

	<i>March 2006</i>	<b>Part 1</b>	<b>General Compatibility Standards</b>	<b>4.1-1</b>
	<i>March 2006</i>	4.1.1	Blasting ( <i>reserved</i> )	<i>reserved</i>
	<i>March 2006</i>	4.1.2	Factory Built Housing	4.1-1
	<i>March 2006</i>	4.1.3	Lighting	4.1-3
	<i>March 2006</i>	4.1.4	Noise ( <i>reserved</i> )	<i>reserved</i>
	<i>March 2006</i>	4.1.5	Odor ( <i>reserved</i> )	<i>reserved</i>
	<i>March 2006</i>	4.1.6	Operating Hours	4.1-7
<i>Update</i>	<i>December 2012</i>	<b>Part 2</b>	<b>Conditional Use</b>	<b>4.2-1</b>
<i>Update</i>	<i>April 2011 Feb-2014</i>	<b>Part 3</b>	<b>Permitted Uses with Special Standards</b>	<b>4.3-1</b>
<i>Update</i>	<i>February 2009</i>	<b>Part 4</b>	<b>Accessory Uses and Miscellaneous Standards</b>	<b>4.4-1</b>
<i>Update</i>	<i>February 2009</i>	4.4.1	Adult Entertainment	4.4-1
<i>Update</i>	<i>February 2009</i>	4.4.2	Antenna Towers for Cellular Telecommunications Services or Personal Communications Services	4.4-2
<i>Update</i>	<i>February 2009</i>	4.4.3	Fences, Walls and Signature Entrances	4.4-7
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	<i>March 2006</i>	<b>Part 7</b>	<b>Development on Steep Slopes</b>	<b>4.7-1</b>
	<i>March 2006</i>	<b>Part 8</b>	<b>Waterways and Wetlands Protection</b>	<b>4.8-1</b>
<i>Update</i>	<i>July 2008</i>	<b>Part 9</b>	<b>Development on Karst Terrain</b>	<b>4.9-1</b>
	<i>March 2006</i>	<b>Part 10</b>	<b>Community Facilities Review</b>	<b>4.10-1</b>
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	<i>March 2006</i>	<i>Appendix 4D</i>	<i>Illuminating Engineering Society of North America (IESNA) Maintained Horizontal Illuminance Recommendations</i>	<i>4D-1</i>
	<i>March 2006</i>	<i>Appendix 4E</i>	<i>Recreational Facilities Standards</i>	<i>4E-1</i>
	<i>March 2006</i>	<i>Appendix 4F</i>	<i>Conditional Use Table</i>	<i>4F-1</i>
<i>Update</i>	<i>November 2010</i>	<i>Appendix 4G</i>	<i>Floodplain Management</i>	<i>4G-1</i>
<i>Update</i>	<i>November 2010</i>	<i>Appendix 4H</i>	<i>Erosion Prevention and Sediment Control</i>	<i>4H-1</i>
<i>Update</i>	<i>July 2008</i>	<i>Appendix 4I</i>	<i>Core Graphic 14</i>	<i>4I-1</i>

## Chapter 4 Part 1 General Compatibility Standards

## 4.1.1 Blasting

**NOTE:** Section 4.1.1 is reserved. Standards may be drafted as part of a later phase of the Land Development Code, if regulation in addition to existing State requirements is deemed necessary.

## 4.1.2 Factory Built Housing

Factory built housing may be placed on a lot zoned for residential use, in accordance with applicable zoning and form district requirements and provided that the standards of this section are met.

A. The following standards are applicable to all factory built housing:

1. The structure shall be permanently attached to a permanent foundation system and shall be anchored in accordance with the state standards set forth in KRS 227.570 through KRS 227.590.
2. Exterior material shall be material customarily used on site-built dwellings, such as board siding, plywood or press wood siding, non-glossy vinyl siding, stucco, brick or non-reflective aluminum.
3. Roofing material shall be of wood, tile or composition shingles, and must have an eave projection of no less than 6 inches.
4. Exterior covering material extending from the roofline to the ground or to the top of the foundation shall be used. Masonry type skirting shall be constructed from the ground to the bottom of the exterior wall.
5. Structural additions or alterations shall be subject to the same building code regulations as apply to additions or alterations to a conventionally built house. Any other alteration or conversion of a factory built house must be performed in accordance with KRS 227.550 et seq., 815 KAR 25:050, Section 2 and 42 USC Chapter 70.
6. An adequate guttering and roof drainage system shall be installed.

**NOTE:** Factory built housing includes manufactured homes and modular homes as defined in the 2002 Kentucky Residential Code.

B. The following standards are applicable to all factory built housing to be placed on lots that qualify as infill sites in the form district regulation applicable to the site:

**NOTE:** Infill properties – See the infill determination methods in Section 5.1.12.

1. Roofed front porches must be included on each structure if more than 50% of the structures in the same block face or within 200 feet of the subject site, whichever is less, include them. Porches shall, equal the average size and must resemble the architectural style, roof pitch, foundation and façade material of porches existing within the block face. The Planning Director shall determine if the proposed porch design is sufficiently similar to those of adjacent residences.
2. Façade materials shall match in appearance\* those of one of the adjacent residences (residential buildings on either side of the infill lot, or two nearest residences, if the adjacent structures are non-residential). The Planning Director may approve alternative materials, if the Director finds that the proposed design and façade materials are substantially in keeping with the existing character of the block face.

*\*For example an infill structure with four inch vinyl lapped siding may locate next to a home with wood lapped siding of similar dimension.*

3. Front facing windows must have consistent size, spacing, and proportion to that of the adjacent residences (residential buildings on either side of the infill lot, or two nearest residences, if the adjacent structures are non-residential). The Planning Director may approve alternative window sizes and patterns, that the Director determines are in keeping with the existing character of the block face.
  4. The first floor elevation of the proposed dwelling shall be no lower than the average floor elevations of the existing adjacent residential buildings (residential buildings on either side of the infill lot, or two nearest residences, if the adjacent structures are non-residential).
  5. Minimum width of each unit's first story shall be at least equal to the average of the two nearest residential buildings in the same block face (residential buildings on either side of the infill lot, or two nearest residences, if the adjacent structures are non-residential).
  6. The roof of each infill unit shall have pitch at least as steep as the average of the roof pitch of the two nearest residential buildings in the same block face. The Planning Director may approve a lower roof pitch if the Director finds that the adjacent roof pitches are not representative of the block face in which the factory built home is to be located.
  7. Infill structures shall be consistent in number of stories with the pattern established by surrounding residences; if more than 50% of existing residences within the block face (TNFD) or 200 feet distance (NFD) are more than one story in height, the infill structure shall be a two-story structure. Where the established pattern is story and a half (e.g., "camelback structures"), infill housing may have a full or partial second story.
  8. HVAC units shall not be located between the front façade and the street.
  9. In Landmarks Districts, design review and approval by the Landmarks Commission shall substitute for the requirements established in paragraphs B.1 through 8, above.
  10. The Planning Director may approve proposed developments of five or more infill units that vary from the standards listed in this 4.1.3.B, if the Director finds that the units are compatible with the neighborhood in which they will be located.
- C. The following standards are applicable to all factory built housing to be placed on lots that do not qualify as infill sites in the form district regulation applicable to the site:
1. The roof shall be pitched at a minimum slope of 5:12.
  2. The minimum width of each structure's first floor shall be at least 20 feet. In the TNFD, 14 wide units are permissible, if the unit has a second story (full or partial) and has a main entrance facing the street.
  3. HVAC units shall not be located between the front façade and the street.
  4. Each residence must measure at least 900 square feet of floor area not including basement or garage space.
- D. The Planning Commission may approve factory built housing that does not conform to one or more of the standards listed in sub-sections 4.1.2.B or C, above, if the Commission finds that the proposed housing:
- is compatible with existing housing located within a one-eighth mile radius;
  - complies with applicable standards of the form district in which it is located; and conforms to applicable provisions of Cornerstone 2020.

## 4.1.3 Lighting

## A. Purpose and Intent

The purpose of this section is to appropriately regulate outdoor lighting in Louisville and Jefferson County to reduce the effects of light trespass and glare, provide clear guidelines for the installation of outdoor lighting to maintain and compliment the community's character, and to provide a safe nighttime environment for pedestrians, motorists, and properties. This regulation will implement the following Cornerstone 2020 Community Form Strategy Goals and Objectives: A3.1, A3.4, B2.6, C2.5, C4.6, D4.3, E2.4, E4.3, F4.4, G2.4, G4.3, H2.5, and H4.3.

It is the intent of this regulation to provide for the health, safety and welfare of the residents of Jefferson County by regulating the placement, hours of operation, orientation, distribution patterns, intensity, and fixture types of all outdoor lighting used for the illumination outside the public right-of-way while encouraging lighting that conserves energy, reduces light pollution, and enhances nighttime enjoyment of the property within the County, without decreasing safety, utility, security, and productivity.

**NOTE:** Definitions are not a part of this Chapter, and have been moved to Chapter 1. Words were retained for reference  
*Direct Light ,Fixture, Flood Light , Footcandle Fully-Shielded Light Fixture (also known as Full-cutoff), Glare, Height of Luminaire , Indirect Light, Lamp, landscaping areas, Light Trespass, Lumen, Luminaire, Outdoor Lighting = Sag-lens or Drop-lens, Shielded (also known as cutoff) Light Fixture, Spotlight, Temporary Outdoor Lighting = Uniformity Ratio*

## B. Regulations

1. All public and private outdoor lighting shall be in conformance with the requirements established by this Regulation.
2. Control of Glare – Luminaire Design Factors
  - a. All luminaires shall be aimed, directed, or focused such as to not cause direct light from the luminaire to be directed toward residential uses or protected open spaces (i.e., conservation easements, greenways, parkways) on adjacent or nearby parcels, or to create glare perceptible to persons operating motor vehicles on public streets and right-of-way.
  - b. The following items shall apply to the mounting height of luminaires:
    - i. Within the Neighborhood or Village form district or within a form district transition zone related to a Neighborhood or Village form district, any luminaire with a lamp or lamps rated at a total of more than 1800 lumens, and all flood or spot luminaires with a lamp or lamps rated at a total of more than 900 lumens shall be mounted at a height equal to or less than thirty (30) feet unless otherwise approved by the Planning Commission.
    - ii. Within the Traditional Neighborhood, Traditional Workplace, or Traditional Marketplace Corridor form district or within a form district transition zone related to the Traditional Neighborhood, Traditional Workplace or Traditional Marketplace Corridor form district, any luminaire with a lamp or lamps rated at a total of more than 1800 lumens, and all flood or spot luminaires with a lamp or lamps rated at a total of more than 900 lumens shall be mounted at a height equal to or less than twenty (20) feet unless otherwise approved by the Planning Commission.
    - iii Luminaires mounted on residential structures shall be exempt from items (i.) and (ii.) above.
  - c. Shielding
 

All fixtures in all form districts that emit more than 3,500 lumens shall be fully-shielded luminaires.

3. Exceptions to Control of Glare
  - a. All hazard warning luminaires required by Federal regulatory agencies are exempt from the requirements of this article, except that all luminaires must meet all Federal design standards and must be shown to be as close as possible to the Federally required minimum lumen output requirement for the specific task. Strobe lights shall be permitted only if there is no other federally approved hazard warning illumination technique.
  - b. Decorative luminaires installed in public parks shall be shielded so as to not cause direct light from the luminaire to affect residential uses or to create glare perceptible to persons operating motor vehicles on public streets, however these luminaires are not subject to the shielding requirements of paragraph 2.c, above.
  - c. Law Governing Conflicts. Where any provision of federal, state, county, or city statutes, codes, or laws conflicts with any provision of this code, the most restrictive shall govern unless otherwise regulated by law.
4. Freestanding Business Signs
  - a. Lighting fixtures used to illuminate a freestanding business sign shall be mounted on the top of the sign structure and directed towards the ground. Freestanding business signs with bottom-mounted lighting shall only be used if the fixtures are pointed directly at the sign.
  - b. Freestanding business signs of the type constructed of translucent materials and wholly illuminated from within do not require shielding.
5. Canopy, Pavilion, or Drive-Through Bays Lighting
  - a. All luminaires mounted on or recessed into the lower surface of canopies, pavilions, or drive-through bays shall be fully shielded and utilize flat lenses.
  - b. In all form districts, the level of lighting for canopies, pavilions and drive-through bays shall not exceed 50 footcandles at any point beneath a canopy, pavilion or drive-through bay.
  - c. In all form districts, all canopy, pavilion, or drive-through bay lighting shall maintain a uniformity ratio of 4:1.
6. Recreational Facilities
  - a. Any light source permitted by this Code may be used for lighting of outdoor recreational facilities (public or private), such as, but not limited to, football fields, soccer fields, baseball fields, softball fields, tennis courts, or equestrian arenas, provided all of the following conditions are met:
    - i. All fixtures used for recreational facilities lighting within 500 feet of any residential use shall be fully shielded, or be designed or provided with sharp cut-off capability, so as to minimize up-light, spill-light, and glare.
    - ii. Illumination of any playing field, court, or track located within 500 feet of any residential use shall be permitted after 11:00 p.m. only to conclude an event normally expected to end before 11:00 p.m. and circumstances prevented concluding before 11:00 p.m.
  - b. Recreational facilities shall be required to submit a lighting plan for review and approval by the Planning Commission.

The plan shall document the effect of lighting on adjacent residential areas. The Planning Commission may require modification of the lighting plan or impose conditions on its approval as necessary to mitigate the impacts of the lighting.
7. Pedestrian Areas
  - a. Pedestrian facilities (sidewalks, paths, etc.) leading from a building to parking facilities shall not exceed

an average lighting level of 2.5 footcandles.

- b. Luminaires used only to illuminate pedestrian facilities shall not be mounted higher than 15 feet from the finished grade of the walking surface.

#### 8. Temporary Lighting

Temporary lighting shall be permitted in accordance with the following guidelines:

- a. The purpose for which the lighting is proposed is not intended to extend beyond fifteen (15) days.
- b. The proposed lighting is designed in such a manner as to minimize light pollution and light trespass.
- c. The proposed lighting will comply with the general intent of this regulation.
- d. The permit will be in the public's best interest.

#### 9. Prohibitions\*

- a. The use of search lights except by civil authorities is prohibited.
- b. Fixtures with drop or sag lens lighting are prohibited.
- c. Flashing and strobe lights employed to draw attention to business establishments, special events, etc. are prohibited.

**NOTE:** *This does not prohibit the use of holiday lighting.*

#### 10. Architectural Lighting

The light source for architectural lighting shall be completely shielded from view from all adjacent properties and streets.

#### 11. Light Trespass

- a. The following provisions shall apply to light trespass:
  - i. The level of lighting resultant from luminaires installed on a subject site shall not exceed 0.25 footcandles at any property border adjoining a low- to medium-density residentially zoned or used (*R-R, R-E, R-1, R-2, R-3, R-4, R-5, PRD, PVD R-5A, and R-5B.*) property border, and .5 footcandles on any high-density residentially zoned or used (*TNZD, U-N, R-6, R-7, and R-8A.*) property border, or public right of way parcel of land.
  - ii. If the ambient level of lighting at any property border exceeds one-half (0.5) footcandles prior to the development of the subject site, then the level of lighting resultant from luminaires installed on that site shall not increase the ambient level of lighting at any property border by more than one-half (0.5) footcandles.
- b. In all zoning and form districts, any lighting shall be arranged so as not to shine directly on an adjoining property.

#### C. Permit Required

1. Whenever a person is required to obtain a building or electrical permit, a Conditional Use Permit, or any development plan approval by the County, the applicant shall, as a part of said application, submit sufficient information to enable the permit issuing agency to determine whether the proposed lighting will comply with this Regulation.

#### D. Enforcement and Penalty

1. The following standards shall be used when measuring and inspecting outdoor lighting complaints:
  - a. When inspecting light fixtures the inspector shall do a visual evaluation to determine whether the

fixture meets the requirements established in this Regulation.

- b. When inspecting light trespass complaints, the inspector shall use an approved instrument to take a footcandle reading to determine whether the light brightness exceeds the standards set in this regulation. The inspector shall stand at the property line (as mapped on PVA maps) and hold the detector approximately three (3) feet off the ground. The inspector shall take measurements on the horizontal plane to assure proper measurement of light at the property line. Horizontal measurements shall be used to determine compliance with applicable standards. (not in effect within Louisville Metro)
- c. When inspecting light trespass complaints, the inspector shall use an approved instrument to take a footcandle reading to determine whether the light brightness exceeds the standards set in this regulation. The inspector shall stand at the property line (as mapped on PVA maps) and hold the detector approximately three (3) feet off the ground. The inspector shall take measurements on the horizontal plane to assure proper measurement of light at the property line. The average of the vertical and horizontal measurements shall be used to determine compliance with applicable standards.

Measurement of light brightness under gasoline canopies shall be measured under the canopy at a height of three (3) feet (in effect within).

### E. Severability

- 1. Should any section, clause or paragraph of this regulation be declared by court of competent jurisdiction to be invalid, the same will not affect the validity of the regulation as a whole or part hereof other than the part declared to be invalid.

### F. Effective Date

- 1. This regulation shall take effect from and after its passage, approval and publication according to law.
- 2. Amortization/Alternative Provisions (Reserved)

### G. Installation

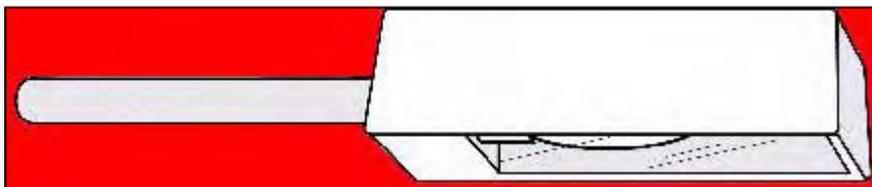
- 1. The owner or contractor of record shall install the approved outdoor lighting fixtures in conformance to the listing, manufacturer's specifications, and all applicable local building and electrical codes. An electrical permit and inspection by the permit- issuing agency is required.

### H. Modifications, Waiver or Variation

Waivers may be granted in accordance with Chapter 11 Part 8

### I. Illustrations

Example of a fully-shielded or full-cutoff light.



#### 4.1.4 Noise

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**NOTE:** Section 4.1.4 is reserved. Noise standards may be drafted as part of a later phase of the Land Development Code, if regulation in addition to the existing noise ordinance is deemed necessary.

#### 4.1.5 Odor

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Refer to applicable regulations administered by the Air Pollution Control District.

#### 4.1.6 Operating Hours

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The following operating hour restrictions shall apply to all uses that are within 100 feet of any property that is zoned residential, any solely residential use or any mixed use development that contains residential uses as measured from the closest property line of the proposed use. The most current version of the Louisville Metro Noise Ordinance shall also apply to all activities listed below.

- A. Collection of Garbage and Recyclables - No garbage or recyclables collection services shall be conducted between the hours of 10:00 p.m. and 6:00 a.m.
- B. Loading Operations - No loading or unloading operations shall be conducted between the hours of 10:00 p.m. and 7:00 a.m. This restriction shall also be applicable to the idling of any heavy or medium trucks on the site for the purpose of conducting loading or unloading operations regardless of whether said activities have already occurred or are scheduled to occur in the future.
- C. Exterior Construction Activity - No exterior construction activity shall be conducted between the hours of 9:00 p.m. and 7:00 a.m.

### Chapter 4 Part 2 Conditional Uses

#### 4.2.1 Intent and Applicability

Certain land uses due to their extent, nature of operation, limited application, or relationship to natural resources are considered as exceptional cases. The uses listed in this Part may be permitted in certain districts by Conditional Use Permit following a public hearing before the Board of Zoning Adjustment provided such uses will not have an adverse effect on neighboring property, are not in conflict with the goals and plan elements of the Comprehensive Plan, the proposed uses are essential to or will promote the public health, safety, and the general welfare in one or more zones, and are in compliance with the listed standards and requirements.

The following uses are subject to the Conditional Use Permit process:

Section	Conditional Use
4.2.3	Accessory Apartments
4.2.4	Airports and Other Aviation Uses
4.2.5	All-Terrain Vehicle (ATV) Courses
4.2.6	Amusement Parks, Circuses and Carnival Grounds
4.2.7	Animal Race Tracks
4.2.8	Athletic Facilities
4.2.9	Bed and Breakfast Inns
4.2.10	Blood Plasma Collection Center
4.2.11	Boarding and Lodging Houses
4.2.12	Camping Areas and Recreational Vehicle Parks, Public and Private
4.2.13	Cemeteries, Mausoleums
4.2.14	Commercial Animal Feeding Yards
4.2.15	Commercial Communication Towers
4.2.16	Commercial Greenhouses/Plant Nurseries/Landscape Material Supply
4.2.17	Commercial Kennels
4.2.18	Commercial Lakes
4.2.19	Day Care Facilities (providing care for 8 or more persons)
4.2.20	Doctor, Dentist or Chiropractor
4.2.21	Drive-In Theaters
4.2.22	Earth Excavation, Filling and Refuse Disposal Operations, Major
4.2.23	Earth Excavations/Fill, Minor
4.2.24	Public Power Plants
4.2.25	Extraction and Development of Oil, Gas, and other Hydrocarbon Substances
4.2.26	Funeral Homes
4.2.27	Golf Courses with Food or Alcoholic Beverage Service
4.2.28	Home Occupations
4.2.29	Hospitals, Clinics, and other Medical Facilities
4.2.30	Institutional Use in Excess of Required Maximum Building Footprint
4.2.31	Rehabilitation Home
4.2.32	Mobile Homes and Manufactured Housing Sales, Display or Storage
4.2.33	Marinas and Boat Rental Facilities

Section	Conditional Use
4.2.34	Marinas and Boat Rental Facilities, Commercial
4.2.35	Mini-warehouses
4.2.36	Mobile Home Parks
4.2.37	Non-emergency Generator and Non-Emergency Alternative Energy Systems, Other than Biodigesters
4.2.38	Nursing Homes and Homes for the Infirm or Aged
4.2.39	Off-Street Parking Areas
4.2.40	Outdoor Paint Ball Ranges
4.2.41	Outdoor Alcohol Sales and Consumption/Entertainment Activity for Restaurants in the C-1 zoning district
4.2.42	Potentially Hazardous or Nuisance Uses
4.2.43	Private Non-profit Clubs
4.2.44	Private Proprietary Clubs
4.2.45	Outdoor Ranges for Shotgun, Rifle, Pistol, Air Rifle, Air Pistol or Other Firearms
4.2.46	Riding Academies and Stables
4.2.47	Scrap Metal Processing Facilities and Junkyards
4.2.48	Sewage Disposal Plants
4.2.49	Solid Waste Management Facilities
4.2.50	Sports Arenas
4.2.51	Storage Yard and Contractor's Yard
4.2.52	Underground Space
4.2.53	Zoos
4.2.54	Community Service Facility
4.2.55	Transitional Housing
4.2.56	Homeless Shelter
4.2.57	Heliports
4.2.58	Golf Driving Ranges, and Miniature Golf Courses
4.2.59	Crematories
4.2.60	Auction Sales, Outdoor
4.2.61	Flea Market, Outdoor
4.2.62	Duplex Dwelling Units
4.2.63	Short Term Rental Term Rental of a dwelling unit that is not the primary residence of the host in a R-R, R-E, R-1, R-2, R-3, R-4, R-5, U-N, R-5A, R-5B, R-6, R-7 or R-8A district and Short Term Rental of any dwelling unit in a TNZD district
4.2.64	Biodigesters

### 4.2.2 General Provisions

All Conditional Uses shall meet the following standards in addition to requirements listed for each section:

- A. Additional Requirements - Where the Board finds that the conditions or circumstances relating to a particular application warrant more requirements in addition to those listed in connection with the particular use applied for, the Board may attach additional conditions; refer to 11.5.A.
- B. Relief From Listed Requirements - The Board may decrease or waive listed requirements, either permanently or on a temporary basis; refer to 11.5.A.
- C. Compliance With Listed Requirements and Attached Conditions - The Board shall have the power to revoke Conditional Use Permits for noncompliance with listed requirements or attached conditions. Furthermore, the Board shall have a right of action to compel the removal of offending structures or uses at the cost of the violator and may have judgment in personam for such cost.
- D. Drives and Parking Areas - All drives and parking areas (except landscaping areas) shall be surfaced with a hard and durable material and properly drained. Gravel drives and parking areas, as well as drives and parking areas constructed with semi-pervious materials approved by the Board, may be permitted.

- E. Compatibility - Conditional Uses shall comply with all applicable standards of the Land Development Code, including the form district regulations, form district transition standards, and landscaping. Additional standards may be included in the listed requirements for a particular use.
- F. Off-Street Parking Requirements - Off-street parking spaces shall be provided in accordance with Chapter 9, Parking Regulations unless otherwise listed. The Board may establish additional parking requirements
- G. Lighting Requirements – Outdoor lighting shall conform to the design, light glare, and light trespass standards as stated in Chapter 4 Part 1, Outdoor Lighting Regulations.
- H. Setbacks and Required Yards - All buildings, structures and facilities, whether permanent or temporary shall observe setbacks and yards in accordance with the appropriate Form District standards. Additional standards may be included in the listed requirements for that use.
- I. Request For A Conditional Use Permit - Application Procedures for Conditional Uses are listed in Chapter 11, Development Review Procedures; of the Land Development Code. Additional requirements for applications may be included in the listed requirements for that use.
- J. The Board of Zoning Adjustment shall have jurisdiction to waive any of the General Provisions and shall have jurisdiction to determine the scope, intensity, and activities included on a property.
- K. Conditional uses are allowed in certain zoning districts. Zoning districts that contain permitted uses from other zoning districts do not allow the same conditional uses (e.g. C-2 zoning district conditional uses are only applicable in the C-2 zoning district, not within the C-M or EZ-1 zoning district). Always check the conditional use list in Chapter 4 Part 2 to determine whether the particular zoning district allows that conditional use.
- L. Before the Board shall release any bond or other assurances given by the applicant for a conditional use permit as provided in this section, the applicant shall file with the Board the following:
  - 1. Sworn statement of the holder of the conditional use permit that all the requirements, conditions, and assurances which were included in the application have been met.
  - 2. If the approval of a conditional use permit included or referred to any surveys, drawings, plans, or specifications which showed the existing, proposed, and ultimate development of the conditional use, the applicant shall file with the Board a written opinion, certified by a professional engineer registered in Kentucky, that all work, improvements and developments have been constructed or installed in conformity with the plans filed with the conditional use application. Copies of this information shall be forwarded to the Director of Public Works for his/her review and recommendation to the Board. In case of a conditional use permit allowing excavation and filling operations, there shall be filed with the Board a survey, certified by a professional engineer registered in Kentucky, showing the finished surface and indications showing the layer of clean earth which was installed and compacted over the fill when the surface was brought to finished grade, in conformance with the approved plan. The indications shall be based on test hole borings taken no farther than 100 feet apart, starting no more than five feet inside and along the edges or boundaries of the fill.
  - 3. A letter of recommendation to the Board from the Director of Works that all work, improvements or development are in conformity with his/her requirements, including a statement that he/she has reviewed the opinion of the engineer.

### 4.2.3 Accessory Apartments

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Accessory Apartments may be allowed in the R-R, R-E, R-1, R-2, R-3, R-4, R-5 and U-N districts upon the granting of a conditional use permit and compliance with the listed requirements.

- A. The principal and accessory dwellings shall be owned by the same person(s). Occupancy of the accessory unit shall occur only while the property owner(s) resides in the principal dwelling on the premises.
- B. The accessory apartment shall be no greater than 650 sq ft or 30% of the floor area of the principal residence, whichever is greater.

- C. If the accessory apartment is located in a freestanding structure, it shall not exceed the height of the principal residence. In the TNFD, permissible height shall be as allowed by the form district regulation, unless the Board approves a differing height. In all other form districts, if the freestanding structure is located within 25 feet of a property line, the height of the structure shall not exceed the average height of accessory structures on abutting parcels or 15 feet, whichever is greater, unless the Board finds that a different height limit is appropriate.
- D. Sites having accessory apartments shall provide off-street parking for the principal and accessory apartment as follows:
  - 1. Neighborhood Form District - at least three off-street spaces provided on the lot, no more than two spaces outdoors;
  - 2. Traditional Neighborhood - at least one off-street space provided on the lot; and
  - 3. Other form districts - at least two off-street spaces provided on the lot; the Board may require additional parking spaces as appropriate.

#### **4.2.4 Airports and Other Aviation Uses**

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Airports and Other Aviation Uses may be allowed in the C-1, C-2, C-M, M-1, M-2, M-3, and EZ-1 districts upon the granting of a Conditional Use Permit and compliance with the following requirements:

- A. Landing Areas - Landing areas shall be set back at least 50 feet from any property line.
- B. Application - Applications for landing areas shall be sealed by a registered engineer, architect or surveyor depicting pertinent setback and spacing requirements and all associated approach/departure flight paths.
- C. Evidence of Air Rights - Evidence shall be furnished to the Board of the acquisition of property or air rights over all land at the ends of all runways where the required glide path of aircraft, for the class of the airport, is 35 feet or less elevation from the ground. D. All buildings and structures shall be at least 30 feet from any property line.
- E. Permitted Hours of Operation – The Board shall determine hours of operation for aviation uses that may impact residential and other noise sensitive uses.
- F. Parking – A minimum of one off-street parking space for each 100 square feet of waiting room space shall be provided. Where no waiting room is provided, two spaces for each craft staging or tie down pad or area shall be provided. The Board of Zoning Adjustment may waive the need for parking areas under appropriate conditions.
- G. Lighting – Strobe lights shall be used only if no alternative lighting is permitted by federal regulation.

#### **4.2.5 All Terrain Vehicle (ATV) Courses Operated for a Commercial Purpose**

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All Terrain Vehicle (ATV) Courses may be allowed in the C-2 and C-M Districts upon the granting of the Conditional Use Permit and compliance with the listed requirements:

- A. A buffer strip shall surround the ATV course on all sides, with a minimum dimension of 50 feet. Fencing or other means to exclude vehicles from the buffer area shall be installed.
- B. A noise impact study shall be prepared by an individual or firm with expertise and experience in the field of traffic noise demonstrating that noise levels at any perimeter of the site adjoining residentially zoned property do not exceed 50 dB(A).
- C. An erosion and sedimentation control plan shall be prepared and approved by the Jefferson County Conservation District and MSD.
- D. A tree preservation/landscaping plan shall be prepared, showing trees to be preserved in the buffer area and elsewhere on site as needed to preserve trees and to promote soil stability. The plan shall also show additional landscaping as needed to create a visual screen of the property from adjacent residentially zoned land.
- E. One non-illuminated identification sign not to exceed 30 square feet in area and 10 feet in height may be provided at the main entrance.

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#### 4.2.6 Amusement Parks, Circuses and Carnival Grounds

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Amusement Parks, Circuses and Carnival Grounds may be allowed in the C-2, C-M, M-1, M-2, M-3 and EZ-1 Districts upon the granting of a Conditional Use Permit and compliance with the listed requirements:

- A. Signs - Except in districts where signs are allowed, one illuminated sign, not to exceed 100 square feet in area and not to exceed 10 feet in height may be erected at each major entrance.
- B. Fences – A continuous fence, with a minimum height of 6 feet, shall be erected around the premises with openings only for ingress and egress into a public way.
- C. All buildings and structures shall be located at least 50 feet from any property line.

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#### 4.2.7 Animal Race Tracks

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Animal Race Tracks may be allowed in the C-2, C-M, M-1, M-2, M-3, and EZ-1 Districts upon the granting of a Conditional Use Permit and compliance with the listed requirements:

- A. Setbacks - All buildings, structures, facilities, or storage areas shall be at least 100 feet from any property lines.
- B. Except in districts where signs are allowed, one sign, not to exceed 100 square feet in area and not to exceed 10 feet in height, may be located at each of the major entrances.
- C. Animal race tracks located within one-half mile of residentially used or zoned property shall provide information on sound levels resulting from loudspeakers and hours of operation. The Board may establish conditions necessary to protect nearby residents.

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#### 4.2.8 Athletic Facilities

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Indoor and outdoor athletic facilities as a principal use are permitted in the R-R, R-E, R-1, R-2, R-3, R-4, R-5, R-5A, R-6, R-7, R-8A, M-1, M-2, and M-3 districts in compliance with the following requirements:

- A. The athletic facilities are located in a suburban form district; and
- B. Pedestrian and vehicular circulation patterns, including location of parking lots and driveways, must be designed to safely accommodate recreational users and avoid conflict with truck traffic, as determined by the Director of Works; and
- C. The applicant shall submit a lighting plan documenting compliance with Section 4.1.3 (Lighting ordinance); and
- D. No structure, parking area or outdoor recreation facility shall be located within 30 feet of a property line, unless further restricted in accordance with paragraph F below.
- E. Signs – Shall be in accordance with the on-premises sign standards of Chapter 8 of the LDC for non-residential uses.
- F. Athletic facilities in the R-R, R-E, R-1, R-2, R-3, R-4, R-5, R-5A, R-6, R-7 and R-8A districts shall meet the following compatibility requirements:
  - 1. No outdoor athletic facility or parking area may be located closer than 100 feet to an adjacent property zoned for residential use.
  - 2. No indoor athletic facility may be located closer than 50 feet to an adjacent property zoned for residential use.
  - 3. The minimum tract size for an athletic facility shall be 10 contiguous acres.
- G. Athletic facilities in the M-1, M-2 and M-3 districts subject to a conditional use permit may serve three purposes:
  - 1. To allow a transitional use of industrially zoned land, while preserving the community's supply of industrially zoned property until such time as market demand justifies use of such property in a manner that will significantly meet the community's economic development needs; or

2. To allow use of parcels for permanent open space or recreational purposes serving employees of an industrial development; or
  3. To accommodate greenways or similar open space use of environmentally constrained land, with or without trail systems or other recreational facilities.
- H. Thus, athletic facilities are permitted only when the applicant indicates which of the three purposes the proposed use will meet, and can demonstrate the following to the satisfaction of the Board of Zoning Adjustment or the Board's designee:
1. If Transitional Use: The proposed athletic facilities do not entail construction of permanent facilities that are inconsistent with industrial use of the site.
  2. If Permanent Open Space/Recreation Use: The site is an integral component of a multi-lot business or industrial park, and the recreation facilities primarily benefit persons working at the industrial park.
  3. If Greenway or Environmentally Constrained: The site is subject to environmental constraints regulated in Chapter 4 Parts 6, 7, or 8, and is precluded from development by conservation easement or restriction on the development plan.

#### 4.2.9 Bed and Breakfast Inns

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Bed and Breakfast Inns may be allowed in the R-R, R-1, R-2, R-3, R-4, R-5, U-N, TNZD (in effect within Louisville Metro only), R-5A, R-5B, R-6, M-1, PRO, PTD, PRD, W-1, W-2, and W-3 (Note: Revision proposed by Louisville Bed and Breakfast Association) Districts upon the granting of a Conditional Use Permit and compliance with the listed requirements.

- A. No more than nine (9) guest rooms shall be permitted, and a maximum of two adults shall be allowed per guest room. However, the Board of Zoning Adjustment may impose a lower limit on the number of guest rooms after considering the size of the building, the size of the property, the economics of the proposal, and the effect on surrounding properties.
- B. Guests are limited to a length of stay no more than 14 consecutive days. The resident innkeeper or owner shall keep a current guest register including names, permanent addresses, dates of occupancy, and motor vehicle license number of all guests.
- C. Bed and Breakfasts may provide food service or space for indoor meetings provided all applicable food service and capacity regulations are complied with. No food preparation is allowed in any guest bedroom.
- D. Bed and Breakfast Inns in residential zoning districts shall be required to comply with the requirements of Section 4.3.7 and obtain a temporary activities permit for any outdoor activities and/or events that are attended by anyone that is not a current registered overnight guest of the Bed and Breakfast Inn. This provision shall not be altered or waived by the Board.
- E. Any signage which identifies the use shall be in accordance with the underlying zoning and form district standards.
- F. The location of parking shall comply with the same parking standards as a single family detached dwelling unit, except any additional parking beyond what can be accommodated in a driveway no wider than to sufficiently park two (2) cars must be out of the required setback and yards as specified in the underlying Form District requirements. Parking for guests shall not be served by a separate driveway from that serving the principal residential structure.
- G. Conditional use permits for Bed and Breakfast Inns in residential zoning districts issued prior to the effective date of this ordinance (March 9, 2011) may continue to operate as authorized under the approved conditional use permit. Upon request by an applicant, such conditional use permits may be modified in any manner the Board determines, in its discretion to be appropriate.

#### 4.2.10 Blood/Plasma Collection Center

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A Blood/Plasma Collection Center may be allowed within the C-2, C-3, C-M and all form districts except the Neighborhood, Village and Traditional Neighborhood Form Districts upon the granting of a conditional use permit and compliance with the listed requirements.

- A. The property proposed for a blood/plasma collection center shall be at least 1,000 feet from a property zoned residential.
- B. One parking space per 300 square feet of gross floor area shall be provided.

#### 4.2.11 Boarding and Lodging Houses

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Boarding and lodging houses may be allowed in the R-R, R-E, R-1, R-2, R-3, R-4, R-5, R-6, R-7, and R-8A districts upon the granting of a Conditional Use Permit and compliance with the following requirements.

- A. Boarding and lodging houses located in R-E, R-R, R-1, R-2, R-3, R-4 and R-5 single-family districts shall have a maximum of 3 boarders in addition to resident family members of the boarding and lodging house keeper. Those boarding and lodging houses located in other districts shall have a maximum of 8 boarders.
- B. All boarding and lodging houses shall comply with the administrative and maintenance requirements established in 902 KAR 20:350, only applicable when meals are served at the facility.
- C. Boarding and lodging houses shall not have any signage which identifies the use.
- D. Boarding and lodging houses shall be located on or near a collector or arterial street with reasonable access to public transportation.
- E. Sufficient on-site parking shall be provided as required by the Land Development Code,
- F. All boarding and lodging houses shall comply with applicable building code and health department regulations.
- G. The Board of Zoning Adjustment shall take into account the location of other boarding and lodging houses, transitional housing, homeless shelters or rehabilitation homes in its analysis of Conditional Use Permit applications for boarding and lodging houses.
- H. The following information shall be for all boarding and lodging house Conditional Use Permit applications:
  - 1. Type of resident population intended to be served, if any (e.g. veterans, a victim group, persons recovering from substance abuse (without on-site assistance services or supervision), college students, contract/seasonal workers, parolees (without on-site assistance or supervision), single persons, etc.);
  - 2. Site plan and floor plans;
  - 3. Rules of conduct and business management plan;
  - 4. Support services to be provided and projected staffing level, if any;
  - 5. Proposed maximum stay for each resident;
  - 6. Any other information the Board of Zoning Adjustment deems necessary to evaluate the application; and
  - 7. Any Changes to the foregoing information submitted in connection with the Conditional Use permit application shall require the Conditional Use Permit holder to apply for a modified Conditional Use Permit from the Board of Zoning Adjustment.
- I. The operator(s) of a boarding and lodging house shall maintain a registry of residents, which shall document the terms of stay of each resident. This registry shall be made available for inspection by a Code Enforcement Officer in order to determine the total number of residents residing in the boarding and lodging house at a given time and whether or not a term of stay is temporary or permanent. However, under these provisions, the operator is not required to collect and/or maintain records that may be used for discriminatory purposes under the Fair Housing Acts, including but not limited to records relating to the race, religion, gender, national origin, family

status and/or disability of any resident.

