may specify to protect the public interest, and which do not conflict with uses permitted in the underlying zoning districts.

- (1) Open type uses, such as loading and unloading areas, parking lots, used car lots, mobile home sales lots, signs and gardens auxiliary to uses permitted in underlying districts,
- (2) Storage yards for equipment and material not subject to major damage by floods, provided such use is auxiliary to uses permitted in the underlying districts and the materials do not include flammables such as gasoline.
- (3) Open type public and private recreation facilities such as public parks, golf courses, driving ranges, drive-in theatres, and amphitheaters.
- (4) Circus, carnival, and similar transient amusement enterprises.
- (5) Agricultural uses.
- (6) Utilities, road and railroad bridges, electric and other transmission lines.

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(7) Any other use customarily accessory or incidental to the above uses.

(D) Floodway Fringe. Areas lying outside the floodway but within the area below the one hundred (100) year flood elevation, shall be subject to the following regulations:

(1) No building or structure shall be erected, and no existing building or structure shall be extended or moved unless the main floor of solid structure is placed above the elevation of the one hundred (100) year flood boundary. No living space shall be below the one hundred (100) year flood elevation.

(2) Foundations of all structures shall be designed to withstand flood conditions at the site.

(3) Land may be filled within the floodway fringe provided such fill areas extend twenty-five (25) feet beyond the limits of any structure erected thereon.

(4) Any structure proposed to be located outside the Flood Hazard District but within one hundred (100) feet of any main drainage channel or stream within the city's jurisdiction must be approved by the City Engineer. The City Engineer shall determine, on the basis of the area of the water shed and the probable sum of the openings needed for the stream, the size of needed retention reservoirs or how close a structure may be built to the stream in order to assure adequate space for the flow of flood water.

(E) Approval of the Planning Commission. No permit shall be issued for the construction of any building for any use within the floodway until the plans for such construction or use have been submitted to the Planning Commission and approval is given in writing for such construction or use. The Planning Commission may make its approval subject to such conditions necessary to carry out the purpose of the Flood Hazard District. In its review of plans submitted, the Planning Commission shall be guided by the following standards, keeping in mind that the purpose of the floodplain is to prevent encroachment into the floodway which will unduly increase flood heights and endanger life and property.

(1) Any use permitted shall be a type not appreciably damaged by floodwaters, provided no structures for human habitation shall be permitted.

(2) No filling of land shall be permitted, except where express permission is granted by the Planning Commission.

(3) Any structure permitted shall be designed, constructed, and placed on the lot so as to offer the minimum obstruction to the flow of water.

(4) Any structure permitted shall be firmly anchored to prevent the structure from floating away and thus threatening to further restrict bridge openings and other restricted sections of the stream.

(5) Where, in the opinion of the Planning Commission, topographic data,

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engineering, and other studies are needed to determine the effects of flooding on a proposed structure or the effects of the structure on the flow of water, the Planning Commission may require the applicant to submit such data or other studies prepared by competent technical specialists.

(6) The granting of approval of any structure or use shall not constitute a representation, guarantee, or warranty of any kind or nature by the city, the Planning Commission, or any city official or staff member of either the practicality or safety of any structure or use proposed and shall create no liability upon or cause action against such public body, officer, or employee for any damage that may result pursuant to the granting of approval.

(7) All construction in the identified flood hazard area shall in all aspects be in compliance with the city floodplain regulations as contained in Chapter 152.
(Ord. passed 1-27-87) Penalty, see § 156.999

PERFORMANCE STANDARDS

§ 156.125 LEGISLATIVE INTENT.

It is the intent of this subchapter to provide general performance standards to ensure that all redevelopment and new development taking place in the city will be designed, arranged, constructed, altered, or renovated in a safe, decent, and visually harmonious manner, that reflects the basic character of the area as well as the nature of the proposed use of the site.

(Ord. passed 1-27-87)

§ 156.126 COMPLIANCE REQUIRED.

Except as otherwise specifically provided in this subchapter, no land or structure shall be used or occupied, and no excavation, removal of soil, clearing of a site, or placing of fill shall take place on land contemplated for development, and no structure, or part thereof, shall be constructed, erected, altered, renovated, or moved except in compliance with the general performance standards listed in this chapter and the specific standards contained in the adopted codes of the city which make up the city's design manual.

(Ord. passed 1-27-87) Penalty, see § 156.999

§ 156.127 DESIGN MANUAL.

The design manual shall consist of two parts. Part one shall be the general performance standards set forth in the following sections, and part two shall be the selection of specific development regulations referenced here and listed as follows: Kentucky Building Code.

(Ord. passed 1-27-87)

§ 156.128 GENERAL SITE ARRANGEMENT.

(A) Structures shall be placed and arranged so as not to adversely affect adjacent property. Adverse effects shall include, but are not limited to, the removal of lateral support, the

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creation of hazards, nuisances, danger or inconveniences, or unreasonable loss of light, air, or privacy.

(B) Developments shall be arranged so as to be visually harmonious both with the site and with adjacent developments.

(Ord. passed 1-27-87) Penalty, see § 156.999

§ 156.129 ACCESS AND CIRCULATION.

(A) External circulation. The type and arrangement of streets and driveways within the development area shall be coordinated with the redevelopment area's street classification system.

(1) Principal vehicular access to any parcel shall be designed to encourage smooth traffic flow with a minimum of hazards to pedestrians, bicycles, and other vehicular traffic.

(2) Vehicular access will not be permitted within one hundred fifty (150) feet of an intersection where both streets are classified as an arterial or a collector street or where one is an arterial and the other a collector street.

(3) A five (5) foot sidewalk shall be constructed along all collected or arterial streets. A five (5) foot earthen border shall be constructed between the sidewalk and the curb where arterial streets front residential uses.

(4) On-street parking will not be permitted along streets classified as arterial.

(5) Where street width is adequate on-street parking shall be permitted on collector and local streets.

(6) One point of access shall be permitted to every zoning lot from all streets fronting the property for the first fifty (50) feet of frontage. An additional access will be allowed for the next one hundred (100) feet of a zoning lot fronting a collector or arterial street. Access points to the same street from the same parcel shall be one hundred (100) feet apart from the centerline of each driveway. Driveways may not exceed twenty-six (26) feet in width at the right-of-way line.

(7) Pedestrian sidewalks crossing vehicular driveways shall be clearly indicated and at the same grade as the remainder of the sidewalk.

(B) Internal circulation.

(1) Internal circulation shall provide the types, amounts, and locations of accessibility appropriate to the type and size of the development, and shall be designed so as to facilitate the movement of persons, goods, services, and waste products in a safe and efficient manner.

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(2) Safe and convenient vehicular access shall be provided for emergency and service vehicles.

(3) The separation and integration of circulation systems and patterns (such as vehicular circulation, pedestrian circulation, and loading and unloading systems) shall be provided as is appropriate for the type and size of the development.

