

ZONING ORDINANCE

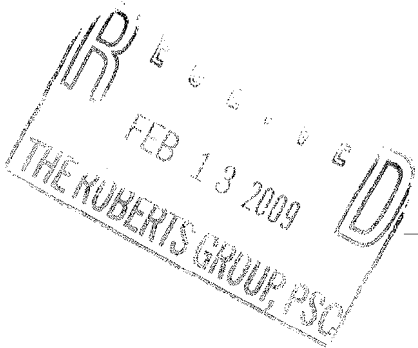
AND

SUBDIVISION REGULATIONS

MOUNT STERLING, KENTUCKY

Final Draft

Revised March 12, 2001



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ARTICLE I

GENERAL PROVISIONS

101 ENACTMENT

In pursuance of the authority granted to cities and counties by Kentucky Revised Statutes, Chapter 100, Section 100.201, this Zoning Ordinance is adopted by ordinance of the City of Mount Sterling and reads hereafter set forth.

102 SHORT TITLE

This ordinance shall be known and may be cited as "The Mount Sterling Zoning Ordinance." The zoning map and its necessary enlargement shall be titled "Zoning Map of Mount Sterling." A copy of the text and map is on file with the City Clerk of Mount Sterling.

103 EFFECTIVE DATE

This ordinance shall become effective APRIL 17, 2001

104 PURPOSE, OBJECTIVES AND GOALS

It is the intent, purpose and scope of this ordinance to promote and protect the health, safety, morals, activity, signage or general welfare of the citizens of Mount Sterling and those areas of Montgomery County five (5) miles from the city limits to potentially be annexed to the city by empowering them to regulate and restrict the height, number of stories and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts or other open space, the density of population, the location and use of buildings, structures and land for agriculture, trade, industry, residence and other purposes as detailed in KRS 100.203.

The objectives and goals of this ordinance are to help provide for the harmonious and orderly development of the entire city.

105 INTERPRETATION AND SCOPE OF REGULATIONS

This Zoning Ordinance shall be strictly construed and may not be extended by implication except where the intention of the City must prevail. In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements.

Whenever this ordinance imposes a greater restriction than is imposed or required by other provisions of law or by other rules or regulations or resolutions or ordinances, the provisions of this ordinance shall govern.

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

106 SEVERABILITY CLAUSE

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

107 REPEAL OF CONFLICTING ORDINANCES

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

ARTICLE II
DEFINITIONS

201 **DEFINITIONS**

The words that are defined are those which have special or limited meaning as used in this Zoning Ordinance. Words whose meanings are self-evident as used in this Zoning Ordinance are not defined here.

1. **Accessory Structure or Use:** Any structure or use, other than the principal structure or use, directly incident to or required for the employment of the permitted use of any premises, also as specifically designated under the zoning district regulations of this Zoning Ordinance.
2. **Agricultural Use:** Agricultural use means the use of a tract of at least five (5) contiguous acres for the production of agricultural or horticultural crops; including but not limited to livestock, livestock products, poultry, poultry products, grain, hay, pastures, soybean, tobacco, timber, orchard fruits, vegetables, flowers or ornamental plants, including provision for persons and their families who are engaged in the above agricultural use on the tract, but not including residential building development for sale or lease to the public. The definition of agricultural established in KRS Chapter 132, Section 10 is hereby incorporated into the ordinance, except that the minimum lot size is two (2) acres for "agricultural land" (instead of ten [10] acres).
3. **Alley:** A public passage or way affording a secondary means of vehicular access to abutting property and not intended for general traffic circulation.
4. **Alteration:** Any change or addition to the supporting members or foundation of a structure.
5. **Building:** Any structure construed or used for residence, business, industry, or other public or private purposes and similar structures which fully or partially encloses space for occupancy by persons or their activities.
6. **Principle Building:** A building including covered porches, carports and attached garages, in which is conducted the principle use of the lot on which it is situated. In any residential district, any dwelling shall be deemed to be the principle building on the lot on which the same is situated.

7. Commercial Floor Area: Floor area of a building, which is devoted to the storage, and display of merchandise, the performance of consumer services or the circulation and accommodation of customers.

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

9. Condominium: A building development wherein there is multiple ownership of multiple units, not owned in the conventional one unit-one lot manner, usually consisting of apartment type units, or attached units, where lands are often held in common ownership. The individual owners of a condominium development collectively act as the landowner.

10. Conditional Use Permit: Legal authorization to undertake a conditional use issued by the administrative official pursuant to authorization by the Board of Adjustment consisting of two parts:

A. A statement of the factual determination by the Board of Adjustment Which justifies the issuance of the permit.

B. A statement of the special conditions which must be met in order for The use to be permitted.

11. Consumer Services: Sale of any service to individual customers for their own personal benefit, enjoyment, or convenience, and for fulfillment of their own personal needs.

For example, consumer services include the provision of the personal services such as beautician and barbering services, the provision of lodging, entertainment, specialized instruction, financial service, automobile storage, transportation, laundry and dry cleaning services, and all other similar services.

12. Dimensional Variance: Departure from the terms of the zoning regulations pertaining to height or width of structures and size of yards and open spaces where such departure will not be contrary to the public interest, and where owing to conditions peculiar to the property because of its size, shape, or topography and not as a result of the action of the applicant, the literal enforcement of its zoning ordinance would result in unnecessary and undue hardship.

13. Dwelling: A building providing shelter, sanitation, and the amenities for permanent habitation. It does not include temporary lodging or sleeping rooms.

14. Dwelling Unit: One room, or rooms, connected together (including apartments), constituting a separate independent house keeping establishment for owner occupancy, or rental or lease on a weekly, monthly, or longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities.

15. Enforcement Officer: The administrative official designated by the City Council who shall be charged with and provided with the authority to enforce the ordinances, regulations, codes, and orders of the planning commission and the City Council.

16. Family: One, two, three four, five, six or seven persons living together as a single housekeeping unit, whether or not related by genetics, marriage or adoption.

17. Flood Plain: These areas subject to frequent periodic flooding delineated on the Soil Survey as alluvial soils by the Soil Conservation Service, United States Department of Agriculture, or lands delineated by representatives of the Federal Flood Insurance Program.

18. Gross Acreage: The entire tract acreage computed by measurement of land inside perimeter boundary. Gross acreage includes lands proposed for streets, yards, open space, utility easements and the like.

19. Home Occupations: Professional offices, studios, and personal services maintained or conducted within a dwelling or accessory structure. Neither the selling of any merchandise nor processing of any product shall qualify as home occupations. Home occupations include only those which meets the following performance standards:

- A. Home occupation shall be incidental to the principle residential use.
- B. Home occupations shall result in no exterior evidence, excepting a permitted sign that the dwelling is used for nonresidential use.
- C. Home occupations shall not generate any atmospheric pollution, light flashes, glare, odors, noise, vibration, or truck or other heavy traffic.
- D. Any activity in which the selling of any merchandise is the primary function is not a home occupation.
- E. Home occupations shall occupy no more than twenty-five (25) percent of the total residential floor area of a dwelling.

20. Industry: The processing of products or raw materials. The two categories of industry are defined according to the following performance standards:

- A. **Heavy Industry:** Those industries whose processing operations result in the outdoor storage or processing of materials or products, the emission of any atmospheric pollution, visible light flashes or glare, odors, or noise or vibration which may be heard or felt off the premises, or those industries which constitute a fire or explosion hazard.
- B. **Light Industry:** Those industries that are processing operations result in none of the above conditions.

21. Junkyard: Any property used for the outdoor storage, display or keeping of inoperative machinery, whether or not it is capable of operation, of the accumulation of trash, waste material, or vegetation, in a manner which is unsightly, offensive, or not in harmony with surrounding property. The keeping of more than three (3) inoperable vehicles shall constitute a junkyard.

22. Local Information Sign: A sign indicating directions to a local commercial, industrial, or other type of establishment.

23. Lot: A parcel of land under one ownership devoted to a common use or occupied by a single principal building plus accessory structures.

- A. **Corner Lot:** A lot that abuts on two intersecting streets at their intersection.
- B. **Double-Frontage Lot:** Any lot other than a corner lot that abuts on two streets.
- C. **Lot Line:** The boundary dividing a lot from a right-of-way, adjoining tract of land. Front, rear and side lot lines are self-explanatory.
- D. **Lot of Record:** A lot that is lawfully recorded in the office of the county clerk.

24. Mobile Home: A structure, transportable in one or more sections, which in the traveling mode is 8 body feet (2438 mm) or more in width or 40 body feet (12 192 mm) in length, or when erected on site is 320 square feet (29.7m²) or more, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air-conditioning and electrical systems contained therein.

25. Mobile Home Park: A single tract of land prepared and approved according to procedures in the Zoning Ordinance to accommodate more than one mobile home.

26. Mobile Home Subdivision: A residential subdivision designed exclusively for and occupied only by mobile homes and similar units

designed for transportation. The homes and the land are owned individually.

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

28. Non-Retail Commercial: Commercial sales and services to customers who intend resale of the products or merchandise sold or handled. For example, non-retail commercial includes wholesaling, warehousing, trucking terminals, and similar commercial enterprises.

29. Outdoor: Refers to that which is not within a building.

30. Planned Unit Development: A complex of structures and uses planned as an integral unit of development rather than as single structures on single lots.

31. Premises: A lot or other tracts of land under one ownership and all the structures on it.

32. Processing: Manufacturing, reduction, extraction, packaging, repairing, cleaning, and any other similar original or restorative treatment applies to raw materials, products or personal property. Processing does not refer to the fabrication of structures.

33. Public Service Building: Any building necessary for the operation and maintenance of a utility.

34. Residential Care Facilities for Handicapped Persons: As used in KRS 100.982 to 100.984, unless the context otherwise requires:

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

provide services in a homelike setting for persons with disabilities.

3. "Services" means, but is not limited to, supervision, shelter, protection, rehabilitation, personal development, and attendant care.

35. Residential care facility for persons with disabilities: Any sponsoring private or governmental agency shall be permitted to operate a residential care facility in any residential district, zone, or subdivision subject only to compliance with the same limitations upon area, height, yard, screening, parking, number of dwelling units, and number of occupants per dwelling unit as apply to other residences in the district, zone, or subdivision. For purposes of determining the number of occupants in a residential care facility, or in any of the dwelling units which comprise the facility, employees of the sponsoring agency providing services to persons with disabilities shall be counted only if their permanent residence is maintained at the facility. No conditional use permit not otherwise required for other residences within a zone or land use category shall be required for the operation of a residential care facility.

36. Retail Sales: Sale of any product or merchandise to customers for their own personal consumption or use, and not for resale.

37. Road: A traffic-carrying way. As used in the Zoning ordinance, a road may be privately owned and/or maintained.

38. Sign, Advertising: Any device designed to inform or attract the attention of persons not on the premises on which the sign is located, provided, however, that the following shall not be included in the application of the regulations herein:

- A. Signs not exceeding one square foot in area and bearing only property numbers, post office box numbers, names of occupants of premises, or other identification of premises not having commercial connotations;
- B. Flags and insignia of any government except when displayed in connection with commercial promotion;
- C. Legal notices, identification, information, or directional signs erected or required by government bodies;
- D. Integral decorative or architectural features of buildings except letters, trademarks, moving parts, or moving lights.
- E. Signs directing and guiding traffic and parking on private property, but bearing no advertising matter and four (4) square feet or less in area.

39. Signs, Numbers and Surface Area: For the purpose of determining number of signs, a sign shall be considered to be a single display surface or display device containing elements organized, related and composed to form a unit. Where matter is displayed in a random matter without organized relationship of elements, or where there is reasonable doubt about the relationship of elements, each element shall be considered to be single sign.

The surface area of a sign shall be computed as including the entire area with a regular geometric form or combinations of regular geometric forms comprising all of the display area of the sign and including all of the elements of the matter displayed. Frames and structural members not bearing advertising matter shall not be included in computation of surface area.

40. Sign, On-Premise: A sign relating in its subject matter to the premises on which it is located, or to products, accommodations, services, or activities on the premises. On-site signs do not include signs erected by the outdoor advertising industry in the conduct of the outdoor advertising business.

41. Sign Off-Premise: A sign other than an on-premise sign.

42. Sign, Advertising: Any work, lettering, parts of letters, figures, numbers, phrases, sentences, designs, pictures, emblems, devices (including loud speakers), trade names or trademarks by which anything is made known, such as are used to designate an individual, a firm or association, a corporation, a profession, a business, a service, a commodity, or a product which are visible from any public street or right-of-way and designed to attract attention. The term "sign" shall not include the flag, pennant or insignia of any nation, state, city or other political unit. Or be of any political, educational, charitable, philanthropic, civic, professional, religious or like campaign, drive, movement or event

43. Sleeping Room: A single room rented for dwelling purposes but without the amenities for separate and independent housekeeping.

44. Street: Any highway or other public traffic-carrying way. An arterial street is any numbered federal, state or county highway unless otherwise designated by the planning commission.

45. Structure: Any combination of materials fabricated to fulfill a function in a fixed location of the land: includes buildings and signs.

46. Trailer: Any vehicle or similar portable structure used or so constructed as to permit its being used as a conveyance to transport cargo other than persons upon the streets and highways. The term

“trailer” does not mean “mobile home” as defined and used in this ordinance. Trailers shall not be classified as mobile homes until such is either used as a dwelling or permanently affixed to the land.

47. Use: Use broadly refers to the activities which take place on any land or premises and also refers to the structures located thereon and designed for those activities.

48. Variance: A departure from dimensional terms of the zoning ordinance pertaining to the height, width or location of structures and the size of yards and open spaces.

49. Yard: The open space surrounding the principal building on any lot, unoccupied and unobstructed by any portion of that building from the ground to the sky except where specifically permitted by these Zoning Ordinances. Yards are further defined as follows:

- A. **Front Yard:** That portion of the yard extending the full width of the lot and measured between the front line and a principle building, which line shall be designated as the front yard line.
- B. **Rear Yard:** That portion of the yard extending the full width of the lot nearest part of the principal building measured between the rear lot line and a parallel line tangent to the nearest part of the principle building.
- C. **Side Yard:** That portion of the yard extending from the front yard to the rear yard and measured between the side lot lines and parallel lines tangent to the nearest parts of the principle building.

ARTICLE III

ADMINISTRATION AND ENFORCEMENT

301 ADMISTRATIVE OFFICER

An Administrative Official shall be appointed by the City Council of Mount Sterling and shall administer and enforce this ordinance. This official may be provided with the assistance of such other persons as the legislative bodies may direct.

If the Administrative Official shall find that any of the provisions of this ordinance are being violated, the official shall notify in writing the persons responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. The official shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of illegal additions, alterations, or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this ordinance to ensure compliance with or to prevent violation of its provisions.