- J. Board of Zoning Adjustment shall, to the best of their abilities, find that the establishment of the facility will not result in harm to the health, safety or general welfare of the surrounding neighborhood, and that substantial adverse impacts on adjoining properties or land uses will not result from the facilities' operations.
- K. The Board of Zoning Adjustment shall find that the facility is compatible with the character of the surrounding neighborhood.
- L. No boarding and lodging house shall operate until it has received a license pursuant to Louisville Metro Code of Ordinances Section 115 and, if required, a license from the Commonwealth of Kentucky pursuant to KRS 21B.
- M. Operation of a boarding and lodging house without the required license may constitute grounds for denial of a related Conditional Use Permit by the Board of Zoning Adjustment.

#### **4.2.12 Camping Areas and Recreational Vehicles Parks, Public and Private**

Camping Areas and Recreational Vehicles Parks, Public and Private may be allowed in any district upon the granting of a Conditional Use Permit, on a property with a minimum of ten acres, and in compliance with the following requirements:

- A. Buffer Strips - An open space buffer strip shall be maintained along all property lines in which campfires, or any other camping appurtenances shall not be located. The open space buffer strip shall be a minimum of 10 feet along any side or rear property line and a minimum of 30 feet along any front or street side property line.
- B. Signs - Except in districts where signs are allowed, there shall be no more than one non-illuminated sign not to exceed 30 square feet in area, with a maximum height of 10 feet, located at the major entrances.
- C. Traffic Impacts - Facilities shall be located and designed so that no entrance or exit shall require movement of traffic to or from the camping area or park through a recorded single-family subdivision.
- D. Limits on Periods of Use - No property, camp, or individual camp site shall be sold or leased for a longer period than one month, that does not conform to the minimum lot area established for the district in which it is located or to a minimum lot area of 6,000 square feet for a district having no minimum lot area.
- E. Trash and Garbage Collection - The RV Park or Camping Area Management shall be responsible for internal trash and garbage collection. Central trash collection points shall be completely screened from view from outside the park.
- F. Health and Safety - Parking pads for recreational vehicles and individual camp sites shall not be exposed to conditions that create hazards to the property or the health or safety of the occupants. No portion of the park or camping area subject to flooding or subsidence shall be used for any purpose which would expose persons or property to hazards.
- G. Vehicular Use Areas - Vehicular use areas shall be paved and shall be clearly marked as to internal circulation and direction of travel. Pavement widths for travel lanes shall be as follows:
  1. One-way Travel Lane - 18 Feet
  2. Two-way Travel Lane - 24 Feet
  3. Cul-de-sac Diameter - 80 Feet

#### **4.2.13 Cemeteries and Mausoleums**

Cemeteries, Mausoleums, and Crematories may be allowed in any district upon the granting of a Conditional Use Permit and compliance with the following requirements:

- A. Fences - A fence, with a minimum height of 6 feet, shall be erected around the premises with openings only for ingress and egress to a public way.
- B. Required Yards - No required yard shall be occupied by graves. There shall be a 30 foot landscaped or open

space buffer between the property line and any building, structure, or gravesite. No gravesites shall be placed closer than 30 feet from any property line and at least 30 feet from the right-of-way line for existing and planned public streets. This shall not apply to roads designed for internal circulation within the cemetery, mausoleum or crematory property.

- C. All roads used solely for internal circulation shall have a minimum pavement width of 16 feet and a minimum shoulder width of 6 feet on each side of the pavement. Roads providing access to chapels or offices shall have minimum pavement width of 20 feet.

#### **4.2.14 Commercial Animal Feeding Yards**

##### **(including hogs, chickens, and other animals as determined by the Board of Zoning Adjustment)**

Commercial Animal Feeding Yards may be allowed in M-2 and M-3 Zoning Districts upon the granting of a Conditional Use Permit and compliance with the listed requirements.

- A. All buildings, structures, pens, and yards shall be at least 100 feet from all property lines.
- B. Adequate water supply shall be available to maintain the premises in a sanitary condition.
- C. The applicant shall demonstrate adequate provisions to prevent surface water quality impacts due to animal wastes.

#### **4.2.15 Commercial Communication Towers (including radio and television towers)**

Commercial Communication Towers may be allowed in any district upon the granting of a Conditional Use Permit and compliance with the listed requirements.

- A. All buildings and structures shall be at least 30 feet from any property line.
- B. The property shall be landscaped to blend with the character of the area.
- C. No signs except those signs showing the address and/or emergency contact information shall be allowed on the property.
- D. When a tower is higher than the distance from its base to the nearest property line, there shall be a certification from a registered engineer that the tower will withstand winds of 100 miles per hour.
- E. Strobe lights are prohibited unless they are the only marking technique that satisfies federal regulations.

#### **4.2.16 Commercial Greenhouses/Plant Nurseries/Landscape Material Supply**

Commercial Greenhouses/Plant Nurseries/Landscape Material Supply may be allowed in the R-R, R-1, R-2, R-3, R-4, R-5, R-5A, R-5B, R-6, R-7, R-8A, OR-1, OR-2, OR-3 and OTF Districts upon the granting of a Conditional Use Permit and compliance with the listed requirements.

- A. Buffers and Screening - Greenhouses and other structures as well as outdoor sales, display and storage of materials shall be buffered and screened in accordance with standards for commercial uses in Chapter 10, Landscaping, Screening, and Open Space. Parking lots shall be screened from adjacent properties in accordance with the provisions of the Development Code.
- B. Setbacks – All buildings, structures and outdoor sales/display and storage of materials shall be at least 50 feet from the front and/or street-side property line and a minimum of 20 feet from any other property line.
- C. Freestanding Signs - Only one freestanding sign shall be permitted. The freestanding sign shall not exceed 32 square feet in area per side and shall not exceed a height of 6 feet.. The maximum height shall include any berm, landscape mound, or other manmade alteration above the surrounding ground level.
- D. Attached Signs – Only one attached sign shall be permitted. The one attached sign permitted shall be attached to the primary building only and no attached sign shall be permitted on any other buildings on the site. The attached sign shall not exceed 20 square feet in area, shall be attached flat to the face of the building, and shall not project more than 18 inches from the face of the building.

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**4.2.17 Commercial Kennels**

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Commercial Kennels may be located in the R-R, R-E, R-1, R-2, R-3, R-4, R-5, C-1, C-2, C- M, M-1, M-2, and M-3 Zoning Districts where such use is compatible with surrounding land uses upon the granting of a Conditional Use Permit when developed in compliance with the listed requirements.

- A. Facilities Enclosed - All facilities, except parking, shall be within a totally enclosed building except where it can be demonstrated that a nuisance is not created thereby.
- B. Signs - Except in districts where signs are allowed, there shall be no more than one non-illuminated sign not to exceed 12 square feet in area and not to exceed 6 feet in height.
- C. Fences - A continuous fence at least 6 feet high shall be erected around the portion of the site used for the kennel operation.
- D. Screening – Any outdoor animal facilities shall be screened from view.
- E. Noise - The design of the structures shall include features that acoustically shield any animal noises from surrounding property.
- F. The applicant shall demonstrate adequate provisions to prevent surface water quality impacts due to animal wastes.

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**4.2.18 Commercial Lakes**

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Commercial Lakes may be allowed in any district upon the granting of a Conditional Use Permit and compliance with the following requirements:

- A. All buildings and structures shall be at least 30 feet from any property line.
- B. Signs - Except in districts where signs are allowed there shall be no more than one non-illuminated sign not to exceed 12 square feet in area, nor exceed a maximum height of 6 feet, at the major entrances.
- C. Construction Standards - The construction of the lake shall conform to the requirements as set forth under excavation and filling operations.
- D. Off-street parking spaces shall be provided in the ratio of one space for every 100 feet of lakeshore, with a minimum of 10 spaces.

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**4.2.19 Day Care Facilities (providing care for more than 6 children)**

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Day Care Facilities may be allowed in the R-R, R-E, R-1, R-2, R-3, U-N, R-5A, R-5B, R-6, and R-7 districts upon the granting of a Conditional Use Permit and in compliance with the listed requirements.

- A. Signs - There shall be allowed one non-illuminated sign identifying the name and use, which sign shall be limited in size to four square feet and be placed on the building.
- B. Residential Structure - The structure shall remain or shall be constructed so that the exterior design and ornamentation is residential in character and compatible with the immediate neighborhood, so that there is no evidence from the street that the use is other than residential (except for the sign).
- C. Alterations or Improvements to the Structure - Where such a use is permitted in a structure which has been used as a residence, the permittee shall make no substantial alterations or improvements to the structure which would impair the structure's use as a residence at a later time.
- D. On-Site Drop-off and Pick-up Area - An on-site area shall be provided where passengers from automobiles may safely exit the automobile and enter the building and vice versa. The design of this area must be approved by the appropriate agency responsible for transportation planning.
- E. Parking Spaces - The appropriate number of parking spaces shall be provided for members of the day care center staff. The number of parking spaces required pursuant to this section shall be determined by the Board of Zoning Adjustment, and may thereafter be modified by the Board of Zoning Adjustment by petition from the

owner of the premises granted a Conditional Use Permit or upon recommendation from the zoning inspector or other authorized personnel after an annual inspection of the premises or other such inspection. The parking layout must be approved by the appropriate agency responsible for transportation planning.

- F. Drainage Control - The development plan shall have the approval of the appropriate agency responsible for surface drainage control.
- G. All buildings and structures shall conform to the requirements of the zoning and form district in which they are located.
- H. Fence - A fence with a minimum height of 4 feet shall be erected around the outdoor play area.
- I. Alterations or Improvements to the Property – Where such a use is permitted on a lot with an existing residential structure; the residential character of the lot shall not be disturbed by exterior changes to the property that are visible from the public street. Off-street parking shall not be located within the front and/or street-side yards. Drop-off and pick-up shall not be located in front yard and/or street-side yard of the existing residential structure, except for driveways approved by Metro Public Works.
- J. Conditional use permits for Day Care Facilities in R-4 and R-5 zoning districts issued prior to the effective date of this ordinance (March 9, 2011) may continue to operate as authorized under the approved conditional use permit. Upon request by an applicant, such conditional use permits may be modified in any manner the Board determined, in its discretion, to be appropriate.

#### **4.2.20 Doctor, Dentist, Chiropractor or Other Licensed Health Care Provider Office**

One office for one physician osteopath, or podiatrist licensed under KRS Chapter 311; chiropractor licensed under KRS Chapter 312; dentist licensed under KRS 313; optometrist licensed under KRS Chapter 320; advanced practice registered nurse licensed under KRS Chapter 314; or other health care practitioner as determined by the department by administrative regulations promulgated under KRS Chapter 13A may be allowed on a lot in the R-4, R-5, R-5A, R-5B, R-6, and R-7 districts where the premises an arterial or collector level street as designated in the Comprehensive Plan for all of Jefferson County, Kentucky, upon the granting of a Conditional Use Permit and compliance with the listed requirements

- A. Floor Area - The maximum floor area for the office use is 1,000 square feet.
- B. Parking Areas - parking spaces shall be provided off of the street in an area to the rear of the premises, so that the off-street parking area shall not be between a street and the building. Said parking area must be paved by asphalt or concrete and shall be screened by a dense evergreen shrub screen with a minimum height of five feet, or a wall constructed of brick, stone or wood with a minimum height of five feet.
- C. Signs - There shall be allowed one non-illuminated identification sign indicating the name and occupation, which sign shall be limited in size to four square feet and placed on the building.
- D. Exterior Design - The building shall remain or shall be constructed so that the exterior design and ornamentation is of residential character in keeping with the immediate neighborhood, so that there is no evidence from the street that the use is other than residential (except for the sign).
- E. Number of Employees – No more than five total employees, including the medical professional, shall be permitted.

#### **4.2.21 Drive-In Theaters**

Drive-In Theaters may be allowed in the C-2, and C-M Districts upon the granting of a conditional use permit and compliance with the listed requirements.

- A. Approval of plan of access to the highway from the agency responsible for maintenance of such highway shall be obtained.
- B. There shall be no direct access to a major or minor arterial as designated in the Comprehensive Plan for all of

Jefferson County, Kentucky, where there is a possibility of access to a lesser road.

- C. All buildings and structures except fencing shall be at least 100 feet from any property line.
- D. Provisions shall be made for temporary stoppage of vehicles on the premises of at least 30 percent of the capacity of the theater, to prevent traffic congestion on adjacent public ways.
- E. The picture screen shall not face or be placed to be viewed from any major or minor arterial as designated in the Comprehensive Plan for all of Jefferson County, Kentucky, and shall be screened from view by trees or fences from any adjacent road.
- F. Drive-in Theaters located within one-half mile of residentially used or zoned property shall provide information on sound levels resulting from loudspeakers and hours of operation. The Board may establish conditions necessary to protect nearby residents.
- G. The entrances and exits shall be located so as to afford unobstructed sight distance for 300 feet in each direction along the highway.
- H. Except in districts where signs are allowed, no sign shall exceed one square foot in area for each foot of frontage on the highway, but in no case shall exceed 200 square feet in area and no sign shall exceed 10 feet in height. In no case shall signs which face a residential district be of the flashing type.

#### **4.2.22 Earth Excavation, Filling, and Refuse Disposal Operations, Major**

Excavation, Filling, and Refuse Disposal Operations, Major may be allowed in R-R, R-1, M-2 and M-3 Districts upon the granting of a Conditional Use Permit and compliance with the listed requirements.

- A. Defined - Any operation which involves a change in the existing ground surface, except (1) grading and shaping of land around a building or structure and except (2) minor earth excavations not constituting a quarry, borrow pit, or commercial operation and/or filling of land with non-combustible, inorganic materials (See Section 04-02-21) shall be subject to the following regulations. Such uses include but are not limited to the following:
  - 1. Extraction and development of earth products, mineral and other natural resources, including sand, gravel pits, quarries, and borrow pits.
  - 2. Landfills for non-combustible materials.
  - 3. Incinerators, public/private.
  - 4. Any other landfills (except for hazardous material).
  - 5. Commercial composting.
- B. Other Standards - The proposed operation shall meet all requirements of the adopted Environmental Performance Standards.
- C. Neighborhood Protection - The operation shall be conducted in such a manner as to offer protection to the neighborhood against possible detrimental effects, taking into consideration the physical relationship to surrounding properties and access to the site including any nearby local (residential) streets
- D. Information to be Filed:
  - 1. Drawings - A plan drawn at a scale of not less than 100 feet to the inch showing the following:
    - a. Boundaries - The exact boundaries of the site and access to public ways.
    - b. Use of Land - Present and proposed use of land, the arrangement, fully dimensioned, of all existing and proposed buildings, structures, roads, drives, parking areas, loading spaces, water, sewer, power, and other utility lines, sanitary facilities, surface drainage, landscaping, fencing, and all other features and facilities to be installed or used in connection with the proposed operation.
    - c. Contours - Show by contours of not less than 2 foot intervals (except on extremely steep slopes):
      - i. The present surface of the site and the surrounding properties within 50 feet from its boundaries

by the use of dashed contours.

- ii. The ultimate depth elevations of the area to be excavated or filled by the use of dot and dash contours.
  - iii. The ultimate finished surface of the site after all excavation and filling operations are completed by the use of solid line contours.
  - iv. If the ultimate finished surface elevation is exactly the same as the ultimate depth elevation, solid line contours alone may be used, but must be so labeled in the plan legend.
- d. Excavation Methods Cross sections at critical points to illustrate the methods to be employed in the process of excavation and fill.
  - e. Sequence of Operations - Locations where excavation and filling operations will commence and the procedural sequence of operations.
  - f. Surface Drainage - Methods to be employed for the management of quantity and quality of surface drainage during and after completion of operations.
  - g. Volumes - The volumes of materials to be excavated and filled for each location on the site where operations are to take place.
  - h. Off-Site Improvements - Improvements such as new roads and pavement to be installed off the site to enable the operation to be carried out.
  - i. Adjoining Property Owners The plan shall show the names and addresses of the owners of the site and all adjoining properties, the name and address of the engineer who prepared the plan, scale, north point, the geographical relationship of the site to existing public ways and major or minor arterials as designated in the Comprehensive Plan for all of Jefferson County, Kentucky.

E. General Standards:

1. No excavation nor filling shall be made within 50 feet of any boundary of the site.
2. Side slopes of excavation and fills in earth, sand or gravel shall not exceed one foot vertical to two feet horizontal and shall be blended into undisturbed existing surfaces.
3. A continuous fence a minimum of 6 feet high shall be placed along the boundaries of excavated areas and provided with gates of the same construction as the fence which shall remain locked at all times when active operations are not taking place and shall be properly maintained until all operations are completed.
4. Additional landscaping is required in the buffer areas between excavation and fill areas and buildings and structures.
5. Provisions shall be made for the disposal of surface water falling on or crossing the site at all times during and after completion of the operations. The operations shall not obstruct the normal flow of any public drain, or abrogate the riparian rights of any other party to a stream or drain. No operation shall begin until construction approval has been approved from the agency responsible for surface water drainage.
6. The depth of excavation and the materials to be used for fill shall not have any adverse effect on the supply, quality, or purity of ground water or wells. In no case shall an excavation be carried to a depth below an elevation of 410 feet above mean sea level.
7. A layer of clean earth at least two feet thick shall be deposited and thoroughly compacted over all fill to bring the surface to the finished surface grade as shown on the topographic plan filed with the application.
8. The finished surface of the site shall bear the proper relationship to that of adjoining properties.
9. The installation of roads, parking areas, buildings, structures, and operational facilities and equipment shall

be located on the site so that adjoining properties will not be adversely affected.

10. Excavation and fill materials shall be moved off and onto the site in vehicles approved by the appropriate Director of Works.
  11. All filling operations and final approval shall be in strict conformity with the regulations of the Louisville and Jefferson County Board of Health; Air Pollution Control District; Kentucky Department for Environmental Protection and the appropriate Director of Works. Letters or Certificates of Approval of the plans by the above agencies indicating prior review shall be filed prior to the issuance of any Conditional Use Permit. Uses shall not begin until final approval has been obtained and filed in the Board of Zoning Adjustment docket file.
  12. The operation shall be conducted so as not to create a nuisance or cause undue noise, vibration, dust, odor, or light to adjacent properties. The premises shall be kept in a neat and clean condition at all times. No loose paper or debris shall be allowed on the site except on areas where active filling operations are taking place. Dusty conditions shall be corrected by sprinkling with water or by the use of calcium chloride or other method that meets current state standards. No fires shall be permitted. Any smoldering flame or spontaneous combustion shall be immediately extinguished.
  13. In no event will the premises be used for salvage operations of any kind. No separation or picking of waste materials will be permitted. All unacceptable fill materials as noted elsewhere in this section shall be removed from the premises immediately after delivery.
  14. Except for protective fences, no building or structure erected in connection with the operation shall be located in any required yard or closer than 30 feet from any property line.
  15. A specific written or site plan for vehicle cleaning facilities to prevent the tracking of mud, dirt or other debris onto any public roadway shall be reviewed and approved by the appropriate Director of Works before public hearing.
  16. No materials defined as hazardous by these regulations, by the Kentucky Cabinet for Natural Resources and Environmental Protection or Federal Environmental Protection Agency will be allowed as fill.
- F. Standards for Specific Operations:
1. In addition to the general standards listed above, the following additional standards shall apply to:
    - a. Land-fills for non-combustible material:
      - i. Fill material shall be limited to inorganic materials and other substances not subject to decomposition, combustion, or the production of odors.
      - ii. Materials shall be spread and thoroughly compacted as they are deposited.
    - b. Incinerators, public and private:
      - i. No incinerator building or structure shall be located closer than 200 feet from any site boundary line, and no other building or structure used in connection with the operation shall be located closer than 30 feet from any site boundary line.
      - ii. The entire site shall be enclosed with fencing and gates as required by this Section.
      - iii. All materials delivered to the site which are organic or of organic origin or other combustible materials such as paper, cardboard, rubber, plastic, wood fiber, sawdust, floor sweepings, plaster board, framing, lumber, laths, tree stumps, trunks, branches, foliage, furniture, rags, garbage, and industrial wastes and including metal and glass containers shall be burned in the incinerator.
      - iv. All residue resulting from the burning operations and other fill materials which are inorganic or substances which are not subject to decomposition, combustion, or the production of odors shall be disposed of properly.

- v. All materials which are to be burned shall be placed on or in a concrete slab or hopper enclosed by a building, masonry walls, or chain link type fencing at least 6 feet high provided with doors or gates which shall be securely locked when the incinerator is not in operation. The materials shall be transferred from the slab or hopper into the incinerator and shall be burned as soon as practicable. The slab or hopper shall be kept clear of all materials when not in active use.
  - vi. There shall be no separation or picking of materials or storage for salvage thereof on the site (scavenging).
  - vii. All deliveries of materials to the site, shall be done between the hours of 7:00 A.M. and 6:00 P.M. on weekdays only, except otherwise necessitated by extraordinary circumstances.
  - viii. A watchman shall be stationed at the site at all times for whom a suitable shelter or living quarters shall be provided.
  - ix. Sanitary toilet facilities shall be provided on the site in accordance with the requirements of the Department of Health.
- c. Any other landfills (except hazardous materials):
- i. No building or structure, except fencing, used in connection with the operation shall be located closer than 30 feet to any site boundary line.
  - ii. All plans shall show all pipelines used for gas collection, migration, etc. as well as the location of vents, flares, etc.
  - iii. The entire site shall be enclosed with fencing and gates as required by this Section.
  - iv. All materials delivered to the site which are organic in origin and all paper, cardboard, plastic, metal and glass containers, wood fiber, sawdust, floor sweepings, plaster board, framing lumber, laths, tree stumps, trunks, branches, foliage, furniture, rags, garbage, and industrial wastes shall be deposited and thoroughly compacted in layers not to exceed two feet in depth. Rubber tires, dead animals, and by-product wastes of a gaseous, liquid, or semi-liquid nature such as tar, paints, solvents, sludge, rubber, and plastics and other flame or fume producers may be permitted as fill material after the Kentucky Natural Resources and Environmental Protection Cabinet issues permission, unless specifically prohibited by the Board of Zoning Adjustment. Each day's deposit, after compaction, shall be covered with a layer of earth at least 6 inches in thickness after compaction. The face of the fill as well as the horizontal surface shall be covered with a layer of earth to prevent any movement of fill by wind or water erosion. Alternative methods may be allowed if approved by the Kentucky Natural Resources and Environmental Protection Cabinet and the Board.
  - v. There shall be no separation or picking of materials or storage for the salvage thereof (scavenging) on the site. All unacceptable fill materials as noted above shall be removed from the premises immediately after delivery.
  - vi. Water lines shall be installed, connected to a public water supply, or to some other source, which by use of pumps will provide water in sufficient quantity to combat fires or settle dust.
  - vii. Sanitary toilet facilities shall be installed in accordance with the requirements of the Department of Health.
  - viii. No fires shall be permitted. Any smoldering flame or spontaneous combustion in the fill shall be immediately extinguished.
  - ix. A watchman shall be stationed at the site at all times for whom a suitable shelter or living quarters and sanitary facilities shall be provided on the site.
  - x. The premises shall be kept neat and clean at all times, no loose paper or debris shall be allowed on

the site except on areas where active filling operations are taking place. Dusty conditions shall be corrected by sprinkling with water or by the use of calcium chloride or some other method that meets current state standards.

- xi. All deliveries of materials to the site, filling, spreading, compacting, and grading shall be done between the hours of 7:00 A.M. and 6:00 P.M. on weekdays only.
  - xii. Filling operations shall begin immediately upon the issuance of a permit. All areas shall be refilled to finish grades as shown on the topographic map filed with the application within a period of five years after commencement of operations. The Board may extend such time limit after a public hearing, but in any event all excavations on the site shall be refilled to finish grade within 10 years after commencement of operations.
  - xiii. No filling activities shall occur within 200 feet of a residential structure existing at the time of issuance of the Conditional Use Permit.
- d. Borrow pits and Earth Excavations:
- i. No building or structure, except fencing, used in connection with the operation shall be located closer than 30 feet from any site boundary line.
  - ii. Areas where excavations have been made and are taking place shall be enclosed with fencing as required above.
  - iii. Sanitary toilet facilities shall be installed in accordance with the requirements of the Department of Health.
  - iv. A watchman shall be stationed at the site at all times when active operations are taking place for whom a suitable shelter or living quarters and sanitary facilities shall be provided on the site.
  - v. No excavation, screening, stockpiling, filling or hauling shall be done except between the hours of 7:00 A.M. and 6:00 P.M. on weekdays.
  - vi. Re-filling operations as required shall begin immediately on areas when excavations have been made to the ultimate depth and such areas shall be refilled to finish grade as shown on the topographic map filed with the application within a period of five years after commencement of excavation operations. The Board may extend such time limit after a hearing, but in any event all excavations on the site shall be refilled to finish grade within 10 years after commencement of operations.

**G Guarantee:**

To insure the strict compliance with all of the above conditions and requirements, the applicant shall deposit with the Board a bond through a an instrument satisfactory to the Board. The amount of the instrument shall be 150% of the estimate for remediation obtained from a qualified engineer licensed in the Commonwealth of Kentucky.

#### **4.2.23 Earth Excavations/Fill, Minor**

Earth Excavations/Fill, Minor not constituting a quarry, borrow pit or commercial operation and/or filling of land with non-combustible inorganic materials are allowed in any district upon the granting of a Conditional Use Permit and compliance with the listed requirements.

- A. A plan for minor excavations and/or filling must receive approval from the Metropolitan Sewer District, and the director of the Planning Commission with review and comment by the Soil Conservation Service.
- B. No excavation shall be below the normal water table, nor shall such operation have an adverse effect on the supply, quality, or purity of ground water or wells.
- C. The finished surface of the site shall bear the proper relationship to that of adjoining properties.
- D. Excavation and fill materials shall be moved off and on the site in vehicles approved by the City of Louisville and

Jefferson County.

- E. The operation shall be conducted so as not to create a nuisance or cause undue noise, vibration, dust, odor, or candescence to adjacent properties. The premises shall be kept in a neat and clean condition at all times. No loose paper or debris shall be allowed on the site except on areas where active filling operations are taking place. Dusty conditions shall be corrected by sprinkling with water or by the use of calcium chloride or some other approved method. No fires shall be permitted. Any smoldering flame or spontaneous combustion shall be immediately extinguished.
- F. In no event will the premises be used for salvage operations of any kind. No separation or picking of waste materials will be permitted. All unacceptable fill materials as noted elsewhere in this section shall be removed from the premises immediately after delivery.
- G. No building or structure shall be erected in connection with the operation.
- H. Fill material shall be limited to nonpolluting, inorganic, non-combustible materials and soil. Rubber tires, dead animals, and by-product wastes of a gaseous liquid, or semi- liquid nature such as tar, paints, solvents, sludge, rubber, and plastics and other flame or fume producers shall not be permitted as fill material.
- I. Any of the requirements of Section 4.2.22 of this section which the Board finds to be appropriate or necessary may be applied to the operation.
- J. Time limits and stabilization measures on completion shall be specified.

#### **4.2.24 Public Power Plants**

Public Power Plants may be allowed in the M-3 and EZ-1 districts upon granting of a Conditional Use Permit and compliance with the following regulations:

- A. When applicable, the applicant shall provide documentation from the Kentucky State Board on Electric Generation and Transmission Siting that a complete application required to obtain a construction certificate to construct a merchant electric generating facility has been submitted. Relevant portions of the application shall be submitted for the Board's consideration, as requested by staff.
- B. All structures housing generating equipment and outdoor storage facilities shall be set back at least 1,000 feet from the property line when adjacent to any non-industrial use or zoning district. Offices and employee parking areas are required to be located at least 30 feet from any property line.
- C. Facilities adjacent to property used or zoned for residential purposes shall provide a landscape buffer 60 feet wide and planted with three staggered rows of trees, half evergreen and half deciduous, with trees in each row no more than 20 feet apart.
- D. All facilities shall be enclosed within a continuous fence with a minimum height of 8 feet.
- E. The applicant shall submit to the Board of Zoning Adjustment a copy of any applicable requirements or permits approved by the Air Pollution Control District.
- F. Merchant Power Plants must comply with all the applicable regulations in KRS Chapter 278.

#### **4.2.25 Extraction and Development of Oil, Gas, and other Hydrocarbon Substances**

Extraction and Development of Oil, Gas, and other Hydrocarbon Substances may be allowed in any district (unless otherwise restricted) upon the granting of a Conditional Use Permit and compliance with the following requirements:

- A. Location of Bore Holes - No oil or gas bore hole shall be drilled within 300 feet of a state highway or county road or within 150 feet of any other public way. No building or structure, except fencing, shall be located closer than 30 feet from any site boundary line.
- B. Limit on Wells - No more than one well shall be permitted for each 5 acres of land.

- C. Removal of Drilling Equipment - Within 90 days after the drilling of each well has been completed and production started, the derrick and all other drilling equipment shall be removed from the site.
- D. Portable Derricks - Any derrick erected for servicing operations shall be of a portable type.
- E. Storage of petroleum or its By-products - After a well has been brought into production, no earthen sumps shall be used for the storage of petroleum or its by- products.
- F. Fire Protection - Fire fighting equipment, as required and approved by the fire department concerned, shall be maintained on the premises at all times during drilling and production operation.
- G. Landscape Restoration - Any areas of site disturbance resulting from construction operations shall be landscaped or replanted to native plant materials.
- H. Refining of Petroleum Products - No plant for the refining of petroleum products from such operation shall be permitted on the site.
- I. Signs - One sign, not to exceed 12 square feet in area and not to exceed 6 feet in height, may be erected at each of the major entrances to the site, except in districts where signs are allowed.
- J. Operations - All drilling and production operations shall be conducted in such a manner as to eliminate, as far as practicable, dust, noise, vibration, and obnoxious odors, in accordance with the best accepted practices incident to drilling for, and production of, oil, gas, and other hydrocarbon substances.
- K. Removal of Facilities and Equipment - In the event oil or gas is not produced in paying quantities all material, equipment, and structures used in the drilling operations shall be completely removed from the site, and the well properly abandoned within one hundred twenty days after drilling operations cease.
- L. Abandonment of Wells - Upon completion of drilling, redrilling, or conditioning operations, and on abandonment of the well, all earthen sumps shall be drained and backfilled to the natural grade. Subject to the above conditions, a new sump may be constructed upon resumption of conditioning or redrilling operations.
- M. Deposit - The applicant shall deposit cash, certified check, or bond with surety made in favor of the Louisville and Jefferson County Board of Zoning Adjustment to insure proper compliance with these regulations before drilling operations are commenced.

#### **4.2.26 Funeral Homes**

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Funeral Homes may be allowed in the OR-1, OR-2, OR-3, OTF, and C-R Districts upon the granting of a Conditional Use Permit and compliance with the listed requirements:

- A. Funeral homes shall abut on an arterial or collector level street as designated in the Comprehensive Plan for all of Jefferson County, Kentucky.
- B. Signs - All proposed signage must comply with applicable sections of the Land Development Code.
- C. The main building shall be located at least 30 feet from any property line.

#### **4.2.27 Golf Courses with Food or Alcoholic Beverage Service**

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Golf courses which have a retail food establishment permit or an ABC license and which serve food or alcoholic beverages to any person who is not a member (or guest of a member) of the ownership or operating entity of the golf course may be allowed in any zoning district upon the granting of a Conditional Use Permit and compliance with any conditions of approval imposed by the Board of Zoning Adjustment, which may include, but is not limited to, the following:

- A. Location and size of buildings and structures,
- B. Type of food permit or ABC license,
- C. Buffering of adjacent properties,

- D. Signage,
- E. Golf ball driving directions,
- F. Hours of operation,
- G. Lighting,
- H. Traffic considerations, and
- I. Environmental considerations.

#### **4.2.28 Home Occupations**

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Home Occupations seeking to have additional nonresident employees (beyond the extent of what is allowed in Section 4.4.5) may be allowed in any residential zoning district upon granting of a Conditional Use Permit and compliance with the listed requirements:

- A. The additional nonresident employee(s) will not cause the home occupation to be a nuisance to adjacent or nearby residences or a detriment to the residential character of the neighborhood.
- B. The applicant should demonstrate that the additional parking needed to accommodate the additional nonresident employee(s) can be provided on an existing driveway in a manner that is similar to adjacent or nearby residences or on-street in accordance with the provisions of Chapter 4 Part 4 of the Land Development Code.
- C. The home occupation will continue to meet all other applicable requirements of Chapter 4 Part 4 of the Land Development Code.

#### **4.2.29 Hospitals, Clinics, and Other Medical Facilities**

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Facilities requiring a Certificate of Need issued by the Commonwealth of Kentucky, including hospitals, clinics, and other medical facilities, may be allowed in any district upon the granting of a Conditional Use Permit and compliance with the listed requirements:

- A. Signs - One freestanding sign, not to exceed 80 square feet in area or 10 feet in height, may be placed at each of the major entrances, except in districts where signs are allowed. Attached signs may be located at any height. The Board shall determine the size of all attached signs.
- B. All buildings and structures shall be at least 30 feet from any property line.

#### **4.2.30 Institutional Uses in Excess of Required Maximum Building Footprint**

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##### **(as established within the Village and Neighborhood Form Districts)**

All applicable Land Development Code standards shall be provided as well as the following additional standards:

- A. All structures and off-street parking shall be at least 30 feet from any perimeter property line adjacent to a residential use or zone.
- B. The design of any structure shall incorporate a variety of architectural elements that help diminish building bulk.
- C. A traffic study shall be provided for developments of more than 75,000 square feet of new building footprint construction or an increase in building footprint area by more than 50%, whichever is greater.

#### **4.2.31 Rehabilitation Home**

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Rehabilitation homes may be allowed in any district upon the granting of a Conditional Use Permit and compliance with the listed requirements.

- A. If using an existing residential building constructed contemporaneously with the surrounding neighborhood, its exterior appearance shall not be substantially altered.
- B. New construction within an area having an established front building setback shall be constructed at the average

setback line or the minimum front yard of the form district, whichever is less. Structures adjacent to residential uses or zoning districts shall increase side yards by 10 feet for each story over two.

- C. One parking space on site shall be provided for each staff person, plus two spaces for each five residents, or five clients served by the rehabilitation home. Parking shall be reduced to one space per five residents/clients if the rehabilitation home serves persons with disabilities that preclude operation of an automobile.
- D. One freestanding sign not to exceed 10 square feet and 4 feet in height shall be allowed.
- E. The Board shall add any additional restrictions necessary to mitigate nuisances or adverse effects.

#### **4.2.32 Mobile Homes and Manufactured Housing Sales, Display or Storage**

The retail sale, display, or storage of more than one mobile or manufactured home may be allowed only in the C-2, C-3, C-M, and EZ-1 Districts upon the granting of a Conditional Use Permit and compliance with the listed requirements.

- A. All buildings and structures, including the mobile homes, shall observe the yard requirements of the District.
- B. The portion of the tract subject to the sale and display shall be paved with a hard and durable surface approved by the Director of Works. The Director of Works shall review and make recommendations on applicant's plans for entrance to streets.
- C. Screening shall be provided in accordance with Chapter 10 Landscaping, Screening and Open Space.

#### **4.2.33 Marinas and Boat Rental Facilities**

Marinas and Boat Rental Facilities may be allowed in any district upon the granting of a Conditional Use Permit and compliance with the following requirements:

- A. The applicant shall have an approved permit required by Section 404 of the Clean Water Act before a public hearing date is set for review of the facility plan.
- B. No off-street parking space shall be used for the storage of a boat trailer. All boat trailer storage areas shall be designated and have adequate access and egress facilities.
- C. Construction Operations - The construction of any harbor, lake, or basin shall conform to the requirements as set forth under Section 4.2.21 of this chapter.
- D. Retail activities shall be confined to a space no larger than 500 square feet.
- E. Signs - Except in districts where signs are allowed, there shall be no more than one non-flashing sign, not to exceed 60 square feet in area or 10 feet in height, located at the major entrances.

**NOTE:** *Marina and Boat Rental ;Commercial – A facility which allows the storage or docking of boats minor servicing and repair of boats while in the water the sale of fuel and supplies lodging food sales and restaurant facilities.*

#### **4.2.34 Marinas and Boat Rental Facilities, Commercial**

Commercial Marinas and Boat Rental Facilities may be allowed in zoning districts which allow the use of lodging, food sales, and restaurant facilities upon the granting of a Conditional Use Permit and compliance with the following requirements:

- A. The applicant shall have an approved permit required by Section 404 of the Clean Water Act before a public hearing date is set for review of the facility plan.
- B. No off-street parking space shall be used for the storage of a boat trailer. All boat trailer storage areas shall be designated and have adequate access and egress facilities.

- C. Construction Operations - The construction of any harbor, lake, or basin shall conform to the requirements as set forth under Section 4.2.21, Excavation and Filling and Refuse Disposal Operations of this chapter.
- D. Signs - Except in districts where signs are allowed, there shall be no more than one non-flashing sign, not to exceed 60 square feet in area or 10 feet in height, located at the major entrances.

#### 4.2.35 Mini-warehouses

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Mini-warehouses may be allowed in the C-2 District where the premises abut on a roadway classified as a collector or major or minor arterial as designated in the Comprehensive Plan for all of Jefferson County, Kentucky, upon the granting of a Conditional Use Permit and compliance with the listed requirements.

- A. The property shall be landscaped so as to blend in with the surrounding area and shall be screened and buffered from adjacent uses of a non-industrial nature.
- B. No building, structure or pavement shall be located closer than 30 feet to side property lines or property lines abutting residential areas. This area is reserved as a landscape buffer area.
- C. No outside storage shall be allowed on the property.
- D. No storage of toxic or hazardous materials shall be allowed on the property.
- E. There shall be no retail or wholesale sales or distributing activities on site.
- G. No structure on the site shall be taller than one story and shall not exceed 15 feet in height (except for one freestanding sign as allowed in H below).
- H. Signs - Only one freestanding sign shall be allowed and shall conform to limits established for the form district in which the sign is located.

#### 4.2.36 Mobile Home Parks

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Mobile Home Parks may be allowed in the R-6, R-7, R-8A, OR-2, OR-3, C-1, C-2, and CM Districts upon the granting of a Conditional Use Permit and compliance with the listed requirements.

- A. Minimum Area - The minimum area for a mobile home park shall be three acres.
- B. Mobile Home Setbacks - No mobile home shall be located closer than 50 feet to the front property line or closer than 20 feet to any other property line. In an instance where there is a required yard of greater depth, the more restrictive shall apply.
- C. Mobile Home Spaces - Mobile home spaces shall be no smaller than 4,000 Square Feet and minimum 32 feet wide. Each mobile home space shall have unobstructed access at least 15 feet wide to a public or private street within the Mobile Home Development which shall have unobstructed access to an exterior public street. No mobile home space shall be directly accessible from any exterior street or thoroughfare.
- D. Signs - Except in districts where signs are allowed, one stationary non-flashing sign, not to exceed 60 square feet in area, may be located at the vehicular entrance to the park. No sign shall extend into or over a required yard.
- E. Mobile Home Location - Mobile homes shall be so harbored on each space that there shall be at least a 20-foot clearance between each mobile home and mobile homes and structures.
- F. Driveways - All mobile home spaces shall front on a paved driveway of not less than 18 feet in width, which shall have unobstructed access to a public way.
- G. Recreational Vehicles - Recreational Vehicles shall be prohibited as a principal use in any Mobile Home Development.
- H. Manufactured Homes may be located in approved mobile home parks, but must also comply with all applicable portions of Section 4.1.2, Factory Built Housing.
- I. Other type of residential dwellings may be located in mobile home parks, but must also comply with all

applicable portions of the Land Development Code.