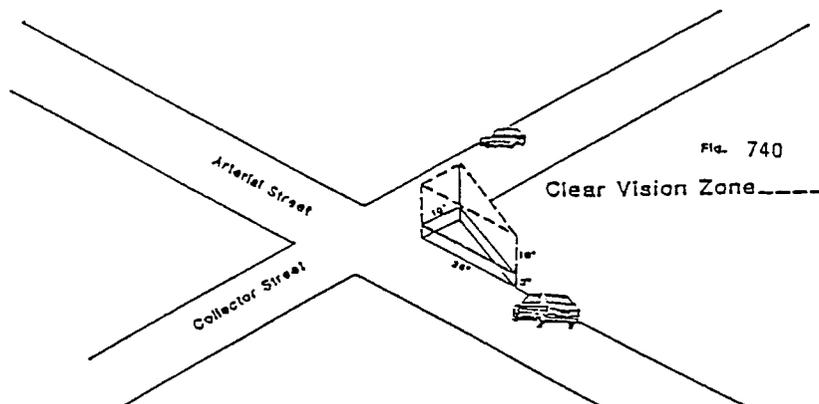
(C) Clear-vision areas. To assure safe sight distances at street and driveway intersections and pedestrian crossings, a minimum clear vision area shall be provided at each corner of such intersections and crossings. No structure or planting that would impair visibility between the heights of three (3) feet and ten (10) feet above the street, driveway, or sidewalk center line grade shall be erected or established in the clear-vision area, provided that the above requirement shall not apply to:

(1) An official traffic control sign or signal.

(2) Any structure or planting having a maximum horizontal cross-sectional diameter of eighteen (18) between the heights of three (3) and ten (10) feet above the street, driveway, or sidewalk grade, providing that the structure or planting is isolated and solitary and that any combination of such which impairs the required cross-corner vision shall be prohibited.

(3) Grading of land within the clear-vision area may be required where such topography impairs the required cross-corner visibility.

(4) The minimum clear-vision area shall consist of a triangular prism of unobstructed space between the heights of three (3) feet and ten (10) feet of the street grade and bounded by the edges of the intersecting streets and driveways, and by a straight line connecting points located on these edges a distance of ten (10) feet from the intersection. For intersections with arterial streets these points shall be located on the edges of the arterial streets at a distance of twenty-five (25) feet from the intersections.



(Ord. passed 1-27-87)

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§ 156.130 OFF-STREET PARKING AND LOADING.

(A) Except for approved on-street loading spaces designated by the city on existing streets and public alleyways, off-street loading space shall be provided for all retail uses as well as for any expansion of such uses or for changes in use requiring regular delivery or shipping of goods, merchandise, or equipment by semi-trailer trucks, in accordance with the requirements of this section.

(B) (1) Off-street parking shall be provided for all uses of land, structures and buildings as well as for any expansion of such uses or changes in use in accordance with the requirements of this section. No parking spaces required for any use located in any other zoning district shall be located in any other zoning district. In the case of mixed uses, the total requirements for off-street parking or loading space shall be the sum of the requirements for the various uses computed separately.

(2) The Board of Zoning Adjustments shall have the power to hear and decide on applications for off-street parking and loading requirement variances whereby reason of the size or location of the lot or the unavailability of alternative off-site parking, or such other exceptional or extraordinary situation or condition of that site, the literal enforcement of the off-street parking and loading requirements of the zoning regulations would deprive the applicant of the reasonable capacity to make use of the land. In considering such variances, the Board must consider any pre-existing parking needs or requirements for the site if there was a pre-existing use, the effect of any additional parking requirements for the proposed use on the surrounding properties. The Board shall strive to prevent an additional burden upon existing on-street public parking if reasonable alternatives are available to the applicant to satisfy all or part of the off-street parking and loading requirements set forth herein. The Board may impose any reasonable conditions or restrictions on any off-street parking and loading variance it decides to grant.

(C) All required parking or loading space shall be located on the same zoning lot as the principal use or uses it serves, except as is provided for in accordance with the following provisions.

(D) In lieu of actual construction of required on-site parking spaces, all or any portion of the off-street parking required in this section may be provided by the following means:

(1) Required parking for a use on a zoning lot may be located on another zoning lot, either by itself or combined with parking for other uses, subject to the approval and certification by the Board of Zoning Adjustment that the following requirements have been met:

(a) The land use being served by the off-site parking shall be a permitted principal or special use in the zoning district within which the zoning lot containing such parking is located.

(b) For all zones except C-3, the off-site parking spaces are located within seven hundred (700) feet walking distance of a public entrance to the structure or land area containing the use for which such spaces are required. A safe, direct, attractive, lighted, and

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convenient pedestrian route exists or shall be provided between the off-site parking and the use being served.

(c) The continued availability of off-site parking spaces necessary to meet the parking requirements of this section shall be assured by an appropriate restriction on the title to the land providing the off-site parking spaces, in the form of a declaration, covenant, or contract.

(2) Up to one-half (1/2) of the parking spaces required for one use may be used to satisfy the parking requirements for either a second use on the same zoning lot or a use for which the provisions of division (1) are used, subject to the approval and certification of the Board of Zoning Adjustment that such joint usage of parking complies with the following provisions:

(a) The peak usage of the parking facility by one use will be at night or on Sundays (such as theaters, assembly halls, churches, or residences), and the peak usage of the parking facility by the second use will be at other times.

(b) The second use is an ancillary use to the first use, such as restaurants and meeting rooms to hotels and motels.

(c) Required parking area shall be available for the parking of operable vehicles of residents, customers, and employees, and shall not be used for the storage of vehicles or materials, or for the parking of vehicles used for loading or unloading, or in conducting the use.

(E) Parking design standards. All parking areas shall meet the following minimum design requirements:

(1) Ingress and egress to and from parking areas shall conform to the city's performance standards for access in § 156.129.

(2) In the C-3 zone (Central Business District), if a setback is provided between a principal structure and its fronting street, such setback shall not be used for off-street parking.

(3) Except for single-family detached or two-family semi-detached dwellings, all parking spaces and maneuvering space shall be surfaced with an all-weather, dustless paving material of a depth approved by the Street Department which shall be maintained in a safe, litter-free condition.

(4) No parking areas or maneuvering space shall be located within a public street right-of-way. Parking vehicles in off-street parking spaces shall be prevented from intruding on travel lanes, walkways, public streets, or adjacent properties by means of walls, curbs, wheelstops, or other appropriate means.

(5) The size of parking spaces shall be adequate for the safe parking of vehicles. Sufficient maneuvering space shall be provided so that parking and unparking can be accomplished in one continuous maneuver. Except for single- and two-family dwellings, each parking space shall

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be arranged so that any vehicle may be parked or unparked without moving another vehicle.

(6) The minimum area for each parking space, including circulation and maneuvering space, shall be a minimum of three hundred seventy (370) square feet. Parking facilities designed to accommodate five (5) or more vehicles shall be designed in accordance with the standards for stalls and aisles as set forth and illustrated below. Where parking facilities are designed to accommodate more than ten (10) vehicles, up to fifty percent (50%) of the parking spaces may be designed in accordance with the standards set forth below, provided the smaller spaces are designated to be used only by compact vehicles. For parking facilities designed for twenty-five (25) or more vehicles at least one (1) parking space, twelve (12) feet in width, shall be provided for each fifty (50) spaces or major fraction thereof, and designated for use only by handicapped persons.

[ILLUSTRATION]

(7) Curbed islands shall be required at the ends of or between parking aisles where necessary for traffic control or drainage control.

(8) Except for single- or two-family dwellings, parking spaces shall be provided with adequate aisle or turnaround areas so that all vehicles may enter adjacent streets in a forward manner.

(9) Parking facilities shall be designed, where appropriate, to connect with parking facilities on adjacent lots to eliminate the need to enter adjacent streets for cross-movement.

(10) All of-street parking facilities, except as otherwise noted, must conform to all other design standards pertaining to their development.

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(F) Parking landscape standards. Except for one- or two-family dwellings, all parking facilities, unless located entirely underground, shall meet the following minimum landscaping requirements.

(1) All open off-street parking areas containing more than four (4) spaces and the ground level of parking structures shall be screened from adjacent streets by means of an effective screening device which is at least three (3) feet in height above the grade of the edge of the parking area.