302 PERMITS AND PROCEDURES

Permits shall be required for the following activities and shall be issued by the appropriate Administrative Official in conformity with the provisions of this Zoning Ordinance.

302.1 Building Permits Required

No building or other structure shall be erected, moved, added to, or structurally altered without a permit therefore, issued by the Administrative Official. No Building permit shall be issued by the Administrative Official except in conformity with the provision of this ordinance and the Kentucky Building Code, unless he receives a written order from the Board of Adjustment in the form of an administrative review, conditional use, or variance as provided by this ordinance.

If no building permit has been issued and a builder begins or continues to build, a stop work order or a restraining order may be obtained upon application to the proper court of record and evidence of the lack of a

building permit shall establish a prima facie case for the issuance of the restraining order. This is in addition to penalties that may be imposed by Section 308 of this Ordinance.

- a. Building Permits - No building or other structures shall be erected, moved, added to, or structurally altered, nor shall any said activities be commenced without permit therefore, issued by the Building inspector and Zoning Administrator.
- b. Wrecking Permits - No building or other structures shall be razed, demolished or removed, either entirely or in part, nor shall any of said activities be commenced without a wrecking permit therefore, issued by the Building Inspector.
- c. Grading Permits - No grading, stripping, excavating, filling, stockpiling of earth or land shall be commenced without a grading permit therefore, issued by the Zoning Administrator.
- d. Sign Permits - No sign shall be created, erected, moved, added to or structurally altered, nor shall any of said activities be commenced without a permit therefore, issued by the Zoning Administrator.
- e. Permits Authorized by the Board of Adjustment - The Zoning Administrator and/or Building Inspector shall issue permits in conformance with the written authorization of the Board of Adjustment concerning administrative review appeals, conditional use permit appeals, variance appeals, or other appeals as authorized in this Zoning Ordinance.
- f. Other Permits - Additional permits may be required by the Administrative Official to enforce the provisions of this Ordinance.

302.2 Application for Building Permit

All applications for building permits shall be accompanied by plans in duplicate drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of buildings already existing, if any; and the location and the dimensions of the proposed building or alteration. The application shall include such other information as required by the Planning Commission, including existing or proposed building or alteration; existing or proposed uses of the building and land; the number of families, housekeeping units, or rental units the building is designed to accommodate; conditions existing on the lot and adjoining lots; and such other matters as may be necessary to determine conformance with, and provide for the enforcement of, this ordinance.

One copy of the plans shall be returned to the applicant by the Administrative Official, after he shall have marked such copy either as approved or disapproved and attested to it by his signature on such copy. One copy of the plans, similarly marked, shall be retained by the Administrative Official.

Plans shall be accompanied by a submission and review fee. This fee shall be calculated based upon the current Commonwealth of Kentucky, Department of Housing, fee schedule. This schedule shall be posted in the office of the Administrative Official.

302.3 Certificates of Occupancy for New, Altered or Non-Conforming Uses

It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a Certificate of Occupancy shall have been issued therefore by the Administrative Official stating that the proposed use of the building or land conforms to the requirements of this ordinance. A fee of twenty dollars (\$20.00) shall be assessed for each certificate of occupancy.

302.4 Expiration of Building Permit

If the work described in any building permit has not begun within ninety (90) days from the date of issuance thereof, said permit shall expire; it shall be canceled by the Administrative Official; and written notice thereof shall be given to the persons affected.

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

302.5 Construction and Use to be as Provided in Applications, Plans, Permits and Certificates of Occupancy

Building permits or certificates of occupancy issued on the basis of plans and applications approved by the Administrative Official authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Use, arrangement, or construction at variance with that authorized shall be deemed in violation of this ordinance and punishable as provided by Section 308 thereof.

303 BOARD OF ADJUSTMENT

303.1 Appointment and Proceedings of Board

Matters of the Board of Adjustment pertaining to membership, appointment, terms, vacancies, oath, compensation, removal and officers, shall be in accordance with K.R.S. 100.217.

The Board of Adjustment shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this ordinance. Meetings shall be held at the call of the chairman who shall give written or oral notice to all members of the Board at least seven (7) days prior to the meeting. The notice shall contain the date, time and place for the meeting and the subject or subjects to be discussed.

The Board of Adjustment shall keep minutes and records of all proceedings including regulations, transactions, findings and determinations and the number of votes for and against each question all of which shall be public record and be immediately filed in the office of the Board.

303.2 Powers and Duties

The Board of Adjustments shall have the following powers and duties:

A. Administrative Review - Appeals to the Board:

Appeals to the Board may be made by any person or entity claiming to be injuriously affected or aggrieved by an official action or decision of any Zoning Administrative Officer. Such appeal shall be taken within thirty (30) days from the appellant, by filing with the Administrative Officer and the Board of Adjustment, a notice of appeal specifying the grounds thereof. The Administrative Officer shall forthwith transmit to the Board all papers constituting the record from which the action appealed was taken.

The Board shall find a reasonable time for hearing the appeal and give public notice in accordance with K.R.S. Chapter 424, as well as written notices to the appellant and Administrative Officer at least one (1) week prior to the hearing, and shall decide the same within sixty (60) days. At the hearing, any interested party may appear and be heard and may appear in person or by agent or attorney.

An appeal stays all proceedings in furtherance of the action appealed from, unless the Administrative Official from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal is filed

with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life and property.

In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Adjustment or by a court of record on application, or notice to the Administrative Official from whom the appeal is taken and/or due cause shown.

B. Conditional Use Permits:

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

1. All Districts: The following conditional uses only may be approved in all zoning districts:
 - a. Non-local public utility and private transmission lines and pipes.
 - b. Radio, television and telephone transmission structures.
 - c. Large utility structures and public service buildings.
 - d. Expansion of railroads and appurtenances.
 - e. Government buildings and uses.
 - f. Churches and libraries.
2. Specified Districts: Other conditional uses may be approved only in those zoning districts where they are designated as conditional uses under the zoning district regulations.
3. Procedure: An applicant shall submit an application for a conditional use permit to the Administrative Officer, and the applicant shall follow all procedures set forth in this ordinance and K.R.S. 100.237. When an application is made for a conditional use permit for land located within or abutting any residential zoning district, written notice shall be given at least fourteen (14) days in advance of the public hearing on the application to the applicant, administrative official, and the owner of every parcel of property adjoining the property to which the application applies. Written notice shall be by first class mail with certification by the board's secretary that the notice was mailed. It shall be the duty of the applicant to furnish to the Board of Adjustment the name and address of an owner of each parcel of property adjoining the property to which the application applies. Records maintained by the property valuation administrator may be relied upon conclusively to determine the identity and address of said owners. The Administrative Official shall refer the application to the Board of

Adjustment. Payment of a fee shall be required of the applicant before the issuance of the conditional use permit. Other regulations for conditional use permits are as follows:

- a. The Board of Adjustment may attach necessary conditions such as time limitations, requirements that one or more things be done before the request can be initiated, or conditions of a continuing nature. Any such conditions shall be recorded in the Board's minutes and on the conditional use, along with reference to the specific section in the zoning regulation listing the conditional use under consideration. The Board of Adjustment shall have the power to revoke conditional use permits, or variances for non-compliance with the conditions thereof. Furthermore, the Board shall have the right of action to compel offending structures, or uses, removed at the cost of the violation and may have judgment in person for such costs.
- b. Granting of a conditional use permit does not exempt the applicant from complying with all of the requirements of this ordinance, building, housing or other regulations.
- c. A conditional use permit shall be exercised within one (1) year from the date of issuance within the meaning of K.R.S. 100.237.
- d. The Administrative Officer shall review all conditional use permits, except for those for which all conditions have been permanently satisfied, at least once annually, and shall have the power to inspect the land or structure where the conditional use is located in order to ascertain that the landowner is complying with all of the conditions which are listed on the conditional use permit, the Administrative Officer shall report the fact in writing to the Chairman of the Board of Adjustment. The report shall state specifically the manner in which the landowner is not complying with the conditions on the permit and a copy of the report shall be furnished to the Chairman of the Board of Adjustment. Upon hearing the report, as required by K.R.S. 100.237, if the Board finds the facts alleged to be true and that the landowner has taken no steps to comply with them between the date of the report and the date of the hearing, the Board may authorize the Administrative Officer to revoke the conditional use permit and to cause the termination of the activity on the land which the conditional use permit authorizes.
- e. Once the Board of Adjustment has completed a conditional use permit and all the conditions required are of such type that they can be completely and permanently satisfied, the Administrative

Official, upon the request of the applicant, may, if the facts warrant, make a determination that the conditions have been satisfied and the conclusions in the margin of the copy of the conditional use permit.

Thereafter, said use, if it continues to meet the other requirements of the regulations, will be treated as a permitted use.

- f. As required by K.R.S. 100.344, a copy of conditional use permits must be filed with the County Court Clerk at the applicant's expense.

C. Dimensional Variance; Conditions Governing Applications;

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

A variance from the terms of this ordinance shall not be granted by the Board of Adjustment unless and until:

1. The board must find that the granting of the variance will not adversely affect the public health, safety or welfare, will not alter the essential character of the general vicinity, will not cause a hazard or nuisance to the public and will not allow an unreasonable circumvention of the requirements of the zoning regulations. In making these findings, the board shall consider whether:
 - a. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity, or in the same zone.
 - b. The strict application of the provisions for the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant; and
 - c. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

The board shall deny any request for a variance arising from circumstances that are the result of willful violations of the zoning

regulation by the applicant subsequent to the adoption of the zoning regulations from which relief is sought.

2. Notice of public hearing shall be given as in Section 303.2A.
3. The public hearing shall be held. Any party may appear in person or by agent or attorney.
4. The Board of Adjustment shall make findings that the requirements of Section 302.2-C-1 have been met by the applicant. The Board shall further make a finding that the reasons set forth in the application justify the granting of the variance, and that these findings shall be recorded along with any imposed conditions or resolutions in its minutes and records and issued in written form to the applicant to constitute proof of the dimensional variance.

D. Board Has Powers of Administrative Official on Appeals; reversing Decision of Administrative Official:

In exercising the above mentioned powers, the Board of Adjustment may, so long as such action is in conformity with the terms of this ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have the powers of the Administrative Official from whom the appeal is taken.

E. Interpretation of Zoning Map:

Where the street or lot layout actually on the ground, or as recorded, differs from the street and lot lines indicated on the zoning map, the Board, after notice to the owners of the property and after public hearing, shall interpret the map in such a way as to carry out the intent and purposes of this ordinance for the particular section or district in question.

F. Special Conditions:

The Board may attach special conditions to any decision it is authorized to make to ensure that the intent of the Zoning Ordinance will be carried out.

G. Limits of Authority:

The Board shall act only within the strict limits of its authority as defined in the Zoning Ordinance. The Board shall not possess the power to grant a variance to permit a use of any land, building, or structure which is not permitted by the zoning regulation in the zone in question, or to alter density requirements in the zone in question.

The Board shall not allow the enlargement, substitution or extension of a nonconforming use beyond the scope and area or its operation at the time the regulation that makes its use nonconforming was adopted. Nor shall the Board permit a change from one nonconforming use to another unless

the new nonconforming use is in the same or a more restricted classification.

It is the intent of this ordinance that all questions of interpretation and enforcement shall be first presented to the Administrative Official, and that such questions shall be presented to the Board of Adjustment only on appeal from the decision of the Administrative Official, and that recourse from the decisions of the Board of Adjustment shall be to the courts as provided by law and particularly by K.R.S. 100.5.

304 DUTIES OF ADMINISTRATIVE OFFICIAL, BOARD OF ADJUSTMENT, LEGISLATIVE BODIES AND COURTS ON MATTERS OF APPEAL

It is further the intent of this ordinance that the duties of the governing bodies in connection with this ordinance shall not include hearing and deciding questions of interpretation and enforcement that may arise. The procedure for deciding such questions shall be as stated in this section and this ordinance. Under this ordinance the governing bodies shall have only the duty of considering and adopting or rejecting proposed amendments or the repeal of this ordinance, as provided by law.

Any person or entity claiming to be injured or aggrieved by any final action of the board of adjustment shall appeal from the action to the Montgomery County Circuit Court within thirty (30) days of the final action of the board of adjustment. Final action shall be deemed to have occurred on the calendar date when the vote is taken to approve or disapprove the matter pending before the board of adjustment. The board of adjustment shall be a party to any appeal filed in the Montgomery County Circuit Court. The owner of the subject property and applicants who initiated the proceeding shall be made parties to the appeal.

305 SCHEDULE OF FEES AND EXPENSES

The legislative bodies adopting this ordinance do hereby grant the planning commission and Board of Adjustment the power to establish a reasonable schedule of fees, charges, and expenses and a collection procedure for certificates of zoning compliance, appeals, application for amendments, and other matters pertaining to this ordinance. The schedule of fees shall be posted in the office of the Administrative Official, and may be altered or amended as the planning commission and/or Board of Adjustment see fit.

Until all applicable fees, charges and expenses have been paid in full; no action shall be taken on any application or appeal.

Refer to official filing fee schedule dated _____.

306 COMPLAINTS REGARDING VIOLATIONS

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

307 CONTINUANCE OF NONCONFORMING USES

Any use of land or structure existing at the time of enactment or subsequent amendment of this ordinance, but not in conformity with its provisions, may be continued with the following limitations:

1. No structure containing a nonconforming use shall hereafter be expanded or substantially remodeled unless approved by the Board of Zoning Adjustments. Before granting such approval, the Board shall determine that the proposed expansion or remodeling will not result in greater detriment to the surrounding properties. In no case shall an expansion be approved beyond the property limits of the nonconforming use existing at the time of adoption of this ordinance.
2. Any structure containing a nonconforming use which has been damaged to the extent of sixty (60) per cent or more of replaceable value, exclusive of foundations, immediately prior to damage shall not be repaired or reconstructed except in conformity with this ordinance
3. No nonconforming use may be re-established after it has been discontinued for one (1) year. Vacating of premises or building or nonoperative status shall be evidence of a discontinued use.
4. No nonconforming use may be changed to any other nonconforming use unless the Board of Zoning Adjustment shall find that the proposed nonconforming use is less detrimental to the district than the existing nonconforming use of the property. The Board of Adjustment may specify such appropriate conditions and safeguards as may be required in connection with such changes.

5. The provisions of this Article shall not apply to existing residences in industrial districts.

308 PENALTIES FOR VIOLATION

Violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variance or special exceptions) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$100.00 or imprisoned for not more than thirty (30) days, or both, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.