#### **4.2.37 Non-emergency Generator and Non-accessory Alternative Energy System**

Non-emergency generators may be located within the OR, OR-1, OTF, OR-2, OR-3, CN, C-1, C-2, C-3, C-M, M-1, M-2, M-3, EZ-1, PEC, PRO, W-1, W-2 upon the granting of a conditional use permit.

- A. The generator/alternative power system shall be at least 50 feet from a perimeter property line.
- B. The generator shall require review and approval from the Air Pollution Control Board.
- C. The applicant shall present manufacturers information on the noise of the generator/alternative energy system at time of application. The applicant shall ensure that the noise level at the property line does not exceed 65 dBa. The board may require review by an independent noise professional.
- D. The generator/alternative energy system shall be screened as a utility substation in accordance with Chapter 10 of the LDC.

#### **4.2.38 Nursing Homes and Homes for the Infirm or Aged**

Nursing Homes and Homes for the Infirm or Aged may be permitted in any district upon the granting of a Conditional Use Permit and compliance with the listed requirements.

- A. All buildings shall be located at least 30 feet from any property line.
- B. One sign, not to exceed 60 square feet and six feet in height, may be placed at each of the major entrances, except in districts where larger signs are allowed.
- C. The Board of Zoning Adjustments shall add any restrictions to mitigate nuisances or adverse effects.

#### **4.2.39 Off-Street Parking Areas**

An Off-Street Parking Area may be permitted in a district where it is ordinarily prohibited, provided it serves a use in a building for which insufficient off-street parking space is provided, and where the provision of such parking space will materially relieve traffic congestion on the streets and when developed in compliance with the listed requirements.

- A. The area shall be located within 200 feet of the property on which the building to be served is located measured by the shortest walking distance (using sidewalks and designated crosswalks).
- B. Walls, fences, or plantings shall be provided in a manner to provide protection for and be in harmony with surrounding residential property.
- C. The minimum front, street side, and side yards required in the district shall be maintained free of parking.
- D. The area shall be used exclusively for transient parking of motor vehicles belonging to invitees of the owner or lessee of said lot.
- E. The approval of all plans and specifications for the improvement, surfacing, and drainage for said parking area will be obtained from the appropriate Director of Works prior to use of the parking area.
- F. The approval of all plans and specifications for all entrances, exits, and lights shall be obtained from the department responsible for transportation planning prior to the public hearing on the Conditional Use Permit.

#### **4.2.40 Outdoor Paint Ball Ranges**

Outdoor Paint Ball Ranges may be located in the C-2, C-M, M-1, M-2, M-3 and EZ-1 (CUP required for M-1, M-2, M-3 and EZ-1 districts when the requirements of Section 4.3.8 are not met) Districts upon the granting of a Conditional Use Permit.

- A. All buildings and structures shall be at least 30 feet from any property line.
- B. All outdoor play areas shall be enclosed by netting (at least 60% nylon netting) at least 12 feet in height. Netting

- must be securely fastened at top and bottom. Playing fields shall have signs posted warning of paintball play and requiring the use of eye goggles before entering play areas.
- C. The applicant shall provide proof of insurance as a paintball facility.
  - D. All designated play areas shall be at least 300 feet from any property line. The Board may reduce this distance based on additional safety precautions established by the owner/developer.
  - E. Warning signs shall be placed at intervals of 75 feet of linear property boundary.
  - F. Off-street parking spaces shall be provided as follows:
    - 1. Participants: 10 spaces per designated play area
    - 2. Spectators: 1 space per 300 square feet of designated spectator area
    - 3. Employees: 1 space per 2 employees
  - G. All spectator areas shall be identified on the required development plan and shall be at least three (3) feet from the perimeter netting of a designated play area. All spectator areas shall be roped off to ensure that the area is visibly identified.
  - H. When adjacent to a residential and/or office/residential zoning district a minimum C3 buffer shall be required or as required by the applicable intensity class, whichever is greater. All other perimeter landscaping requirements shall be in accordance with Chapter 10 of the Land Development Code.
  - I. A chronograph shall be used by the developer/owner of the facility to ensure that all paintball guns do not exceed the safety velocity of 300 feet per second.
  - J. Large Competitions: competitions on the site exceeding 10 teams or 60 participants shall be considered as large competitions. The board may limit the number of large competitions on a site within a year. The owner/developer shall provide a plan for large competition management that identified the following:
    - 1. Location of spectator parking based on the expected number of spectators
    - 2. Location of outdoor restroom facilities
    - 3. Traffic safety plan for movement of spectator vehicles on and off the property approved by the agency responsible for transportation engineering.
    - 4. A lighting plan in accordance with Chapter 4, Part 1 shall be submitted for review and approval of the Board of Zoning Adjustments for evening competitions.
    - 5. Any other items or restrictions identified by the Board.

#### **4.2.41 Outdoor Alcohol Sales and Consumption/Indoor Entertainment Activity for a Restaurant in the C-1 Zoning District**

Outdoor alcohol sales and consumption and/or indoor live entertainment for a restaurant may be permitted in the C-1 zoning district upon the granting of conditional use permit and compliance with the listed requirements

- A. All outdoor areas for the sale and consumption of alcohol must have designated boundaries.
- B. Outdoor dining areas within the public right-of-way must receive approval from the agency responsible for transportation engineering and shall be designed in accordance with agency standards.
- C. Outdoor dining areas adjacent to the public right-of-way shall contain a physical barrier that is at least three feet in height. The barrier should be designed to permit existing legal access from building to the adjacent public right-of-way.

- D. Outdoor dining areas that include the sale and consumption of alcohol within 50 feet of a residentially zoned or used property shall provide a six foot continuous screen as part of the designated boundary for the areas of the outdoor area within 50 feet of residentially used or zoned property. The continuous screen shall be in conformance with the Chapter 10, Part 4 (Implementation Standards).
- E. This conditional use permit shall be limited to restaurant uses in the C-1 that hold the following types of ABC licenses:
  - 1. Restaurant liquor and wine license by the drink for 100 plus seats
  - 2. Restaurant wine license by the drink for restaurants with seating for 100 and receives at least 70 percent gross receipts from food sales
- F. The use of outdoor dining areas for the sale and consumption of alcohol shall cease by 1 A.M.
- G. The entertainment activity shall be in compliance with the Metro Noise Ordinance (LMCO Chapter 99).
- H. The Board may require additional and more restrictive requirements than those listed above based on the conditions of the specific location and the characteristics of the specific restaurant.

#### 4.2.42 Potentially Hazardous or Nuisance Uses

The following uses (manufacture, processing, treatment, or storage unless otherwise specified), having accompanying hazards such as fire, explosion, noise, vibration, dust, or the emission of smoke, odor, or toxic gases may, if not in conflict with other laws or ordinances, be located in industrial zones as indicated below by Conditional Use Permit after the location and nature of such use shall have been approved by the Board of Zoning Adjustment. In reviewing an application for a CUP, the Board of Zoning Adjustment shall review the plan and statements of the applicant and the following:

- A. The Comprehensive Plan;
- B. Environmental and health related concerns raised by the operation and the applicant's proposal to mitigate any adverse effects to the public's health, safety and general welfare;
- C. The applicant's site design, buffering, and security measures and their adequacy to mitigate any adverse effects to the public's health, safety and general welfare;
- D. Any other evidence submitted by the applicant and any other party addressing the issues.

A Conditional Use Permit under this section shall be issued only if the evidence shows the applicant's operation and associated nuisances will be properly managed and the public's health, safety and general welfare will be protected. The Board of Zoning Adjustment may impose additional conditions to protect surrounding properties. All Conditional Use Permits under this section shall be issued subject to the applicant also receiving all necessary permits from local, state and federal regulatory agencies.

#### **EZ-1 and M-3**

Aluminum powder

Brick, fireback, tile, clay products, including refractories: manufacturing, processing or treatment but not including storage

Cement, gypsum, lime, and plaster of paris (but not storage)

Charcoal, lampblack, carbon black, bone black, and fuel briquettes, including pulverizing

Chemicals, including acetylene, acids and derivatives, alcohol (industrial), ammonia, aniline dyes, carbide, caustic soda, cellulose and cellulose storage, chlorine, cleaning and polishing preparation (non-soap), dressings and blackings, creosote, dyestuffs, exterminating agents and poisons, hydrogen and oxygen, plastic materials, and synthetic resins, potash, pyroxylin, tar products, turpentine and resin, and solvent-extracting

Coal, coke, or tar products including fuel gas, and coke-oven products

Distillation, manufacture, or refinement of coal, tar, asphalt, or asphalt products cupolas, and blooming mills (but not storage of metal products)

Minerals and earths (including sand-lime products), grinding, crushing, processing or storage  
 Paint manufacture, processing, or treatment (but not storage)  
 Petroleum or petroleum products, refining, bulk storage, including gasoline or other petroleum products  
 Plastic, manufacture, processing, treatment, or bulk storage  
 Radioactive materials  
 Steel works and rolling mills (ferrous) for steel, structural iron and steel fabrication, and structural products, including bars, cables, girders, rails, wire rope, or similar products  
 Waste paper and rag operations  
 Wood pulp or fiber, reduction or processing (including paper mill operations)

**M-3 Only**

Distillation of wood and bones  
 Explosives (when not prohibited by other ordinances) including ammunition, fireworks, nitrating of cotton or other materials, nitrates (manufactured and natural) of an explosive nature, and storage of latter  
 Exterminating operations where exterminating chemicals or agents are stored  
 Fertilizer (organic and non-organic), including fish, oils, manure, or peat  
 Glue and size (vegetable), gelatin (animal), and starch manufacture  
 Grain storage or grain elevators  
 Hair, hides, raw fur, leather, curing, dressing, dyeing, finishing, tanning, and storage  
 Match manufacture, processing, or treatment  
 Meat and fish products, including slaughtering of meat or curing of fish, packing, and storage  
 Ore dumps, slag piles  
 Rendering, incineration or reduction, and storage of dead animals, garbage, offal, or waste products (the entire operation to be performed within a building)  
 Slaughtering of animals or poultry  
 Stock yards and feed lots

**4.2.43 Private Non-profit Clubs**

Private Non-profit Clubs may be located in the R-R, R-E, R-1, R-2, R-3, R-4, R-5, U-N, R-5A, R-5B, R-6, R-7, R-8A, OR-1, OR-2, C-R or PTD Districts where such use is compatible in size and scale with surrounding land uses upon the granting of a Conditional Use Permit..

- A. All new buildings, structures, and facilities (except parking) shall be at least 30 feet from any property line.
- B. Outdoor swimming pools shall be enclosed within a fence at least six feet high.
- C. All recreation areas or play fields and parking lots shall be separated from adjacent properties by a solid fence or dense evergreen shrubbery plantings at least five feet high.
- D. One sign only may be permitted showing the name and address of the club. An attached sign shall not exceed 30 square feet in area, shall be attached flat to the face of the building, and shall not project more than 18 inches from the face of the building. A free-standing sign shall not exceed 20 square feet in area per side, shall not have more than two sides, and shall not exceed a height of six feet. Either an attached sign or a free-standing sign may be permitted, but not both. No sign shall project into any required yard. The sign may be illuminated but non-flashing.

**4.2.44 Private Proprietary Clubs**

Private Proprietary Clubs may be located in the R-R, R-E, R-1, R-2, R-3, R-4, R-5, U-N, R-5A, R-5B, R-6, R-7, OR-1, OR-2, OR-3, OTF, C-R or PTD Districts where such use is compatible in size and scale with surrounding land uses and where the lot contains at least 2 acres upon the granting of a Conditional Use Permit.

Tennis centers, racquetball clubs or similar operations requiring large structures to house the facilities shall have a development plan approved by the Planning Commission prior to filing an application for a Conditional Use

Permit.

- A. All new buildings, structures and facilities shall be at least 30 feet from any property line.
- B. Outdoor swimming pools shall be enclosed with a fence at least six feet high.
- C. All recreation areas or play fields and parking lots shall be separated from adjacent properties by a solid fence or dense evergreen shrubbery plantings at least five feet high.
- D. One sign only may be permitted showing the name and address of the club. An attached sign shall not exceed 30 square feet in area, shall be attached flat to the face of the building, and shall not project more than 18 inches from the face of the building. A free-standing sign shall not exceed 20 square feet in area per side, shall not have more than two sides, and shall not exceed a height of six feet. Either an attached sign or a free-standing sign may be permitted, but not both. No sign shall project into any required yard. The sign may be illuminated but non-flashing.

#### **4.2.45 Outdoor Ranges for Shotgun, Rifle, Pistol, Air Rifle, Air Pistol or Other Firearms**

Ranges for shotgun, rifle, pistol, or other firearms or for air rifle or air pistol may be allowed in the C-2, C-M, M-1, M-2, M-3, and EZ-1 Districts upon the granting of a Conditional Use Permit and compliance with the listed requirements.

- A. All target ranges shall be of sufficient length and be provided with an earthen back stop of sufficient height and thickness to safely stop all projectiles from the various types of weapons used.
- B. All outdoor ranges shall be enclosed by a continuous fence at least 6 feet in height to exclude animals and people.
- C. Warning signs shall be placed at intervals of 50 feet along all range fences. Indoor ranges shall have one warning sign at each entrance and at any windows, doors, or other openings in the walls.
- D. The applicant shall present a plan for removal of spent ammunition that meets state requirements for remediation of heavy metals.
- E. Properties adjacent to residential use: All target ranges shall be a minimum of 200 feet from the property line of the adjacent residential use or greater distance as determined by the board.

#### **4.2.46 Riding Academies and Stables**

Riding Academies and Stables on lots less than 10 acres in size may be allowed in the R-1, R-2, R-3, R-4, C-2, and C-M Districts upon the granting of a Conditional Use Permit and compliance with the listed requirements. Proposed and existing riding academies and stables regardless of lot size that conduct shows with more than 70 participants are required to have this conditional use permit.

- A. All buildings, structures, and facilities associated with the activity shall be at least 50 feet from any property line. (The Board of Zoning Adjustments may alter this setback based on site conditions and the use of the proposed structure(s)).
- B. Exercise tracks shall be maintained in non-dust condition at all times. horses have freedom of movement.
- D. A minimum of one off-street parking space shall be provided for each three stalls for horses.
- E. A license from the Louisville Metro Animal Control is required. F. A waste disposal plan shall be provided.
- G. One freestanding sign not to exceed six square feet in area and six feet in height may be provided for residentially zoned property. Said sign may be located within a required building setback. One temporary banner may be placed on the property to advertise an upcoming show no more than 30 days before the advertised show and shall be removed within three (3) days after the completion of the show.
- H. All landscaping required by Chapter 10 of the LDC shall be provided unless waived or modified by BOZA.
- I. All shows shall be completed by 10:00 PM.

- J. A plan for show management shall be provided that identifies the following:
1. Location of spectator parking
  2. Location of outdoor restroom facilities
  3. Traffic safety plan for movement of spectator vehicles on and off the property approved by the agency responsible for transportation engineering
  4. A lighting plan in accordance with Chapter 4, Part 1 shall be submitted for review and approval of the Board of Zoning Adjustment

#### **4.2.47 Scrap Metal Processing Facilities and Junkyards**

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Scrap Metal Processing Facilities and Junkyards as defined in the Louisville Metro Code of Ordinances may be allowed in the M-3 District upon the granting of a Conditional Use Permit and compliance with the listed requirements:

- A. Scrap Metal Operations shall be prohibited in all primary groundwater recharge areas.
- B. Operations shall be required to provide a detailed plan approved by the Metropolitan Sewer District illustrating measures taken to ensure the protection of surface and groundwater sources. Contamination of any domestic water supply, or surface run-off from the site onto any adjoining land, surface water body or wetland shall be mitigated by use of holding tanks, settling ponds or other necessary devices.
- C. All evidence of the Scrap Metal Operations shall be removed by the property owner promptly after its discontinuance as a business enterprise.
- D. The screening, buffering, security and operating standards shall comply with the requirements set forth in Louisville Metro Code of Ordinances, Chapter 114 for Scrap Metal Processing Facilities and Chapter 51 for Junkyards

#### **4.2.48 Sewage Disposal Plants**

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Sewage Disposal Plans shall be located in any district upon the granting of Conditional Use Permit and compliance with the following standards:

- A. A building, structure, basin, lagoon, or appurtenance shall be located no closer to the property lines than as limited by the Louisville and Jefferson County Board of Health, but in any case all yards shall be provided as required in the district in which the plant is located.
- B. All facilities shall be enclosed within a continuous fence with a minimum height of 6 feet.
- C. All residue from the treatment plant shall be removed from the premises unless fully enclosed storage facilities are provided and maintained free of nuisance, by reason of odor, sight, or insect breeding, to neighboring properties.
- D. All facilities shall be sufficiently landscaped to screen them from neighboring properties and to blend with the district in which it is located.
- E. Provisions for continuous responsible operation and maintenance of the plant shall be filed with the Board prior to the public hearing on the Conditional Use Permit.
- F. Written approval of the site location from the Louisville and Jefferson County Board of Health, Metropolitan Sewer District, and the Kentucky Department of Natural Resources and Environmental Protection, shall be filed with the Board prior to the public hearing on the Conditional Use Permit.

#### **4.2.49 Solid Waste Management Facilities**

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Solid Waste Management Facilities, including composting facilities, construction/demolition debris facilities, firewood production and sales, indoor recycling facilities, outdoor recycling facilities, and solid waste transfer stations may be permitted subject to the conditions and in the zoning districts listed in the following sub-

sections. In addition, the following conditions apply to all of these types of facilities:

**NOTE:** *Water quality concerns for a composting facility currently need approval from the KY Division of Waste Management, KY Division of Water, and MSD.*

- A. All of the facilities referenced in this sub-section 4.2.46 are required to have a license to operate from the Jefferson County Waste Management District (SWR 20.0).
- B. A specific written or site plan for vehicle cleaning facilities to prevent the tracking of mud, dirt or other debris onto any public roadway shall be reviewed and approved by the Director of Works before public hearing.
- C. A continuous fence a minimum of 6 feet high shall be placed along the boundaries of all work and storage areas and provided with gates of the same construction as the fence which shall remain locked at all times when active operations are not taking place and shall be properly maintained until all operations are completed.
- D. When adjoining any residential zoning district, the facility may not be operated on Sunday or earlier than 7:00 a.m. or later than 6:00 p.m. on any other day.
- E. In addition to these conditions, the following conditions apply to the respective category.
  - 1. Composting Facilities may be located in R-R, R-1, M-2, and M-3 Districts upon the granting of a Conditional Use Permit when developed in compliance with the following listed requirements:
    - a. All composting facilities must demonstrate compliance with the applicable state statutes dealing with said facilities (401 KAR Chapters 45 through 49).
    - b. No composting operation shall occur within 50 feet of any boundary of the site.
    - c. Additional landscaping is required in the buffer areas between composting activity areas and any adjacent non-industrial uses.
    - d. Provisions shall be made for the disposal of surface water falling on or crossing the site at all times during and after completion of the operations. No operation shall begin until approval has been obtained from the agencies responsible for surface water drainage and surface water quality.
    - e. The installation of roads, parking areas, buildings, structures, and operational facilities and equipment shall be located on the site so that adjoining properties will not be adversely affected.
    - f. Composting materials shall be moved off and onto the site in vehicles approved by the appropriate Director of Works.
    - g. All composting operations shall be in strict conformity with the regulations of the Louisville and Jefferson County Board of Health; Air Pollution Control District; Kentucky Department for Environmental Protection and the Director of Works. Letters or Certificates of Approval of the plans by the above agencies indicating prior review shall be filed prior to the issuance of any Conditional Use Permit. Uses shall not begin until final approval has been obtained and filed in the Board of Zoning Adjustment docket file.
    - h. The operation shall be conducted so as not to create a nuisance or cause undue noise, vibration, dust, odor, or light to adjacent properties. The premises shall be kept in a neat and clean condition at all times. No debris shall be stored on the site except on areas where active composting operations are taking place. No fires shall be permitted. Any smoldering flame or spontaneous combustion shall be immediately extinguished.
    - i. Grinding or other heavy machinery associated with composting operations located within one-half mile of residentially used or zoned property shall provide information on sound levels resulting from operation of said equipment, and hours of operation. The Board may establish conditions necessary to protect nearby residents.
    - j. Except for protective fences, no building or structure erected in connection with the operation shall be located in any required yard or closer than 30 feet from any property line.

- k. All composting facilities shall also meet the Jefferson County Waste Management District regulations covered in SWR 62.0.
2. Construction/Demolition Debris Facilities shall be located in the R-1, M-2, M-3, and EZ-1 Districts upon the granting of a Conditional Use Permit when developed in compliance with the following conditions.
  - a. All construction/demolition debris facilities must demonstrate compliance with the applicable Jefferson County Waste Management District regulations (SWR 63.0, Construction/demolition Debris Facilities).
  - b. All work and storage areas shall be at least 100 feet from the exterior property lines. If there are any abutting residentially zoned or used parcels then all work and storage areas shall be at least 200 feet from the exterior property line.
  - c. Grinding or other heavy machinery associated with operations located within one-half mile of residentially used or zoned property shall provide information on sound levels resulting from operation of said equipment, and hours of operation. The Board may establish conditions necessary to protect nearby residents
3. Indoor Recycling Facilities, if not in conflict with other laws or ordinances, may be located in the M-2, M-3 and EZ-1 Industrial Districts upon granting of a Conditional Use Permit after the location and nature of such use have been approved by the Board of Zoning Adjustment. The Board of Zoning Adjustment shall review the Comprehensive Plan, the plans and statements of the applicant and shall not permit such buildings, structures, or uses until it has been shown that the public health, safety, and general welfare will be properly protected, and that necessary safe guards will be provided for the protection of surrounding property and person. Recycling and/or storage of the following materials:
  - Glass and glass products
  - Paper and paper board and fiber
  - Non-ferrous metals
  - Ferrous metals (limited to food and beverage containers) Wallboard
  - Plastic and rubber products, and Insulation; may be permitted when developed in compliance with the following conditions:
    - a. The operation including loading and unloading operations is completely enclosed in building(s) approved for such purposes by all applicable fire protection authorities.
    - b. The operation will not have or require any fire, smelting, fumes, chemicals or other toxic materials, hazardous waste or by-products, and the use and site shall conform to such other requirements and conditions as the Board in the exercise of sound discretion may require for the protection of surrounding property, persons, and neighborhoods values.
    - c. The building(s) shall be a minimum of 200 feet or a lesser distance if approved by the Board of Zoning Adjustment from any surrounding residential district(s). The Board may substitute additional screening requirements for a reduction of the 200-foot setback.
4. Outdoor Recycling Facilities (not constituting Scrap Metal Processing Facilities or Junkyards as defined in the Jefferson County Code of Ordinances) may be allowed in the M-3 Districts upon the granting of a Conditional Use Permit when developed in compliance with the following requirements:
  - a. Outdoor recycling facilities located within one-half mile of residentially used or zoned property shall provide information on sound levels and hours of operation. The Board may establish conditions necessary to protect nearby residents.
  - b. All outdoor recycling work and storage areas shall be at least 100 feet from the exterior property lines. If there are any abutting residentially zoned or used parcels then all work and storage areas shall be at least 200 feet from the exterior property line.

- c. Landscaping shall be placed between the exterior property lines and all outdoor recycling work and storage areas as described in Chapter 10.
  - d. The operation shall be conducted so as not to create a nuisance or cause undue noise, vibration, dust, odor, or light to adjacent properties. The premises shall be kept in a neat and clean condition at all times. No loose paper or debris shall be allowed on the site. Any smoldering flame or spontaneous combustion shall be immediately extinguished.
5. Solid Waste Transfer Stations may be allowed in the M-2 and M-3 Districts upon the granting of a Conditional Use Permit when developed in compliance with the following requirements:
- a. The minimum site size is 3 acres.
  - b. All on-site transferring of solid waste will be conducted entirely within an enclosed building(s).
  - c. Doors to the building(s) shall remain closed except to temporarily allow transport trucks to enter and exit the building.
  - d. Vehicle access to the site will be paved and will be provided only from a street classified as a collector or arterial, or from any street which leads directly from a collector street. Acceleration/deceleration lanes will be provided unless the appropriate transportation department determines they are not suitable at that particular location. All access driveways which provide site ingress or egress must be wide enough to accommodate two lanes of traffic. An area on the site must be provided between the entrance off the street and the solid waste transfer building to accommodate a minimum of ten vehicles and no vehicles will be allowed to back up on any public right-of-way.
  - e. All waste processing/storage activities of a solid waste transfer station must be located a minimum of 100 feet from any exterior property line, except the minimum shall be increased to 300 feet from any residentially used or zoned property.
  - f. All existing trees and vegetation on the solid waste transfer station site are to remain in an undisturbed condition in the setback areas established in Number 5, above. Where the natural growth does not provide an effective visual barrier from the view of adjoining properties and/or from a public street, vegetation will be provided according to landscaping requirements as stated in Chapter 10.
  - g. Solid waste transfer stations must be served by public water and sewer facilities.
  - h. All solid waste transfer stations shall comply with all the requirements of the Sanitary Code of the Louisville and Jefferson County Board of Health or its successor. These facilities shall pay special attention to Section 1302.3 regarding the storage of garbage and rubbish.
  - i. All solid waste transfer stations shall also meet applicable Jefferson County Waste Management District regulations (SWR 61.0).
6. Firewood Production and Sales may be located on parcels of land of at least one acre in size and located in any district upon the granting of a Conditional Use Permit when developed in compliance with the following listed requirements:
- a. No firewood production, composting, or mulching shall occur within 50 feet of any boundary of the site.
  - b. Additional landscaping is required in the buffer areas between firewood production, composting, and mulching activity and any adjacent residentially-used property.
  - c. The operation shall be conducted so as not to create a nuisance or cause undue noise, vibration, duct, odor, or light to adjacent properties. The premises shall be kept in a neat and clean condition at all times. No debris shall be stored on the site except on areas where active firewood production and sales and accessory composting operations are taking place. No fires shall be permitted. Any smoldering flame or spontaneous combustion shall be immediately extinguished.

- d. Grinding or other heavy machinery associated with firewood production and accessory composting operations located within one-half mile of residentially use or zoned property shall provide information on sound levels resulting from operation of said equipment, and hours of operation. The Board may establish conditions necessary to protect nearby residents.
- e. Except for protective fences, no building or structure erected in connection with the operation shall be located in any required yard or closer than 30 feet from any property line.
- f. Composting and mulching operations may be permitted as an accessory use to the firewood production and sales activity. All composting facilities shall meet the Jefferson County Waste Management District regulations covered in SWR 62.0.
- g. Outdoor sales and storage shall comply with the requirements of Section 4.4.8 of the Land Development Code, unless waived by the Board.
- h. Signage shall comply with applicable requirements of the Land Development Code, except at least one freestanding sign not to exceed 6 feet in height and 15 square feet in area shall be permitted on any residentially zoned property that would not otherwise be permitted to have a sign under the Land Development Code.

#### 4.2.50 Sports Arenas

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Sports Arenas may be allowed in the C-2, C-M, EZ-1 and PTD Districts upon the granting of a Conditional Use Permit and compliance with the listed requirements.

- A. All buildings and structures shall be at least 30 feet from any property line.
- B. There may be one non-flashing sign, not to exceed 50 square feet in area and not to exceed 10 feet in height, located at three major entrances.

#### 4.2.51 Storage Yard and Contractor's Yard

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Storage Yard and Contractor's Yard may be allowed in the C-2, M-1 and C-M Districts upon the granting of a Conditional Use Permit and compliance with the listed requirements, except that a C.U.P. shall not be permitted within the Traditional Neighborhood and Traditional Marketplace Corridor Form Districts.

- A. Outdoor storage areas prohibited within form district transition zone.
- B. Stacked materials and equipment shall not exceed a height of five feet.
- C. Outdoor storage areas shall be screened from adjacent streets and properties.
- D. Storage of combustible materials shall conform to the requirements of NFPA Pamphlet 30 (information on NFPA pamphlet 30 may be obtained from local fire department).

#### 4.2.52 Underground Space

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Use of underground space may be permitted upon the granting of a Conditional Use Permit and may be located beneath any surface zoning district provided that the permit shall apply only to the subsurface and shall not affect the zoning district or districts designated for the surface above the underground space and provided that the vehicular access points entering and exiting the underground space shall be classified in one of the following districts: M-1, M-2, M-3, PEC, PRO, C-M, C-2, or EZ-1.

The following uses of underground space may be permitted upon the granting of a Conditional Use Permit:

- Any use permitted by right in the zoning district controlling the primary vehicle entrance.
- Any use permitted by Conditional Use Permit in the zoning district controlling the primary vehicular entrance. Such use shall comply with the listed requirements for that specific conditional use.
- Removal of previously mined materials

- Public and private gatherings and events (including, but not limited to, a holiday light show, fundraising events, receptions, weddings, galas, catered events, banquets, conventions, exposition building, etc.).
- Concerts and recitals.
- Recreational and athletic uses (including but not limited to paintball, soccer, volleyball, baseball, zip-line, rock climbing, track & field, running & jogging.)
- Tram tours and educational tours.
- Computer data center.
- Emergency fallout shelter.
- Medical laboratories and other types of science laboratories.
- Training and learning facility for geologists and other scientists.
- Automobile parking areas, public and private.
- On-line order fulfillment centers

The granting of a Conditional Use Permit shall be subject to the following listed requirements:

- A. Applicant shall furnish to the Board of Zoning Adjustment proof of subsurface ownership rights at the time of application.
- B. Any materials stored or operations conducted therein shall be in accordance with all applicable governmental regulations, including Metropolitan Sewer District, Air Pollution Control District, Kentucky Cabinet for Natural Resources and Environmental Protection, or the Federal Environmental Protection Agency.
- C. A specific written or site plan for vehicle cleaning facilities to prevent the tracking of mud, dirt, or other debris onto any public roadway shall be reviewed and approved by the Jefferson County Engineer or City of Louisville Department of Public Works prior to the public hearing.
- D. Certification of adequate surface support to prevent cave-ins and subsidence prepared by a professional engineer registered in Kentucky shall be submitted at the time of application. Such certification may provide for exceptions or conditions which must be adhered to as a condition of Conditional Use Permit approval and must have been dated within the past three (3) years.
- E. Where applicable, underground space must have a valid building permit to develop a habitable underground building and to qualify for a certificate of occupancy.
- F. The entrances to all Underground Space sites shall be through property owned or controlled by the owners or operators of the underground space. Such entrances shall be on property properly zoned to contain the uses developed within the underground space.

#### 4.2.53 Zoos

Zoos may be allowed in any district upon the granting of a Conditional Use Permit and compliance with the following requirements:

- A. A continuous fence at least 6 feet high shall be erected around portions of the site used for cages, pens, or yards.
- B. Except in districts where signs are allowed, there shall be no more than one non- flashing sign, not to exceed 30 square feet in area and not to exceed 10 feet in height, located at the major entrances.
- C. Buffers and Screening – There shall be a 100-foot open space and landscaped buffer between all property lines and all buildings and structures.

#### 4.2.54. Community Service Facility may be allowed in the R-R, R-E, R-1, R-2, R-3, R-4, R-5, UN, R-5A, R-5B, R-6, R-7, R-8A, M-1, M-2, M-3, W-1, W-2, W-3, TNZD (Neighborhood General) districts upon the granting of a conditional use permit and compliance with the listed requirements.

- A. General Standards – All Zoning Districts

1. Parking spaces shall be determined by the board of zoning based on the number of employees and the potential number of visitors to the site as described by the applicant in a parking study of similar uses.
  2. Signage for community service facility shall be in accordance with chapter 8 of the LDC for nonresidential uses.
  3. All applicable land development code requirements including but not limited to floor area ratio, building setback, landscape buffers and building heights shall be maintained.
  4. Conversion of Existing Structures: A report from the applicable fire official shall be provided to the Board outlining the necessary steps for compliance with fire code safety standards prior to establishing occupancy of the structure for the proposed use.
- B. Conditional Use Standards – Single Family Zoning Districts Only:
1. Signs - There shall be allowed one non-illuminated sign identifying the name and use, which sign shall be limited in size to four square feet and be placed on the building.
  2. Residential Structure - The structure shall remain or shall be constructed so that the exterior design and ornamentation is residential in character and compatible with the immediate neighborhood, so that there is no evidence from the street that the use is other than residential.
  3. Alterations or Improvements to the Structure - Where such a use is permitted in a structure which has been used as a residence, the permittee shall make no substantial alterations or improvements to the structure which would impair the structure's use as a residence at a later time.
  4. Off-street parking not located within a drive-way shall be located to the side or rear of the building(s).

**4.2.55 Transitional Housing may be allowed in any zoning district upon the granting of a conditional use permit and compliance with the listed requirements.**

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- A. Conditional Use Standards – General (all districts)
1. No building shall be closer than 30 feet to a property line unless required to by a form district maximum setback or build-to-line.
  2. Parking spaces shall be determined by the board of zoning based on the number of employees and the potential number of visitors to the site as described by the applicant in a parking study of similar uses.
  3. Signage for transitional housing shall be in accordance with chapter 8 of the LDC for nonresidential uses.
  4. The Board of Zoning Adjustments shall take into account the location of other transitional housing, homeless shelter or rehabilitation home in its analysis of conditional use permit application for transitional housing.
  5. All applicable land development code requirements including but not limited to floor area ratio, building setback, landscape buffers and building heights shall be maintained.
  6. For conversion of existing structures: A report from the applicable fire official shall be provided to the Board outlining the necessary steps for compliance with fire code safety standards prior to establishing occupancy of the structure for the proposed use.
- B. Conditional Use Standards – Single Family Zoning Districts Only:
1. Signs - There shall be allowed one non-illuminated sign identifying the name and use, which sign shall be limited in size to four square feet and be placed on the building.
  2. Residential Structure - The structure shall remain or shall be constructed so that the exterior design and ornamentation is residential in character and compatible with the immediate neighborhood, so that there is no evidence from the street that the use is other than residential.
  3. Alterations or Improvements to the Structure - Where such a use is permitted in a structure which has been used as a residence, the permittee shall make no substantial alterations or improvements to the structure

which would impair the structure's use as a residence at a later time.

4. Off-street parking not located within a drive-way shall be located to the side or rear of the building(s).

#### **4.2.56 Homeless Shelter may be allowed in any zoning district upon the granting of a conditional use permit and compliance with the listed requirements.**

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##### A. Conditional Use Standards – General – All Zoning Districts

1. Parking spaces shall be determined by the board of zoning based on the number of employees and the potential number of visitors to the site as described by the applicant in a parking study of similar uses.
2. Signage for homeless shelters shall be in accordance with chapter 8 of the LDC for nonresidential uses.
3. The board of zoning shall take into account the location of other transitional housing, homeless shelter or rehabilitation home in its analysis of conditional use permit application for a transitional housing facility.
4. All applicable land development code requirements including but not limited to floor area ratio, building setback, landscape buffers and building heights shall be maintained.
5. For conversion of existing structures: A report from the applicable fire official shall be provided to the Board outlining the necessary steps for Compliance with fire code safety standards prior to establishing occupancy of the structure for the proposed use.

##### B. Conditional Use Standards - Single Family Zoning Districts only:

1. Signs - There shall be allowed one non-illuminated sign identifying the name and use, which sign shall be limited in size to four square feet and be placed on the building.
2. Residential Structure - The structure shall remain or shall be constructed so that the exterior design and ornamentation is residential in character and compatible with the immediate neighborhood, so that there is no evidence from the street that the use is other than residential.
3. Alterations or Improvements to the Structure - Where such a use is permitted in a structure which has been used as a residence, the permittee shall make no substantial alterations or improvements to the structure which would impair the structure's use as a residence at a later time.
4. Off-street parking not located within a drive-way shall be located to the side or rear of the building(s).

#### **4.2.57 Heliports**

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Heliports may be allowed in any district upon the granting of a Conditional Use Permit and compliance with the following requirements:

- A. Landing Areas - Landing areas shall be set back at least 50 feet from any property line.
- B. Application - Applications for landing areas shall be sealed by a registered engineer, architect or surveyor depicting pertinent setback and spacing requirements and all associated approach/departure flight paths.
- C. Evidence of Air Rights - Evidence shall be furnished to the Board of the acquisition of property or air rights over all land at the ends of all runways where the required glide path of aircraft, for the class of the airport, is 35 feet or less elevation from the ground.
- D. All buildings and structures shall be at least 30 feet from any property line.
- E. Permitted Hours of Operation – The Board shall determine hours of operation for aviation uses that may impact residential and other noise sensitive uses.
- F. Parking – A minimum of one off-street parking space for each 100 square feet of waiting room space shall be provided. Where no waiting room is provided, two spaces for each craft staging or tie down pad or area shall be provided. The Board of Zoning Adjustment may waive the need for parking areas under appropriate conditions.

- G. Lighting – Strobe lights shall be used only if no alternative lighting is permitted by federal regulation.

#### **4.2.58 Golf Driving Ranges, and Miniature Golf Courses**

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Golf Driving Ranges and Miniature Golf Courses may be allowed in the C-2, C-M, M-1, M-2, M-3, and EZ-1 Districts upon the granting of a Conditional Use Permit and compliance with the listed requirements.

- A. All buildings and structures shall be at least 30 feet from any property line.
- B. Protection of Adjacent Properties - Fences, plantings, or sufficient area shall be provided to insure the safety and protection of persons on all adjacent land. Any netting used for the protection of adjacent properties shall observe yard and height requirements of the district in which it is located.
- C. Signs - Except in districts where signs are allowed, one non-flashing sign, not to exceed 60 square feet in area and not to exceed 10 feet in height, may be provided at the major entrance.
- D. Driving Directions - All golf ball driving directions shall be away from any street, highway or residential area.

#### **4.2.59 Crematories**

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Crematories may be allowed in any non-residential district, or as an accessory use to a cemetery within a residential district upon the granting of a Conditional Use Permit and compliance with the following requirements:

- A. The site shall be reviewed by the Air Pollution Control Board (APCD), and a permit shall be obtained in conformance with APCD requirements.
- B. The crematory operation shall be a minimum of 200 feet from property containing a residential use, or greater distance as required by the board.

#### **4.2.60 Auction Sales, Outdoor**

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Outdoor Auction Sales may be allowed in the C-3, C-M and M-1 zoning districts upon the granting of a Conditional Use Permit and compliance with the listed requirements.

- A. All buildings and structures shall be at least 30 feet from any property line.
- B. Parking requirements to be determined by the Planning Director upon consultation with the Director of Public Works.
- C. All auction activity shall be in compliance with the Metro Noise Ordinance (LMCO Chapter 99).
- D. The Board may require additional and more restrictive requirements than those listed above based on the conditions of the specific location and the characteristics of the specific auction sales operation.

#### **4.2.61 Flea Market, Outdoor**

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Outdoor Flea Markets may be allowed in the C-3 & C-M zoning districts upon the granting of a Conditional Use Permit and compliance with the listed requirements.

- A. All buildings and structures shall be at least 30 feet from any property line.
- B. Parking requirements to be determined by the Planning Director upon consultation with the Director of Public Works.
- C. All activities shall be in compliance with the Metro Noise Ordinance (LMCO Chapter 99).
- D. The Board may require additional and more restrictive requirements than those listed above based on the conditions of the specific location and the characteristics of the specific auction sales operation.

**4.2.62 Duplex Dwelling Units**

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Two dwelling units in an existing building, each of which have (i) a separate entrance from the exterior, or (ii) a separate entrance from a common foyer having access from the exterior, may be allowed in the R-R, R-E, R-1, R-2, R-3, R-4, R-5, and U-N districts upon the granting of a conditional use permit and compliance with the listed requirements provided that (a) a qualified design professional has verified that the building was constructed as a duplex, and (b) use of the building as a duplex was permitted in the zoning district at the time of construction. Upon receiving a conditional use permit, the building may be owned by a non-resident of the building.