(2) Entry ways into parking facilities shall be bordered by a landscaped buffer strip at least five (5) feet in width and ten (10) feet in length, except in the Central Business District.

(G) Loading space design standards.

(1) Off-street loading spaces shall be located and arranged so that a semi-trailer truck shall be able to gain access to and use such by means of one continuous parking maneuver.

(2) All loading spaces and maneuvering space shall be surfaced with a dustless, all-weather paving material which shall be maintained in a safe, litter-free condition.

(3) No loading space shall be located so that a vehicle using such space intrudes on travel lanes, walkways, public or private streets, or adjacent properties.

(4) Each required off-street loading space shall have a minimum width of twelve (12) feet, a minimum depth of fifty-five (55) feet, and a vertical clearance of fourteen (14) feet.

(H) Minimum parking and loading requirements.

(1) The minimum number of parking spaces shall be as follows:

<u>Use</u>	<u>CBD (C-3) District*</u>	<u>All Other Districts Except Institutional (INS)</u>
<u>Residential:</u>		
Dwelling, single-family	One per dwelling unit	Two per dwelling unit
Dwelling, two-family and multi-family:		
Efficiency	One per each dwelling unit	One per each dwelling unit
One or two bedrooms	One per each dwelling unit	One per each dwelling unit
Three or more bedrooms	One per each dwelling unit	One and one-half per each dwelling unit
Motel or Hotel	One per each lodging unit	
Mobile home and mobile home park	N/A	Two per each unit
Rooming house	One per each lodging unit	One per each lodging unit
Hospital	One and one-half per bed	One and one-half per bed

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<u>Use</u>	<u>CBD (C-3) District*</u>	<u>All Other Districts Except Institutional (INS)</u>
<u>Commercial Uses:</u>		
Places of assembly	One per each four persons structure was designed to accommodate	One for every four persons structure was designed to accommodate
Restaurants and taverns	One per 400 square feet of floor area	One per every four seats
All other commercial uses	One per 400 square feet of floor space	One per every 400 square feet of floor space
<u>Industrial Uses:</u>		
All industrial uses	N/A	One per every two employees on largest shift
<u>Conditionally Permitted Uses:</u>		
Elementary schools	One per each staff member	One per each staff member
Secondary schools	One per every four students	One per every four students
Vocational schools	One per every four students	One per every four students

*To the maximum extent feasible; subject to review by the Board of Zoning Adjustment.

- (2) Minimum off-street loading space requirements shall be as follows:

<u>Use</u>	<u>Minimum Loading Space</u>
All commercial uses	One space for 10,000 to 20,000 square feet of floor area; Two spaces for floor area of 30,000 square feet or more
Industrial uses	One space per 10,000 square feet of floor area - not exceeding three spaces

Required loading space shall be available for the loading and unloading of vehicles and shall not be used for the storage of vehicles or materials, or to meet off-street parking requirements, or in conducting the use.

(Ord. passed 1-27-87; Am. Ord. 0-95-007, passed 10-25-95) Penalty, see § 156.999

§ 156.131 DRAINAGE AND STORM WATER MANAGEMENT.

(A) Natural drainage systems and storm water management installations shall be designed, constructed, and maintained so as to:

- (1) Provide for natural infiltration of storm water;
- (2) Control the velocity of runoff;

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(3) Extend the time of storm water accumulation and its release into the drainage system;

(4) Collect and transmit excess storm water flows into either the city drainage system or into a natural drainage system.

(B) Water and sewer.

(1) All developments shall be served by a public water supply and either a public sanitary sewer system or an approved septic system.

(2) Fire hydrants of sufficient water pressure to provide adequate fire protection shall be provided where necessary.

(3) No occupancy permit or certificate of occupancy shall be issued unless service by a public sewer and water system has been certified by the city water and sewer system or a health department approval of an installed septic system has been received.

(C) Solid waste storage and removal.

(1) All development shall provide safe, secure, and covered sanitary facilities for the storage and pickup of refuse. These facilities shall be convenient to collection and appropriate to the type and size of the development being served.

(2) Except for single- and two-family dwellings, all refuse storage facilities shall be screened from any adjacent residential uses, adjacent street, and adjacent properties by a solid wall, fence, tight evergreen hedge, or any combination of the above. The screening shall be of sufficient height and design to screen the facility from view.

(Ord. passed 1-27-87) Penalty, see § 156.999

§ 156.132 BUFFERING AND SCREENING.

In order to reduce the impacts of a use of land on adjacent uses which are of a significantly different type of use, buffers and screening shall be required in accordance with the following provisions of this section.

(A) Buffers required. A buffer consists of a horizontal distance from a property line which may only be occupied by screening, utilities, access ways, and landscaping materials. The required buffering distance between land uses on adjoining zoning lots is set forth in the matrix shown below. Such buffer shall be provided unless the abutting use has already provided a buffer in compliance with the provisions of this section.

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BUFFER MATRIX

<u>Proposed Use</u>	<u>Abutting Use</u>				
Use Groups	A	B	C	D	E
A	0	5	10	20	15
B	5	0	10	20	15
C	10	10	0	15	10
D	20	20	15	0	5
E	15	15	10	5	0

USE GROUPS

Use Group A: Single-family or two-family detached dwellings

Use Group B: Multi-family dwellings

Use Group C:	Accessory use customarily incidental to a permitted Group C principal use Business, Office Child day care Church Clinic Clubs Funeral home Group care	Hospital Hotel or motel Public cultural Public use Residence hall Rooming house School Tourist Home
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Use Group D: Automotive repairs, maintenance, or storage facility, light manufacturing, and supply yards

Use Group E:	Accessory use customarily incidental to a permitted Group C principal use Automotive, trailer, and farm implement sales or rental Bank Business, convenience Business, general Extraction of earth products Gasoline or filling station Hangar, medical aircraft Kennel Landfill	Parking, off-street Personal services Public service facility Publishing or printing Radio or television transmitting or receiving facility Recreation facility, non-profit Recreation facility, commercial Supply yard Temporary portable building Veterinary hospital or clinic Vocational school
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Zoning Code

(B) Screening required.

(1) Within buffers, screening is required and shall consist of at least the following:

(a) A row of deciduous or evergreen trees which are not less than fifteen (15) feet high at the time of planting and are spaced not more than fifteen (15) feet apart;

(b) A row of evergreen shrubs spaced not more than five (5) feet apart which will grow to form a continuous hedge at least six (6) feet in height within two (2) years of planting; and

(c) Lawn, low-growing evergreen shrubs, evergreen ground cover, or vegetable or rock mulch covering the balance of the buffer.

(2) All business, service, repair, processing, storage, or merchandise display conducted outside of an enclosed building shall be screened from adjacent streets and properties by means of an effective screening device of a height appropriate to its screening function. Appropriate screening devices may include solid decorative brick walls, wood fences, berms, tight evergreen hedges which shall reach the necessary height within two (2) years of planting, or combination of the above.

(C) Alternative buffers and screening. In lieu of compliance with the above buffer and screening requirements, a developer may submit to the Planning Commission for its approval a detailed plan and specifications for landscaping and screening which will afford a degree of buffering and screening equivalent to or exceeding that provided by the above requirements.

(D) Existing vegetation. The retention of existing vegetation shall be maximized to the extent practical wherever such vegetation contributes to required buffering and screening or to the preservation of significant trees.

(E) Maintenance of landscaping. All landscaping and screening providing required buffering and screening shall be maintained so as to continue their effectiveness.
(Ord. passed 1-27-87) Penalty, see § 156.999

SIGNS

§ 156.145 PURPOSE OF SUBCHAPTER.