The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

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

ARTICLE IV

GENERAL DEVELOPMENT REGULATIONS

401 COORDINATION WITH SUBDIVISION REGULATIONS

In all cases where the ownership of land is divided for the purpose of eventual development of lots of any kind – residential, commercial, or industrial-the Subdivision Regulations and amendments thereto, shall apply in addition to the provisions of the Zoning Ordinance.

It is desirable that access points to the arterial streets serving all zoning districts shall be located no more frequently than once every five hundred (500) feet. Topography and traffic volumes shall determine the exact locations. Heavy arterial traffic volumes demand greater access spacing. Along any arterial street where subdivided land and its minor streets are not sufficiently developed to permit acceptably spaced access points, the Planning Commission may approve the platting of temporary access points and may require that temporary access points shall be eliminated by the developer when minor streets or marginal access streets are extended to the approved permanent access points. Such requirements shall be listed as special conditions on the recorded final plat. Access points shall also meet Federal and State standards where applicable.

For public safety access of fire and emergency use, it is the intent of the ordinance to create or provide for direct future continuation of roadway systems as through streets. These through streets shall be constructed of sufficient width and material to support anticipated traffic capacities.

402 WATER SUPPLY AND SEWAGE DISPOSAL

No building shall be constructed or occupied unless the water supply and sewage disposal facilities have been approved by the Water and Sewer Commission and County Health Officer.

Whenever water or sewer mains are accessible, buildings to be occupied shall be connected to such mains. In every other case, individual water supply and sewage disposal must meet the requirements set by this ordinance and by the County Health Officer.

In addition to the County Health Officer's requirements the following shall apply:

- A. Intent: The following provisions are primarily intended to allow the construction of isolated, rural, large lot homes. The demand for this type of development is recognized but is not encouraged because of the difficulty and efficiency of providing necessary public services.
- B. Public Water Not Accessible: In areas where a public water supply system is not accessible, lots for single family residences utilizing a septic tank disposal system shall be at least thirty two thousand, six hundred and seventy (32,670) square feet in size.
- C. Public Water Accessible: Where an approved public water system is accessible, lots for single family residences utilizing a septic tank disposal system shall be at least thirty two thousand, six hundred and seventy (32,670) square feet with a minimum lot width of one hundred (100) feet.
- D. Multi-Family and Non-Residential Uses: Lot areas and type of sewage treatment (septic tank, aeration or other) for multi-family residences and non-residential uses shall be determined by the Planning Commission on an individual basis. The Planning Commission shall make their determination based upon tests performed by the Montgomery County Health Department, estimated quantity and quality of effluent, possible pollution of adjacent lands, future possibility of serving the area and other factors the Planning Commission deems relevant. The Planning Commission may require the developer to submit technical data and opinions from various professional sources to aid them in their future determination of required lot size and treatment procedures.
- E. Resort or Seasonal Use: Single family dwellings utilizing septic tank disposal that are used for not more than five (5) months of the year may be permitted on lots of thirty two thousand, six hundred and seventy (32,670) square feet and a minimum frontage of one hundred (100) feet. A special year-to-year "septic tank permit" shall be issued by the

administrative official and may be revoked in cases of violations of the five (5) month occupancy.

403 SUPPLEMENTARY DISTRICT REGULATIONS

403.1 Visibility at Intersections in Residential Districts

On a corner lot in any residential district, nothing shall be erected, placed, planted, or allowed to grow in such a manner as materially to impede vision between a height of two and a half (2 ½) and twelve (12) feet above the center line grades of the intersecting streets in the area bounded by the right-of-way lines of such corner lots and a line joining points along said right-of-way line twenty five (25) feet from the point of the intersection.

403.2 Fences, Walls and Hedges

Notwithstanding other provisions of this ordinance, fences, walls and hedges may be permitted in any required yard or along the edge of any yard.

403.3 Accessory Building; Location, Height

- A. No accessory building shall be erected in any required court or in any yard other than a rear yard; provided, however, that an accessory building may be erected as part of the principal building, or, if at least six (6) feet therefrom, may be connected thereto by a breezeway or similar structure, provided all yard and court requirements of this ordinance for a principal building are complied with.
- B. Accessory buildings shall not exceed twelve (12) feet in height, and shall be distant at least five (5) feet from lot lines of adjoining lots in a Residence district; provided, however, that an accessory building may be constructed on a side or rear lot line, not an alley lot line, by common written consent of the adjoining affected property owner(s).
- C. Where a corner lot adjoins in the rear a lot in a Residence district, no part of an accessory building within twenty five (25) feet of the common lot line in the rear shall be nearer a side street lot line than the least depth of any front yard existing or as required, whichever is less, along such side street for a principal building on such an adjoining lot, and in no case shall any part of such accessory building be closer to the side street lot line than the main building to which it is accessory.

403.4 Regulations for Lots and Yards

- A. Erection of more than one Principle Structure on a Lot: In any district, more than one structure housing a permitted or permissible principle structure erected on a single lot, provided that the yard and other requirements of this ordinance shall be met for each structure as though it were on an individual lot.
- B. Front Yard Regulations for Corner and Double Frontage Lots: Corner lots and double frontage lots shall, as a minimum, on both of the adjacent streets, meet the front yard regulation of the district in which they are located.
- C. Application of Yards to One Building Only: No part of a yard required for any building may be included as fulfilling the yard requirement for an adjacent building.
- D. Yard Requirements Along Less Restricted District Boundary Line: Along any zoning boundary line, any abutting side yard, rear yard or court on a lot adjoining such boundary line in the less restricted district shall have a minimum width and depth equal to the required minimum width and depth for such yards and courts in the more restricted district.

403.5 Exception to Height Regulations

The height limitations contained in the Schedule of District Regulations do not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys or other appurtenances usually required to be placed above roof level and not intended for human occupancy, including agricultural buildings.

403.6 Structures to Have Access

Every building hereafter erected or moved shall be on a lot adjoining a public street for at least twenty five (25) feet or with access to an approved private street, and all structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection and required off-street parking.

403.7 Parking and Storage of Certain Vehicles

Automotive vehicles or trailers of any kind or type without current license plates shall not be parked or stored on any residentially zoned property other than in completely enclosed buildings.

404 GENERAL REGULATIONS FOR VEHICLES

404.1 Loading and Unloading Spaces Required

In all districts in connection with every building or part thereof hereafter erected, having a gross floor area of ten thousand (10,000) square feet or more which is to be occupied by manufacturing, storage, warehouse, goods, display, retail store, wholesale store, market, hotel, hospital, mortuary, laundry, dry cleaning or other uses similarly requiring the receipt or distribution by vehicles of material or merchandise, there shall be provided and maintained on the same premises with such building at least one (1) off-street loading space plus one (1) additional such loading space for each twenty thousand (20,000) square feet or major fraction thereof of gross floor area so used in excess of twenty thousand (20,000) square feet.

Each loading space shall not be less than ten (10) feet in width, twenty-five (25) feet in length and fourteen (14) feet in height.

Such space may occupy all or any part of any required yard or court space, except as otherwise provided in this Zoning Ordinance. No such space shall be located closer than fifty (50) feet to any other lot in any residence district unless wholly within a completely enclosed building or enclosed on all sides by a wall or a uniformly painted solid fence not less than five (5) feet in height.

404.2 Parking Spaces

A. Number Required:

In all districts except "Central Business" there shall be provided at the time any building or structure is erected or enlarged, off-street parking spaces, either in garages or parking areas conforming with the provisions of this section, for such building or structure or part thereof, either singly or collectively, in addition to the above required loading and unloading spaces, in accordance with the following requirements:

USE	UNIT OF MEASUREMENT	PARKING AREA OR PARKING SPACES REQUIRED PER UNIT OF MEASUREMENT
One-family dwellings	each dwelling unit	two (2)
Two-family dwellings		two (2)
Multiple family dwellings		two (2)
Rooming and Boarding Houses	each five (5) beds	three (3) and not less than three (3) spaces in any case
Fraternities, Sororities and Dormitories	each five (5) beds	one (1)
Motels	each bedroom and each employee	one (1) one (1)
Motels, Tourist Courts Tourist Homes	each living unit or guest bedroom	one (1)
Private Clubs or Lodges	each four (4) members	one (1)
Hospitals, Sanitoriums, Convalescent Homes, Asylums, Orphanages, Convents, Homes for the Aged	each four (4) beds, each four (4) employees and each staff member	one (1) one (1) one (1)
Medical or Dental Clinics	each doctor, dentist or analogous professional practitioner	five (5)
Churches, Theaters, Stadiums, Sports Arenas, Auditoriums other than incidental to a school	each five (5) seats	one (1)
Auditoriums incidental to a school	each ten (10) seats	one (1)
Senior High Schools, Business Schools, Trade Schools, Colleges and Universities	each staff member and each five (5) classroom seats	one (1)
Dance Halls, Assembly Halls or Exhibition Halls without fixed seats	each one hundred (100) square ft. of floor area used for dancing, exhibition or assembly	one (1)

<u>USE</u>	<u>UNIT OF MEASUREMENT</u>	<u>PARKING AREA OR PARKING SPACES REQUIRED PER UNIT OF MEASUREMENT</u>	
Libraries, Museums or Community Centers	gross floor area	50%	
Banks, Business or Professional Offices	gross floor area	150%	
Bowling Alleys	each alley	five (5)	
Funeral Homes or Mortuaries	each five (5) seats available under maximum occupancy	one (1)	
	each funeral vehicle	one (1)	
	each dwelling unit	one (1)	
Laundromat, Self-Service Laundry or Dry Cleaning Establishment	each two (2) washing machines, dryers, and dry cleaning machines	one (1)	
Restaurants, Taverns, or Night Clubs	gross floor area	150%	
Retail Stores, except as otherwise specified herein, having less than 2,500 square feet of floor area	gross floor area	50%	
Furniture and appliance stores, hardware and wholesale stores, motor vehicle or machinery sales, household equipment service shops, clothing and shoe repair or service shops	gross floor area	50%	
	Retail stores, including discount stores, except as otherwise specified herein, having a gross floor area in square feet between		
	2,500 and 5,000 sq. ft.	gross floor area	60%
	5,001 and 10,000 sq. ft.	gross floor area	80%
	10,001 and 15,000 sq. ft.	gross floor area	100%
	15,001 and 20,000 sq. ft.	gross floor area	150%
	20,001 and 30,000 sq. ft.	gross floor area	250%
	30,001 and 40,000 sq. ft.	gross floor area	300%
	40,001 and 50,000 sq. ft.	gross floor area	350%
	51,000 or more sq. ft.	gross floor area	400%

USE	UNIT OF MEASURE	PARKING AREA OR PARKING SPACES REQUIRED PER UNIT OF MEASUREMENT
Manufacturing uses, research and testing laboratories, creameries, soft drink bottling establishments, bakeries, canneries printing and engraving shops, warehouses and storage buildings, having less than 2,000 sq. ft. of floor area or less than four (4) employees		six (6)
Having 2,000 sq. ft. or more of gross floor area and more than four (4) employees	each employee on the maximum working shift and for each vehicle owned by the user	one (1)

In the case of any use that is not specifically mentioned herein, the provisions for a similar use that is mentioned shall apply. The Planning Commission shall review the parking provisions indicated on a Development Plan for the use where these standards are not directly applicable. The Board of Adjustment may decide when a development plan is not required (see Section 404.2G).

B. Development and Maintenance Requirements

Every parcel of land hereafter used as a parking area shall be developed and maintained in accordance with the following requirements:

Each off-street parking space shall have an area of not less than one hundred and sixty (160) square feet exclusive of access drives or aisles, and shall be of usable shape and surface and have convenient ingress and egress. Aisles and access drives shall be designed so as to provide adequate vehicular maneuvering area upon the property being served and in no case shall off-street parking areas be permitted which encourage or require the backing onto or maneuvering within any public right-of-way.

Where parking areas are provided for five (5) or more vehicles, they shall be improved with an asphalt, bituminous, cement, or other properly bound surface, so as to be durable and dustless, unless two hundred (200) feet or more distant from a residence district in which case dustproof treatment will suffice, and shall be graded and drained so as to dispose of all surface water accumulation within the area.

Any lighting used to illuminate such parking areas shall be so arranged as to reflect away from the adjoining premises in any residence district.

The location of parking facilities shall be as hereinafter set forth and where distances are specified, they shall be the walking distances measured from the nearest point of the parking facility to the nearest point of the building that such facility is required to serve. For one and two-family dwellings - on the same lot with the building they are required to serve. For multiple dwellings - not more than one hundred (100) feet from the building they are required to serve. For uses located in and permitted for the first time in the "B-1", "B-2", and "B-4" districts, and for hospitals, sanatoriums, asylums, orphanages, rooming houses, lodging houses, club rooms, fraternity and sorority houses - not more than three hundred (300) feet from the building they are required to serve. For uses located in and permitted for the first time in "I-1" and "I-2" districts and uses not specified hereinabove - not more than five hundred (500) feet from the building, or other place of assembly, they are required to serve.

C. Units of Measurement

For the purposes of this section, "Floor Area" in the case of offices, merchandising or service types of uses shall mean the gross floor area used, or intended to be used, by tenants or for services to the public as customers, patrons, clients or patients, including areas occupied by fixtures and equipment used for display or sale of merchandise. It shall not include areas used principally for non-public purposes such as storage, incidental repair, processing or packaging of merchandise, for show windows, for offices incidental to the management or maintenance of stores or buildings, for toilet or rest rooms, for utilities, or for dressing rooms, fitting or alteration rooms.

In stadiums, sports arenas, churches and other places of assembly where patrons or spectators occupy benches, pews or other similar seating facilities, each twenty (20) inches of such seating facilities shall be counted as one seat for the purpose of determining requirements for off-street parking facilities under this Ordinance.

When units of measurements determining number of required parking spaces result in requirement of a fractional space, any fraction up to and including one half (1/2) shall be disregarded, and fractions over one half (1/2) shall require one (1) parking space.

D. Joint Use

Not more than fifty (50) percent of the off-street parking facilities required by this section for a theater, bowling alley, dance hall, or an establishment for the sale and consumption on the premises of food, alcoholic beverages or refreshments, and up to one hundred (100) percent of such facilities required for a church or an auditorium incidental to a public or parochial school may be supplied by off-street parking facilities provided for certain other kinds of buildings or uses specified in the following paragraphs of this section which are not normally open, used or operated during the principal operating hours of theaters, churches, or the aforesaid establishments; and not more than fifty (50) percent of the off-street parking facilities required by this section for certain building or uses specified in the following paragraph of this section such as business offices, or retail stores, may be supplied by such facilities provided for theaters, churches or the aforesaid establishments; provided, that a properly drawn legal instrument is executed by the parties concerned for the joint use of the off-street parking facilities, which instrument, duly approved as to form and manner of execution by the City Attorney shall be filed with the application for a building permit.