- A. Sites having duplex dwelling units shall provide off-street parking as follows:
1. Neighborhood Form District - at least three off-street spaces provided on the lot, nor more than two spaces outdoors.
  2. Traditional Neighborhood District - at least one off-street space provided on the lot.
  3. Other Form Districts - at least two off-street spaces provided on the lot; the Board may require additional parking spaces as appropriate.

**4.2.63 Short Term Rental of a dwelling unit that is not the primary residence of the host in a R-R, R-E, R-1, R-2, R-3, R-4, R-5, U-N, R-5A, R-5B, R-6, R-7 or R-8A district and Short Term Rental of any dwelling unit in a TNZD district**

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A short term rental of dwelling unit that is not the primary residence of the host in a R-R, R-E, R-1, R-2, R-3, R-4, R-5, U-N, R-5A, R-5B, R-6, R-7 or R-8A district and a short term rental of any dwelling unit in a TNZD district may be allowed upon the granting of a Conditional Use Permit. In addition to any conditions of approval, a short term rental and its host shall meet the following requirements:

- A. The maximum stay for a guest shall be 29 consecutive days. A dwelling unit rented to the same occupant 30 consecutive days or more is not considered a short term rental.
- B. The dwelling unit shall be limited to a single short term rental contract at a time.
- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus four individuals.
- D. The dwelling unit shall be a single-family residence or duplex. This provision shall not be waived or adjusted.
- E. Food and alcoholic beverages shall not be served or otherwise provided by the host to any guest.
- F. Outdoor signage which identifies the short term rental is prohibited.
- G. There shall be a sufficient amount of parking available for the host and guests, as determined by the Board of Zoning Adjustment. The amount and location of parking shall be based on the land uses and density of the immediate vicinity. Any parking surface that is added to accommodate the short term rental use shall be removed when the short term rental use is terminated.
- H. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances.
- I. If the property is subject to two (2) or more substantiated civil and/or criminal complaints, the Board of Zoning Adjustment may revoke the approval pursuant to section 11.5A.6.

**4.2.64 Biodigesters**

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Biodigesters may be permitted in the M-3 zoning district upon the granting of a Conditional Use Permit and compliance with the listed requirements of this Section. For the purposes of this Section, a "residentially-zoned property" is a property in a zoning district listed in Chapter 2, Part 2, of this LDC. For the purposes of this Section, distances shall be measured in a straight line from the nearest structure or building associated with the digester to the nearest property line of the nearest residential use, residentially-zoned property, college, school, institution of learning, religious building, park, playground, community center, hospital, nursing home, daycare,

- airport terminal or assisted living facility.
- A. A biodigester shall be a minimum of one mile from the nearest existing residential use, residentially-zoned property, college, school, institution of learning, religious building, park, playground, community center, hospital, nursing home, daycare, airport terminal, or assisted living facility. This provision may not be waived or modified. Residentially-zoned portions of the Ohio River shall not be included in this separation requirement.
  - B. Vehicles delivering feedstock to the biodigester shall not be offloaded until they are parked inside a fully-enclosed receiving building, and all doors and windows of the receiving building are completely closed.
  - C. No outdoor storage of feedstock, filtering chemicals, or digestate shall take place on the site. All feedstock, filtering chemicals, and digestate shall be stored inside a fully-enclosed building with all doors and windows closed.
  - D. All bulking, transfer, and pre-treatment of feedstock shall be carried out in an enclosed building maintaining negative air pressure. All feedstock storage and processing shall occur on an impermeable surface with a sealed drainage system. Feedstock shall be stored in enclosed containers or reactor vessels. The building shall have equipment to control the release of objectionable odors, bioaerosols and microorganisms into the ambient air.
  - E. All storage and process tanks shall be bermed with a concrete barrier to prevent spills and shall have a total capacity of at least 110 percent of the largest tank. Each individual tank shall have a capacity of 25 percent of the total tankage volume.
  - F. The biodigester shall be at least 50 feet from a perimeter property line adjacent to a public right-of-way.
  - G. The applicant shall ensure that the noise level at the property line does not exceed 65 dBa. The Board of Zoning Adjustment may require review by an independent noise professional to confirm compliance with this requirement.
  - H. The biodigester shall be screened as a utility substation in accordance with Chapter 10 of the LDC. In addition, a solid fence or wall in compliance with Section 10.4.9 shall be installed around the perimeter of the operational area of the biodigester.
  - I. The applicant shall submit an operating plan containing strategies for mitigating odor as part of its application for this Conditional Use Permit. This plan shall be in a form established by Planning & Design Services, in consultation with the Louisville/Jefferson County Air Pollution Control District (APCD). The applicant shall detail how the facility will comply with District Regulations 1.13 *Control of Objectionable Odors in the Ambient Air*. Planning and Design Services shall provide APCD with an opportunity to review and comment on said application, including the odor mitigation plan, prior to the Board of Zoning Adjustment's public hearing. The odor control plan shall be subject to future changes or amendments, as needed, to implement measures that further address existing and future odor issues.
  - J. Prior to the operation of a biodigester, the applicant shall submit an emergency response plan to the Louisville Metro Emergency Management Agency/MetroSafe and to the Fire Protection District with jurisdiction, which shall review, provide comments on, and accept said plan prior to the Board of Zoning Adjustment's public hearing.
  - K. The biodigester shall continually maintain compliance with all applicable federal, state, and local laws and regulations, including but not limited to laws or regulations on building, safety, property maintenance, health and sanitation, fire, electrical, plumbing, mechanical, and other applicable laws.
  - L. The applicant shall submit a traffic analysis to the agency responsible for transportation planning, which shall review, provide comments on, and accept said analysis prior to the Board of Zoning Adjustment's public hearing. The traffic analysis shall include information on trip generation, peak hour traffic, trip distribution, haul routes, and other information as may be requested.
  - M. The Board of Zoning Adjustment shall retain special expert consultants as it deems necessary to provide assistance in the review of proposed biodigesters. Application fees may be established to cover the costs of staff

and/or special expert consultant review of requests filed under this section, within any limits established by KRS Chapter 100.

- N. All biogas condensate shall be discharged into sealed drainage system or recirculated back into the digester. Liquids may be discharged into a sewer only as approved by the Metropolitan Sewer District, or may be taken off-site in a closed tanker.

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### Chapter 4 Part 3 Permitted Uses with Special Standards

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#### 4.3.1 Intent and Applicability

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Certain uses are appropriate in certain districts only if special standards are applied. Waivers and variances for these special standards shall not be permitted because the uses listed below may only be permitted when these standards have been met. These uses listed in this Part are permitted in the districts indicated provided they conform to the standards and requirements listed in each section.

#### 4.3.2 General Provisions

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In addition to meeting the special standards listed under the particular use in this Section, all Permitted Uses with Special Standards shall be required to comply with the requirements of this Land Development Code, except to the extent that they conflict with an applicable special standard, in which case the special standard shall prevail. Proposed developments in accordance with this Part shall be processed using the Category 2 review procedure (Section 11.6.3). Applications shall include materials needed to demonstrate compliance with the special standards.

#### 4.3.3 Dwellings in EZ-1 District - Single Family

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Single family residential dwellings are permitted in the EZ-1 district provided they comply with the following standard: The property is located in the Traditional Neighborhood, Traditional Workplace, or Traditional Marketplace Corridor Form District

#### 4.3.4 Dwellings in EZ-1 District - Multiple Family, as a reuse of an existing structure

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Multiple family residential dwellings are permitted in the EZ-1 district provided they comply with the following standards:

- A. The property is located in the Suburban Workplace Form District.
- B. The purpose of permitting multi-family dwellings in the EZ-1 district subject to special standards is to encourage the adaptive reuse of existing structures that are at least twenty-five (25) years old and which are currently unutilized or underutilized. Thus, multiple family dwellings are permitted only when locating in a building existing on March 1, 2003 (effective date of the LDC) and which is at least twenty-five (25) years old, all or only a portion of which is converted to multi-family residential use.
- C. Maximum Density
  - 1. For 0 bedroom dwelling units only.....435 Dwelling units per acre
  - 2. For 1 bedroom dwelling units only.....217 Dwelling units per acre
  - 3. For 2 or more bedroom dwelling units only.....145 Dwelling units per acre

#### 4.3.5 Dwellings in EZ-1 District - Multi-Family Residential

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Multiple family residential dwellings are permitted in the EZ-1 district provided they comply with the following standards:

- A. The property is located within the traditional neighborhood, traditional marketplace corridor, traditional workplace or downtown form districts.
- B. The maximum density as permitted in Section 4.3.4 paragraph C above.

#### 4.3.6 Accessory Structures Footprint in Excess of Principal Structure Footprint

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Accessory structures for single family residential uses may have building footprints greater than the footprint of the principal structure provided they comply with the following standards:

- A. The accessory structure is located in the Neighborhood or Village Form District; and

- B. The footprint of the accessory structure is no more than 1.5 times the footprint of the principal structure or the total building coverage of the lot including proposed accessory structure shall not exceed 25%, whichever is less; and
- C. The accessory structure is located at least 10 feet from a side or rear property line; and
- D. All owners of abutting residentially zoned property have signed a statement indicating that they have seen a plan of the proposed accessory structure and do not oppose its construction.

**NOTE:** *This section 4.3.6 does not apply to agricultural uses and related accessory structures (e.g. Barns stables) regardless of the size of the lot.*

#### 4.3.7 Temporary Activities

Temporary activities may be permitted by the Planning Director or designee within any form district and zoning district in accordance with the standards set forth below:

- A. Pavement or gravel used for the event shall be removed after the completion of the event and the ground reseeded within 2 weeks of removal of pavement or gravel; and
- B. No activities shall take place on land within the required stream buffer of a perennial stream or wetland as specified in Chapter 4 Part 8; and .
- C. A temporary fence shall be provided to prevent access and parking from crossing over into adjacent properties and within environmentally sensitive areas (e.g. wetlands, stream buffers, etc.); and
- D. No event shall exceed 10 days in duration within a residential zoning district. No event shall exceed 30 days in duration in any non-residential zoning district. No more than two events shall be permitted on the same property within a calendar year; and
- E. Permanent changes to the site are prohibited; and
- F. Vehicle ingress and egress to the site shall be approved by the Director of Works or designee. Gravel or other measures to accommodate vehicles and prevent tracking of the public right-of-way may be required; and
- G. No temporary activity within a residential zoning district shall take place within 200 feet of a dwelling unit(s) unless approval is obtained in writing from the owner(s) of the dwelling unit(s).

#### 4.3.8 Outdoor Paintball Ranges

Outdoor Paintball ranges may be permitted on property zoned M-1, M-2, M-3 and EZ-1 in accordance with the following standards:

- A. The tract of land is at least five (5) acres in area;
- B. All outdoor play areas shall be enclosed by netting (at least 60% nylon netting) at least 12 feet in height. Netting must be securely fastened at top and bottom. Play areas shall have signs posted warning of paintball play and requiring the use of eye goggles before entering;
- C. The applicant shall provide proof of appropriate insurance as a paintball facility; D. All designated play areas shall be at least 300 feet from any property line;
- E. Retail sales shall be limited to a total of 1,000 square feet of gross floor area;
- F. Off-street parking spaces shall be provided as follows:
  1. Participants: 10 spaces per designated play area
  2. Spectators: 1 space per 300 square feet of designated spectator area
  3. Employees: 1 space per 2 employees
- G. All buildings and structures shall be at least 30 feet from any property line;

- H. Hours of operation shall be between 8 A.M. until dark, no outdoor lighting for evening play shall be permitted;
- I. A development plan shall be submitted to Planning and Design Services for review to determine whether all requirements listed above will be met. The development plan shall follow the Category 3 review procedure;
- J. All spectator areas shall be designated on the required development plan and shall be at least 3 feet from the perimeter netting of a designated play area. All spectator areas shall be roped off to ensure that the area is visibly identified;
- K. Warning signs shall be placed around the perimeter of the property every 75 feet on linear property boundary;
- L. When adjacent to a residential and/or office/residential zoning district a minimum C3 buffer shall be required or as required by the applicable intensity class, whichever is greater. All other perimeter landscaping requirements shall be in accordance with Chapter 10 of the LDC;
- M. A chronograph shall be used by the developer/owner of the facility to ensure that all paintball guns do not exceed the safety velocity of 300 feet per second;
- N. Large Competitions: Competitions on the site exceeding 10 teams or 60 participants shall be considered as large competitions. The number of large competitions shall be limited to two (2) per year. The applicant shall provide a plan for large competition management that identified the following:
  1. Location of spectator parking based on the expected number of spectators;
  2. Location of outdoor restroom facilities;
  3. Traffic safety plan for movement of spectator vehicles on and off the property approved by the agency responsible for transportation engineering;
  4. Other items/restrictions identified by the Planning Commission or designee.

#### **4.3.9 [Deleted by Ordinance 198 Series 2014 moved to 4.4.5]**

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#### **4.3.10 Drive-in Restaurants in the C-1 Zoning District**

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Drive-in restaurants may be permitted within the C-1 zoning district in accordance with the following special standard:

- A. A property used for a drive-in restaurant shall be at least 400 feet from a property used or zoned residentially (residential zones shall include properties zoned office- residential) unless developed as a non-residential use.

#### **4.3.11 Day Care Centers in the M-1 Zoning District**

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A single day care center may be permitted within the M-1 Industrial District provided the operation is in accordance with the following standards:

- A. The access to the day care center shall be separate and apart from any access to a use permitted in an industrial, commercial or office use.
- B. Heavy equipment shall not be stored or utilized by a business on the same property as the day care center.
- C. No hazardous material may be stored on-site.
- D. No truck idling shall be permitted on-site.
- E. On-site Drop-off and Pick-up Area. An on-site area shall be provided where passengers from automobiles may safely exit the automobile and enter the building and vice versa. The design of this area must be approved by the agency responsible for transportation planning.
- F. The appropriate number of parking spaces shall be provided for members of the day care center staff. The number of parking spaces required pursuant to this section shall be in accordance with Chapter 9, Part 1 of the LDC. The parking layout must be approved by the appropriate agency responsible for transportation planning.

- G. Fence. A fence with a minimum height of 4 feet shall be erected around the outdoor play area.
- H. The applicant shall receive approval from the Air Pollution Control District which may condition its approval as may be necessary and appropriate to protect human health and the environment consistent with applicable laws and regulations relating to ambient air quality.

#### 4.3.12 Off-premises Signage (Outdoor Advertising Signs)

The design criteria below are the only design standards within the Land Development Code that apply to off-premise signage.

- A. Unilluminated Outdoor Advertising Signs - An unilluminated outdoor advertising sign of less than seventy-two (72) square feet shall be allowed if:
  1. Located in a C-N, C-1, C-2, C-M, M-1, M-2 or M-3 District;
  2. Set back at least fifteen (15) feet from the front or street side property lines if in a C-N, C-1, C-2 or C-M Districts;
 

**NOTE:** *Outdoor advertising signs are prohibited in the city of Middletown*
  3. Located not less than four hundred fifty (450) feet from any existing billboard of any size on the same side of the same street, and not less than nine hundred (900) feet from any existing billboard of any size on the same side of a controlled access highway or designated parkway\*;
 

**NOTE:** *\*"Designated parkways" as referenced in the section of Chapter 10 Part 3.*
  4. Located not less than two hundred twenty five (225) feet from any existing billboard of any size on the opposite side of the same street (measured from the point of intersection on the same side of the street with the line from the existing sign perpendicular to the roadway), and not less than four hundred fifty (450) feet from any existing billboard of any size on the opposite side of the same controlled access highway or designated parkway (as so measured);
  5. Located not less than seventy-five (75) feet from the centerline of an intersecting roadway;
  6. In a C-N District, located not less than two hundred (200) feet measured radially from the nearest edge of a residentially zoned or residentially developed lot in the metropolitan area, in a C-1 through M-3 district, located not less than one hundred fifty (150) feet measured radially from the nearest edge of a residentially zoned or residentially developed lot in the metropolitan area, and located not less than six hundred (600) feet measured radially between the sign and the nearest edge of a residentially zoned or residentially developed lot in the non-metropolitan area;
  7. Located not less than seventy five (75) feet from the nearest edge of the right-of-way of a controlled access highway or designated parkway passing through the metropolitan area and not less than six hundred sixty (660) feet from the nearest edge of a controlled access highway or designated parkway passing through the non-metropolitan area;
  8. Placed so that the highest point of the advertising sign does not exceed sixteen (16) feet above ground;
  9. Located not less than two hundred fifty (250) feet measured radially from any public park or any designated parkway or any landmark property or historic district designated as such by the Louisville Landmark's Commission or the Jefferson County Preservation Commission or from any property listed in the National Register of Historic Places.
- B. Illuminated Outdoor Advertising Signs - An illuminated or non-illuminated outdoor advertising sign of less than three hundred thirty (330) square feet shall be allowed if:
  1. Located in a C-1, C-2, C-M, M-1, M-2 or M-3 District;
  2. Set back at least thirty (30) feet from the front or street side property lines if located in a C-1, C-2 or C-M District;

3. Located along a major or minor arterial highway as designated in the Comprehensive Plan;
  4. Located not less than six hundred (600) feet from any existing billboard of any size on the same side of the same major or minor arterial highway and not less than twelve hundred (1,200) feet from any existing billboard of any size on the same side of a controlled access highway or designated parkway;
  5. Located not less than three hundred (300) feet from any existing billboard of any size on the opposite side of the same major or minor arterial highway (measured from the point of intersection on the same side of the major or minor arterial highway with the line from the existing sign perpendicular to the roadway), and not less than six hundred (600) feet from any existing billboard of any size on the opposite side of the same controlled access highway or designated parkway (as so measured);
  6. Located not less than seventy-five (75) feet from the centerline of an intersecting roadway;
  7. Located not less than three hundred (300) feet (measured radially) between the sign and the nearest edge of a residentially zoned or residentially developed lot in the metropolitan area and not less than six hundred (600) feet measured radially between the sign and the nearest edge of a residentially zoned or residentially developed lot in the non-metropolitan area;
  8. Located not less than one hundred fifty (150) feet from the nearest edge of the right-of-way of a controlled access highway or designated parkway passing through the metropolitan area and not less than six hundred sixty (660) feet from the nearest edge of the right-of-way of a controlled access highway or designated parkway passing through the non-metropolitan area;
  9. Constructed so the highest point of the sign (including embellishments shall not exceed forty (40) feet above the ground, except that for signs located in the C-1 District the highest point of the sign (including embellishments) shall not exceed thirty-five (35) feet above the ground;
  10. Located not less than five hundred (500) feet measured radially from any public park or any designated parkway or any landmark property or historic district designated as such by the Louisville Landmark's Commission or the Jefferson County Preservation Commission or from any property listed in the National Register of Historic Places;
  11. Notwithstanding the provisions of subparagraph i. hereof the highest point of an outdoor advertising sign (including embellishments) located along an elevated section of a controlled access highway may be fifty (50) feet above the ground, provided that the lowest point of the sign shall be not less than ten (10) feet above the grade of the elevated controlled access highway;
- C. Illuminated/Non-Illuminated Outdoor Advertising Sign 330-750 Square Feet - An illuminated or non-illuminated outdoor advertising sign of greater than or equal to three hundred thirty (330) square feet but less than seven hundred fifty (750) square feet shall be allowed if:
1. Located in a C-2, C-M, M-1, M-2 or M-3 Districts;
  2. Set back at least sixty (60) feet from the front or street side property lines if in a C-2 or C-M District;
  3. Located along a major or minor arterial highway as designated in the Comprehensive Plan;
  4. Located not less than twelve hundred (1,200) feet from any existing billboard of any size on the same side of the same major or minor arterial highway and not less than fifteen hundred (1,500) feet from any existing billboard of any size on the same side of a controlled access highway or designated parkway;
  5. Located not less than six hundred (600) feet from any existing billboard of any size on the opposite side of the same major or minor arterial highway (measured from the point of intersection on the same side of the major or minor arterial highway with the line from the existing sign perpendicular to the roadway), and not less than nine hundred (900) feet from any existing billboard of any size on the opposite side of the same controlled access highway or designated parkway (as so measured);
  6. Located not less than seventy-five (75) feet from the centerline of an intersecting roadway;
  7. Located not less than four hundred (400) feet (measured radially) between the sign and the nearest edge of

a residentially zoned or residentially developed lot in the metropolitan area and not less than six hundred (600) feet measured radially between the sign and the nearest edge of a residentially zoned or residentially developed lot in the non-metropolitan area;

8. Located not less than one hundred fifty (150) feet from the nearest edge of the right-of-way of a controlled access highway or designated parkway passing through the metropolitan area and not less than six hundred sixty (660) feet from the nearest edge of the right-of-way of a controlled access highway or designated parkway passing through the non-metropolitan area;
  9. Constructed so the highest point of the sign (including embellishments) does not exceed forty (40) feet above the ground:
  10. Located not less than five hundred (500) feet measured radially from any public park or any designated parkway or any landmark property or historic district designated as such by the Louisville Landmark's Commission or the Jefferson County Preservation Commission or from any property listed in the National Register of Historic Places;
  11. Notwithstanding the provisions of subparagraph I. hereof the highest point of an outdoor advertising sign (including embellishments) located along an elevated section of a controlled access highway may be fifty (50) feet above the ground, provided that the lowest point of the sign shall be not less than ten (10) feet above the grade of the elevated controlled access highway;
- D. Outdoor Advertising Signs Greater Than 750 Square Feet No outdoor advertising sign greater than seven hundred fifty (750) square feet shall be allowed in any district.
- E. Extensions and Embellishments for Outdoor Advertising Signs
1. Allowable Shapes for Outdoor Advertising Signs

Outdoor advertising signs of all sizes shall be rectangular in shape except that extensions are allowed if such extensions are not greater than five (5) feet at the top, two (2) feet at the sides and/or eighteen (18) inches at the bottom of the sign and comprise in the aggregate an area not more than 12.5 percent as great as the basic rectangular shape to which such extensions are attached. Such embellishments are included in the calculation of the sign area restrictions.

2. Extension of Outdoor Advertising Signs

No attached outdoor advertising sign shall extend past the exterior wall of the building to which it is affixed.

3. Double-Faced/V-Type/Back to Back Outdoor Advertising Signs Double-faced, V-type or back-to-back outdoor advertising signs shall be considered as one sign for spacing purposes.

F. Form District Specific Outdoor Advertising Sign Restrictions

New outdoor advertising signs shall not be permitted within the Neighborhood, Traditional Neighborhood, Traditional Marketplace Corridor, Traditional Workplace, Town Center, and Downtown Form Districts

**NOTE:** *The prohibition of new billboards in certain form districts (Section 8.4.6 A) is not subject to the LDC waiver process.*

### 4.3.13 Homeless Shelters

may be permitted within the R-5A, R-6, R-7, R-8A, OR, OR-1, OR-2, OR-3, OTF, C-R, C-N, C-1, C-2, C-3, C-M, EZ-1, PRO, PEC and TNZD (neighborhood center, neighborhood transition center and for multi-family residential where mapped areas) zoning districts

A. Special Standards – General – All Zoning Districts

1. Density – The maximum density (number of beds) for homeless shelters shall be based on the density of the applicable zoning district multiplied by the average family size obtained from the most recent decennial

census for Jefferson County, Kentucky rounded to the nearest whole number. (Example: The R-5A zoning district has a maximum density of 12.01 units per acre, multiply the 12.01 by 3 (average family size established by the 2000 census was 2.97) and that will give you the maximum beds per acre as 36.03). Exception: Within single family zoning districts the number of beds permitted is limited to three or less. In the OR-3, OTF, C-2, C-3, C-M and EZ-1 zoning districts the density shall be no more than 400 beds per acre.

2. Parking spaces shall be determined by the planning director based on the number of employees, the number of residents with a motor vehicle and the potential number of visitors to the site as described by the applicant in a parking study of similar uses.
  3. Signage for homeless shelters within a multifamily residential zoning district shall be limited to a 12 square foot freestanding sign not to exceed six (6) feet in height unless within the Downtown form district in which case a 12 square foot attached sign shall be allowed. If located within any other zoning district all signs shall be in accordance with the requirements of chapter 8 of the Land Development Code for non-residential signage.
  4. Shall be certified as compliant with any licensing provisions adopted in the Louisville Metro Code of Ordinances. New facilities must obtain certification within one year of land use approval. All facilities must remain in compliant status with the licensing provisions while in operation.
  5. All applicable land development code requirements including but not limited to floor area ratio, building setback, landscape buffers and building heights shall be maintained.
6. Emergencies/White Flag Days – During white flag days and other emergency situations additional occupants beyond the bed capacity established by the maximum density shall be permitted for the duration of the emergency or white flag event as long as all safety standards (e.g. Fire Code) are maintained.

#### 4.3.14 Transitional Housing

– may be permitted within the R-R, R-E, R-1, R-2, R-3, R-4, R-5, R-5B, UN, R-5A, R-6, R-7, R-8A, OR, OR-1, OR-2, OR-3, OTF, C-R, C-N, C-1, C-2, C-3, C-M, EZ-1, PRO, PEC, TNZD (All areas where residential use is permitted) zoning districts

##### A. Special Standards – General – All Zoning Districts

1. Density – Transitional housing facilities constructed as dwelling units shall have a maximum density based on the density of the applicable zoning district (dwelling units per acre). The maximum density for transitional housing facilities (not constructed as dwelling units) shall be based on the density of the applicable zoning district multiplied by the average family size obtained from the most recent decennial census for Jefferson County, Kentucky rounded to the nearest whole number. The resulting number would be the maximum number of beds for a facility. (Example: The R-5A zoning district has a maximum density of 12.01 units per acre, multiply the 12.01 by 3 (average family size established by the 2000 census was 2.97) and that will give you the maximum beds per acre as 36.03). Exception: Within single family zoning districts the number of beds permitted is limited to three or less. In the OR-3, OTF, C-2, C-3, C-M and EZ-1 zoning districts the density shall be no more than 400 beds per acre.
2. Parking spaces shall be determined by the planning director based on the number of employees, the number of residents with a motor vehicle and the potential number of visitors to the site as described by the applicant in a parking study of similar uses.
3. Signage for transitional housing within a single family residential or multifamily residential zoning district shall be limited to a 12 square foot freestanding sign not to exceed six (6) feet in height unless within the Downtown form district in which case a 12 square foot attached sign shall be allowed. If located within any other zoning district all signs shall be in accordance with the requirements of chapter 8 of the Land Development Code.
4. Shall be certified as compliant with any licensing provisions adopted in the Louisville Metro Code of

Ordinances. New facilities must obtain certification within one year of land use approval. All facilities must remain in compliant status with the licensing provisions while in operation.

5. All applicable land development code requirements including but not limited to floor area ratio, building setback, landscape buffers and building heights shall be maintained.
- B. Special Standards – Single Family Residential Districts Only
1. Signs - There shall be allowed one non-illuminated sign identifying the name and use, which sign shall be limited in size to four square feet and be placed on the building.
  2. Residential Structure - The structure shall remain or shall be constructed so that the exterior design and ornamentation is residential in character and compatible with the immediate neighborhood, so that there is no evidence from the street that the use is other than residential.
  3. Alterations or Improvements to the Structure - Where such a use is permitted in a structure which has been used as a residence, the permittee shall make no substantial alterations or improvements to the structure which would impair the structure's use as a residence at a later time.
  4. Off-street parking not located within a drive-way shall be located to the side or rear of the building(s).

#### 4.3.15 Indoor Ranges for Shotgun, Rifle, Pistol, Air Rifle, Air Pistol or Other Firearms

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This use may be permitted as a use with special standards within the C-2, C-M, M-1, M-2, M-3, PEC, and EZ-1 zoning districts in conformance with the following special standards.

- A. Indoor target ranges shall have sufficient sound proofing to prevent the sound of firearm discharge from being heard outside the walls of the range facilities.
- B. Building facades that face public streets shall be in conformance with the building design standards of the applicable form district.

#### 4.3.16 Accessory Alternative Energy Systems

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This use may be permitted as a use with special standards within any zoning district in conformance with the following special standards.

- A. Attached (Principal or Accessory structure)
  1. In residential districts the system may not exceed ten feet above the maximum height within the underlying form district.
  2. In non-residential districts, the system may not exceed 20 feet above the maximum height within the underlying form district.
  3. In residential districts no system shall be attached to the wall or side of a structure.
- B. Freestanding
  1. The proposed system shall not exceed the maximum building height of the underlying form district.
  2. No more than 25% of the lot area may be covered with alternative energy systems and related equipment.

#### 4.3.17 Community Gardens

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This use may be permitted as a use with special standards within the R-R, R-E, R-1, R-2, R-3, R-4, R-5, R5-A, R5-B, R-6, R-7, R-8, R8-A, OR, OR-1, OR-2, OR-3, CN, C-1, and C-2 zoning districts in conformance with the following special standards.

- A. All structures located on the site shall comply with the location requirements of the form district regulations. Structures shall not exceed 15% of the total lot area. No activities shall take place within a required stream buffer of a perennial stream or wetland as specified in Chapter 4, Part 8. For purposes of calculating required open space, areas of the site devoted to garden use and not enclosed in a structure shall be included in the calculation of required yards. Trellises, raised beds, and frames used to assist in the growing of plants and shrubs

shall not be considered as structures within the meaning of this section.

- B. Lighting for security purposes may be provided in accordance with the standards contained in this Code.
- C. One parking space per four community garden plots shall be provided, either on the site or on the adjacent street. The location of parking lots shall be in accordance with form district regulations and parking provisions, including design, must be approved by the appropriate agency responsible for transportation planning. If parking will be provided on the site, permeable materials such as gravel are highly recommended to provide a surface for parking but are not required.
- D. Community gardens shall be exempt from the requirements of Chapter 10, including the LBA tree planting requirements. No additional buffering shall be required unless a structure of greater than 120 square feet in size is proposed, in which case the site shall provide a Type A.1 landscape buffer along the property line closest to the proposed structure.
- E. Composting shall be limited to plant materials generated on the site and plant-based food waste and non-vegetative materials such as wood chips, pre-composted materials or soil to enhance these plant materials. Compost must be used on site. Compost piles shall be set back in accordance with the form district regulations for structures and shall be surrounded with a fence or other appropriate enclosure to prevent migration of compost materials due to wind, slope or water-based erosion. Compost piles located less than 50 feet from a public right-of-way shall not exceed 5 feet in height and compost piles within 3 feet of any building entry shall not exceed 3.5 feet in height. The amount of compost materials on site at any given time shall not exceed 20 cubic yards.

- F. Water for purposes of maintaining the garden and for dust suppression shall be available on the site, either in the form of a water collection system or an on-site or off- site connection to the municipal water service.
- G. There shall be no more than one non-illuminated freestanding sign not to exceed 12 square feet in area and not to exceed 6 feet in height.
- H. Community gardens shall be operated so as not to create a nuisance condition for adjacent properties due to vibration or odor. Dust and noise shall be managed consistent with state law and local ordinance, and visible fugitive dust crossing property lines shall be corrected by sprinkling with water. The premises shall be kept free of debris at all times.
- I. Incidental sales, festivals or other events may be allowed at a community garden following the approval of a Temporary Activity as provided in Section 4.3 of this Code.
- J. Applications for community gardens must be submitted with the Planning Director or Designee to document compliance with the above-listed standards. Notice of the proposed community garden shall be provided to 1st and 2nd tier property owners and neighborhood groups who have registered with Planning and Design Services to receive notices of development actions. The notice shall be sent by first class mail not less than fourteen (14) calendar days prior to the date of final action by the Planning Director or designee.

#### 4.3.18 Market Gardens

This use may be permitted as a use with special standards within the OR, OR-1, OR-2, OR-3, CN, C-1, C-2, CM, M-1, M-2, M-3 and EZ-1 zoning districts in conformance with the following special standards.

**NOTE:** addition of EZ zoning added by Ordinance 229 Series 2013 Case 13AMEND1001 December 16 2013

- A. All structures, including greenhouses, hoop houses and high tunnels, located on the site shall comply with the location requirements of the form district regulations. No activities shall take place within a required stream buffer of a perennial stream or wetland as specified in Chapter 4, Part 8. For purposes of open space, areas of the site devoted to garden use and not enclosed in a structure shall be included in the calculation of required yards. Trellises, raised beds, and frames used to assist in the growing of plants and shrubs shall not be considered as structures within the meaning of this section.
- B. One parking space per employee working on the site shall be provided either on the site or on the adjacent street. If sales of food and/or non-food crops are being conducted on the site, additional parking spaces shall be provided in accordance with Chapter 9 of the Land Development Code. The location of parking lots shall be in accordance with form district regulations and parking provisions, including design, must be approved by the appropriate agency responsible for transportation planning. If parking will be provided on the site, permeable materials such as gravel are highly recommended to provide a surface for parking but are not required.
- C. Market Gardens shall be exempt from the LBA tree planting requirements except on all property lines adjacent to structures of greater than 120 square feet in size proposed for the site, in which case the site shall provide a Type A.1 landscape buffer.
- D. Composting shall be limited to plant materials generated on the site and plant-based food waste and non-vegetative materials such as wood chips, pre-composted materials or soil to enhance these plant materials. Compost piles shall be set back in accordance with the form district regulations for structures and shall be surrounded with a fence or other appropriate enclosure to prevent migration of compost materials due to wind, slope or water-based erosion. Compost piles located less than 50 feet from a public right-of-way shall not exceed 5 feet in height and compost piles within 3 feet of any building entry shall not exceed 3.5 feet in height. The amount of compost materials on site at any given time shall not exceed 20 cubic yards.
- E. Water for purposes of maintaining the garden and for dust suppression shall be available on the site, either in the form of a water collection system or an on-site or off- site connection to the municipal water service.
- F. There shall be no more than one non-illuminated freestanding sign not to exceed 12 square feet in area and not

to exceed 6 feet in height.

- G. Market gardens shall be operated so as not to create a nuisance condition for adjacent properties due to vibration or odor. Dust and noise shall be managed consistent with state law and local ordinance, and visible fugitive dust crossing property lines shall be corrected by sprinkling with water. The premises shall be kept free of debris at all times.
- H. Applications for market gardens must be submitted with the Planning Director or Designee to document compliance with the above-listed standards. Notice of the proposed market garden shall be provided to 1st and 2nd tier property owners and neighborhood groups who have registered with Planning and Design Services to receive notices of development actions. The notice shall be sent by first class mail not less than fourteen (14) calendar days prior to the date of final action by the Planning Director or designee.

#### 4.3.19 Live/Work Units

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This use may be permitted outside a Planned Village Development or other special zoning district in accordance with the standards listed below. Regardless of the zoning district, Live/Work Units shall be considered a residential use.

- A. The Live/Work Unit must be located in one of the following zoning districts: in Traditional Form Districts only, R-4, R-5, R5-A, R5-B; in all Form Districts, R-6, R-7, R- 8A, OR, M-1, M-2, M-3, and EZ-1. Regardless of the zoning district, Live/Work Units shall be considered a residential use.
- B. The Live/Work Unit must be owned or leased by an individual or group of individuals who will reside and work in the space.
- C. The following commercial uses are permitted:
  - 1. Arts and crafts studios, including painting, sculpture, printmaking, wood working, welding, open flame work, weaving and other fabric arts and crafts, ceramics, photography, film, video, photography, graphic design, jewelry, textiles, music production, and other forms of arts or crafts activities, including the culinary arts. The sale of products produced in the space, and the creation of public gallery or other retail space is expressly permitted for these arts and crafts activities only.
  - 2. Professional services including accountants, architects, attorneys, consultants, engineers, home-based office workers, insurance, real estate and travel agents
  - 3. One-on-one instructors
  - 4. Computer software and multimedia professionals
- D. Live/Work Units may consist of a single dwelling unit and related work space, including work space provided in an accessory building, or two or more dwelling units and related work spaces within a building or group of buildings on a property, within the density requirements of the underlying zoning district. Live/Work Units consisting of two or more dwelling units may provide individual or shared work spaces, gallery and retail spaces for arts and crafts activities permitted in subsection C above in accessory buildings or in spaces not connected to residential areas.
- E. An active license to conduct business within the jurisdiction shall be associated with the Live/Work Unit at all times, and proof of this license shall be presented as part of any application for live/work space under this section.
- F. One parking space shall be provided for every dwelling unit created within the Live/Work Unit. Adjacent on-street parking spaces, garages, carports or driveways may be used to satisfy this requirement in accordance with Section 9.1.10 of this Code. In the event the Live/Work Unit includes gallery, display or retail space, additional parking shall be provided in accordance with the standards for Libraries, Museums, Art Galleries and similar uses contained in Section 9.1.9 of this Code. Where employees will work at the Live/Work Unit, one parking space per employee during the maximum shift shall be provided. Where clients/customers will come to the Live/Work Unit, parking shall be provided in accordance with the standards for General/Professional Office

Use pursuant to Chapter 9 of this Code. Parking calculations for Live/Work Units shall be subject to the off-street parking reductions contained in Chapter 9 of this Code.

- G. In all cases, Live/Work Units must be used in a manner that minimizes impacts to adjacent property owners, including providing all necessary liability protections for the non-residential use, and that complies with all applicable provisions of the Louisville Metro Code of Ordinances and state law, including those pertaining to noise, odor and other nuisances.

### 4.3.20 Mixed Residential Development Incentive (MRDI)

- A. Multi-Family & Two-Family Dwellings may be considered a Permitted Use with Special Standards in the R-4 & R-5 zoning districts in conformance with the standards listed below.
- B. The following point system will determine the allowable residential density bonus. All development proposals must obtain at least one point each from Category A: Multi-Family and Category B: Affordable Units.

- 1. Percentage of dwelling units in proposal that are multi-family residential units.

- a. Less than 10%      0 points
- b. 10-19.99%        1 point
- c. 20-29.99%        2 points
- d. 30-39.99%        3 points
- e. 40-49.99%        2 points
- f. 50-100%            0 points

- 2. Percentage of dwelling units in proposal that are affordable units as defined below.

**Affordable Owner Occupied Units** - Affordable owner occupied units are defined as either Diversity Level 1, 2 or 3 as described in Section 4.5 Alternative Development Incentives.

**Affordable Rental Units** - The most current published HUD Fair Market Rent value and the Low-Income Housing Tax-Credit rent limits for Jefferson County will be used to calculate the Affordable Rent. Affordable Rent must not exceed the higher of the two rent calculations in order to be classified as an affordable rental unit. More information on how to determine affordable rental unit status is included at the end of this section.\*

**Editor's Note:** *These levels are in a pending text amendment. Please refer to the definitions from the Staff report accompanying the pending text amendment request.*

*Diversity Housing Level 1: Level 1 unit sale prices shall be calculated using 80% of the current Jefferson County area median income (AMI) limit for a given household size.*

*Diversity Housing Level 2: Level 2 unit sale prices shall be calculated using 90% of the current Jefferson County area median income (AMI) limit for a given household size.*

*Diversity Housing Level 3: Level 3 unit sale prices shall be calculated using 100% of the current Jefferson County area median income (AMI) limit for a given household size.*

- a. Less than 5%      0 points
- b. 5-9.99%            1 point
- c. 10-19.99%        2 points
- d. 20-29.99%        3 points
- e. 30-39.99%        2 points
- f. 40-49.99%        1 points

- g. 50-100%                      0 points
- 3. Percentage of site designated as common open space.
  - a. 10-14.99%                      0 points
  - b. 15-19.99%                      1 point
  - c. 20-29.99%                      2 point
  - d. 30% or more                      3 points
- 4. Conversion of existing structures, no new building construction proposed: 2 points.
- 5. Reuse of existing historic buildings (as defined by local/state Historic Preservation authority): 2 points.
- 6. Proposed site located within one mile of employment center. To qualify a property must be located within, or within one mile of, one of the following form districts: Downtown, Traditional Marketplace Corridor, Traditional Workplace, Suburban Marketplace, Regional Center, Suburban Workplace and Campus: 2 points.
- 7. Utilization of Green Development Design Incentives (See LDC Sections 5.5.6, 9.1.3.F.9 and Appendix 5A): 2 points.
- 8. Subject property located in a census tract that has less than 15% of its population living below poverty level: 2 points.
- 9. Proposed site located within ¼ mile of TARC route: 1 point.
- 10. Proposed site located within ¼ mile of roadway classified as arterial: 1 point.
- 11. Proposed site located within ½ mile of public park: 1 point.
- 12. Proposed site located within ½ mile of public school: 1 point.
- 13. Development exceeds Chapter 10 Required Tree Canopy Coverage Area by 50%: 1 point; by 100%: 2 points.
- C. Use point system to determine allowable residential density of a proposal. More points = higher density. (R-4 allows 4.84 du/ac and R-5 allows 7.26 du/ac.)