The purpose of this subchapter is to promote and protect the public health, welfare and safety by regulating existing and proposed outdoor advertising, billboards, and outdoor signs of all types. It is intended to protect property values, create a more attractive economic and business climate, protect the physical appearance, and enhance the historic and cultural character of the community. It is further intended to reduce sign or advertising distraction and obstructions that may contribute to traffic accidents and to curb deterioration of the natural environment.

(Ord. passed 1-27-87)

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§ 156.146 GOVERNMENTAL SIGNS EXCLUDED.

For the purpose of this subchapter, *SIGN* does not include signs erected and maintained pursuant to and in discharge of any city governmental function.
(Ord. passed 1-27-87)

§ 156.147 GENERAL SIGN REGULATIONS.

Sign and outdoor advertising displays shall be permitted in districts subject to the provisions and regulations contained herein.

(A) The following signs shall be allowed in all districts and shall not require a permit:

(1) (a) Temporary signs (not to exceed thirty-two (32) square feet) or banners.

1. Advertising sale, lease, or rental of the premises.
2. Denoting information at construction site.
3. Announcing civic, philanthropic, educational, cultural, or religious event.
4. Relating to a political campaign.

(b) Temporary signs and banners must be removed not more than fifteen (15) days after the completion of the purpose advertised.

(2) Professional nameplates (not to exceed four (4) square feet in area).

(3) Identification of the occupant (not to exceed two (2) square feet in area).

(B) Residential districts. No sign or outdoor advertising shall be erected or placed in a residential zone, unless provided for conditional use permit for home occupation, or for permanent identification for multi-family dwellings for permanent identification of a subdivision. There shall be one permitted sign for each aforementioned use not exceeding twelve (12) feet in area. Such signs can be illuminated, but non-flashing. A free-standing sign shall not exceed a height of six (6) feet above the ground. Each conditional use for a sign shall be determined on a case-by-case basis depending on the compatibility to surrounding neighborhoods.

(C) Commercial and industrial districts.

(1) Outdoor advertising shall be classified as a business use and shall be permitted only in the following zoning districts (subject to the regulations, exceptions and restrictions contained hereinafter):

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- (a) All commercial districts.
- (b) Central business district.
- (c) All manufacturing (I) districts.

(2) **ADVERTISING DEVICE** as used herein means any billboard, sign, notice, poster, display or other device intended to attract the attention of operators of motor vehicles or pedestrians on the streets, roadways and highways and shall include a structure erected or used in connection with the display of any advertising device and all lighting or other attachments used in connection therewith. However, it does not include directional or other official signs or signals erected by the state, county, city or other public agency having jurisdiction.

(3) No advertising device shall be erected, placed, painted, repainted, or hung in that portion of the City of Pikeville which is designated on the map attached to Ord. 04-0-___, passed 11-22-04, which area is generally described as being bounded on the west of the City of Pikeville by the Levisa Fork of the Big Sandy River and bounded around the downtown of the city by the top of the ridgelines overlooking the former stream bed of the Levisa Fork of the Big Sandy River.

(a) The following advertising devices shall be exempt from the prohibition contained in division (C)(3) above:

1. The signs allowed in divisions (A) and (B) hereinabove.
2. Advertising devices advertising the primary nature of the business or industry conducted on the property on which they are located which may be placed not closer than twenty (20) feet to the street right-of-way line, but shall in no case be permitted to obstruct the view of traffic nor exceed an area ten (10) square feet. The height of all such signs shall not exceed twenty-five (25) feet.
3. In the central business district where building may be built up to the street and/or sidewalk right-of-way line, a sign allowed in division (C)(3)(a)2. above may be placed upon the face of the structure facing the right-of-way line which does not exceed ten (10) square feet. In the central business district where building may be built up to the sidewalk right-of-way line, overhanging and projecting signs shall be permitted provided they comply with the other provisions of this chapter, with the regulations contained in the state building code as now or hereafter amended, shall project not more than twenty-four (24) inches over any sidewalk or right-of-way line, shall not exceed four (4) square feet in area, and the bottom of such sign shall not be less than twelve (12) feet above the finish grade of the sidewalk.

(4) Advertising devices in all commercial districts, central business districts and all manufacturing (I) districts outside of the area described in division (C)(3) above shall not be erected, placed, painted, repainted, or hung near to the street right-of-way line upon which the display faces than the building (set back) line provided in the district where the use is permitted but in no case be permitted to obstruct the view of traffic nor exceed an area of twelve (12) square feet.

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The height of all advertising devices permitted under this division (C)(4) shall not exceed seventy-five (75) feet in total height. The Building Inspector shall be permitted to allow a variance to this height limitation if the location of an advertising device (at the maximum seventy-five (75) feet height) advertising the primary nature of the business conducted on the property on which it is located or within two thousand (2,000) feet of the business advertised (if the advertising device is not located on the property where the business advertised on the sign is located), cannot be seen by motorists in both directions of the highway or street in which the property fronts at a distance up to three hundred (300) feet from an entrance to the property but only to the extent necessary to be viewed by motorists at a distance of three hundred (300) feet and in no case exceeding one hundred fifty (150) feet in height.

(5) The area of all permanent advertising signs for any single enterprise shall not exceed three hundred (300) square feet.

(6) Advertising devices will not be illuminated by other than white lights. An advertising device which used lighting in any way shall be effectively shielded as to prevent beams or rays of light from being directed at any portion of the main traveled way of a street or road or unless it is of a low intensity or a low brilliance so as not to cause glow or not to impede the vision of the driver of any motor vehicle or otherwise interfere with the driver's operation of a motor vehicle or resemble traffic or directional signals, warnings or other similar signals which are normally associated with highway safety. Additionally, it shall be effectively shielded as to prevent beams or rays of light of such intensity of illumination as to unduly disturb the use of residential property. All advertising devices will fully comply with all state and federal requirements and limitations.

(7) For manufacturing districts (I) only: one (1) free standing identification sign displaying only the name and address of the industry may be erected for each separate street frontage, not to exceed one hundred (100) square feet in size and shall have a maximum height of twenty-five (25) feet.

(8) Planned unit developments and river fill districts advertising devices will be determined by the Board of Zoning Adjustment as a normal portion of the review process prior to issuing approval of a final plat, subject however to limitation that such signs within the boundary described in division (C)(3) above shall fully conform with the restrictions contained in division (C)(3).

(9) Nonconforming advertising devices may exist only so long as it is:

- (a) Not destroyed, abandoned or discontinued;
- (b) Subject to only routine maintenance;
- (c) In conformance with the Kentucky Building Code.

(d) Performance of other than routine maintenance on a nonconforming advertising device shall cause it to lose its non-conforming status and to be classified as illegal.

Zoning Code

(e) **ABANDONED** or **DISCONTINUED** means that for a period of one (1) year or more that the device:

- (1) Has not displayed any advertising matter;
- (2) Has not displayed obsolete advertising matter; or
- (3) Has needed substantial repairs.

(f) Nonconforming advertising devices which have been wholly or partially destroyed or damaged by act of God, calamity, fire or vandalism shall lose its nonconforming status and be classified as illegal.

(g) All nonconforming advertising devices shall become illegal seven (7) years from the passage of this amendment.

(10) With the exception to the authority granted to the Building Inspector grant size limitation variances in division (C)(4) above, the Board of Zoning Adjustments shall have the power to hear and decide on applications for size variances for permitted signs herein whereby reason of the size or unusual nature of the business sought to be advertised thereon or some other extraordinary situation or condition of the site, the literal enforcement of the size requirements for signs would deprive the applicant of the reasonable capacity to advertise on the site in a manner equivalent to the ability of other land owners in the same zone. The Board may impose any reasonable condition or restriction on any variances it decides to grant.
(Ord. passed 1-27-87; Am. Ord. 0-98-011, passed 5-28-98; Am. Ord. 04-0- , passed 11-22-04)

§ 156.148 SIGN PERMITS.

