

ORDINANCE NUMBER 393

ZONING ORDINANCE

FOR

**CITY OF BRANDENBURG
MEADE COUNTY, KENTUCKY**

**PREPARED FOR
BRANDENBURG PLANNING AND ZONING COMMISSION**

**BY
LINCOLN TRAIL AREA DEVELOPMENT DISTRICT
ELIZABETHTOWN, KENTUCKY**

**REVISED BY
BRANDENBURG PLANNING & ZONING COMMISSION**

Under Supervision and Administration of
The Department for Local Government
Commonwealth of Kentucky

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TITLE: ZONING ORDINANCE FOR
BRANDENBURG, KENTUCKY

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UPDATED & REVISED: BRANDENBURG PLANNING COMMISSION
BRANDENBURG, KENTUCKY

SUBJECT: ZONING ORDINANCE

LOCAL PLANNING AGENCY: BRANDENBURG PLANNING COMMISSION

REGIONAL PLANNING AGENCY: LINCOLN TRAIL AREA DEVELOPMENT
DISTRICT

STATE PLANNING AGENCY: DEPARTMENT OF LOCAL GOVERNMENT

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ABSTRACT:

The Zoning Ordinance serves as one mechanism for implementation of the overall plans developed and adopted by the Brandenburg Planning and Zoning Commission. This Ordinance provides standards and criteria for facilitating orderly physical, cultural and social development and compatible land use within the City of Brandenburg.

TABLE OF CONTENTS

<u>SUBJECT</u>	<u>PAGE</u>
Introduction	04
Definition	05
Administration	10
Zoning Map & Nonconforming Uses	14
Amendment	16
Violations, Penalties and Liabilities	18
General Provisions	19
Permitted Uses	21
Home Occupations	21
Single Family R-1	28
Two-Family R-2	31
Multi-Family R-3	34
Commercial Districts	37
Central Commercial C-1	40
Highway Commercial C-2	43
Industrial Districts	46
Light Industry I-1	50
Heavy Industry I-2	52
Agriculture	55
Off-Street Parking	56
Mobile Home Park Regulations	59
Subdivision Regulations	63
Enforcement	71
Schedule of Fees	73
Effective Date	74
Cellular Telecommunication Facility	75
Buffer-Landscaping Standards	87
Planned Unit Development	95
Sexually Oriented Business	97

SECTION I

INTRODUCTION

1.1 TITLE

This ordinance shall be known and may be cited as the ZONING ORDINANCE FOR BRANDENBURG, KENTUCKY.

1.2 AUTHORITY

Pursuant to the authority granted to cities and counties by the Kentucky Revised Statutes (KRS) 100.201 to 100.213, the rules and regulation contained herein shall apply within the corporate limits of Brandenburg.

1.3 PURPOSE

The purpose of these regulations is to promote the public health, safety and general welfare of the citizens of Brandenburg by facilitating orderly and harmonious development through the regulation of population density and intensity of land use.

1.4 SEVERABILITY CLAUSE

If any word or words, phrase or phrases, sentence or sentences, paragraph or paragraphs of this ordinance should be declared unconstitutional, it shall not invalidate any other portion of the ordinance.

1.5 REPEAL OF CONFLICTING ORDINANCES AND REGULATIONS

All ordinances, regulations or parts thereof in conflict or inconsistent with the provisions of this ordinance are hereby repealed to the extent necessary to give the ordinance full force and effect

SECTION II

DEFINITIONS

For the purpose of these regulations, certain words, terms and phrases are to be used and interpreted as defined herein.

Accessory Building: a detached building, the use of which is incidental to that of the principal building on the same lot.

Accessory Use: a use incidental to the use of the principal building. An office for home occupations, as defined herein, shall be deemed an accessory use.

Administrative Official: means any department, employee, or advisory, elected or appointed body which is authorized to administer any provision of the zoning regulation, subdivision regulations, and if delegated, any provisions of any housing or building regulation or any other land use control regulation.

Agricultural Use: means the use of a tract of at least 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 or ornamental plants, including provision for dwellings for persons and their families who are engaged in the above agricultural use on the tract, but not including residential building development for sale or lease to the public.

Alley: any public or private way used for public travel, which is twenty (20) feet or less in width.

Apartment Building: a building arranged, designed or intended to be occupied by three (3) or more families living independently of each other.

Block: a unit of property entirely surrounded by public highways, streets, railroad rights-of-way, waterways, public parks, cemeteries, corporate boundary lines or other barriers (except alleys or crosswalks) or any combinations thereof

Board of Adjustment: The Board of Adjustment of the Brandenburg Planning & Zoning Commission.

Buffer Zone: A physical separation between two properties normally required between two different zones (eg. Commercial and residential).

The buffer will be aesthetically pleasing and will be functional in that it will eliminate (or reduce) one or all of the following: bright light, noise, sight of the adjacent building or parking area; any signage. The appropriate buffer will be decided on by the Planning & Zoning Commission.

Building: any structure erected or used so as to enclose residential, or other public or private activities, or activities accessory thereto; and including tents, lunch wagons, dining cars, mobile homes, trailers, trailer coaches, manufactured housing and similar structures, whether stationary or movable.

Building Height: the vertical distance from the average elevation of the finished grade at the front of the building to the highest point of the building.

Building Line (Building Setback Line): the line extending across a lot generally parallel to the street on which the lot faces.

Building Permit: the permit required for the construction, alteration or relocation of a building, and/or structure. The permit will be valid for 1 year from the date of approval/issuance.

Commission: the Brandenburg Planning & Zoning Commission.

County Clerk: The Clerk of a County.

Conditional Use: means a use which is essential to or would promote the public health, safety and welfare in one or more zones, but which would impair the integrity and character of the zone or adjoining zones in which it is located unless restrictions on location, size, extent and character of performance are imposed in addition to those required in this ordinance.

Conditional Use Permit: means legal authorization to undertake a conditional use, issued by the administrative official pursuant to authorization by the board of adjustments, consisting of two (2) parts;

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

Cul-de-sac: a short, local street having one end open to traffic and the other end permanently terminated by a vehicular turnaround.

Design: the arrangement of land for lots, rights-of-way, easements, setback lines and improvements to include alignment, grade, length and width of these elements.

Dimensional Variance: a departure from the terms of the zoning ordinance pertaining to the height or width of buildings or the size of lots where such deviation will not be contrary to the public interest due to existing conditions peculiar to the property because of size, shape or topography and not as the result of action by the applicant where the literal enforcement of the zoning ordinance would result in unnecessary and undue hardship.

Drainage Right-of-Way: the land required for the installation of storm water, sewers, or drainage ditches providing for the flow of water within a natural stream or from surface runoff to safeguard the public against flood damage.

Dwelling (Single-Family): a detached building designed exclusively for occupancy by one (1) family.

Dwelling (Two-Family): a building designed exclusively for occupancy by two (2) families living independently of one other.

Dwelling (Multiple-Family): a building designed for or occupied by three (3) or more families living independently of each other.

Easement: a grant by the property owner of the use of a strip of land or for a specific purpose by the general public or utility companies.

Flood Plain: the area adjoining the channel of a river, stream, watercourse, lake or body of water, which has been or may be covered by flood waters. See ordinance #317

Flood Hazard/Prone Area: all land subject to periodic inundation by the overflow of natural waterways.

Health Department: The Commonwealth of Kentucky or Meade County Health Department.

Home Occupation: An occupation, business activity, profession or trade which results in a product or service for financial gain or profit and is conducted in whole or in part in the dwelling unit and is clearly an accessory or incidental use of the dwelling unit. Any use of the yard will be incidental to use of the dwelling for the home occupation.

Improvements: the totality of grading, crosswalks, culverts, bridges, sanitary or storm sewers, water mains, street pavements, curbs and gutters, pedestrian ways, or all other appropriate improvements required to render land use suitable for the proposed use.

Junkyard: any place where five (5) or more junked, wrecked or non-operative automobiles, vehicles, machines and other similar scrap or salvage materials are deposited, parked, placed or otherwise located.

Legislative Body: the chief body of the City Council.

Lot: a parcel of land devoted to a common use or occupied by a single principal building and its accessory structures having its principal frontage upon a street or road.

Lot Corner: a lot situated at the intersection of two (2) or more streets or roads.

Lot Depth: the horizontal distance between the front/rear lot lines measured at right angles to the lot width at a point midway between the side lot lines.

Lot Width: the distance between the side lot lines measured at right angles to the lot depth at a point midway between the front and rear lot lines.

Manufactured Housing: Sloped roof, shingles, permanent foundation, multi sectional manufactured house that is compatible with surrounding homes.

Mobile Home: Any vehicle, trailer, or similar portable structure, with or without its own motive power, and used, designed, or constructed to be used as a conveyance on the public streets. The term “mobile home” when applicable, shall include the terms trailer, trailer coach, trailer cabin, camper, mobile office, mobile shop, and similar terms.

Mobile Home Park: any parcel of land proposed, developed or designed to be used for the location, temporary or permanent, of five (5) or more mobile homes.

Monument: an object (concrete, iron pin or pipe, etc.) set in the ground to mark the boundaries of real estate or mark a survey station.

Nonconforming Use: a building or use of the land existing at the time of enactment of this ordinance which does not conform to the regulations of the district or zone in which it is situated.

Non-Sexist Clause: The use of pronouns he, him, his, she, her, & hers throughout the ordinance are not intended to be gender specific, wherever they are found, they refer to both genders.

Plat: a map of a subdivision.

Plat, Preliminary: a map or plan of a proposed land subdivision containing the information and material specified in Section 21.5.

Plat, Flat: the record plat of a subdivision prepared by a registered Land surveyor in accordance with the requirements of Section 21.5.

Planned Unit Development (PUD): a complex of structures and uses designed as an integral unit of development rather than as single units on individual lots. (e.i., apartment complexes, multiple duplexes)
PUDS are allowed in the following zones: R-2/Residential-2, R-3/Residential -3, C-1/Commercial-1, C-2/Commercial-2. It is intended to allow for multiple buildings of similar uses on one lot.

Right-of-Way: the land opened or dedicated for a street, road, or sidewalk, drainage way, railroad, or other public purpose.

Street: any public right-of-way, which affords the primary means of access to abutting property.

Arterial Street: streets serving the major traffic movements entering, leaving or moving within an area. The principal function is to move traffic and, in cases of high traffic volumes, requires limited access or controlled points of access. Access to property is of secondary importance. These streets are normally characterized by traffic controls and parking restrictions.

Collector Street: streets, which provide for traffic movement between arterial and local streets and direct access to abutting properties.

Local Street: the sole purpose of a local street is to provide direct access to abutting properties. A cul-de-sac is classified as a local street

Structure: any man-made object, which is erected or constructed, which requires location on the ground, or which is attached to something having a location on the ground.

Subdivider: a person, firm, corporation, partnership, association, estate or any other group or combination acting as a unit for the purpose of subdividing or resubdividing a lot, tract or parcel of land into three (3) or more lots for the purpose of transfer of ownership or development.

Swimming Pools: any swimming pool that is at least eighteen (18) inches in height, requires a building permit before any construction begins. This includes in ground pools.

Variance: a departure from the strict compliance with the dimensional and area requirements of this ordinance which must be approved by the Board of Adjustment.

SECTION III
ADMINISTRATION

3.1 GENERAL REQUIREMENTS

- A. No land shall be used, and no structure be erected, altered or used except in conformity with all the provisions of this ordinance.
- B. No person, firm or corporation shall sell, lease or attempt to sell or lease any land or structure upon the representation, falsely made, such land or structure may be used in a manner or for a use prohibited by this ordinance.
- C. No permit, certificate, document or oral approval, the use of which may be subject to the provisions of this ordinance, shall be issued until the Commission shall have certified that the use be made of the permit, certificate, document or oral approval is in full compliance with the provisions of this ordinance.
- D. No structure shall be erected or altered until a building permit has been issued by the Administrative Official.
- E. No lot shall be reduced in such a manner that the total area, yards or open spaces shall be smaller than prescribed by this ordinance.
- F. No part of a required yard or open surface for one structure shall be included as part of the yard or open space for another structure.
- G. No mobile homes permitted except as stated in section 20.4. Temporary permits for mobile offices, for construction only jobs, will be issued for a six-(6) month period.

3.2 COMMISSION

The duties and powers of the Commission shall include:

- A. Enforcement of this ordinance.
- B. Undertaking investigations and surveys to determine compliance or noncompliance with the provisions of this ordinance.
- C. Make written orders requiring compliance with the provisions of this ordinance. Such orders shall be served by registered mail upon the person deemed by the Commission to be violating the provisions of

this ordinance. The date of mailing shall be deemed the date of service of any order served by registered mail.

- D. Institution in courts of proper jurisdiction proceedings for the enforcement of the provisions of this ordinance. The Commission attorney shall be the City Attorney of Brandenburg.

3.3 ADMINISTRATIVE OFFICIAL

- A. The Mayor shall designate an Administrative and/or an Assistant Administrative Official to be charged with and provided with the authority to enforce the orders, ordinances and regulations of the Commission.
- B. The duties and powers of the Administrative and/or Assistant Administrative Official include:
 - 1. Propose and recommend to the Commission the enactments of amendments to this ordinance for the purpose of improving administration and enforcement.
 - 2. Propose and recommend to the Commission the enactment of amendments to the official maps as necessary by judicial or administrative proceedings or as deemed desirable because of changing conditions.
 - 3. Review all applications and shall, upon compliance with this ordinance, and approve and issue building permits and home occupation permits.
 - 4. Receiving all applications for amendments to this ordinance and the official map, refer such applications to the appropriate agencies for examination and submit all applications with recommendations to the Commission.
 - 5. Administering rules and regulations established by the Commission
 - 6. Maintenance of a map or maps showing the current zoning classification of all land within the jurisdiction of the Commission.
 - 7. Maintenance of a current register of all nonconforming uses, variances and conditional use permits.

8. Recording with the City Clerk and/or the County Clerk all matters required to be recorded by the Commission.
9. Maintenance of Written records of all actions taken by the Commission under this ordinance.
10. Preparation of an annual financial report for submission to the Commission and City Council.

3.4 BOARD OF ADJUSTMENT

- A. A Board of Adjustment shall be appointed pursuant to the provisions of KRS 100.217 before this ordinance shall have legal effect.
- B. The Board of Adjustment shall conduct meetings at the call of the Chairman who shall give written notice to all members at least seven (7) days prior to the meeting. The notice shall contain the date, time and place for the meeting and the subject or subjects to be discussed. The Board shall also give notice to the public of such meetings as required in KRS Chapter 424 and shall give notice by registered mail to affected adjoining property owners.
 1. A simple majority of the total membership of the Board of Adjustment shall constitute a quorum. Any member of the Board of Adjustment who has any direct or indirect financial interest in the outcome of any question before the Board shall disclose the nature of the interest and shall disqualify himself from voting on the question.
 2. The Board of Adjustment shall adopt bylaws for the transaction of business and shall keep minutes and records of all proceedings including regulation, transactions, findings, determinations, the number of votes for and against each question, members absent and members abstaining from voting.
- C. The Board of Adjustment shall have the power to hear and decide applications for conditional use permits to allow the proper integration into the community of uses pursuant to the provisions of KRS 100.237.
- D. The Board of Adjustment shall have the power to hear and decide on applications for dimensional variances and conditional uses pursuant to the provisions of KRS 100.217 to .263. The findings necessary

for granting a variance by the Board of Adjustment shall include all of the following:

1. The specific conditions in detail which are unique to the applicant's land and do not exist on other land in the same zone.
 2. The manner in which the strict application of this ordinance would deprive the applicant of a reasonable use of the land in the manner equivalent to the use permitted other landowners in the same zone.
 3. That the unique conditions and circumstances are not the result of actions of the applicant taken subsequent to the adoption of this ordinance.
 4. That the variance will preserve and not harm the public safety and welfare or alter the essential character of the neighborhood and will not cause a hazard or a nuisance to the public.
- E. Appeals to the Board of Adjustment may be taken by any person or entity claiming to be injuriously affected or aggrieved by any official action, order, requirement, interpretation, grant, refused or decision of the Commission after notification of the action. The procedure for all appeals to the Board of Adjustment shall be pursuant to the provisions of KRS 100.261. The Board of Adjustment shall fix a reasonable time for hearing the appeal, give public notice in accordance with KRS Chapter 424, as well as provide written notice to the appellant and Administrative Official at least one (1) week prior to the hearing and shall decide it within sixty (60) days. Either party may appear at the hearing in person or by attorney.

