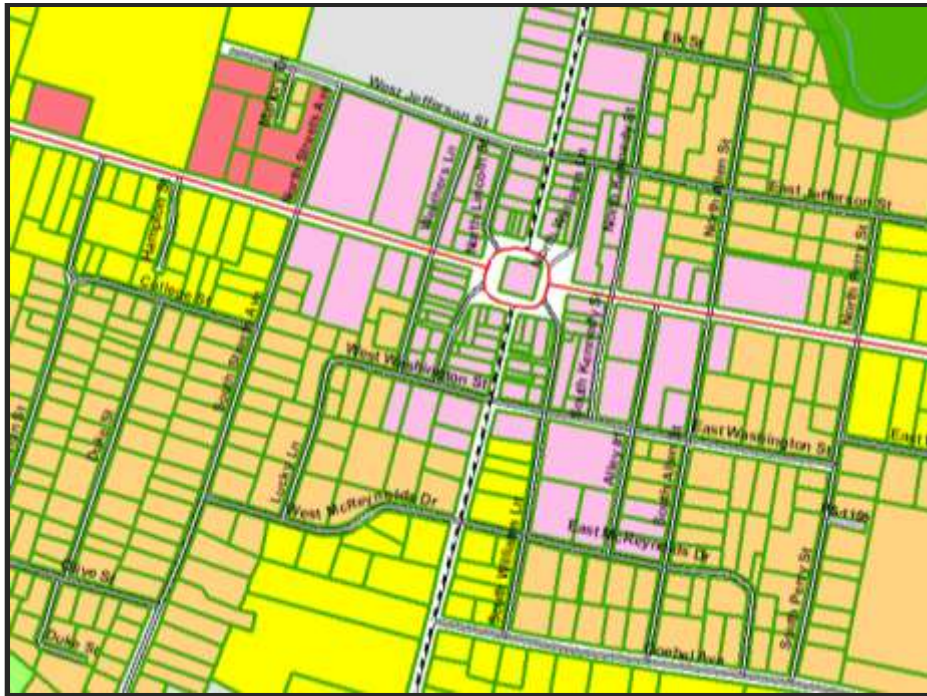


*Last Revised: Jan 17, 2014*

# **DRAFT Elkton Zoning Ordinance**

**For the  
City of Elkton, Kentucky**



**Adopted: \_\_\_\_\_, 2014**

***Prepared By:***  
**The Pennyrile ADD**  
**300 Hammond Dr**  
**Hopkinsville, KY 42240**

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## **ARTICLE I GENERAL PROVISIONS**

- 1.10 ADOPTION.** The Elkton Zoning Ordinance, adopted by ordinance of the City of Elkton, is confirmed and adopted as follows:
- 1.11 SHORT TITLE.** This Zoning Ordinance shall be known and may be cited as the “Zoning Ordinance of Elkton, Kentucky.”
- 1.12 OBJECTIVES.** The objectives of this Zoning Ordinance are to promote the public health, safety and general welfare of the City of Elkton; to facilitate orderly and harmonious development in the visual or historic character of the city; to regulate the density of population and the intensity of land use in order to provide for adequate light and air; to provide for vehicle parking and loading space; to improve the appearance of vehicular use areas and property abutting public rights-of-way; to require buffering between non-compatible land uses; and to protect, preserve and promote the aesthetic appeal, character, and value of the surrounding neighborhoods; to promote public health and safety through the reduction of noise pollution, air pollution, visual pollution, air temperature, and artificial light glare; to facilitate fire and police protection; to prevent the overcrowding of land, blight, danger and congestion in the circulation of people and commodities; to prevent the loss of life, health or property from fire, flood, or other dangers; highways, and other transportation facilities, public facilities, including schools and public grounds, historic districts, central districts, natural resources, and other specific areas of the city which need special protection.
- 1.13 INTERPRETATION.** In their interpretation and application, the provisions of this Zoning Ordinance shall be held to be the minimum requirements adopted for the promotion of health, safety, comfort, prosperity and general welfare. It is not intended by the Zoning Ordinance to repeal, abrogate, annul or in any way impair or interfere with any existing provisions of law, ordinance or order, or with any rules, regulations or permits previously adopted or issued, or which shall be adopted or issued pursuant to law relating to the use of buildings or premises, or with any private restrictions placed upon property by covenant, deed or recorded plat; provided, however, where this Zoning Ordinance imposes a greater restriction upon the use of buildings or premises or upon the heights of buildings or requires greater lot areas, larger yards, courts, or other open spaces than are imposed or required by such existing provisions of law, ordinance or order, or by such rules, regulations or permits, or by such private restrictions, the provisions of the Zoning Ordinance shall control.
- 1.14 CONFLICT OF ORDINANCE.** Whenever these regulations, or subdivision plats approved in conformance with these regulations, are in conflict with other local ordinances, regulations, or laws, the more restrictive ordinance, regulation, or law shall govern and shall be enforced by appropriate local agencies. When subdivision and development plans, approved by the Elkton Planning Commission, contain setback or other features in excess of the minimum Zoning Ordinance requirements, such features as

shown on the approved plan shall govern and shall be enforced by the Zoning Administrator. Private deed restrictions or private covenants for a subdivision, which have not been approved by the Joint Planning Commission and made a part of the approved subdivision plan, do not fall within the jurisdiction of enforcement by any local agency and cannot be enforced by the Zoning Administrator.

- 1.15 REPEAL OF CONFLICTING LAW.** The Elkton Zoning Ordinance adopted by the City of Elkton, Kentucky and amendments thereto, existing prior to adoption of this Zoning Ordinance, is hereby repealed upon the adoption date of this Zoning Ordinance.
- 1.16 SEPARABILITY.** If any clause, sentence, subdivision, paragraph, section or part of this Zoning Ordinance be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, subdivision, paragraph, section or part thereof directly involved in the controversy in which said judgment shall have been rendered.
- 1.17 PLANNING AREA.** The Planning Area shall include all of the territory in the incorporated city limits of Elkton, Kentucky.
- 1.18 RECORDING.** A copy of this Ordinance shall be filed in the Office of the Todd County Court Clerk.
- 1.19 OFFICIAL ZONING MAP.** The City of Elkton is hereby divided into zones and districts as provided herein and as shown on the Official Zoning Map, which together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Zoning Ordinance. The Official Zoning Map shall be the official record of zoning status of all land in the City and be kept on file in the office of the City Clerk and shall be known herein as the “Official Elkton Zoning Map.”
- 1.20 ZONING MAP AMENDMENTS.** Amendments to the Zoning Map changing the zoning status of an area made by ordinance of the local legislative bodies, after the effective date of said ordinance, shall be promptly posted on the Official Zoning Map by the Joint Planning Commission. Each amendment shall be identified on the map by a numerical designation referring to the Planning Commission’s record of the amendment proceeding.
- 1.21 RULES FOR INTERPRETATION OF ZONE AND DISTRICT BOUNDARIES.** Where uncertainty exists as to the boundaries of zones and districts as shown on the Zoning Map, the following rules shall apply:
1. Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed to follow such centerlines;
  2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lines;

3. Boundaries indicated as approximately following city limits shall be construed as following such city limits;
4. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;
5. Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in the event of change in the shore line, shall be construed as moving with the actual shore line; boundaries indicated as approximately following the center line of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines;
6. Where the above stated rules do not indicate the exact location of the zone or district boundaries, then said boundaries shall be determined by appeal before the Board of Adjustment.



## **ARTICLE II DEFINITIONS**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Other terms shall be defined as in KRS 100.111.

***ACCESSORY USE* or *STRUCTURE*.** A use or structure subordinate to the principal use and located on the same premises serving a purpose customarily incidental to the principal use. For example, a retail business is not considered customarily incidental to a residential use. Residential accessory uses may include storage of household goods, parking areas, gardening, servants' quarters, private swimming pools, private emergency shelters, garages, carports and other similar uses.

***ADMINISTRATIVE OFFICIAL*.** Any department, employee, or advisory elected or appointed body which is authorized by the body of jurisdiction to administer any provision of the planning, zoning, and/or subdivision regulations, and if delegated, any provision of any housing or building regulations or any other land use control regulations.

**ADULT ORIENTED USES.** This includes, but is not limited to, all the following uses:

- a. Adult Bookstore/Video Store** – an establishment whose primary business includes the sale or rental of material (including books, periodicals, magazines, films, videotapes, CD-ROMs, DVDs, audio Tapes, or other printed or pictorial material) whether for on-premise or off-premise viewing, that is intended to provide sexual stimulation or gratification, or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas; and who devotes more than 15 percent of their total floor area to the items listed above.
- b. Adult Theater** – an establishment, whether open or enclosed, used for presenting material, for viewing, that is distinguished or characterized by an emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas. This definition includes adult arcade, adult mini-motion picture theater, adult booth(s), and adult drive-in theaters.
- c. Adult Dancing** – Shall mean and include, but not limited to any dancing which exposes to view by patrons or spectators on the premises at any time the specified anatomical areas and/or specified sexual activities, as set forth herein.
- d. Adult Dancing Establishments** – an establishment including but not limited to any restaurant (eating and drinking establishment), lounge, dance hall, night club, or other such place whose business includes the offering to customers of live entertainment wherein employees, agents, servants, or independent contractors perform routines and/or display or expose specific anatomical areas, offered as adult oriented entertainment for viewing by patrons and spectators on the premises and

characterized by the emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas.

- e. **Adult Motel** – a motel or similar establishment with the word “adult” or otherwise that advertises the presentation of adult material, offering public accommodations for any form of considerations which provides patrons with closed circuit television transmissions, films, motion pictures, video cassettes, or other adult cable or satellite transmissions for the primary purpose of engaging in sexual gratification or as related to specific sexual activities.
- f. **Massage Parlor** – an establishment providing massages, for hire, by persons other than a licensed health care professional, including those activities that rub, stroke, knead, or tap the body with the hand or an instrument or both for the purpose of engaging in sexual gratification or as related to specific sexual activities. This does not include any licensed or sanctioned athletic activity that generally employs or uses a physical trainer and/or those listed herein under the definition of Licensed Massage Therapist.
- g. **Specified Anatomical Areas** – less than completely and opaquely covered human genitals or pubic region; the cleavage of the human buttock; any portion of the human female breast below a horizontal line across the top of the areola at its highest point; the entire lower portion of the female breast, not including cleavage of the human female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other wearing apparel provided that the areola is not exposed in whole or part.
- h. **Specified Sexual Activities** – shall include, but not be limited to, human genitals in a state of sexual stimulation or arousal; sexual intercourse or sodomy.
- i. **Licensed Massage Therapist** - (Licensed Health Care Professional) – any person who has graduated from a 600 hour Massage Therapy School, accredited by the State of Kentucky or who possesses a valid state license in massage therapy from any state which regulated the same by means of written examination; this may also include a physician, nurse, occupational therapist, physical therapist, podiatrist, or chiropractor.
- j. **Protected Uses** – any use or area identified herein that may be influenced by or are susceptible to the secondary effects of adult oriented uses including: any residentially zoned area, public or private school, church, library, day care facility, public park or playground.

***AGRICULTURAL USE.***

- a.** 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 products, grain, hay, pastures, soybeans, tobacco, timber, orchard fruits, vegetables, flowers, or ornamental plants, including provisions for dwellings for persons and their families who are engaged in the agricultural use on the tract, but not including residential building development for sale or lease to the public;
- b.** Regardless of the size of the tract of land, small farm wineries licensed under KRS 243.155;
- c.** A tract of at least five (5) contiguous acres used for the following activities involving horses:
  - 1.** Riding lessons;
  - 2.** Rides;
  - 3.** Training;
  - 4.** Projects for educational purposes;
  - 5.** Boarding and related care; or
  - 6.** Shows, competitions, sporting events, and similar activities that are associated with youth and amateur programs, none of which are regulated by KRS 230, involving seventy (70) or less participants. Shows, competition, sporting events, and similar activities that are associated with youth and amateur programs, none of which are regulated by KRS 230, involving more than seventy (70) participants shall be subject to local applicable zoning regulations; or
- d.** A tract of land used for the following activities involving horses:
  - 1.** Riding lessons;
  - 2.** Rides;
  - 3.** Training;
  - 4.** Projects for educational purposes;
  - 5.** Boarding and related care; or
  - 6.** Shows, competitions, sporting events, and similar activities that are associated with youth and amateur programs, none of which are regulated by KRS 230, involving seventy (70) or less participants. Shows, competition, sporting events, and similar activities that are associated with youth and amateur programs, none of which are regulated by KRS 230, involving more than seventy (70) participants shall be subject to local applicable zoning regulations. This paragraph shall only apply to acreage that was being used for these activities before July 13, 2004.

***ALLEY.*** A dedicated public right-of-way other than a street, that affords a secondary means of access to abutting properties.

**ALTERATION.** Any change, rearrangement, or addition to a building, its supporting members, or its foundation other than repairs, and any modification in construction or in building equipment.

**AUTOMOTIVE REPAIR, MAJOR.** Repair of motor vehicles or trailer, including rebuilding or reconditioning of engines and/or transmissions, collision services repair, overall painting or paint shop and vehicle steam cleaning.

**AUTOMOTIVE REPAIR, MINOR.** Incidental minor repairs, upholstering, replacement of parts and motor service to passenger cars and trucks not exceeding one and one-half tons capacity, but not including any operation named under automotive repair, major, or any other similar thereto. Cars or trucks being repaired or under repair shall not be so stored outside the building for more than 48 hours.

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

**BASEMENT.** The portion of a building located partially underground but having more than one-half of its clear floor-to-ceiling height below the average grade of adjoining ground.

**BLOCK.** A surface land area which is separated, and distinguished from other surface land areas by visible physical boundaries such as streets, railroads, rivers, extremely steep land, or other physical barriers.