Permits may be obtained from the Codes Enforcement Officer with payment of the appropriate fee. All applications for sign permits shall be accompanied by a drawing of the sign, indicating its dimensions and the location of the sign on the building or premises. Written permission of the owner of the land on which the sign appears must be filed with the sign permit.
(Ord. passed 1-27-87)

Cross reference:

Schedule of fees, see § 156.016

§ 156.149 PROHIBITED SIGNS; REMOVAL.

(A) Prohibited signs shall be removed upon enactment of this chapter.

(B) The following prohibitions shall apply to signs in all districts, except as permitted elsewhere in this zoning code:

(1) No streamers or other additions or apparatus shall be added to any sign except as permitted elsewhere in this chapter.

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(2) No spot light, flood light, luminous tubes or lighted signs shall be installed in any way which will permit the direct rays of such light to penetrate into any residential building.

(3) No advertising device, of which all or part is set in motion by movement of the atmosphere, including fluttering or rotating, shall be permitted.

(4) Neon lighting and tubing may be used on permitted signs, but it is not permitted to outline buildings or structures or ornamental features by use of exposed neon tubing, strings of lights, or otherwise.

(5) No sign, whether illuminated or not, shall project into the line of vision of a motorist or an official traffic sign at a street or railroad intersection within one hundred fifty (150) feet of such signal and no sign visible from the street shall contain the word "danger" or "stop" with the intent of simulating street, traffic, or other official signs.

(6) No wall sign shall be attached to, or obstruct, any window, door, stairway, fire escape, or other opening intended for egress and ingress or for needed ventilation and light.

(7) No sign shall be attached to any tree, fence, or utility pole.

(8) Any sign now or hereafter existing, which no longer advertises a bona fide business conducted, product sold, or activity or campaign being conducted, shall be taken down and removed by the owner, agent, or person having the beneficial use of the building, structure, or lot upon which the sign may be found, within ten (10) days after written notification from the Codes Enforcement Officer within the time specified in such order. Upon failure to comply with this notice within the time specified in such order, the Codes Enforcement Officer is hereby authorized to cause removal of such sign, and any expense incident thereto shall be paid by the owner of the building, structure, or lot which that sign is attached.

(9) Gooseneck and thinline reflectors and lighting shall be permitted on indirectly illuminated signs provided such reflectors and lights do not extend more than six (6) feet beyond the sign structure to which attached and such illumination is directed upon the face of the sign to reduce the possibility of direct light rays shining into adjoining property or the public way.

(10) No light, sign, or other advertising structure shall be erected in such a manner or location as to be confused by reason of position, shape, or color with any authorized sign, signal, or device.

(Ord. passed 1-27-87) Penalty, see § 156.999

§ 156.150 MAINTENANCE OF SIGNS.

All signs or outdoor advertising structures or surfaces shall be properly maintained and repaired to prevent threats to public health and safety and to preserve the aesthetic appeal. The Codes Enforcement Officer shall have the authority to order the repair, repainting, alteration, or

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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. If an outdoor advertising structure or surface is not maintained, the Codes and Zoning Enforcement Officer shall notify in writing the owner, agent, or person having the beneficial use of the building,

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structure, or lot upon which the sign may be found, to alter such sign as to comply with this subchapter within thirty (30) days.

(Ord. passed 1-27-87) Penalty, see § 156.999

§ 156.151 VIOLATIONS.

In case any sign shall be installed, erected, constructed, or maintained in violation of any of the terms of this subchapter, the Codes and Zoning Enforcement Officer shall notify in writing the owner, agent, or person having the beneficial use of the building, structure, or lot upon which the sign may be found to alter such sign so as to comply with this subchapter within thirty (30) days. Upon failure to comply with such notice, within the time specified, the Codes and Zoning Enforcement Officer is hereby authorized to cause removal of such sign, and any expense incident thereto shall be paid by the owner of the building, structure, or lot to which such sign is attached and same shall constitute a lien against the property in the same manner as the city ad valorem taxes.

(Ord. passed 1-27-87)

AMENDMENTS

§ 156.170 LEGISLATIVE BODY MAY AMEND REGULATIONS.

Whenever the public necessity, convenience, general welfare, or good zoning practices require, the Board of Commissioners may, by ordinance, after receiving a recommendation thereon from the Planning Commission, amend, supplement, change, or repeal the regulations and restrictions of this chapter and the boundaries or classifications of property.

(Ord. passed 1-27-87)

Cross reference:

Zoning map changes, see Tables of Special Ordinances, Table VIII

§ 156.171 AMENDMENT PROCEDURE.

(A) A proposal for amendment to the official zoning map may originate with the Planning Commission, the Board of Commissioners, or any other government body; the owner of the subject property; or a person having written authorization from the owner of the subject property. A property or text amendment of this chapter may originate with any person or governmental body.

(B) 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 chapter and the Planning Commission. The Planning Commission may require the submission of further information subsequent to the filing of an application as provided by this chapter and the Planning Commission.

(C) At the time of filing an application, the applicant shall pay a twenty-five dollar (\$25.00) non-returnable filing fee to the Codes and Zoning Enforcement Officer and shall further make a seventy-five dollar (\$75.00) deposit to defray advertising, mailing, and other costs incurred

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by the city as a result of the application. The Finance Director/City Clerk/Tax Administrator shall pay advertising and mailing costs from the deposit, and at the end of the proceedings, refund the balance, if any, to the applicant, or send a statement to the applicant for any additional amounts owed. However, there shall be no filing fee for an amendment requested by the Board of Commissioners, the Planning Commission, or any other governmental agency.

(D) All applications for a map amendment shall be accompanied by a plat of the subject property; a legal description shall also be required, as well as a vicinity map for publication of the zone change hearing. Such map shall show area to be considered and shall be to the scale of one (1) inch to six hundred (600) feet. However, applications originating from the Planning Commission, the Board of Commissioners or other governmental body may be affected by reference to a map without the necessity of filing a plat or legal description. Requests for rezoning portions of lots shall not be considered.

(E) Upon the filing of an application for an amendment to the official zoning map or the text of this chapter, the Planning Commission shall study and review the application as provided in this chapter and the bylaws of the Planning Commission. All information concerning the requested changes must be filed no later than twenty-one (21) days before the expected hearing date.

(F) Upon the filing of an application for a map amendment, the Planning Commission shall promptly notify the owner of the subject property, as well as adjacent property owners, of public hearing by registered mail or certified mail, receipt requested. It shall be the duty of the person proposing the amendment to furnish the Planning Commission with correct names and addresses of all owners of adjacent property and addressed envelopes to each.

(G) Before voting upon any proposed amendment, notice of the time, place, and reason for holding the public hearing shall be given by publication in a newspaper of general circulation in the city, not earlier than twenty-one (21) days nor later than seven (7) days before such public hearing. Notice of the hearing on a map amendment shall be posted conspicuously on the property the classification of which is proposed to be changed, for fourteen (14) consecutive days before the hearing, and the application shall be responsible for compliance with this provision.
(Ord. passed 1-27-87)

§ 156.172 FINDINGS NECESSARY FOR MAP AMENDMENT.

(A) Before any map amendment is granted, the Planning Commission or the Board of Commissioners must find that the map amendment is in agreement with the community's comprehensive plan, or, in the absence of such findings, that one or more of the following apply; and such finding shall be recorded in the minutes and records of the Planning Commission and the Board of Commissioners.