SECTION IV

ZONING DISTRICT MAP AND NONCONFORMING USES

4.1 ADOPTION

- A. The City of Brandenburg is hereby divided into zones or districts as described in Section VIII and is shown on the Zoning District Map(s) which are hereby adopted by reference and declared to be a part of this ordinance.
- B. A complete and accurate copy of the official Zoning District Map(s) shall be filed and available for inspection in the Commission Office. A copy of the official map as originally adopted shall be filed and available for public inspection in the offices of the Brandenburg City Clerk.

4.2 DISTRICT BOUNDARY INTERPRETATIONS

- A. Where a zoning district boundary follow an alley, street, railroad, stream or body of water, the centerline of such feature is the boundary of the district.
- B. Where a zoning district boundary approximately follows a lot or property line, the line is the boundary of the district.
- C. Where a zoning district boundary does not clearly follow any of the features indicated in subsections A or B, the exact location on the ground shall be determined by measurement in accordance with the map scale.
- D. Where the area is divided into two (2) or more districts, the entire area may be used in conformity with the ordinance, subject to the regulations established for the district in which is located one-half (1/2) of the area of the entire lot.

4.3 NONCONFORMING USE

- A. A nonconforming use shall not be extended or enlarged beyond the scope and area of its operation at the time of adoption of the ordinance or regulation, which makes such use nonconforming. Area shall mean that the structure and/or lot within or upon which said nonconforming use is being operated.

- B. A nonconforming use of any structure or lot must be made a part of the real estate deed and the nonconforming structure or lot made to conform to this ordinance within sixty (60) days of the date the deed is transferred, or current owner/user vacates.

4.4 NONCONFORMING STRUCTURES

- A. A nonconforming structure shall not be enlarged, replaced, or structurally altered except in conformance with this ordinance. Any structure may be restored to a safe condition, however, if declared unsafe by a public official with jurisdiction except as provided elsewhere in this ordinance.
- B. A nonconforming structure for which restoration to a safe condition would cost more than seventy (70) percent of its replacement value shall not be restored except in conformance with this ordinance.
- C. Proposed structures for which building permits have been issued prior to their designation as nonconforming by the adoption of or amendment to this ordinance may be completed as originally intended provided the structure is completed and in use within one (1) year after the issue date of the building permit.

4.5 NONCONFORMING LOTS

- A. A lot of record which has received final plat approval by the Commission at the date of adoption or amendment to this ordinance, but which does not conform to the width or area requirements shall be considered a legal nonconforming lot.
- B. Any subdivision which has received preliminary plat approval by the Commission shall be reviewed and may be considered as legal nonconforming lots if it is found that each lot may be reasonably used as a building site for any structure or use permitted within the district without requiring a dimensional variance.

SECTION V

AMENDMENT

5.1 PROCEDURE

- A. A proposal for amendment to this ordinance Zoning Map may originate with the Commission, the City Council or with the owner of the property in question. The proposed amendment, regardless of origin, shall be referred to the Commission for action.
- B. The Commission shall conduct a minimum of one (1) public hearing on the proposed amendment after notice as required by KRS Chapter 424. The Commission shall make a recommendation to the applicable legislative body (the Brandenburg City Council) within sixty (60) days from the date of final public hearing.
- C. An amendment to the Zoning Map Shall be passed by two readings of an Ordinance at a properly advertised meeting of the Brandenburg City Council with a majority vote of a quorum of the City Council.

5.2 PUBLIC HEARING

When a public hearing is scheduled for a proposal to amend the zoning district map or ordinance, the following shall be given in addition to other notices required by other local regulations or ordinances.

- A. Notice of the public hearing shall be posted conspicuously on the property the classification of which is proposed to be changed for fourteen (14) consecutive days immediately prior to the hearing. Posting shall be as follows:
 - 1. The sign shall state “zoning change” and the proposed classification change in letters three (3) inches in height. The time, place and date of the hearing shall be in letters at least one (1) inch in height.
 - 2. The sign shall be constructed of durable material and shall state the telephone number of the Commission.
- B. Notice of the hearing shall be given at least fourteen (14) days in advance of the hearing by registered or certified mail, return receipt requested, to the owners of the property, adjoining property owners including those across any rights of way bordering the property in question. It is the responsibility of the parties proposing the

amendment to furnish the Commission the names and addresses of the owners of all adjoining property.

5.3 MAP AMENDMENT

The Commission and City Council must find before any map amendment is granted that the proposed amendment is in agreement with the Comprehensive Plan, or, in the absence of such a finding that one or more of the following apply and such finding shall be recorded in the minutes and records of the Commission or City Council:

- A. That the original zoning classification given the property was inappropriate and that the proposed zoning classification is appropriate.
- B. That there have been major changes of an economic, physical or social nature within the area involved which were not anticipated in the Comprehensive Plan and which have substantially altered the basic character of the area.
- C. Any person or entity claiming to be injured or aggrieved by any final action of the Brandenburg City Council, relating to a map amendment, shall appeal from the action to the Meade Circuit Court. Such appeal shall be taken within thirty (30) days after the final action of the legislative body. All final actions which have not been appealed within thirty (30) days shall not be subject to judicial review. Brandenburg City Council shall be a party in any such appeal filed in the Circuit Court.

SECTION VI

VIOLATIONS, PENALTIES, LIABILITIES AND APPEALS

6.1 VIOLATIONS

The Administrative Official or Commission Chairman shall issue written notice to violators of all violations of this ordinance and order such violations to cease. If necessary, the Commission, through the Attorney, or any property owner or occupant who would be damaged by a violation may institute appropriate action in court.

6.2 PENALTIES

Any person or group of persons who violates, disobeys, omits, neglects or refuses to comply with or resists the enforcement of any of the provisions of this ordinance shall be fined not less than ten (10) dollars up to five hundred (500) dollars and also alternatively shall be subject to a Class B Misdemeanor.

6.3 LIABILITIES

Any member of the Commission or Board of Adjustment or any employee thereof, shall not render himself liable personally in the discharge of his duties. Any suit brought against any member of the Board of Adjustment, Commission or any employee, because of such act performed by him in the enforcement of any provisions of this ordinance, shall be defended by legal representation of the Commission until the final termination of the proceedings.

6.4 APPEALS

Appeals to the Commission may be taken by any person or entity claiming to be injuriously affected or aggrieved by any official action, order, requirement, interpretation, grant, refused or decision of the Commission after notification of the action. The procedure for all appeals to the Commission shall be pursuant to the provisions of KRS 100.261. The Commission shall fix a reasonable time for hearing the appeal, give public notice in accordance with KRS Chapter 424, as well as provide written notice to the appellant and Administrative Official at least one (1) week prior to the hearing and shall decide it within sixty (60) days. Either party may appear at the hearing in person or by attorney.

SECTION VII

GENERAL PROVISIONS

7.1 ESTABLISHMENT OF ZONES

In order to implement the intent of this ordinance, Brandenburg is hereby divided into the following classes of districts as listed below with the specifically permitted and conditionally permitted uses as listed.

R-1

Single family low-density residential district, designed to encourage the building of well-developed residential areas and allowing certain specified home occupations.

R-2

Single and two-family residential district, allowing certain home occupations and secondary uses. R-1 use is permitted in this zone.

R-3

Primarily a multi-family or apartment district but including single- and two-family structures and certain secondary uses. R-1 & R-2 uses are permitted in this zone.

C-1

A district comprised primarily of retail and services located in the central business area and serving the needs of the entire community. R-1, R-2, & R-3 uses are permitted in this zone.

C-2

Primarily retail and wholesale activities that are dependent upon automobile traffic. R-1, R-2, & R-3 & C-1 uses are permitted in this zone.

I-1

A district comprised of manufacturing, assembling and fabricating industries as well as warehousing and wholesale businesses. R-1, R-2, & R-3, C-1, and C-2 uses are not permitted in this zone.

I-2

A district comprised of heavy manufacturing, assembling, and fabricating industries where the industrial processes are such that they should not be adjacent to residential or commercial districts. R-1, R-2, R-3, C-1, and C-2 uses are not permitted in this zone. I-1 uses are permitted.

HISTORIC PRESERVATION DISTRICT

A district with a special or distinctive character or a special historic, architectural, aesthetic, or cultural interest and value. Regulation of building permits is covered in Ordinance number 260.

AGRICULTURE (AG)

This district is composed of open or undeveloped land in agricultural or pasture use as defined by Kentucky Revised Statutes Chapter 100.

FLOOD HAZARD (F)

This district is comprised of those areas, which are subject to periodic inundation from any water course. Regulations are covered in Ordinance number 317.

SECTION VIII

PERMITTED USES

8.1 USES PERMITTED IN THE DISTRICTS

Within each district as indicated on the Zoning Map, no land, building or structure shall be used, and no building or structure shall be erected except those on the matrix and those that the Planning Commission shall determine the appropriate zoning district for each specific use.

8.2 PARKING REQUIREMENTS

Each use shall provide off-street parking in accordance with the provisions of the Off-Street Parking Requirements and other requirements contained in this ordinance.

8.3 CONDITIONAL USES

Certain uses may be permitted in specific districts on a conditional basis. The Board of Adjustment shall determine the appropriateness of the intended use of a particular lot in the specific zoning district.

8.4 HOME OCCUPATIONS

DECLARATION: It is the intent of this section to provide for the accessory use of a dwelling, whether owner or renter occupied, for the gainful employment involving the manufacture, provision or sale of goods and/or services. The use must be clearly incidental and secondary to the use of the premises for residential purposes and must not change or adversely affect the residential character of the property or its surroundings. The intent is to protect the residential areas from adverse effects of activities associated with home occupations, while allowing residents of the community to utilize their home as a workplace and a source of livelihood under certain conditions. A use permit (issued by the Administrative Official) is required to conduct a home occupation, and such use will be subject to all conditions of the Planning and Zoning Ordinance generally, such as off-street parking, and all other permits, etc. required by the City, County or State, such as: Building Permits; Business Licenses; Certifications; and licenses, etc.

8.4.1 General Standards

The uses conducted as the home occupation, and their operation, shall not change or disturb the residential character of the premises or its surroundings.

8.4.2 Specific Standards:

- A. No more than one (1) person, other than the family members residing in the dwelling, shall be engaged in the home occupation.
- B. The home occupation shall be clearly incidental and subordinate to the use of the premises for residential purposes. The home occupation, including storage, shall be conducted within the dwelling unit. Any use of the yard shall be incidental to the use of the dwelling for the home occupation.
- C. The total area used for the home occupation may not exceed twenty-five (25) percent of the gross floor area of the dwelling or 300 square feet, whichever is less.
- D. The dwelling used for the home occupation may not be altered in such a manner that would change the residential character of the property, except where required to comply with local or state fire and police requirements.
- E. No signs or other advertising devices associated with the home occupation are allowed.
- F. The sale of merchandise shall be prohibited except for the sale of products or goods produced or fabricated on the premises as a result of the home occupation. The sale of merchandise not produced on the premises (except mail order business) shall be incidental and accessory to the merchandise or service produced by the home occupation and shall not be advertised in any manner. Product sales associated with private social events (e.g., Tupperware, Avon, Amway) shall be exempted from this section provided they do not occur more than four (4) times per year at any given residence.
- G. Not more than ten (10) customers or clients shall come to the premises and one (1) day, restricted to the hours 6:00AM to 9:00 PM. Not more than two (2) delivery vehicles shall access the premises each day. Heavy commercial vehicles (over 14000 lbs. GVW) shall not be used in the home occupation for the delivery of material to or from the premises.

- H. No mechanical or electrical equipment shall be used other than machinery or equipment typical of the type or specifications used in a hobby or vocation customarily conducted within the confines of the dwelling unit. No equipment or process used shall create noise, vibration, glare, fumes, dust, odors, smoke, electrical interference or other impacts in excess of those customarily generated by residential uses in the neighborhood. Home occupations cannot involve the use or storage of explosives or flammable materials other than those customarily found in residential neighborhoods.
- I. There shall be no outside storage of equipment or material used in the home occupation.
- J. The home occupation shall meet all applicable fire and building codes and comply with the city nuisance ordinance. A business license shall be obtained if required by other City Ordinances. (Ordinance 399.1 deleted January 13, 2020)

8.5 MANUFACTURED HOUSING

Manufactured housing as defined in Section II can be placed in all residential zones (based on compatibility with surrounding structures).

8.6 RV PARKS (RECREATIONAL VEHICLE PARKS)

RV Parks are specifically not included as permissible use in the sections of this Ordinance. RV Parks will be evaluated on a case-by-case basis with conditional use permits being approved by the Board of Adjustments as provided for under Section 8.3.