**BOARD.** The Board of Adjustments of the city, having jurisdiction unless the context indicates otherwise.

**BOAT REPAIR.** Repair and servicing of boats and other marine crafts.

**BOARDING HOUSE (ROOMING or LODGING HOUSE).** A residential building, or portion thereof, other than a motel, apartment hotel, or hotel, containing lodging rooms for accommodation of three or more persons who are not members of the keepers' family and where lodging or meals or both are provided by prearrangement and for definite periods at a definite prearranged price.

**BUILDING or STRUCTURE.** Any covered structure for the support, shelter, or enclosure of person, animals or moveable property of any kind, and which is permanently affixed to the land.

**BUILDING, HEIGHT OF.** The vertical distance from the average contact ground level at the front wall of the building to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the mean height level between the eaves and ridge for gable, hip or gambrel roofs.

**BUILDING SETBACK.** A line parallel to the street right-of-way, or other property line, at any story level of a building that includes the overhang of the building, and set at a distance which all

or any part of the building is to be set back to from the property line, except as otherwise provided by these regulations.

***BUILDING PERMIT.*** A permit issued by the authorized officer allowing a proprietor or his agent to construct, alter, or remove a building, and the like, or engage in similar activity which would alter the character of the building or lot in question.

***BUILDING, PRINCIPAL.*** A building, including any permanently covered space such as porch and carports, and attached garages in which is conducted the principal use of the lot on which it is situated. In a Residential District, any dwelling shall be deemed to be the principal building on its lot.

***CAMPS or CAMPGROUNDS.*** Tracts of land or a design or character suitable for and used for seasonal, recreational, and other similar living purposes. The tracts may have located on them a structure of a seasonable, temporary, or moveable nature such as a recreation vehicle (RV) or tent. There shall be no sites within any Camp or Campground that has any tent, RV or lodging that is on the site for longer than three (3) contiguous months in any one (1) calendar year. This excludes cabins as part of a Planning Commission approved site plan and rented to different tenants on a daily or weekly basis. Mobile Homes are not allowed even as temporary uses.

***CERTIFICATE OF ZONING COMPLIANCE, ZONING CERTIFICATE or ZONING PERMIT.*** A certificate issued by the Building Inspector, before use or occupancy of any building or land stating that the proposed use of the building or land conforms to the requirements of these planning-zoning regulations. This shall apply to any building, premises, or land, or combination (except for the raising of crops and other agricultural activities) hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use of structure.

**COMMERCIAL CONFINED FEEDING OPERATIONS.**

Any livestock operation that has over the 300 head of cattle, hogs (swine), sheep or chickens that have more than 50 percent of their feed imported into their pens or buildings.

***COMMISSION or PLANNING COMMISSION.*** The Elkton Planning Commission.

***COMPREHENSIVE PLAN.*** The extensively developed and evolving plan, also called a master plan, adopted by the Planning Commission.

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

***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 of the Board of Adjustment which justifies the issuance of the permit; and
- b. A statement of the specific conditions which must be met in order for the use to be permitted.

**CONSERVATION.** Preservation of land, water, flora, fauna, and cultural artifacts in their original state.

**CONSUMER SERVICE.** Sale of any service to individual customers for their own personal benefit, enjoyment, or convenience. 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 services, transportation, laundry and dry cleaning services, and all other similar services.

**CONVALESCENT or NURSING HOME.** An establishment which provides full-time convalescent or chronic care or both for three or more individuals who are not related by blood or marriage to the operator and who by reason of chronic illness or infirmity, are unable to care for themselves. No care for the acutely ill or surgical or obstetrical services shall be provided in such a home. A hospital or a sanitarium shall not be construed to be included in this definition.

**DEVELOPER.** An individual, partnership, corporation or other legal entity or agent thereof, which undertakes the activities covered by these regulations. Inasmuch as the subdivision plan drawings are merely a necessary means to the end of assuring satisfactory development, the term “developer” includes “subdivider”, “owner”, “builder”, and the like, even though the persons and their precise interests may vary at different project stages.

**DIMENSIONAL VARIANCE.** A departure from the terms of the planning-zoning regulations pertaining to height or width of structures and size of yards and open spaces, where such departure will not conflict with the public interests and where, owing to conditions peculiar to the property only because of its size, shape or topography, and not as a result of the actions of the applicant, the literal enforcement of the planning-zoning regulations would result in unnecessary and undue hardship.

**DWELLING or DWELLING UNIT.** Any building or portion thereof with one, or a suite of two or more rooms occupied or intended to be occupied exclusively for residential purposes, that is living and sleeping, by one family or housekeeping unit, and which includes permanently installed cooking and lawfully required sanitary facilities. This definition shall thus exclude a tent, cabin, trailer, or trailer coach or other temporary or transient structure or facility.

- a. **SINGLE-FAMILY.** A single independent building occupied or construction to be occupied exclusively for residential purposes by one family or housekeeping unit.
- b. **TWO-FAMILY.** A single independent building occupied or constructed to be occupied exclusively by not more than two families or housekeeping units.

- c. **MULTI-FAMILY.** A building or portion thereof, or group of buildings on one lot but containing separate living units, occupied or constructed to be occupied by more than two families of housekeeping units.

**DWELLING GROUP.** A group of two or more detached dwellings located on a parcel of land in one ownership and having any yard or court in common.

**DWELLING UNIT RENTALS.** Any single-family residential, duplex or condo units that are rented with short term rental leases involving renting units by the day or week.

**EASEMENT.** The right to use another person's property, but only for a limited and specifically named purpose. The owner generally may continue to make restricted use of such land since he has given up only certain, and not all, ownership rights.

**ENGINEER.** A qualified person registered and currently licensed to practice civil engineering in the state. Whenever qualifications are questioned, the commission will consult with the local chapter of The Kentucky Society of Professional Engineers or The Consulting Engineers Council of Kentucky.

**ESSENTIAL SERVICES.** Services provided by public and private utilities necessary for the exercise of the principal use or service of the principal structure. These services include underground, surface to overhead, gas, electrical, steam, water, sanitary sewerage, stormwater drainage, and communication systems and accessories thereof such as poles, towers, wires, mains, drains, vaults, culverts, laterals, sewers, pipes, catch basins, water storage tanks, conduits, cables, fire alarm boxes, police call boxes, traffic signal, pump lift stations, hydrants, and the like, but not including buildings.

**FAMILY.** A collective number of individuals domiciled together in one dwelling unit whose relationship is of a continuing nontransient domestic character and who are cooking and living as a single nonprofit housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, organization, or group of students or other individuals whose domestic relationship is of a transitory or seasonal nature or for an anticipated limited duration of a school term or other similar determinable period.

**FARM.** A place on which agricultural operations are conducted at any time under the control or supervision of one person, partnership or a manager. Places of less than five acres are counted as farms if the estimated sales of agricultural products for the year amounted or normally would amount to at least \$500. (Based on 2013 dollar to be adjusted for inflation.)

**FLOOR AREA.** The sum of the gross floor area for each of the several stories under roof measured from the exterior limits or faces of a building or structure.

**GARAGE, PUBLIC.** A building or land available to the public to use, operated for gain and which is used for storage, repair, rental, greasing, washing painting, servicing or equipping motor vehicles.

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

**GRADE, FINISHED.** The completed surfaces of ground, lawns, walks, paved areas and roads brought to grades as shown on plans or designs relating thereto, or in existence at the time the certificate of zoning compliance is issued.

**GROUP HOUSEHOLD.** A group of individuals not related by blood, marriage, adoption or guardianship living together in a dwelling unit as a single household unit under a common housekeeping management plan based on an intentionally structured relationship providing organization and stability.

**HOME OCCUPATION.** An accessory use carried on in a dwelling unit or other structure accessory to a dwelling unit, but in no case occupying more than 25% of the total floor area of the building or buildings, by a member or members of the bona fide residents of the dwelling, except as permitted for a professional home occupation, and which is clearly incidental and secondary to the use of the dwelling unit for residential purposes, so that the character thereof is not changed, and it shall not have any exterior evidence of such secondary use.

**HOSPITAL.** Includes sanitarium, clinic, rest home, nursing home, convalescent home, house for the aged, and other place for observation, diagnosis, treatment or care of two or more individuals suffering from illness, injury, deformity or abnormality or from a condition requiring medical services.

**HOTEL.** An establishment containing lodging rooms for occupancy by transient guests, but not including a boarding or rooming house. Such an establishment provides customary hotel services such as maid and bellboy services, furnishings of and laundry of linens used in the lodging rooms, and central desk with telephone.

**HOUSING or BUILDING REGULATION.** Any regulations incorporating any housing, building or safety code, including, but not limited to such codes as plumbing, electrical, elevator, boiler, fire safety, and minimum housing, or any other regulation.

**HUD LABEL.** The label affixed to a new manufactured home by the manufacturer after it has been approved by a third-party inspector, as required under the HUD Act.

**IMPACT AREA.** A radius of 200 yards drawn around the proposed placement of a qualified manufactured home with the proposed placement being the center point of the Manufactured Home.

**IMPROVEMENT BOND.** Performance bond or other type of surety with fixed expiration date after which date the Commission shall cause the surety to be used in completing any necessary work.

**IMPROVEMENTS.** Physical changes made to raw land, and structures placed on or under the land surface, in order to make the land more usable for people's activities. Typical



improvements in these regulations would be grading, street pavement, curbs, gutters, drainage ditches, storm and sanitary sewers, utility lines of all types, street name signs, property number signs, trees, and the like.

**INDUSTRY.** The processing of products or raw material. The two categories of industry are defined according to the following performance standards.

- a. **GENERAL INDUSTRY.** The industry in which processing of products results in 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 that industry which constitutes a fire or explosion hazard.
- b. **LIGHT INDUSTRY.** The industry in which procession of products results in none of the conditions described for above type industry.

**JUNK YARD.** A lot, land or structure, or part thereof of 200 square feet or more, used primarily for the collecting, storage or sale of waste paper, rags, scrap metal or discarded material, or for the collecting, dismantling, storage and salvaging of machinery or vehicles not in running condition and/or for the sale of parts thereof.

**KENNEL.** Any premises or portions thereof on which four or more dogs, cats or other household domestic animals over four months-of-age are kept, or on which more than two such animals are maintained, bred, or cared for, for enumeration or sale. (See KRS 100.365 for further definition.)

**LAND SURVEYOR.** A person licensed as a land surveyor by the state.

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

**LODGING ROOM.** A room rented as sleeping and living quarters, but without cooking facilities, and with or without an individual bathroom. In a suite of rooms, each room which provides sleeping accommodations shall be counted as one lodging room.

**LOT.** A single parcel of land which may be legally described as such, or two or more adjacent numbered lots or parts of such lots in a recorded subdivision plat having principal frontage on a street which comprises a site occupied by, or intended for occupancy by one principal building or principal use together with accessory buildings and uses, yards and other open spaces required by this chapter.

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

**LOT, CORNER.** A lot which has an interior angle of less than 135 degrees at the intersection of two street lines. A lot abutting upon a curved street shall be considered a corner lot in the tangents to the curve at the points of intersection of the side lot lines intersect at an interior angle of less than 135 degrees

**LOT, DEPTH.** The average horizontal distance from the street line of the lot to its opposite rear line measured at right angles to a straight front lot line, or the tangent to the middle of the arc if it is a curved front line.

**LOT, DOUBLE FRONTAGE.** A lot having two or more of its nonadjoining property lines abutting upon a street or streets.

**LOT, FRONTAGE.** The distance along the front lot line.

**LOT, INTERIOR.** A lot other than a corner lot.

**LOT, RECORDED.** A lot designated on a subdivision plat or deed duly recorded pursuant to statute in the County Clerk's office.

**LOT, REVERSE FRONTAGE.** A double frontage lot which has its vehicular access point limited to the back of the lot, rather than having access on its front as do most lots.

**LOT, ZONING.** A parcel of land composed of one or more recorded lots, occupied or to be occupied by a principal building or buildings or principal use or uses along with permitted accessory buildings or uses meeting all the requirements for area, buildable area, frontage, width, yards, setbacks, and any other requirements set forth in this chapter.

**LOT LINE, FRONT.** The line separating the lot from the street right-of-way, and in this respect it constitutes a portion of the street right-of-way line.

**LOT LINE, REAR.** A lot line other than front or side lot lines, contributing to the definition of property boundaries.

**LOT LINE, SIDE.** A lot line starting from a point along the front lot line and other than a rear lot line and contributing to the definition of property boundaries.

**LOT WIDTH.** The straight horizontal distance measured between the opposite two points of the intersection of the building line with the two opposite side lot lines.

**MANUFACTURED HOME.** A single-family residential dwelling constructed after June 15, 1976, in accordance with the National Manufactured Home Construction and Safety Standards Act, Act of 1974, 42 U.S.C. §§ 5401 *et seq.*, as amended, and designed to be used as a single-family residential dwelling with or without permanent foundation when connected to the required utilities, and which includes plumbing, heating, air conditioning and electrical systems contained therein. (KRS 100.348). See *Qualified Manufactured Home* definition on page 16.

**MANUFACTURED HOME PARK.** A parcel of land under single ownership on which two or more manufactured homes are occupied as residences and meeting the requirements of this section.