(1) The original zoning classification given to the property was inappropriate or improper.

(2) There have been major changes of an economic, social or physical nature with the area involved which were not anticipated in the community's comprehensive plan and

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which have substantially altered the basic character of such areas.

(B) The Planning Commission shall make recommendations concerning these findings to the Board of Commissioners involved, and it shall take a majority of the entire Board of Commissioners to override the recommendation of the Planning Commission.
(Ord. passed 1-27-87)

§ 156.998 VIOLATIONS.

Whenever a violation of this chapter occurs, or is alleged to have occurred, any person may file a written complaint stating fully the causes and basis thereof, with the Administrative Official. The Administrative Official shall properly record such complaint, immediately investigate, and take action thereof as provided by this chapter.
(Ord. passed 1-27-87)

§ 156.999 PENALTY.

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

(B) Any person who so violates this chapter or fails to comply with any of its requirements except as provided in § 156.018 (B) shall, upon conviction thereof, be fined not less than one hundred dollars (\$100.00) but no more than five thousand dollars (\$5,000.00) for each offense. Each day of violation shall constitute a separate offense.

(C) Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation.
(Ord. passed 1-27-87)

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CHAPTER 157: HISTORIC PRESERVATION

Section

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§ 157.01 PURPOSE AND DECLARATION OF PUBLIC PROPERTY.

(A) The Board of Commissioners declares as a matter of public policy that the preservation, protection, and use of landmarks and historic districts is a public necessity because they have a distinct character or a special historic, architectural, or cultural value and thus serve as visible reminders of the history and heritage of this city, state and nation. The Board of Commissioners finds that this chapter benefits all the residents of the city and all the owners of property and declares as a matter of public policy that this chapter is required in the interest of the health, prosperity, safety, welfare and economic well-being of the people.

(B) The purpose of this chapter is to effect the goals as set forth in the above findings and declaration of public policy and specifically, but not exclusively, to:

- (1) Effect and accomplish the preservation, protection and use of historic districts and landmarks having a distinctive character or a special historic, architectural or cultural value to this city, state and nation;
- (2) Promote the educational, cultural, economic and general welfare of the people and safeguard the city's history and heritage as embodied and reflected in such landmarks and districts;
- (3) Stabilize and improve property values in such districts and in the city as a whole;
- (4) Provide a review process for the preservation and continued use of designated historic properties;
- (5) Foster civic pride in the value of notable accomplishments of the past;
- (6) Strengthen the economy of the city;

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(7) Protect and enhance the city's attractions to residents, tourists and visitors and serve as a support and stimulus to business and industry; and

(8) Enhance the visual and aesthetic character, diversity and interest of the city.
(Ord. 0-90-028, passed 8-27-90)

§ 157.02 DEFINITIONS.

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

ALTERATION. Any construction on or change to the exterior of a designated historic property when the construction or change is visible to the public and may be seen by a person located on a public street. An alteration shall include construction or changes on lots containing landmarks and lots within a historic district. An alteration shall not include painting and ordinary maintenance repair.

BOARD. The Pikeville Historic Preservation Board.

CERTIFICATE OF APPROPRIATENESS. The document, issued by the Historic Preservation Board, which gives its approval for work to be done on a designated historic property. A certificate of appropriateness must be issued prior to the issuance of a building permit. A certificate of appropriateness may contain conditions relating to the proposed work.

CERTIFIED LOCAL GOVERNMENT. A government meeting the requirements of the National Historic Preservation Act Amendments of 1980 (P.L. 96-515) and the implementing regulations of the U.S. Department of the Interior and the Kentucky Heritage Council.

DEMOLITION. Any act that destroys in whole or in part a designated historic property.

DESIGNATED HISTORIC PROPERTY. A landmark or a building or structure in a historic district. A landmark or historic district shall be established by the Board of Commissioners. The designated historic property shall include all lots within a historic district and the entire lot containing a landmark.

HISTORIC DISTRICT. An area of architectural, historical or cultural significance to the city, state or nation that meets one (1) or more of the criteria contained in § 157.06 and has been designated by the city. The district shall include all lots within the boundaries of the district.

LANDMARK. A building, a structure, an object or a location of architectural, historical or cultural significance to the city, state or nation that meets one (1) more of the criteria contained in § 157.06 and has been designated by the city. A landmark shall include a historical site that was the location of a significant historical event. A landmark shall include the entire lot containing a landmark including related buildings and structures and the land that provides the grounds, the premises and the setting for the landmark.

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ORDINARY MAINTENANCE AND REPAIR. Any work, the purpose of which is to correct deterioration or to prevent deterioration of a designated historic property. The work shall restore the property to its appearance prior to deterioration or shall result in the protection of its present appearance. The work shall involve the use of the same building materials or available materials that are as close as possible to the original.

(Ord. 0-90-028, passed 8-27-90)

§ 157.03 PIKEVILLE HISTORIC PRESERVATION BOARD.

(A) There is hereby established the Pikeville Historic Preservation Board. The Board shall consist of five (5) members appointed by the Mayor and approved by the Board of Commissioners. The members shall have demonstrated interest in historic preservation, and at least two (2) members shall have training or experience in a preservation-related profession, architecture, history, archaeology, architectural history, planning or related fields. When one (1) or two (2) professional members are not available, the Mayor may appoint other persons interested in historic preservation to serve. When the Board reviews an issue that is normally evaluated by a professional member and the field is not represented on the Board, the Board shall seek expert advice before rendering its decision. In making appointments, the Mayor shall seek to include a member who is active in real estate. Members of the Board shall serve without compensation, but they shall be reimbursed for expenses incurred in the performance of their duties in accordance with the rules adopted by the Board.

(B) The terms of office of the members shall be four (4) years, except the terms of two (2) members of the original Board shall expire after two (2) years and the terms of two (2) members of the original Board shall expire after one (1) year. Each member shall serve until the appointment and qualification of his or her successor. When a vacancy occurs during a term of office, it shall be filled within sixty (60) days, and the person selected shall be appointed for the unexpired portion of the term.

(C) The Board shall each year elect members to serve as Chairman, Vice Chairman and Secretary. The Chairman shall preside at meetings of the Board and shall have the right to vote. The Chairman shall be the spokesman for the Board in presenting its policy to the city government and to the public. In the absence or disability of the Chairman, the Vice Chairman shall perform his or her duties. The Secretary shall prepare the minutes of the Board's meetings which shall be available for public inspection. The Board shall submit periodic reports to the Commission, the frequency and content of which shall be determined by the Commission.

(D) No members of the Board shall vote on any matter that may affect the property, income or business interests of that member.

(E) The Board, in addition to any appropriations made by the city, shall have the right to receive, hold and spend funds which it may legally receive from any source both in and out of the Commonwealth for the purpose of carrying out the provisions of this chapter. The Board shall at all times fully comply with the Kentucky Model Procurement Code as adopted by the Commission.

(Ord. 0-90-028, passed 8-27-90; Am. Ord. 07-0-002, passed 2-26-07; Am. Ord. 07-0-005, passed 2-26-07)

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§ 157.04 POWERS AND DUTIES OF THE BOARD.