			R-1	R-1 & R-2		R-1, R-2, & R-3	R-1, R-2, R-3, & C-1		I-1	
DESCRIPTION	AG	R1	R2	R3	F	C1	C2	I-1	I-2	H
Advertising Agencies, Offices						x	x			
Agricultural Implements, Sales & Svc.	x						x	x	x	
Ambulance Service						x	x			
Antiques, Sales & Service						x	x			
Apartments				x						
Appliance Sales & Service						x	x			
Associations, Clubs, Lodges						x	x			
Automobile Sales, New & Used						x	x			
Automobile Parts, Supplies, & Services						x	x			
Automobile Repair						x	x			
Bakery						x	x			
Ball Park	x				x	x	x			
Barber Shop/Beauty Shop						x	x			
Bars, Liquor						x	x			
Boarding House (Bed & Breakfast)			x	x						
Book Sales						x	x			
Bowling Alleys						x	x			
Building Contractors, Office						x	x	x	x	
Building, Office/Professional						x	x			
Building Materials, Wholesale & Storage							x	x		
Cemeteries	x					x	x			
Churches	A	N	Y		W	H	E	R	E	
Cleaners, Dry/Laundry						x	x			
Clinics, Dental, Medical & Mental						x	x			

			R-1	R-1 & R-2		R-1, R-2, & R-3	R-1, R-2, R-3, & C-1		I-1	
DESCRIPTION	AG	R1	R2	R3	F	C1	C2	I-1	I-2	H
Clothing, & Accessories Sales						X	X			
Concrete Products								X	X	
Consignment Shops						X	X			
Convenience Stores						X	X			
Country Clubs						X				
Communications/Media						X	X			
Daycare Centers					X	X	X			
Department Stores, Retail						X	X			
Drug Stores						X	X			
Equipment Rental/Sales/Service						X	X			
Family Services/Counseling						X	X			
Financial Instructions & Services						X	X			
Fine Arts Instruction		X				X	X			
Florists Shop						X	X			
Framing Shop						X	X			
Funeral Parlor							X			
Furniture Display & Sales						X	X			
Government Buildings, (City, County)						X	X			
Grocers, Retail						X	X			
Hardware Sales						X	X			
Health Center-Fitness						X	X			
Heating & A/C Sales & Service						X	X	X		
Homes, Nursing			X	X		X	X			
Homes, Special Needs				X						
Hospitals						X	X			
Hotels, Motels						X	X			
Insurance Offices						X	X			X

			R-1	R-1 & R-2		R-1, R-2, & R-3	R-1, R-2, R-3, & C-1		I-1	
DESCRIPTION	AG	R1	R2	R3	F	C1	C2	I-1	I-2	H
Jewelers, Retail, Sales & Service						X	X			
Libraries		X	X	X		X	X			
Medical Supplies/Manufacturing							X	X		
Medical Clinics/Practices						X	X			
Mini Storage Warehouses						X				
Mobile Home Parks				X						
Monument Sales and Display							X			
Nano/Micro Breweries								X		
Novelties, Card Shop, Retail, Gift						X	X			
Nurseries (plant)						X	X			
Office Supplies Sales & Service						X	X			
Optical Sales/Service						X	X			
Outdoor Recreation/Tennis Ct, Ball Cages, Miniature Golf, Pools, etc.						X	X			
Package Liquor Store						X	X			
Paint Shop (Automobile)							X	X		
Parish House	X	X	X	X	X	X	X			
Parochial Schools	X	X	X	X	X	X	X			
Photography						X	X			
Printing Shop						X	X			
Recycle Center						X	X	X		
Restaurants (Including Roadside Stands) & Catering						X	X			

			R-1	R-1 & R-2		R-1, R-2, & R-3	R-1, R-2, R-3, & C-1		I-1	
DESCRIPTION	AG	R1	R2	R3	F	C1	C2	I-1	I-2	H
Roadside Sales Stand: AG Products	x					x	x			
Sales & Service (heat, vent, air cond.)						x	x	x		
Schools: Public	x	x	x	x		x	x			x
Service Stations						x	x			
Sewer Plant						x	x	x	x	
Storage Warehouse							x	x		
Tanning Salon						x	x			
Telephone Company						x	x			
Televisions Sales & Service						x	x			
Tires: Repair/Sales							x			
Tobacco Sales						x	x			
Trucking Companies							x	x		
United States Government Offices						x	x			
Variety Stores, Retail						x	x			
Veterinarian Services	x					x	x			
Vocational School							x			
Water: Public Plant	x				x		x	x	x	

SECTION IX

R-1 SINGLE FAMILY

9.1 DESCRIPTION OF DISTRICT

This district is composed of single family low-density residential areas, plus certain open areas where similar residential development is desired. The regulations for this district are designed to stabilize and protect the essential characteristics desired in the district, to promote and encourage a suitable environment for family life, and to promote orderly planning and development by prohibiting incompatible uses. Public and private parks and schools are permitted within the district provided that they serve the residents of the district and that they are a part of a development unit approved by the Planning Commission.

9.2 PERMITTED STRUCTURES

Each lot shall have at least one (1) front property line and shall be occupied only by one (1) single family dwelling unit structure and such accessory buildings as are clearly incidental and normal and are operated and maintained by the owner of the lot; provided, however, that it shall not be a residence.

9.3 PERMITTED USES

In the R-1 district, those uses specified under R-1 in the list of Permitted Uses of these regulations will be permitted, in addition to home occupations per section VIII 8.4.

9.4 DIMENSIONAL REQUIREMENTS

The lot for each structure shall comply with the following dimensional area requirements.

- A. *Lot Area* - The lot area shall be not less than 15,000 square feet when served by public sanitary sewer, and not less than 20,000 square feet when not served by a public sanitary sewer; and shall provide not less than sixty-five (65) percent of the lot area as unobstructed open space.
- B. Each lot shall be not less than 100' wide at the front lot line with that line being established in a straight line from the end points of

the side lot lines.

- C. *Minimum Required Front Yard* - All buildings shall be constructed so that no portion is nearer than twenty-five (25) feet of the nearest front lot line or as required in other ordinances whichever is the greater.
- D. *Minimum Side Yards* - All buildings shall be constructed so that no portion is nearer than ten (10) feet or ten percent (10%) of the lot width, whichever is less, to the side lot lines, except that any side yard abutting a street shall be at least twenty-five (25) feet unless other ordinances require a greater setback for street widening or for other purposes. In all cases, the lot width shall be measured between the mid points of the side lot lines; the lot depth between the mid points of the front and rear lot lines.
- E. *Minimum Rear Yard Requirements* - There shall be a rear yard having a depth of not less than thirty-five (35) feet.
- F. *Maximum Height* - No building hereinafter erected or structurally altered shall exceed two and one-half (2-1/2) stories or thirty feet (30') in height, excluding basements.
- G. *Fences and Accessory Buildings* - No accessory building may be constructed prior to the principal structure (dwelling). No accessory building shall be located on any required front or side yard or within ten (10) feet of the rear lot line. Fences of any type up to seventy-two (72) inches in height may be erected along any boundary of the rear or side yard from the rear of the lot forward to the rear of the main structure. A fence up to forty-eight (48) inches in height may be erected along the side yards from the rear of the main structure forward and along the front building line. Any fence or screen constructed in the required front or side yards which is along a street must be constructed of materials that do not eliminate or impede the view of the principal structure from the street and must have approval of the Planning Commission in regard to locations, height, material and construction.

9.5 Off-Street Parking

Each single-family lot shall provide at least one (1) off-street parking space. The provision of off-street parking requirements shall be in full force and effect in this district.

9.6 Corner Visibility

At intersections, within the areas formed by the right-of-way lines of intersecting streets and a line joining points on such right-of-way lines at a distance of twenty-five (25) feet from their intersection, there shall be no obstruction to vision between a height of two (2) feet and a height of ten (10) feet above the average grade of each street at the centerline; except that street name signs, fire hydrants, street lighting poles, and associated appurtenances shall be permitted within this area.

SECTION X

R-2 TWO FAMILY

10.1 DESCRIPTION OF DISTRICT

The R-2 district is comprised mainly of areas containing single- and two-family dwelling (duplexes) plus certain open areas where this type of development is desired. It is intended for quiet medium density family living and certain prescribed home occupations controlled by specific regulations, plus certain uses, which are conducive to residential areas, such as schools, parks, churches and certain public facilities.

10.2 PERMITTED STRUCTURES

Each lot shall have at least one (1) front property line and shall be occupied by only one (1) principal structure which may be a single or a two (2) family dwelling structure, and such accessory buildings as are clearly incidental and are operated and maintained by the owner or renter as provided in the rental agreement. The accessory building shall not be used as a residence, except in PUD (section 27).

10.3 PERMITTED USES

In the R-2 district those uses specified under R-2 and R-1 in the List of Permitted Uses of the regulations will be permitted, and home occupations per Section VIII 8.4.

10.4 DIMENSIONAL REQUIREMENTS

The lot for each structure shall comply with the following dimensional area requirements.

- A. *Lot Area* - The lot area shall not be less than 10,000 square feet when served by public sanitary sewer, and not less than 20,000 square feet when not served by public sanitary sewer and shall provide not less than sixty-five (65) percent of the lot area as unobstructed open space. A lot of record in this district which is less than 7,500 square feet may not be used for a two-family structure.

- B. Each lot shall not be less than seventy-five (75) feet wide at the front lot line with that line being established in a straight line from the end

points of the side lot lines.

- C. *Minimum Required Front Yard* - All structures shall be set back so that no portion falls nearer than twenty-five (25) feet from the nearest front lot line point.
- D. *Minimum Side Yards* - All buildings shall be constructed so that no portion is nearer than ten (10) feet or ten percent (10%) of the lot width, whichever is less, to the side lot lines, except that any side yard abutting a street shall be at least twenty-five (25) feet unless other ordinances require a greater setback for street widening or for other purposes. In all cases the lot width shall be measured between the mid-points of the side lot lines; the lot depth, between the mid-points of the front and rear lot lines.
- E. *Minimum Rear Yard Requirements* - There shall be a rear yard having a depth of not less than twenty-five (25) feet.
- F. *Maximum Height* - No building hereafter erected or structurally altered shall exceed two and one-half (2-1/2) stories or thirty (30) feet in height, excluding basements.
- G. *Fences and Accessory Building* - No accessory building may be constructed prior to the principal structure (dwelling). No accessory building shall be located on any required front or side yard or within five (5) feet on any lot line. Fences up to seventy-two (72) inches in height may be erected along any boundary of the rear yard or side yard from the rear of the lot forward to the rear of the main structure. Any fence or screen constructed in the required front yard or side yard must be forty-eight (48) inches in height or less and be constructed of materials that will not eliminate or impede the viewing of the principal structure from the street and must have approval from the Planning Commission in regards to location, height, material and construction.

10.5 Off-Street Parking

Each dwelling unit shall provide at least one (1) off-street parking space. Any two-family dwelling unit in this district shall be required to provide three (3) off-street parking spaces. The provisions of the Off-Street Parking Requirements shall be in full force and effect in this district.

10.6 Corner Visibility

At an intersection, within the areas formed by the right-of-way lines of intersecting streets and a line joining points on such right-of-way lines at a

distance of twenty-five (25) feet from their intersection, there shall be no obstruction to vision between a height of two (2) feet and a height of ten (10) feet above the average grade of each street at the centerline; except that street name signs, fire hydrants, street lighting poles, and associated appurtenances thereto shall be permitted within this area.

SECTION XI

R-3 MULTI-FAMILY

11.1 DESCRIPTION OF DISTRICT

This district is comprised of multi-family or apartment residences but can include single and two-family structures plus certain open areas of the City where such residential development is desired. The regulations for this district are designed to protect the residential character of the areas, to promote a neighborhood environment suitable for family life, and to provide open areas for the residents. Certain uses such as schools, parks, churches, and certain public and quasi-public facilities are also permitted.

11.2 PERMITTED STRUCTURES

Each lot shall have at least one front property line and shall be occupied by only one principal structure, which may be a multi-family, two-family or single-family dwelling structure and such accessory buildings as are clearly incidental and normal and are operated and maintained by the owner of the lot; provided, however, that no accessory building may be used as a residence. (More than one principal structure may be authorized, if residences are determined to meet the definition of planned unit development) (section 27).

11.3 PERMITTED USES

In the R-3 district, only those uses specified under R-3/R-2/R-1 in the List of Permitted Uses of the regulations will be permitted, in addition to those home occupations in Section 8.4.

11.4 DIMENSIONAL REQUIREMENTS

The lot for each structure shall comply with the following dimensional area requirements:

- A. *Lot Area* - The lot area when served by a public sanitary sewer for a single-family structure shall not be less than 7,200 square feet, and for a two-family structure shall not be less than 4,000 square feet, and for a multi-family structure shall not be less than 3,500 square feet each for the first three (3) dwellings in the multi-family structure plus 1,500 square feet for each dwelling unit with less than for (4) stories. If the structure is four (4) stories or more, for each dwelling unit in addition to the first three (3) add six hundred (600) square feet per unit. The lot area when not served by public sanitary

sewer shall not be less than 20,000 square feet and may only be used for single-family and two-family structures. A multi-family may not be constructed on a lot not served by public sanitary sewer.

- B. Each lot shall not be less than sixty (60) feet wide at the front building line with that line being established from the point of the structure nearest the front lot line and extending to the side lot lines.
- C. *Minimum Required Front Yard* - All structures shall be constructed so that no portion is nearer than twenty-five (25) feet of the nearest front lot line point; provided, however, that where the height exceeds forty-five (45) feet, the front yard setback distance shall be increased one (1) foot for each increment of two (2) feet in increased structure height above forty-five (45) feet up to the maximum permitted.
- D. *Minimum Side Yards* - For a single and two-family structure there shall be two (2) side yards to each lot with no less than ten (10) feet or ten percent (10%) of lot width, which ever is less. Except that any side yard abutting a street shall be at least twenty (20) feet. For multi-family and other permitted use structures there shall be a side yard of not less than ten (10) feet. For buildings more than forty-five (45) feet or three (3) stories in height, the side yard in addition to complying with the preceding requirements, shall add in height above forty-five (45) feet.
- E. *Minimum Rear Yard Requirements* - There shall be a rear yard having a depth of not less than twenty-five (25) feet, and structures more than forty-five (45) feet or three (3) stories in height, in addition to complying with the preceding requirements shall add one (1) foot for each increment of two (2) feet in increased structure height above forty-five (45) feet up to the maximum permitted height.
- F. *Maximum Height* - No building hereafter erected or structurally altered shall exceed three (3) stories or forty-five (45) feet in height; provided, however, that where the provisions of the yard requirements are complied with, the building may be increased in height, provided that no building shall exceed a height of seventy-five (75) feet.
- G. *Location of Accessory Buildings* - No accessory building may be constructed prior to principal structure (dwelling). No accessory buildings shall be located on any required front or side yard or within ten (10) feet of any lot line. Fences up to seventy-two (72) inches in height may be erected along any boundary of the side yard or rear yard from the rear of the lot forward to the rear of the main

structure. Any fence, established in the required front or side yard shall not be higher than forty-eight (48) inches in height and must be constructed of materials that will not eliminate or impede the viewing of the principal structure from the street and must have approval from the Planning Commission in regards to location, height, material and construction.

11.5 OFF-STREET PARKING

Each dwelling unit shall provide at least one and one-half (1-1/2) off-street parking spaces. The provisions of the Off-Street Parking Requirements shall be in full force and effect in this district.

11.6 CORNER VISIBILITY

At intersections, within the areas formed by the right-of-way lines of intersecting streets and a line joining points on such right-of-way lines at a distance of twenty-five (25) feet from their intersection, there shall be no obstruction to vision between a height of two (2) feet and a height of ten (10) feet above the average grade of each street at the centerline except that street and other required legal signs shall be permitted within this area.

SECTION XII

COMMERCIAL DISTRICTS

12.1 GENERAL REGULATIONS

Commercial Zone Districts - Certain areas of the city are designated as commercial districts. These districts are designed to permit the transactions of various types of businesses in surroundings conducive to the particular type of activity without interference with surrounding areas and developed to avoid traffic congestion, traffic hazards and to provide ample parking. It is intended that each commercial district should provide for good traffic and pedestrian circulation, eliminating all possible conflicts between the two, and the development of open spaces and green belts of sufficient size and number to enhance the district and create business centers that are attractive and provide services in a convenient and safe location.

12.2 COMMERCIAL DISTRICT DESIGNATION

The designation of an area as a Commercial District may be accomplished by action initiated by the Planning Commission, City Council, or owner of the affected property. If final use has been determined by the applicant for the property for which a zoning change is requested, the applicant shall provide three (3) copies of the Commercial Development Plan (required for all commercial districts) to the Zoning Administrator at least seven (7) days prior to the scheduled public hearing. If final use has NOT been determined by the applicant for the property for which a zoning change is requested, the Commercial Development Plan MUST be presented to the Zoning Administrator prior to the issuance of any city building permits or licenses for the project. Commercial Development Plans shall be reviewed and approved by the Planning and Zoning Commission. If the Development Plan, once submitted, is not followed, the right to develop the property may be lost. Should a change in zone designation be granted, all conditions and requirements relating to commercial districts shall come into full force and effect.