**MOBILE HOME.** A structure manufactured prior to June 15, 1976, that was not required to be constructed in accordance with the National Manufactured Housing Construction in Safety Standards Act, that is transportable in one or more sections, that, in the traveling mode is eight body feet or more in width and 40 body feet or more in length, or when erected on site, 400 or more square feet, and that is built on a permanent chassis and designed to be used as a dwelling on a temporary or permanent foundation, when connected with the permanent required utilities, including plumbing, heating, air conditioning and electrical systems. (KRS 100.348)

**MODULAR HOME.** An off-site building system which is designed to be used as a residence and which is not a manufactured home, qualified manufactured home or mobile home. A modular home meets the same Kentucky Residential Building Code as site-built homes, and it does not have a HUD Label or title

**MOTEL.** A series of attached, semi-attached or detached sleeping or living units, each with at least a bedroom and a bathroom, for the temporary accommodation of transient guests, the units having convenient access to off-street parking spaces, for the exclusive use of guests or occupants.

**MULTI-FAMILY DWELLING.** A building grouping a number of rooms or suite of rooms with an independent entrance for each from outside or from a common hallway, and consisting of at least one habitable room, together with a kitchen or kitchenette and sanitary facilities per each such room or suite of rooms.

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

**NONRETAIL COMMERCIAL.** Commercial sales and services to customers who intend resale of the products or merchandise sold or handled. For example, nonretail commercial includes wholesale activities, warehousing, trucking terminal, and similar commercial enterprises.

**NURSING HOME or REST HOME.** A home for the aged, chronically ill or incurable persons in which three or more persons not of the immediate family are received, kept, or provided with food and shelter and care for compensation, but not including hospitals, clinics, or similar institutions devoted primarily to the diagnosis, treatment, or care of the sick or injured.

**OPEN SALES LOT.** Land used or occupied for the purpose of buying or selling merchandise stored or displayed out-of-doors prior to sale. Such merchandise includes, but is not limited to, passenger cars, trucks, motor scooters, motorcycles, boats, monuments, and trailers.

**OPEN SPACE.** Parks, common greens, other recreation space or generally open areas available to the public or yards or other open areas provided in connection with residential buildings occupied by more than two families per lot which are intended for the sole use of the occupants of such buildings and their guests.

**OUTDOOR ADVERTISING.** Visible or immobile structure in any shape or form the purpose of which is to advertise any product or service, campaign, event, and the like.

**PARKING SPACE.** An off-street space used for the temporary location of one licensed motor vehicle, which is at least 200 square feet in area and nine feet wide, not including access driveway, and having direct access to a street or alley (space may be either enclosed or open).

**PERFORMANCE STANDARDS.** A criterion established to control noise, odor, smoke, particulate matter, toxic or noxious matter, vibration, fire and explosion hazards, or glare or heat generated by or inherent in uses of land or buildings.

**PERMANENT FOUNDATION.** Any structural system for transposing loads from a structure to the earth at a depth below the established frost line without exceeding the safe bearing capacity. The permanent foundation system shall include a method of transporting loads to the earth and shall provide for a continuous exterior enclosure between the perimeter of the house and the earth. The overall system shall be an engineered system to comply with soil conditions. Applicable standards would include manufacturer's recommendations in compliance with H.U.D. requirements and recognized standards such as A225.1 (ANSI) and Guideline Standards for the Installation of Manufactured Housing (CABO).

**PERMIT.** Refers to a written official document permitting an action relating to the use, development, or improvement of land or building. Permit shall include the certification indicating compliance with the requirements of these regulations as well as certification permitting occupancy and/or use of the land or building in question.

**PLANNED UNIT DEVELOPMENT.** An area of land controlled by a single landowner and developed as a single entity for a number of dwellings and/or buildings, the plan for which does not necessarily correspond in lot size, bulk, type of dwelling unit, density, lot coverage or required open space to any other residential or commercial zone.

**PLAT.** The map of a subdivision, recorded with the county courthouse.

**PREMISES.** A lot or other tract of land under one ownership and all structures on it.

**PROCESSING.** Manufacturing, reduction, extraction, packaging, repairing, cleaning, and any other similar original or restorative treatment applied to raw material, products, or personal property.

**PROFESSION or PROFESSIONAL.** A business in which gain or livelihood depends on and requires specialized knowledge and often long intensive academic preparation, and usually follows a line of conduct and requires adherence to technical or ethical standards. Included in this definition, but not limited, are the following professional business activities: accounting,

chiropractry, dentistry, practice of medicine, landscape architecture, land surveying, practice of law, optometry, osteopathy physiotherapy, podiatry, professional planning, architecture, brokerages (stocks, real estate) engineering, or psychology.

**PROFESSIONAL RESIDENCE OFFICE.** A residence in which the occupant has a professional office which is clearly secondary to the dwelling used for dwelling purposes and does not change the residential character thereof, and where not more than three persons are working.

**PUBLIC FACILITY.** Any use of land whether publicly- or privately-owned for transportation, utilities, or communication, or for the benefit of the general public, including, but not limited to, libraries, streets, schools, fire or police station, governmental building, municipal building, cemeteries, and recreational centers including parks.

**QUALIFIED MANUFACTURED HOME.** A manufactured home meeting all of the following criteria:

- a. Is manufactured on or after July 15, 2002;
- b. Is affixed to a permanent foundation and is connected to the appropriate facilities and is installed in compliance with KRS 227.570;
- c. Has a width of at least 20 feet at its smallest width measurement and oriented on the lot or parcel so its main entrance door faces the street;
- d. Has a minimum total living area of 900 square feet; and
- e. Is not located in a manufactured home land-lease community.

**RECREATION VEHICAL (RV).** A Recreational Vehicle means any of the following:

- a. "Travel trailer" means a vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreation, or vacation;
- b. "Pickup coach" means a structure designed to be mounted on a truck for use as a temporary dwelling for travel, recreation, or vacation;
- c. "Motorhome" means a portable, temporary dwelling to be used for travel, recreation, or vacation, constructed as an integral part of a self-propelled vehicle;
- d. "Camping trailer" means a canvas or other collapsible folding structure, mounted on wheels and designed for travel, recreation, or vacation use;
- e. "Dependent recreational vehicle" means a recreational vehicle which does not have toilet, lavatory, or bathing facilities; or
- f. "Self-contained recreational vehicle" means a recreational vehicle which can operate independent of connections to sewer, water, and electric systems. It contains a water-flushed toilet, lavatory, shower or bath, kitchen sink, all of which

are connected to a water storage and sewage holding tanks located within the recreational vehicle.

**RELATIVES.** Persons standing in the relation of son, daughter, son-in-law, daughter-in-law, aunt, uncle, niece, nephew, father, or mother, brother, sister, grandchildren or grandparents.

**RETAIL SALES.** Sale of any product or merchandise to customers for their own personal consumption or use, not for resale.

**RIGHT-OF-WAY.** Land used generally for streets, sidewalks, alleys or other public uses. Right-of-way also is a land measurement term, meaning the distance between lot property lines which generally contains not only the street pavement, but also the sidewalks, grass area, and underground and above-ground utilities.

**ROADWAY.** The portion of the street right-of-way which contains the street pavement and gutter or surface ditch and is used primarily as a channel for vehicular movement and secondarily as a drainage channel for stormwater.

**SALES AREA: AUTOMOBILE, MOBILE HOME or TRAILER.** An enclosed or open area, other than a street, used for the display sale or rental of new or used motor vehicles, mobile homes, trailers, or boats in operable condition, and where no repair work is done.

**SANITARY LANDFILL.** A method of disposing of refuse by spreading and covering such refuse with earth to a depth of two or more on the top surface and one foot or more on the sides of the bank.

**SECTION.** A unit of a manufactured home at least ten body feet in width and 30 body feet in length.

**SERVICE AREA.** Includes those parts of any lot which are used primarily to provide access for servicing the use on the lot, including land used for delivery of goods, storage and collection of wastes and provision for maintenance.

**SETBACK, BUILDING.** The minimum horizontal distance between the front line of a building or structure and the lot line to include the furthest part of the building's overhang.

**SIGN.** A structure, building or part thereof, or pennant, for visual communication that is used for the purpose of bringing the subject thereof the attention of the public. A sign does not include the flag or insignia of any nation, state or city nor any political, education, charitable, philanthropic, religious advertising campaign, provided that such advertising shall not be displayed for a period exceeding 30 days.

**STABLE.** A building in which horses are kept for public or private use, remuneration, hire or sale.

**STATION, FILLING or GASOLINE.** An area of land, together with any structure thereon, used for the retail sale of motor, fuel and lubricants and incidental services, such as lubrication

and handwashing, of motor vehicles, and the sale, installation or minor repair of tires, batteries or other automobile accessories, but not for painting or major repairs. Open storage shall be limited to no more than four vehicles stored for minor repair bearing current license plates. Such storage shall not exceed 72 hours duration and shall not permit the storage of wrecked vehicles.

**STORAGE or STORAGE SPACE.** Land or enclosed building used for the keeping of goods, wares, supplies or equipment.

**STORY.** That part of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it then the ceiling above it. See Appendix A to this chapter.

**STREET.** An improved, public right-of-way 50 feet or more in width which provides a public means of access to abutting property consisting of more than one lot in more than one ownership, or any such right-of-way more than 30 feet and less than 50 feet in width provided it existed prior to the enactment of these regulations and provided such street has been accepted by the city. The term **STREET** shall include avenue, drive, circle, road, parkway, boulevard, highway, thoroughfare or any other similar term.

**STREET, CENTERLINE OF.** The line which is usually at an equal distance from both street lines, or right-of-way lines.

**STREET GRADE.** The officially established grade of the street upon which a lot fronts. If there is no officially established grade, the existing grade of the street shall be taken as the street grade.

**STRUCTURAL ALTERATION.** Any change, other than incidental repairs which would prolong the life of the supporting members of a building or structure such as bearing walls or partitions, columns, beams or girders or any substantial change in the roof or exterior walls.

**STRUCTURE.** See definition of **BUILDING** or **STRUCTURE** above.

**SUBDIVISION.** A division of real property, improved or unimproved, or portion thereof shown, on the last preceding tax roll as a unit or as contiguous units, into three or more parcels, lots, plots, sites, or other division of land, with or without streets for the purpose of immediate or future sale, transfer of the ownership, or building development, except that the division of land for agricultural purposes in parcels of more than ten acres not involving any new streets or easement of access shall be exempted from the application of this term.

**SUPPORT SYSTEM.** A pad or combination of footing, piers, caps, plates and shims, which when properly installed, support the manufactured/mobile home.

**THEATER, DRIVE-IN.** Open land with its appurtenant facilities, devoted primarily to the showing of moving pictures or theatrical production, to patrons seated in automobiles or on outdoor seats.

***TOURIST HOME.*** Same as ***BOARDING*** or ***LODGING HOUSE*** except where the overnight accommodation is provided for compensation for transient type of guests.

***TRAILER, TRAVEL TRAILER.*** A vehicular portable structure built on a chassis and not exceeding a gross weight of 4,500 pounds when factory equipped for the road or an overall length of 30 feet and designed to be used as a temporary dwelling for travel, recreational, and vacation uses.

***USE.*** The purpose or activity for which the land or building thereon is designed, arranged, or intended, or for which it is occupied or maintained.

***USE, CONDITIONAL.*** Uses of such variable nature as to make control by rigid preregulation impractical. After due consideration in each case, by the Board of Adjustments, after receiving the report and recommendation of the Planning Commission relative to the impact of such use at the particular location, such ***CONDITIONAL USE*** may or may not be granted by the Board of Adjustments.

***USE, PERMITTED.*** A use which may be lawfully established in a particular district or districts provided it conforms with all requirements, regulations, and performance standards, if any, of such district.

***USE, PRINCIPAL.*** The main use of land or buildings as distinguished from a subordinate or accessory use. It may be either a permitted or special use.

***UTILITIES.*** Public and private facilities such as water wells, water and sewage pumping stations, water storage tanks, power and communication transmission lines, electrical power substations, static transformer stations, telephone and telegraph exchanges, microwave radio relays, and gas regulation stations, but not including sewage disposal plants, municipal incinerators, warehouses, shops, and storage yards.

***VARIANCE.*** A modification from the literal provisions of these regulations by the Board of Adjustment in cases where a literal enforcement of its provisions would result in unnecessary hardship due to circumstances unique to the individual property or use for which the variance is granted. Financial disadvantage to the property owner is no proof of hardship within the purpose of these regulations. No granting of a variance shall be materially detrimental to the public welfare or injurious to the surrounding improvements or subdivision.

***WILDLIFE RESERVE.*** Includes bird sanctuary, zoo, forest reserve, game reserve, botanical garden.

***YARD.*** An open space on a lot which is unoccupied and unobstructed from its lowest level to the sky, except as otherwise provided in this chapter.

***YARD, CORNER SIDE.*** A side yard which adjoins a street or thoroughfare.



***YARD, FRONT (SETBACK).*** A yard which is bounded by the side lot lines, front lot line, and the front yard line.

***YARD, INTERIOR SIDE.*** A side yard which is located immediately adjacent to another lot or to an alley separating such side yard from another lot.

***YARD, REAR (SETBACK).*** A yard which is bounded by side lot lines, rear lot line, and the rear yard line.

***YARD, SIDE (SETBACK).*** A yard which is bounded by the rear yard line, front yard line, side yard line, and side lot line.

***ZONE.*** An established area within the community in which the provisions of these regulations are applicable.

## **ARTICLE III GENERAL REGULATIONS**

### **3.10 Manufactured, Mobile and Modular Home Placement Guidelines**

#### **Permitted Placement**

1. A “mobile home” as defined by KRS 219.320 and incorporated herein is not allowed in any zoning districts in the City of Elkton.
2. Manufactured homes constructed between June 1976 and July 15, 2002 are not allowed in any zoning districts in the City of Elkton.
3. Modular homes as defined herein are allowed in all Residential Zoning Districts providing they meet all size and other requirements of each district.
4. A “qualified manufactured home” as a permanent residence approved individually, by specific materials and design, can be permitted as a Conditional Use in any district permitting a dwelling unit, subject to the requirements applying to residential uses in the district, subject to the compatibility criteria herein. Applications for approval shall be submitted to the Planning Commission on the appropriate forms as required to make a determination on the compatibility of the proposed structure.