(A) In addition to the powers and duties stated elsewhere, the Board shall take actions necessary and appropriate to accomplish the purposes of this chapter. These actions may include, but are not limited to:

(1) Conducting a survey of historic buildings and areas and preparing a plan for their preservation;

(2) Recommending the designation of historic districts and individual landmarks;

(3) Regulating changes to designated historic property, including proposed alterations that are visible to the public; demolitions; relocations and new construction;

(4) Adopting guidelines for changes to designated historic property;

(5) Working with and advising the federal, state and county governments and other parts of city government;

(6) Advising and assisting property owners and other persons and groups, including neighborhood organizations who are interested in historic preservation;

(7) Initiating plans for the preservation and rehabilitation of individual historic buildings; and

(8) Undertaking educational programs including the preparation of publications, the placing of historic markers and the recognition of successful rehabilitation projects.

(B) In making its survey of historic buildings and areas, the Board shall conduct this work in accordance with the guidelines of the Kentucky Heritage Council. The Board shall provide that its survey and preservation plan shall be maintained and continued. The Board shall use the preservation plan to assist the city in its overall planning efforts.

(C) The Board shall adopt and make public rules for the transaction of its business and shall hold monthly public meetings and special public meetings, when necessary. All meetings shall have a previously available agenda and shall comply with the Kentucky Open Meeting Statute (KRS 61.805). A simple majority of the membership shall be required for decisions involving historic buildings and areas.

(D) The Board shall prepare and keep on file, available for public inspection, a written annual report of its activities, cases, decisions, qualifications of members and other work.

(E) The Board shall receive assistance in the performance of its responsibilities from a city staff member whose assigned duties shall include this work with the Board and who shall have

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expertise in historic preservation or a closely-related field. Other city staff members may be asked to assist the Board by providing technical advice or helping in the administration of this chapter. (Ord. 0-90-028, passed 8-27-90; Am. Ord. 07-0-002, passed 2-26-07)

§ 157.05 NOMINATIONS TO THE NATIONAL REGISTER OF HISTORIC PLACES.

(A) To participate in the Certified Local Government Program, the city shall initiate all local nominations to the National Register of Historic Places and shall request the Commission and the Board to submit recommendations on each proposed nomination to the National Register. The Commission and the Board shall obtain comments from the public that shall be included in their National Register recommendations. Within sixty (60) days of the receipt of a nomination from a private individual or the initiation of a nomination by the city, the city shall inform the Kentucky Heritage Council and the owner of the property of the two (2) recommendations regarding the eligibility of the property. If the Commission and the Board do not agree, both opinions shall be forwarded in the city's report. If both the Commission and the Board recommend that a property not be nominated, the Kentucky Heritage Council shall inform the property owner, the State Review Board and the State Historic Preservation Officer, and the property will not be nominated unless an appeal is filed with the State Historic Preservation Officer.

(B) If either or both the Commission and the Board agree that a property should be nominated, the nomination will receive a preliminary review by the Kentucky Historic Preservation Review Board. The Review Board shall make a recommendation to the State Historic Preservation Officer who shall decide whether to forward the nomination to the U.S. Secretary of the Interior who shall make the decision on listing the property on the National Register. The Commission, the Board or the property owner may appeal the final decision by the State Historic Preservation Officer.

(C) In the development of the Certified Local Government Program, the city may ask the Board to perform other responsibilities that may be delegated to the city under the National Historic Preservation Act. (Ord. 0-90-028, passed 8-27-90)

§ 157.06 DESIGNATION OF LANDMARKS AND HISTORIC DISTRICTS.

(A) The Board shall recommend to the Board of Commissioners the designation of individual landmarks and historic districts, and the Board of Commissioners shall make these designations by the enactment of ordinances. Each designation of a landmark shall include its entire lot including related buildings and structures and the land that provides the grounds, the premises and the setting for the landmark.

(B) Consideration of the designation of a landmark or a historic district may be originated by the Board or by the filing of an application for designation by a property owner, any resident of the city or any organization in the city. A person or an organization proposing a designation shall give the Board the names and addresses of the owners of the affected property and the owners of all adjoining property as listed on the tax rolls of the city.

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(C) The Board shall assemble information about a property or district being considered for designation and shall schedule a public hearing on the proposed designation. Advertised notice of the hearing shall be given, including conspicuous posting on the property or in the proposed district. At least fifteen (15) days prior to the public hearing, written notice shall be given by registered mail to the owners of property under consideration and the owners of all adjoining property. Written notice shall be considered sufficient when it is mailed to the person listed on the tax rolls of the city.

(D) Before its public hearing on the first designation in the city, the Board shall adopt general guidelines that will apply to the city's landmarks and historic districts and will assist owners in the preservation and rehabilitation of their property. The general guidelines shall include to the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings and other guidelines that will apply to all designated property in the city. Before each public hearing on a designation, the Board may adopt additional guidelines that will supplement the general guidelines and will apply to the property under consideration if it is designated. The guidelines shall not limit new construction to any one architectural style, but shall seek to preserve the character and, integrity of the landmark or the historic district. The guidelines shall suggest changes that would be appropriate for landmarks or for property in historic districts. After a designation, the Board may expand or amend the guidelines it has adopted provided it holds a public hearing on the changes and submits the proposed changes to the Board of Commissioners for its comments.

(E) Owners and any interested parties may present testimony and evidence at the public hearing on the designation. The record on the designation may also include letters received by the Board.

(F) A landmark or historic district shall qualify for designation when it meets one (1) or more of the following criteria which shall be discussed in a Board report making its recommendations to the Board of Commissioners:

(1) Its value as a visible remainder of the cultural heritage of the city, state or nation;

(2) Its location as a site of a significant local, state or national event;

(3) Its identification with a person or persons who significantly contributed to the development of the city, state or nation;

(4) Its identification as the work of a builder, designer or architect whose work has influenced the development of the city, state or nation;

(5) Its value as a building that is recognized for the quality of its architecture and that retains sufficient elements showing its architectural significance;

(6) Its value as a building with distinguishing characteristics of an architectural style that are significant for the study of a period, method of construction or use of materials;

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(7) Its character as a geographically definable area possessing a significant concentration of buildings that are well designed and other structures all of which are united by past events or by a plan or physical development; or

(8) Its character as an established and geographically definable neighborhood, united by culture, architectural styles or physical development.

(G) After evaluating the testimony and evidence at its public hearing, and all letters, survey information and other material it has assembled, the Board shall make its recommendation to the Board of Commissioners with a written report on the property or area under consideration.

(H) The Joint Planning Commission shall then report on the relationship between the proposed designation and existing and future plans for the development of the city. If the Joint Planning Commission approves of the proposed designation; it shall amend the comprehensive plan to include the proposed designation and shall recommend a change in the zoning map to show the proposed historic designation. The Joint Planning Commission shall forward its comments, the Comprehensive Plan amendment, and the zoning map change to the Board of Commissioners. If the Joint Planning Commission does not approve the proposed designation, it shall forward its comments to the Board of Commissioners.

(I) The Board of Commissioners shall approve, modify or disapprove the proposed designation within sixty (60) days after receiving the recommendation of the Board and the material from the Joint Planning Commission. If the Board of Commissioners decides to make a designation and no comprehensive plan amendment has been adopted and no zoning map change has been recommended, the Board of Commissioners shall request the Joint Planning Commission to reconsider its earlier decision and shall provide that the designation shall take effect after these preliminary steps have been approved.

(J) A historic district shall be an overlay zoning district as provided in the Zoning Code and shall be subject to the use and development regulations and other rules of its underlying zoning district. A landmark shall be subject to the use and development regulations and other rules of its zoning district. When there is a conflict between this chapter and the use and development regulations and other rules of the zoning district, the provisions of this chapter shall be applied.

(K) The Board shall notify each owner of the decision relating to his property and shall arrange that the designation of a property as a landmark or as a part of a historic district be recorded in the land records of the county. The Board shall ask that fees be waived for the city documents recording the designations, the Board shall also give notice of the decision to the government offices in the city and county which shall retain them for future reference.