Buildings or uses not normally open, used or operated during the principal operating hours of theaters, churches, or the aforesaid establishments are defined as banks, business offices, retail stores, personal service shops, household equipment or furniture shops, clothing or shoe repair or service shops, manufacturing buildings and similar uses.

Any parking or loading space established prior to the effective date of this ordinance-resolution and which is used or intended to be used in connection with any main building, structure or use, or any spaces designed and intended to comply with the requirements of this ordinance for any such main building or structure erected after such effective date, shall hereafter be maintained so long as said building, structure or use remains, unless the owner provided and maintains in another location an equivalent number of required spaces in conformance with the provisions of this ordinance.

Where the principal use is changed and additional parking space required under the terms of this ordinance as a result of such change, it shall be unlawful to begin or maintain such altered use until such time as the required off-street parking is provided.

E. Screening or Landscape

Off-street parking areas for more than five (5) vehicles shall be effectively screened on each side which adjoins or fronts property situated in a residential district or used for residential or institutional purposes by a wall, fence or densely planted compact evergreen hedge, of a design or type which is acceptable to the Administrative Officer, not less than four (4) or more than six (6) feet in height, except that, in any industrial district, said wall, fence or hedge shall not be less than four (4) or more than eight (8) feet in height. Further provided that such wall or fence shall not be used for advertising purposes and shall be maintained to meet the requirements of this section. (See Landscape Ordinance).

F. Minimum Distance and Set-Backs

No part of any parking area for more than five (5) vehicles shall be closer than ten (10) feet to any dwelling, school, hospital or other institution for human care unless screened by an unpierced masonry wall. If on the same lot with a principal building, the parking area shall not be located within the front yard or side street side yard required for such building; and, if not on the same lot, not closer to any street line than the least depth of the yard which would be required for a principal building of one (1) story height. The fence, wall or hedge required by subsection E of this section shall be set back from each street the same as if it were a building wall, so as to observe the front yard and side street yard requirements of this Ordinance-Resolution.

G. Exceptions

In "B" or "I" districts, where private or semi-private interests acquire, develop and maintain parking areas for the joint use of their establishments, or where the City or County provides parking areas within a reasonable distance of such establishments, the Board of Adjustments may modify or waive the parking requirements for certain uses in the area concerned.

H. Restricted Business or Industrial Automobile Parking Area

The establishment and operation of a restricted accessory parking area may be authorized by the Board of Adjustment as a conditional use in such parts of any "R-2", "R-3" or "R-4" districts as abut, either directly or across an alley, a "B" or "I" district or any institutional building non-conforming in a particular residence district, subject to the following conditions and requirements:

The parking area shall be accessory to and for use in connection with one or more businesses or industrial establishments located in an adjoining "B" or "I" district, or in connection with one or more existing institutional buildings on adjoining premises.

Such parking areas shall be situated on premises not less than five thousand (5,000) square feet in area which shall abut at least fifty (50) feet, either directly across an alley, on a business or industrial district, or on the premises of the existing institutional building to which the parking area is accessory.

Such parking area shall be used solely for the parking of passage automobiles. No commercial repair work or service of any kind shall be conducted, and no charge shall be made for parking. No sign of any kind, other than designating ownership, entrances, exits, and conditions of use, shall be maintained on such parking area.

Each entrance and exit to and from such parking area shall be at least twenty (20) feet distant from any adjacent lot line located in any residence district.

The parking area shall be subject to all the requirements of this section concerning surfacing, lighting, screening and minimum distances and setbacks.

Any permit, issued by the Building Inspector for such parking area, may be revoked any time that the aforementioned requirements are not complied with, and any permittee who uses premises to which said permit relates in violation of any of the conditions specified by this section or fixed to such permit, shall be deemed in violation of this Ordinance and shall be subject to the penalty prescribed in this Ordinance.

404.3 Garages, Public Parking Lots, Filling Stations and Automobile Sales Lots

No building, structure or premises shall be used, erected or altered which is intended or designed to be used as a community garage, a public garage or public parking lot, an automobile repair shop or filling station, having an entrance or exit for vehicles in the same block front and within two hundred (200) feet of any school, public playground, church, hospital, public library or institution for dependents or for children, and no such entrance or exit except for a community garage shall be located within twenty (20) feet of any residence district; nor shall any part of such public garage or public parking lot, automobile repair shop or filling station be located within one hundred (100) feet of any building or grounds of any of the aforesaid public or institutional uses.

No gasoline pump, oil draining pit, or visible appliance for any purpose shall be located within twelve (12) feet of any street lot line within fifty (50) feet of any residence district, except where such pump, pit or appliance is within a building and distant at least twelve (12) feet from any vehicular entrance or exit of such building.

Every parcel of land hereafter used as an automobile or trailer sales lot or as a filling station shall be subject to the requirements of this section, concerning surfacing, lighting, screening and minimum distances and setbacks, and shall be considered, in the application thereof, as the equivalent of a parking area for more than five (5) vehicles, except that in the case of a filling station, the requirement concerning screening on that side which faces premises situated in a residence district or institutional premises shall apply only to that area used for parking and only when for more than five (5) vehicles.

A community garage may be permitted by the Board of Adjustments in any "R-2", "R-3", or "R-4" district, even on an otherwise vacant lot; provided, such garage shall conform with all requirements of this Ordinance for accessory buildings in said respective district provided, further, that no part of any such garage shall be within eighty (80) feet of any street lot line, or in "R-2" and "R-3" districts within twenty five (25) feet, and in "R-4" districts within twenty (20) feet of any other lot line which is in any "B" or "I" district, and no entrance to such garage shall face any lot line or make an angle with it of less than forty five (45) degrees within thirty (30) feet of it, except an alley lot line or lot lines of an adjoining lot in any "B" or "I" district.

405 JUNKYARDS

Junkyards are designated as permitted uses only in I-2 districts. They shall conform to this ordinance prescribing regulations for nonconforming uses. The Administrative Official shall ensure that all existing junkyards maintain valid permits to operate issued by the Kentucky Department of Highways, as required by Kentucky Revised Statutes 177.905 through 177.99 and he shall ensure that all screening required by the Department of Highways is maintained as long as the junkyards remain in operation. Except however that these provisions do not apply to businesses that operates wrecker services (but not junkyards), where the temporary storage of vehicles is incidental to the lawful operation of their business, and where parts of stored vehicles are not being sold.

406 GROUP HOUSING

In the case of group housing of two or more buildings to be constructed on a parcel of ground, not subdivided into the customary streets and lots, and which will not be so subdivided or where the existing or contemplated street and lot layout make it impracticable to apply the requirements of this ordinance to the individual building units in such group housing, the application of the terms of this ordinance may be varied by the Planning Commission in a manner which will be in harmony with the character of the neighborhood. However, in no case shall the Planning Commission authorize a use prohibited in the district in which housing is to be located, or a smaller lot area per family than the minimum required in such district. Neither public hearing nor action by the governing body is required for authorization, but the Planning Commission may impose conditions in keeping with the spirit and intent of this ordinance.

407 SIGNS

407.1 Statement of Legislative Intent

It is the purpose of this section to permit such signs that will not, by reason of their size, location, construction, or manner of display, endanger life and limb, confuse or mislead traffic, obstruct vision necessary for traffic safety or otherwise endanger the public morals, health, or safety; and further to regulate such permitted signs in such a manner as to prevent them from causing an annoyance or disturbance to the citizens, residents and visitors of Mount Sterling.

407.2 Permitted Signs

- A. On-premise signs are permitted in the following districts:
 - 1. Residential Districts: Ground-pole and wall signs are permitted subject to the following:
 - a. Nameplate signs shall not exceed two (2) square feet in area;
 - b. Identification signs for institutional use shall not exceed twenty four (24) square feet;
 - c. Nonconforming business in residential zones shall not have a combination of more than one hundred fifty (150) square feet in area of sign;
 - d. P-1 District permitted uses may have two (2) identification signs that do not exceed twenty four (24) square feet each;

- e. Real estate and subdivision signs are permitted providing there is only one (1) sign permitted at each major entrance, such signs are removed or extended by permit from the Building Inspector after the property has been sold and provided further that such signs do not exceed twelve (12) square feet in area or six (6) feet in height.

- B. Commercial and Industrial Districts: The following chart contains the on-premise sign regulations for commercial and industrial districts. Except, however, those on-premise signs that are directed and situated so as to identify the business to interstate traffic may exceed the limitations, as herein established, only to the extent that the height and area can be made visible from the interstate and only as permitted by the Board of Adjustment.

- C. Street Lighting: In developments where street lighting is to be provided, the developer shall make arrangements with the local utility company to utilize a city approved rental program for street lighting systems. The contractor shall install required light poles and bases and required conduit and provide required easements.

ON-PREMISE SIGNS

Type of Sign

<u>District</u>	<u>Permitted</u>	<u>Regulations</u>
B-1 Districts P-1 Districts		No more than two (2) major identification signs per place of business may be permitted
	Wall Signs	Twenty four (24) sq. ft. maximum area identification of the business only. Not higher than the roof line. May not project more than 18" from a wall.
B-2 Districts	Wall Signs	One (1) square foot for each lineal foot of building frontage is the maximum area not to exceed 300 sq. ft. 18" projection limitation Identification purposes only. May not extend above roofline. No more than two (2) major identification signs per place of business may be permitted.
	Free-Standing Signs	Setback from public right-of-way. 70% Identification of business. 35 feet maximum height. 150 sq. ft. maximum area.
B-3 Districts	Wall Signs	Same as B-1 except one (1) square foot of building frontage shall be maximum area.
B-4 Districts	Wall Signs	Same as B-2.
	Free-Standing Signs	Setback same as building. 70% Identification of business. 40 feet maximum height. 300 sq. ft. maximum area.
I-1 Districts	Wall Signs	Same as B-2.
	Free-Standing Signs	Same as B-4.
I-2 Districts	Wall Signs	Same as I-1 except maximum area is still one (1) sq. ft. for each foot of building frontage, however the area must not exceed 500 sq. ft.
	Free- Standing Signs	Same as B-4.

2. Off-Premise Advertising Signs

A. Placement and Height Regulations. Off-premise advertising signs will not be permitted to be erected in or within:

1. Fifty (50) feet from automobile bridges, nearest corner of street intersections (unless on roof structure), as on-premise sign equal to or greater than one hundred fifty (150) square feet in area, or interstate highway right-of-ways; nor
2. Seventy five (75) feet from residential districts and hospitals; nor
3. One hundred (100) feet from any public park, historical or recreational area, school, church or another off-premise sign of any size.
4. Five hundred (500) feet from another off-premise sign directed towards same interstate, limited access, or arterial highway;
5. The placement of one panel on top of another panel is prohibited; Off-premise signs will not be permitted to be erected unless the back of the sign is shielded from public view from a building or street by another structure of equal or greater dimensions, or by a high planting or unless such back is enclosed in a solid backing and painted a neutral color.
6. The maximum height for all off-premise signs is thirty-five (35) feet or the maximum height permitted for buildings in the district, whichever is lesser.

B. District and Area Regulations:

B-2 Ground-pole signs only; three hundred (300) square feet per facing and maximum area;

B-4 Back to back and "V" type prohibited;

Setback same as for buildings;

Thirty five (35) feet maximum height

I-1 Ground-pole structure only;

Three hundred (300) square feet maximum area;

Back to back and "v" type permitted;

Maximum height is thirty five (35) feet for ground pole signs or maximum building height for roof signs provided such sign do not extend more than twenty (20) feet above the roof or parapet walls;

Setback same as for buildings

I-2 Ground-pole signs only, 770 square feet maximum area;

back to back signs permitted; thirty five (35) feet maximum

height for ground-pole signs; twenty (20) feet above roof or

parapet wall maximum heights for roof signs; setback same as for buildings.

407.3 Signs Prohibited

1. Signs that incorporate in any manner any flashing or moving lights, except those time and temperature signs lawfully in existence at the time of ordinance adoption, whose owners shall cause such signs to be removed immediately upon the completion of their useful or depreciated life— whichever is shorter— and who also shall be subject to the nonconforming use provisions of this ordinance and Chapter 100 of the Kentucky Revised Statutes.
2. String light or any unshielded light that is visible by the public from a public street, and is used in connection with commercial premises for commercial purposes, including attention-getting, other than Christmas decorations.
3. Any sign, which has any visible moving part, visible revolving parts or visible mechanical movement, achieved by electronic or mechanical means or action of normal wind currents.
4. Any sign that obstructs or detracts from the visibility of any traffic sign or traffic control device on public streets and roads, by reason of the size, location, coloring or illumination.
5. Any sign or sign structures which a) is/are structurally unsafe, b) constitutes a hazard to safety or health by reason of inadequate maintenance, dilapidated or abandonment, c) is not kept in good repair, or d) is capable of causing electrical shocks to persons likely to come into contact with it.
6. Signs which make use of words such as "STOP", "LOOK", "DANGER", "YIELD", or other similar words, phrases, symbols or characters in such a manner as to imply the need or requirements of stopping or the existence of danger.
7. Freestanding signs that extend or are built over public property.
8. Off-premise wall signs painted on a building in any district and similar on-premise signs in the Central Business District.
9. Any sign extending more than forty (40) feet above the base of the structure.
10. Any sign other than governmental traffic control signs or devices that is or would be located in (or over) the right-of-way of any street or highway.
11. Any sign or device that advertises or promotes a business, concern, or facility that is no longer in operation. Such sign shall be removed or painted a neutral color within thirty (30) days of the closing of the business.

408 LANDSCAPING

408.1 Statement of Legislative Intent

It is the purpose and intent of this section to provide for the utilization of landscaping techniques for the purpose of improving the aesthetic and functional quality of new development and to minimize the conflicts between incompatible land uses, as granted to the Planning Commission In K.R.S. 100, Sections 201, 203 and 281. Should the requirements in this section be found in conflict with other sections of this Ordinance, the more stringent shall apply.

408.2 Landscape Requirements

A. Landscape Categories:

The following table describes the various land use relationships governed by these regulations. The landscape requirements in column three are keyed to the table in Section B.

<u>Where this use adjoins</u>	<u>This Use</u>	<u>Easement Categories Apply</u>
Single or Two Family	Multi-Family or Mobile Home	Section B-II
Agriculture, Single or Two-Family	Commercial or industrial	Section III
Multi-Family & Mobile Home	Commercial or industrial	Section IV
Multi-Family	Mobile Home	Section I
Commercial	Industrial	Section I
All Residential Zones	Freeway Thoroughfare and Railroad	Section V
Commercial	Freeway Thoroughfare (4 Lanes or more)	Section VI
Industrial	Freeway Thoroughfare	Section VI
Vehicular Use Areas -- all zones	Any Public Right-of-Way (excluding freeways)	Section VII
All Zones	Utility substations, landfills, junk yards, sewage plants or similar uses	Section VIII

B. Landscape Buffer Easement: This table describes the landscaping requirements for the buffer easements required between the activities listed in Section A.