**EXAMPLE:** 8 points = 5% density bonus = 5.08 du/ac in R-4; 7.62 du/ac in R-5  
 10 points = 10% density bonus = 5.32 du/ac in R-4; 7.98 du/ac in R-5  
 12 points = 15% density bonus = 5.56 du/ac in R-4; 8.34 du/ac in R-5  
 14 points = 20% density bonus = 5.80 du/ac in R-4; 8.71 du/ac in R-5  
 16+points = 25% density bonus = 6.05 du/ac in R4; 9.07 du/ac in R-5

- D. The applicable review process required by the Land Development Code will apply to any proposed development utilizing this section.
- E. Required Standards
  - 1. Average Lot Size
    - a. R-4 Zoned Developments: The average of all lot sizes (single-family and multi-family) within the proposed development shall be a minimum of 9,000 square feet. No lot shall be smaller than 4,500 square feet.
    - b. R-5 Zoned Developments: The average of all lot sizes (single-family and multi-family) within the proposed development shall be a minimum of 6,000 square feet. No lot shall be smaller than 3,000 square feet.

2. Open Space

All developments are required to designate a minimum of 10% of the subject property as common open

space. The open space areas shall be owned in common and maintained by the lot owners in the development. All open space must meet applicable provisions of Section 10.5 Open Space Standards.

If another section of the Land Development Code requires a particular development to provide a greater amount of open space than this section requires, then the greater open space requirement shall be adhered to.

### 3. Compatibility with Adjacent Residential Development

Reduced size lots authorized by this section shall be designed and located so that impacts on adjacent previously approved residential development are minimized. To achieve this purpose, proposed subdivisions with reduced size lots shall meet each of the following design standards applicable to a given site in addition to applicable Chapter 5 dimensional requirements.

- a. Proposed subdivisions with reduced size lots that are directly across a public right-of-way or private access easement from a recorded subdivision or single family residential structures having an average front or street side yard with a variation in depth of not more than 10 feet shall meet the following standard: Building limit lines shall be recorded for those parcels across the street/access easement from existing development that equal the average dimensions of established front and street side yards of the existing development.
- b. Perimeter parcels of the proposed development that are adjacent to property subdivided into lots of one acre or less for residential use shall be developed as detached single family homes with lots having at least 75% of the minimum area in the zoning/form district of the adjacent property.
- c. Developments that propose reduced size lots that are adjacent to property subdivided into lots over one (1) acre for residential use or residentially used parcels larger than one acre shall provide a minimum 20 foot wide buffer planted with a row of evergreen trees placed no more than 30 feet apart.

### 4. Compatibility within the Development

- a. All buildings constructed shall be of an architectural style which will harmonize with other buildings in the same neighborhood.
- b. Diversity Housing units shall be constructed with exterior materials and architectural designs that are consistent with the materials and designs of the market rate units in the project.
- c. Diversity Housing units should not be clustered or otherwise consolidated within a single defined area within the development. To the greatest extent possible the number of multi-family Diversity Housing units in a multi-family building should be proportional to the number of Diversity Housing units in the development as a whole.
- d. Multi-Family buildings shall be scaled appropriately. The massing of building and the appropriate scale relationship of a building to another building may be accomplished by:
  - i. Avoiding the use of continuous wall plane:
  - ii. Designing buildings at a human scale that is appropriate for single-family areas of the development: and
  - iii. Utilizing design techniques, architectural features and/or elements that are residential in nature and used consistently throughout the development.

### 5. Dimensional Requirements

All other applicable form district requirements from Chapter 5 shall apply to the proposed development unless otherwise stated. Building setback and lot width requirements can be found in Section 5.2.2.D or 5.3.1.D.2 Alternative Housing Styles.

### 6. Timing of Construction of Housing Types

Within a proposed Mixed Residential Development Incentive development no more than 50% of one type of housing (single family/multi-family) may be developed until at least 50% of the other type of housing has been developed. Also, 50% of the designated affordable units must be constructed by the time 50% of the total units in the development have been constructed. These calculations shall be based on the number of building permits issued.

**EXAMPLE:** 100 total units (80 SF units/20 MF units/10 affordable units). Building permits for 40 single-family units could be issued, then building permits for 10 multi-family units would have to be issued before more single-family permits could be issued. In this example, of the first 50 units issued building permits, 5 units must be affordable units.

#### 7. Annual Reporting

The developer/owner shall be responsible for submitting an annual report to Planning & Design Services staff at 12-month intervals from the date of the recording of the record plat, until all affordable owner occupied units have been issued building permits and for a period of 15 years after the last affordable rental unit building permit has been issued. In the event a development does not require a record plat the date of Planning Commission approval will be used to determine the 12 month reporting intervals. The annual report shall identify the name of the subdivision/development, the plat book and page number of the record plat if applicable, the lot/unit numbers, the lot/unit addresses, and the sale price and/or rental rates of the designated affordable units. The annual report shall indicate separately the number of building permits issued for single-family and multi-family dwellings.

**NOTE:** The web links below can be used to calculate the rent limits for affordable rental units for any given year.

<http://www.novoco.com/products/rentincome.php>

<http://www.huduser.org/portal/datasets/fmr/fmrs/docsys.html&data=fmr13>

#### 4.3.21 Golf Courses

All golf courses may be permitted in any zoning district in accordance with the following special standards:

- A. Golf course must be 9-holes or more (including Par-3 courses; excluding miniature golf courses).
- B. All buildings and structures shall be at least 30 feet from any property line.
- C. Protection of Adjacent Properties - Fences, plantings, or sufficient area shall be provided to insure the safety and protection of persons on all adjacent land. Any netting used for the protection of adjacent properties shall observe yard and height requirements of the district in which it is located.
- D. Signs - Except in districts where signs are allowed, one non-flashing sign, not to exceed 60 square feet in area and not to exceed 10 feet in height, may be provided at the major entrance.
- E. Lighting- All lighting fixtures must comply with applicable sections of the Land Development Code.
- F. Hours of Operation - Golfers may play the course only between dawn and dusk. Maintenance, cleaning and general upkeep of the golf course by employees or other authorized personnel is not required to be conducted during the aforementioned time period.

#### 4.3.22 Commercial Uses in the M-1, M-2 and M-3 Industrial Districts

Commercial uses, limited to banks, credit unions, savings and loans and similar financial institutions; convenience groceries; restaurants, taverns, bars and saloons, as permitted in the C-2 Commercial District; and vehicle service stations or repair, may be permitted within the M-1, M-2 and M-3 Industrial Districts provided the operation is in accordance with the following standards:

- A. The applicant shall submit a phase 1, Phase 2 or phase 3 environmental site assessment to Planning and Design Services.

### 4.3.23 Short Term Rentals

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In a R-R, R-E, R-1, R-2, R-3, R-4, R-5, U-N, R-5A, R-5B, R-6, R-7 or R-8A district, a short term rental of dwelling unit that is the primary residence of the host is permitted by the Planning Director with special standards set forth in this section. In a OR, OR-1, OR-2, OR-3, OTF, C-N, C-R, C-1, C-2, C-3, C-M, W-1, W-2, PVD, PTD or PRD district, any short term rental is permitted by the Planning Director with special standards set forth in this section.

- A. The maximum stay for a guest shall be 29 consecutive days. A dwelling unit rented to the same occupant for 30 consecutive days or more is not considered a short term rental.
- B. The dwelling unit shall be limited to a single short term rental contract at a time.
- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus four individuals.
- D. The dwelling unit shall be a single-family residence or duplex unless the dwelling unit is located on property zoned C-R, C-N, C-1, C-2 or C-3 and the property meets all of the following criteria:
  - 1. The property is within 200' of a TARC route;
  - 2. The property is within .75 miles of a public park; and
  - 3. The property is within one mile of a National Register District or Local Preservation District.This provision shall not be waived or adjusted.
- E. Food and alcoholic beverages shall not be served or otherwise provided by the host to any guest.
- F. Outdoor signage which identifies the short term rental is prohibited.
- G. There shall be a sufficient amount of parking available for the host and guests, as determined by the Planning Director. The amount and location of parking shall be based on the land uses and density of the immediate vicinity. In the event that a complaint is filed concerning the lack of adequate parking, the Planning Director may require that the host submit a parking study to Planning & Design Services. If the parking study concludes that there is inadequate parking available to the host and guests, the host shall either a) increase the amount of parking or b) discontinue the short term rental use.
- H. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances.
- I. In order to maintain a registry of short term rentals, the host of the short term rental shall submit a notice of intent to commence a short term rental to the Office of Planning & Design Services in a form prescribed by the Planning Director. This form may be an online form that does not require the host to visit the office.
- J. If the property is subject to two (2) or more substantiated civil and/or criminal complaints, the Planning Director may revoke the approval.

### Chapter 4 Part 4 Accessory Uses and Miscellaneous Standards

The following topics are discussed in this section:

SECTION	USE
4.4.1	Adult Entertainment Activities
4.4.2	Antenna Towers for Cellular Telecommunications Services or Personal Communications Services
4.4.3	Fences, Walls and Signature Entrances
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#### 4.4.1 Adult Entertainment Activities

- A. Adult entertainment activity may be permitted in the M-3 Industrial zoning district provided it is in conformance with all applicable federal, state, and local laws and regulations, including the provisions of this Land Development Code, and the following requirements:
1. The public entrance to an establishment engaging in adult entertainment activity shall not be located within 500 feet of any building containing a public or private elementary, middle, or secondary school, institution of higher education or business college, or any park-mall or park-like area of open space under the control of a governmental agency, or any building used for a place of religious worship, or any building used for a governmental function or public library. Such distance shall be measured along a straight line from the nearest property line of the property on which the building or public park-like area is located to the entrance to such establishment engaging in adult entertainment activity.
 

**NOTE:** *Persons engaging in or intending to engage in the business of conducting an adult entertainment activity are advised to consult the applicable ordinance of the jurisdiction regulating such activity to ascertain the extent of zoning and licensing regulations of such activities and whether the premises on which they are conducting or intending to conduct adult entertainment activities conform with said ordinances.*
  2. The public entrance to an establishment engaging in adult entertainment activity shall not be located within 500 feet of any area zoned R-R, R-E, R-1, R-2, R-3, R-4, R-5, R-5A, R-5B, R-6, R-7, R-8A, UN, OR, OR-1, OR-2, OR-3, OTF, TNZD, PRD, PVD, PD or any property used for residential purposes. Such distance shall be measured along a straight line from the boundary line of the nearest area zoned R-R, R-E, R-1, R-2, R-3, R-4, R-5, R-5A, R-5B, R-6, R-7, R-8A, UN, OR, OR-1, OR-2, OR-3, OTF, TNZD, PRD, PVD, PDD or used for residential purposes to the entrance to such establishment engaging in adult entertainment activity.
  3. The public entrance to an establishment engaging in adult entertainment activity shall not be located within 500 feet of the public entrance of another adult entertainment activity establishment.
  4. The public entrance to an establishment engaging in adult entertainment activity shall not be located within 500 feet of the public entrance of an establishment licensed to serve alcoholic beverages.

#### 4.4.2 Antenna Towers for Cellular Telecommunications Services or Personal Communications Services

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##### A. New Antenna Towers

An antenna tower for cellular telecommunications services or personal communications services may be allowed in any district after receiving Planning Commission review and approval in accordance with this section. The Planning Commission may delegate its approval authority to a committee of the Planning Commission. The Planning Commission may approve the proposed antenna tower only upon finding that the proposal complies with the Comprehensive Plan and the zoning regulations, including this section. Reasonable attempts to co-locate additional transmitting or related equipment are required. Any request for review of a proposal to construct such an antenna tower shall be made only in accordance with this section.

If the property is subject to an existing district development plan or to an existing Conditional Use Permit, the property owner shall obtain approval of the appropriate amendment or modification request. Such request shall be filed simultaneously with the antenna tower for cellular telecommunications services or personal communications services request filed pursuant to this section.

The property owner shall be responsible for making alternative provisions for any alteration of the district development plan or Conditional Use Permit or shall obtain a variance or waiver of the specific plan or Permit requirement affected by the location of the tower on the site.

##### 1. General Provisions:

- a. Documentation: Every utility or a company that is engaged in the business of providing the required infrastructure to a utility that proposes to construct an antenna tower for cellular telecommunications services or personal communications services within Jefferson County shall submit a completed uniform application to the Planning Commission, which shall include the following:
  - i. A grid map showing the location of all existing cellular antenna towers and indicating the general position of proposed construction sites for new cellular antenna towers within an area that includes:
    - (a). All of the planning unit's jurisdiction; and
    - (b). A one-half (1/2) mile area outside of the boundaries of the planning unit's jurisdiction, if that area contains either existing or proposed construction sites for cellular antenna towers
  - ii. The full name and address of the applicant;
  - iii. The applicant's articles of incorporation, if applicable;
  - iv. A geotechnical investigation report, signed and sealed by a professional engineer registered in Kentucky, including boring logs and foundation design recommendations;
  - v. A written report, prepared by a professional engineer or land surveyor, of findings as to the proximity of the proposed site to flood hazard areas;
  - vi. Directions from the county seat to the proposed site, including highway numbers and street names, if applicable, with the telephone number of the person who prepared the directions;
  - vii. The lease or sale agreement for the property on which the tower is proposed to be located, except that, if the agreement has been filed in abbreviated form with the county clerk, an applicant may file a copy of the agreement as recorded by the county clerk and, if applicable, the portion of the agreement demonstrating compliance with KRS 100.987(2);
  - viii. The identity and qualifications of each person directly responsible for the design and construction of the proposed tower;

- ix. A site development plan or survey, signed and sealed by a professional engineer registered in Kentucky, that shows the proposed location of the tower and all easements and existing structures within five hundred (500) feet of the proposed site on the property on which the tower will be located, and all easements and existing structures within two hundred (200) feet of the access drive, including the intersection with the public street system;
- x. A vertical profile sketch of the tower, signed and sealed by a professional engineer registered in Kentucky, indicating the height of the tower and the placement of all antennas;
- xi. The tower and foundation design plans and a description of the standard according to which the tower was designed, signed, and sealed by a professional engineer registered in Kentucky;
- xii. A map, drawn to a scale no less than one (1) inch equals two hundred (200) feet, that identifies every structure and every owner of real estate within five hundred (500) feet of the proposed tower;
- xiii. A statement that every person who, according to the records of the property valuation administrator, owns property within five hundred (500) feet of the proposed tower or property contiguous to the site upon which the tower is proposed to be constructed, has been:
  - (a). Notified by certified mail, return receipt requested, of the proposed construction which notice shall include a map of the location of the proposed construction;
  - (b). Given the telephone number and address of the local planning commission; and
  - (c). Informed of his or her right to participate in the planning commission's proceedings on the application;
- xiv. A list of the property owners who received the notice, together with copies of the certified letters sent to the listed property owners;
- xv. A statement that the chief executive officer of the affected local governments and their legislative bodies have been notified, in writing, of the proposed construction;
- xvi. A copy of the notice sent to the chief executive officer of the affected local governments and their legislative bodies;
- xvii. A statement that:
  - (a). A written notice, of durable material at least two (2) feet by four (4) feet in size, stating the "[Name of applicant] proposes to construct a telecommunications tower on this site" and including the addresses and telephone numbers of the applicant and the planning commission, has been posted and shall remain in a visible location on the proposed site until final disposition of the application; and
  - (b). A written notice, at least two (2) feet by four (4) feet in size, stating that "[Name of applicant] proposes to construct a telecommunications tower near this site" and including the addresses and telephone numbers of the applicant and the planning commission, has been posted on the public road nearest the site;
- xviii. A statement that notice of the location of the proposed construction has been published in a newspaper of general circulation in the county in which the construction is proposed;
- xviii. A brief description of the character of the general area in which the tower is proposed to be constructed, which includes the existing land use for the specific property involved;
- xv. A statement that the applicant has considered the likely effects of the installation on nearby land uses and values and has concluded that there is no more suitable location reasonably available from which adequate service to the area can be provided, and that there is no reasonably available opportunity to locate its antennas and related facilities on an existing structure,

including documentation of attempts to locate its antennas and related facilities on an existing structure, if any, with supporting radio frequency analysis, where applicable, and a statement indicating that the applicant attempted to locate its antennas and related facilities on a tower designed to host multiple wireless service providers' facilities or on an existing structure, such as a telecommunications tower or other suitable structure capable of supporting the applicant's antennas and related facilities; and

- xvii. A map of the area in which the tower is proposed to be located, that is drawn to scale, and that clearly depicts the necessary search area within which an antenna tower should, pursuant to radio frequency requirements, be located.
- b. Notice: Written notice of the meeting at which the application to construct an antenna tower will be considered shall be given to the owner of every parcel of property adjoining at any point or across the street from the property on which the antenna tower is proposed to be constructed at least ten (10) calendar days prior to the meeting. In addition, staff shall endeavor to assure that notice is given to all neighborhood groups who have registered to receive notice of development applications.
- c. Procedure: After an applicant's submission of a completed uniform application to construct an antenna tower, the Planning Commission shall:
- i. Review the uniform application in light of its agreement with the Comprehensive Plan and the Land Development Code;
  - ii. Make its final decision to approve or disapprove the uniform application; and
  - iii. Advise the applicant in writing of its final decision within sixty (60) days commencing from the date that the completed uniform application is submitted to the Planning Commission or within a date certain specified in a written agreement between the Planning Commission and the applicant. If the Planning Commission fails to issue a final decision within sixty (60) days and if there is no written agreement between the Planning Commission and the applicant to a specific date for the Planning Commission to issue a decision, the uniform application shall be deemed approved.

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

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

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

- (1) Identifies the location of the towers or other structures on which the applicant has attempted to co-locate; and
  - (2) Lists the reasons why the co-location was unsuccessful in each instance.
- iv. The Planning Commission may deny a uniform application to construct a cellular antenna tower based on an applicant's unwillingness to attempt to co-locate additional transmitting or related equipment on any new or existing towers or other structures.
- Upon the approval of an application for the construction of a cellular antenna tower by the Planning Commission, the applicant shall notify the Public Service Commission within ten (10) working days of the approval. The notice to the Public Service Commission shall include a map showing the location of the construction site. If an applicant fails to file notice of an approved uniform application with the Public Service Commission, the applicant shall be prohibited from beginning construction on the cellular antenna tower until such notice has been made.
- (a) **Guarantee:** Any contract with an owner of property upon which a cellular antenna tower is to be constructed, shall include a provision that specifies, in the case of abandonment, the method that will be followed for dismantling and removing a cellular antenna tower, including a timetable for removal. To insure the removal of all improvements at any abandoned telecommunications facility, any applicant filing a request under this section shall, at the time of submittal of the list of existing towers, 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 telecommunications tower. An applicant having multiple towers within Jefferson County may deposit a single guarantee in the amount equal to the cost of demolition and removal of the one telecommunications tower it owns which would cost the most to demolish and remove until such time as the number of its towers exceeds four (4) such facilities, both existing and projected within the current calendar year. At such time as the approved number of an applicant's towers 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 times 25% percent of that applicant's total number of towers both existing and projected within the next calendar year. 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.
  - (b) **Special expert Consultants and Costs:** The Planning Commission may retain special expert consultants as it deems necessary to provide assistance in the review of site location alternative analysis. Application fees may be established to cover the costs of staff and/or special expert consultant review of requests filed under this section, within any limits established by KRS Chapter 100.
  - (c) **Confidentiality:** With the exception of the map or other information that specifically identifies the proposed location of the cellular antenna tower then being reviewed, all other information contained in the uniform application and any updates shall be recognized as confidential and proprietary within the meaning of KRS 61.878. The Planning Commission shall deny any public request for the inspection of such information, whether submitted under Kentucky's Open Record Act or otherwise, unless ordered to disclose such records by a court of competent jurisdiction or unless confidentiality is waived in writing by the applicant.

#### B. Extension of Existing Antenna Towers

1. **Documentation:** Every utility or company that is engaged in the business of providing the required infrastructure to a utility that proposes to extend an existing antenna tower for cellular telecommunications services or personal communication services within Jefferson County shall submit the following documentation to the Planning Commission:

- a. A development plan review application containing a revised site plan and tower evaluation stamped by a Kentucky licensed professional engineer which clearly shows the aspects of the plan which are being modified;
  - b. A recertification by a Kentucky licensed professional engineer that the structure as modified will meet currently- applicable ANZI standards regarding wind loads;
  - c. A recertification of compliance with FCC standards  
Full Construction drawings must be submitted to the permitting agency for the purpose of issuing building permits.
2. Notice. Written notice of the filing of an application to extend an existing antenna tower shall be provided to the owner of every parcel adjoining at any point or across the street from the property on which the antenna tower is located at least ten (10) calendar days prior to the date on which staff will take action to approve or deny the request. In addition, staff shall endeavor to assure that notice is given to all neighborhood groups who have registered to receive notice of development applications.
  3. Procedure. The Planning Director shall take action to approve or deny the proposed extension within 15 days of receipt of the materials listed above. The Director shall, to the extent possible, require compliance with the screening and buffering requirements contained in paragraph C below as a condition of approval for an extension of an existing antenna tower.
- C. Design Standards: At the time of filing of a request under this section, the applicant shall provide information demonstrating compliance with the requirements listed below. Waivers of the following standards may be requested by the applicant and granted by the Planning Commission in accordance with the provisions of Chapter 11 Part 8.
1. All structures, except fences, shall be located at least 50 feet from the property line of any residentially zoned property and shall, in all other circumstances, observe the yard requirements of the district in which they are located.
  2. The site shall be landscaped in accordance with the requirements of Chapter 10 Part 2 for utility substations. If the site is an easement, the easement boundaries, exclusive of that portion used strictly for vehicular access, shall be treated as property boundaries for the purposes of applying Chapter 10 Part 2.
  3. Any monopole, guyed, lattice, or similar type cellular antenna tower and any alternative cellular antenna tower structure similar to these towers, such as light poles, shall be maintained in either galvanized steel finish or be painted light gray or light blue in color. Alternate sections of aviation orange and aviation white paint may be used ONLY when the FAA finds that none of the alternatives to such marking are acceptable.
  4. A cellular antenna tower or alternative cellular antenna tower structure may be constructed to a maximum height of 200 feet regardless of the maximum allowed height for the district in which it is located. This also applies to any tower taller than 15 feet constructed on the top of another building, with the height being the overall height of the building and tower together measured from the grade to the highest point. When any cellular antenna tower or alternative cellular antenna tower structure is taller than the distance from its base to the nearest property line, the applicant shall furnish the Planning Commission with a certification from an engineer registered in the Commonwealth of Kentucky that the tower will withstand winds of 70 miles per hour in accordance with current ANSI/EAI/TAI standards. When a tower taller than 15 feet constructed on the top of another building results in the overall height of the building and tower, including any antenna, being greater than the distance from the base of the building to the nearest property line, the applicant shall furnish to the Planning Commission this same certification
  5. A cellular antenna tower or alternative cellular antenna tower structure may be artificially lighted ONLY with steady- burning red obstruction lights (FAA type L-810) or flashing red obstruction lights (FAA type L-864) flashing no faster than 20 flashes per minute. Flashing red obstruction lights (FAA type L-864) flashing faster than 20 flashes per minute, medium intensity flashing white obstruction lights (FAA type L-865 or L-

866), high intensity flashing white lights (FAA type L-856 or L-857), or dual flashing red obstruction lights and medium intensity flashing white obstruction lights (FAA types L-864/L-865) may be used ONLY when the FAA specifies that the specific lighting pattern is the ONLY lighting pattern acceptable to promote aviation safety.

6. The site shall be unstaffed. Personnel may periodically visit the site for maintenance, equipment modification, or repairs. To accommodate such visits, access shall be only from access points approved by the applicable Works Department, and there shall be provided on site an area sufficient to accommodate the parking of the service vehicle.
7. The site shall be enclosed by an eight (8) foot high security fence, and the fence may be located in any required yard at any height, but not in the sight triangle described in Section 5.1.7.H.
8. Any site to be purchased or leased for the installation of a cellular antenna tower or alternative cellular antenna tower structure and ancillary facilities shall comply with the minimum lot size requirements of the district in which the site is located.
9. The facility shall comply with the FCC's regulations concerning radio frequency emissions. To the extent that the facilities do not comply with the FCC's regulations, the Planning Commission may establish additional requirements on the basis of the environmental effects of radio frequency emissions. (See P.L. 104-104, Sec. 704).
10. If the use of any cellular antenna or cellular antenna tower or alternative cellular antenna tower structure is discontinued, the owner shall provide the Planning Commission with a copy of the notice to the FCC of intent to cease operations within 30 days of such notice to the FCC. If the cellular antenna or cellular antenna tower or alternative cellular antenna tower structure will not be reused, the owner shall have 180 days from submittal of the FCC notice to the Planning Commission to obtain a demolition permit and remove the antenna or tower that will not be reused. If the cellular antenna or cellular antenna tower or alternative cellular antenna tower structure is to be reused, the owner shall have no more than twelve (12) months from submittal of the FCC notice to the Planning Commission in which to commence new operation of the antenna or tower to be reused. Upon failure to commence new operation of the antenna or tower that is to be reused within twelve (12) months, the cellular antenna or cellular antenna tower or alternative cellular antenna tower structure shall be presumed abandoned, and the owner shall immediately obtain a demolition permit and remove the antenna or tower that is presumed abandoned. If the owner fails to remove an antenna or tower in the time provided by this paragraph, the Planning Commission may cause the demolition and removal of the antenna or tower recover its costs of demolition and removal from the Guarantee deposited by the applicant pursuant to this section.
11. The only signs allowed shall be emergency information signs, owner contact information, warning or safety instructions, and signs required by a federal, state, or local agency. Such signs shall not exceed five (5) square feet in area.

**NOTE:** *The following terms relating to Antenna Towers, or Cellular Telecommunications are included in the Definitions (Chapter 1 Part 2): Antennas or related equipment, Cellular antenna tower, Cellular telecommunications service, Co-location, Personal communication service, Uniform application Utility*

#### 4.4.3 Fences, Walls and Signature Entrances

##### A. Fences and Walls

##### 1. Height and Location:

**NOTE:** *If a fence is mandated by the Land Development Code the finished side of the fence must face the lower intensity use. See Section 10.4.9*

- a. In the R-R, R-E, R-1, R-2, R-3, R-4, R-5, PRD, U-N, R-5A, R-5B, TNZD, R-6, R-7, R-8A, OR, OR-1, OR-2, OR-3, PD (residential use) and OTF Districts:
- i. Fences and walls, up to 48 inches in height in the suburban form districts and 42 inches in the traditional form districts, may be located within required front and street side yards except as provided in Figure 4.4.1.
  - ii. Fences and walls up to 8 feet in height and constructed of a solid material (masonry, wood) with an opacity of at least 80% may be located within required side and rear yards. Fences and walls with an opacity less than 80% (e.g. chain link fences) up to 6 feet in height may be located within required side and rear yards. Exception: Wrought iron fences up to 8 feet in height may be located within the required side and rear yards.

**NOTE:** Refer to Chapter 5 Part 4 for design standards applicable to fences in traditional form districts.

- iii. The height of fences or walls located in a required side or rear yard shall be measured from the lowest grade within a distance of one foot on either side of the fence to the highest point of any portion of the fence.

**NOTE:** Retaining walls shall be subject to the height and setback requirements of this section

- iv. The total height of fences within 5 feet of a public sidewalk or roadway pavements shall be measured by adding the height of the fence and the height of the change of grade. The total height of fences more than 5 feet from a public sidewalk or roadway pavements shall be measured by measuring the height of the fence only. Refer to Figure 4.4.2 for an example of the correct method of measuring fence heights.
  - v. On double frontage lots, where one of the required front yards adjoins a major arterial, minor arterial or collector roadway, and where access is prohibited, a fence or wall may be constructed within that yard up to a height of 8 feet.
- b. In all other zoning districts:
- i. Fences and walls in all other zoning districts shall be restricted by the maximum building height of that district except when abutting R-R, R-E, R-1, R-2, R-3, R-4, R-5, PRD, U-N, R-5A, R-6, R-7, R-8A, OR-1, OR-2, OR-3, PD (residential use) and OTF Districts in which case a. i), ii) and iii) above shall apply.

**NOTE:** It is important to check a property's deed for restrictions on fences (location materials and general permissibility).

2. For properties in zoning districts listed in Section 4.4.3.A.1.a: Fences and walls not located within the required yard shall be restricted by the maximum building height of that zoning district. For properties in zoning districts listed in Section 4.4.3.A.1.b: All fences and walls shall be restricted by the maximum building height of that zoning district.
3. Fences and walls required for swimming pools shall be a minimum height of 4 feet above grade and have a self-closing, self-latching lockable gate.

4. No person shall install, construct, maintain, or permit the installation, construction or maintenance of barbed wire fence or fence including barbed wire or razor wire components, partially or wholly upon property owned, occupied or controlled by such person, firm, corporation or other legal entity except in accordance with the following standards.
  - a. Razor wire is permitted only if located at all points at least 8 feet above grade level.
  - b. In residential form districts (TNFD, NFD, VFD), barbed wire fencing located less than six feet above grade level is permissible only when used to enclose livestock.
  - c. In workplace form districts (TWFD, SWFD) barbed wire and razor wire fencing is permitted, provided that paragraphs a and d of this section are met.
  - d. Fences that adjoin residentially used or zoned property in any form district may include barbed wire or razor wire only if reviewed and approved by the Planning Director or designee based on a finding of unique circumstances or exceptional security needs.
  - e. Agricultural uses are exempt from items a through d above.

#### B. Signature Entrances

##### 1. Definition:

Signature entrance: Any wall(s), fence(s), guard house, or similar structures exceeding 4 feet in height, constructed at an entrance to a major residential subdivision or to a multi-family complex of ten units or more, or a nonresidential subdivision.

##### 2. Location:

The signature entrance shall not obstruct roadside drainage or through-drainage facilities and shall allow for adequate sight distance. The Public Works Department may require that the location of the proposed signature entrance be staked in the field and reviewed prior to construction plan approval. Signature entrances shall not be permitted within utility or drainage easements without prior approval from the agency to whom the easement has been dedicated.

Signature entrances shall not be permitted within the right-of-way of major arterial, minor arterial or collector roadways except those collector roadways functioning as the primary entrance to the proposed development and provided that approval from the appropriate Public Works Department is obtained.

Signature entrances may be located within the right-of-way of a local or minor level street if approved by the Public Works Department.

Encroachment permits and License Agreement or other legally binding agreement must be received prior to construction plan approval for any signature entrance to be located within a right-of-way.

Any public agency responsible for maintenance of facilities within the right-of-way may require for any reason the removal of a signature entrance located within the right-of-way under the terms of the License Agreement or other legally binding agreement.

##### 3. Height:

The height of a signature entrance shall be measured from the ground to the highest point including columns or other ornamentation. When signature entrances are constructed on man-made berms, the berm will be considered in the overall height.

The maximum height of a signature entrance shall be 14 feet depending on the setback (see Table 4.4.1). Light fixtures and guard houses may extend an additional 4 feet (see illustrations, below).

4. Length:

The maximum length of a Signature Entrance shall not exceed 150 feet on each side of the entrance roadway. Any structure extending beyond this length shall be considered a fence or wall and the requirements as stated in Section (B) of this regulation shall apply (see illustrations, below).

5. Proximity to Structure on Lot and Driveway:

Signature Entrances shall be constructed a minimum of 20 feet from dwellings and driveway entrances (see illustrations, below).

6. Signage on Signature Entrances

Two signs, not exceeding 15 square feet in area each, attached to the signature entrance may be provided at each entrance to the development. Refer to Chapter 8 (Sign Regulations) for specific information.

7. Setback Requirements

Any signature entrance exceeding 4 feet in height as allowed in this section shall be setback from the right-of-way on which it fronts a distance of not less than that prescribed in Table 4.4.1. Columns, light fixtures and similar ornamentation may extend a maximum of 24 inches into this setback area. Any portion of a signature entrance, wall or fence constructed with appropriate Public Works Department approval in the right-of-way shall be exempt from the setback requirement.

TABLE 4.4.1

Setback Distance from R.O.W	Maximum Height Allowed
10'	14'
9'	13'
8'	12'
7'	11'
6'	10'
5'	9'
4'	8'
3'	7'
2'	6'
1'	5'
0'	4'

In order to mitigate the visual impact of lengthy structures on adjacent vehicular corridors and land uses, any signature entrance, fence or wall greater than or equal to 8 feet in height as allowed in this section and 100 feet in length shall have plantings adjacent to at least 50% of its exterior facade. Such plantings shall conform to the standards of variety, size, spacing and quality set forth in Chapter 10 Part 4 of this regulation. In no such case shall fences or walls extend a distance greater than 100 feet without providing a visual break in the form of evergreen shrubs spaced one plant every 4 feet or evergreen trees spaced as indicated in Chapter 10 Part 4 of this regulation, which, at maturity, will equal or exceed one-half the height of the fence or wall.

8. Dimensional Variances

Portions of this regulation that govern height or length or setback requirements may be modified by the Board of Zoning Adjustment. The Board may grant a dimensional variance after a public hearing if the requirements of KRS 100.243 are found to be met. A variance application filed simultaneous with a zoning change request or subdivision request for a given property may be granted by the Planning Commission.

9. Plan Approval Process

Signature Entrance plans shall be reviewed for compliance and approved by the Division of Planning and Design Services, as well as Public Works Department if the signature entrance is located in the public right-of-way. Signature entrance plans submitted shall bear the seal of a registered engineer, architect or landscape architect licensed to practice in the Commonwealth of Kentucky.

**NOTE:** See Section 7.1.40 and Part 11.5B relating to Planning Commission approval of variances in conjunction with subdivision review.