12.3 CONTENTS OF DEVELOPMENT PLAN

The following information shall be included on the Commercial Development Plan plat: the name and address of the owner and the developer and the name of the development; location of the tract in relation to the community and community facilities; the boundary lines and dimensions of the proposed development; the name and address of

each adjacent property owner; the gross acreage of the property; the location of all existing streets, roads, wooded areas, sinkholes and other significant physical features within the tract and two hundred (200) feet beyond the property boundaries; the location of all existing structures within the area that will be retained. Also, to be shown are the location and dimension of all proposed structures and setbacks, landscaping, buffering required by Section 26, parking lots, rights-of-way, utility easements, signs and any other proposed physical improvement. In addition, a narrative detailing the use intended for the tract. Building elevations, while not required are strongly recommended.

12.4 REVIEW

All submitted development plans shall be reviewed for completeness by the administrative officer. If the plans are found to be completed and all requirements met, they shall be forwarded to the Planning Commission. A building permit shall be issued in the C-2 zone and in C-1 (when required) only after a Development Plan has been approved and recorded. (See Section 23.6 for fee for recording)

- A. If approved by the Planning Commission a certified copy of the approved plat shall be filed for recording, at the developer expense, in the office of the County Clerk within sixty (60) days after final approval. The Commission's approval is voided if the approved final plat is altered in any manner, except for commission requirements, between the dates of commission approval and recording of the plat. If the plat is not approved the developer may resubmit a revised plan incorporating modifications specified by the Commission at least seven (7) days prior to the Commission meeting at which the revised plat is to be considered.
- B. *Exception to Lot Widths* - On a lot of record shown on a plat or deed prior to the adoption of this ordinance, the minimum lot width at the building line and minimum lot area may be waived by the Planning Commission, providing that the intended structure is in full compliance with all other requirements of this ordinance. In no case, however, shall a lot width of less than twenty (20) feet be permitted or a lot area of less than twenty-five hundred (2,500) square feet be permitted.
- C. Should the developers not follow the provisions of the approved Development Plan, the Planning Commission shall be empowered to place a Stop Work Order on the site where the infraction is taking place and shall have authority to force compliance with provisions of the Development Plan. Should the development not be brought into full compliance with the plan within six (6) months of the

issuance of the Stop Work Order, as determined by the Commission, the affected lot shall return to its original zoning designation, permission to develop will be withdrawn and the Planning Commission may order that the property be returned to its original condition in regards to surface contour and a minimal ground cover, sufficient to prevent erosion and water runoff damage to adjacent property. In any case, where substantial progress, defined as the completion of the permanent foundation of the main structure, has not begun within one year from the date of the issuance of a building permit, as determined by the Commission, the affected property shall revert to its original zone designation; and permission to develop will be withdrawn.

SECTION XIII

C-1 CENTRAL COMMERCIAL DISTRICT

13.1 DESCRIPTION OF DISTRICT

This district is comprised of certain land and structures used primarily to provide retailing and community services to the residents of Brandenburg and outlying areas. The volume of pedestrian traffic is expected to increase as more of the population realizes the benefits of a centrally located business area. The catalysts for the rejuvenation of the district should be the costs of fuel required to get to more out-of-the-way retail trade centers. This district is located at the area of convergence of the main arterial highways and rail transit lines. In the future, this area will need to expand and provide for more varied commercial uses. These regulations are designed to permit a highly concentrated, intensive development of the permitted facilities but not to the extent which would result in an unattractive environment. Because several transportation routes intersect here and because the provision of off-street parking can be a recognized separate business entity, the regulations do not require the furnishing of off-street parking space; but, in the interest of the individual business venture and the central business district as a whole, businesses or the city are encouraged to provide adequate off-street parking sufficient for the district to prosper. Where extensions, redevelopment or new areas of the C-1 district are proposed, and if they exceed ten thousand (10,000) square feet in total size area, then the owner and developer shall submit a complete development plan, as provided for in the Commercial Zone General Regulations, Section 12.1. Although existing downtown areas have developed without benefit of setbacks, off-street parking areas or landscaping, all owners and tenants in the C-1 district are encouraged to incorporate these improvements in any individual or group redevelopment of lots in the C-1 district.

13.2 PERMITTED STRUCTURES

Each lot shall have at least one (1) front lot line and shall be occupied by only one main structure plus accessory buildings, clearly related to the use of the main structure, except that they shall not be a residence. No accessory building, or structure shall be allowed in the front or side yards or within fifteen (15) feet of the rear lot line, except in PUD. (Section 27)

13.3 PERMITTED USES

In the C-1 district, only those uses specified under C-1/R-1/R-2/R-3 in the List of Permitted Uses, of these Regulations will be permitted.

13.4 DIMENSIONAL REQUIREMENTS

The lot for each permitted use shall comply with the following dimensional and area requirements.

- A. Lot Area - The lot area shall not be less than two thousand five hundred (2,500) square feet.
- B. Lot Width - Each lot shall not be less than twenty (20) feet wide at the front lot line, with that line being established in a straight line between the end points of the side lot lines.
- C. Minimum Front Yard - There shall be no front yard requirements for the C-1 district other than the following:
 - 1) Where other ordinances require a setback.
 - 2) In compliance with the provisions of an adjoining district where a part of the frontage is in a district requiring a front yard.
- D. Minimum Side Yards - No side yards shall be required under this ordinance, but they shall be provided if required under other ordinances or in compliance with the provisions of an adjoining district when a part of the side yard is in that district. If a side yard or yards are provided, they shall not be less than five (5) feet.
- E. Minimum Rear Yard Requirements - No rear yard is required in this district except where a rear yard abuts a residential district. In this case a setback of not less than fifteen (15) feet is required.
- F. Maximum Height - No building hereafter erected or structurally altered shall exceed forty-five (45) feet in height; provided, however, that church spires, flag poles, antennas, chimneys, vents, accessory water towers, air conditioning towers, and elevator shafts, which are clearly necessary to the structure shall be permitted to exceed this height limitation upon the approval of the Planning Commission by twenty-five (25) feet and that no illuminated sign, name, display, or advertising device of any kind whatsoever shall be inscribed or attached to any portion of any structure exceeding the height limitations.

13.5 OFF-STREET PARKING

The provisions of the Off-Street Parking Regulations shall not be in effect in the C-1 district, unless otherwise indicated.

13.6 OFF-STREET LOADING REQUIREMENTS

The provisions of the Off-Street Loading Requirements shall be in full force and effect in this district.

13.7 DISTRICT DESIGNATION AND DEVELOPMENT PLAN PROVISIONS

The provisions of the General Regulations for Commercial Districts shall be in full force and effect in the C-1 district.

SECTION XIV

C-2 HIGHWAY COMMERCIAL

14.1 DESCRIPTION OF DISTRICT

This district is comprised of lots that should be a minimum of twelve thousand five hundred (12,500) square feet in size and structures used primarily to provide retail and wholesale trade that is dependent upon vehicular traffic to supply both its merchandise and customers. The location of this district shall be located along arterial thoroughfares throughout the city limits. Due to its highly intensive use, this district should not be located near residential districts without the use of adequate buffer zones.

14.2 PERMITTED STRUCTURES

Each lot shall have at least one (1) front property line and shall be occupied only by structures containing permitted uses and such accessory buildings that are incidental or required for the proper functioning of the permitted uses, except in PUD.

14.3 PERMITTED USES

In the C-2 district only those areas specified under C-2/R-1/R-2/R-3/C-1 in the List of Permitted Uses, of the Regulations shall be permitted.

14.4 DIMENSIONAL REQUIREMENTS

The lot for C-2 commercial district shall comply with the following dimensional and area requirements:

- A. Lot Area - The lot area shall not be less than 12,500 square feet of which fifty (50) percent shall remain as unobstructed open space; provided, however, that this open space may be used for parking and landscape areas.
- B. Lot Width - Each lot shall not be less than one hundred (100) feet wide at the front lot line with that line being established between the end points of the side lot lines.
- C. Minimum Required Front Yard - All structures shall be setback a distance of not less than fifty (50) feet from each front lot line, or as required in other ordinances, whichever is the greater.

- D. Side Yards - All structures shall have two (2) side yards each not less than twelve (12) feet wide except where the zone abuts a residential area in which case a side yard of fifteen (15) feet is required on the side or sides abutting the residential area; provided, however, that where the zone abuts a street, the side yard setback established for that street shall be maintained, or as required by other ordinances, whichever is the greater.
- E. Minimum Rear Yard - There shall be a rear yard having a depth of not less than twenty-five (25) feet where it abuts a residential zone except that where the rear lot line abuts an alley and the property on the other side of the alley is not within a residential zone, then the minimum rear yard requirement shall be a depth of not less than fifteen (15) feet. Where the rear lot line abuts onto a street, the rear building line shall be the building setback line established by the primary zone abutting the street.
- F. Maximum Height - No building hereafter erected or structurally altered shall exceed three and one-half stories, or forty-five (45) feet in height; provided, however, that cooling towers, elevator shafts and other structural units necessary for the functioning of the use shall be permitted to exceed this height.
- G. Location of Accessory Buildings and Fences - No accessory buildings shall be located in any required front or side yard, or within ten (10) feet of the rear lot line. Fences ninety-six (96) inches in height shall be erected on those lots where a great portion of the merchandise is stored outside or where heavy equipment is operated. These fences shall be erected along the rear yard and side yard boundaries extending to the front building line and must be made of material which will block the view from adjoining lots. Any fence or screen constructed in the required front yard must have approval of the Planning Commission.
- H. Screens/Buffers – Section 26

14.5 OFF-STREET PARKING

The provisions of the Off-Street Parking Requirements shall be in full force and effect in this district.

14.6 CORNER VISIBILITY

At all intersections, within the areas formed by the right-of-way lines of intersecting streets and a line joining points on such right-of-way lines at a distance of twenty-five (25) feet from their intersection, there shall be no obstruction to vision between a height of two (2) feet and a height of ten

(10) feet above the average grade of each street, except that, names signs, fire hydrants, street lighting poles, and associated appurtenance shall be permitted within this area.

14.7 DISTRICT DEVELOPMENT PLAN PROVISIONS

The provision of the General Regulations for Commercial Districts inclusive shall be in full force and effect in the C-2 district.

SECTION XV

INDUSTRIAL DISTRICTS

15.1 INDUSTRIAL ZONE GENERAL REGULATIONS

- A. Description of the Industrial Districts - Certain areas of the City are designated as industrial zone districts. These areas are established in locations where they will not interfere with development of clean industrial uses. The standards developed are intended to protect industrial uses and to insure the continuing stability of land values by:
 - 1. Providing ample, uncongested space and circulation for all industrial users.
 - 2. Protecting each owner or tenant so that he may obtain maximum convenience, safety, economy, view, identity, and amenity in relation to adjacent sites and in relation to the industrial zone district as a whole.
 - 3. To provide for adequate space for access parking, off-street loading, internal circulation, utilities, for insulation of noise and vibration, and for police and fire protection.
 - 4. To provide for safe and uncongested traffic and pedestrian movements both on and off the lots.
 - 5. To provide through careful landscaping, a pleasant environment in which to work to provide shade, windbreaks and protection from sun and light glare.
- B. Limitation on External Effects of Uses - Every use shall be made to comply with the following limitations:
 - 1. Enclosure of Uses - Every use, unless expressly exempted by this ordinance, shall be operated in its entirety within a completely enclosed structure; the exemption of a use from the requirement of enclosure will be indicated by a symbol appearing after any use exempted. For all uses exempted from total enclosure the lot will be so developed and screened so that it will present an attractive appearance from all approaches.
 - 2. Protection from Pollution - All lots and structures will be developed and operated in a manner that will to the greatest extent practicable protect surrounding lots from the emission of sound, vibration, heat, glare, radiation, and fumes emitted from any operation, and in no

case shall any of these nuisances be emitted to a dangerous degree.

3. Outdoor Storage and Waste Disposal - No highly flammable liquids, solids or gases shall be stored in bulk above ground. Tanks or drums of fuel directly connecting with heating devices or appliances located on the same lot as the tanks or drums of fuel are excluded from this provision. Where the permitted industry, by its nature, requires storage of flammable liquids, solids or gases, it shall locate only in this district and shall meet all of the distance requirements specified below:

- a. Liquid petroleum gas, where permitted, shall be stored no closer to any boundary line of a lot on which they are located than the following minimum distances:

<u>GALLONS PER CONTAINER</u>	<u>IF STORED</u>	
	<u>UNDERGROUND</u>	<u>ABOVEGROUND</u>
Less than 125 gallons	10 ft.	10 ft.
125-500 gallons	10 ft.	10 ft.
501-2,000 gallons	25 ft.	25 ft.
Over 2,000 gallons	50 ft.	50 ft.

- b. Flammable liquids with a flashpoint <200 degree F, where permitted shall be stored no closer to any boundary line of a lot on which they are located than the following minimum distances:

<u>ABOVE GROUND CAPACITY</u>	<u>MINIMUM DISTANCE</u>
1 - 1,000 gallons	25 ft.
1,000-3,000 gallons	50 ft.
3,000-35,000 gallons	100 ft.
Over 35,000 gallons	120 ft.

<u>UNDERGROUND CAPACITY</u>	<u>MINIMUM DISTANCE</u>
500 gallons	6 ft.
2,000 gallons	10 ft.
5,000 gallons	20 ft.
15,000 gallons	30 ft.
20,000 gallons	40 ft.
35,000 gallons	50 ft.

4. The following regulations shall apply to all industrial zone districts.
 - a. All outdoor storage facilities for fuel, raw materials and products, wrecking, storage or dismantling of vehicles for parts, and uses of a similar nature shall be enclosed by a screen fence or wall adequate

to conceal such facilities from adjacent property and from public streets and highways.

b. No materials or wastes shall be deposited upon a lot in any form or manner that they may be transferred off the lot by natural causes or forces and shall not be allowed to pollute any water course, stream, lake or underground water supply.

c. All materials or wastes which could result in fumes, dust or create a fire hazard, or which may be edible by or attract rodents or insects shall be stored outdoors only in closed containers.

C. Conditions for Site Development - No land shall be used or occupied, and no structure shall be designed, erected, altered, used or occupied except for the permitted uses and lawful accessory uses of the industrial district. Any permitted use shall observe all of the following conditions:

1 All yards and open areas shall be properly graded for drainage and surfaced with concrete or asphalt, grass, or any other appropriate dust-free surfacing and shall be maintained in good condition, free of dust, trash and debris.

2 Lots shall be provided with barriers of such dimension that occupants of adjacent structures are not unreasonably disturbed, either by day or by night, by the movements of vehicles, machinery, equipment, or supplies.

3 Lots shall be provided with entrances and exits so located as to minimize traffic congestion. Where entrances and exits are intended for use by trucks, lanes shall be at least twelve (12) feet wide and the radius of curve at the pavement edge of the entrance or exit shall be at least thirty-six (36) feet.

4 Lots shall be provided with sufficient internal circulation and turning space so that no vehicle will have to maneuver on any public right-of-way in order to gain access to or exit from any lot, for any reason.

5 Lots shall be provided with a well-maintained landscaped strip at least ten (10) feet wide along all street property lines, exclusive of drives and walks. Such landscaping should not interfere with, or block needed views of buildings or their identification.

D. Lighting facilities shall be so arranged that they neither unreasonably disturb occupants of adjacent properties nor

interfere with traffic.