Minimum Landscape Easement Requirements

Landscape Buffer Easement Categories	Width	Trees	Bushes	Ground Cover	Barrier
I	10'	1 med or large tree within 40 intervals or part thereof	6' continuous only w/fence barrier or at 10' intervals	Grass or low shrub	4' wall, fence or earth mound
II	10'	1 small to med tree within 40' intervals or part thereof	6' continuous hedge or 3' w/earth mound	Grass or low shrub	3' earth mound or 4' wall or fence
III	20'	Same as I	6' continuous hedge w/fence or planting w/wall	Grass	6' wall or fence
IV	20'	Same as I	Same as III	Grass	Same as III
V	20'	1 med or large tree within 30' intervals or part thereof	6' continuous only w/fence barrier	Grass	Same as III
VI	10'	Same as V	Same as I	Grass or low shrub	Same as I
VII	5'	Same as II	3' continuous hedge or barrier and intermittent planting	Grass, mulch or crushed stone	3' wall or earth mound or hedge
VIII	15' to all boundaries (5' for sub stations)	Same as V	6' continuous	Grass	Same as III

1. Location of Landscape Buffer Easements – The easements described in categories I, II, III and IV shall apply to all common boundaries. The easements described in categories V, VI and VII shall apply to the property line adjacent to the freeway or public right of way. Easements described in category VIII shall apply to all boundaries of the stated activities.
 2. Relationship to Yard Requirements – The Landscape Buffer Easements shall be provided in addition to the minimum yard requirements of the appropriate zones.
 3. Responsibility for Providing Buffer Easements – The Landscape Buffer Easements shall be provided as a condition of development by the owner or developer of the property which creates the incompatible situation.
 - a. Inclusion on Subdivision Plat – Areas to be set-aside for Landscape Buffer Easements shall be shown on preliminary subdivision plats. Illustrations including trees, bushes, ground covers and barriers shall be shown on final subdivision plats.
 - b. Easement Conflicts – Where landscape easements are required in the same locations as utility easements, the two may be combined providing that the total width and screening requirements are met.
 - c. Provision of Planting material and Barriers – Such trees, bushes, ground covers and barriers as shall be required and/or shown on the final subdivision plat shall be provided by the owner or developer and considered as any other site improvement. Sufficient bond as may be determined adequate to cover the required improvements may be required to be posted by the planning commission.
- C. Interior Landscaping for Vehicular Use Areas – Any open vehicular use area containing more than 6,000 square feet of area or twenty (20) or more vehicular parking spaces, shall provide “interior” landscaping in addition to the previously required “perimeter” landscaping.
1. Landscaped Area – For each one hundred (100) square feet or fraction thereof, of vehicular use area, five (5) square feet of landscaped area shall be provided.
 - a. Minimum Area – The minimum landscape area permitted shall be sixty-four (64) square feet, with a least dimension of eight (8) feet.
 - b. Maximum Contiguous Area – In order to encourage the required landscape areas to be properly dispersed, no required landscape area shall be larger than the three hundred fifty (350) square feet in vehicular use areas under 30,000 square feet in size, and no required area shall be larger than 1,500 square feet in vehicular use areas over 30,000 square feet in both cases, the least dimension of any required area shall be

eight (8) feet. Landscape areas larger than above are permitted as long as the additional area is in excess of the required minimum.

2. Minimum Trees – A minimum of one (1) tree shall be required for each two hundred fifty (250) square feet or fraction thereof, of required landscape area. Trees shall have a clear trunk of at least five (5) feet above the ground and the remaining area shall be landscaped with shrubs or ground cover not to exceed two (2) feet in height.
3. Quality and Type of Planting – All planting materials shall be living plants (not artificial) native to the area and suitable for the conditions of the site. Plant materials shall conform to the standards of the American Association of Nurserymen and shall have passed any inspections required under State regulations. All landscaping material shall be installed according to accepted good planting and construction procedures. Use should be made of existing on-site planting.
4. Vehicle Overhang – Parked vehicles shall not be permitted to hang over a landscape buffer easement or an interior landscaping area more than two and one-half (2 ½) feet. Curbs or wheel stops shall be provided to permit no greater overhang.
5. Maintenance – The property owner shall be responsible for the continued maintenance and replacement of all landscaping materials. Landscape Buffer Easements shall be kept free of refuse and debris. Any dead materials shall be replaced during the following planting season.

408.3 Landscape Provisions Administration – The enforcement of this ordinance shall be carried out as set forth in the following section.

1. Enforcement – The requirements of this ordinance will be administered by the planning commission and enforced by the appointed zoning Administrative Officer. No occupancy permit shall be issued until the landscaping is completed and certified by the zoning enforcement officer or by the building inspector. It shall be unlawful to occupy any premise unless the required landscaping has been installed or bonded, in accordance with the final subdivision plat.
2. Variances – In such individual situations where, by reason of exceptional topographic, dimensional or shape or other special conditions of the site, the enforcement of these ordinances would create an undue hardship on the applicant, that applicant may appeal to the Board of Adjustments for relief from specific provisions.

408.4 Definitions – The following terms relate to the landscape provisions.

Buffer Easement – a strip of land to be set-aside to separate incompatible land uses on which shall be placed trees, bushes, ground covers and barriers as necessary to reduce the deleterious effects of the activities.

Landscaping – the use of planting materials, pavements, walls, fences and earth mounds to enhance the aesthetic and safety characteristics of new and existing development.

Earth Mounds – ridges of piled earth up to four (4) feet in height and constructed with proper slopes and plant material to prevent erosion.

Interior Landscaping Areas – planting areas such as islands or peninsulas within a vehicular use area.

Vehicular Use Area – any open or unenclosed area containing more than eighteen hundred (1,800) square feet of area and used by six (6) or more of any type vehicle or mobile home including but not limited to parking lots, loading and unloading areas, sales and service areas.

Ground Cover – planting with a mature height of twelve inches (12") or less including but not limited to grass, certain junipers, phlox and ivy. Within interior landscaping areas and landscaping easements next to a public right-of-way, crushed rock, tree bark or processed shale may also be used.

Low Shrubs – low lying deciduous or evergreen ground covers.

Bushes – planting materials with a functional mature height of two (2) to twelve (12) feet with foliage for its full height.

Trees – planting materials with a functional mature height of ten (10) or more feet. When used in conjunction with interior landscaping areas, trees should have a minimum clear height of five feet (5') from the ground to the lowest branch.

Hedge – a row of bushes planted at such an interval as to create a continuous mass within two (2) years after planting.

Fence – a barrier constructed of wood or metal for the purpose of restricting movement or screening from sight conflicting activities. The height of fences shall be governed as set forward in the zoning ordinance. Fences shall not be used for advertising purposes in residential or agricultural zones.

409 PLANNED UNIT DEVELOPMENT PROJECT

409.1 Purpose of Planned Unit Development Projects

In general the purpose of PUD's are as follows:

- A. To encourage a more creative approach in land and building site planning.
- B. To encourage an efficient, aesthetic and desirable use of open space.
- C. To encourage variety in physical development pattern.
- D. To achieve flexibility and incentives for development which will produce a wider range of choice in satisfying the changing needs of the developing area.
- E. To encourage renewal of older sections in the city where new development and restoration are needed to revitalize the area.
- F. To permit special consideration of property with unique features, including, but not limited to, historical significance, unusual topography, landscape amenities and size and shape.
- G. To convert land so poorly developed as to be a public liability.
- H. To simplify processing of development proposals for developers and the Planning Commission by providing for concurrent review of land use, subdivision, public improvement and siting considerations.
- I. To accommodate condominium developments and other innovative land ownership alternatives.

409.2 Procedure

- A. Plats: All proposed PUD's should follow the procedure for plat preparation and subdivision approval as set forth in the Subdivision Regulations. In addition the Planning Commission shall hold a public hearing on the preliminary plat of the proposed PUD to aid them in deciding the merits of the proposed project. (Nothing herein should be construed to mean that the landowner has the inherent right to develop a PUD. The Planning Commission has the power to decide whether or not to allow the PUD based on their experience, knowledge, public hearing and the standards set forth herein.) Accompanying all preliminary plats shall be calculations for overall density, parking requirements and other material that the Commission may reasonably require.

If the Planning Commission approves the preliminary plat the developer may proceed with activities leading to final plat

approval providing that the project shall be developed in conformance with the approved preliminary plat.

- B. Permits: Building Permits and certificates of zoning compliance shall be required for each building in accordance with this Ordinance.
- C. Expiration of Approval: Approval of a PUD shall expire if no substantial work on the site has begun within one (1) year of the original approval and if the project is abandoned for more than twenty-four (24) consecutive months. (Abandonment shall be deemed to have occurred when no improvements have been made pursuant to the approved PUD plat.)
- D. Recording: All approved PUD plats shall be recorded in the County Clerk's office.

409.3 Uses and Densities

The uses of premises and development densities in a planned unit development project shall conform to the permitted uses and densities of the zoning district in which it is located. A PUD in a residential zone may contain non-residential uses that are an integral part of a residential development, logically oriented to and coordinated with the total planned unit. This situation would normally arise in higher density areas. An integrated development of this type shall follow amendment procedures and be approved as an "integrated planned development" by the appropriate legislative bodies.

409.4 Standards

- A. Although it is permissible to depart from literal conformance with the individual lot dimension and area regulations, there shall be no diminution of total-equivalent-lot-area, parking area and loading/unloading-area-requirement that would be necessary for the equivalent amount of individual lot development. However, the Planning Commission may allow reductions in these requirements if the developer can satisfactorily prove that large-scale development may permit such reductions without destroying the intent of these regulations.
- B. A one-acre minimum size is required for any PUD.
- C. It is desirable that access points to all arterial streets shall be located no more frequently than one every five hundred (500) feet. The Planning Commission may approve the platting of temporary access points in conformance with other sections of the Ordinance.
- D. Parking and other areas used by the public at night shall be adequately lighted and private areas shall be adequately protected from such

lighting and any other lighting from public areas. Public streets may also require protection from excessive glare of lighted areas.

409.5 Special Conditions

Because a PUD is inherently more complex than individual lot development and because every such project must be tailored to the topography and neighboring uses all standards for such projects cannot be strictly set.

Therefore, the Planning Commission may impose a special conditions and/or require the recording of covenants for any reasonable purpose, including, but not limited to, imposing standards for development of property in a Planned Unit Development. Such development standards may include, but are not limited to, requirements as to the following:

1. Lot area.
2. Floor area.
3. Ratios of floor space to land area.
4. Area in which structures may be built. (Buildable area)
5. Open space.
6. Setback lines and minimum yards.
7. Building separations.
8. Height of structures.
9. Signs.
10. Off-street parking and loading space.
11. Design standards.
12. Phasing of development.
13. Any developed area where the total size and number of lots exceeds a total of thirty-five (35) lots, with one (1) access, or at the discretion of the Zoning Commission, the development shall provide a through street.

410 CONDOMINIUM REGULATIONS

Condominiums are permitted in all districts where attached buildings are permitted and are permissible in approved Planned Unit Developments when designated. Condominium developments shall follow the same procedure as established in the Subdivisions Regulations and as established for Planned Unit Development.

The Planning Commission shall act upon condominiums in the same manner as for P.U.D.'s except that the overall density requirements are derived from the zoning district in which the condominium is located. The Commission may permit some variation from these regulations when the development is of a non-residential nature.

The Commission may, as a condition of approval, attach special requirements to ensure general conformity to municipal ordinances, county resolutions, or to the Comprehensive Plan and to ensure adequate maintenance of the development.

411 DEVELOPMENT PLANS

411.1 As a condition for zone changes, the Planning Commission may waive the submission and requirement of a development plan as established in KRS 100.203 (2) and as defined in KRS 100.111 (8). Plans are normally required for zone changes for major developments that utilize more than twenty (20) parking spaces or involve the construction of a new street.

The Planning Commission shall act as the Board of Adjustment in considering variables and conditions on the Development Plan.

ARTICLE V

ESTABLISHMENT OF ZONING DISTRICTS

501 ESTABLISHMENT AND DESIGNATION

The city of Mount Sterling is divided into Zoning Districts as shown on the Mount Sterling Zoning map and as hereinafter described:

- R-1 Single family residential
- R-1A Single family residential - large lot
- R-2 Duplex and single family residential
- R-3 Medium density residential
- R-4 High density residential
- R- 1T Zero Lot Line
- P-1 Professional office and residential
- B-1 Neighborhood business
- B-2 Highway business
- B-3 Central business
- B-4 General business
- I-1 Light industrial
- I-2 Heavy industrial
- H Historic
- FP-C Flood plain and conservation
- A Agricultural
- MHP Mobile home park

502 INTERPRETATION OF ZONING BOUNDARIES

The following rules shall be used to interpret the exact location of the Zoning District boundaries shown on the Zoning Map:

- A. Where a zoning district boundary follows a street or railroad, the centerline of the street or railroad right-of-way is the boundary of the districts.
- B. Where a zoning district boundary approximately follows a lot or property line, that line is the boundary of the district.
- C. Where a zoning district boundary follows a stream or the shore of a body of water, that streams or shoreline is the boundary of the district.

- D. Where a zoning district boundary does not clearly follow any of the features mentioned above, its exact location on the ground should be determined by measurement according to the map site.
- E. Unassigned and new areas coming under the zoning regulating authority shall be temporarily zoned R-1 Agriculture. The Planning Commission shall study the annexed or unassigned area and make recommendations within sixty (60) days to City Council for permanent classification.

503 DEVELOPMENT PLANS

503.1 Intent

This article outlines the content and procedure for submission, review, and approval of all development plans required in this Zoning Ordinance unless another procedure or different contents are specified elsewhere in this Ordinance.

503.2 Unless otherwise required by the Planning Commission, the development plan shall contain at least the following:

1. Vicinity sketch.
2. Topography with contour intervals of two (2) feet for tracts of one acre or less, and five (5) feet for larger tracts.
3. Location, arrangement and dimensions of existing and proposed driveways, streets, sidewalks, parking areas and arrangement of spaces, points of ingress and egress and other vehicular and pedestrian right-of-way.
4. Screening, landscaping, buffering, recreational and other open space areas showing dimensions of and materials of fences, planting, buffer and other open spaces.
5. Approximate size, location, height, floor area, arrangement and use of proposed or existing building and signs.
6. Storm drainage facilities, including retention areas.
7. Proposed and existing easements, including landscape buffer easements, utility easements and size of water and sewer lines with location of fire hydrants.