### ILLUSTRATIONS

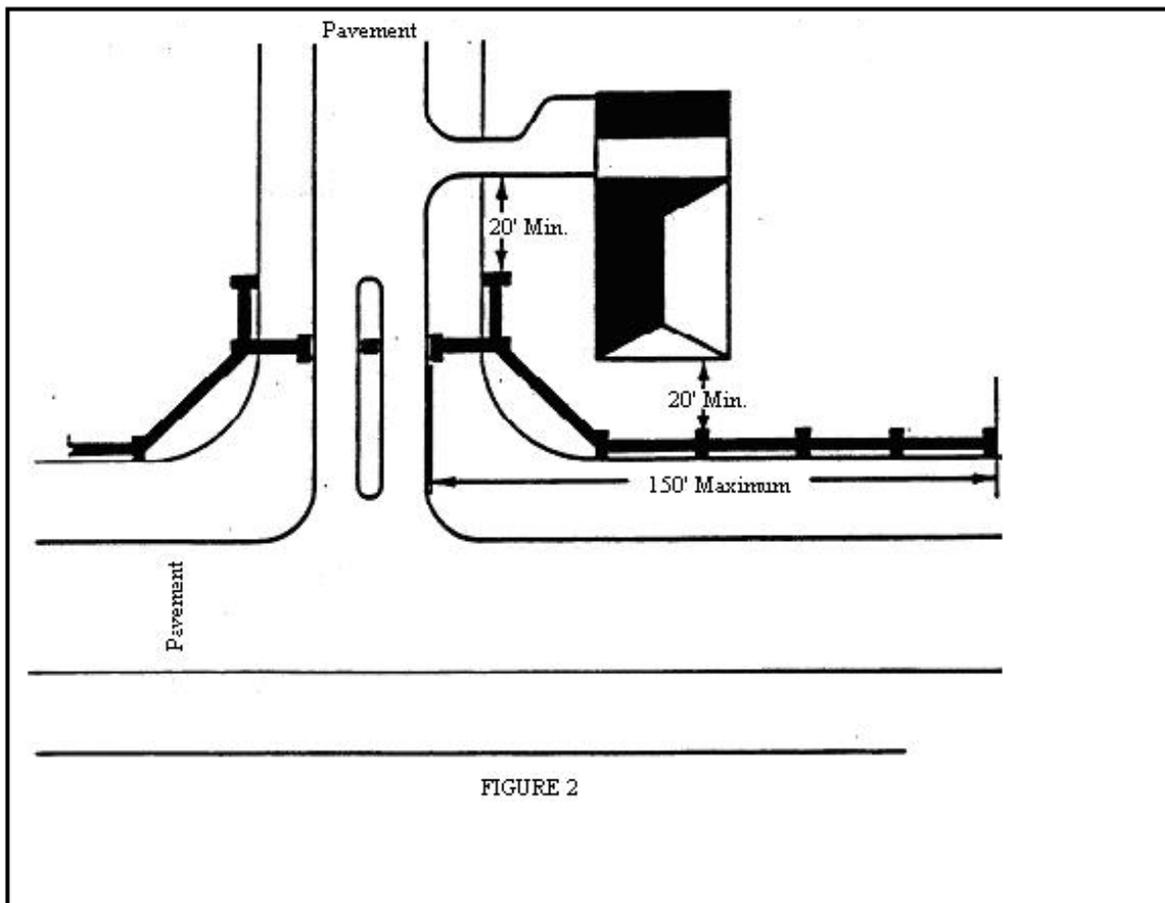
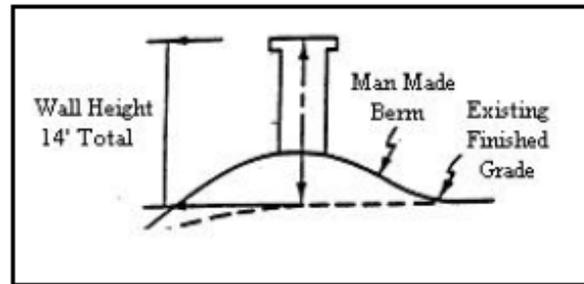
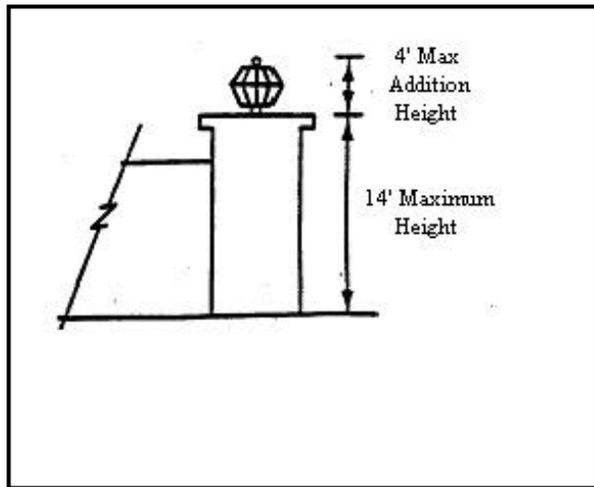
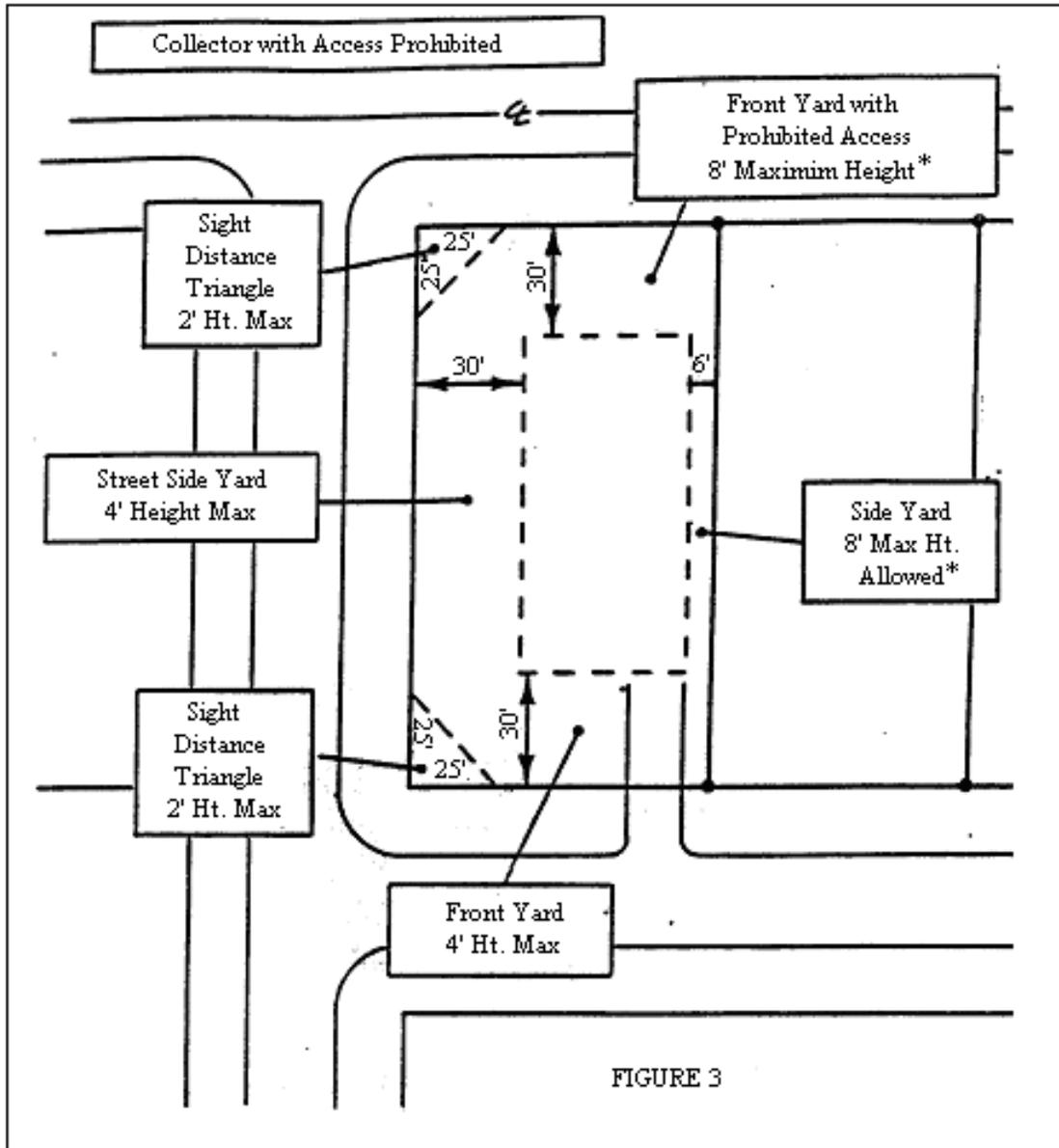


FIGURE 2

Figure 4.4.1

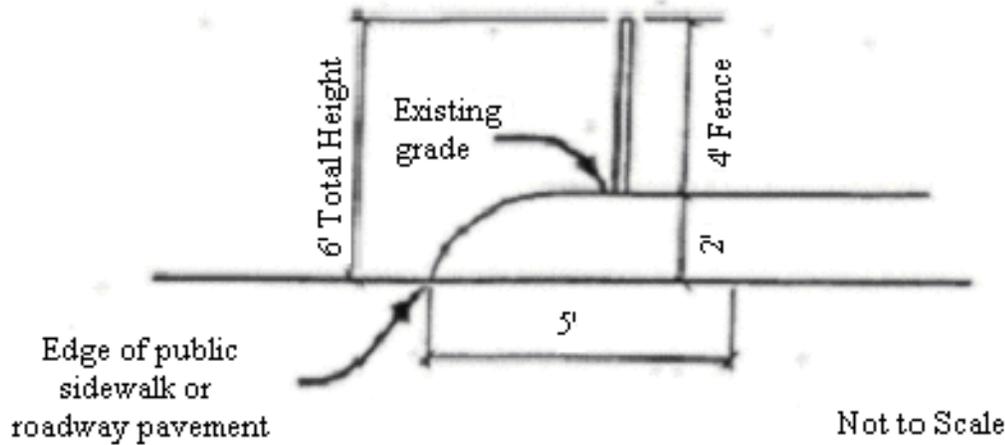


\*For fences and walls constructed of solid materials or wrought iron only. Fences and walls constructed of chain link material have 6' maximum height allowance

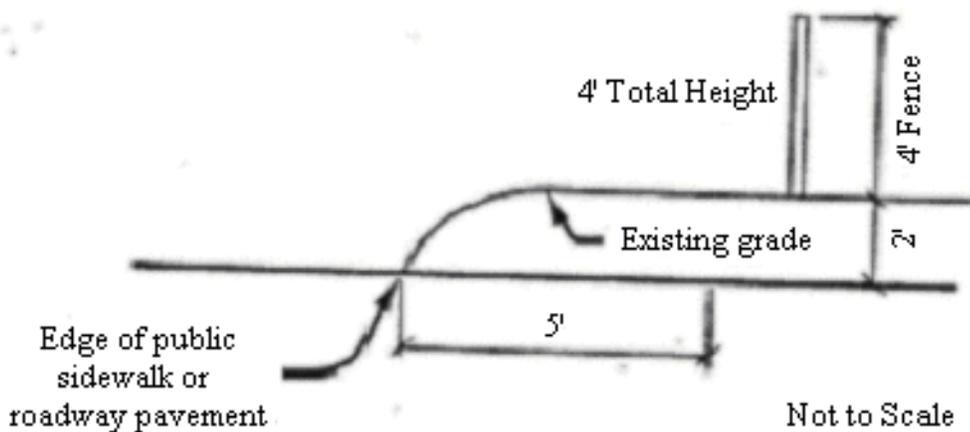
Figure 4.4.2

### Example for Fence Height Measurement Standard: Front and Street Side Yards

- A** Measure fence height within 5 feet of a sidewalk or roadway pavement like this  
Total Height = 6 feet (4 feet fence + 2 feet change in grade)



- B** Measure fence more than 5 feet from a sidewalk or roadway pavement like this:  
Total Height = 4 feet (measure from existing grade only)



#### 4.4.4 Garage Sales

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A. Definition:

Garage Sale: As an accessory use of residential property, the sale of goods that are no longer needed or used at the site of the sale, whether advertised in local media, by signs, or otherwise as a garage sale, yard sale, household sale, moving sale, barn sale or other sale, accomplished by direct sale; or

The sale, at the seller's place of residence, of all or part of the household goods or items, in conjunction with vacating the residential premises by the seller or the seller's estate, whether accomplished by direct sale or auction; or

Sales conducted by civic groups, school groups, church groups, charitable or fraternal organizations and other non-profit organizations if such sale is held on the organization's premises. The sale of new or used goods purchased or consigned specifically for garage sales is prohibited.

- B. No more than two garage or yard sales per calendar year, lasting no more than two days each, may be conducted on a given property.
- C. A garage or yard sale may not exceed 1,800 square feet of sales area.
- D. No garage sale item(s) may be placed in the right-of-way.
- E. All signs used to advertise or direct traffic to a garage sale must be removed within 48 hours of the conclusion of the sale.

#### 4.4.5 Home Occupations

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A. Intent.

The intent of this Section is to allow an occupant or occupants of a residence located on residentially zoned property to engage in a home occupation, trade, profession or business within said residence and its accessory structure(s) provided that such an activity does not adversely affect adjacent or nearby residents or the neighborhood as a whole.

**NOTE:** "Home Occupation" shall mean an occupation trade business or profession conducted within a dwelling unit or a structure accessory to a dwelling unit by an individual or group of individuals who are residents of the dwelling unit. This use shall be clearly incidental and secondary to the primary use as a residence.

**NOTE:** Some subdivisions may restrict or prohibit home occupations through deed of restrictions

B. Employees.

1. Employees working or meeting at the home occupation site shall be limited to persons who reside in the dwelling unit except that one nonresident employee shall be permitted to be at the site at any one time.
2. The owner/operator of a home occupation may apply for a conditional use permit to allow up to two additional nonresident employees (up to three total) if the following criteria are met:
  - a. The property on which the home occupation is located must be at least three acres in size to apply for one additional nonresident employee (two total). are residents of the dwelling unit. This use shall be clearly incidental and secondary to the primary use as a residence.
  - b. The property on which the home occupation is located must be at least five acres in size to apply for two additional nonresident employees (three total).

C. Exterior Appearance.

There shall be no change to the exterior appearance of the dwelling unit that houses the home occupation and there shall be no visible evidence of the conduct of a home occupation as viewed from the public-right-of-way and adjacent properties.

D. Number of Customers, Clients and Pupils Permitted.

No more than two customers, clients or pupils shall be permitted on the site at any one time except that an occupant of a single-family dwelling may provide group or professional therapy for no more than four individuals at one time. Appointments for clients must be scheduled with an allowance of time for one client or group of clients to leave before the succeeding client or group of clients arrive so as to avoid parking conflicts.

E. Signage.

No signage associated with a home occupation shall be permitted. This includes, but is not limited to, the placement of a business sign on or near the site. This shall not preclude the placement of a sign on a vehicle owned or leased by a resident that is parked on the premises in accordance with applicable regulations.

F. Parking and Deliveries.

1. Any parking needed to accommodate the customers, clients or pupils being served by a home occupation shall be provided off-street on the dwelling unit's existing parking area/ driveway, except as provided in (2) below. The permit issuing authority shall determine whether the site has enough parking available in the parking area/ driveway to accommodate the parking generation expected from the proposed home occupation. Driveways may not be expanded or altered in any way to accommodate the expected parking needs of a home occupation.
2. On-street parking spaces may be used to accommodate a home occupation only if the owner/operator provides the Planning Director with a parking study that meets the requirements of Section 9.1.17 (Parking Studies) of the Land Development Code and the Planning Director finds that the use of the on-street parking spaces by the home occupation will not adversely affect adjacent or nearby residences. If the Planning Director is unable to make such a determination, he/she may forward the request to the Planning Commission or its designee for final approval.
3. Deliveries associated with the home occupation shall not be made using tractor- trailers. No more than two commercial deliveries (e.g. UPS, Federal Express, US Postal Service Express Mail) shall be made in any 24-hour period.

G. Permitted Locations and Maximum Size/Area. (This section does not apply to In-Home Day Care Home Occupations.)

1. The operation of home occupations shall be limited to the dwelling unit (including the basement and attached garage) and one roofed and fully enclosed accessory structure located on the site.
2. The area occupied by home occupations shall not exceed the limits specified below. The maximum area calculation shall include the space in which the home occupation is conducted as well as any areas that the home occupation's employees, customers, clients or pupils typically use including hallways, bathrooms and kitchens, when applicable. When all or a portion of the activity associated with a home occupation is proposed to occur in an accessory structure then the floor area of that accessory structure may be included in the calculation of the residence's floor area.
  - a. A home occupation situated on a lot of less than one acre shall occupy no more than 25% of the floor area of the residence or 500 square feet in area, whichever is less.
  - b. A home occupation situated on a lot greater than one acre shall occupy no more than 25% of floor area or 1,000 square feet, whichever is less.
3. All activities associated with a home occupation are prohibited from occurring outside of the residence and its accessory structure except as specifically permitted.

## H. Hours of Operation.

1. Any home occupation that accommodates customers, clients or pupils on the site shall not be permitted to operate between the hours of 9 P.M. and 7 A.M.
2. No nonresident employee may work at a home occupation between the hours of 9 P.M. and 7 A.M.
3. While In-Home Day Care Home Occupations may operate 24 hours a day, all associated outdoor activity other than pick-up and drop-off of children shall be prohibited between 9 P.M. and 7 A.M.

## I. Other Requirements.

1. No machinery, equipment, or process used or conducted in association with a home occupation shall create any noise, vibration, fumes, odors, dust or electrical interference that is detectable:
  - a. Off the lot if the home occupation is conducted in a single family dwelling unit; or
  - b. Outside the dwelling unit if the home occupation is conducted in something other than a single-family dwelling unit.
2. No equipment discernibly identified with a home occupation may be stored outside the residence unless it is located within an accessory structure.
3. The sale of agricultural goods (e.g. flowers and vegetables) that are grown on the site shall be permitted as a home occupation as long as the other requirements of this Section are met.
4. More than one home occupation may be permitted within a dwelling unit, however the cumulative impact of the home occupations shall not exceed the maximum limits for the number of employees, number of customers, clients and pupils, parking and delivery restrictions, and maximum size/ area limits prescribed by this Section.

**NOTE:** Uses generally acceptable as home occupations include:

*In-Home Day Cares (6 or fewer individuals)\*(in effect within Louisville Metro only)*

*In-Home Day Cares (7 or fewer individuals)\*(not in effect within Louisville Metro and the City of Prospect)*

- *Mail Order Operations*
- *Woodshops*
- *Beauticians*

**The offices of the following professionals:**

*Accountants, Architects, Attorneys, Engineers, Real estate brokers, Sales and Manufacturing Representatives, Financial advisors, Insurance agents, Landscape architects Counselors, Mediators Travel agents, Therapists, Chiropractors, Psychologists, and Psychiatrists*

*\*Plus up to four individuals related to the operator. 922 KAR 2:100 defines "related" as having one of the following relationships with the provider: child, grandchild, niece, nephew, sibling, step-child, or child in legal custody of the provider.*

## J. Prohibited Home Occupations

The following uses/activities are prohibited as home occupations unless expressly permitted by other provisions of this Section. If, in the opinion of the permit issuing authority, a use or activity that is proposed as a home occupation is not specifically listed as prohibited, but has characteristics of a use or uses that are listed and could negatively impact the residential character of the neighborhood in which it is proposed, then that

use/activity shall be prohibited as a home occupation. Such determinations may be appealed to the Board of Zoning Adjustment.

Any use or activity that does not meet the requirements of this Section;

Adult Entertainment;

Auto or Other Vehicle Sales, Service, Rental or Repairs (excluding minor repairs made to vehicles owned or leased by residents of the site);

Bed and Breakfast;

Daycare Facilities (except as otherwise permitted)

Clubs;

Dentistry;

Drive-In Facilities;

Eating and Drinking Establishments;

Escort Services

Group Instruction or Therapy with more than four students or clients on the premises at a time;

Health Spas (excluding personal trainers / massage therapist);

Hospitals and Clinics;

Hotels/Motels;

Kennels;

Large appliance repair;

Lawn mower repair;

Machine shop;

Medical examinations or treatment (other than psychiatry as expressly permitted herein);

Plasmapheresis;

Retail Advertising;

Retail and Wholesale Sales (except as otherwise permitted);

Taxi or Limousine Service;

Whole Blood Facilities;

Manufacture of Goods;

Distribution of Goods (excluding mail order operations);

Storage of Goods to be Offered for Sale;

Display of Goods

K. Registration of Home Occupations.

Prior to the establishment of any home occupation that (i) serves customers, clients or pupils at the site, or (ii) has one or more non-resident employees, the proprietor shall register the occupation. Day care centers as a home occupation shall require a home occupation registration. The registration shall not be transferable and shall not run with the land; it shall terminate upon sale or transfer of the property to a new owner or tenant. The Planning Director shall maintain records of registered home occupations. The registration form shall be the

basis for determining compliance with the requirements of this section 4.4.5. Home occupation proprietors shall be responsible for updating their registration forms, at such time as their operations change from the activities described in the registration documents. Any home occupation meeting either criteria (i) or (ii) above that was established before the effective date of this Section shall have one year from the effective date of this Section to register the home occupation.

#### 4.4.6 Inactive Cemeteries

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##### A. Definition:

Inactive cemetery, for the purposes of this section, shall mean any cemetery, private or family cemetery, church cemetery, or historic or prehistoric burial ground not used for interment of human remains within the last ten years.

Cemetery with undefined boundaries, for the purposes of this section, shall mean any cemetery or burial ground the limits of which are not delineated on any a map, in a written description in wills or deeds, or by a wall or fence. or specific cemetery vegetation. This term shall also apply to any burial site(s) where graves are discovered outside of defined cemetery boundaries.

**NOTE:** *The procedure for the removal and relocation of a cemetery is set out in KRS 381.720 - KRS 381.767.*

##### B. Requirements:

A parcel of land on which an inactive cemetery is located or an adjacent parcel of land may be used as allowed by the site's zoning classification and other applicable regulations, with the following additional restrictions:

1. **Preservation:** All existing cemeteries and burial grounds shall be preserved and maintained in accordance with applicable Kentucky Revised Statutes, Kentucky Administrative Regulations, and federal laws and regulations state law. Relocation or removal of gravesites shall occur only as specified in applicable federal, state and local laws and regulations. The Louisville Metro Office of Historic Preservation and Archives shall be notified in writing by supplying to the office copies of all state and local applications and permits prior to the relocation procedure.
2. **Notification:** The applicant shall notify the Louisville Metro Office of Historic Preservation and Archives and the Kentucky Historical Society of the location of any cemetery or burial ground prior to development or subdivision of the parcel.
3. In preserving a cemetery while at the same time developing a parcel, an applicant, property owner, or developer has the following options:
  - a. Transfer the existing cemetery as part of a buildable lot. Ownership and maintenance of the cemetery shall be transferred to the individual lot owner.
  - b. Make the existing cemetery a separate lot permanently preserved from development of structures or other non- cemetery improvements. Ownership and maintenance of the cemetery shall be transferred by written agreement to either a subdivision Homeowner's Association, a local legislative unit, or an historical organization. A legally created transfer agreement must be finalized and executed, and a copy provided to DPDS, within 90 days of any final approval of a record plat or development plan. The Planning Commission or its designee may grant up to two thirty-day extensions for the execution of said transfer agreement. Failure to execute the agreement or provide the copy may render the final approval of a subdivision plan or district development plan null and void.
  - c. The applicant shall inform the Planning Commission which of the above listed options they choose to pursue prior to approval of any development or subdivision.

4. Building Setbacks
  - a. For cemeteries with defined boundaries (such as parcel lines or historic parcel lines, a wall or fence), all pavement, buildings and structures other than fences and walls shall be set back at least 30 feet from the perimeter. Pavement shall be allowed within portions of the 30' buffer only upon the completion and submittal of an archeological survey demonstrating there are no grave sites within the area beneath the proposed pavement. Land disturbance within 30 feet of the perimeter except as described in number 6 below shall not be allowed. Prior to initiating any site disturbing activities and for the duration of the site preparation and construction processes, the 30-foot buffer area shall be delineated by installation of temporary fencing so as to be readily identifiable.
  - b. For cemeteries with undefined boundaries, the Commission may require certification of a cemetery with undefined boundaries by an archaeologist (as defined in 36 CFR Part 61). Documentation of acceptance of the cemetery boundaries by the Historic Landmarks Commission or delegated staff persons shall be provided for Planning Commission and building permit agency files prior to initiation of any site disturbance activities. After the boundary has been approved, all buildings and structures other than fences and walls shall be set back at least 30 feet, or another distance set by the Louisville Metro Historic Landmarks Commission.
5. Security: Existing cemetery fences and walls shall be maintained and repaired. The property owner or developer is required to erect a new permanent enclosure (if one does not exist) surrounding the cemetery. For cemeteries with undefined boundaries, the location of the fence shall be established in accordance with procedures acceptable to the Louisville Metro Historic Landmarks Commission. The new permanent fence shall be made of a material compatible with the character of the existing cemetery and surrounding residences. If a portion of an original wall or fence remains, and it is a compatible material (e.g. stone, brick, cast iron, wooden picket) the permanent fence or wall shall be properly repaired using the same material. If the existing fence is an inappropriate material (e.g. barbed wire or farm fence), it shall be replaced with a new fence of an appropriate material. Although the permanent fence must be erected as soon as practical, a temporary fence must be erected and maintained at all times during site development and construction. The Louisville Metro Historic Landmarks Commission shall be responsible for determining the appropriateness of materials.
6. Maintenance: Existing cemetery planting or foliage shall be pruned and generally left in its natural state. The Louisville Metro Historic Landmarks Commission shall be responsible for determining the appropriateness of landscaping used in and immediately surrounding all inactive cemeteries. Cemeteries shall be maintained both during site development and after construction is complete in accordance with Chapter 96 of the Jefferson County Code of Ordinances.
7. Public access shall be provided and permanently maintained to an existing cemetery with a minimum 15-foot recorded ingress-egress access easement.
8. A statement by the property owner, applicant, or developer shall be made on the site plan or subdivision plan regarding permanent cemetery ownership and maintenance. This information shall also be included on a Final Plat for a subdivision if recorded after the effective date of this regulation.
9. A deed restriction in a form approved by the Planning Commission legal counsel shall be recorded acknowledging the location, site, ownership, and maintenance of a cemetery.
10. Yard Requirements: No area occupied by graves may be counted toward the area required for front, side, street-side or rear yard requirements.
11. If human remains are discovered during the excavation or development of a site the applicant shall immediately cease excavation activities and notify the Louisville Metro Coroner and the Jefferson County Historic Landmarks Commission.

#### 4.4.7 Minor Earth Excavations

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- A. On land in any zone, at the option of the property owner, a minor earth excavation not constituting a quarry, borrow pit or commercial operation, and/or filling of land with non-combustible, inorganic materials may be performed without a conditional use permit where all of the following conditions are met and agreed to:
1. The operation is performed in compliance with a plan which has received approval of the agency responsible for surface drainage/storm water drainage and from the Planning Director of the agency that provides staffing to the Planning Commission which may include provisions relating to bonding, remedies for violations, and correction of problems not anticipated at the time of approval. Approval by the responsible governmental officials shall be based on a finding that the plan complies with the Erosion Prevention and Sediment Control ordinance and that it will not likely result in unreasonable inconvenience, annoyance, or harm of any nature to the public, nearby property, or environmental features (i.e. karst features, streams) because of circumstances associated with the area or the operation.
  2. Earthfills shall be permitted when the volume does not exceed 1,500 cubic yards for each acre to be filled or 250 total cubic yards of fill material, whichever limit is less restrictive. Excavations shall be permitted when the volume does not exceed 750 cubic yards of excavated material for each acre excavated or 100 total cubic yards of excavated material, whichever limit is less restrictive. An earthfill or excavation which exceeds the restrictions of this paragraph may be permitted if the earthfill or excavation is for a foundation of a structure or structures or other development which has (have) received all necessary Planning Commission, Board of Zoning Adjustment, and other government approvals and permits.
  3. The filling or excavation shall be completed and the area involved shall be stabilized and re-vegetated in accordance with the approved plan within nine (9) months of approval of the plan. Refer to Chapter 4 Part 12 Erosion Prevention and Sediment Control for specific site stabilization standards.
  4. Fill materials are limited to clean (or uncontaminated) sand, clay, silt, gravel, soil, or other non-polluting, inorganic, non-combustible material approved by the Metropolitan Sewer District or successor.
  5. Failure to comply with the approved plan or the violation of any order of any reviewing governmental official relating to the operation shall constitute a violation of these regulations resulting in the imposition of penalties set out in Part 11.10 in addition to all other appropriate remedies agreed to in the plan or otherwise allowed by law.

This exception is made primarily for the purpose of reducing frequently unnecessary delay caused by the strict enforcement of Section 4.2.22, and the exclusive remedy for any property owner complaining of an action or order of a reviewing governmental official relating to the operation shall be to seek a conditional use permit from the Board of Zoning Adjustment in accordance with Section 4.2.22.

#### 4.4.8 Outdoor Sales, Displays and Storage

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The intent of this Section is to provide for the appropriate location and design of outdoor sales, display and storage areas and to mitigate any adverse impacts that such uses may have on adjacent properties and rights-of-way.

- A. Definitions.  
Outdoor Sales and Display, Outdoor, Screened from View,
- B. Outdoor sales, display and storage shall be permitted in the C-1, C-2, C- M, EZ-1, M-2, M-3, PD and PEC zoning districts only when the requirements of this Section are met.
- C. Outdoor sales, display and storage shall be permitted in the C-1, C-2 and C-M zoning districts as well as commercial uses permitted within the PDD, M-2, M-3, EZ-1, and PEC zoning districts only when the following standards are met.
1. Outdoor Sales and Display Standards:

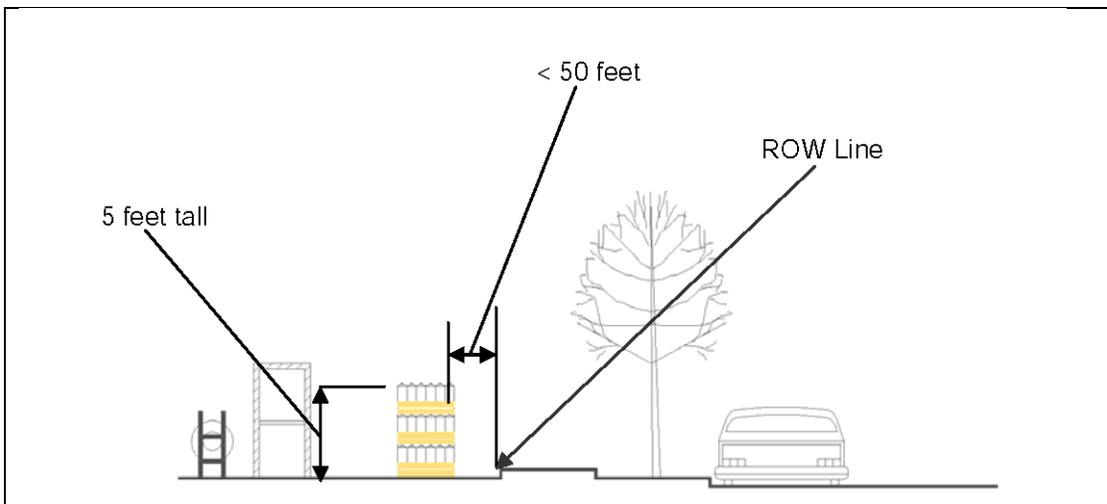
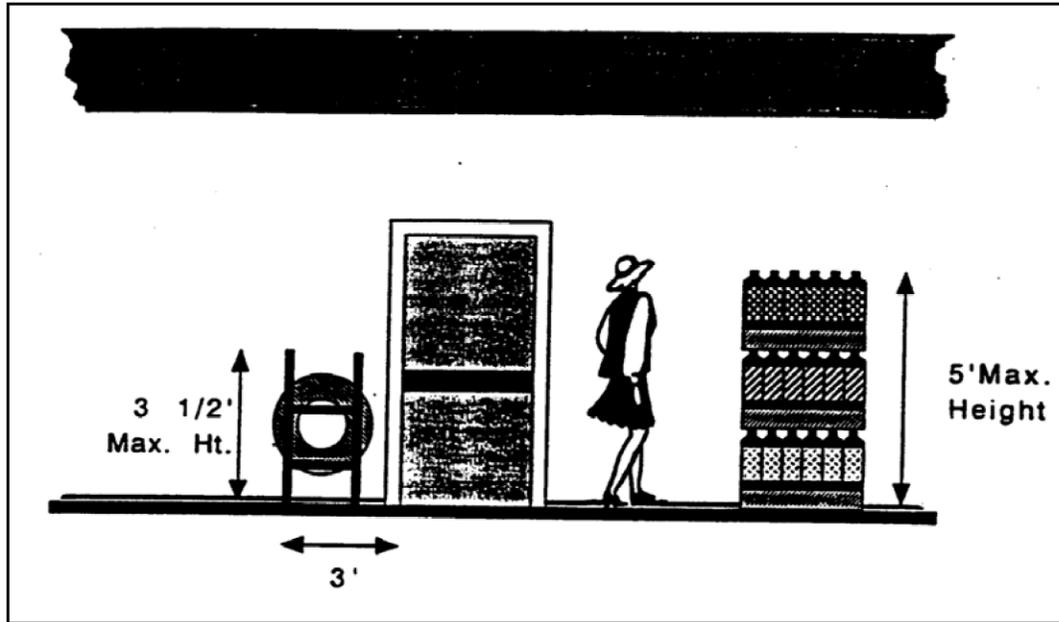
- a. Outdoor sales and display may be permitted within an area not greater than 800 square feet or 10% of the ground floor area of the building, whichever is greater, and shall be located at least 25 feet from any residentially used or zoned property.
  - b. When outdoor sales and display occurs within 25 feet of a public right-of-way, item(s) shall not exceed 5 feet in height and shall be screened from view from the public right-of-way.
  - c. Stacked items located less than 50 feet from a public right-of-way shall not exceed 5 feet in height. Any material within 3 feet of any building entry shall not exceed 3.5 feet in height. (see illustration, below)
  - d. Vending and ice machines shall be permitted outside of the building when located against and parallel to the building facade. These items shall count towards the total outdoor sales and display area permitted by this Section. Vending machines shall include newspaper, beverage, food, or snack dispensers. Public telephones and mailboxes are excluded from this regulation.
  - e. Outdoor sales and display of items shall be located on a “hard and durable” surface as defined by Metro Public Works Standards.
2. Outdoor Storage Standards:
- a. Outdoor storage may be permitted in areas that are designated for employees only and made inaccessible to the general public by means of a fence, wall or other permanent, secured enclosure or in areas that are set back a distance of not less than 50 feet from any public building entry, parking lot, pedestrian facility or similar publicly used area.
  - b. Outdoor storage shall not occur within 25 feet of any public right-of-way.
  - c. Outdoor storage shall be screened from view from any abutting property.
  - d. Moveable storage containers including semi trailers and containerized freight boxes, for the purpose of storage of inventory on a temporary basis, shall meet the following requirements in addition to the other provisions of this Section:
    - i. Containers shall be allowed on the site only in accordance with a permit issued by the building permit issuing authority. A copy of the permit shall be kept on the site and shall be available for inspection.
    - ii. The use of containers on the site shall be allowed for no more than two months in any 12- month period.
  - e. Outdoor storage of new or used tires shall meet the following standards:
    - i. Tires shall be stored in compliance with applicable public health regulations.
    - ii. Outdoor tire storage shall not occupy an area greater than 300 square feet, unless a conditional use permit (4.2.44) has been granted.
    - iii. Tires stored outside shall be neatly stacked; no stack shall be higher than 8 feet.
  - f. All items stored outside shall be placed on a “hard and durable” surface as defined by Metro Public Works Standards.
- D. The following uses are exempt from the requirements set forth in (C) of this Section as follows:
1. Areas designated for the outdoor sale, display or storage of plant material including live plants, fruits and vegetables and seasonal holiday related plant materials such as Christmas trees and pumpkins. This exemption does not include rock, mulch, pavers, landscape timbers and similar building materials.
  2. Sale, display or storage areas for either automobile, boat and similar passenger or recreational vehicles or truck/trailer rentals which have met applicable vehicular use area screening and buffering requirements as

set forth in Chapter 10 of the Land Development Code.

3. Retail operations that occur under a permanent canopy structure.
- E. The following standards shall apply to all outdoor sales, display and storage.
1. Any area proposed to be used for outdoor sales, display or storage in accordance with this Section shall be accurately delineated on the applicable development plan.
  2. No outdoor sales, display or storage shall be allowed in areas set aside, required, or designated for driving aisles, driveways, maneuvering areas, emergency access ways or vehicular parking necessary to meet the minimum number of off-street parking spaces as specified in this section and in Chapter 9 of the Land Development Code.
  3. Outdoor sales, display or storage items, including newspaper boxes, may be located on sidewalks in the public right-of-way only if permitted by the Director of Works. Such items shall be permitted on privately owned walks or other areas intended for pedestrian movement provided an unobstructed, continuous path with a four foot minimum width is maintained. Materials located at the edge of a pedestrian way adjacent to a driving aisle shall not extend along that edge a distance for more than ten feet without providing a break of not less than three feet in width to allow for access on to the pedestrian way.

**NOTE:** *The 4 foot unobstructed path complies with current ADA standards.*

4. Items for outdoor sale, display or storage shall be screened from view from any abutting residentially zoned or used property. A property shall not be considered residentially used if the first floor is occupied by a nonresidential use or uses.
5. No outdoor sales, storage or display areas shall be located in the sight distance triangle as defined in Chapter 5 Part 1 of the Land Development Code or located in any manner that would restrict or limit adequate sight distances for interior vehicular traffic movement as determined by the Works Department.
6. One additional parking space shall be required for each 500 square feet of outdoor sales and display area unless more specific parking requirements are provided in Chapter 9 Part 1 of the Land Development Code.
7. Any product located outdoors in a manner constituting a sign as defined in Chapter 1 of the Land Development Code must conform to the requirements set forth in Chapter 8.
8. No outdoor sales, display or storage shall be allowed within 30 feet of the right-of-way of any designated Parkway, Olmsted Parkway or Scenic Corridor or within any required parkway or scenic corridor buffer area.
9. Uses conducting outdoor sales, display, or storage in a manner not permitted by this Section may be cited in accordance with Chapter 11 (Enforcement) of the Land Development Code. If a use is cited for non-compliance and said use desires to continue outdoor sales, display or storage activities in compliance with the requirements of this Section, then a site plan showing areas in which outdoor sales, display or storage will be conducted on the site in accordance with this Section shall be required. The site plan shall be drawn to scale and shall indicate portions of the lot beyond which outdoor sales, display and storage shall not be conducted, and shall indicate the locations of permanent structures and other features to allow ready determination of adherence to the site plan. After the plan has received approval by the Planning Commission staff, the site plan shall be maintained at the business location and shall be available for review at time of inspection.
10. When the requirements of this Section differ from other provisions of the Land Development Code, the more stringent standard(s) shall apply.



### 4.4.9 Refuse Disposal Containers

- A. No refuse disposal container shall be located in any required vehicular use area, required setback area or in any required buffer or landscape area.
- B. Refuse disposal containers shall be opaquely screened from view from public streets and adjacent properties. The mature height of the screening material shall be one foot greater than the height of the enclosed refuse disposal container, but shall not be required to exceed eight (8) feet in height. Screening shall consist of a continuous fence, a wall constructed of the same building materials as the principal structure, a berm or a combination thereof designed to blend in with the architecture or character of the area.
- C. The screening of refuse disposal containers located in the Downtown Form District shall be designed and constructed of the same materials as the primary structure. See Section 5.5.5.B.1.
- D. The following Land Development Code sections related to refuse disposal containers may also be applicable: 5.5.1.A.4.a; 5.5.2.B.2; 5.5.5.A & B; and 10.2.6.

**4.4.10 Swimming Pools**

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- A. A private swimming pool shall not be constructed in any required front, street side, or side yard.
- B. Private swimming pools, as well as any building or structures which accompany the pool (pool house, deck, etc.), must conform to all setback and area requirements as stated in the Accessory Uses section of the appropriate form district.
- C. A private in-ground or above-ground swimming pool may be constructed in a required rear yard in excess of the maximum coverage as specified in the appropriate form district, provided such pool shall be no closer than five feet to any property line.
- D. Private swimming pools in any location shall be enclosed by a continuous barrier such as a building wall or by a fence at least 48 inches in height, with a self-latching gate. Above ground pools with a vertical barrier of at least 48 inches that are made inaccessible by removal of the ladder or similar measure are allowed without a fence.
- E. Any buildings or structures in conjunction with a pool shall be classified as accessory buildings unless they are part of the main building.

**4.4.11 Portable Storage Devices**

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Portable storage devices (or containers) shall be allowed on residentially zoned or used property for a period of time not exceeding 30 days or 7 days beyond the final inspection related to a permitted renovation or alteration activity, whichever is longer.

## Chapter 4 Part 5 Alternative Development Incentives

**Commentary:** *This section provides incentives for developers who provide open space, housing that reinforces income diversity, and other community benefits in keeping with the goals of Cornerstone 2020. In brief, in return for these community benefits, this section will permit developers to reduce lot sizes in subdivisions and more closely approximate the allowable density under the applicable zoning district regulations. The greater the benefits offered, the higher the density allowed, within the limit established by the site's zoning classification.*

*The following terms relating to Alternative Development Incentives are included in the Definitions (Chapter 1 Part 2):*  
*Adjacent, Diversity Housing Unit, Brownfield, Clubhouse, Community Center, Low-moderate Income, Major transit corridor: Qualified Buyer, Qualified Buyer Verification Form:*

#### 4.5.1 Purpose

The intent of these alternative development incentives is to foster residential development in furtherance of the Cornerstone 2020 Plan. This section sets forth a menu of development incentives that, while maintaining current zoning district densities, allows reduction of lot sizes in return for provision of open space, housing diversity, preservation of cultural resources, and efficient land use (building near major transit corridors and building on brownfields) in larger residential developments. This regulation implements the following portions of Cornerstone 2020:

- Community Form Goals and Objectives C1, C2, C2.6, C2.7, C3, C3.1, C3.2
- Community Form Goals and Objectives K1, K1.2, K2, K2.1
- Livability Goals and Objectives F1, F1.2, F2, G1, G1.3
- Guidelines 3, 4 and 5.

#### 4.5.2 Applicability and Maximum Residential Density

Residential subdivisions located in the R-4 or R-5 Single Family Zoning District that create five or more lots in accordance with the procedures for major subdivisions and provide at least ten percent of Level 1 or 2 Diversity Housing as defined herein, are eligible for the incentives set forth in this section, unless the subdivision is located in a Qualified Neighborhood A, in which case, at least ten percent of any level of Diversity Housing shall be provided. The number of dwelling units created in accordance with this regulation may not exceed the number which is theoretically possible according to the rules of the applicable zoning district. The maximum is determined by multiplying the total site acreage by the applicable maximum density (dwelling units per acre) listed in Table 4.5.2. Proposed developments or portions thereof located more than one mile from a major transit corridor or an existing major or minor arterial classification roadway shall not be eligible for maximum gross densities to exceed 4.0 dwelling units per acre in the R-4 zoning district and 5.8 dwelling units per acre in the R-5 zoning district. The distance shall be measured using a straight line from the arterial or transit corridor street centerline.

If the proposed development falls partially within and partially outside one mile of an arterial or transit corridor, measured as described above, the maximum density of the development shall be calculated as follows:

R-4 District: the percentage of land in the development that lies within the one mile distance multiplied by 4.84, plus the percentage of land that is outside the one mile distance multiplied by 4.0.

R-5 District: the percentage of land in the development that lies within the one mile distance multiplied by 7.26, plus the percentage of land that is outside the one mile distance multiplied by 5.8.

## 4.5.3 Basis for Incentives

- A. Common Open Space:** In order to qualify for reduced lot areas based on common open space the subdivision shall provide open space that is permanently preserved from development in open space lots, and meets applicable provisions of the Open Space Standards (Part 10.5). If a subdivision is located in a form district that requires provision of open space, the amount of required open space shall not be considered in determining the basis for incentives. Open space areas that do not abut a public or private street shall measure no less than 50 feet in any dimension, to qualify for this incentive.