1. Accessory Uses - An accessory use shall be only incidental to a permitted use and must comply with all of the following conditions concerning an accessory use:
 2. Is operated and maintained under the same ownership or by the lessees occupying the permitted use.
 3. Does not include residential occupancy except by caretakers and watchmen.
 4. The accessory use shall be limited to a gross floor area of not more than twenty (20) percent of the gross floor area of the principal structure.
- E Permitted Encroachment on Setback Requirements - Belt courses, sills, lintels, cornices, eaves, gutters, stoops and building accessories designed and intended to control light and glare entering the building, and not being a permanent part of such buildings by being supported from the ground, may extend three (3) feet into any setback space without being considered in violation of the setback requirements of the industrial zone district.

SECTION XVI

I-1 LIGHT INDUSTRY

16.1 DESCRIPTION OF DISTRICT

This district is comprised of areas of the city where industrial locations is desired. Since light industry is defined as the manufacturing of products resulting in minimal amounts of noise, smoke, heat, of other industrial by-products, they can and should be located near or adjacent to any C-2 zoned district. This district is intended to provide suitable and attractive sites for industrial use and to encourage a high standard of industrial development.

16.2 GENERAL CONDITIONS

The general conditions applying to all zone districts and the general conditions applying to Industrial Zone districts shall be in full force and effect in the I-1 district.

16.3 PERMITTED STRUCTURES

Each lot shall have at least one (1) front property line and shall be occupied only by structures containing permitted uses and such accessory buildings as are clearly incidental and normal to the structure and are operated and maintained by the owner or tenant of the permitted use; provided, however, that it shall not be a residence. No accessory structure shall be allowed in the required front or side yard.

16.4 PERMITTED USES

In the I-1 district only those uses specified under I-1/~~C-1~~/~~C-2~~ (per amending ordinance #515) in the List of Permitted Uses, of the Regulations will be permitted.

16.5 DIMENSIONAL REQUIREMENTS

- A. All lots shall be not less than 43,560 square feet (1 acre) in area.
- B. Minimum Required Front Yard - All structures shall be constructed so that no portion falls within one hundred (100) feet of the nearest front lot line point. Where the height of any main structure exceeds sixty (60) feet as permitted under these regulations, the front yard setback shall be increased one (1) foot for each increment of five (5) feet increased structure height up to fifty (50) feet, the maximum permitted.

- C. Minimum Side Yards - There shall be two (2) side yards to each lot; the minimum required side yard width shall be not less than twenty-five (25) feet as measured from the point of the structures lying nearest the side lot line, except that any side yard abutting a street shall be at least thirty-five (35) feet, unless under other ordinances a greater setback is required for the purpose of widening or for other reasons. Where the height of any structure exceeds thirty-five (35) feet as permitted, the side yard setback shall be increased by one (1) foot for each increment, of five (5) feet of increased structure height up to fifty (50) feet, the maximum permitted.
- D. Rear Yards - No portion of the main structure shall be closer than fifty (50) feet to the rear lot line, with the same requirements for increased building as previously stated for front and side yard dimensions.

16.6 OFF-STREET PARKING

The provisions of the Off-Street Parking Requirements shall be in full force in the I-1 district. As specified in Section 19.8

16.7 OFF-STREET LOADING REQUIREMENTS

The provisions of the Off-Street Loading Requirements shall be in full force and effect in the I-1 district. As specified in Section 19.10 and 19.12.

16.8 CORNER VISIBILITY

At intersections, within the areas formed by the right-of-way lines of intersecting streets and a line joining points of such right-of-way lines at a distance of twenty-five (25) feet from their intersection, there shall be no obstruction to vision between height of ten (10) feet above the average grade of each street at the centerline, except that street name signs, fire hydrants, street lighting poles, and associated appurtenances shall be permitted within this area.

SECTION XVII

I-2 HEAVY INDUSTRY

17.1 DESCRIPTION OF DISTRICT

This district is composed of industrial areas of the city and down-wind from residential and business areas. Regulations are the minimum required for mutual protection of the industrial users, and to that end, the district should not be adjacent to any residential or business district, if such abutment can possibly be avoided. The district is intended to provide good and attractive sites for industrial uses and encourage a high standard of industrial development

17.2 GENERAL CONDITIONS

The general conditions applying to all zone districts and the general conditions applying to Industrial Zone Districts shall be in full force and effect in the I-2 district.

17.3 PERMITTED STRUCTURES

Each lot shall have at least one (1) front property line and shall be occupied only by structures containing permitted uses and such accessory buildings as are clearly incidental and normal to and are operated and maintained by the owner or tenant of the permitted use, provided however, that it shall not be a residence.

17.4 PERMITTED USES

In the I-2 district, only those uses specified under I-2/I-1/~~C-2~~ (per amending ordinance #515) in the List of Permitted uses, of the Regulations will be permitted.

17.5 DIMENSIONAL REQUIREMENTS

The lot for an I-2 Industrial District shall comply with the following dimensional requirements:

- A. All lots shall not be less than 217,800 square feet (5 acres) in area.
- B. Minimum Required Front Yard. All structures shall be set back a distance of not less than one hundred (100) feet from each front property line, or as required in other ordinances, whichever is the greater, provided, however, that where the height of any main structure exceeds sixty (60) feet as permitted under these district regulations, the

front yard setbacks, shall be increased one (1) foot for each increment of five (5) feet increased structure height up to fifty (50) feet, the maximum permitted.

- C. **Minimum Side Yards.** There shall be two (2) side yards to each lot; the minimum required side yard width shall not be less than fifty (50) feet, except that any side yard abutting a street shall be at least one hundred (100) feet, under other ordinances a greater setback is required for the purpose of street widening or for other reasons, provided, however, that when structures, on abutting lots share a common rail facility extending along the side of the building, the side yard on that side of the building may be reduced with the Commission's approval, to facilitate common usage of the railroad spur. Where the height of any structure exceeds thirty-five (35) feet as permitted under these district regulations, the side yard setback shall be increased one (1) foot for each increment of five (5) feet increased structure heights up to sixty (60) feet the maximum permitted.
- D. **Minimum Rear Yard Requirements.** There shall be a rear yard having a depth of not less than fifty (50) feet, except where a railroad siding is provided to the specific lot, then the rear yard will be reduced to the siding.
- E. **Maximum Height.** No building hereafter erected or structurally altered shall exceed six (6) stories or sixty (60) feet in height, provided, however, that chimneys, vents, air-conditioning tower, accessory water towers and elevators shafts, all clearly accessory to the main structure shall be permitted to exceed this height limitation up to but not exceeding twenty-five (25) percent of the total permitted height.
- F. **Location of Accessory Buildings.** No accessory buildings shall be located on any required front or side yard, or within twenty-five (25) feet of any street or within ten (10) feet of any lot line, that is not a street line, unless otherwise provided for herein. Fences up to ninety-six (96) inches in height may be erected along any boundary line to the side yards or rear yard from the front building line, except where the rear lot line abuts a street, and such fences shall not be deemed "structures" for the purpose of this section.
- G. **Lot Coverage.** On each lot there shall be fifty (50) percent of the total area retained as clear and unobstructed open space, provided, however, that such open space may be used for parking areas and access roads do not encroach on any required land spaced areas.
- H. **Screens -** All uses shall provide a screen between abutting residential areas of at least ninety-six (96) inches in height not to exceed one hundred and twenty (120) inches so as to protect these areas from

unreasonable disturbance by movement of people or vehicle and from lights, noises, or exposure to a view not compatible with residential areas. Such screen shall be pleasing in design, and of a substantial material, easily maintainable and sufficient to block the view from adjoining lots and subject to commission approval. (Section 26)

17.6 OFF-STREET PARKING

The provisions of the Off-Street Parking Requirements shall be in full force and effect in the I-2 district. See Section 19.8.

17.7 OFF-STREET LOADING REQUIREMENTS

The provisions of Off-Street Loading Requirements shall be in full force and effect in the I-2 district. See Section 19.10 and 19.12.

17.8 CORNER VISIBILITY

On a corner lot, within the area formed by the right-of-way lines of intersecting streets and a line joining points on such right-of-way lines at a distance of twenty-five (25) feet from their intersection, there shall be no obstruction to vision between a height of two (2) feet and a height of ten (10) feet above the average grade of each street at the centerline thereof, except that street name signs, fire hydrants, street lighting poles, and associated appurtenances thereto shall be permitted within this area.

SECTION XVIII
AGRICULTURAL DISTRICT

18.1 DESCRIPTION OF DISTRICT

This district is comprised of land used primarily for agricultural purposes as defined by Kentucky Revised Statutes Chapter 100 and is subject to regulations and restrictions as stated in those statutes and in this Ordinance.

18.2 PERMITTED STRUCTURES

Each lot shall have at least one (1) front property line and shall be occupied by only one (1) principal structure and any other buildings that are required to produce agricultural products.

18.3 PERMITTED USES

In an Agricultural district only those uses under Agriculture in the List of Permitted Uses of these regulations will be permitted.

SECTION XIX

OFF-STREET PARKING REQUIREMENTS

19.1 SCOPE OF REQUIREMENTS

The requirements herein set forth shall apply and govern in all districts except the C-1 district, where these regulations shall not be enforced.

19.2 DUTY TO PROVIDE AND MAINTAIN OFF-STREET PARKING SPACES

It shall be the duty and responsibility of the operator and owner of the use and the land on which the structure is located to provide the parking area as specified. No use on the land shall be permitted nor operated unless the off-street parking requirements are met. From the effective date of the ordinance, any use, which is enlarged or changed, must meet applicable off-street parking requirement.

19.3 LOCATION OF OFF-STREET PARKING SPACES

Off-street parking area shall be located on the same lot as the use.

19.4 SEPARATE OR COMBINED USES

Where off-street parking space is required for a group of businesses all located on the same site, then the total floor area of all businesses will be used to determine the number of parking spaces.

19.5 AMOUNT OF OFF-STREET PARKING SPACES REQUIRED

The following amounts of off-street parking space shall be provided, plus an area of adequate egress and ingress which shall not be used in the computation of parking space; except that single-family residences may utilize this area in their computation of parking area. The minimum dimensions of one (1) parking space shall be ten (10) by twenty (20) feet or two hundred (200) square feet. The provisions of the Off-Street Parking Requirements shall be in full force and effect in the I-1 and I-2 district. Parking spaces should be made available as required by the American Disability Act.

19.6 PARKING TYPE ONE (1), RESIDENTIAL

A. Single Family

- 1) A structure containing 1,200 square feet or less of gross floor area shall provide one (1) space of ten (10) feet by twenty (20) feet.
- 2) A structure containing more than 1,200 square feet of gross floor area, shall be provided with two (2) spaces or four hundred (400) square feet.

B. Multi-Family

- 1) For each dwelling unit there shall be provided one and a half (1½) parking spaces or three hundred (300) square feet.

19.7 PARKING TYPE TWO (2), COMMERCIAL

- A. There shall be no parking space requirement within the C-1 district except for a granted conditional use or dimensional variance.
- B. If the gross floor is 7,500 square feet or less, an area equal to one-half (1/2) the gross floor area shall be provided.
- C. If the gross floor area is 7,500 square feet up to and including 11,000 square feet, an area equal to three quarters (3/4) of the gross floor area shall be provided for parking.
- D. If the gross floor area is more than 11,000 square feet, an area equal to the gross floor area shall be provided for parking.
- E. If the gross floor area is more than 15,000 square feet, an area equal to one and a half (1½) times the gross floor area shall be required.

19.8 PARKING TYPE THREE (3), INDUSTRIAL

For each three (3) employees regularly present at the same time. Two hundred (200) square feet shall be provided for parking; but in no event less than an area equal to one-tenth (1/10) of the gross floor area.

19.9 PARKING TYPE FOUR (4), PUBLIC/RECREATIONAL

For public areas, one (1) parking space (180 square feet) for each four (4) members or patrons measured at full capacity except when it can be shown that the use generates its parking volume at a time when adequate parking space is available, unused and is located within four hundred (400) feet of

the facility. For recreational areas, an area one-quarter (1/4) the size of the total recreation area shall be provided for parking.

19.10 OFF-STREET LOADING REQUIREMENTS

The duty to provide off-street loading space shall be the joint responsibility of the owner and operator of the structure for which off-street loading space is required. No structure shall be designed, erected, altered, used or occupied unless the required off-street loading space is provided at present, and the buildings are occupied and used on the effective date of this ordinance, these requirements will not be in effect unless such structure is enlarged or the use enlarged. The new increment will be the only part of the building used for determining the amount of off-street loading space.

19.11 LOCATION OF OFF-STREET LOADING SPACE

Off-street loading space shall be located on the same lot as the structure for which provided.

19.12 AMOUNT OF OFF-STREET LOADING SPACE REQUIRED

The following amounts of off-street loading space shall be provided plus an area or means adequate for ingress and egress.

- A. For structures containing less than 25,000 square feet of gross floor area, one (1) berth for each 12,500 square feet of gross floor area. Each berth shall have a net of not less than one hundred sixty (160) square feet.
- B. For structures larger than 25,500 square feet of gross floor area, the number of berths is specified in the following table. Each berth shall be at least ten (10) feet wide, thirty-five (35) feet long and fifteen (15) feet high.

<u>Square Feet of gross floor area</u>	<u>Number of Berths</u>
10,000-40,000	1
40,001-100,000	2
100,001-160,000	3
160,000-240,000	4
240,001-320,000	5
320,001-400,000	6
for each 100,000 over 400,000	1 additional

SECTION XX

MOBILE HOME PARK REGULATIONS

20.1 DEFINITION

A parcel of land under the control of any person and available to the public, in which five (5) or more mobile home lots are constructed for occupancy by mobile homes, including any service building, structure, enclosure or facility used as part of the park.

20.2 PURPOSE

These regulations establish rules and standards guiding mobile home park developments within Brandenburg in order to promote the safety, convenience and general welfare of the citizenry.

20.3 ADMINISTRATION

These regulations shall be administered by the Brandenburg Planning Commission. All applicants, maps, documents, and fees relating to mobile home park approval shall be submitted to the Administrative Official. Seven (7) days prior to the Planning Commission meeting at which it is to be considered.

20.4 APPLICATION

No land within Brandenburg shall be developed as a mobile home park until a final plat of the proposed plat recorded in the office of the County Clerk. All mobile home parks shall be located in the appropriate zoning district and henceforth no mobile home will be allowed on individual lots in any zone or be allowed anywhere outside of an approved mobile home park.

20.5 PLAT SUBMISSION

Prior to the preparation of the plat, the developer should consult with the Administrative Official to ensure compliance with these regulations and other applicable ordinances. The developer shall submit an application along with three (3) copies of the plat and other supplementary material and fees to the administrative official prior to the planning commission meeting at which it is to be considered.

20.6 INFORMATION REQUIRED FOR PLAT

- A. The name and address of the owner and developer and the proposed name of the park.
- B. The location of the tract in relation to the city.
- C. The boundary lines and dimensions of the proposed mobile home park.
- D. The name and address of each adjacent property owner.
- E. The gross acreage of the tract.
- F. The location of all existing streets, roads, wet and dry weather water courses, wooded areas and other significant physical features within the tract and two hundred (200) feet beyond the property line.
- G. The approximate location of all existing structures within the proposed tract that will be retained.
- H. The location, size, elevations and direction of flow of existing water, sanitary sewer and storm drainage systems on the adjacent to the tract.