503.3 Plans required for Major Zone Changes

All applications for zoning map amendments in Mobile Home, Business, Professional and Industrial Zones shall require the submission and approval of a development plan. Such a plan shall be processed as provided for in each respective zone.

503.4 Development Plans Required at Commission Discretion

The Commission at its discretion may require the submission and approval of a development plan for the subject property of any zoning map amendment proposal if the Commission finds there are existing or potential storm drainage, traffic, land use, topographic or other similar problems relating to the development of the property that could have an adverse effect upon existing or future development of the subject property or other property in the neighborhood. Development plans will also be required when development in an area is proceeding without a coordinated plan for development. The Planning Commission may stipulate that the development plan give consideration to properties surrounding the site in order to insure development coordination. These plans may also be considered as neighborhood plans and shall include plans for land use, transportation and community facilities.

503.5 Procedure for Development Plans

A public hearing on the zoning map amendment shall be scheduled when the application and the development plan are filed with the Commission. The Commission shall consider the zone change before considering the development plan. When the Commission approves the development plan, the development plan shall become a part of the zone change amendment and shall be binding to all parties. The Commission must decide on the development plan within sixty (60) days of the public hearing on the zone change.

503.6 Development Plans Required for Multiple Principle Structures

Development plans are required when more than one principle structure is proposed on one parcel of land. The Commission may modify, disapprove or approve the development plan. An approved plan is required prior to the submission of an application for a building permit.

503.7 Amendments

Only the Planning Commission may amend the development plan, if requested, by following in the same procedure for adoption. However, notice in the newspaper is the only notice required for amendments to a development plan that was approved as a part of a zone change amendment. Public hearings are not required where a hearing was not necessary in the original approach. The Commission may, however, in the case of development plan amendments where the plan was a part of a zone change and the amendments are of a substantial nature, require the applicant to give the same notices required for the original zone change.

ARTICLE VI

ZONING DISTRICT REGULATIONS

601 RESIDENTIAL DISTRICTS

601.1 R-1A Districts (Single Family Residential)

A. Permitted Uses

1. Single family dwellings.
2. Planned Unit Development projects for residential use only.
3. Customary general horticultural uses.

B. Accessory Uses

1. Garages and other buildings not used as a dwelling and incidental and accessory to the principle use.
2. Swimming pools and private recreational facilities incidental to the principle use.

C. Conditional Uses

1. Home Occupations for occupants only.
2. One or two sleeping rooms (roomers) in a structure.
3. Churches, libraries, schools, public recreational facilities, governmental uses, public utilities (K.R.S. 100.324), funeral homes, cemeteries, hospitals, institutions, clubs (non-retail). The Board of Adjustment may attach special conditions to its approval which it feels are necessary requirements in order to carry out the intent of this Ordinance and to preserve and protect the character of the district in which the proposed use would locate.

D. Dimension and Area - Requirements are established in the Schedule of Dimension and Area Regulations. The applicable regulations shall be observed in each district as minimum requirements.

601.2 R-1 Districts (Single Family Residential)

A. Permitted Uses

1. Same as R-1A.

B. Accessory Uses

1. Same as R-1A.
- C. Conditional Uses
 1. Home Occupations as defined - same as R-1A
 2. Up to four (4) sleeping.
 3. Professional offices, studios and similar activities of the resident, provided:
 - a. no more than one (1) non-resident is regularly employed
 - b. no exterior evidence of the activity is visible excepting one (1) permitted identification sign not exceeding two (2) square feet in area and
 - c. all other provisions of home occupations and this Ordinance are complied with
 4. Funeral Homes
 5. Antique shops in dwellings and accessory buildings (not to include flea markets, consignment shops and the like).
- D. Dimension and Area Requirements
 1. See schedule

601.3 R-2 Districts (Low Density Residential)

- A. Permitted Uses
 1. Single family dwellings
 2. Two family dwellings
 3. Planned Unit Developments
 4. General horticultural uses
- B. Accessory Uses
 1. Same as R-1
 2. Home Occupations
- C. Conditional Uses
 1. Same as R-1
 2. Home Occupations that exceed the definition of such, including antique sales areas
- D. Dimension and Area Requirements
 1. See schedule

601.4 R-3 Districts (Medium Density Residential)

- A. Permitted Uses
 1. Single family dwellings
 2. Two family dwellings

3. Townhouses or attached single family dwellings
4. Multi-family dwellings

B. Accessory Uses

1. Same as R-2

C. Conditional Uses

1. Same as R-2

D. Dimension and Area Requirements

1. See schedule

601.5 R-4 Districts (High Density Residential)

A. Permitted Uses

1. Same as R-3

B. Accessory Uses

1. Same as R-3

C. Conditional Uses

1. Same as R-3

D. Dimension and Area Requirements

1. See schedule

R-1B (SINGLE FAMILY, RESIDENTIAL DISTRICT)

601.6 Intent-This zone is intended to provide for single family detached residences on small lots and at a higher density than would be possible in other detached single family zones. It may be used for zero-lot-line houses and for patio houses. This zone should be at locations and at the density (units/acre) recommended by the Comprehensive Plan and in areas of the community where necessary services and facilities will be adequate to serve the anticipated population.

A. Principle Uses (Other uses substantially similar to those listed herein shall also be deemed permitted.)

1. Single family detached residences.
2. Parks and playgrounds operated by the government.

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

1. Private garages, storage sheds and parking areas.
 2. Swimming pools and tennis courts.
 3. Agricultural uses excluding commercial stock raising.
 4. Private, non-commercial parks and open space.
 5. Home office.
 6. Family child care for up to six (6) children, provided that the total number of children living or being cared for on the premises shall not exceed six (6).
- C. Conditional Uses (Permitted only with Board of Adjustment approval)
1. As for R-1.
- D. Prohibited Uses (All uses other than those listed as principle, accessory, or conditional uses or substantially similar to principle, accessory or conditional uses shall be prohibited. The uses below are provided for illustration purposes and for the purpose of limiting permitted uses and are not intended to be a total listing of all the uses that are prohibited.)
1. As for R-1.
- E. Lot, Yard and Height Requirements
1. Lot Size - 4,000 square feet minimum with a maximum of 7,500 square feet for single family detached uses; for all other uses there shall be no maximum lot size.
 2. Minimum Lot Frontage - 40 feet
 3. Minimum Front Yard - 20 feet
 4. Minimum Each Side Yard - see F below
 5. Minimum Rear Yard - 10 feet
 6. Minimum Usable open Space - No limitation
 7. Maximum Lot Coverage - No limitation
 8. Maximum Height of Building - 35 feet
 9. Off Street Parking (See Article 16 for additional parking regulations)
- F. Special Provisions - There shall not be less than six (6) feet at any point between each single-family residence. Side yards shall be determined as follows:
1. Where one wall of the structure is to be located on the side lot line, the yard on the opposite side shall be at least six (6) feet. The final record plat shall designate the lots that are to have zero-lot-line structures under this provision. A three- (3) foot wall maintenance easement shall be provided on the lot adjacent to the zero-lot-line structure. No fence, wall, air-conditioning unit, structure or other obstruction shall be located within this easement. The wall maintenance easement shall be noted on the final record plat.
 2. All other structures shall have a minimum side yard of three (3) feet on each side.

R-1T (TOWNHOUSE RESIDENTIAL DISTRICT)

601.7 Intent - This zone is intended to provide for attached single-family dwellings and supporting uses. This zone should be at locations and at the density (units/acre) recommended by the Comprehensive Plan and in areas of the community where necessary services and facilities will be adequate to serve the anticipated population.

A. Principle Uses - (Other uses substantially similar to those listed herein shall also be deemed permitted.)

1. Single family attached residences, except that not more than twelve (12) units shall be attached.
2. Existing single family detached residence and single-family detached residences for which a building permit was issued or a plan approved prior to the adoption of this Zoning Ordinance.
3. Parks and playgrounds operated by government.

B. Accessory Uses - (Uses and structures, which are customarily accessory, clearly incidental and subordinate to, permitted uses.)

1. Private garages, storage sheds and parking areas.
2. Swimming pools and tennis courts.
3. Agricultural uses excluding commercial stock raising.
4. Private, non-commercial parks and open space.
5. Home office.
6. Family child care for up to six (6) children, provided that the total number of children living or being cared for on the premises shall not exceed six (6).

C. Conditional Uses - (Permitted only with Board of Adjustment approval.)

1. As for R-1.

D. Prohibited Uses - (All uses other than those listed as principle, accessory or conditional uses or substantially similar to principle, accessory or conditional uses shall be prohibited. The uses below are provided for illustration purposes and for the purpose of limiting permitted uses and are not intended to be a total listing of all the uses that are prohibited.)

1. As for R-1, except for townhouses.

E. Lot, Yard and Height Requirements

1. Minimum Lot Size - Fifteen hundred (1,500) square feet.
2. Minimum Lot Frontage - Sixteen (16) feet
3. Minimum Front Yard - Ten (10) feet
4. Minimum Each Side Yard - See F below

5. Minimum Rear Yard – Ten (10) feet
6. Minimum Usable Open Space - See F below
7. Maximum Lot Coverage - no limitation
8. Maximum Height of Building – Thirty five (35) feet
9. Off-Street Parking (See Article 16 for additional parking regulations.)

F. Special Provisions

1. No more than three (3) contiguous townhouse units may be established at the same setback. A variation of at least three (3) feet shall be required where a break in setback occurs. Buildings may penetrate up to eighteen (18) inches over the building line into the required front yard, but the average setback of the contiguous units shall be at least as great as the required front yard.
2. Required side yard shall be six (6) feet for each side yard of townhouses when no units or only one unit fronts on a side yard; and a side yard of twenty (20) feet when more than one unit fronts on that side yard.
3. Not less than ten percent (10%) of the total area for any townhouse shall be devoted to private usable open space either on each lot or on land adjacent and directly accessible to each lot. Such open space shall be for the private use of the residents of each individual townhouse and shall be physically separated from other private open space or common open space by plantings, fences or walls. The least dimension of the private open space shall be eight (8) feet.

602 P-1 DISTRICTS (PROFESSIONAL OFFICE)

A. Permitted Uses

1. Administrative, executive and editorial offices
2. Medical, dental and similar offices and clinics
3. Hospitals
4. General business and professional offices provided retail activities are not conducted, including displays and advertising promotions
5. Real estate and insurance offices
6. Governmental buildings and uses
7. Radio and television stations
8. Schools, churches, places of assembly, recreational centers, museums, libraries and galleries
9. Funeral homes
10. Residential uses as permitted in the R-2 District

B. Conditional Uses

1. Accessory retail activities that do not attract customers other than those on the premises
2. Day nurseries, nursery school and child care centers
3. Veterinarian centers when located within one hundred (100) feet of a residential structure
4. Townhouse developments and P.U.D.s providing the density does not exceed that permitted in the R-2 District

C. Conditional Uses

1. Same as R-2

D. Dimension and Area Requirements

1. See schedule

603 BUSINESS DISTRICTS

The following regulations apply in business districts as indicated.

603.1 B-1 Districts (Neighborhood Business)

This district is to be used for retail trade and personal service enterprises that will meet the regular needs of the surrounding neighborhood.

A. Permitted Uses

1. Retail sales for neighborhood consumption
2. Consumer services for neighborhood consumption
3. Professional, business and governmental offices
4. Public facilities such as libraries, churches, schools, recreational facilities, hospitals, institutions and similar uses
5. Financial establishments
6. Accessory uses and buildings customarily incidental to permitted uses
7. Residential uses as permitted in the R-2 District

B. Conditional Uses

1. Other uses similar to permitted uses but having a larger market
2. When the B-2 District adjoins and is accessible from state and federal highways, those uses that have a greater market area like motels, restaurants and hotels may be permitted

C. Dimension and Area Requirements

1. See schedule

603.2 B-2 Districts (Highway Business)

A. Permitted Uses

1. Those uses as permitted in the B-1 and P-1 Districts including motels, automotive service stations, auto sales, produce establishments and public garages
2. Animal hospitals, clinics and kennels
3. Commercial greenhouses and plant nurseries including office and sales yards
4. Drive-in eating and drinking establishments
5. Outdoor and indoor display of farm implements, mobile homes, recreational vehicles, contractors' equipment and similar uses.
6. Car washing establishments
7. Mobile homes used as offices
8. Other uses determined (by the Board of Adjustment if necessary) to be of the same general character

B. Conditional Uses

1. Residential uses as permitted in the R-3 District

C. Dimension and Area Regulations

1. See Schedule

603.3 B-3 Districts (Central Business District)

A. Permitted Uses

1. Any use permitted in the B-1 District except filling stations and businesses primarily of a wholesale storage, warehousing or manufacturing nature and any similar use which in the opinion of the Board of Adjustment would be detrimental to the orderly development of the Central Business District
2. Residential uses as permitted in the R-4 District

B. Conditional Uses

1. Automotive service stations and dealerships

C. Dimension and Area Regulations

1. See Schedule

603.4 B-4 Districts (General Business)

- A. Permitted Uses
 - 1. Any retail or service use permitted in all other Business Districts
 - 2. Warehousing and storage activities and establishments
 - 3. Wholesale business activities
 - 4. Mobile homes used as offices
- B. Conditional Uses
 - 1. Uses where assembly, processing or light manufacturing are involved providing such activities are incidental to the principle use
 - 2. Residential uses as permitted in the R-4 District
- C. Dimension and Area Regulations
 - 1. See Schedule

604 INDUSTRIAL DISTRICTS

604.1 I-1 District (Light Industrial)

- A. Permitted Uses
 - 1. Wholesale business
 - 2. Warehouses
 - 3. Laboratories
 - 4. Assembly plants
 - 5. Machine shops
 - 6. Manufacturing plants
 - 7. Food processing establishments
 - 8. Other similar establishments making, preparing, packing and storing of items, provided such establishments are consistent with the definition of light industry
- B. Dimension and Area Regulations
 - 1. See Schedule

604.2 I-2 Districts (Heavy Industrial)

- A. Permitted Uses
 - 1. All uses permitted in the I-1 District.
 - 2. All uses meeting the definition of heavy industrial including junkyards, provided that the local, state and federal regulations are complied with.
- B. Dimension and Area Regulations
 - 1. See Schedule

605 HISTORIC DISTRICTS

The historic district as a designated zone that may be superimposed over any other zoning district wherein the provisions of the other zoning district are applicable as well as the provisions contained herein. The historic district is intended to protect the historic character to the fullest extent of those buildings and surrounding areas so designed.