(L) The amendment or rescission of any designation shall be accomplished through the same steps as were followed in the original designation.
(Ord. 0-90-028, passed 8-27-90)

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§ 157.07 REVIEW OF CHANGES TO LANDMARKS AND PROPERTY IN HISTORIC DISTRICT.

(A) A certificate of appropriateness from the Board shall be required before a person may undertake the following actions affecting a landmark or a property in a historic district:

- (1) Alteration of the exterior part of a designated historic property that is visible to the public and may be seen by a person located on a public street;
- (2) New construction;
- (3) Demolition; or
- (4) Relocation.

(B) The Building Inspector shall forward to the Board every application for a permit that would authorize an exterior alteration visible to the public, or any new construction, demolition or relocation affecting a landmark or a property in a historic district. When a person wishes to undertake an exterior alteration visible to the public affecting a landmark, or a property in a historic district that does not require a building permit, that person shall apply directly to the Board. The applicant shall provide the Board, where applicable, with drawings of the proposed work, photographs of the existing building and adjacent properties, and information about the building materials to be used.

(C) The Board shall hold a public hearing on each certificate of appropriateness within thirty (30) days after a completed application is received by the Board. The Board shall make a decision on the application within forty five (45) days after the receipt of a completed application provided that the Board may extend the time for decision for an additional sixty (60) days when the application is for demolition or new construction. The Board shall approve or disapprove each application, and it shall give its reasons for its decision using the criteria contained in this section and its guidelines. The Board may suggest modifications to an application and may then approve a certificate of appropriateness providing for revisions in the plans submitted. If the Board fails to decide on an application within the specified time period, the application shall be deemed approved. Applicants shall be given notice of the public hearings and meetings relating to their application and shall be informed of the Board's decision. Advertised notice of the hearing shall be given, including conspicuous posting on the property.

(D) (1) In making a decision on an application, the Board shall use the general guidelines and the guidelines it has adopted for that landmark or historic district. The Board shall consider:

- (a) The effect of the proposed work on the landmark or the property upon which such work is to be done;
- (b) The relationship between such work and other property in the historic district.

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(2) In evaluating the effect and the relationship, the Board shall consider historical and architectural significance, architectural style, design, arrangement, texture, materials and color. The certificate from the Board shall not relieve the property owner from complying with the requirements of other state and local laws and regulations.

(E) In making a decision on an application, the Board shall be aware of the importance of finding a way to meet the current needs of the applicant. The Board shall also recognize the importance of approving plans that will be reasonable for the applicant to carry out. Before an applicant prepares his plans, he may bring a tentative proposal to the Board for its comments. The Board shall not regulate the color of paint used on designated historic properties, but it may prepare and distribute material on paint colors appropriate for different types and styles of buildings. The Board shall strongly consider the cost in the community of obtaining the requirements set forth by the Board in regard to the plans of the applicant as compared with the cost of conventional construction.

(F) When an applicant wishes to demolish a landmark or a building or structure in a historic district, the Board shall negotiate with the applicant to see if an alternative to demolition can be found. The Board may ask interested individuals and organizations for assistance in seeking alternative to demolition and in obtaining estimates on rehabilitation costs for the threatened building. After its public hearing, the Board may decide that a building or structure may be demolished because it does not contribute to the historic district or the landmark. On all other demolition applications, the Board shall study the question of economic hardship for the applicant and shall determine whether the landmark or the property in the historic district can be put to reasonable beneficial use without the approval of the demolition application. In the case of an income-producing building, the Board shall also determine whether the applicant can obtain a reasonable return from his existing building. The Board may ask applicants for additional information to be used in making these determinations. If economic hardship or the lack of a reasonable return is not proved, the Board shall deny the demolition application unless the Board finds grounds to grant the demolition application under the points contained in division (D) of this section.

(G) (1) When an applicant wishes to move a landmark or a building or structure in a historic district or wishes to move a building or structure to a landmark or to a property in a historic district, the Board shall consider:

- (a) The contribution the building or structure makes to its present setting;
- (b) Whether there are definite plans for the site to be vacated;
- (c) Whether the building or structure can be moved without significant damage to its physical integrity; and
- (d) The compatibility of the building or structure to its proposed site and adjacent properties.

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(2) These considerations shall be in addition to the points contained in division (D) of this section.

(H) In the event work is being performed without the required certificate of appropriateness, the Board shall ask that a stop work order be issued. In the event work is being performed that is not in accordance with the certificate approving the proposed work, the Board shall ask that a stop work order be issued. All work shall cease on the designated historic property, and no additional work shall be undertaken as long as the stop work order shall continue in effect. The city can apply in Circuit Court for an injunction to enforce its stop work order.

(I) The applicant shall have the right to appeal to the Circuit Court from a decision of the Board on an application for a certificate of appropriateness.
(Ord. 0-90-028, passed 8-27-90) Penalty, see § 157.99

§ 157.08 EMERGENCY CONDITIONS.

In any case where the Building Inspector determines that there are emergency conditions dangerous to life, health or property affecting a landmark or a property in a historic district, he may order the remedying of these conditions without the approval of the Board. The Building Inspector shall promptly notify the Chairman of the Board of the action being taken.
(Ord. 0-90-028, passed 8-27-90)

§ 157.09 MAINTENANCE AND REPAIR OF LANDMARKS AND PROPERTY IN HISTORIC DISTRICTS.

(A) Ordinary maintenance and repairs may be undertaken without a certificate of appropriateness provided this work on a landmark or a property in a historic district does not change its exterior appearance that is visible to the public. The work shall involve the use of the same building materials or available materials that are as close as possible to the original.

(B) (1) Every person in charge of a landmark or a property in a historic district shall keep in good repair:

(a) All of the exterior portions of such buildings or structures; and

(b) All interior portions thereof which, if not so maintained, may cause such buildings or structures to deteriorate or to become damaged or otherwise to fall into a state of disrepair.

(2) The purpose of this provision is to prevent a person from forcing the demolition of his building by neglecting it and permitting damage to the building by weather or vandalism. No provision in this chapter shall be interpreted to require an owner or tenant to undertake an alteration or to restore his building to its original appearance.

(C) The Board shall request a meeting with a property owner when his landmark or his building in a historic district is in poor repair, and the Board shall discuss with the owner ways to

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improve the condition of his property. After this step, the Board may request the Building Inspector to take action to require correction of defects in any building or structure designated under this chapter so that such building or structure shall be preserved in accordance with the purposes of this chapter. Action taken by the city may include boarding up the doors, windows and other parts of the building and additional steps to stabilize walls, roofs and other parts of the building or structure.

(D) The provisions of this section shall be in addition to all other provisions of the Kentucky Building Code requiring buildings and structures to be kept in good repair.

(Ord. 0-90-028, passed 8-27-90) Penalty, see § 157.99

§ 157.10 ADOPTION OF HISTORICAL PRESERVATION DESIGN AND REVIEW GUIDELINES.

The historical preservation design and review guidelines prepared by the Historical Preservation Board are hereby adopted at length, as if fully set forth herein, as the enforcement guidelines and regulations for this chapter.

(Ord. 0-92-006, passed 3-23-92)

§ 157.99 PENALTY.

Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor and shall be fined not less than fifty dollars (\$50.00), nor more than five hundred dollars (\$500.00) for each offense. Each day's violation shall constitute a separate offense. Violation of a stop work order issued pursuant to § 157.99 shall be a misdemeanor offense punishable by imprisonment not to exceed one (1) year.

(Ord. 0-90-028, passed 8-27-90)

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