*NOTE: Urban League and the Housing Partnership are current examples of home ownership counseling programs.*

- B. Public Open Space:** In order to qualify for reduced lot area based on public open space the subdivision shall provide open space that is permanently preserved from development in open space lots, accessible to the general public and meets applicable provisions of the Open Space Standards (Part 10.5). If a subdivision is located in a form district that requires provision of open space, the amount of required open space shall not be considered in determining the basis for incentives. Open space areas that do not abut a public or private street shall measure no less than 50 feet in any dimension, to qualify for this incentive.

*NOTE: "Add-Ons" that increase the sales price of Diversity Housing units beyond the stated price limits are not permissible.*

- C. Diversity Housing Levels 1 and 2:** In order to utilize Alternative Development Incentives, proposed subdivisions shall provide a minimum of ten percent of Diversity Housing units at Level 1 or Level 2, unless the development is located in a Qualified Neighborhood A. Level 1 units shall be sold for a total price no greater than 2.5 times the current low-moderate income limit for a given household size; Level 2 units shall be sold for a total price no greater than 2.75 times the current low-moderate income limit. Subdivision lots intended for Level 1 or 2 units shall be identified at the time of submittal of the subdivision preliminary plan. Lots shall be identified in a manner adequate to determine their location and calculate the incentive. The location of lots sold for Level 1 or 2 units may vary from those identified on the preliminary plan, however, the developer/owner shall be responsible for submitting an update report at 6-month intervals from the date of the recording of the record plat until the number of lots designated as Level 1 or 2 units have been sold. The update report shall identify the name of the recorded subdivision, the plat book and page number of the record plat, the actual lot numbers sold for Level 1 or 2 units, the name of the buyers, the type of units (detached unit/patio home/townhouse), the number of bedrooms, and the sale price of units. With the update report, the developer/owner shall submit deeds or other appropriate documentation and Qualified Buyer Verification Forms for all lots utilized to fulfill this incentive.

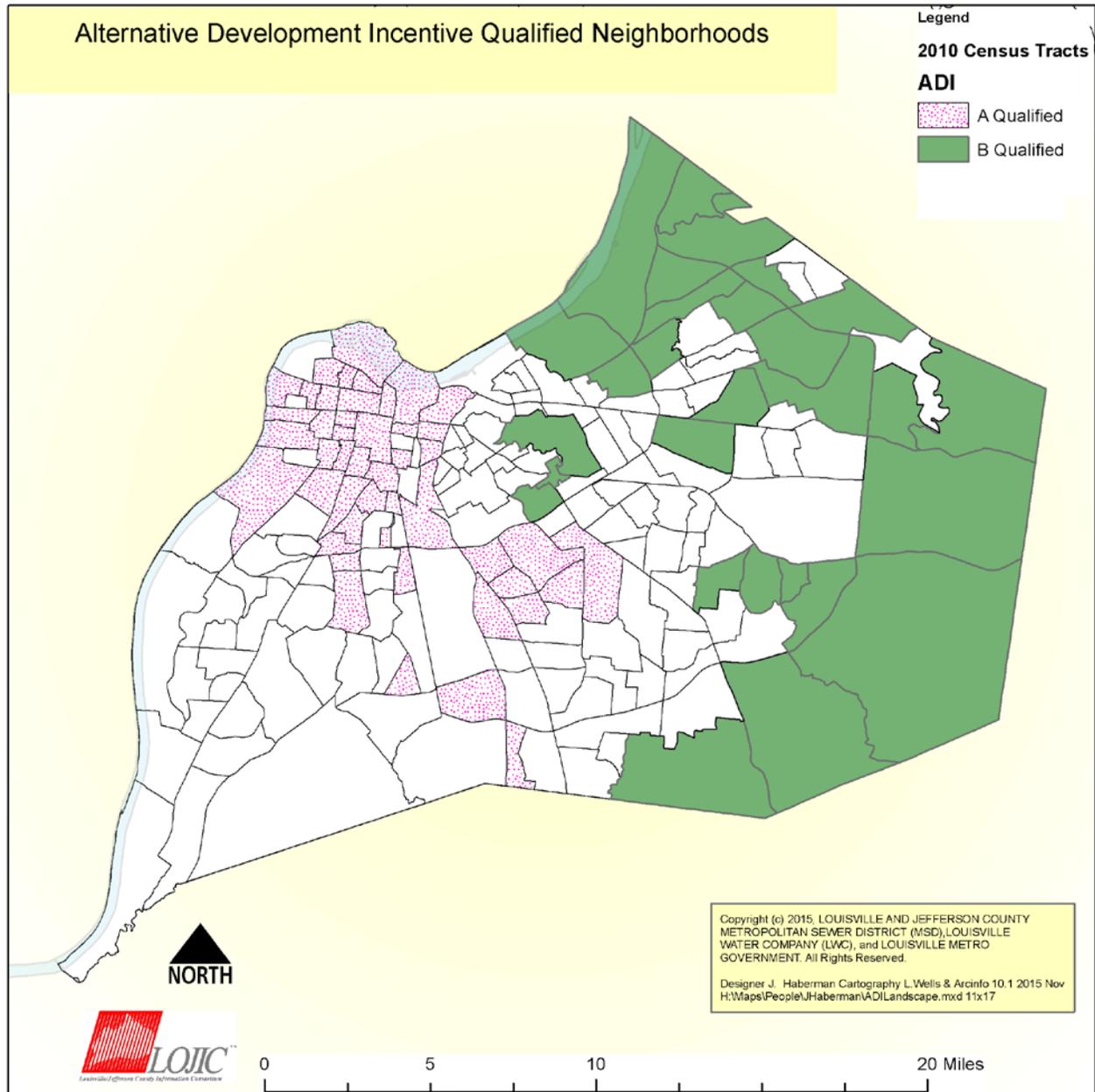
Level 1 and 2 units must initially be sold to a Qualified Buyer. Dwellings constructed on such lots shall be sold to the initial occupants at a price no greater than the diversity housing price limit in effect at that time [see Part 1.2, Definitions.]. Subsequent sale of the diversity units does not require any qualification of the buyers.

The Housing Authority and non-profit home ownership counseling programs that have registered with the Commission shall be notified by DPDS staff about the Level 1 and 2 diversity units at the time of submittal of the preliminary subdivision plan

*NOTE: Reduced filing fees are recommended for subdivisions with 20% or more diversity units.*

- D. Diversity Housing Levels 3 and 4:** In order to encourage subdivision developments to offer a mixture of housing prices, developments that include Level 3 and 4 housing units may qualify for reduced lot area under these regulations. Level 3 units shall be sold for a total price no greater than 3.0 times the current low-moderate income limit for a given household size; Level 4 units shall be sold for a total price no greater than 3.25 times the current low-moderate income limit. Lots intended for diversity housing units shall be identified on the subdivision preliminary plan, and an update report submitted at 6-month intervals, as described in Item C. above.

- E. Qualified Neighborhoods:** Qualified Neighborhood A includes those census tracts defined by the most recent census as having more than 20% of households below poverty level. New developments or re-developments in Qualified Neighborhood A that build houses priced at the Level 3 or higher shall be eligible for incentives under these regulations, without having to provide any Level 1 or 2 units. Qualified Neighborhood B includes those census tracts defined by the most recent census as having the median household income at 150% or greater of the median household income for Jefferson County. New developments or re-developments in Qualified Neighborhood B that build diversity units shall be eligible for incentives under these regulations. The applicant shall submit appropriate census data information with applications that request incentives for this item.



\*\*\* Income and Poverty data provided by the 2011 ACS 5-year estimates

**Note:** This map is for illustrative purposes only and is not part of this Land Development Code. It may change from time to time upon receipt of updated information

- F. Preservation of Cultural Resources:** In order to qualify for reduced lot area based on preservation of cultural resources, the subdivision shall permanently protect and maintain a qualifying resource. Qualifying resource includes historic properties and archeological sites listed in the National Register of Historic Places; sites determined to be eligible for the National Register; and property surrounding National Register/eligible sites the preservation of which is determined by the Louisville Metro Historic Landmarks Commission to contribute to the site's historic value. The Historic Landmarks Commission shall review the proposal prior to approval of the preliminary plan. At the time of recording the plat, the developer shall grant a conservation easement or other means to ensure permanent protection and maintenance, in a form and to a recipient acceptable to the Historic Landmarks Commission, the Planning Commission legal counsel, and the recipient.

**NOTE:** *Reduced filing and processing fees for developments in brownfields under these regulations are recommended.*

- G. Efficient Land Use:** In order to utilize existing infrastructure, stabilize existing neighborhoods, and shorten the distance between homes and jobs, developments near major transit corridors and in brownfields may qualify for reduced lot area under these regulations.
1. Major Transit Corridors: Developments or portions thereof that are within 3/4 mile of a major transit corridor may qualify for reduced lot area points. The distance shall be measured by the shortest walking distance from the transit corridor to each lot created under these incentives.
  2. Brownfields: Development on brownfields may qualify for reduced lot area points. In order to qualify for reduced lot area, the applicant shall demonstrate that environmental degradation of the proposed development site has been remediated to a level appropriate for residential use, as indicated by issuance by the Commonwealth of Kentucky of a covenant not to sue.
- H. Future Roadway Accommodation:** Land dedicated for right-of-way for future roadways shown in the Comprehensive Plan, the six-year plan, or an approved road alignment study, and with approval from Louisville Metro Director of Works, shall be eligible for incentive points. For purposes of calculating incentive points, the area dedicated as right-of-way may be combined with common or public open space lands. Right-of-way dedication for widening of existing roads in accordance with Table 6.2.1 shall not qualify for incentive points.

#### 4.5.4 Review Procedure

Any proposal for a major subdivision meeting the criteria established in this section shall be granted a reduction in minimum lot size and setback requirements as established in the applicable form district; maximum gross density shall not exceed the limits established in Table 4.5.2. The review procedure shall be in accordance with Chapter 7 (Subdivision Regulations).

#### 4.5.5 Maximum Gross Density

Proposed subdivisions shall receive points based on the criteria set forth in Table 4.5.1. Points shall be totaled to calculate the maximum gross density as set forth in Table 4.5.2. Sites that qualify for less than 3 points are not entitled to any alternative development incentive. Gross density shall be interpolated for sites that qualify for 3.5 through 14.5 points.

#### 4.5.6 Compatibility with Adjacent Residential Development

Reduced size lots authorized by this section shall be designed and located so that impacts on adjacent previously approved residential development are minimized. To achieve this purpose, proposed subdivisions with reduced size lots shall meet each of the following design standards applicable to a given site.

- A.** Proposed subdivisions with reduced size lots that are directly across a public right-of-way or private access easement from a recorded subdivision or single family residential structures having an average front or street side yard with a variation in depth of not more than 10 feet shall meet the following standard: Building limit lines shall be recorded for those parcels across the street/access easement from existing development that equal the

average dimensions of established front and street side yards of the existing development.

- B. Perimeter parcels of the proposed development that are adjacent to property zoned for residential use shall comply with one of the following:
1. The perimeter parcels shall be developed with detached single family homes meeting the minimum lot size and dimensional requirements of the underlying zoning/form district; or
  2. The applicant submits a written consent on an approved form supplied by Planning and Design Services signed by each adjacent property owner agreeing to an alternative standard, said form shall be signed after the neighborhood meeting required by Section 7.2.10 is held; or
  3. The adjacent property is developed with an intensity greater than or equal to the perimeter parcels; or
  4. A buffer area shall be provided on the perimeter parcel consisting of one of the following:
    - a. A 75 foot wide open space lot; or
    - b. A 40 foot wide open space lot planted with 2 staggered rows of trees, a mixture of 2/3 canopy trees and 1/3 evergreen trees, with trees in each row placed no more than 20 feet apart, or other planting plan using the same quantity and type of trees and approved by DPDS staff; or
    - c. A 50 foot wide area containing an existing woodland or tree stand, designated as a Woodland Protection Area.

In conjunction with b. and c. above, a minimum 20 foot building limit setback shall be provided on the adjacent buildable residential lots.

### 4.5.7 Wastewater Treatment Requirement

Any lots approved pursuant to this section that are less than five acres shall be developed only if served by a wastewater treatment facility approved by the Health Department or other agency having approval authority.

### 4.5.8 Housing Types/Minimum Lot Size and Dimensional Requirements

Housing types and minimum yards for dwellings constructed are defined in the applicable form district regulation (see Section 5.2.2 D (Traditional Neighborhood) or Section 5.3.1 D (Neighborhood)).

### 4.5.9 Required Outdoor Recreation Open Space

Developments containing detached and semi-detached units on lots less than 6000 sq. ft. in the R-4 District or lots less than 4000 sq. ft. in the R-5 District shall provide Outdoor Recreation Open Space within the development. The amount of Outdoor Recreation Open Space required by this section shall be calculated as follows:

R-4: 1500 sq. ft. for each lot less than 6000 sq. ft. R-5: 1000 sq. ft. for each lot less than 4000 sq. ft.

TABLE 4.5.1—COMMUNITY BENEFITS

Chapter 1 BENEFIT	POINTS PO
<b>Open Space: Neighborhood Form*</b>	
Minimum of 20% of land set aside for common or public open space, or	1.5
Minimum of 30% of land set aside for common or public open space, or	2.5
Minimum of 40% of land set aside for common or public open space, or	3
Minimum of 50% of land set aside for common or public open space, or	3.5
<b>Open Space— Traditional Neighborhood Form*</b>	
Minimum of 5% of land set aside for common or public open space, or	1
Minimum of 10% of land set aside for common or public open space, or	1.5
Minimum of 20% of land set aside for common or public open space	2.5
Diversity Housing Level 1 and 2	

At least 10% but less than 15% of units are Level 1 or 2, or	3
At least 15% but less than 20% of units are Level 1 or 2, or	4.5
20% to 50% of units are Level 1 or 2, or	5.5
Over 50% of units are Level 1 or 2	3.5
Additional credit if at least 50% of these diversity units restricted to the Level 1 diversity housing price range 1	**
Additional credit if 30% to 50% of Level 1 or 2 units are developed as detached single family units, or	2
Additional credit if over 50% of Level 1 or 2 units are developed as detached single family units	3
<b>Chapter 2 Diversity Housing Level 3 and 4</b>	
Chapter 3 At least 10% but less than 20% of units are Level 3 or 4 units, or	2
20% to 50% of units are Level 3 or 4 units, or	2.5
Over 50% of units are Level 3 or 4 units	2
Additional credit if at least 50% of these diversity units are restricted to the Level 3 diversity housing price range	1
<b>Qualified Neighborhoods</b>	
Development is in a Qualified Neighborhood A and at Level 3 housing price or higher	3.5
Development is in Qualified Neighborhood B and qualifies for points for providing Level 1 or 2 housing, or	2
Development is in Qualified Neighborhood B and qualifies for points for providing Level 3 or 4 housing	1
<b>Protection of Cultural Resources</b>	
Chapter 4 Preservation of Historic Resource	2
Preservation of significant additional property surrounding a Cultural Resource that enhances its cultural value, as determined by the Historic Landmarks and Preservation District Commission	2
<b>Efficient Land Use</b>	
Near major transit corridor	2.5
Brownfield site	6
*Land dedicated for future roadway accommodation, in combination with open space land or solely for right-of-way, qualifies for incentive points as listed here for open space.	
** 50% of above listed, Diversity Housing Points as additional credit.	

For purposes of illustration, the Jefferson County income limits and housing price limits for 2004 are as follow:

	1 Bedroom	2 Bedrooms	3 Bedrooms	4 Bedrooms
Low-moderate Income (80% of Median)	\$37,250	\$41,990	\$46,550	\$50,300
Level 1 House Price	\$93,130	\$104,750	\$116,380	\$125,750
Level 2 House Price	\$102,440	\$115,230	\$128,010	\$138,330
Level 3 House Price	\$111,750	\$125,700	\$139,650	\$150,900
Level 4 House Price	\$121,060	\$136,180	\$151,290	\$163,480

**Note:** *Low-moderate income levels for the Louisville MSA are updated annually. This information is available from the US Department of Housing and Urban Development website. Refer to Section 8 income limits as posted at <http://www.huduser.org/datasets/il.html>*

Table 4.5.2 Maximum Permitted Gross Density\*

ZONING DISTRICT		3pts	4pts	5pts	6pts	7pts	8pts	9pts	10pts	11pts	12pts	13pts	14pts	15pts
R-4		3.3	3.4	3.5	3.6	3.7	3.8	3.9	4.0	4.1	4.2	4.4*	4.6	4.84
R-5		4.4	4.6	4.8	5.0	5.2	5.4	5.6	5.8	6.0	6.2	6.5*	6.8	7.26

\* Portions of proposed developments located more than one mile from a major transit corridor or an existing major or minor arterial classification roadway shall not be eligible for maximum gross densities to exceed 4.0 dwelling units per acre in the R-4 zoning district and 5.8 dwelling units per acre in the R-5 zoning district utilizing the Alternative Development Incentives. The maximum permitted density in developments located partially within and partially outside the one mile distance is set forth in Section 4.5.2.

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**Chapter 4 Part 6 Development On Sites with Environmental Constraints**

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This part is intended to provide a standard procedure for identification of constraints when development is proposed on sites having environmental constraints, and to provide a means to ensure compliance with this chapter's environmental protection standards.

**4.6.1 Applicability & Exemptions**

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**A. Applicability**

Except as exempt under subsection B. below, this part shall apply to all land disturbing activities.

**B. Exemptions**

This part shall not apply to the following development activities:

1. The redevelopment of sites with environmental constraints including reconstruction of an existing building that:
  - a. Existed on such site on March 1, 2003; and
  - b. Does not increase the amount of impervious surface coverage that existed on March 1, 2003; and
  - c. Does not entail a change in use for which a conditional use permit for potentially hazardous uses is required.
2. Addition of accessory structures, or alteration of the ground surface (cutting, filling, grading) associated with landscaping, installation of walks or driveways, or similar activities on sites developed with a principal structure built prior to March 1, 2003.
3. Clearing and other activities required for surveying and preliminary site investigation, conducted in accordance with a Site Disturbance Permit issued in accordance with the Erosion Prevention and Sediment Control ordinance.
4. Maintenance of roads and utility lines.
5. Expansion of an existing residential structure by less than 50% or of a non-residential structure by less than 10%.
6. Construction on existing lots shown on preliminary plans approved between August 7, 1997 and March 1, 2003.

**4.6.2 Determination of Sites with Environmental Constraints**

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**A. Identification of Environmental Constraints**

1. Applications for land disturbing activities not exempted in 4.6.1 shall include a checklist indicating the presence or absence of the following features on the site to be developed:
2. Local regulatory conveyance zone/regulatory flood plain as defined by local ordinance.
3. Protected waterways subject to the protection standards in Chapter 4 Part \* "Waterways & Wetlands Protection"
4. Lakes and impoundments of one acre or greater.
5. Wetlands with a surface area of 0.1 acre or greater and subject to the protection standards in Chapter 4 Part 8, "Waterways & Wetlands Protection."
6. Karst features subject to subject to development restrictions as defined in Chapter 4 Part 9.

7. Steep slopes 20% or greater.

Unstable soils as determined by the Natural Resources Conservation Service and depicted on Core Graphic 5.

The presence of any of these environmentally constrained features shall be confirmed by reference to the best available federal, state, or county mapping and resources (e.g., floodplain or LOJIC maps) as determined by the Planning Director, or as confirmed by a site-specific survey conducted by a qualified professional.

B. Determination of Sites with Environmental Constraints.

A development site that contains one or more of the environmentally constrained features listed in paragraph A, above, shall be designated a "Site with Environmental Constraints."

C. Approval Required.

The Planning Director, or designee, shall approve all determinations of sites with environmental constraints. The Director may require a site-specific survey if the Director determines that the magnitude of the development, its potential environmental impacts, or inadequacy of the best available mapping justify more detailed identification of constrained areas.

#### 4.6.3 Designation of Limits of Disturbance

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A. General

For sites with environmental constraints, the applicant shall establish, on each preliminary and final subdivision plat and on each site development plan, proposed building envelopes and the limits of site disturbance in relation to environmentally constrained features. The limits of site disturbance shall include the specific area(s) of a lot, lots, or development site within which the proposed development (including buildings, accessory structures, parking and driveways) may be constructed and within which all development activity, including grading, cutting and filling shall be contained.

B. Final Plans and Record Plats

Approved site disturbance limits shall be shown on the preliminary and final subdivision plats and/or on the development plan for each lot or development site.

#### 4.6.4 Compliance with Applicable Regulations

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A. General

Land disturbing activity occurring on or within an environmentally constrained feature or within a buffer area associated with such feature as established by this Land Development Code, including any construction, subdivision, clearing or grading activities, unless exempted by 4.6.1.B, shall be permitted only in compliance with regulations applicable to said constrained feature.

B. Standards For Protection During Construction.

Site disturbance limits shall be designated in the field prior to commencement of excavation, grading, or construction with construction barrier fencing or other methods approved by DPDS. For trees and clumps of trees to be preserved within the site disturbance limit, tree protection specifications as required in Chapter 10 Part 1, "Tree Canopy," shall be followed.

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## Chapter 4 Part 7 Development On Steep Slopes

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The purpose of this part is to guide development in steeply sloped or unstable hillside areas consistent with Cornerstone 2020 Comprehensive Plan guidelines, to protect natural areas and features and to locate development, where possible, in areas that do not have severe environmental limitations.

### 4.7.1 Purpose & Intent

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This section intends to regulate hillside development in order to protect life and property from hazards due to slope, unstable soils, earth movement and other geologic and hydrologic hazards. More specifically, these regulations are intended to:

- A. Maintain property values and avoid property damage due to development of steep slopes and unstable soils;
- B. Incorporate current design, landscape architecture, architecture and civil engineering practices to preserve, enhance, and/or promote the stability and environmental quality of hillside areas;
- C. Preserve or enhance the beauty of the landscape by encouraging the maximum retention of natural topographic features including slopes, ridge lines, vistas, and natural plant communities;
- D. Promote a safe means of ingress and egress for vehicular and pedestrian traffic to and within hillside areas while at the same time minimizing the scarring effects of hillside street construction;
- E. Encourage imaginative and innovative building techniques to create buildings suited to natural hillside surroundings; and
- F. Enhance neighborhood character and community identity associated with the County's hillsides.

### 4.7.2 Applicability & Exemptions

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#### A. Applicability

This part shall apply to all land disturbing activity, including new development and subdivision, proposed on:

1. Properties that contain slopes of 20% or greater ("steep slopes"), or
2. Properties that contain soils rated as "unstable" on Core Graphic 5.

From Definitions [Chapter1 Part2]: Land Disturbing Activity

– All construction, demolition, reconstruction modification, extension, or expansion of structures or parking areas, placement of fill, dumping, storage of earthen materials, excavation, land clearing, clear-cutting, tree and vegetation removal, grading, grubbing or any similar activity or combination thereof that changes the natural cover or topography creating the potential for erosion and contribution to sediment.

#### B. Land Disturbing Activity

Land disturbing activity includes the following:

1. Clearing of more than 5,000 square feet of forested area for development;
2. Grading, excavation, construction of foundations, footings or retaining walls, or alteration of the ground surface, except for ground surface, except for activities defined as agricultural operations in KRS 224.71-100 through 140;
3. The installation of utilities, including but not limited to water, sewer, natural gas, electric, telephone and cable.

## C. Exemptions

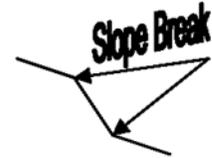
This part shall not apply to the development activities listed in 4.6.1.B.

**4.7.3 Development on Steep Slopes**

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## A. Measurement of Steep Slopes

The restrictions on development on sloped areas in this part refer to existing (pre-development) site conditions. Slopes shall be determined by dividing the horizontal run of the slope into the vertical rise of the same slope and converting the result into a percentage value.



Steepness of slope shall be measured from the points with the highest and lowest elevation between slope breaks. The Planning Director in consultation with NRCS representatives shall make the final determination of what constitutes a slope break.

**4.7.4 Land Disturbing Activity on Unstable Soils.**

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## A. Land disturbing activity on unstable soils (as depicted on Core Graphic 5) is permitted only in accordance with the Comprehensive Plan and in keeping with the following:

1. The Planning Commission determines the proposed construction cannot be accommodated on a portion of the site that does not contain unstable soils; and,
2. The application for the land disturbing activity includes a geotechnical survey report, prepared in accordance with best practices. For land disturbing activity in conjunction with a plan review (preliminary subdivision plan, development plan, conditional use plan, etc.) required by this code, a geotechnical report shall be submitted with the application for the required review. Such survey will ordinarily include information obtained by drilling, locating of bedrock and testing of soils for shear strength. The report shall be prepared by a licensed and Kentucky- registered professional engineer practicing in accordance with KRS 322 and whose area of expertise includes geotechnical engineering. In order for the proposed construction to be approved, the report must:
  - a. conclude the proposed disturbance and/or construction can be carried out in a manner that will minimize impact on the slope and will not adversely impact foundation stability on the subject property and surrounding properties; and,
  - b. conclude that stable foundations can be constructed on the site and identify the mitigation measures and construction practices, including construction supervision, necessary to assure the stability of buildings and foundations to be constructed on the site; and,
  - c. include erosion and sediment control measures necessary to assure compliance with the Jefferson County Erosion and Sediment Control Ordinance; and,
3. The applicant provides a plan, acceptable to the Commission, that specifies how the mitigation measures and construction practices including construction supervision, necessary to assure the stability of buildings and foundations to be constructed on the site as recommended in the geotechnical report will be implemented.
4. Prior to requesting a full building permit, the applicant shall provide certification from a professional engineer having the qualifications described in paragraph 2, above, that site preparation and foundation construction were carried out in accordance with the approved mitigation measures and construction practices.
5. Prior to requesting a certificate of occupancy for any structure on the site, the applicant shall provide certification from a geotechnical soils engineer certifying that land disturbance and construction were

carried out in accordance with the mitigation measures and construction practices, including inspections, set forth in the geotechnical report.

6. Prior to site disturbance, the applicant shall submit a bond of sufficient amount to cover the cost of site stabilization.

#### **4.7.5 Land Disturbing Activity on Slopes Greater Than 20%.**

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- A. Land disturbing activity on slopes greater than 20% is permitted on lots existing prior to the effective date of this regulation and on lots created by minor plats submitted for review after the effective date of this regulation only if the activity is in keeping with the Comprehensive Plan and the proposed activity complies with the following standards:
  1. The Planning Director finds that the design and configuration of the development results in the minimum disturbance of slopes greater than 20% necessary to accommodate the proposed use of the site; and,
  2. Compatible on-site utilities (electric, phone, cable) are placed in a common trench; and,
  3. Shared access driveways serving single family residences are used when this technique reduces pavement and grading of steep areas.
- B. Land disturbing activities on slopes greater than 20% is permitted on lots created by major subdivision after the effective date of this regulation only if the activity is in keeping with the Comprehensive Plan and the proposed activity complies with the following standards:
  1. The Commission finds that the design and configuration of the development results in the minimum disturbance of slopes greater than 20% necessary to accommodate the proposed use of the site; and,
  2. Compatible on-site utilities (electric, phone, cable) are placed in a common trench; and,
  3. Land disturbing activities on slopes greater than 20% and less than 30% shall be required to prepare a geotechnical survey report if the staff of the USDA Natural Resources Conservation Service determines such a study is warranted, given the site's soil and geologic characteristics. A geotechnical report shall be submitted for land disturbing activities on slopes greater than 30%. The geotechnical survey report shall be submitted with the application for land disturbing activities and with the application for a plan review (preliminary subdivision plan, development plan, conditional use plan, etc.) required by this code and shall be prepared in accordance with best practices. Such survey will ordinarily include information obtained by drilling, locating of bedrock and testing of soils for shear strength. The report shall be prepared by a licensed and Kentucky-registered professional engineer practicing in accordance with KRS 322 and whose area of expertise includes geotechnical engineering. The report shall include mitigation measures as needed to ensure stability and minimize environmental impact during site preparation and construction phases of the regulated activity. In addition, the report shall include erosion and sediment control measures necessary to assure compliance with the Jefferson County Erosion and Sediment Control Ordinance. The Planning Commission may approve the activity if the report opines and demonstrates that:
    - a. The slope's ground surface and subsurface are not unstable;
    - b. Development of the slope and associated mitigation measures will not increase the degree of risk of slope instability both on- site and on adjacent lands; and,
    - c. If a geotechnical report is required, the applicant provides a plan, acceptable to the Commission, that specifies how the mitigation measures and construction practices, including construction supervision, necessary to assure the stability of buildings and foundations to be constructed on the site as recommended in the geotechnical report will be implemented.

#### **4.7.6 Independent Review of Geotechnical Survey Report**

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The Planning Commission may, on recommendation of the Natural Resource Conservation Service or MSD or the Planning Director, require an independent review of the submitted geotechnical survey report. Such review shall be conducted by a licensed and Kentucky-registered professional engineer practicing in accordance with KRS 322

and whose area of expertise includes geotechnical engineering. The reasonable cost of such review shall be borne by the applicant.

#### 4.7.7 Development Potential Transfer Allowed

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- A. Major subdivision development proposals submitted after the effective date of this regulation and which permanently preserve areas of the site with slopes greater than 20% may transfer the development potential (building sites or floor area) of the permanently preserved area to the remainder of the site subject to the following limitations:
1. The subdivision is not being developed under the Alternative Development Incentives of the Land Development Code; and,
  2. Areas to be permanently preserved are preserved in a manner acceptable to the Commission (e.g., conservation easement, common open space, etc.); and,
  3. The area of the site to which development potential is being transferred is at least as large as the area from which development potential is being transferred (for example; if an applicant wishes to transfer development potential from 3 acres, the portion of the site to which development is shifted must be at least 3 acres); and,
  4. All lots in the proposed development meet the minimum alternative development incentive lot size of the applicable Form District; and,
  5. All lots in the proposed development meet the height, yard and setback requirements of the applicable Form District.
- B. The maximum development potential allowable for transfer shall be determined by one of the following methods:
1. One half of the theoretical development potential based on the number of acres preserved and the existing zoning of the area to be preserved (for example; if 3 acres of an R-4 site is proposed for protection, then 7 building sites could be transferred to other portions of the same property -  $3\text{ac} \times 4.84 \text{ units/acre} / 2 = 7.26$  units); or,
  2. The realistic development potential determined by an engineered development plan including a preliminary geotechnical feasibility study and meeting all other requirements of the Land Development Code.

**NOTE:** *Although lot sizes are reduced setbacks are not reduced for density transfer lots. Consistent appearance throughout the subdivision is intended.*

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**Chapter 4 Part 8 Waterways and Wetlands Protection**

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**4.8.1 Purpose & Intent**

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This part is intended: (i) to promote, preserve, and enhance the important hydrologic, biological, ecological, aesthetic, recreational, and educational functions that river and stream corridors, lakes and other critical waterways, wetlands, and their associated riparian areas provide in Jefferson County; (ii) to guide development on sites with environmental constraints consistent with the Cornerstone 2020 Comprehensive Plan; (iii) to locate development, where possible, in areas that do not have severe environmental limitations and to protect natural areas and features as a part of development planning, by designating buffer areas that will guide future development adjacent to protected waterways; (iv) to minimize water pollution, including sediment and other pollutants in surface runoff; to promote bank stabilization; to protect riparian wetlands and their wildlife habitats; (v) generally to promote land use policies which will maintain or improve water quality levels; (vi) to implement goals of the Clean Water Act.

**NOTE:** *The following terms relating to Waterways & Wetlands Protection are included in the Definitions (Chapter 1 Part 2): Top of Bank or Stream Bank, Impervious Surface Area, Land Disturbing Activity, Protected Waterway, Riparian Area, Riparian Vegetation, Riprap, Wetlands*

**4.8.2 Applicability & Exemptions**

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**A. Applicability.**

Unless exempt by subsection B.2 below, this part shall apply to any land disturbing activity and to all new subdivisions, including the expansion or reconstruction of buildings and impervious surface areas existing on March 1, 2003 that occur within a buffer area of a Protected Waterway.

**B. Exemptions.**

The following developments shall be exempt from this Part's standards:

1. Agricultural Operations as defined in KRS 224.71-100 through 140;
2. The expansion of the building footprint of a residential building existing on March 1, 2003 when the expansion is less than 50% of the building footprint on said date.
3. The expansion of the building footprint of a non-residential building existing on March 1, 2003 when the expansion is less than 10% of the building footprint on that date.
4. A legal lot of record zoned for one and only one single family detached dwelling may be developed (subject to the Development Plan review procedures stated in Chapter 11 Part 6 of this Land Development Code) for one such dwelling provided that the intrusion into the required buffer is the minimum necessary to accommodate the proposed use.
5. Docks, boat launches, structures which accommodate public water supply intake, water quality treatment plant sewer lines and outfalls, and other uses which, owing to their water dependent nature, cannot be located anywhere but within a designated Buffer Area.

**4.8.3 Establishment of Buffer Areas and their Boundaries.**

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**NOTE:** *In general lakes formed by impoundment of streams are subject to this regulation.*

**A. Applicability.**

Buffer Areas shall be established along Protected Waterways, which shall include the following waterways:

- 1a. Any perennial stream or river (or portion thereof). Perennial streams are required to have either a Type A or Type B buffer area based on the applicable form district as listed in Table 4.8.1.
- 1b. For intermittent streams or rivers (or portions thereof), if the proposed development is covered by a Stormwater Construction General or individual Permit issued under the Kentucky Pollutant Discharge Elimination System (KPDES) program, a buffer area consistent with that required under such permit shall be maintained. For proposed developments not covered under such permit, appropriate storm water best management practices protective of the quality of the intermittent stream will be employed.
2. Wetlands greater than 0.1 acre and subject to federal jurisdiction of the U.S. Environmental Protection Agency and the Army Corps of Engineers; and
3. Lakes with a permanent pool elevation greater than 3 acres in size if they constitute “waters of the Commonwealth” as defined in KRS 224.
4. Other water bodies that have been designated through nomination and legislative approval. A water body may be nominated as a Protected Water Body by resolution of the legislative body(ies) or by resolution of the Planning Commission. The Planning Commission shall conduct a public hearing and recommend candidates for designation to the legislative body(ies) with jurisdictional control which shall have final designation authority.

Buffer areas are established by this Part along all protected waterways located in Jefferson County, except that more restrictive buffer areas established in Special Districts pursuant to Chapter 3 of the LDC supersede the requirements of this part.

B. Approval Required.

Specific and final buffer area boundary delineations shall be determined by the Planning Director, or designee.

- C. The minimum Buffer Area requirements established by this Part for water bodies other than wetlands are either:
1. The minimum width as set forth in Table 4.8.1 below. Type A Buffer Areas and the Streamside Zone of Type B Buffer Areas are measured from the top of the bank of the protected stream. Specific and final buffer area boundary delineations shall be determined by the Planning Director, or designee. Input regarding specific top of bank locations shall be provided to the Planning Director, or designee, by Army Corps of Engineers (U.S.A.C.E.), United States Geological Survey, Kentucky Division of Water, the Metropolitan Sewer District, the Natural Resources Conservation Service or other informed parties.
  2. The alternative buffer width and design, approved by the USDA Natural Resources Conservation Service, provided it meets the agency’s standards and specifications for riparian buffers. Sites located in form districts otherwise subject to Type B buffer requirement (Table 4.8.1) are eligible for alternative buffer widths, at the applicant’s discretion,

Table 4.8.1

Table 4.8.1		
Type of Protected Waterway	Buffer Area Type & Minimum Buffer Area Width (Feet) By Form District	
	Type "A" Buffer Area Applies in the Following Form Districts	Type "B" Buffer Area Applies in the Following Form Districts:
Protected Waterways Other than Wetlands	<ul style="list-style-type: none"> <li>• Downtown</li> <li>• Traditional Neighborhood</li> <li>• Traditional Marketplace Corridor</li> <li>• Traditional Workplace</li> <li>• Village FD Center</li> </ul>	<ul style="list-style-type: none"> <li>• Regional Marketplace Center</li> <li>• Town Center</li> <li>• Suburban Marketplace Corridor</li> <li>• Neighborhood</li> <li>• Suburban Workplace</li> <li>• Campus</li> <li>• Village FD Area outside of Center</li> </ul>
	Total Buffer Area = 25 feet	Total Buffer Area = 100 feet, comprised of the following 3 zones: 1. Streamside zone: 25 feet: 2. Middle zone: 50 feet. 3. Outer zone: 25 feet.

- D. Required stream buffers shall apply to all areas within the buffer width as described in this Part, whether the protected water body is on the subject property or on an adjacent property.

#### 4.8.4 Modifications or Variances of Buffer Area Boundaries

##### A. Permitted Minor Modifications from Buffer Area Requirements

A 25% reduction in the buffer width is permitted on a portion of the property if it is offset by an increase of the buffer width on an equal or greater portion of the same property with the result that the average buffer area width for the property is equal to or greater than that specified in Table 1.

##### B. Variances – Additional Criteria

1. Buffer Area Requirements are dimensional requirements with respect to which variances may be requested as specified in KRS 100.243. In addition to the applicable criteria for variances provided by statute, the following factors may be considered in such a variance request.
  - a. The variance is necessary because the requirements of this section represent an extreme hardship such that minimal or no reasonable economic use of the land is available without reducing the width of the required Buffer Area.
  - b. The size, shape, or topography of the property, as of March 1, 2003, is such that it is not possible to construct a single family detached dwelling without encroaching into the required Buffer Area.
  - c. Encroachment into the required Buffer Area shall be limited to the minimum necessary to accommodate the proposed use.
  - d. The Applicant shall commit, to the satisfaction of the County, to mitigation measures that substantially offset any potential adverse impacts of the proposed encroachment during site preparation, construction, and post-construction.
  - e. Approval of the variance will not result in a reduction in water quality.

#### 4.8.5 Wetlands Delineation & Protection Standards

##### A. Delineation of Wetland Boundaries.

1. Mapped Wetlands. Boundary delineation of wetlands shall be established using Hydric Soils as a preliminary indicator of wetlands that may meet jurisdictional requirements.

2. Disputed Wetlands. If a wetlands has not been mapped, or its boundaries not clearly established, or if either the County or Applicant dispute the existing boundaries, the Applicant shall retain a qualified person with demonstrated expertise in the field to delineate the boundaries of the wetland in keeping with the standards specified in The Corps of Engineers Wetlands Delineation Manual, Technical Report Y-87-1 (January 1987). Subsequent revisions of the Delineation Manual shall not be incorporated into this delineation methodology.
- B. Compliance with Applicable Federal Wetlands Laws or Regulations
1. Prohibited Activities. No person shall engage in any activity that shall disturb, remove, fill, drain, dredge, clear, destroy, or alter any area, including vegetation, within a wetlands that falls in the jurisdiction of the federal government and its agencies, except as may be expressly allowed under applicable federal laws or regulations. Draining any wetland that falls in the jurisdiction of the federal government and its agencies is prohibited except in keeping with the provisions of paragraph 2, below.
  2. Federal Approvals Prerequisite Louisville Metro or Local Regulatory Agency Approval. The MSD shall not grant final approval to any land disturbing activity, development, or subdivision in a wetlands that falls within the federal government's jurisdiction until the Applicant demonstrates that all necessary federal approvals and permits have been obtained.
- C. Wetland Buffer Width and Use Restrictions
1. Width  
Wetland buffer areas shall be at least 25 feet in width. The total width and design shall conform with USDA Natural Resources Conservation Service criteria, but shall not exceed 100 feet.
  2. Permitted Uses and Activities  
Uses shall be as specified in section 4.8.6.