All buildings within a historic district shall not be demolished or moved without first obtaining a permit from the Board of Adjustment. In such instances, upon proper application and notice, the Board shall conduct a public hearing to determine if the permit should be granted. The Board may seek advice and recommendations from the Planning Commission, any historical society, architect, engineer, historian or other qualified person as well as governmental agencies as determined necessary by the Board.

Submission Qualification shall be defined as:

1. The structure as a reminder of the cultural or archeological heritage of the city, state or nation.
2. The structure as a site of a significant local, state or national event.
3. The structure is defined with a person(s) who significantly contributed to the development of the city, state or nation.
4. The structure is identified as the work of a master builder, designer or architect whose individual work has influenced the development of the city, state or nation.
5. The structure is a building that is recognized for the quality of its architecture and that retains sufficient elements showing its architectural significance.
6. The structure has distinguishing characteristics of an architectural style valuable for the study of a period, method of construction or use of indigenous material.
7. The structure as a geographically definable area posing a significant concentration or continuity of sites, buildings, objects or structures united by past events or aesthetically by plan or physical development.
8. The structure's character as an established and geographically definable neighborhood, united by culture, architectural style or physical plan and development.

Proposed construction in historic zones of new buildings, structures, or major landscape modification shall not commence without first obtaining approval from the Planning Commission of the developmental plan. The Commission, as with the Board, may call upon expert assistance to assist them in reviewing the development plan. The procedure for historical review before the Planning Commission shall be similar to the requesting of variances before the Board of Adjustment except that an appeal of their decision may be made to the City Council as in zone changes.

The Board of Adjustment, the Planning Commission and occasionally, the City Council shall fully examine the nature of the proposal, the historical significance at buildings slated for demolition, the character of the area, the future use of the site, and shall strive for architectural compatibility and for protection as well as promotion of the historical character of the affected area.

This section does not grant local bodies the authority of preventing a land owner from moving or demolishing a structure, or from a building a structure otherwise permissible. It is the intent of this section and review process herein established to assure that the project is well conceived. If it is not, this process will provide time and a forum upon which valid alternatives can be presented and considered.

605.1 Historic Structures in R-1 Districts

It is the intent of this section to promote the preservation of old and historic structures. While it is recognized that the conversion of single family structures to multi-family use is sometimes objectionable in single-family (R-1) districts, it is more objectionable to see an historic structure abandoned, allowed to deteriorate, removed or demolished due to the following:

1. Inefficient design
2. Difficulty in attracting large families
3. Difficulty in attracting families with the resources to preserve, heat and maintain the structure as a single family use
4. Lack of governmental assistance programs to help the owner-occupied historic residential structure
5. Inability to allow multi-family use due to single family zoning regulations and constitutional requirements where spot zoning is the only practical solution to the preservation of the structure and of the historic neighborhood character

605.2 Historical District Requirements

The historic district is a designated zone that may be superimposed over any other zoning district wherein the provisions of the other zoning district are applicable as well as the provisions contained herein. The historic district is intended to protect the historic character to the fullest extent of those buildings and surrounding areas so designated.

All buildings within a historic shall not be demolished or moved without first obtaining a permit from the Board of Adjustment and being reviewed by the Zoning Commission. In such instances, upon proper application and notice, the Zoning Commission and Board of Adjustment shall conduct a public hearing to determine if the permit should be granted. The Board of Adjustment may seek advice from and recommendations from the Planning Commission, any historical society, architect, engineer, historian or other qualified person as well as governmental agencies as determined necessary by the Board. The applicant shall provide a response to the following qualification items:

- A. 1. Its value as a reminder of the cultural or archeological heritage of the city, state or country.
2. Its location as a site of significant local, state or national event.
3. Its identification with a person or persons who significantly contributed to the development of the city, state or country.
4. Its identification as the work of a master builder, designer or architect whose work has influenced the development of the city, state or country.
5. Its value as a building that is recognized for the quality of its architecture and that retains sufficient elements showing its architectural significance.
6. Its distinguishing characteristics of an architectural style valuable for the study of a period, method or construction or use of indigenous materials.
7. Its character as a geographically definable area possessing a significant concentration or continuity of sites, buildings, objects or structures united by past events or aesthetically by plan or physical development.
8. Its character as an established and geographically definable neighborhood, united by culture, architectural style of physical plan and development.

Therefore, it is provided that the Board of Adjustment may convert old and historic structures in the R-1 and historic districts to multi-family use by the granting of a conditional use. In the consideration of each application, the Board is directed to examine the application with all zoning requirements and to make every attempt to insure that:

- B. 1. The zoning ordinance is complied with as much as possible.
2. That the granting of the conditional use does not create an intolerable situation with respect to the protection of the public health, safety, general welfare and aesthetic character of the area.
3. That all other municipal codes (fire, building, nuisance, etc.) are not infringed upon.
4. That the conversion does not allow the structure to be substantially changed in such a manner as to substantially detract from the single-family architectural characteristics.
5. That off-street parking is provided and is sufficient to meet the needs of the occupants and their guests, and parking areas designed for five (5) or more vehicles are screened from adjoining properties (side and rear) by strict compliance with the landscaping provisions of the Zoning Ordinance.
6. That such conversion would not exceed the limitations of the R-2 Zoning District.

606 FP-C DISTRICTS (FLOOD PLAIN AND CONSERVATION)

The Flood Plain and conservation Districts herein established and designated on the Zoning Map are intended to protect significant natural features, wooded areas, water courses, existing and potential lake sites (or retention areas), recreational resources, wildlife habitats, present and future water supplies and to minimize erosion of soil and pollution of streams.

606.1 Permitted Uses

1. Agricultural activities
2. Forestry
3. Lakes, ponds and storm water retention facilities
4. Buildings, providing all construction shall be designed so as to offer minimum obstruction to the flow of waters and shall be firmly anchored to prevent the building from being moved or damaged by the flow of water.

607 A DISTRICTS (AGRICULTURAL)

The following regulations shall apply to A Districts in order to conserve agricultural lands for continued farm use and to minimize urban development in areas until urban services can be efficiently provided.

607.1 Permitted Uses

1. Agricultural uses including farm dwellings and farm buildings
2. The growing, harvesting and storage of crops
3. The keeping, raising and feeding of livestock, poultry, horses and other farm animals.

607.2 Conditional Uses

1. Commercial feed lot operations
2. The slaughtering of animals raised elsewhere
3. Governmental uses and buildings
4. Home occupations that exceed the definition
5. Buildings and areas open to the general public or private membership
6. Churches, schools, hospitals, institutions and clubs

607.3 Dimension and Area Requirements

1. See Schedule

608 MOBILE HOMES

The intent of this section is to permit the establishment of mobile home parks in a residential setting and convenient to major traffic arterials. In attempting to preserve the residential quality of this district, recognition is given to the changing character of the mobile home from a semi-permanent residence to a permanent residence. Residences of these districts need the same amenities, services and protection generally associated with other residential developments.

608.1 MHP Districts (Mobile Home Parks)

A. Permitted Uses

1. Mobile home parks consisting of more than one mobile.
2. Mobile home subdivisions consisting of more than one mobile home.

B. Accessory Uses

1. Those accessory uses customarily accessory and incidental to any permitted principle use.
2. Recreational areas for the residents of the mobile home park.

C. Conditional Uses

1. Incidental retail uses for the residences.
 2. Laundries and nurseries for residents.
- D. Dimension and Area Regulations
1. See schedule.

609 SCHEDULE OF DIMENSION AND AREA REQUIREMENTS

MINIMUM YARD REQUIREMENTS

District	Density Per Gross Acre	Minimum Lot Width at Bldg Line	Front	Rear	Side Least Side	Sum Side	Maximum Bldg Height	Max % Lot Coverage by Bldg
R-1A	12,000	100	35	30	15	30	2 ½ stories-30'	40
R-1	10,000	80	30	30	12	25	2 ½ stories or 30'	40
R-2	8,000 (10 ac)	70 SF 75 2-plex	25	25	8	18	2 ½ stories or 30'	40
R-3	7,500 (16 ac)	65 75 2-plex (2)	25	25	8	18	3 stories or 40'	40
R-4	7,500 (20 ac)	65 75 2-plex	25	ht of bldg	8	18	50'	50
R-1T								
P-1	7,500	70	30	25	8	18	3 stories or 40'	50
B-1 Neighborhood	7,500	70	25	20	NA (1)	NA	2 ½ stories-30'	75
B-2 Highway	7,500	50	30	30	NA (1)	NA	3 stories or 40'	50
B-3 C.B.D.	NA	NA	NA	NA	NA (1)	NA	50'	90
B-4 general	7,500	70	30	25	NA (1)	NA	3 stories or 40'	60
I-1	10,000	80	30	30	NA (1)	NA	50'	50
I-2	10,000	80	30	30	NA (1)	NA	50'	50
FP-C	1 acre	80	NA	NA	NA	NA	NA	30
A	2 acres	150	50	30	25	50	2 ½ stories or 35'	20
MHP 2 wide	7,500	75	25	25	8	16	25'	40
MHP 1 wide	5,500	50						

(1) Where adjoining a residential district, use most observe side yard requirements of adjoining district.

(2) Where permitted, minimum lot area for duplex lots is 10,000 square feet.

610 WIRELESS COMMUNICATIONS FACILITIES

A. Definitions

610.1 Cellular Antenna: Any structure or device used to collect or radiate electromagnetic waves, including both directional antennas, such as panels, microwave dishes and satellite dishes, and omni-directional antennas, such as whips, at frequencies on the electromagnetic spectrum as the FCC from time to time may designate, used for cellular telecommunications services and/or personal communications services, but not including such structures or devices when used for the broadcast

of television of AM or FM radio stations or for citizen's band or amateur radio use. Examples of cellular telecommunications or personal communications services include, but are not limited to, cellular telephone, paging, public safety, data transmission, Specialized Mobile Radio, Enhanced Specialized Mobile Radio and other commercial private radio services.

- 610.2 Cellular Antenna Tower: Any structure that is designed and constructed primarily for the purpose of supporting one or more cellular antennas. This included guyed towers, lattice towers, monopoles, alternative cellular antenna tower structures and towers taller than fifteen (15) feet constructed on the top of another building, along with any separate building on the lot used to house any supporting electronic equipment.
- 610.3 Co-Location: Locating one or more cellular antennas for more than one provider on a single cellular antenna tower or alternative cellular antenna tower structure on a single lot.
- 610.4 Height, Antenna Tower: The distance from the anchored base of the tower, whether on the top of another building or at grade, to the highest point of the structure, even if the highest point is the top of an antenna.
- 610.5 Telecommunications Facility: The lot, tract or parcel of land that contains the telecommunications antenna, its support structure, and accessory buildings and parking and may include other uses associated with and ancillary to telecommunications transmission.

B. Antenna Towers for Cellular Telecommunications Services or Personal Communications Services (Cellular towers or alternative tower structures)

Any antenna tower for cellular telecommunications services or personal communications services may be allowed after receiving review by the Mt. Sterling Planning and Zoning Commission in accordance with the filing procedures as set forth below to ascertain its agreement with the zoning ordinance and after being granted a Certificate of Public Convenience and Necessity by the Public Service Commission. Co-location of service facilities is preferred. Co-location objectives may be satisfied by configuration of new facilities for multiple carriers or by co-location of existing facilities. Any request for review of a proposal to construct such an antenna tower or re-configure, enlarge or reconstruct an existing antenna tower shall be made only in accordance with this Section B.

1. General Provisions:

a. Notice of Filing:

- (1) Notice of any request filed under this section shall be sent by the applicant by first class mail to the owner of every parcel of property within one thousand (1,000) feet of the tower, to the owner of every parcel of property adjoining at any point the property from which the applicant proposes to create the tower site and to the owner of every parcel of property directly across the street from said property. Notice shall also be sent by the applicant to the Mayor of Mt. Sterling. Such notice shall include the address and telephone number of City Hall and a statement that the recipient has the right to submit testimony to the Planning and Zoning Commission, either in writing or by appearance at any Planning and Zoning Commission meeting. Such notices by first class mails shall be mailed no sooner than the date of acceptance of the application by the Planning and Zoning Commission and no later than two (2) work days subsequent to the application.
- (2) The applicant shall furnish to the Planning and Zoning Commission a copy of the notices required and the names and addresses of the owners of property and the government officials to whom the required notices will be sent. Records maintained by the Property Valuation Administrator may be relied upon to determine the identity and the address of said owners.
- (3) Notice of the filing of the request shall be posted conspicuously in a visible location on the proposed site of the telecommunications facility and in a visible location on the nearest public road at the time that notice by first class mail is sent. The applicant shall certify that the posting have been made. The notices shall remain until the Planning and Zoning Commission issues its final decision or until sixty (60) days has passed since acceptance of the request by the Planning and Zoning Commission, whichever occurs first. The posting shall be as follows:
 - a. Each sign shall be at least two (2) feet by four (4) feet in size;
 - b. Each sign shall state: "(Name of applicant) proposes to construct a telecommunications tower and/or facility on this site. If you have questions, please contact (name and address of applicant). Information on the Planning and Zoning Commission's review of this proposal may be

obtained by calling the Mt. Sterling Planning and Zoning Commission at (859)498-8725.”

- c. In both posted notices, the words “proposes to construct a telecommunications tower and/or facility” shall be printed in letters at least four (4) inches in height and the words “Mt. Sterling Planning and Zoning Commission at (859)498-8725” shall be painted in letters at least one (1) inch in height. Both signs shall be constructed of durable, weatherproof material.
 - d. Any such signs may also include any notices required to be made by regulations of the Kentucky Public Service Commission in effect at the time that the signs are posted.
- b. Documentation: Any request filed under this Section B for the review of a proposal to construct an antenna tower shall include the following:
- (1) An indication that the information that the applicant is required by 807 KAR 5:063 (as now in effect or as amended) to submit to the Commonwealth of Kentucky Public Service Commission is available to be sent promptly to the Planning and Zoning Commission upon its written request:
 - (2) A copy of the applicant’s FCC license, or, if the applicant is not an FCC license holder, a copy of at least one (1) letter of commitment from an FCC license holder to locate at least one (1) antenna on the applicant’s tower.
 - (3) Unless co-locating, certification, supported by evidence, that co-location of the proposed telecommunication facility with an existing approved tower or facility cannot be reasonably accommodated. The applicant’s certification shall include a listing of all existing towers and facilities, a description of each existing site and a discussion of the ability or inability to reasonably co-locate on each existing site according to the following table:
 - For a tower proposed to be two hundred (200) or more feet tall, all towers and facilities within a one (1) mile radius of the proposed site;
 - For a tower proposed to be less than two hundred (200) feet tall, all towers and facilities within a one (1) mile radius of the proposed site.
 - Notwithstanding the foregoing, for any size tower proposed to be located in the following zones: B-1, B-2, B-3, P-1, I-1, and I-2, all potential sites within a one half (.05) mile radius of the proposed site.