### **3.11 Procedure for Approval of Qualified Manufactured Homes.**

1. At a minimum, the application shall contain the following information:
  - a. Name, address and phone number of applicant;
  - b. Building detail, including but not limited to, structure size, structure height, building area, roof pitch, foundation detail, photo or illustration of home and number of stories;
  - c. Legal description of property;
  - d. Plan of the proposed site for the qualified manufactured home placement showing streets, property lines, lot dimensions, setbacks, existing structures, proposed structures, setback distances and all utility and drainage easements.
2. Within 60 days from the receipt of the application, the Planning Commission will make a determination to deny, conditionally approve or approve the proposed placement of the qualified manufactured home based on the *Compatibility Standards for Qualified Manufactured Homes* as stated herein.

### **3.12 Compatibility Standards for Qualified Manufactured Homes.**

- 1.** In order to determine the percent of compatibility or incompatibility of qualified manufactured homes the following calculations apply.
  - a.** The site of the proposed qualified manufactured home will be the center point and a radius of 200 yards will be drawn encompassing the impact area.
  - b.** The number of habitable single-family units within the impact area will be counted. The number of existing units, which meet or exhibit the same characteristics of the proposed qualified manufactured homes, will be counted.
  - c.** In determining compatibility, each characteristic, i.e., size, roof pitch and elevation, will be counted separately. The following measurements apply.
    - 1)** The size of a proposed qualified manufactured home that has a gross floor area of 200 square feet above or below the median of existing structures within a 200-yard radius of the proposed site is deemed compatible.
    - 2)** The roof pitch of a proposed qualified manufactured home that demonstrates a roof pitch at or above the median of existing structures within a 200-yard radius of the proposed site is deemed compatible.
    - 3)** The elevation of a proposed qualified manufactured home that measures at or above the medium vertical height of the surrounding existing structures shall be deemed compatible.
    - 4)** The number of stories of a proposed qualified manufactured home that conforms with the median number of stories of existing structures shall be deemed compatible.
    - 5)** The skirting of all proposed qualified manufactured homes must be masonry in the form of brick or concrete block based on the average footers on homes in the area.
    - 6)** Roofed front porches must be included on of all proposed qualified manufactured homes, provided 50 percent, or more, of the homes in the same block or 200 yard radius have front porches.
  - d.** The number of units for each characteristic will be totaled and divided by the total number of units to determine the applicable percentage
- 2.** The qualified manufactured home must be, at least, 20 feet wide at its smallest width measurement.

### **3.13 Replacement of Nonconforming Homes.**

1. A manufactured or mobile home placed and maintained on a tract of land and deemed to be a legal nonconforming use prior to the adoption of this chapter, shall continue to be a legal nonconforming use. If the nonconforming use is discontinued, or abandoned for more than two years, the land thereafter must be used in conformity with all provisions of this chapter.
2. A manufactured or mobile home deemed a legal nonconforming use may not be replaced by a qualified manufactured home unless it meets all Compatibility Standards for Qualified Manufactured Homes and all other requirements herein, unless it is in a Manufactured Home Residential District.

### **3.14 Off-Street Parking and Loading.**

Off-street automobile and vehicle storage and parking space shall be provided on any lot on which any of the following uses are hereafter established. Such space shall be provided with vehicular access to street or alley and shall be deemed to be required open space associated with the permitted use and shall not thereafter be reduced or encroached upon in any manner. All parking spaces all parking spaces must be 10 feet wide and 20 feet long

1. Dwellings: Two (2) parking spaces for each dwelling unit. Garage parking is not included in these two required spaces.
2. Tourist accommodations: One parking space for each room offered for tourist accommodations.
3. Theater, stadium, auditorium, or other places of public assembly: One parking space for each two (2) seats, based on maximum seating capacity.
4. Hotel: One parking space for each guest sleeping room.
5. Stores and similar establishments for business use: One parking space for each 150 square feet of store floor area, plus loading, unloading and servicing areas.
6. Office building: One parking space for each 150 square feet of office floor area.
7. Industrial or manufacturing establishments: One parking space for each five workers, based on peak employment, and adequate space for loading and unloading all vehicles used incidental to the operation of the industrial or manufacturing establishment.

### **3.15 Non-Conforming Uses or Structures.**

An activity, building sign, structure, or portion thereof, which lawfully existed before the adoption or amendment of the Zoning Ordinance, but which does not conform to all the regulations contained in the Zoning Ordinance for such use or structure. Any use or building which does not conform to this Ordinance may not be:

1. Changed to another non-conforming use;
2. Re-established after discontinuance for six months;
3. Extended except in conformity to this chapter; or
4. Rebuilt after damage exceeding 2/3 of its PVA value immediately prior to damage, residences excepted.

### **3.16 Adult Uses Placement Guidelines**

#### **1. Permitted Use in I-1 Industrial District**

All adult oriented uses may only be permitted in an I-1 Industrial District provided they meet a 1,000 foot separation distance from all *Protected Uses* to include any residential zoned area, public or private school, church, place of worship, library, day care facility, public park or playground. The separation distance will be measured from the closest property line from which the adult use is proposed to the closet property line of the parcel which is listed herein as a *Protected Use*. See the definition section on all adult oriented uses.

### **3.17 Access Control**

1. There shall be no more than two points of access to anyone public street on a lot of less than 100 feet. Lots in excess of 100 feet may have two points of access to anyone public street for each additional 100 feet of frontage.
2. No point of access shall be -allowed within ten feet of the intersection of the right-of-way lines of intersecting streets.
3. No curb on city streets or rights-of-way shall be cut or altered without written approval of the City Council.
4. A point of access shall not exceed 20 feet in width for one-way or one-lane ingress or egress. Two-way ingress or egress shall not exceed 35 feet in width.

### **3.18 Accessory Buildings/Structures**

- 1.** Accessory buildings shall be permitted in rear yards only and must be at least eight feet from the principal structure, and four feet from an adjoining lot boundary. Overhangs shall not exceed 12 inches and shall not be counted as a part of the yard requirements.
- 2.** An accessory building shall not be used for or involved with the conduct of any business, trade, or industry.
- 3.** On any corner lot adjoining in the rear another lot which is in a residential zone, accessory buildings shall conform to the side yard requirements for corner lots.
- 4.** Accessory structures shall include, but not be limited to, the following examples: swimming pools, dog pens, dog houses, portable carports, fences, gazebos, and the like. Accessory structures shall require a building permit and shall be subject to the following regulations, in addition to others in these regulations, unless otherwise noted:
  - a.** No accessory structure shall extend beyond the front of the principal structure, excluding fences three feet or less in height.
  - b.** When a corner lot adjoins another lot in the rear which is used for residential purposes, no accessory structure shall extend beyond the front of the principal structure or be nearer to the side street than the depth of any required front yard for a dwelling along such side street, excluding fences three feet or less in height.
  - c.** An accessory structure may not exceed the height of the principal structure.
  - d.** The total area of all accessory buildings and structures shall not exceed 50% of the lot size.
  - e.** No detached accessory structure shall be located closer than eight feet to any principal building or no closer than four feet from the property line, except for portable carports having a minimum of five feet of open sides and ends, which may be located next to a principal structure and no closer than four feet from the property line.
  - f.** Swimming pools.
  - g.** All swimming pools with a water depth of over three feet shall require a building permit.
  - h.** A swimming pool as an accessory use to a residential structure shall be located no closer than four feet from the property line. On a corner lot, the side yard setback shall be 25 feet. The setback shall be measured from the wall of the swimming pool to the nearest property line.
  - i.** The swimming pool area shall be enclosed by a fence or other suitable barrier with a minimum height of not less than four feet. Openings in the fence shall be small enough to prevent a child from entering the enclosure other than through the gate.
  - j.** Dog pens and dog houses are limited to the back yard and must adhere to the four feet distance set aside from the property line.

### **3.19 Annexed Lands**

In every case where land becomes a part of the city through annexation it shall be the duty of the Planning Commission to hold at least one public hearing after notice as required by KRS Chapter 424 and make recommendations to the City Council for a zoning amendment. Before any map amendment is granted, the Planning Commission or the City Council must find that the map amendment is in agreement with the community's comprehensive plan, or in the absence of such a finding, that there have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in the community's comprehensive plan and which have substantially altered the basic character of such area. Such findings shall be recorded in the minutes and records of the Planning Commission or the City Council. (Ord., passed 3-10-86; Am. Ord. 2005-12, passed 9-12-05)

### **3.20 Boundary Lines; Interpretation**

1. The boundary lines of districts are lot lines, the center line of creeks or such lines extended, the center lines of streets or alleys or such lines extended, and corporate limit lines as existing at the time of enactment of this chapter.
2. Where a district boundary line, established on the zoning map, divides a lot of single ownership which was recorded at the time of enactment of this chapter, then the least restricted district requirements under which the lot has been divided shall be applied to the entire lot.
3. Whenever any street, alley, or other public way is vacated through legal action, the zoning districts shall be extended, depending on the side or sides to which such lands revert.
4. Questions concerning the exact location of district boundary lines shall be determined by the Board of Adjustment.

### **3.21 Height Limitations; Exceptions**

The height limitations of this chapter shall not apply to church spires, belfries, cupolas, domes, monuments, water towers, observation towers, transmission towers, windmills, chimneys, smokestacks, derricks, conveyors, flag poles, masts, and antennas.

### **3.22 Lot of Record**

The owner of a lot of official record, which lot at the time of the adoption of this chapter does not include sufficient land to conform to the yard or other requirements of this chapter, may submit an application to the Board of Adjustment for a variance from the terms of this chapter. Such a lot may be used as a building site to conform with the

district in which it is located, provided, however, that the yard and other requirements of the district are complied with as closely as is possible in the opinion of the Board.

### **3.23 Activities Affected; Conformance Required**

1. The requirements of this chapter shall apply to every building and use. No building or land shall hereafter be used and no building or part thereof shall be erected, moved, or altered, unless for a use expressly permitted by and in conformity with the regulations herein specified for the district in which it is located.
2. Land which is used solely for agricultural, farming, dairying, stock-raising, or similar purposes shall have no regulations imposed as to building permits, certificates of occupancy, height, yard, location or courts' requirements for agricultural buildings, including and limited to one manufactured home used as a dwelling.



## **ARTICLE IV DEVELOPMENT PLANS**

### **4.10 Development Plan Review**

A Development Plan Review is required for all proposed commercial, church, PUD's, industrial and multi-family developments. The purpose of this Article is to establish and define what is required as part of a planning review procedure. All development plans must be approved by the Planning Commission. The criteria for the element that must be a part of the development plan, and the plan review process, is outlined in an Addendum to the Zoning Ordinance entitled ***DEVELOPMENT PLAN APPROVAL AND LANDSCAPING GUIDELINES Content and Format Standards, Zoning Ordinance Addendum, City of Elkton, Kentucky.***

## **ARTICLE V LANDSCAPING AND LAND USE BUFFERS**

### **5.10 Landscaping Plan Review**

A Landscape Plan Review is required for all proposed commercial, church, PUD and multi-family developments. The purpose of this Article is to establish and define what is required as part of a landscaping review procedure. All landscape plans must be approved by the Planning Commission. The criteria for the element that must be a part of the landscape plan, and the plan review process, is outlined in an Addendum to the Zoning Ordinance entitled ***DEVELOPMENT PLAN APPROVAL AND LANDSCAPING GUIDELINES Content and Format Standards, Zoning Ordinance Addendum, City of Elkton, Kentucky.***

## **ARTICLE VI PLANNED UNIT DEVELOPMENT (PUD)**

### **6.10 Statement of Purpose.**

The intent of Planned Unit Development (PUD) is to permit greater flexibility and consequently, more creative and imaginative design for developments than generally is possible under the conventional zoning regulations. It is further intended to promote more economical and efficient use of the land while providing a harmonious variety of housing choices, a higher level of urban amenities and preservation of natural qualities of open space.

### **6.11 Permitted Districts.**

1. A residential PUD is permitted in all residential zoning districts upon approval of the Planning Commission.
2. Commercial planned unit developments are allowed in all Business and Industrial Districts, in accordance with the provisions of this chapter.
3. Condos or multi-family developments are only allowed in R-3 Residential Districts, in accordance with the provisions of this chapter.

### **6.12 Standards.**

1. *Area size.* The minimum size of a PUD shall not be less than five (5) acres.
2. *Building site coverage.* The total lot coverage permitted for all buildings on the site shall not exceed 60% of the lot area.
3. *Building height limit.* The maximum building height limit of any building shall not exceed 70 feet in height.
4. *Setback requirements.* Setback requirements shall be as follows:
  - a. Front yard: any building facing a local street, minor or major artery, as defined in the Subdivision Regulations, shall be one-half of the right-of-way or not less than 25 feet and not to exceed 40 feet;
  - b. Side yard (from adjoining property line): 20 feet; and
  - c. Rear yard (from adjoining property line): 20 feet.

### **6.13 General Requirements.**

1. *Platting requirements.* Each PUD shall be platted. The plat shall contain information as required in the *Elkton Development Plan and Landscape Regulations*. The plat shall also conform to the requirements set forth in this section. In the event that conflicts occur, this section shall prevail.
2. *Density.* The density for all approved PUD plans shall not exceed the density requirements found in the underlying zoning district.