20.7 REVIEW PROCEDURE

If approved by the Planning Commission, a certified copy of the approved plat shall be filed for recording, at the developers' expense, in the office of the County Clerk within sixty (60) days after approval. Approval is voided if the approved, final plat is altered in any manner, except for commission requirements, between the dates of Commission approval and recording of the plat. If the plat is not approved the developer by the Planning Commission 7 days prior to the meeting at which the reviewed plat is to be considered. Upon approval of the revised plat, recording requirements as previously outlined shall be followed.

20.8 REQUIRED CERTIFICATION

All certifications and exhibits required for submission of an application for a mobile home park shall be the same as for any subdivision except that,

in addition, an approved construction permit from the Cabinet for Human Resources must be submitted.

20.9 AREA AND DENSITY

- A. No mobile home park shall be developed on an area of less than one (1) acre. The developer shall be permitted to develop the park in stages. However, the first stage shall contain a minimum of five (5) developed lots.
- B. No mobile home park shall be permitted a density of more than five (5) mobile homes per acre.

20.10 MOBILE HOME LOTS

- A. Each lot shall be designed for occupancy of one (1) mobile home unit and shall have area of not less than 4,500 square feet and minimum width of forty-five (45) feet.
- B. Each lot shall contain an appropriately sized pad or other foundation. The location of the pad on each lot shall be at least ten (10) feet from the nearest lot boundary.

20.11 LOT SETBACK AND SEPARATION REQUIREMENTS

- A. All mobile homes shall be located a minimum of twenty-five (25) feet from the boundaries of adjacent property.
- B. All mobile homes shall be located a minimum of twenty (20) feet from the edge of internal streets.
- C. Mobile homes shall be separated from each other by a minimum of twenty (20) feet.

20.12 INTERNAL STREETS

- A. All mobile home parks shall be provided with convenient and safe vehicular access. Entrances shall be approved the appropriate jurisdictional authority.

B. Entrances and internal streets shall be of adequate width to accommodate anticipated traffic and parking needs. Minimum widths of street pavements shall be as follows:

<u>Street Types</u>	<u>Minimum Pavement Width</u>
Entrance	
First 50 feet	24 feet
Beyond 50 feet	20 feet
Internal Streets	18 feet

20.13 PARKING REQUIREMENTS

A minimum of two (2) parking spaces shall be provided for each lot.

20.14 WATER SYSTEM

- A. Where a public water supply is reasonably accessible, the developer shall construct a completely looped distribution system adequate to serve the park with a connection for each lot and with hydrants spaced a maximum of six hundred (600) feet apart.
- B. Where a public water supply is not within a reasonable distance or is otherwise unavailable, the developer shall be required to construct a distribution system in accordance with 20.14A and connect it to an alternate water supply approved by the appropriate health agency having jurisdiction.

20.15 SANITARY SEWER SYSTEM

- A. Where a public sanitary sewer system is reasonably accessible, the developer shall construct a complete collection system, including a lateral connection for each lot and, if necessary, lift or pumping stations.
- B. Where a public sanitary sewer system is not accessible, the developer shall construct such a system and must get approval of the appropriate agency having jurisdiction. Septic systems are not acceptable.

20.16 FEES

The fee for filing a preliminary plat for a mobile home park shall be the same as for any subdivision.

SECTION XXI

SUBDIVISION REGULATIONS

21.1 DEFINITION OF SUBDIVISION

The division of a parcel of land into three (3) or more lots or parcels, for the purpose, whether immediate or future, of sale, lease or building development, or if a new street is involved, any division of a parcel of land: providing that a subdivision of land for agricultural purposes into lots of 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 to the land subdivided: any division or redivision of land into parcels of less than one acre occurring within twelve (12) months following a division of the same land shall be deemed a subdivision within the meaning of this act.

21.2 PURPOSE

The guidance of land development in accordance with community objectives is a matter of serious public concern. These regulations are established to guide land development and subdivision within the jurisdiction of the City of Brandenburg in order to promote the public health, safety, and general welfare of the citizenry.

21.3 AUTHORITY/JURISDICTION

- A. Pursuant to the authority granted to cities and counties by the Kentucky Revised Statutes (KRS) 100.273 and 100.334 and upon adoption of this ordinance, the City of Brandenburg Planning Commission does hereby exercise the authority to review, approve and disapprove subdivisions of land within its jurisdiction.
- B. The rules contained herein governing the development and subdivision of land shall be applicable within the corporate limits of the City of Brandenburg.

21.4 PROCEDURES

A. Preliminary Plat

- 1 The subdivider or representative may meet and consult informally with the Commission prior to the preparation of a preliminary plat for familiarization with these major streets, water and sewer systems and other pertinent public facilities.

- 2 The preliminary plat shall be prepared by registered land surveyor in accordance with the format design and improvement requirements as found in 21.5. All required engineering shall be prepared by a registered professional engineer.
- 3 A minimum of (3) three copies of the preliminary plat and supplementary materials shall be submitted to the Commission with a written application (secured from the Administrative Official) and fees prior to the meeting at which the preliminary plat is to receive consideration.
- 4 Developers or subdividers must make applications for dimensional variances prior to or at the time the preliminary plat is submitted for approval. The application shall state the particular reasons for the request. A dimensional variance application shall not be accepted with the final plat. All dimensional variances shall run with the land.
- 5 The Commission shall review the preliminary plat and supplementary materials for conformity with these regulations and within ninety (90) days approve, approve with conditions or disapprove said plat. Failure of the Commission to act on the preliminary plat within ninety (90) days shall constitute approval.
- 6 The action of the Commission regarding the preliminary plat shall be recorded in the minutes of the meeting.
- 7 The preliminary plat may become the final plat if it meets all of the requirements of the final plat, and the commission approves it.

B. Final Plat

1. The final plat shall be prepared by a registered land surveyor and all required engineering data shall be prepared by a registered professional engineer in accordance with Paragraph 21.5 subject to all conditions placed upon the preliminary plat by the Commission.
2. A minimum of three (3) copies of the final plat and supplementary materials shall be submitted to the Commission prior to the meeting at which the final plat is to receive consideration.
3. The Commission shall review the final plat and supplementary materials for conformity with these regulations and within ninety

(90) days approve, approve with conditions, postpone or disapprove said plat. Failure of the Commission to act on the final plat within ninety (90) days will constitute approval.

4. The action of the Commission regarding the final plat shall be recorded in the minutes of the meeting and for final plats receiving approval, the appropriate signatures shall be affixed to all copies submitted of the final plat. One signed copy shall be returned to the subdivider and one (1) signed copy to the appropriate legislative body. A certified copy of the final plat shall be filed for recording by the subdivider in the Office of the County Clerk within ninety (90) days after approval of said final plat by the Commission.
5. Approval by the Commission of the final plat shall not constitute the acceptance by the applicable legislative body of the dedication of any street, roads or grounds.

21.5 PLAT FORMAT AND CONTENT

A. Preliminary Plat

The Preliminary Plat must meet minimum design standards and shall give the following information:

1. A vicinity map at an approximate scale of one (1) inch equals one thousand (1,000) feet, indicating the general location of the subdivision and the zoning classification thereof. This shall be placed in the upper left- or right-hand corner.
2. The name of subdivision, name(s) and address (es) of the owner, the names(s) and address (es) of the registered engineer or land surveyor responsible for preliminary plat preparation, and the name(s) and address (es) of the subdivider, if different from the owner, shall be placed at the bottom of the sheet.
3. The owners of property adjacent to the proposed subdivision.
4. A legend containing a scale of one hundred (100) feet to one inch or larger, north arrow, date of plat preparation, and acreage to be subdivided.
5. Existing utilities on and adjacent to the proposed subdivision site with easements indicated.
6. Subdivision boundaries with bearings and distances.

7. Existing and proposed easements and rights-of-way with their locations, width and distances.
8. Existing and proposed streets or roads on and within five hundred (500) feet of the proposed subdivision. Recorded but unimproved streets or roads along with proposed streets or roads shall be indicated with dashed lines.
9. The location of building setback lines for front, rear, and side for each lot.
10. Lot lines and lot numbers. All lots shall be consecutively numbered and indicate dimensions and areas in acreage.
11. Additional data, deed restrictions, if any are proposed, shall be attached to sheet.

B. FINAL PLAT

The Final Plat shall conform to the Preliminary Plat as approved and contains the following information:

1. The name of the proposed subdivision, and label RECORD PLAT in large letters above the name.
2. A legend containing a scale of one hundred (100) feet to one inch or larger, north arrow, date of plat preparation, and acreage contained within the subdivision.
3. A vicinity map at an approximate scale of one (1) inch equals one thousand (1,000) feet, indicating the general location of the subdivision. This shall be placed in the upper left- or right-hand corner.
4. Subdivision boundaries, right of way lines of proposed streets, and lot dimensions.
5. Lot numbers and front, side and rear setback lines.
6. The location and width of all existing and proposed easements.
7. All required Certifications.
8. Additional data, a copy of any deed restrictions shall be attached to each final plat

21.6 CERTIFICATIONS

The following certification blocks shall be shown on the final plat and signed prior to the recording of the plat.

CERTIFICATE OF OWNERSHIP AND DEDICATION

I (we) hereby certify that I am (we are) the owner(s) of the property shown and described hereon and that I (we) hereby adopt this plan of subdivision with my (our) free consent, establish the minimum building restrictions lines, and dedicate all streets, alleys, walks, parks and other open spaces to public and private use as noted; and do establish and reserve the easements indicated for public utility and drainage purposes.

Date

Owner

Certificate of Accuracy

I hereby certify that the plan shown and described hereon is true and correct survey to the accuracy required by the City of Brandenburg, Kentucky, Planning Commission and that the monuments have been placed as shown here on to the specifications of the County Engineer or the City Engineer.

Date

Registered Engineer or Surveyor

Certificate of Approval for recording

I hereby certify that the subdivision plat shown hereon has been found to comply with the Subdivision Regulations for the City of Brandenburg, Kentucky, with the exceptions of such variances, if any, as are noted in the minutes of the Planning Commission and that it has been approved for recording in the office of the County Clerk.

Date

Chairman, City of Brandenburg
Planning Commission

21.7. DESIGN AND IMPROVEMENT STANDARDS

Name of Subdivision

The name of the proposed subdivision shall not duplicate the name of any subdivision within the jurisdiction of the City of Brandenburg Planning Commission.

Lots

Lots shall abut for a minimum distance of seventy-five (75) feet upon a street or road dedicated for public use.

Lots not served by a public sanitary sewer system shall contain a minimum of twenty thousand (20,000) square feet.

Corner lots shall have sufficient extra width to meet the minimum building setback line established on each street.

All lots shall conform to the minimum setback requirements as specified in the City of Brandenburg Zoning Ordinance.

Lots located on land subject to natural or man-made hazards such as flooding, may require special provisions in order to accommodate residential development. The Planning Commission reserves the right to disapprove plats or portions thereof which possess unsuitable conditions for residential use.

Side lots lines shall be at right angles to straight street lines or radial to curved street lines.

Easements

Easements across lots or centered on rear or side lot lines for utilities may be required and shall be a minimum of ten (10) feet in width. A greater width may be required by the Planning Commission.

Streets

A proposed street in alignment with an existing street already named shall bear the name of the existing street. The installation of durable street name signs at all intersections is required.

There shall be no private streets platted within a subdivision.

The proposed street layout shall provide for the continuation of existing streets to adjoining tracts.

The entire minimum right-of-way shall be dedicated when a subdivision is located on both sides of an existing street. One half (1/2) of minimum right-of-way is dedicated when subdivision is on the side of existing street.

Street curb intersections shall be rounded by radii of at least twenty (20) feet.

Streets shall intersect as nearly as possible at right angles.

Intersections involving more than four (4) basic street approaches shall be prohibited.

Dead end streets shall not be longer than five hundred (500) feet (based on number of lots) and shall be provided with a turnaround having a radius of at least forty feet (40) and a right-of-way radius of at least fifty feet (50):

STREETS SPECIFICATIONS

	Minimum Right-of-Way	Pavement Width	Maximum Grade
Arterial	80	48	5
Collector	60	32	5-8
Local	50	22	12

The construction standards and specifications for streets shall be in accordance with the rules and regulations of the City of Brandenburg.

21.8. ADMINISTRATION AND ENFORCEMENT

- A. No person or his agent shall subdivide any land before securing the approval of the Commission of the final plat designating the area to be subdivide.
- B. No person owning land composing a subdivision, or his agent, shall transfer, sell or agree to sell any lot parcel of land located within a subdivision by reference to, or by exhibition, or by any other use of a plat of such subdivision before such plat has received final approval of the Commission and has been recorded. Any such instrument of transfer, sale or contract shall be void and shall not be subject to be recorded, but all rights of such purchaser to damages are hereby preserved. The description of such lot or parcel by metes and bounds

in any contract or instrument or transfer or other document used in the process of selling or transferring same shall not exempt the person attempting to transfer from penalties provided or deprive that the purchaser of any rights or remedies he may otherwise have.

- C. The Commission shall have the power to apply for an injunction against any type of subdivision construction by a subdivider or a landowner in violation of the provisions of this ordinance.

SECTION XXII

ENFORCEMENT

22.1 LIMITATIONS ON ALL LAND AND STRUCTURES

No land shall be used or occupied, and no structures shall be designed, erected, altered, or occupied except in conformity with all regulations established and upon performance of all conditions set forth in this ordinance.

22.2 LIMITATIONS ON SALES AND SERVICES OF ALL LAND AND STRUCTURES

No persons, firm or corporation and no employee thereof, shall sell, rent, or lease or attempt to do any of the aforementioned, upon the representation that such land or structure may be used or occupied in a manner or for a use prohibited in the zoning district in which said structures or land is located. Any failure to notify the intended purchaser of any real estate of the zoning clarification and restrictions thereof will be the fault of the seller and not the Planning Commission, Board of Adjustments or City Council.

22.3 ZONING CERTIFICATE TO ERECT OR ALTER STRUCTURES

No structure shall be erected or structurally altered until a Building Permit for such erection or alteration shall have been issued by the Planning Commission or Administrative Official.

22.4 A STOP WORK PERMIT

Should any persons or group of persons fail to comply with the specifications approved on the building permit, or knowingly deceive the Planning Commission through the application of a false building permit, or knowingly deceive the Planning Commission shall have the right to place a Stop Work Order on the premises of the alleged infraction, at which time all work must be stopped and the violator must come before the Planning Commission for review and advisement on the illegal project.

22.5 VIOLATIONS - ESTABLISHED

By the provisions of this ordinance, when the performance of any act is required or prohibited, or whenever any regulation, dimension or limitation is imposed on the use or change of use of any land or structure, a failure to comply with the provisions of this ordinance shall constitute a

violation. Any person or group of persons who violates, disobeys, omits, neglects or refuses to comply with or resists the enforcement of any of the provisions of this ordinance shall be fined not less than ten (10) dollars up to five hundred (500) dollars and also alternatively shall be subject to a Class B. Misdemeanor. Where the violation is of a continuing nature, every day on which the violation exists shall constitute a separate offense.

SECTION XXIII
SCHEDULE OF FEES

23.1 REZONING REQUEST

\$225.00 (All zones)

(Fees amended with building code ordinance)

23.3 CONDITIONAL USE PERMIT-RENEWABLE

ANNUALLY.....\$125.00

23.4 VARIANCE REQUEST.....\$125.00

23.5 PLAT SUBMISSION.....\$10.00/LOT

23.6 RESTRICTED LAND USE ILING.....\$75.00/PLAN
(FOR COMMERCIAL DEVELOPMENT PLAN)

SECTION XXIV

EFFECTIVE DATE

This ordinance is hereby declared to be a measure necessary in the interest and for the promotion of safety, convenience and public welfare. This ordinance shall be in full force and effect from and after its passage and approval as provided by law.