Reasons for not co-locating on a site could include, but would not be limited to, the following:

- No existing towers or facilities are located within the above radius or the site;
- Existing towers or facilities are not of sufficient height to meet the applicant's engineering requirements;
- Existing towers or facilities do not have sufficient structural strength to support applicant's proposed antenna and related equipment;
- Applicant's planned equipment would cause radio frequency interference with other existing or planned equipment of the tower or facility, or the existing or planned equipment of the tower or facility would cause interference with the applicant's planned equipment which cannot be reasonably prevented;
- Unwillingness of the owner of the existing tower or facility to entertain a reasonable co-location proposal, as determined by the Planning and Zoning Commission;
- Existing towers or facilities do not provide an acceptable location for requisite coverage for the applicant's communications network.

(4) Unless co-locating, certification, supported by evidence, that there is no other site which is materially better from a land use perspective within the immediate area for the location of the telecommunications facility. The applicant's certification shall include a listing of potential sites, a description of each potential site, and a discussion of the ability or inability of the site to host a telecommunications facility according to the following table:

- For a tower proposed to be twenty (20) or more feet tall, all potential sites within a one (1) mile radius of the proposed site;
- For a tower proposed to be less than two hundred (200) feet tall, all potential sites within a one (1) mile radius of the proposed site.
- Notwithstanding the foregoing, for any size tower proposed to be located in the following zones: B-1, B-2, B-3, P-1, I-1, I-2, all potential sites within a one half (.5) miles radius of the proposed site.

Potential sites that should be considered (in order from most preferred to least preferred), include: highway rights-of-way, existing utility towers, industrial districts and business districts. Reasons for not locating on a potential site could include, but would not be limited to, the following:

- Unwillingness of the site owner to entertain a telecommunications facility;
 - Economically impractical;
 - Topographical limitations of the site;
 - Adjacent impediments that would obstruct adequate cellular telecommunications and/or personal communications transmission;
 - Physical site constraints that would preclude the construction of a telecommunications facility;
 - Technical limitations of the telecommunications system;
 - Existing potential sites do not provide an acceptable location for requisite coverage for the applicant's communications network.
- (5) At the time the applicant files an application for review under these regulations, a listing of the present locations of the applicant's telecommunications towers and/or facilities in Mt. Sterling, to include co-location sites.
- (6) A pictorial representation, such as a silhouette drawing, photograph, etc. of the proposed telecommunications facility from a point one hundred fifty (150) to six hundred (600) feet from the facility for at least two (2) of the four (4) compass directions (to the extent practicable considering vegetation, buildings, or other obstructions) showing the relationship of the tower and/or facilities against the surrounding structures, trees and other intervening visual masses. Notwithstanding the foregoing, the applicant shall not be required to purchase temporary easement or license rights to allow it to make drawings or photographs from particular vantage points. A reasonable pictorial representation of the site may be substituted for the aforementioned specified compass direction representations if it is not practical to comply with the express terms of this paragraph and the Planning and Zoning Commission is notified in writing of such practical difficulty.
- (7) A justification statement demonstrating that the proposed construction is in agreement with the Comprehensive Plan.

- c. Co-Location Requirement: All new telecommunications facilities shall be configured to accommodate at least two (2) telecommunications providers.
2. Design Standards: At the time of filing a request under this Section B., the applicant shall provide information demonstrating compliance with the requirements listed below. Where the Planning and Zoning Commission finds that the conditions or circumstances relating to the particular application are such that one or more of the requirements listed below are not necessary or desirable for the protection of surrounding property or the public health, safety or welfare, either at the time of application or in the foreseeable future, and that such special conditions and circumstances make one or more said requirements unduly burdensome, the Planning and Zoning Commission may modify or waive such requirement, either permanently or on a temporary basis. Any such modification or waiver shall be requested by the applicant and the applicant shall submit a written justification for each requested modification or waiver.
 - a. The site shall be landscaped in accordance with specification set by the Planning and Zoning Commission.
 - b. 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. Alternative sections of aviation orange and aviation white paint may be used only when the Federal Aviation Administration (FAA) finds that none of the alternatives to such marking is acceptable.
 - c. Towers shall not be artificially lighted except as required by the FAA. Upon commencement of construction of a cellular tower, incases where there are residential uses located within a distance which is three hundred (300) percent of the height of the cellular tower from the cellular tower and when required by federal law, and mode lighting shall be requested from the FAA.
 - d. 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 Mt. Sterling Street Department and there shall be provided on site an area sufficient to accommodate the parking of a service vehicle.
 - e. The site shall be enclosed be a security fence of a minimum height of six (6) feet and the fence may be located in any required yard.

- f. 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 and Zoning Commission with a copy of the notice of the FCC of intent to cease operations within thirty (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 no more than one hundred eighty (180) days from submittal of the FCC notice to the Planning and Zoning 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 and Zoning 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 obtain within ninety (90) days of the expiration of the twelve (12) month period a demolition permit and remove the antenna or tower that is presumed abandoned within sixty (60) days of obtaining the demolition permit. If the owner fails to remove an antenna or tower in the time provided by this paragraph, the Planning and Zoning Commission may, on grounds of public safety, health, and welfare, cause the demolition and removal of the antenna or tower and recover its costs of demolition and removal.
 - g. The only signs allowed shall be emergency information signs, owner contact information, safety instructions and signs required by federal, state or local agencies. Such signs shall not exceed five (5) square feet in area.
3. Existing Telecommunications Facilities:
Telecommunications facilities in existence on the date of the adoption of this ordinance which do not comply with this ordinance (“existing telecommunications facilities”) are subject to the following provisions:
- a. Existing telecommunications facilities may continue in use for the purpose now used, but may not be expanded or replaced without complying with this ordinance, except as provided in this section.
 - b. Existing telecommunications facilities which are hereafter damaged or destroyed due to any reason or cause may be repaired or restores to their former use, location and physical dimensions subject to obtaining a building permit, but without otherwise complying with this ordinance.

- c. The owner of any existing telecommunications facility may replace, repair, rebuild and/or expand such telecommunications facility to accommodate co-located antennas or facilities, or to upgrade the facilities to current engineering, technological or communications standards by obtaining a building permit and without having to conform to the provisions of this ordinance (including, but not limited to, provisions of this ordinance regarding notice to local zoning authorities or posting of signs) or to otherwise request local approvals, so long as such facilities are not increased in height by more than fifty (50) percent.
- d. Any such replacement, repair, reconstruction or enlargement shall not violate the design standards described in Paragraph B.2 above, beyond that existing violation at the date of the adoption of this ordinance.

C. Incorporation by Reference of KRS 100.324, 100.987 and 100.987

KRS 100.324, 100.987 and 100.987 are hereby incorporated by reference into this ordinance. The Planning and Zoning Commission shall comply with said statutes as applicable. Among other requirements, said statutes require that the Planning and Zoning Commission advise the applying utility in writing of its final decision within sixty (60) days commencing from the date that the uniform application is received by the Planning and Zoning Commission or within a date certain specified in a written agreement between the Mt. Sterling Planning and Zoning Commission and the utility.

D. Severability

That if any clause, section or other part of this ordinance shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this ordinance shall remain in full enforce and effect.

OFFICIAL FILING FEE SCHEDULE
Effective March, 12, 2001

<u>TYPE OF REVIEW</u>	A-R, A-U, ALL R-1, R-2 EX-1 M-10 & H-1	R-3, R-4 R-5 & PUD-1	All Office, Business & Industrial
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Zoning Ordinance Amendments

A. Map Amendment	100.	150.	200.
+ per net acre or portion	3.	5.	10.
B. Text Amendment	100.	150.	200.
C. Early Filing Request	100.	150.	200.
D. Amend Original Petition	100.	150.	200.
+per net acre or portion	3.	5.	10.
E. Zoning Development Plan	100.	150.	200.

Board of Adjustment Appeals

(Variance, Conditional Use Permit,
 Administrative Appeal**, Rehearing)

50.	75.	200.
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Subdivision & Development Plans

A. Major Plans	100.	150.	200.
+ per lot	5.	5.	10.
B. Major Subdivision & Minor Development Plan	100.	150.	200.
+ per lot	5.	5.	10.
C. Development Plans	100.	150.	200.
D. Re-approvals & Extensions	50.	75.	100.
E. Any Plan Filed Late	TRIPLE REGULAR FILING FEE		

*No acreage fee will be charges for H-1 overlay zone.

**\$50.00 flat fee for neighborhood generated administrative appeals.

Meetings and filing deadlines in accordance with the Commission's Official Meeting and Filing Schedule.

When more than one land use, only one base fee (the highest) will be charged, but the per acre or lot fees shall be figured on the basis of each zone. Fees shall be paid at the time of application and are non-refundable. Governmental agencies will not be charged a fee.

Checks shall be made payable to: City of Mt. Sterling

This fee schedule was adopted by the City of Mount Sterling on March 12, 2001.

Plans are to be filed with the Secretary or Chairman ten (10) days prior to the meeting.

Applicant is responsible for all legal notices and preparation of transcripts.

**FILING REQUIREMENTS
BASED ON THE TYPE OF PLAN**

Major Development Plans:

- Ten (10) paper prints
- Copy of the deed
- Land use restriction form
- 3 checks
 - a. Filing fee to City of Mt. Sterling (based on zone)
 - b. \$10.50 to City of Mt. Sterling
 - c. \$11.50 to City of Mt. Sterling

Minor Development Plans: Qualifies under Article 21-7 of the Zoning Ordinance

- Original mylar signed by the owners
- Ten (10) paper prints
- Copy of the deed
- Land use restriction form
- 3 checks
 - a. Filing fee to City of Mt. Sterling
 - b. \$10.50 to City of Mt. Sterling
 - c. \$11.50 to City of Mt. Sterling

Preliminary Subdivision Plans:

- 8 prints
- Copy of the deed
- Land use restriction form
- 3 checks
 - a. Filing fee to City of Mt. Sterling (based on zone and per lot fees)
 - b. \$10.50 to City of Mt. Sterling
 - c. \$11.50 to City of Mt. Sterling

Final Record Plats:

- 8 prints
- Filing fee to City of Mt. Sterling (based on fee and per lot fees apply)

Minor Subdivision Plans: Consolidation Plats, Display House Plats, Corrected Amended Plats, Easement Minor Plats, and Administrative Action Plats

- Original mylar signed by owners
- 8 paper prints
- Filing fee to City of Mt. Sterling (based on zone)
- \$25.50 to City of Mt. Sterling

Additional Application Requirement

APPLICANT: Your application will not be processed unless the upper portion of this form is completed. It must be typed and property owner(s) name and address should be the same as what appears on the accompanying deed.

Certificate of Land Use Restriction

1. Name and Address of Property Owner(s):

_____	_____
_____	_____
_____	_____

2. Address of Property (if different)

3. Name of Subdivision or Development (if applicable)

For Division of Planning Staff only

4. Type of Restriction(s) Check all that apply:

_____ Zoning Map Amendment to _____ Conditional Zoning	
_____ Zone	_____ Condition
_____ Development Plan	_____ Other
	_____ Specify
_____ Subdivision Plat	
_____ Variance	
_____ Conditional Use Permit	

4. Name and address of Planning Commission, Board of Adjustment, Legislative Body or Fiscal Court which maintains the original records containing the restriction.

**Mount Sterling
Planning and Zoning Commission
Fee Schedule**

- | | |
|--|---|
| 1. Application for Zone change
Or Map Amendment | \$150.00 |
| 2. Development Plan | \$100.00 |
| 3. Plats: | |
| Preliminary Plat | \$100.00 + \$5.00 per
lot or division unit |
| Final Plat | \$50.00 + \$5.00 per
lot or division |
| Minor Plat | \$50.00 |
| Amended Plat | \$100.00 |

Plans are to be filed with the Secretary or Chairman ten (10) days prior to the meeting.

Applicant is responsible for all legal notices and preparation of transcripts.

ARTICLE VII

AMENDMENTS

701 PROCEDURE

A proposal for amendment to this Zoning Ordinance may originate with the Planning Commission, the City Council or with the owner of the property in question. Interested associations may also request the Commission to change a portion of the Ordinance. Regardless of the origin of the proposed amendment, it shall be referred to the Planning Commission before adoption. The Commission shall hold at least one (1) public hearing after notice (as required by K.R.S. 424) and make a recommendation within thirty (30) days of the hearing to the City Council. It shall take a majority of the entire legislative body to override the recommendation of the Commission. The City Council shall make a decision within ninety (90) days of the receipt of the Commission's recommendation.

701.1 Notice Requirements

- A. Notice of the hearing shall be posted conspicuously on the property the classification of which is proposed to be changed for fourteen (14) consecutive days immediately prior to the hearing. Posting shall be as follows:
 - 1. The sign shall state "zoning change" and the proposed classification change in letters three (3) inches in height. The time, place and date of the hearing shall be in letters at least one (1) inch in height.
 - 2. The sign shall be constructed of durable material and shall state the telephone number of the Planning Commission.

Any published notice shall include the street address of the property in question, or if one is not available or practicable due to the number of addresses involved, a geographic description sufficient to locate and identify the property and the names of two (2) streets on either side of the property which intersect the street on which the property is located; and when property in question is located at the intersection of two (2) streets, the notice shall designate the intersection by name of both streets rather than name the two (2) streets on either side of the property.

- B. Notice of the hearing shall be given at least thirty (30) days in advance of the hearing by registered or by certified mail, return receipt requested, to the owners of all property adjoining the property the classification of which is proposed to be changed. It shall be the duty of the person or persons proposing the amendment to furnish the Planning Commission with the names and addresses of the owners of all adjoining property and with the receipts of the notices as well as an affidavit of publication.

ARTICLE VIII

LEGAL STATUS PROVISIONS

801 CONFLICT WITH OTHER ORDINANCES AND PRIVATE DEEDS

In case of conflict between this ordinance or any part thereof, and the whole or part of any existing or future ordinance of the City of Mount Sterling, or the whole or part of any existing or future covenants or deeds the most restrictive in each case shall apply.

802 VALIDITY

If any section, clause, provision or portion of this ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision or portion of the ordinance which is not in itself invalid or unconstitutional.

803 EFFECTIVE DATE

This ordinance shall take effect _____ and be in force immediately after adoption, the public welfare demanding it.

Certified by Planning Commission:

Date _____

Chairman _____

Adopted by City Council:

Date _____

Mayor _____

Attest _____

City Clerk