- 3. *Open Space.*** At least 20% of the total gross area shall be devoted to the properly planned, permanent, usable open space. The common open space shall be used for recreational, park or environmental amenity for common enjoyment by occupants of the development, but shall not include public or private streets, driveways or utility easements.
- 4. *Maintenance of common open space.*** Planned unit developments shall be approved subject to the submission of a legal instrument or instruments setting forth a plan or manner of permanent care and maintenance of the open spaces, recreational areas and community owned facilities. No such instruments shall be accepted until approval by the City Attorney as to legal form and effect, and the Planning Commission as to suitability for the proposed use of the open space.
- 5. *Landscaping.***

  - a.** A landscaping plan shall be required at a time of initial submission, showing the spacing, sizes and specific types of landscaping material.
  - b.** Existing trees shall be preserved whenever possible. The location of trees should be considered when planning the common open space, location of buildings, underground structures, walks, paved area, playgrounds, parking areas and finished grade levels.
  - c.** A grading plan which will confine excavation, earth-moving procedures and other changes to the landscape in order to ensure preservation and prevent despoliation of the area to be retained as common open space will be required.
- 6. *Traffic circulation.*** Principal vehicular access points shall be designed to permit smooth traffic flow with controlled turning movements and minimum hazards to vehicular and pedestrian traffic.
- 7. *Street construction.***

  - a.** Standards of design and construction for both public and private streets, within planned residential development, shall comply with the standards of design set forth in the Subdivision Regulations of the Joint Planning Commission.
  - b.** Streets in a PUD may be dedicated to public use or may be retained under private ownership. Standards for construction shall be the same for both public and private streets.
- 8. *Parking.***

  - a.** For each dwelling unit, there shall be off-street parking spaces consisting of not less than two (2) off-street parking spaces that does not include garage parking. Variances from this requirement can be obtained from the Board of Zoning Adjustment.
  - b.** Parking areas shall be arranged so as to prevent through traffic to other parking areas.
  - c.** Parking areas shall be screened from adjacent structures, roads, and traffic arteries with hedges, dense planting, earth berms, changes in grade or walls.

- d. No more than 15 parking spaces shall be permitted in a continuous row without being interrupted by landscaping.
  - e. No more than 60 parking spaces shall be accommodated in any single parking area.
  - f. All streets and any off-street loading area shall be paved. All areas shall be marked so as to provide for orderly and safe loading, parking, and storage.
  - g. Parking for nonresidential purposes shall be provided appropriate to the type of nonresidential use, as set forth in the *Elkton Development Plan and Landscape Regulations*.
  - h. All common parking areas shall be adequately lighted. All such lighting shall be so arranged as to direct the light away from adjoining residences.
  - i. All parking areas and off-street loading areas shall be graded and drained so as to dispose of all surface water without erosion, flooding and other inconveniences. All off-street parking spaces are required to have an asphalt or concrete surface.
9. *Buffers.* Where a PUD abuts another district of lower intensity, a permanent open space at least 25 feet wide shall be provided along the property line and shall be maintained with landscaping. No driveway or off-street parking shall be permitted in this area.
10. *Nonresidential development.*
- a. Nonresidential uses, limited to those specifically recommended for approval by the Planning Commission, are permitted in a planned unit development provided that such uses primarily are for the service and convenience of the residents of the development.
  - b. Layout of parking areas, service areas, entrances, exits, yards, courts, landscaping and control of signs, lighting, noise or other potentially adverse influences shall be such as to protect residential character within the PUD District and desirable character in any adjoining residence district.
  - c. No building permit for any nonresidential use in a mixed PUD, (i.e., residential/commercial or professional) shall be issued prior to having at least 50% of the residential dwellings under construction.
11. *Development Plan Review.* A Development Plan Review is required as per the design guidelines listed in the *Elkton Development Plan and Landscape Regulations*.
12. *Approval process.* The following requirements must be fulfilled prior to approval of a PUD application.
- a. Upon receipt of an application and site plan for the proposed development, the Planning Commission shall hold a Public Hearing. The Planning Commission may approve, in concept, the preliminary development plans and shall have the authority to attach conditions to the plan. However, no grading or other construction may start on the parcel without a Final Development Plan approved by the Planning Commission using the same design requirements that are listed in the *Elkton Development Plan and Landscape Regulations*.

- b.** If the PUD is developed in stages, the total area shall be reviewed as a Master Preliminary Development Plan at the Public Hearing and each successive stage or phase can be approved under a Final Development Plan without a Public Hearing providing the Planning Commission feels the phase requesting Final Development Plan approval has no significant changes from the Preliminary Plan.
- c.** *Planning Commission action.* The Planning Commission will either:

  - (a)** Grant approval, which means the developer may proceed with the project; Postpone action, which means action is delayed for reasons which shall be noted by the Commission; or
  - (b)** Deny approval, which means denial of approval for the submitted PUD. Before any further action is taken, the developer must review his plan to conform to the Commission's recommendations.

## **ARTICLE VII ZONING DISTRICT REGULATIONS**

### **7.10 Zoning Districts and the Adoption of Official Zoning Map.**

The following Zoning Districts are delineated on the Official Zoning Map dated\_\_\_\_\_, 2014 and filed with the City and County Clerks. The map is made a part of this chapter and identifies the locations of the following Zoning Districts:

- 1. Agricultural (A-1)**
- 2. Single-Family Residential (R-1)**
- 3. Medium Density Residential (R-2)**
- 4. Multi-Family Residential (R-3)**
- 5. Suburban Residential District (SR)**
- 6. Manufactured Home Residential District (MHR)**
- 7. Central Business District (B-1)**
- 8. Neighborhood Commercial District (B-2)**
- 9. Highway/General Commercial District (B-3)**
- 10. Light Industry District (I-1)**
- 11. General Industry District (I-2)**
- 12. Conservation District (CD)**

## **7.11 Single-Family Residential (R-1)**

### **1. Permitted and Accessory Uses.**

Permitted and Accessory Uses are listed in the *Zones and Use Tables* herein. The R-1 District is a low density residential zoning district designed for single-family homes and those uses compatible with single-family residential development.

### **2. Minimum Lot Size Requirements.**

For single-family there shall be a minimum of 14,000 square feet of lot area. The minimum lot width at the building line shall be not less than 100 feet.

### **3. Building Setbacks.**

Buildings facing streets shall be set back 50 feet from the right-of-way of the street or road on which the building abuts. Side yard setbacks shall be 15 feet and rear yard setbacks shall be 25 feet except that garages may extend up to 5 feet from the rear property line. On corner lots contiguous with two (2) streets/roads, the side yard setback shall be 50 feet from the right-of-ways of both streets.

### **4. Building Height.**

No building shall exceed two and one-half stories or 35 feet in height.

### **5. Utility Connections.**

Use of city water and sanitary sewer is mandatory.

## **7.12 Medium Density Residential (R-2)**

### **1. Permitted and Accessory Uses.**

Permitted and Accessory Uses are listed in the *Zones and Use Tables* herein. The R-2 District is a medium density residential zoning district designed for single-family homes, duplexes, triplexes and those uses compatible with medium density residential development.

### **2. Minimum Lot Size Requirements.**

For single-family there shall be a minimum of 10,000 square feet of lot area with the minimum lot width at the building line of not less than 80 feet.

Every two-family (duplex) and three-family (triplex) shall be located on a lot of not less than 7,000 square feet for the first dwelling unit plus 1,500 square feet for each additional unit up to three (3) units. The minimum required lot width at the building line for two-family and three-family homes is 100 feet.

**3. Building Setbacks.**

Buildings facing streets shall be set back 40 feet from the right-of-way of the street or road on which the building abuts. Side yard setbacks shall be 12 feet and rear yard setbacks shall be 25 feet except that garages may extend up to 5 feet from the rear property line. On corner lots contiguous with two (2) streets/roads, the side yard setback shall be 40 feet from the right-of-ways of both streets.

**4. Building Height.**

No building shall exceed two and one-half stories or 35 feet in height.

**5. Utility Connections.**

Use of city water and sanitary sewer is mandatory.

**7.13 Multi-Family Residential (R-3)**

**1. Permitted and Accessory Uses.**

Permitted and Accessory Uses are listed in the *Zones and Use Tables* herein. The R-3 District is a high density residential zoning district designed for multi-family apartment complexes, as well as single-family, duplexes, triplexes and those uses compatible with high density residential development.

**2. Minimum Lot Size Requirements.**

For single-family there shall be a minimum of 10,000 square feet of lot area with the minimum lot width at the building line of not less than 80 feet.

Every two-family (duplex) and three-family (triplex) shall be located on a lot of not less than 7,000 square feet for the first dwelling unit plus 1,500 square feet for each additional unit up to three (3) units. The minimum required lot width at the building line for two-family and three-family homes is 100 feet. Multi-family dwellings (four units or greater) shall have a maximum of six (6) dwelling units per building and 12 units per net acre. All proposed new buildings or additions require approval of a Development Plan and Landscape Plan by the Planning Commission to ensure adequate parking, setbacks and address other development issues specific to each individual development. See *Development Plan Guidelines* and *Landscape and Land Use Buffering* standards in the Zoning Ordinance Addendums.

**3. Building Setbacks.**

Buildings facing streets shall be set back 40 feet from the right-of-way of the street or road on which the building abuts. Side yard setbacks shall be 10 feet and Rear yard setbacks shall be 25 feet. On corner lots contiguous with two (2) streets/roads, the side yard setback shall be 40 feet from the right-of-ways of both streets.

**4. Building Height.**

No building shall exceed three (3) stories or 45 feet in height.



**5. Utility Connections.**

Use of city water and sanitary sewer is mandatory.

**7.14 Suburban Residential District (SR)**

**1. Permitted and Accessory Uses.**

Permitted and Accessory Uses are listed in the *Zones and Use Tables* herein. The SR District is a suburban residential zoning district designed for single-family dwellings and those uses compatible with low density residential development that does not have access to city sanitary sewer and must be on septic systems.

**2. Minimum Lot Size Requirements.**

For single-family there shall be a minimum of 1/2 acre (21,780 square feet) of lot area.

**3. Building Setbacks.**

Buildings facing streets shall be set back 50 feet from the right-of-way of the street or road on which the building abuts. Side yard setbacks shall be 15 feet and rear yard setbacks shall be 25 feet. On corner lots contiguous with two (2) streets/roads, the side yard setback shall be 50 feet from the right-of-ways of both streets.

**4. Building Height.**

No building shall exceed two and one-half stories or 35 feet in height.

**5. Utility Connections.**

On lot septic systems are allowed. City water is required.

**7.15 Manufactured Home Residential District (MHR)**

**1. Permitted and Accessory Uses.**

Permitted and Accessory Uses are listed in the *Zones and Use Tables* herein. The MHR District is a manufactured home park zoning district designed for single-family manufactured homes and those uses compatible with manufactured home park developments.

All proposed new Manufactured Home Parks require approval of a Development Plan by the Planning Commission to ensure adequate parking, setbacks and address other development issues specific to each individual development. See *Development Plan Guidelines* and *Landscape and Land Use Buffering* standards in the Zoning Ordinance Addendums.

**2. Minimum Lot Size Requirements.**

A MHR District is designed to facilitate the use of a manufactured home park development which must have a minimum of 5 acres for the proposed park. Each lot side will be addressed in the site plan review by the Planning Commission.

**3. Building Setbacks.**

Buildings facing streets shall be set back 50 feet from the right-of-way of the street or road on which the building abuts. Side yard setbacks shall be 15 feet and rear yard setbacks shall be 25 feet. On corner lots contiguous with two (2) streets/roads, the side yard setback shall be 50 feet from the right-of-ways of both streets.

**4. Building Height.**

No building shall exceed two and one-half stories or 35 feet in height.

**5. Utility Connections.**

Use of city water and sanitary sewer is mandatory.

**TABLE 1: ZONES AND USE TABLE**

<p><b>P= PRINCIPALLY PERMITTED USES:</b> Uses listed and other uses (not otherwise listed in table) substantially similar to those listed are deemed permitted.</p>													NOTE:
<p><b>C = CONDITIONALLY PERMITTED USES:</b> Uses which are permitted only with Board of Adjustment approval.</p>													
<p><b>A = ACCESSORY USES:</b> Uses and structures permitted which are customarily accessory, clearly incidental and subordinate to permitted uses.</p>													
ZONES													USES
R-1	R-2	R-3	SR	B-1	B-2	B-3		I-1	I-2	A1	C D	MH R	
													<b>A RESIDENTIAL</b>
	C	P	C							C			1 Bed and breakfast home
		C											2 Boarding or lodging house
A	A	A	A							A			3 Dwelling: Accessory
		P											4 Dwelling: Multi-family
P	P	P	P							P			5 Dwelling: Single-family detached
		P											6 Dwelling: Townhouses and condos
	P	P								C			7 Dwelling: Two-family & three-family
P	P	P	P							P			8 Dwelling Unit Rentals
		C			C	C							9 Residential Care Facilities
		C			C								10 Fraternity or sorority house, dormitory
										P			11 Seasonal farm worker housing
A	A	A	A							A			12 Guest quarters
													13 Mobile Home (See Definitions)
												P	14 Manufactured Home (See Definitions & Article III)
C	C	C	C							C		P	15 Qualified Manufactured Home (See Article III)
P	P	P	P							P			16 Modular Home (See Definitions and Article III)
												C	17 Manufactured Home Park (See Article III)
				C	P	P							18 Motel or hotel
		C	C										19. Group Household
<b>B COMMUNITY AND OTHER PUBLIC USES</b>													
				C	P	P							1 Amusements, indoor
				C	C	C				C	C		2 Amusements, outdoor
	C	C		C	P	P							3 Child day-care centers, child nurseries, adult day care centers
C	C	C	C	C	P	P				C			4 Churches, Sunday Schools, parish houses
				C	C	C		C	C	C	C		5 Circuses and carnivals, temporary
				C	C	C				C	C		6 Civic center, auditorium, exhibition halls, amphitheater, Drive-in-theater
										C			7 Commercial Camp grounds
				P	P	P							8 Community centers, public
				P	P	P							9 Libraries, museums, art galleries
				P	P	P							10 Passenger transportation terminals
				P	P	P							11 Philanthropic institutions and clubs
				C	P	P							12 Recreational activities, indoor
										P	C		13
										C	C		14 RV Parks
C	C	C		C	C	C							15 Private schools, colleges, studios; academic, technical, vocational or professional, private elementary and secondary schools
P	P	P	P							P	P		16 Public Parks