Approved this 11th day of September 2023.

SECTION XXV

CELLULAR TELECOMMUNICATION FACILITY

25.1 PURPOSE:

The Purpose of this section is to better provide communication capabilities throughout Brandenburg, and in doing so, to protect the people and the land from unsightly facilities and overcrowding of such facilities.

25.2 AUTHORITY:

The Brandenburg Planning Commission has the authority to regulate the placement of cellular telecommunication facilities with Brandenburg, Kentucky, under Kentucky Revised Statutes (KRS) Chapter 100, Sections 100.985 and 100.087.

25.3 PROVIDER REQUIREMENTS:

The following regulations shall apply to all proposed cellular telecommunication facilities within the incorporated city of Brandenburg, Kentucky.

Every utility or a company that is engaged in the business of providing the required infrastructure to a utility that proposes to construct an antenna tower for cellular telecommunications services or personal communications services within incorporated Brandenburg, Kentucky, shall:

Submit a copy of the utility's completed uniform application to the Brandenburg Planning Commission within five (5) days of applying to the PSC for a certificate of necessity and convenience as required by KRS 278-020 (1). The uniform application shall include a grid map that shows the location of all existing cellular antenna towers and that indicates the general position of proposed construction sites for new cellular antenna towers within an area that includes:

All of the Brandenburg Planning Commission's jurisdiction; and a one-half (1/2) mile area outside the boundaries of the planning unit's jurisdiction, if that area contains either existing or proposed construction sites for cellular antenna towers.

Include in any contract with an owner of property upon which a tower is to be constructed, a provision that specifies, in the case of abandonment, a method that the utility will follow in dismantling and removing a tower including a timetable for removal.

25.4 GUARANTEE:

To ensure the removal of all improvements at any abandoned telecommunications facility, any applicant filing a request under these regulations shall, at the time of submittal, deposit with the planning commission, and to the benefit of the planning commission, a letter of credit, a performance bond, or other security acceptable to the planning commission in the amount equal to the cost of the demolition and removal of the facility. An applicant having multiple telecommunications facilities within the planning commission's jurisdiction may deposit a single guarantee in the amount equal to the cost of demolition and removal of the one facility it owns which would cost the most to demolish and remove until such time as the number of its multiple facilities exceeds four (4) such facilities. At such time as the approved number of the applicant's multiple facilities exceeds four (4) such facilities, the applicant shall increase the amount on deposit to an amount equal to the cost of the most costly demolition and removal plus twenty-five (25) percent of the cost of demolition and removal of the applicant's other existing facilities. Any guarantee submitted shall be irrevocable and shall provide for the planning commission to collect the full amount of the guarantee if the applicant fails to maintain the guarantee.

And comply with any local ordinances concerning land use, subject to limitations imposed by 47 U.S.C. 332, KRS 278.030, 278.040, and 278.280.

25.5 PLANNING COMMISSION REQUIREMENTS:

After receiving the uniform application to construct a cellular antenna tower, the Planning Commission shall:

Review the uniform application in light of its agreement with the Comprehensive Plan and the Brandenburg Zoning Ordinance; Make its final decision to approve or disapprove the uniform application; and advise the utility and the PSC in writing of its final decision within sixty (60) days commencing from the date that the uniform application is received by the Planning Commission or within a date certain specified in a written agreement between the Planning Commission and the utility. If the Planning Commission fails to issue a final decision with sixty (60) days and if there is no written agreement between the Planning Commission and the utility to a specific date for the Planning Commission to issue a decision, it is presumed that the Planning has approved the utility's uniform application.

If the Planning Commission disapproves the proposed construction, it shall state the reason for disapproval in its written decision and may make

suggestions, which, in its opinion, better accomplish the objectives of the Comprehensive Plan and the Brandenburg Zoning Ordinance. No permit for construction of a cellular or personal communications services antenna tower, including any certificate of convenience and necessity required to be issued by the Kentucky Public Service Commission, shall be issued until the Planning Commission approves the uniform application or the sixty (60) days time period has expired, whichever occurs first. If the Planning Commission rejects the uniform application to construct an antenna tower, the PSC may override the decision of the Planning Commission and issue a certificate of convenience and necessity for the construction of the cellular or personal communications service antenna tower, if it determines that there is no acceptable alternate site and that the public convenience and necessity require the proposed construction. The Planning Commission may require the utility to make a reasonable attempt to co-locate additional transmitting or related equipment on any new or existing towers, if there is available space on the tower and the co-location does not interfere with the structural integrity of the tower to make substantial alterations to the tower. The Planning Commission may provide the location of existing cellular towers on which the Commission deems the applying utility can successfully co-locate its transmitting and related equipment. If the Planning Commission required the utility to attempt co-location, the utility shall provide the local planning unit with a statement indicating that the utility has:

Successfully attempted to co-locate on towers designed to host multiple wireless service providers' facilities or existing structures such as a telecommunications tower or another suitable structure capable of supporting the utility's facilities, and that identifies the location of the tower which the applying utility will co-locate its transmission and related facilities on; or

Unsuccessfully attempted to co-locate on towers designed to host multiple wireless service provider's facilities or existing structures such as a telecommunications tower or another suitable structure capable of supporting the utility's facilities and that:

Identifies the location of the towers, which the applying utility attempted to co-locate on;

And

Lists the reasons why the co-location was unsuccessful in each instance.

The Planning Commission may deny a uniform application to construct a cellular antenna tower based on a utility's unwillingness to attempt to co-locate additional transmitting or related equipment on any new or existing towers.

In the event of co-location, a utility shall be considered the primary user of the tower, if the utility is the owner of the antenna tower and if no other agreement exists that prescribes an alternative arrangement between the parties for use of the tower. Any other entity that co-locates transmission or related facilities on a cellular antenna tower shall do so in a manner that

does not impose additional costs or operating restrictions on the primary user.

Additional requirements:

1. Each proposal shall have a development plan (Commercial Development Plan-content requirements in Section 12.3) approved by the Planning Commission.
2. The setbacks from property lines shall be a minimum of 34% of the height of a self-supporting tower. For monopole towers, the setbacks shall be equal to the height of the tower. For guyed towers, the setbacks shall be a minimum of 82% of the height of the tower.
3. The subdivision of land is not necessary; therefore, the proposal shall provide a copy of the executed lease agreement and proof of ingress/egress.
4. No proposed tower shall locate within one (1) mile of an existing tower.
5. Fencing (72" minimum height) around the compound is required.
6. Any structure on the property shall not be for habitation; therefore, it shall not be connected to any water supply or sewage disposal system.

The Brandenburg City Council shall be notified, in a timely, fashion by the Planning and Zoning Administrator of any applications for the construction of cellular telecommunications facilities with the Brandenburg Planning and Zoning jurisdiction.

SECTION XXVI

LANDSCAPING/BUFFER STANDARDS

26.1 Purpose

The purpose of this chapter is to provide standards for the conservation and protection of the land, water, air, vegetation and other natural resources of the City of Brandenburg. These landscaping standards are intended to provide a means for alleviating erosion, siltation, and other harmful effects of land-disturbing activities on neighboring land and streams by ensuring that the owner of the property on which land- disturbing activities are to be carried out provides adequate controls on erosion and sedimentation and takes necessary measures to preserve and protect trees and other vegetation during all phases of land- disturbing activity. This chapter also provides standards for buffer types, uses, and construction intended to separate and screen incompatible land uses.

26.2 Development Regulated

The three types of development that are regulated by landscaping standards include existing development, proposed development and sites in the process of a land use change. These types of development shall be regulated as follows:

- A.** No proposed commercial or industrial development shall be constructed unless landscaping/buffer standards in this chapter are followed.
- B.** No existing site development, building or structure shall be moved, removed or reconstructed unless landscaping requirements of this ordinance are met.
- C.** All sites for which the land use is being changed must comply with the landscaping standards set forth in this ordinance.
- D.** No proposed off-street loading areas shall be constructed unless landscaping/buffer standards in this chapter are followed.

26.3 Development Exempted

A. All existing site development that is not being moved, removed or reconstructed is exempt from the standards set forth in this chapter.

B. Single-family detached housing development is exempt from the standard contained in this chapter.

C. The construction of an addition that is less than 50% of the gross floor area of the principal structure warrants exemption from the regulations set forth in this chapter.

D. The construction of an accessory structure shall not require the owner to comply with the requirements in this chapter.

E. In the case of a proposed shared access easement between adjacent properties, the landscape buffer may be adjusted or exempted to allow for the allocation of a shared entrance.

26.4 Definitions

For the purpose of this chapter, the following definitions shall apply:

A. BERM shall refer to an earthen mound covered with vegetation that is designed to provide visual interest, screen undesirable views, and/or decrease noise.

B. BUFFER shall refer to a combination of physical space and vertical elements, such as plants, berms, fences, or walls, whose purpose is to separate and screen incompatible land uses from each other.

C. CONSTRUCTION LINE shall refer to a line drawn on a landscape plan that encompasses the area where all proposed building on the site is expected to take place.

- D.** DECIDUOUS shall refer to a plant with foliage that is shed annually.
- E.** EVERGREEN shall refer to a plant with foliage that persists and remains green year round.
- F.** GROUND COVER shall refer to grasses or other plants and landscaping grown to keep soil from being blown or washed away.
- G.** HEDGES shall refer to a landscape barrier consisting of a continuous, dense planting of shrubs.
- H.** LANDSCAPING shall refer to any combination of living plants (such as grass, ground cover, shrubs, vines, hedges or trees) and nonliving landscape material (such as rocks, pebbles, sand, mulch, walls, fences or decorative paving materials).
- I.** SCREEN shall refer to a method of reducing the impact of noise and unsightly visual intrusions with less offensive or more harmonious elements, such as plants, berms, fences, walls, or any appropriate combination thereof.
- J.** SHADE TREE shall refer to a tree planted primarily for its high crown of foliage or overhead canopy; generally the term shade tree refers to a deciduous tree rather than an evergreen.
- K.** SHRUB shall refer to a woody plant, smaller than a tree, consisting of several small stems from the ground or small branches near the ground; may be deciduous or evergreen.
- L.** TREE shall refer to a large, woody plant having one or several self-supporting stems or trunks and numerous branches. A tree may be classified as deciduous or evergreen.
- M.** WOODLANDS, ESTABLISHED shall refer to existing trees and shrubs of a number, size, and species that accomplish the same general function as new plantings.

26.5 Conflicts

If the provisions of this chapter conflict with the standards set forth in another chapter of this ordinance, the more stringent limitation or requirement shall govern or prevail to the extent of the conflict.

26.6 Landscape Buffer Chart

ABUTTING USE

Note: Public and Quasi-Public Uses shall be regulated as commercial uses

PROPOSED USE	SINGLE FAMILY DETACHED	SINGLE FAMILY ATTACHED AND DUPLEXES	APARTMENTS, TOWNHOUSES, CONDOMINIUMS	COMMERCIAL USE	INDUSTRIAL USE
SINGLE FAMILY DETACHED				TYPE 2	TYPE 2
SINGLE FAMILY ATTACHED AND DUPLEXES	TYPE 1		TYPE 2	TYPE 2	TYPE 2
APARTMENTS, TOWNHOUSES, CONDOMINIUMS	TYPE 2	TYPE 1		TYPE 2	TYPE 2
COMMERCIAL USE	TYPE 4	TYPE 4	TYPE 4		TYPE 3
INDUSTRIAL USE	TYPE 4	TYPE 4	TYPE 4	TYPE 3	

26.7 Landscape Buffer Types

All landscape buffers shall be classified within four different categories. The four categories of landscape buffers include Type 1, Type 2, Type 3 and Type 4 buffers. The four buffer types are defined as follows.

A. TYPE 1 BUFFER shall be defined as a 25% minimum area of the required side and rear yard building setbacks, abutting the property line that shall be used solely for landscaping purposes. This buffer should consist of one tree per 40 linear feet of boundary plus a continuous four-foot-high hedge, fence or wall along the boundary of the more restrictive zone. More restrictive definitions may be applied upon final review of actual use, as determined by Planning and Zoning.

B. TYPE 2 BUFFER shall be defined as a 35% minimum area of the required side and rear yard building setbacks, abutting the property line that shall be used solely

for landscaping purposes. This buffer should consist of one tree per 40 linear feet of boundary plus a continuous four-foot-high hedge, fence or wall along the boundary of the more restrictive zone. More restrictive definitions may be applied upon final review of actual use, as determined by Planning and Zoning.

C. TYPE 3 BUFFER shall be defined as a 25% minimum area of the required front, side and rear yard building setbacks, abutting the property line that shall be used solely for landscaping purposes. This buffer must consist of one tree per 40 linear feet of boundary plus a continuous four- to six-foot-high hedge, fence or wall along the boundary of the more restrictive zone. More restrictive definitions may be applied upon final review of actual use, as determined by Planning and Zoning.

D. TYPE 4 BUFFER shall be defined as a 35% minimum area of the required front, side and rear yard building setbacks, abutting the property line, that shall be used solely for landscaping purposes. This buffer must consist of one tree per 30 linear feet of boundary plus a continuous four- to six-foot-high hedge, fence or wall along the boundary of the more restrictive zone. More restrictive definitions may be applied upon final review of actual use, as determined by Planning and Zoning.

26.8 Tree/Shrub Planting Standards

A. Immediately upon planting, all trees shall be a minimum of 8 feet in height and shall have a minimum caliper of one and one half (1.5) inches.

B. Immediately upon planting, shrubs shall be a minimum of 1.5 feet in height.

C. Screening materials used within the landscape buffer are not limited to trees and may also include the use of berms, walls and fences.

1. The minimum berm height is 1.5 feet with a minimum slope of 2:1 with a minimum crown width of 2 feet.

2. All berms must be covered with grass, mulch, or ground covering plants.

3. Fences and walls must not consist of corrugated metal, corrugated fiberglass, sheet metal, or wire

mesh.

4. Loading docks, loading spaces and service or maintenance areas must be screened from residential areas with a minimum six-foot-high completely opaque fence, a six-foot-high berm or a six-foot-high evergreen screen.

- D. Areas surrounding trees in all landscape buffers must be landscaped with grass, ground cover or other appropriate landscaping materials. Any form of pavement shall not be considered an appropriate landscaping material.

26.9 Parking Lot Standards

- A. The length and width of parking spaces and aisle widths and driveways should follow local standards.
- B. Parking areas with abutting parking spaces must provide wheel stops at the front of the parking space between double rows of abutting side-by-side parking spaces.
- C. Handicap parking spaces should be provided and the required signs. Handicapped accessible parking spaces must be located on the shortest accessible route of travel to accessible entrance.

26.10 Maintenance Standards for Landscape Areas

The owner of land subject to regulation by this chapter shall be responsible for the maintenance of said land so as to present a healthy, safe and orderly landscape area. The property owner shall comply with the following regulations regarding the maintenance of landscape areas.

- A. Organic mulch shall be used when planting all trees; this mulch shall be maintained at all times. (If using non-organic mulch material in a landscaping this material must be approved by Planning and Zoning).
- B. All required plants shall be maintained in a healthy, pest-free condition. If plants are dead, or severely damaged, or diseased, the plant shall be replaced by the property owner at the owner's expense.
- C. It shall be the responsibility of the property owner to remove any dead, diseased, or hazardous trees and shrubs,

or parts thereof, which overhang or interfere with traffic control devices, public sidewalks, rights-of-way, or property owned by the City of Brandenburg. The City of Brandenburg shall have the authority to order the removal of any trees or shrubs and the cost of such tree removal shall be at the property owner's expense.