#### **4.8.6 Standards for Protected Waterways and All Buffer Areas**

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- A. General Rule.  
No land-disturbing activity, development, or subdivision of any type shall occur in a protected waterway or Buffer Area, except as expressly allowed in this part and other applicable County, state, or federal laws and regulations. The County shall not approve any land-disturbing activity, development, or subdivision until the Applicant obtains all other necessary county, state, and/or federal permits. All Buffer Areas shall remain in a vegetated, natural state and shall not be modified in any manner except as expressly allowed in this section. Plant material adequate for filtering surface drainage shall be maintained within all Buffer Areas.
- B. Permitted Uses and Activities in the 100-Year Floodplain.  
Any land disturbing activity, development, or subdivision in the 100-year floodplain shall demonstrate compliance with the Jefferson County Floodplain Ordinance, as amended.
- C. Uses Permitted in the Type A Buffer Areas and the Streamside Buffer Zone.  
Within a Type "A" Buffer Area and the Streamside Zone of a Type "B" Buffer Area, allowable uses and activities are restricted to:
1. Public flood control structures,
  2. Utility rights of way (Type A buffer only),
  3. Pedestrian-only trails, and
  4. Road crossings, where permitted.
- D. Uses Permitted in the Middle Buffer Zone.

Allowable uses and activities within the middle zone of a Type B Buffer Area are restricted to:

1. Utility rights of way
2. Biking or hiking trails,
3. Stormwater management and sediment control facilities approved by the MSD,
4. Recreational uses that entail no impervious surfaces, or are approved by the Planning Commission.

E. Uses Prohibited in the Outer Buffer Zone.

The following uses and activities are not allowed within the outer zone of a Type B Buffer Area:

1. Septic systems, and
2. Permanent structures or impervious surface coverage with a footprint of greater than 100 square feet, with the exception of approved recreational trails.

F. Wetlands and Alternative Type B Buffers

The first 25 feet of wetland and alternative buffers shall meet the use restrictions established for the Streamside Buffer Zone (paragraph C, above). For buffers less than 50 feet in width, the balance of the buffer area shall meet the Middle Buffer Zone restrictions (paragraph D, above). For buffers more than 50 feet in width, one-half the width outside the first 25 feet may be used in accordance with the Middle Buffer Zone restrictions and one-half may be used in accordance with the Outer Buffer Zone restrictions.

G. Location of Platted Lots in Buffers Areas.

1. Any lot contained within a preliminary subdivision plat and intended for development shall be platted outside Type A Buffer Areas, and outside the Streamside and Middle zones of all Type B Buffer Areas.
2. The prohibition on development lots in this subsection shall not preclude the designation of the Buffer Area as a tract of land within the preliminary and final plats related to such real property, provided there is a plat note on such preliminary and final plat that references that the Buffer Area is subject to the terms and conditions of this section and that the Buffer Area tracts are clearly identified as non-buildable tracts.

H. Prohibited Uses and Activities in Buffer Areas.

The following uses and activities are prohibited in all Buffer Areas because of their proven potential for water pollution:

1. Storage of hazardous substances and fertilizers.
2. Above or below ground petroleum storage facilities.
3. Drain fields from on-site sewage disposal and treatment system (i.e., septic systems).

**NOTE:** *The application of pesticides and herbicides within Type A and the first 75 feet of Type B Buffer Areas is strongly discouraged.*

4. Raised septic systems.
5. Solid waste facilities, such as landfills and including junkyards.
6. Confined animal feedlot operations.
7. Subsurface discharges from a wastewater treatment plant.
8. Land application of biosolids.
9. Filling and/or excavation activities other than those attendant to uses specifically authorized.

I. Recreation, Education, or Scientific Activities Allowed.

Structures and improvements for recreational, educational, or scientific activities, including but not limited to fishing access and wildlife management and viewing, may be permitted in a Buffer Area, provided a management plan that establishes long-term protection of the Buffer Area is submitted with the final plat or plan and is approved by the County.

J. Stream and Buffer Area Crossings: Roads, Bridges, Trails, and Utilities.

Roads, bridges, trails, and utilities are permitted in a Buffer Area and may cross the protected waterway, subject to the Planning Commission's approval based on the recommendations of the Public Works and DPDS and the MSD.

1. The Applicant shall restore any disturbance of the Buffer Area and protected waterway by re-grading and re-vegetation. See paragraph K, "Restoration," below for applicable standards. Provisions for restoration of the disturbed area shall be included in any development or subdivision agreement for the project, with adequate security to guarantee that the restoration will be completed.
2. The right-of-way shall be the minimum width necessary for installation, access, and maintenance.
3. Access for maintenance of utilities in Buffer Areas should be at specific points rather than parallel to the utility corridor.
4. The angle of any crossings shall be perpendicular to the protected waterway or Buffer Area in order to minimize clearing and other land disturbance, unless the Planning Commission finds based on comments from MSD, Public Works or the Planning Director that a perpendicular alignment is not feasible.
5. The number of road crossings shall be the minimum number necessary to provide for adequate transportation connections as required in this Land Development Code.
6. No more than one fairway crossing associated with a permitted golf course use shall be allowed for every 1,000 linear feet of Buffer Area.
7. Trench crossings of rock streambeds visible through the water column or exposed on a seasonal basis shall be restored to a natural appearance using grouting techniques.
8. Plans for the crossing submitted with the application shall identify the alignment of the crossing, the proposed construction techniques, the proposed construction and working easements, and mobilization, staging and temporary disposal areas.

K. Restoration.

At the time of development, the following restoration standards shall be met.

1. Restoration Required to Stabilize Banks. Riparian vegetation shall be planted, as necessary, to stabilize the banks of a protected waterway within a Buffer Area. Where a bank is denuded of its vegetation due to erosion, slope failure or similar occurrence, appropriate vegetation shall be planted to quickly establish a vegetative cover, and then replanted with riparian vegetation to ensure the long-term stabilization of the bank. Restoration plantings shall be selected from the MSD native species restoration specifications.
2. Restoration of Eroded Banks Required. Where stream bank erosion has occurred as a result of on-site development activities, riparian vegetation shall be planted to stabilize the stream bank unless the County determines such vegetation would be inadequate to re-stabilize the bank. In instances where the County determines that planting of riparian vegetation is inadequate to stabilize the stream bank alternate methods of stabilization, approved by the County shall be utilized.
3. Other Restoration Allowed. Stream, stream bank, and vegetation restoration projects are allowed where the goal is to restore the protected waterway, wetlands, or Buffer Area to an ecologically healthy state, as approved by MSD.

L. Water Quality Monitoring Allowed.

Water quality monitoring and stream gauging are allowed within the protected waterway and Buffer Area, as approved by the DPDS or by MSD.

M. Tree and Vegetation Removal.

1. Existing, healthy trees and vegetation within a Buffer Area shall be preserved
2. This provision shall not prohibit any of the following:
  - a. Removal of dead or diseased trees/vegetation (provided a live root system stays intact),
  - b. Removal of noxious weeds;
  - c. Removal of non-native trees/vegetation that threaten native species growth or reintroduction,
  - d. Removal of fallen trees, tree limbs, brush and similar debris that accumulate naturally in river/stream beds and that impede river/stream flow, or
  - e. Removal of any other tree/vegetation that is a threat to the public health or safety.
  - f. Removal of trees as part of an approved plan for stream side recreation or access (e.g. pedestrian trail) or as part of an approved utility or road construction project.

#### **4.8.7 Credit for Open Space**

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All protected waterways and their Buffer Areas shall count as open space for the purposes of Chapter 10 Part 5 "Open Space Standards" of this Land Development Code.

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**Chapter 4 Part 9 Development on Karst Terrain**

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**4.9.1 Purpose & Intent**

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The purpose of this part is to guide development in karst terrain areas consistent with Cornerstone 2020 Comprehensive Plan guidelines, to protect natural areas and features and to locate development, where possible, in areas that do not have severe environmental limitations. The intent of this part is to regulate karst terrain development in order to protect the public health, safety and welfare by regulating the development and use of environmentally constrained lands to proceed in a manner that promotes safe and appropriate construction, storm water management and ground water quality. More specifically, these regulations are intended to:

- A. Maintain property values and avoid property damage and/or safety concerns due to development in karst terrain areas;
- B. Incorporate geotechnical engineering practices to promote the stability and environmental quality of karst terrain areas;
- C. Preserve or enhance the beauty of the landscape by encouraging the retention of natural topographic features including sinkholes, springs, caves, and natural plant communities;
- D. Protect ground water by minimizing pollution caused by development on karst terrain;
- E. Protect downstream development from flooding caused or exacerbated by development activity in karst terrain areas, and
- F. Promote building stability by limiting the location of buildings in karst terrain areas and by incorporating geotechnical engineering techniques into construction activity.

**4.9.2 Applicability & Exemptions**

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**A. Applicability**

This part shall apply to all land disturbing activity, including new development and subdivision, proposed on karst terrain.

**B. Land Disturbing Activity**

Land disturbing activity includes the following:

1. Clearing of more than 5,000 square feet of forested area for development;
2. Grading, excavation, construction of foundations, footings or retaining walls, or alteration of the ground surface, except for activities defined as agricultural operations in KRS 224.71-100 through 140;
3. The installation of utilities, including but not limited to water, sewer, natural gas, electric, telephone and cable.

**C. Exemptions**

This part shall not apply to the development activities listed in 4.6.1.B. In addition to 4.6.1.B, major and minor subdivisions, category 2 and 3 reviews and plan certain development reviews approved prior to the effective date of this regulation shall be considered exempt from this part.

**4.9.3 Identification of Karst Terrain Features**

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- A. Where the proposed land disturbing activity is located within the Karst Prone area of Jefferson County as indicated on the Karst Prone Area Map located within Appendix 4I, the applicant shall conduct a karst survey of the property and shall identify on plans all karst geologic features (see Section 4.9.4) The karst survey shall be conducted by a geologist or engineer licensed in the State of Kentucky with experience in the review and analysis of karst geologic features or by an individual Registered with PDS. Registration requirements include the

completion of an approved training course in the identification of karst geologic features for the purpose of conducting a karst survey. The karst survey shall include at least one field site inspection as well as the use of other materials as needed such as:

1. Existing and historical aerial photographs
  2. Soils report (available from the National Resource Conservation Service)
  3. Geological maps and reports (available from the United States Geological Survey and the Kentucky Geological Survey)
  4. Caves (based on existing data obtained from groups including the Kentucky Geological Survey, Kentucky Division of Water, the Kentucky Speleological Survey, and other local cave groups)
  5. Related available data (e.g. previous development plans, neighborhood plans, LOJIC data, etc.).
- B. A note shall be included on all required plans indicating the person(s) who conducted the mandatory site inspection for the karst survey of the property and when it was performed.

#### **4.9.4 Karst Geologic Features**

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- A. The following is the list of karst geologic features to be identified as part of the karst survey and identified on all required plans. \* identifies those features requiring a karst feature buffer as required in Section 4.9.5):
1. Sinkhole Collapse Feature\*
  2. Sinkhole
  3. Surface drainage that flows into ground
  4. Ephemeral lakes after rainfall
  5. Cave Entrance(s)\*
  6. Subsurface cave passages as determined by preexisting cave maps obtained from organizations including the Kentucky Geological Survey, local cave organizations, and the Kentucky Speleological Survey.
  7. Springs - Evidence of standing water (rings of mud or organic debris in the low areas of closed surface depressions) following rains.
  8. Sinking Stream Sink Point\*
- B. The following are a list of requirements specific to certain Karst Geologic Features that shall be identified on all required plans when one of these features have been identified:
1. Sinkholes – Location and limits of the area of the sinkhole depression, including topographic boundary of the entire closed depression, any significant breaks in slope, and vertical rock or soil surfaces.
  2. Sinkholes shown on required plans shall also show the location and elevation of the lowpoint.
  3. Caves – Diameter and description of cave opening, including description of whether water flows into the subsurface prior to development, either perennially or intermittently.
  4. Springs - the first emergence of a spring and the surface stream downstream from this point.
  5. Sinkhole Collapse Feature
  6. Calculation of predevelopment and post-development surface drainage volumes directed toward the low point of the sinkhole, or the sinkhole collapse feature or cave entrance.

#### **4.9.5 Karst Geologic Feature Performance Standards**

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- A. The following standard applies to construction within sinkholes and over karst springs: The Planning Director or designee may approve the construction of impervious surfaces (such as structures, parking areas and driveways)

over sinkholes and springs in accordance with the following requirement: The applicant shall obtain the services of a engineer (geotechnical engineer) licensed in the State of Kentucky with experience in the review and analysis of karst geologic features practicing in accordance with KRS 322 to conduct a geological assessment report to recommend treatment and construction method. The Planning Director or designee may confer with other appropriate agencies (USGS (United States Geological Survey), KGS (Kentucky Geological Survey), Hoffman Environmental Research Institute (Western Kentucky University), NRCS (National Resource Conservation Service), MSD (Metropolitan Sewer District)) in determining the significance of the feature(s) in question as well as the appropriateness of the proposed treatment. If the proposed treatment and construction method is approved then the licensed geotechnical engineer shall be on the construction site to observe and verify that the correct treatment was applied during construction. The licensed geotechnical engineer shall submit a letter to Planning and Design Services stating that the approved treatment method was applied.

B. The following standards apply to sinkhole collapse features (including sinking stream sink-point and cave entrances):

1. The Planning Director or designee may approve the construction of impervious surfaces (such as structures, parking areas and driveways) with the exception of principal residential structures over sinkhole collapse features in accordance with the following requirement:

The applicant shall obtain the services of a engineer (geotechnical engineer) licensed in the State of Kentucky with experience in the review and analysis of karst geologic features practicing in accordance with KRS 322 to conduct a geological assessment report to recommend treatment and construction method.

The Planning Director or designee may confer with other appropriate agencies (USGS (United States Geological Survey), KGS (Kentucky Geological Survey), Hoffman Environmental Research Institute (Western Kentucky University), NRCS (National Resource Conservation Service), MSD (Metropolitan Sewer District)) in determining the significance of the feature(s) in question as well as the appropriateness of the proposed treatment. If the proposed treatment and construction method is approved then the licensed geotechnical engineer shall be on the construction site to observe and verify that the correct treatment was applied during construction. The licensed geotechnical engineer shall submit a letter to Planning and Design Services stating that the approved treatment method was applied.

2. Karst Feature Buffer: Where sinkhole collapse features are retained the applicant's engineer (geotechnical engineer) licensed in the State of Kentucky with experience in the review and analysis of karst geologic features practicing in accordance with KRS 322 shall determine the appropriate karst feature buffer based on their analysis of the particular collapse feature. At a minimum this analysis shall take into account surrounding evidence of instability such as surrounding soil subsidence. The karst feature buffer shall be measured starting from the last closed contour line of the sinkhole collapse feature or from the downstream-most point of the sinking stream, or from the cave entrance dripline as determined in the field by the applicant's licensed engineer or geologist. The filling of sinkhole collapse features may be approved by the planning director or designee based on an approved filling method designed by the applicant's engineer (geotechnical engineer) licensed in the State of Kentucky with experience in the review and analysis of karst geologic features practicing in accordance with KRS 322. No activities are permitted within the karst feature buffer except for regular maintenance of landscaping. Buffers located downslope of construction areas shall be physically screened with soil erosion and sediment controls approved by MSD. The buffer shall include ground cover and tree plantings as follows;
  - a. Trees listed on the preferred planting list may be planted within the buffer with approval from Planning Commission staff landscape architect.
  - b. Native Ground cover in accordance with the preferred planting list (non-invasive) shall be planted within the buffer.

C. The following standards apply to Sinkholes (Sinkhole Watershed Areas):

1. Flow of surface water into a sinkhole low point or sinkhole collapse feature shall not be increased from

predevelopment conditions as calculated within the geologic assessment report.

2. The applicant shall ensure to the satisfaction of the Metropolitan Sewer District that there will be no increase in soil erosion and sediment pollution directed toward any cave entrance, sinkpoint of a perennial or intermittent sinking stream, or sinkhole collapse feature.
  3. Stormwater drainage from a land use that stores, manufacturers, processes or distributes hazardous or potentially hazardous materials shall not be directed toward a sinkhole.
  4. Stormwater drainage from streets, parking lots, loading and unloading areas and fuel service stations shall not be directed toward a sinkhole unless the water is pretreated prior to entry into a sinkhole or the drainage is part of a Low Impact Development (LID) plan approved by MSD for the site.
- D. If utilities are to be constructed within a sinkhole the utilities shall be so constructed so as not to permit the flow of water along the utility line trench, and shall be imperviously diked at thirty (30) foot intervals.
- E. Cave entrances shall not be modified except for the placement of a bat accessible gate to prevent human access.

#### **4.9.6 Waivers**

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All performance standards within this part may be waived in accordance with the LDC waivers provisions located within Chapter 11, Part 8.

#### **4.9.7 Discovery of Karst Geologic Features During Site Disturbance and Construction**

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- A. The discovery of karst geologic features such as sinkholes, springs, sinkhole collapse features and caves shall be reported to the Planning Director or designee. All work within the area shall discontinue until such time as the applicant's engineer (geotechnical engineer) licensed in the State of Kentucky with experience in the review and analysis of karst geologic features practicing in accordance with KRS 322 has reported to the Planning Director or designee and the Planning Director or designee has approved the continuation of site disturbance and construction. In no case shall the construction of residential principal structures over sinkhole collapse features be approved except through the LDC waiver process as outlined in Chapter 11, Part 8.
- B. The Planning Director or designee may require revisions to all associated plans based on the location of the newly discovered geologic feature and its proximity to impervious surfaces, underground utilities, and stormwater drainage features (e.g. detention and retention basins). The plan revisions shall be made in accordance with the standards outlined within Section 4.9.5.

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**Chapter 4 Part 10 Community Facilities Review**

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**4.10.1 Community Facility Reviews**

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Community Facilities shall be reviewed in accordance with KRS 100.324 as provided below in its entirety and as required by the policies of the Louisville Metro Planning Commission.

KRS 100.324 Public Utility Facilities – Review of Proposed Acquisition, Disposition, or Change by Commission.

- (1) All other provisions of this chapter to the contrary notwithstanding, public utilities operating under the jurisdiction of the Public Service Commission, except as specified in KRS 100.987, or the Department of Vehicle Regulation or Federal Energy Regulatory Commission, any municipally owned electric system, and common carriers by rail shall not be required to receive the approval of the planning unit for the location or relocation of any of their service facilities. Service facilities include all facilities of such utilities and common carriers by rail other than office space, garage space, and warehouse space and include office space, garage space, and warehouse space when such space is incidental to a service facility. The Public Service Commission and the Department of Vehicle Regulation shall give notice to the planning commission of any planning unit of any hearing which affects locations or relocations of service facilities within that planning unit's jurisdiction.
- (2) The non-service facilities excluded in subsection (1) of this section must be in accordance with the zoning regulations.
- (3) Upon the request of the planning commission, the public utilities referred to in this section shall provide the planning commission of the planning unit affected with information concerning service facilities which have been located on and relocated on private property.
- (4) Any proposal for acquisition or disposition of land for public facilities, or changes in the character, location, or extent of structures or land for public facilities, excluding state and federal highways and public utilities and common carriers by rail mentioned in this section, shall be referred to the commission to be reviewed in light of its agreement with the comprehensive plan, and the commission shall, within sixty (60) days from the date of its receipt, review the project and advise the referring body whether the project is in accordance with the comprehensive plan. If it disapproves of the project, it shall state the reasons for disapproval in writing and make suggestions for changes which will, in its opinion, better accomplish the objectives of the comprehensive plan. No permit required for construction or occupancy of such public facilities shall be issued until the expiration of the sixty (60) day period or until the planning commission issues its report, whichever occurs first. Effective: April 23, 2002

History: Amended 2002 Ky. Acts ch. 89, sec. 3, effective July 15, 2002; ch 343, sec. 1, effective April 23, 2002; and ch 346, sec. 151, effective July 15, 2002. --Amended 1998 Ky. Acts ch. 231, sec. 3, effective July 15, 1998. -- Amended 1996 Ky. Acts ch. 383, sec. 1, effective July 15, 1996. – Amended 1988 Ky. Acts ch. 144, sec. 7, effective July 15, 1988. -- Amended 1984 Ky. Acts ch. 304, sec. 1, effective July 13, 1984. -- Created 1966 Ky. Acts ch. 172, sec. 80. Legislative Research Commission Note (4/23/2002). This section was amended by 2002 Ky. Acts ch. 89, sec. 3, ch. 343, sec. 1, and ch. 346, sec. 151. Chs. 89 and 343 are not in conflict and have been codified together. Chs. 343 and 346 appear to be in conflict, and where a conflict exists, the substantive changes in ch. 343 have been allowed to prevail over the revisory changes in ch. 346. Cf. KRS 7.123.

## Appendix 4A Acceptable Luminaires

Type of Fixture	Watts (Lumens)	Picture/Diagram
Cobra	175 (8,000) 250 (13,000) 400 (25,000) 1,000 (60,000)	
Floodlight	400 (25,000) 1,000 (60,000)	

Source: Louisville Gas & Electric Company

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### Appendix 4B Approximate Lumens Output For Various Lamps

Wattage	Lamp Type	Initial Lumens
35 W	High Pressure Sodium	2,250
50 W	High Pressure Sodium	4,000
70 W	High Pressure Sodium	6,400
70 W	Metal Halide	5,500
75 W	Incandescent (like in a home)	1,170
100 W	High Pressure Sodium	9,500
100 W	Metal Halide	9,000
100 W	Mercury	3,850
125 W	Mercury (residential security light)	7,000
150 W*	High Pressure Sodium	16,000
175 W	Metal Halide	14,000
175 W	Mercury	7,950
200 W	High Pressure Sodium	22,000
250 W*	High Pressure Sodium	28,000
250 W	Metal Halide	21,000
250 W	Mercury	11,200
310 W	High Pressure Sodium	37,000
320 W	Metal Halide	32,000
350 W	High Pressure Sodium	50,000
350 W	Metal Halide	36,000
400 W*	High Pressure Sodium	61,000
400 W	Metal Halide	36,000
400 W	Mercury	21,000
750 W	High Pressure Sodium	110,000
1000 W	High Pressure Sodium	140,000
1000 W	Metal Halide	110,000
1000 W	Mercury	57,000
1500 W	Metal Halide	155,000

SOURCE: GE Lighting Systems, Inc., January 1998; manufacturer's information, 2001.

\* These luminaires are the most commonly used by Louisville Public Works to illuminate local streets. The wattage of the bulb is determined by the road classification and the type of abutting land uses.

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### Appendix 4C Sample Light Readings

On April 17, 2001 a team of planners conducted a test to evaluate the existing lighting levels of different developments in Louisville/Jefferson County. The results of this field visit are summarized below.

LOCATION	FOOTCANDLE READING
Typical Living Room	3.0
Office in Fiscal Court Building (with window)	40 in center of room
Shelbyville Road Plaza	0.5 under light
Mall St. Matthews	7.5 under light
	2.0 between lights
	0.1 near perimeter road
Oxmoor Mall	11.0 under light
	1.9 between lights
	1.0 near perimeter road
Stonefield Square	5.7 under light
	2.6 between light
Southeast Christian parking lot	1.0 under light
Winn-Dixie on Blankenbaker	0.4 vertical at back wall (property line)
	6.2 under light in front
	2.0 between lights
Kroger's on LaGrange	1.4 vertical at back wall (property line)
	14 under light
	3.2 between lights
McDonald's on LaGrange	40 under light
	2.5 between lights
Thornton's on LaGrange	68 under canopy
	2.1 at parking space
Kroger's in Fern Creek	5.4 under light
	3.4 between lights
	1.0 vertical behind near property line
BP at Hurstbourne/Bardstown Intersection	23 under canopy
	0.2 at property line
Meijer's Gas Canopy on Hurstbourne	40 under gas canopy
	1.9 vertical at ROW
	5.5 under light
	1.0 between lights
Chevron on Hurstbourne	64 under canopy
	2.6 vertical at ROW
Speedway on Hurstbourne	45 under canopy
	2.3 at residential property line
Marshall's on Hurstbourne	13 under light
	2.0 between lights

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**Appendix 4D Illuminating Engineering Society of North America (IESNA)**

**MAINTAINED HORIZONTAL ILLUMINANCE RECOMMENDATIONS**

Level of Activity	General Parking and Pedestrian Use			Vehicle Use Only		
	Average	Minimum	Uniformity Ratio	Average	Minimum	Uniformity Ratio
<b>HIGH</b> Major League Athletic Events Major Cultural or Civic Centers Regional Shopping Centers Fast Food Facilities	3.6	0.9	4:1	2.0	0.67	3:1
<b>MEDIUM</b> Community Shopping Centers Cultural, Civic, or Recreational Events Office Parks Hospital Parking Transportation Parking (airports, etc.) Residential Complex Parking	2.4	0.6	4:1	1.0	0.33	3:1
<b>LOW</b> Neighborhood Shopping Industrial Employee Parking Education Facility Parking Church Parking	0.8	0.2	4:1	0.5	0.13	4:1

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### Appendix 4E Recreational Facilities Standards

Recreational and Sports Facility	Maximum Footcandles*	
Archery		
Tournament	10	
Recreational	5	
Badminton I		
Tournament	30	
Club	20	
Recreational	10	
Baseball	INFIELD	OUTFIELD
Jr. League	30	20
Regulation		
Major League	150	100
AAA or AA	70	50
A	50	30
Semi-pro and municipal	20	15
Recreational	15	10
Combination – baseball and football	20	15
Basketball		
Regulation	20	
Recreation	10	
Casting Pool and Area, Bait or Fly	Pier – 10	Target – 5
Tournament	10	
Recreation	5	
Football (index distance from nearest sideline to farthest row of spectators)		
Over 100 ft.	100	
50 ft. to 100 ft.	50	
30 ft. to 50 ft..	30	
Under 30 ft	20	
No fixed seating	10	
Golf	Green or Tee	Fairways
Courses	5	3 (vertical)
Driving range	10	5 (vertical)
Miniature	10	
Putting green	10	
Playgrounds	5	
Racing		
Auto, Horse, Motorcycle	20	

Continued

Recreational and Sports Facility	Maximum Footcandles*	
Bicycle	20	
Rifle & Pistol range		
Firing point	10	
range	5	
target	50 (vertical)	
Rodeos		
Professional	50	
amateur	30	
recreational	10	
Soccer	SEE FOOTBALL	
Softball	INFIELD	OUTFIELD
Professional or Championship	50	30
Semi-pro	30	20
Industrial league	20	15
Recreational	10	7
Swimming Pools	10	
Tennis Courts		
Tournament	30	
Club	20	
Recreational	10	
Volleyball		
Tournament	20	
Recreational	10	

SOURCE: Illuminating Engineering Society of North America

\*All footcandle requirements are in terms of the horizontal plane unless noted.

Note: See Appendix 2A

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## Appendix 4G Floodplain Ordinance

Due to continual changes in the Floodplain Ordinance and the easy availability of accessing this information over the internet, this information has been discontinued in hardcopy form please see:

[http://www.amlegal.com/nxt/gateway.dll/Kentucky/loukymetro/louisvillejeffersoncountymetrogovernment?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:louisville\\_ky](http://www.amlegal.com/nxt/gateway.dll/Kentucky/loukymetro/louisvillejeffersoncountymetrogovernment?f=templates$fn=default.htm$3.0$vid=amlegal:louisville_ky)

**Warning:** the above link may only work in the program GOOGLE CHROME Other Internet Browsers can access the same information by this method :

[Click on this link and click as shown in the web pages <http://www.amlegal.com/> clicking on Library > Kentucky> Louisville-Jefferson County> and VIEW CODE to get to this screen Then click on small + beside TITLE XV LAND USAGE then click on



CHAPTER 157 FLOODPLAIN MANAGEMENT will show you what you see on the next page.

The screenshot shows a web browser window with the URL [www.amlegal.com/nxt/gateway.dll/Kentucky/loukymetro/louisvillejeffersoncountymetrogovernment?f=templates](http://www.amlegal.com/nxt/gateway.dll/Kentucky/loukymetro/louisvillejeffersoncountymetrogovernment?f=templates). The page is titled "Louisville-Jefferson County Metro Government" and displays the "CHAPTER 157: FLOODPLAIN MANAGEMENT ORDINANCE".

**CHAPTER 157: FLOODPLAIN MANAGEMENT ORDINANCE**

Section

*General Provisions*

- [157.01](#) Purpose
- [157.02](#) Definitions
- [157.03](#) Flood Hazard Reduction Provisions
- [157.04](#) Administration
- [157.05](#) Enforcement
- [157.06](#) Concurrent Action by Planning Commission
- [157.07](#) Disclaimer of Liability

*Flood Protection*

- [157.20](#) Flood protection system
- [157.21](#) Unlawful trespass; exceptions
- [157.22](#) Prohibitions on land used for floodwall purposes
- [157.23](#) Permit for nonconforming use
- [157.24](#) Floodplain management plan

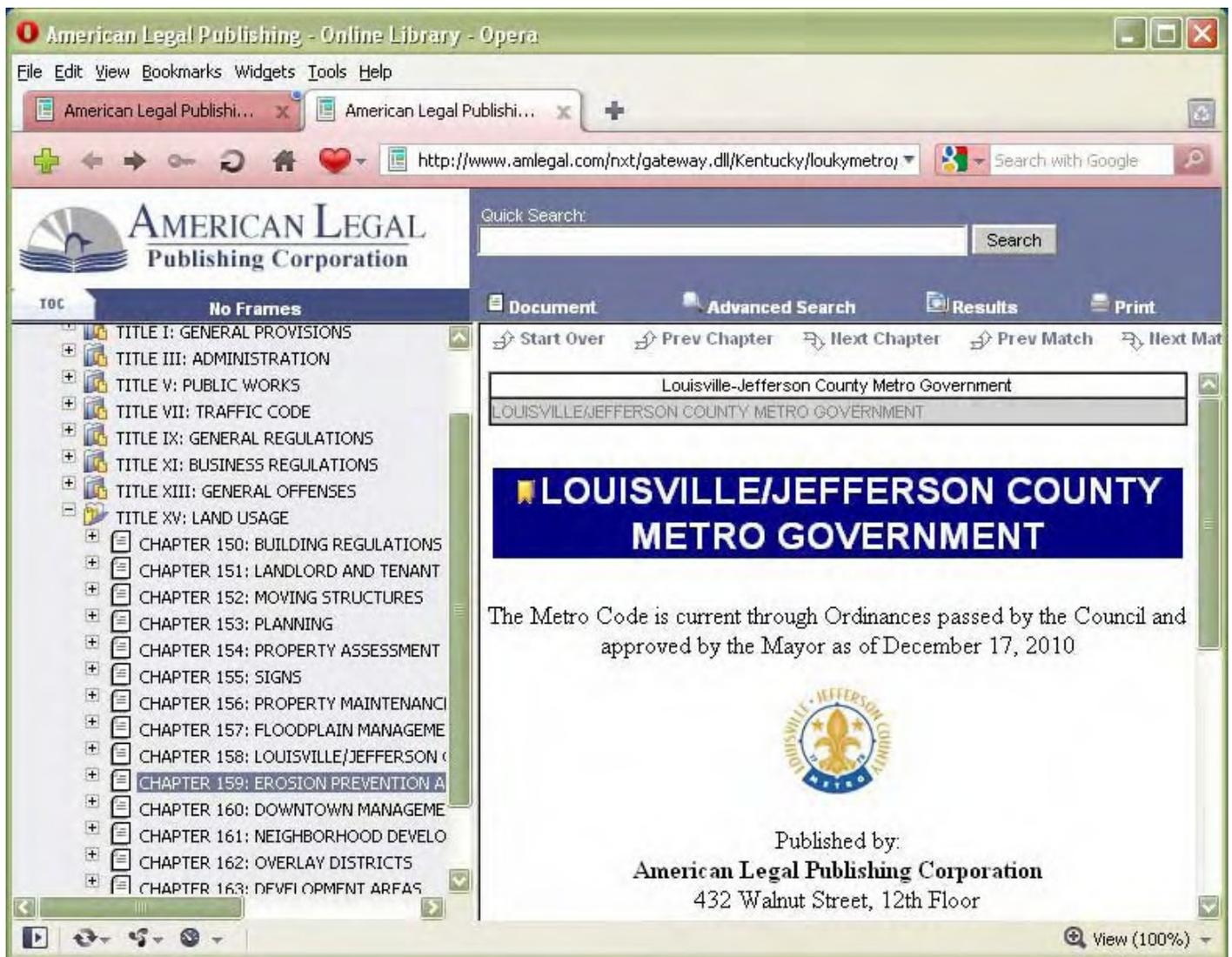
## Appendix 4H Erosion Prevention & Sediment Control Ordinance

Due to continual changes in the Erosion Prevention & Sediment Ordinance and the easy availability of accessing this information over the internet, this information has been discontinued in hardcopy form please see:

[http://www.amlegal.com/nxt/gateway.dll/Kentucky/loukymetro/louisvillejeffersoncountymetrogovernment?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:louisville\\_ky](http://www.amlegal.com/nxt/gateway.dll/Kentucky/loukymetro/louisvillejeffersoncountymetrogovernment?f=templates$fn=default.htm$3.0$vid=amlegal:louisville_ky)

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CHAPTER 157 FLOODPLAIN MANAGEMENT will show you what you see on the next page.

The screenshot shows a web browser window with the URL [www.amlegal.com/nxt/gateway.dll/Kentucky/loukymetro/louisvillejeffersoncountymetrogovernment?f=templates](http://www.amlegal.com/nxt/gateway.dll/Kentucky/loukymetro/louisvillejeffersoncountymetrogovernment?f=templates). The page title is "CHAPTER 159: EROSION PREVENTION AND SEDIMENT CONTROL ORDINANCE".

**Section**

- [159.01](#) General provisions
- [159.02](#) Administrative and review procedures
- [159.03](#) Review standards and criteria
- [159.04](#) Maintenance and performance requirements
- [159.05](#) Administration and enforcement
- 
- [159.98](#) Severability
- [Appendix A](#): Table 159-1

**§ 159.01 GENERAL PROVISIONS.**

(A) *Title.* This chapter shall be known and may be officially cited as the "Louisville/Jefferson County Erosion Prevention and Sediment Control Ordinance." It is referred to herein as "this chapter".

(B) *Authority.*

- (1) This chapter is adopted pursuant to the powers granted and limitations imposed by Kentucky law, including the statutory authority granted to a consolidated local government in KRS Chapter 67C.
- (2) This chapter is also adopted pursuant to the powers granted and limitations by the Federal Clean Water Act, 33 U.S.C. § 1323, Part A., et seq., and in particular those parts that authorize local governments to require any federal department or agency to comply with all local water pollution

# Core Graphic 14

## Karst Areas and Wellhead Protection Zones



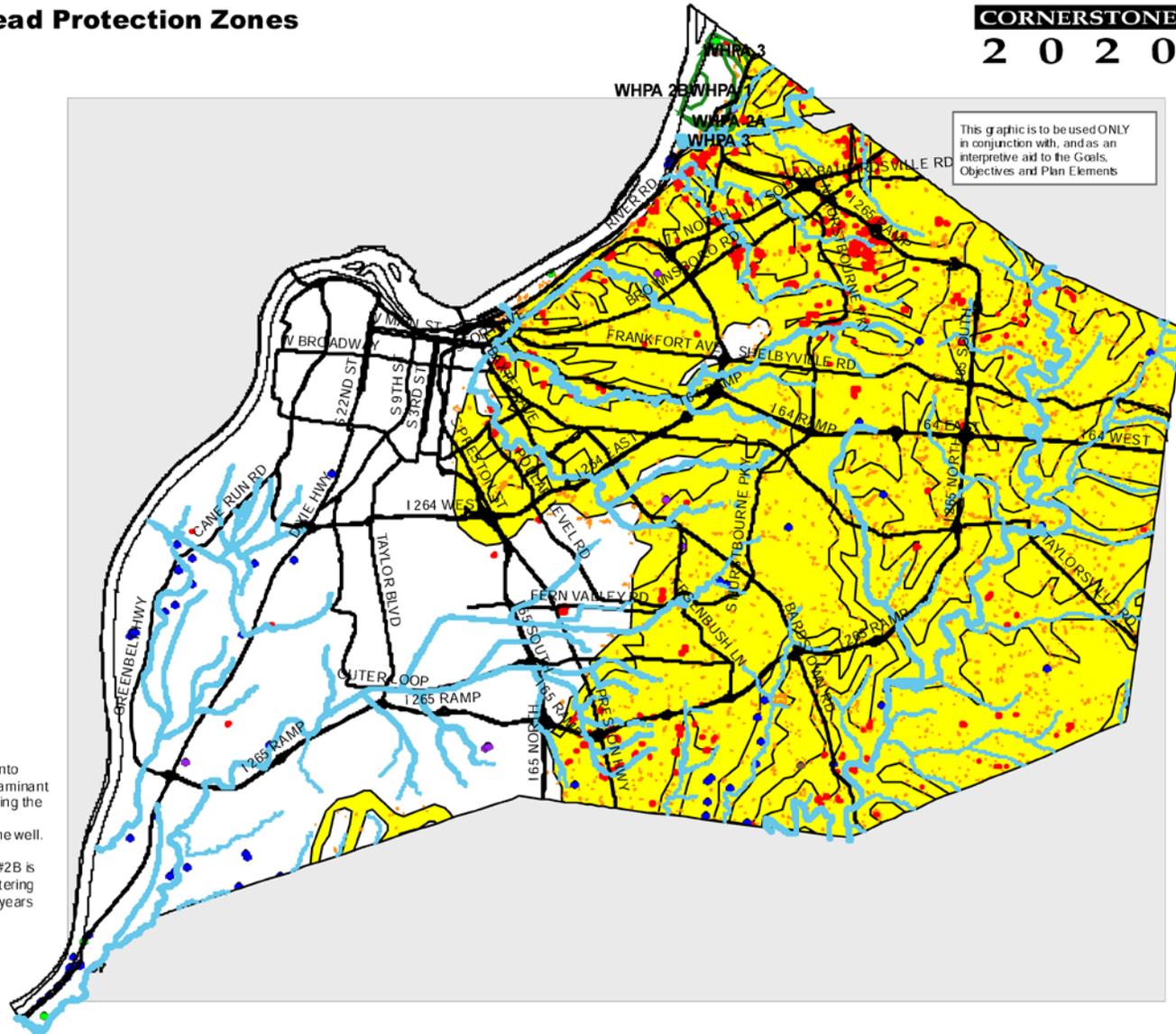
### LEGEND

- KNOWN SINKHOLES**
- MAJOR STREAMS**
- WATER WELLS**
- Use**
  - DOMESTIC
  - IRRIGATION
  - LIVESTOCK
  - PUBLIC
- KARST**
  - PRONE
  - Closed Depressions in Karst Prone Areas (Possible Sinkholes) on Undeveloped Land in December 2005 \*
- \* This also includes streams and waterways that have been dammed and other man made features
- LOUISVILLE WATER COMPANY**
- WELLHEAD PROTECTION AREA



The Wellhead Protection Area, (WHPA), has been divided into sections that represent the time of travel of a potential contaminant from its source into the well. WHPA #1 is the area surrounding the well that would require six months or 180 days for a contaminant to travel from the outer edge of the area into the well.

WHPA #2A is equal to a 5 year time of travel, while WHPA #2B is equal to a 10 year time of travel. Potential contaminants entering the groundwater from WHPA #3 would take longer than 10 years to enter the well.



This graphic is to be used ONLY in conjunction with, and as an interpretive aid to the Goals, Objectives and Plan Elements



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Core Graphic 14: Karst Areas and Wellhead Protection Zones

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