**TABLE 2: ZONES AND USE TABLE**

<b>P= PRINCIPALLY PERMITTED USES:</b> Uses listed and other uses (not otherwise listed in table) substantially similar to those listed are deemed permitted.											NOTE:
<b>C= CONDITIONALLY PERMITTED USES:</b> Uses which are permitted only with Board of Adjustment approval.											
<b>A= ACCESSORY USES:</b> Uses and structures permitted which are customarily accessory, clearly incidental and subordinate to permitted uses.											
ZONES											USES
R-1	R-2	R-3	SR	B-1	B-2	B-3	I-1	I-2	A1	CD	
					P	P					<b>C INSTITUTIONAL</b>
								C	C		<b>1</b> Hospitals; surgical centers; convalescent and rest homes; orphanages, rehabilitation facilities, assisted living facilities
											<b>2</b> Penal or correctional institution
											<b>D BUSINESS</b>
				P	P	P					<b>1</b> Banks and credit unions
				P	P	P					<b>2</b> Restaurants
				P	P	P					<b>3</b> Hair styling, beauty and barber shops, tanning salons
				P	P	P					<b>4</b> Home appliance and computer repair and services
P	P	P	P							p	<b>5</b> Home occupation
				P	P	P					<b>6</b> Medical and dental offices, clinics and laboratories
				P	P	P					<b>7</b> Offices for business, professional, governmental, civic, social, fraternal, political, religious and charitable organizations
				P	P	P					<b>8</b> Retail stores
				C	P	P					<b>9</b> Pawnshops
				C	P	P		p			<b>10</b> Research, development and testing laboratories or centers
						C					<b>11</b> Maintenance and repair facilities for boats.
				P	P	P				C	<b>12</b> Radio and television studios
				P	P	P					<b>13</b> Ticket and travel agencies
				P	P	P					<b>14</b> Copy and printing services
								C			<b>15</b> Adult entertainment establishments and adult hotels (See Adult Placement Guidelines Article III)
											<b>E MERCANTILE</b>
				C	P	P			C	C	<b>1</b> Farmers market
				P	P	P					<b>2</b> Retail sale of food products
				P	P	P					<b>3</b> Retail sale of merchandise
					C	P				C	<b>4</b> Retail sale of plant, nursery or greenhouse products
					C	P				C	<b>5</b> Produce stands
						P			C	C	<b>6</b> Sale of feed, grain or other agricultural supplies
					P	P					<b>7</b> Wholesale supply establishment
				C	P	P					<b>8</b> Convenience stores with or without fuel stations
				C	P	P					<b>9</b> Home improvement centers with no outdoor storage
				C	C	P					<b>10</b> Home improvement centers with outdoor storage
				P	P	P					<b>11</b> Groceries

**TABLE 3: ZONES AND USE TABLE**

<b>P= PRINCIPALLY PERMITTED USES:</b> Uses listed and other uses (not otherwise listed in table) substantially similar to those listed are deemed permitted.												NOTE:
<b>C= CONDITIONALLY PERMITTED USES:</b> Uses which are permitted only with Board of Adjustment approval.												
<b>A= ACCESSORY USES:</b> Uses and structures permitted which are customarily accessory, clearly incidental and subordinate to permitted uses.												
ZONES												USES
R-1	R-2	R-3	SR	B-1	B-2	B-3		I-1	I-2	A1	CD	
					P	P						<b>F AUTOMOBILE AND TRUCK RELATED</b>
					P	P						1 Automobile rental
												2 Automobile or other vehicle sales lot, establishment
										C		3 Automobile, motorcycle or other vehicle race tracks
				C	P	P						4 Automobile service/fuel stations, with or without convenience stores
						P		C				5 automobile, truck boat repair, major
						P		C				6 Automobile body shop
						P		C				7 Automobile, truck and boat repair, minor
					P	P						8 Car-wash; self-serve or automatic
								P				9 Loading and unloading facilities
				C	C	C						10 Parking areas, private garages
				A	A	A						11 Parking areas or structures
	A	A		A	A	A		A	A			12 Parking lots
								P				13 Tire re-treading and recapping
						P						14 Truck rental
								P	P			15 Truck terminals
					P	P						16 Taxi cab or limousine service
					C	P		P				17 Automobile auction facilities
												<b>G INDUSTRIAL</b>
					P	P						1 Contractor equipment dealer, sales and rentals
								P	P			2 Dairy or other food product bottling plants
										P		3 Extraction of crude petroleum, natural gas
									C	C		4 Quarrying of sand, gravel, etc.
									P			5 Heavy industrial uses (See Definitions)
								P	P			6 Light industrial uses (See Definitions)
								C	C			7 Scrap metal recycling
						P		P				8 Machine, welding and other metal work shops
								P	P			9 Manufacturing and assembling, light
								P	P			10 Manufacturing, compounding, assembling, processing, packaging and certain other industrial uses
				P	P	P						11 Making of articles to be sold at retail on the premises
				P	P	P						12 Printing
								P	P			13 Boat Manufacturing
					C	P		P				14 Shops of special trade and general contractors
				C	P	P						15 Furniture repair and upholstery
				C	P	P						16 Furniture restoration and refinishing
									C			17 Auto and boat Salvage
								C	P			18 Concrete and asphalt plant

**TABLE 4: ZONES AND USE TABLE**

<p><b>P= PRINCIPALLY PERMITTED USES:</b> Uses listed and other uses (not otherwise listed in table) substantially similar to those listed are deemed permitted.</p>												NOTE:
<p><b>C= CONDITIONALLY PERMITTED USES:</b> Uses which are permitted only with Board of Adjustment approval.</p>												
<p><b>A= ACCESSORY USES:</b> Uses and structures permitted which are customarily accessory, clearly incidental and subordinate to permitted uses.</p>												
ZONES												USES
R-1	R-2	R-3	SR	B-1	B-2	B-3		I-1	I-2	A1	CD	
												<b>H AGRICULTURE</b>
										P		1 Agricultural structures, stables
										P		2 Dairying and stock-raising
										P		3 Farming
						P		P		C		4 Farm equipment dealer
										P		5 Forestry
								P	P	P		6 Grain drying
										P		7 Horse sales establishment
					C	P				P		8 Landscaping services
												<b>I ANIMAL RELATED</b>
										P		1 Animal burial grounds
										C		2 Commercial confined feeding of livestock
					C	P	P					3 Animal hospital or clinic
					C	P	P					4 Pet grooming
						C	P			C		5 Pet training
										C	C	6 Hunting game preserves
				C	P	P				C		7 Taxidermy
					C	C				C		8 Kennel, commercial
			C							C		9 Kennel, non-commercial
				C	P	P				C		10 Veterinarian office
												<b>J PERSONAL SERVICE</b>
										C	C	1 Cemetery, mausoleum, columbarium, crematory
				P	P	P						2 Funeral home
				C	P	P						3 Laundry, clothes cleaning
				P	P	P						4 Dry cleaning or laundry drop off and pick up stations with or without drive-through windows, where no cleaning of garments occurs on site
				P	P	P						5 Pharmaceuticals and medical supplies, sale of
				P	P	P	C					6 Retail sales or personal services
												<b>K PUBLIC AND SEMI-PUBLIC</b>
										C		1 Airport
										C		2 Land fill
				P	P	P						3 Municipal, county, state, or federal buildings and uses
P	P	P	P	P	P	P	P	P	P	P	P	4 Public utility facilities
					C	C						5 Bus terminals
					C	C		C		C		6 Radio or TV transmitting or relay facilities including line of sight relays
										C	C	7 Recreational uses, private outdoor
P	P	P	P	P	P	P	P			P	C	8 Recreational facilities, public and parks
P	P	P	P		P	P						9 Public Schools

**TABLE 4: ZONES AND USE TABLE (continued)**

<b>P= PRINCIPALLY PERMITTED USES:</b> Uses listed and other uses (not otherwise listed in table) substantially similar to those listed are deemed permitted.												NOTE:
<b>C= CONDITIONALLY PERMITTED USES:</b> Uses which are permitted only with Board of Adjustment approval.												
<b>A= ACCESSORY USES:</b> Uses and structures permitted which are customarily accessory, clearly incidental and subordinate to permitted uses.												
ZONES												USES
R-1	R-2	R-3	SR	B-1	B-2	B-3		I-1	I-2	A1	CD	
						C		C	P			<b>L STORAGE</b>
				C	P	P						<b>1</b> Storage, outdoor
				C	P	P		C				<b>2</b> Storage (incidental) for retail sales establishment
					C	C		P				<b>3</b> Storage Rental facilities
						P		P				<b>4</b> Storage for wholesale supply establishment
						P		P				<b>5</b> Storage yards for delivery vehicles
						P		P				<b>6</b> Warehouse
A	A	A	A	A	A	A		A	A	A		<b>7</b> Individual Storage

**7.16 Central Business Districts (B-1)**

**1. Permitted and Accessory Uses.**

Permitted and Accessory Uses are listed in the *Zones and Use Tables* herein. The B-1 District is a commercial zoning district designed for retail, entertainment, government and service uses, as well as those uses compatible with downtown business development. Uses deemed incompatible are any uses with outside storage, or outside display or products, to include used car lots and auto dealerships.

All proposed new buildings or additions require approval of a Development Plan and Landscape Plan by the Planning Commission to ensure adequate parking, setbacks and address other development issues specific to each individual development. See *Development Plan Guidelines* and *Landscape and Land Use Buffering* standards in the Zoning Ordinance Addendums.

**2. Minimum Lot Size Requirements.**

There is no minimum lot size requirement in a B-1 District. However, all proposed new buildings or additions require approval of a Development Plan by the Planning Commission to ensure adequate lot size for the proposed development and other development issues specific to each individual request.

**3. Building Setbacks.**

All proposed new buildings or additions require approval of a Development Plan by the Planning Commission to ensure adequate parking, setbacks and address other development issues specific to each individual development. Setbacks will be based on averaging adjoining property setbacks and site plan considerations.

**4. Building Height.**

No building shall exceed (3) stories or 45 feet in height.

**5. Utility Connections.**

Use of city water and sanitary sewer is mandatory.

**7.17 Neighborhood Commercial District (B-2)**

**1. Permitted and Accessory Uses.**

Permitted and Accessory Uses are listed in the *Zones and Use Tables* herein. The B-2 District is a commercial zoning district designed for business that requires good road access or high traffic counts to market their services or products. This District is designed to handle commercial uses that may not be appropriate in a B-1 Central Business District. All uses allowed in a B-1 District are allowed in a B-2 District. The intent of this District is for standard entertainment, service, retail and professional uses that normally serve residential neighborhoods.

All proposed new buildings or additions require approval of a Development Plan and Landscape Plan by the Planning Commission to ensure adequate parking, setbacks and address other development issues specific to each individual development. See *Development Plan Guidelines* and *Landscape and Land Use Buffering* standards in the Zoning Ordinance Addendums.

**2. Minimum Lot Size Requirements.**

The minimum lot size requirements shall be 25,000 square feet with a lot width of not less than 120 feet at the proposed building location.

**3. Building Setbacks.**

Buildings facing streets shall be set back 50 feet from the right-of-way of the street or road on which the building abuts. Side yard setbacks shall be 15 feet and rear yard setbacks shall be 25 feet. On corner lots contiguous with two (2) streets/roads, the side yard setback shall be 50 feet from the right-of-ways of both streets.

All proposed new buildings or additions require approval of a Development Plan by the Planning Commission to ensure adequate parking, setbacks and address other development issues specific to each individual development. See *Development Plan Guidelines* and *Landscape and Land Use Buffering* standards in the Zoning Ordinance Addendums.



**4. Building Height.**

No building shall exceed (3) stories or 45 feet in height.

**5. Utility Connections.**

Use of city water and sanitary sewer is mandatory.

**6. Parking and Loading.**

Parking and loading areas shall be required within the individual property as stated by the Parking and Loading Requirement Chapters herein.

**7.18 Highway/General Commercial District (B-3)**

**1. Permitted and Accessory Uses.**

Permitted and Accessory Uses are listed in the *Zones and Use Tables* herein. The B-3 District is a commercial zoning district designed for business that requires good road access or high traffic counts to market their services or products. This District is designed to handle heavier commercial uses that may not be appropriate in a B-2 District. It is intended for heavy commercial uses like welding and auto body shops, as well as uses that require moderate to heavy truck traffic or outside storage like propane wholesalers and farm equipment dealers, etc.

All proposed new buildings or additions require approval of a Development Plan and Landscape Plan by the Planning Commission to ensure adequate parking, setbacks and address other development issues specific to each individual development. See *Development Plan Guidelines* and *Landscape and Land Use Buffering* standards in the Zoning Ordinance Addendums.

**2. Minimum Lot Size Requirements.**

The minimum lot size requirements shall be 35,000 square feet with a lot width of not less than 120 feet at the proposed building location.

**3. Building Setbacks.**

Buildings facing streets shall be set back 60 feet from the right-of-way of the street or road on which the building abuts. Side yard setbacks shall be 15 feet and rear yard setbacks shall be 25 feet. On corner lots contiguous with two (2) streets/roads, the side yard setback shall be 60 feet from the right-of-ways of both streets.

All proposed new buildings or additions require approval of a Development Plan by the Planning Commission to ensure adequate parking, setbacks and address other development issues specific to each individual development. See *Development Plan Guidelines* and *Landscape and Land Use Buffering* standards in the Zoning Ordinance Addendums.