D. Pruning must be conducted in accordance with proper horticultural standards. Trees shall be pruned only if necessary to promote healthy growth. Trees shall be allowed to reach mature growth. Pruning of trees shall comply with the National Arborists Standards.

Landscape Plan Required

Prior to the issuance of a building permit, a landscape plan shall be submitted to, reviewed by, and approved by the Planning Commission or its authorized agent. Landscape plans must be submitted at the same time that the Commercial Development Plan is submitted. All landscape plans shall be prepared in accordance with the following requirements:

E. All landscape plans must be drawn to scale and all dimensions and distances shall be shown on the plan.

F. All existing and proposed parking spaces must be indicated on the landscape plan, along with proposed driving aisles and driveways.

G. The name, location and size of all plant material to be installed or preserved in accordance with the requirements of this chapter shall be indicated on the landscape plan.

H. The location and characteristics of landscape materials to be used must be shown on the landscape plan.

I. Existing buildings, proposed buildings and other improvements to the site must be indicated on the plan. A construction line encompassing all proposed buildings and other improvements must be drawn on the landscape plan. No construction shall take place outside of the area indicated by the construction line. Any trees damaged outside of the construction line

that are required by the landscape plan must be replaced in accordance with the provisions of this chapter.

J. After land disturbing activities for a development occurs and then no other productive activity takes place for 60 days, it is the property owner's responsibility to place ground cover and alleviate erosion and siltation on neighboring properties, and streams.

SECTION XXVII

PLANNED UNIT DEVELOPMENT (PUD)

27.1 DESCRIPTION

Planned Unit Development/PUDs are allowed in the following zones: PUDS are allowed in the following zones: R-2/Residential-2, R-3/Residential -3, C-1/Commercial-1, C-2/Commercial-2. It is intended to allow for multiple buildings of similar uses on one lot.

27.2 PERMITTED STRUCTURES

Each lot shall have at least one (1) front property line and it is strongly encouraged to place the front façade of the building facing the primary street frontage. Under no circumstances can there be more than one single family structure on a single lot.

27.3 DEVELOPMENT PLAN

A development plan shall be required for all PUD applications. The plan must meet the requirements spelled out in section 12.3 CONTENTS OF DEVELOPMENT PLAN of the City of Brandenburg Planning and Zoning Ordinance #393. This plan may also be reviewed by local police and fire officials to ensure that public safety is maintained.

27.4 DIMENSIONAL REQUIREMENTS

The lot area, front yard, side yards, rear yard, fences and accessory buildings and maximum height requirements are listed in the individual zoning districts in the City of Brandenburg Planning and Zoning Ordinance #393. The zoning of the lot determines the dimensional requirements, not the use of the building. (For example: a set of duplexes built on a piece of property zoned Commercial-2/C2 would have to meet the dimensional requirements of Commercial-2/C2).

27.5 OFF STREET PARKING

Off street parking shall follow the requirements of the building's use, (for example: Duplexes built in a Commercial-2/C2 zone will follow the parking space requirements of the Residential-2/R2 zone in the City of Brandenburg Planning and Zoning Ordinance #393).

27.6 EMERGENCY ACCESS

Fire lanes shall be at least twenty (20) feet in width with the road edge closest to the building at least ten (10) feet from the building. They will be designated as fire lanes and there will be no parking in these lanes at any time.

For residential dwellings and commercial PUDs less than one hundred (100) feet wide, building shall be accessible by fire and emergency vehicles along the front or back of the building. For commercial PUDs one hundred (100) feet wide or larger, they shall be accessible by emergency and fire vehicles along both the front and back of the buildings.

SECTION XXXVII

Sexually Oriented Business

28. Adult Entertainment Regulations

(A) Findings.

The City Council finds that certain adult entertainment activities which might be located near areas zoned for residential use, near schools and similar open spaces that cater to use by family groups and children adversely affect the viability of such nearby properties for such purposes; and

That adult entertainment activities, because of the conditions of their operations, have contributed to an increased incidence of crime and juvenile delinquency particularly when adult entertainment activities are located in close proximity to one another; and

That adult entertainment activities, through outside displays, tend to attract an undesirable clientele that discourages neighboring residents from undertaking civic improvements and causes residents and businesses to move elsewhere and frustrates attempts to attract new residents and businesses to come into the area, all of which factors contribute to a diminution of property values and to a general deterioration of the County's neighborhoods; and

That the noise generated by patrons coming and going from adult entertainment activity establishments causes a substantial disruption to nearby residents and a modest curtailment of the hours during which entertainment is offered to patrons coming and going from such establishments would afford some relief to persons living in such nearby residences without significantly interfering with the availability of the entertainment offered therein; and

That nationally there is extensive involvement of organized crime in the business of such adult entertainment activities and that the disclosure of the names of persons who own, as well as the name of the persons who operate such adult activity establishments will aid law enforcement officials in the enforcement of the Racketeer Influenced and Corrupt Organizations Act (RICO) as well as in the enforcement of the laws of the Commonwealth of Kentucky prohibiting such distribution.

(B) Declaration of Public Purpose.

The City Council declares as a matter of public policy that in order to preserve surrounding neighborhoods, prevent blight and the deterioration of the neighborhoods of City of Brandenburg, Kentucky,, protect property values, promote the return of residents and businesses to the City's neighborhoods, protect children from the deleterious effects of exposure to sexually explicit acts, and decrease the incidence of crime and juvenile

delinquency, the licensing and regulation of adult entertainment establishments is a public necessity and is required in the interest of public health, safety and welfare and the economic and aesthetic well-being of the people.

(C) Purpose.

It is further stated that the purposes of this ordinance are: (1) to protect neighborhoods from the noise, the blighting influence and the increase in crime brought about by the concentration and harmful location of adult entertainment establishments; (2) to prevent health risks caused by illicit and unlawful sexual relations in such public establishments; (3) to protect children and the family environment from the deleterious and harmful effects of exposure to certain sexually explicit matter; and (4) to obtain the identity of persons licensed and to be licensed for renting certain sexually explicit material in order to identify the persons responsible for operating such business and assist in enforcing this ordinance.

It is not the purpose of this Ordinance to establish community standards on obscenity nor to permit persons to engage in any activity which is in violation of law, including but not limited to, state laws pertaining to the advertising, promotion, distribution or sale of obscene matter portraying a sexual performance by a minor, or the use of a minor to distribute material portraying sexual performance by a minor.

(D) Uses Regulated

Uses regulated by the provisions of this Section shall hereinafter be designated as adult entertainment establishments, and shall be further defined as follows:

1. An adult entertainment establishment shall be defined as any commercial establishment open to the public which displays, distributes, issues, gives, provides, lends, delivers, transfers, transmits, circulates, disseminates, presents, exhibits, advertises, sells, rents or leases a substantial or significant portion of its stock in trade, or characterized by the depiction of 'specified anatomical areas' or 'specified sexual activities', as such are herein defined.
2. Any commercial establishment open to the general public which involves employees or customers who engage in conduct which is distinguished or characterized by 'specified sexual activities' or 'specified anatomical areas', as herein defined.

Adult entertainment establishments specifically identified and regulated by the provisions of this Section shall include, but are not necessarily limited to:

- a. Adult Book Stores
- b. Adult Motion Picture Theaters
- c. Adult Motion Picture Arcades
- d. Adult Entertainment Cabarets
- e. Adult Hotels
- f. Massage Parlors

(E) Location and Distance

1. Permitted Zoning Districts; An adult entertainment establishment located within the County limits shall be allowed only in I-2 Zoning Districts subject to the following limitations:

a. An adult entertainment establishment shall not be permitted or enlarged (except when required by a governmental agency) within:

- i. Five Hundred (500) feet of a pre-existing adult entertainment establishment.
- ii. Five Hundred (500) feet of a pre-existing religious institution.
- iii. Five Hundred (500) feet of a pre-existing educational institution.
- iv. Five Hundred (500) feet of a pre-existing hospital or governmental/civic facility.
- v. Five hundred (500) feet of a pre-existing commercial establishment that in any manner sells or dispenses alcohol for on-premises consumption.
- vi. Five hundred (500) feet of a pre-existing day/childcare establishment/facility.

b. The distance from a proposed or existing adult entertainment establishment to a pre-existing adult entertainment establishment, a pre-existing religious institution, a pre-existing educational institution, a pre-existing hospital or governmental and civic facility, shall be measured by drawing a straight line between the closest property lines of the proposed or existing adult entertainment establishment and the pre-existing adult entertainment, a pre-existing religious institution, a pre-existing educational institution, a pre-existing hospital or governmental and civic facility.

(F) Development Plan Requirements

1. A development plan must be submitted and shall include, but not be limited to, access, parking, signage, landscaping, dumpster location, and justification that the adult entertainment use is not located within the distance setbacks.

2. The development plan shall be submitted to the City of Brandenburg, Kentucky, Planning and Zoning Office for review of the proposed development. Staff will review and approve, or approve with exceptions noted, or deny the development plan within sixty (60) calendar days.

3. The staff shall not be required to approve development plan if the staff has reason to question its accuracy or its compliance with this adult entertainment regulation, the zoning regulation or any other regulations. Staff shall refer any such issues to the full Planning Commission. Reasons for denial of the development plan shall be stated in writing.

4. Final approval or denial of the development plan by the full Planning Commission may be appealed to the Meade Circuit Court pursuant to KRS 100.347(2) as a final action of the Planning Commission.

5. Parking Standards: The minimum and maximum number of parking spaces required/allowed is outlined in the table below

	Minimum	Maximum
Live Adult Entertainment Establishment	1.0 space for each 150 sq. ft. of gross floor area	1.0 space for each 75 sq. ft. of gross floor area
Adult Retail Entertainment	1.0 space for each 275 sq. ft. of gross floor area	1.0 space for each 175 sq. ft. of gross floor area

6. Landscaping Standards: Landscaping shall be provided on the premises of any adult entertainment establishment to screen and buffer the adjoining uses.

7. Signage Standards: Exterior signs located on the building of an adult entertainment establishment shall conform to the requirements of Article II, Section 214 of the City of Brandenburg, Kentucky, Comprehensive Zoning Ordinance, otherwise known as the Sign Regulation. Such exterior signs shall not advertise, either graphically or verbally, either by explicit or literal expression, connotation, or implied reference, any 'specified sexual activity' or 'specified anatomical area', as herein defined. There shall be no electronic reader boards or changing message center signs. No display of goods, product, or services shall be visible from outside the building.

8. Freestanding Building: An adult entertainment establishment shall be located in a freestanding building, containing no other uses or adult entertainment establishments.

9. All adult entertainment facilities shall have facades, exteriors, and exits which must be indistinguishable from surrounding buildings. Illustrations depicting partially or totally nude males and/or females shall not be posted or painted on any exterior wall of the building used for such businesses or on any door or apparatus to such building.

(G) Hours of Business

An adult entertainment establishment shall not be permitted to allow such establishment to remain open for business, or to permit any worker to engage in a performance, solicit a performance, make a sale, solicit a sale, provide a service, or solicit a service, between the hours of twelve (12:00) o'clock midnight and eleven o'clock (11:00) a.m. of any particular day. A worker of an adult entertainment establishment shall not be permitted to engage in a performance, solicit a performance, make a sale, solicit a sale, provide a service, or solicit a service between the hours of twelve (12:00) o'clock midnight and eleven o'clock (11:00) a.m. of any particular day.

(H) License Requirement

An adult entertainment establishment shall obtain any licenses which may be required by the applicable governmental agency after adoption of this regulation.

(I) Age Requirement

Adult entertainment establishments shall not employ nor permit entry of minors (17 years of age and under).

(J) Definitions

The definition of adult entertainment establishment and the provisions of this Section shall apply to the opening or commencement of a new business, the conversion of an existing business to any sexually oriented business, the addition to or expansion of an existing adult entertainment establishment, or the relocation of any adult entertainment establishment.

Adult Book Store	A person, establishment or business having more than a minimal portion of its stock in trade, such as recordings, books, magazines, periodical films, video tapes/cassettes or other reading or viewing materials for sale or viewing at the premises, materials which are distinguished or characterized by their emphasis on matters depicting, describing or relating to specific or general sexual activities or anatomical areas; or an establishment with a section devoted to the sale or display or viewing of such materials.
Adult Motion Picture Theater	A structure, either indoors or outdoors, used for showing, displaying or presenting to patrons therein or thereat materials distinguished and characterized by emphasis on depicting, describing or relating to specific or general sexual activities or specific anatomical areas.
Adult Motion Picture Arcade	Any place to which the public is permitted or invited wherein coin or slug-operated or electronically, electrically, mechanically or otherwise controlled, still or motion picture machines, projectors or other image-producing devices are maintained to show images to any one person at any machine at any time so displayed as to distinguish or characterize by emphasis on depicting or describing specific sexual activities or specific anatomical areas.
Adult Entertainment Cabaret	A public or private establishment which is licensed to serve food and/or alcoholic beverages and which features topless and/or bottomless dancers, strippers, male or female impersonators or similar entertainers, or employees appearing in a bottomless and/or topless manner of dress.

Adult Hotel	A Hotel or Motel wherein a substantial or significant portion of the material presented over image producing devices within individual rooms, that are occupied by guests, are distinguished or characterized by an emphasis matter depicting or describing ‘specific sexual activities’ or ‘specified anatomical areas’.
Massage Parlor	An establishment having a place of business where any person, firm, association, school(s) or corporation engages in, carries on, or permits to be engaged in or carried on, any of the following activities: 1. Any Method of pressure on or friction against or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of the external soft parts of the human body with the hands or with the aid of any mechanical or electrical apparatus or device, with or without supplementary aids such as rubbing alcohol, antiseptics, oils, powders, creams, lotions, ointments, or other similar preparations. 2. The term ‘Massage Parlor’ shall not apply to licensed hospitals, licensed nursing homes, or clinics or persons holding an un-revoked certificate to practice under the laws of the Commonwealth of Kentucky.
Specified Anatomical Areas	Less than completely covered human genitals, pubic regions, buttocks, and female breasts below a point immediately above the top of the areola, and the human male genitals in a discernible turgid state.
Specific Sexual Activities	(a) Human male genitals in a state of sexual stimulation or arousal; (b) Ultimate sex acts normal or perverted, actual or simulated, including acts of human masturbation, sexual intercourse, oral copulation or sodomy; and, (c) Fondling or other erotic touching of human or animal genitals, pubic regions, buttocks or female breasts.

(K) Penalties and Remedies:

1. Violation of Section (I) above pertaining to minors shall constitute a Class A misdemeanor and be punishable by up to twelve (12) months in the county jail and/or a Five Hundred (\$500.00) Dollar fine, and/or both.

2. Violation of any other section contained in 4.0 shall be a misdemeanor punishable by up to six (6) months in the county jail and/or up to a One Thousand (\$1,000.00) Dollar fine. Each day of a violation shall constitute a separate offense.

3. None of the penalties provided hereinabove shall prevent the City of Brandenburg, Kentucky, by its attorney, from seeking injunctive relief in the Meade Circuit Court to enforce any provision in Section 4.0 of this Ordinance. In the event that the City of Brandenburg, Kentucky, is a successful litigant in the Meade Circuit Court action, it shall be entitled to an Order from the Circuit Court that its costs be paid by the litigant from which the City of Brandenburg, Kentucky, obtained injunctive relief against.