**4. Building Height.**

No building shall exceed (3) stories or 45 feet in height.

**5. Utility Connections.**

Use of city water and sanitary sewer is mandatory.

**6. Parking and Loading.**

Parking and loading areas shall be required within the individual property as stated by the Parking and Loading Requirement Chapters herein.

**7.19 Light Industry (I-1)**

**1. Permitted and Accessory Uses.**

Permitted and Accessory Uses are listed in the *Zones and Use Tables* herein. Any manufacturing or processing use which would not be deteriorating to neighboring properties because of the emission of smoke, noise, odor, dust, vibrations, or hazardous of fire or explosion.

All proposed new buildings or additions require approval of a Development Plan by the Planning Commission to ensure adequate parking, setbacks and address other development issues specific to each individual development. See *Development Plan Guidelines* in the Zoning Ordinance Addendums.

**2. Minimum Lot Size Requirements.**

The minimum lot size requirement for any lot or parcel is one (1) acre in any I-1 Districts.

**3. Building Setbacks.**

Buildings facing streets shall be set back 60 feet from the right-of-way of the street or road on which the building abuts. Side yard setbacks shall be 20 feet and Rear yard setbacks shall be 25 feet. On corner lots contiguous with two (2) streets/roads, the side yard setback shall be 60 feet from the right-of-ways of both streets.

**4. Building Height.**

There are no maximum building height requirements in this district.

**5. Parking and Loading.**

Parking and loading areas shall be required within the individual property as stated by the Parking and Loading Requirement Chapters herein.

**6. Utility Connections.**

Use of city water and sanitary sewer is mandatory.

## 7.20 General Industry (I-2)

### 1. Permitted and Accessory Uses.

Permitted and Accessory Uses are listed in the *Zones and Use Tables* herein.

Any manufacturing or process, which is not specifically listed in the *Zones and Use Tables* herein, and may be deteriorating to neighboring properties because of the emission of smoke, noise, odor, dust, vibrations, or hazardous because of the dangers of fire or explosion, are to be considered uses that are relevant to an I-2 District. Any type of manufacturing plant, process or quarry that is deemed to have said emissions or hazards by the Planning Commission must be considered, and approved or disapproved, as a Conditional Use in an I-2 District.

All proposed new buildings or additions require approval of a Development Plan by the Planning Commission to ensure adequate parking, setbacks and address other development issues specific to each individual development. See *Development Plan Guidelines* and *Landscape and Land Use Buffering* standards in the Zoning Ordinance Addendums.

### 2. Minimum Lot Size Requirements.

The minimum lot size requirement for any lot or parcel is five (5) acres in any I-2 Districts.

### 3. Building Setbacks.

Buildings facing streets shall be set back 60 feet from the right-of-way of the street or road on which the building abuts. Side yard setbacks shall be 20 feet and Rear yard setbacks shall be 25 feet. On corner lots contiguous with two (2) streets/roads, the side yard setback shall be 60 feet from the right-of-ways of both streets.

### 4. Building Height.

There are no minimum building height requirements in this district.

### 5. Parking and Loading.

Parking and loading areas shall be required within the individual property as stated by the Parking and Loading Requirement Chapters herein.

### 6. Utility Connections.

Use of city water and sanitary sewer is mandatory.

## 7.21 Agricultural Districts (A-1)

### 1. Permitted and Accessory Uses.

Permitted and Accessory Uses are listed in the *Zones and Use Tables* herein. The A-1 District inside the Elkton City Limits is designed to allow agricultural crops, dairying and the raising of farm animals. However, the District prohibits commercial confined feeding operations for livestock that meets the commercial confined feeding operation definition herein.

### 2. Minimum Lot Size Requirements.

The minimum lot size requirement for any lot or parcel is one (1) acre in any A-1 Districts.

### 3. Building Setbacks.

Buildings facing streets shall be set back 50 feet from the right-of-way of the street or road on which the building abuts. Side yard setbacks shall be 15 feet and Rear yard setbacks shall be 25 feet. On corner lots contiguous with two (2) streets/roads, the side yard setback shall be 50 feet from the right-of-ways of both streets.

### 4. Building Height.

There are no minimum building height requirements in this district.

## 7.22 Conservation District (CD)

### Permitted and Accessory Uses.

Permitted and Accessory Uses are listed in the *Zones and Use Tables* herein. The Conservation District has been created for areas which are subject to periodic flooding as indicated by the FEMA Flood Plain Maps, designated recreational areas, parks, and cemeteries.

# ARTICLE VIII SIGN REGULATIONS

## 8.10 Regulations of Signs

1. The purpose of this section is to permit such signs that will not, by reason of their location, type, size, construction or manner of display, endanger life or limb, confuse or mislead, obstruct vision, interfere with traffic safety, or otherwise endanger the public health, safety and welfare and further to regulate such permitted signs in a manner which will prevent annoyance, disturbance or nuisance to the citizens.
  
2. **Permitted Signs in All Zones**
  - a. Any sign or sign structure established, installed, maintained or authorized by a governmental agency.
  
  - b. Flags, emblems and other identification insignia of any institution, not to exceed 24 square feet.
  
  - c. Nameplates identifying buildings, addresses, building numbers and similar identifying markers.
  
  - d. On-premise real estate signs announcing property for sale or lease providing the size of such signs does not exceed 6 square feet or 6 feet in height.
  
  - e. Temporary signs announcing an event such as auctions, civic events, elections and promotions not exceeding an area of 32 square feet.
  
  - f. Directional and traffic signs and devices located on the premises.
  
3. **On-Premise Signs Permitted in the Following Zones and Under the Following Conditions:**
  - a. *All Residential Zones:* Ground pole and wall signs are permitted, subject to the following:
    - 1) Name plate signs shall not exceed an area of two (2) square feet.
  
    - 2) Identification signs for institutional use shall not exceed an area of 24 square feet.

- 3) Properly permitted home occupations and conditionally permitted Bed and Breakfasts may have one identification sign that must be on the same lot/parcel as the building and not exceeding an area of 6 square feet in area.
- 4) Subdivision identification signs, limited to one sign per major entrance, with a maximum area of 32 square feet and a maximum height of 7 feet.

**b. Central Business District (B-1) Zones:**

- 1) Wall signs are permitted as follows:  
Wall signs are not to exceed the square feet of one wall which the sign is attached. They may not be attached to the roof or extend more than 8 inches from the wall. There shall be no more than one wall sign per business. These signs may only identify the business.
- 2) Wall signs and free standing signs are permitted as follows:  
In B-1 zones there may be no more than two major identification signs per place of business. These may be either wall sign or free standing or one of each. Free standing signs may not exceed a maximum area of 100 square feet and maximum height of the main building.

**c. Neighborhood Commercial District (B-2) Zones:** Wall signs and free standing signs are permitted as follows:

- 1) Wall signs are permitted as follows:  
Wall signs may not exceed a maximum area of 2 square feet per lineal foot of building frontage. In no event shall the area exceed a total of 100 square feet. They may not be attached to the roof or extend more than 8 inches from the wall. There shall be no more than one wall sign per business. These signs may only identify the business.
- 2) In B-2 zones, there may be no more than two (2) major identification signs per place of business. These may be either wall sign or free standing or one of each. Free standing signs may not exceed a maximum area of 100 square feet and maximum height of 25 feet. Free standing signs must set back at least 25 feet from right-of-ways and may be used for identification only. The minimum setback from side and rear lot lines is 10 feet for property lines that are not contiguous to right-of-ways lines.

**d. Highway Commercial District (B-3) Zones:** Wall signs and free standing signs are permitted as follows:

- 1) Wall signs are permitted as follows:  
Wall signs may not exceed a maximum area of 2 square feet per lineal foot of building frontage. In no event shall the area exceed a total of 100 square feet. They may not be attached to the roof or extend more than 8 inches from

the wall. There shall be no more than one wall sign per business. These signs may only identify the business.

- 2) In B-3 zones, there may be no more than two major identification signs per place of business. These may be either wall sign or free standing or one of each. Free standing signs may not exceed a maximum area of 100 square feet and maximum height of 25 feet. Free standing signs must set back at least 25 feet from right-of-ways and may be used for identification only. The minimum setback from side and rear lot lines is 10 feet for property lines that are not contiguous to right-of-ways lines.

- e. **Industrial Zones:** In Industrial I-1 and I-2 zones, both wall and free standing signs may be utilized subject to the same requirements as those applicable in a B-2 District

#### **4. Off-Premise Signs are Permitted Only in the Following Zone Under the Following Restrictions.**

In B-3 Districts, free standing bill board signs are allowed provided they are within 1,500 feet of the centerline of the US 68/80 (4-lane), the maximum area is 300 feet per sign face and there must be 500 feet separation distance between bill boards. The height of the bill board shall be no greater than 65 feet.

If the applicant can demonstrate a need for additional height for a bill board sign in order that the proposed sign may be seen by motorist for 30 seconds prior to exiting the US 68/80 (4-lane), the 65 foot height maximum may be increased upon application to the Board of Adjustments. This 30 second limit is based upon the need for a minimum of 30 seconds to make safe lane changes at the 65 MPH US 68/80 speed limits. The inability of an applicant to achieve 30 seconds of visibility from either direction is ground from denial of an application for a bill board height variance.

#### **5. Integrated Development Signs.**

For integrated developments under single ownership or under unified control, including shopping centers, manufacturing districts, apartment developments, additional illuminated signs may be erected providing they do not exceed 100 square feet in gross surface area, and contain only name and location of the development, and the name or type of business of the occupants of the development. Signs in a residential area shall not be illuminated. Signs shall be set back at least 25 feet from each street right-of-way and the bottom edge of such sign shall be at least eight feet above ground level where it will not block the vision of traffic otherwise at ground level or higher. The overall height of the sign shall not exceed 25 feet above ground level.

## **6. Signs Prohibited in All Zones**

- a.** Signs that incorporate lights that flash or move;
- b.** Banners, pennants, spinners, streamers, except when used in the promotion of public non-commercial events;
- c.** String lights or any unshielded lights that are visible by the public from a street and are used for commercial purposes, excluding the use of such lights for holiday decoration and low intensity fluorescent lights incorporated into architectural design for the highlighting of architectural features.
- d.** Signs with visible moving or revolving parts, whether by means of mechanical, electrical or wind driven force.
- e.** Signs which obscure the visibility of any traffic sign or control device on public streets or roads, whether the obscuring is due to color, size, location or illumination.
- f.** Any sign or sign structure which is structurally unsafe as a result of poor construction, inadequate maintenance, dilapidation or obsolescence.
- g.** Signs which utilize such words as Stop, Danger or Yield or other similar words, phrases or symbols in such manner as to be deceptively similar to official signage, implying the need or requirement to stop or the existence of a dangerous condition.
- h.** Portable or folding signs, "A" frame signs, "T" shaped signs or any other similar free standing signs.
- i.** Free standing or projecting signs placed on or over public property or right-of-ways.
- j.** Window feature signs which cover in excess of 20% of business's windows area.
- k.** Any sign attached to or painted on trees, rocks or other natural features.
- l.** Any sign other than traffic control signs or devices located in or above public streets or roads.
- m.** Illuminated signs located within 100 feet of residential uses unless such sign is designed so that it does not shine on that use.
- n.** Signs mounted on the roof of any building.



## **ARTICLE IX CELL TOWER REQUIREMENTS**

Cellular antenna towers for cellular telecommunications services or personal communications services may be allowed in any zone after a Planning Commission review in accordance with the following procedures to ascertain agreement with the adopted comprehensive plan and the regulations contained within the zoning ordinance.

### **9.10 Applicability**

Every utility, or a company that is engaged in the business of providing the required infrastructure to a utility, that proposes to construct a cellular antenna tower shall submit a completed uniform application to the Planning Commission. Where the Planning Commission finds that circumstances or conditions relating to the application of an alternative cellular antenna tower are such that one or more of the requirements of the uniform application listed below are not necessary or desirable for the protection of surrounding property or the public health, safety, and general welfare, and that such special conditions or circumstances make one or more said requirements unreasonable, the Planning Commission, or its duly authorized representative, may modify or waive such requirement of the uniform application, 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. The Planning Commission shall not regulate the placement of antennas or related equipment on an existing structure. However, every utility/entity choosing to locate an antenna or related equipment on an existing structure, shall file with the City of Elkton Planning Commission the name and address of the entity/utility, the structure(s) upon which the utility/entity plans to place antennas or related equipment and the information set forth in chapter.

### **9.11 Application Requirements**

Applications for the construction of personal communications services shall comply with KRS 100.9865 and include the following:

- 1.** The full name and address of the applicant;
- 2.** The applicant's articles of incorporation, if applicable;
- 3.** A geotechnical investigation report signed and sealed by a professional engineer registered in Kentucky that includes boring logs and foundation design recommendations;
- 4.** A written report prepared by a professional engineer or land surveyor, of findings as to the proximity of the proposed site to flood hazard areas;
- 5.** Latitude/longitude coordinates with associated reference datum, clear directions to the proposed site, including highway number and street names, if applicable, with the telephone number of the person who prepared the directions;

6. The lease or sale agreement for the property on which the tower is proposed to be located, except that, if the agreement has been filed in abbreviated form with the County Clerk, an applicant may file a copy of the agreement as recorded by the County Clerk and, if applicable, the portion of the agreement that specifies, in the case of abandonment, a method that the utility will follow in dismantling and removing the proposed cellular antenna tower including a timetable for removal;
7. The identity and qualifications of each person directly responsible for the design and construction of the proposed tower;
8. A site development plan, signed and sealed by a professional engineer or surveyor licensed in Kentucky, that shows the proposed location of the tower and all easements and existing structures within 500 feet of the proposed site on the property on which the tower will be located, and all easements and existing structures within 200 feet of the access drive, including the intersection with the public street system. Additionally the development plan shall show the following: A survey, prepared by a surveyor licensed in Kentucky. The survey shall be in accordance with all of the requirements of Code of Ordinances § 151.25 and KRS Chapter 100, that shows lease lines or property line, which upon approval, shall be recorded;
9. A vertical profile sketch of the tower, signed and sealed by a professional engineer registered in Kentucky, indicating the height of the tower and the placement of all antennas;
10. The tower and foundation design plans and a description of the standard according to which the tower was designed, signed, and sealed by a professional engineer registered in Kentucky;
11. A map, drawn to a scale no less than one inch equals 200 feet, that identifies every structure and every owner of real estate within 500 feet of the proposed tower;
12. A statement that every person who, according to the records of the property valuation administrator, owns property within 500 feet of the proposed tower or property contiguous to the site upon which the tower is proposed to be constructed, has been:
  - a. Notified by certified mail, return receipt requested, of the proposed construction which notice shall include a map of the location of the proposed construction;
  - b. Given the telephone number and address of the city of Elkton Planning Commission;
  - c. Informed of his or her right to participate in the Planning Commission's proceedings of the application;
13. A list of the property owners who received the notice, together with copies of the certified letters sent to the listed property owners;
14. A statement that the Mayor has been notified, in writing, of the proposed construction and a copy of the notification;
15. A statement that the Todd County Airport Board has been notified, in writing, of the proposed construction and a copy of the notification;
16. A statement that:
  - a. A written notice of durable material at least two feet by four feet in size, stating that "[Name of applicant] proposes to construct a telecommunications tower on this site" and including the addresses and telephone numbers of the applicant and the Planning Commission, has been posted in a visible location on the proposed site;

- b. A written notice, at least two feet by four feet in size, stating that "[Name of applicant] proposes to construct a telecommunications tower near this site" and including the addresses and telephone numbers of the applicant and the Planning Commission, has been posted on the property nearest to the public road;
- 17. A statement that notice of the location of the proposed construction has been published in the local newspaper;
- 18. A brief description of the character of the general area in which the tower is proposed to be constructed, which includes the existing land use for the specific: property involved;
- 19. A statement that the applicant has considered the likely effects of the installation on nearby land uses and values and has concluded that there is no more suitable location reasonably available from which adequate service to the area can be provided, and that there is no reasonably available opportunity to locate its antennas and related facilities on an existing structure, including documentation of attempts to locate its antennas and related facilities on an existing structure, if any, with supporting radio frequency analysis, where applicable, and a statement indicating that the applicant attempted to locate its antennas and related facilities on a tower designed to host multiple wireless service providers facilities or on an existing structure, such as a telecommunications tower or other suitable structure capable of supporting the applicant's antennas and related facilities;
- 20. A map of the area in which the tower is proposed to be located, that is drawn to scale, and that clearly depicts the necessary search area within which an antenna tower should, pursuant to radio frequency requirements, be located;
- 21. A grid map that shows the location of all existing cellular antenna towers and that indicates the general position of proposed construction sites for new cellular antenna towers within an area that includes:
  - a. All of the area within the City of Elkton Planning Commission's jurisdiction;
  - b. A one-half mile area outside the boundaries of the City of Elkton Planning Commission's jurisdiction, if that area contains either existing or proposed construction sites for cellular antenna towers.

## **9.12 Confidentiality of Application**

All information contained in the application and any updates, except for any map or other information that specifically identifies the proposed location of the cellular tower then being reviewed, shall be deemed confidential and proprietary within the meaning of KRS 61.878. The Planning Commission shall deny any public request for the inspection of this information, 'whether submitted under Kentucky's Open Records Act or otherwise, except when ordered to release the information by a court of competent jurisdiction. Any person violating this subsection shall be guilty of official misconduct in the second degree as provided under KRS 522.030. The confidentiality of the applications and any updates of the application can be waived by the written authorization of the applicant.

### **9.13 Application Fee and Processing**

An applicant for the construction of cellular antenna towers for cellular telecommunications services or personal communications services shall pay an application fee of \$2,500.

1. Processing of application. Applications for the construction of cellular antenna towers for cellular telecommunications services or personal communications services shall be processed as follows:
2. The Planning Commission shall review the uniform application to determine whether it is in agreement with the Comprehensive Plan and locally adopted zoning regulations;
3. At least one public hearing on the proposal shall be held, at which hearing interested parties and citizens shall have the opportunity to be heard. Notice of the time and place of such hearing shall be published at least once, in the local newspaper, provided that one publication occurs not less than seven calendar days nor more than 21 calendar days before the occurrence of such hearing;
4. Notice of the hearing shall be posted on the site at least 14 days in advance of the hearing. The notice shall consist of a written notice, of durable material at least two feet by four feet in size, stating that "[Name of applicant] "proposes to construct a telecommunications tower on this site" and including the addresses and telephone numbers of the applicant and the Planning Commission. Notice of the proposal shall also be posted on the property nearest to the public road. This notice shall consist of a written notice, of durable material at least two feet by four feet in size, stating that "[Name of applicant] proposes to construct a telecommunications tower near this site" and including the addresses and telephone numbers of the applicant and the Planning Commission;
5. Notice of the hearing shall be given at least 14 days in advance of the hearing, by certified mail, return receipt requested, to the owner of every parcel of property within 500 feet of the proposed tower or property contiguous to the site upon which the tower is proposed to be constructed. The notice shall include a map of the location of the proposed construction, the telephone number and address of the Planning Commission and shall inform the addressee of his or her right to participate in the Planning Commissioner's proceedings on the application. Records maintained by the Property Valuation Administrator may be relied upon conclusively to determine the identity and address of said owner. In the event a property is in condominium of cooperative forms of ownership, then the person notified by mail shall be the president or chairperson of the owner group that administers property commonly owned by the condominium or cooperative owners. A joint notice may be mailed to two or more co-owners of an adjoining property who are listed in the property valuation administrator's records as having the same address;
6. Upon holding the hearing, the Planning Commission shall, within 60 days commencing from the date that the application is received by the Planning Commission, or within a date specified in a written agreement between the Planning Commission and the applicant, make its final decision to approve or disapprove the uniform application. If the Planning Commission fails to issue a final decision within 60 days, and if there is no written agreement between the Planning Commission and

the utility to a specific date of the Planning Commission to issue a decision, it shall be presumed that the Planning Commission has approved the utility's uniform application;

7. If the Planning Commission disapproves of the proposed construction, it shall state the reasons for disapproval in its written decision and may make suggestions which, in its opinion, better accomplish the objectives of the comprehensive plan and the locally adopted zoning regulations. No permit for construction of a cellular or personal communications' services antenna tower shall be issued until the Planning Commission approves the uniform application or the GO-day time period has expired, whichever occurs first;
8. Upon approval of an application for the construction of a cellular antenna tower by a Planning Commission, the applicant shall notify the Public Service Commission within ten working days of the approval. The notice to the Public Service Commission shall include a map showing the location of the construction site. If an applicant fails to file notice of an approved uniform application with the Public Service commission, the applicant shall be prohibited from beginning construction on the cellular antenna tower until such notice has been made.

#### **9.14 Design Standards**

The applicant shall provide information demonstrating compliance with the requirements contained herein. Potential sites that should be considered (in order from most-preferred to least-preferred) include existing utility towers, industrial zones, commercial zones, and government buildings and properties. Where the Planning Commission finds that circumstances or conditions 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 the surrounding property or the public health, safety, and general welfare, and that such special conditions or circumstances make one or more said requirements unreasonable, the Planning Commission, or its duly authorized representative, 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.

1. Monopoles. Monopole cellular antenna towers shall be permitted in any zone. Lattice and guyed cellular antenna towers shall 'be permitted in any zone except for residential zones.
2. Minimum, lot size. Regardless of the minimum lot sizes listed in the specific zoning districts, or Code of Ordinances § 151.25, the lot size may be the minimum necessary to comply with the objectives and standards of this section.
3. Setbacks. Setbacks for all structures constructed in connection with guyed or lattice cellular antenna towers, except fences and/or guy wires, shall be a minimum distance from the property line or least line equal to at least the height of the tower, but not less than 50 feet. All structures constructed in connection with .monopole or alternative cellular antenna tower shall comply with the applicable setback requirements established for other structures within the applicable zoning district. Alternative cellular antenna towers that are to be located as part of a utility service

- facility (e.g. power pole or telephone pole) shall comply with setback requirements applicable to such utility service facilities, if any.
4. **Height.** A cellular antenna tower, or alternative antenna tower structure, may be constructed to a maximum height of 200 feet regardless of the maximum height requirements listed in the specific zoning district. This also applies to any tower taller than 15 feet constructed on the top of another building or structure, with the height being the overall height of building/structure and tower together, measured from the grade to the highest point. The Planning Commission may allow antennas greater than 200 feet in height upon review of the applicant's justification that the additional height meets the criteria identified in § 151.80 of this chapter.
  5. **Construction standards.** The cellular antenna tower shall be constructed in compliance with the current ANSI/EIA/TIA 222-F standard and other applicable state standards.
  6. **Illumination.** Cellular antenna towers shall not be illuminated, except in accordance with other state or federal regulations.
  7. **Staffing.** The site shall be un-staffed. Personnel may periodically visit the site for maintenance, equipment modification, or repairs. To accommodate such visits, ingress/egress shall be only from approved access points.
  8. **Fencing.** Woven wire or chain link (80% open) or solid fences made from wood or other materials (less than 50% open) shall be used to enclose the site. Such fences shall not be less than four feet and no more than eight feet in height, and may be located within the front, side, or rear yard.
  9. **Screening.** Screening shall be provided by evergreen trees, with a minimum height of six feet, planted in a staggered pattern at a maximum distance of 15 feet on center. The screening shall be placed in an area between the property line, or lease line, and a ten foot setback. Screening shall be required when located in or adjacent to a residential zone.
  10. **Surfacing.** All driveways and off-street parking areas shall be paved with a durable surface such as asphalt or concrete.
  11. **Signs.** There shall be no signs permitted, except those displaying emergency information, owner contact information, warning or safety instructions or signs that are required by a federal, state or local agency. Such signs shall not exceed six square feet in area.
  12. **Number of service providers.** All new cellular antenna towers shall be designed and constructed to accommodate a minimum of three service providers.
  13. **Lease Agreements.** All option and site lease agreements shall not prohibit the possibility of co-location, and in the case of abandonment, shall include a method that the utility will follow in dismantling and removing the proposed cellular antenna tower including a timetable for removal.
  14. **Other approvals required.** Approval of the Federal Aviation Administration (FAA) and the Kentucky Airport Zoning Commission (KAZC) or documentation where approval is not required shall be submitted prior to the issuance of a building permit for the construction of the cellular antenna tower.

## **9.15 Approval Criteria**

Approval or disapproval of the proposal shall be based upon an evaluation of the proposal's agreement with the comprehensive plan and zoning regulations.

1. The Planning Commission may require the applicant to make a reasonable attempt to co-locate additional transmitting or related equipment. The Planning Commission may provide the location of existing cellular antenna towers on which the commission deems the applicant can successfully co-locate its transmitting and related equipment. If the Planning Commission requires the applicant to attempt co-location, the applicant shall provide the Planning Commission with a statement indicating that the applicant has:
2. Successfully attempted to co-locate on towers designed to host multiple wireless service providers' facilities or existing structures such as a telecommunications tower or another suitable structure capable of supporting the applicant's facilities, and that identifies the location of the tower or suitable structure on which the applicant will co-locate its transmission and related facilities; or
3. Unsuccessfully attempted to co-locate on towers designed to host multiple wireless service provider's facilities or existing structure such as a telecommunications' tower or another suitable structure capable of supporting the applicant's facilities and that:
  - a. Identifies the location of the towers or other structures on which the applicant attempted to co-located; and
  - b. Lists the reasons why the co-location was unsuccessful in each instance
4. The Planning Commission may deny a uniform application to construct a cellular antenna tower based on an applicant's unwillingness to attempt to co-locate additional transmitting or related equipment on any new or existing towers or other structures.
5. The Planning Commission shall not regulate the placement of a cellular antenna tower on the basis of the environmental effects of radio frequency emissions to the extent that the proposed facility complies with the regulations of the Federal Communications Commission concerning radio frequency emissions.

## **9.16 Abandonment and Dismantling**

Any cellular antenna' tower including but not limited to guyed, lattice and monopole cellular antenna towers, alternative cellular antenna towers, antennas and related equipment, (hereinafter referred to as "structure") shall be deemed abandoned when such structure is removed from or no longer in service for a period in excess of 30 days. At the point in time any structure is considered to be abandoned within the meaning of this section, the structure shall be disassembled and removed from the property upon which is located within 60 days thereafter.

## **9.17 Amendments**

Any amendments to plans, except for minor adjustments as determined by the Planning Commission, or its duly authorized representative, shall be made in accordance with the

procedure required by herein, subject to the same limitations and requirements as those under which such plans were originally approved.



## **ARTICLE X ADMINISTRATION AND ENFORCEMENT**

### **10.10 Administration by Zoning Administrator**

This chapter shall be enforced by the Elkton Zoning Administrator appointed by the City Council. No land or structure shall be changed in use and no structure shall be erected, enlarged, or moved until the Zoning Administrator has issued a building permit certifying that the plans and intended use of land, buildings, and structures are in conformity with this Zoning Ordinance. No land or structures hereafter erected, moved, or altered in its use shall be used until the Building Inspector or Zoning Administrator shall have issued a certificate of occupancy stating that such land or structure is found to be in conformity with the provisions of this Ordinance.

### **10.11 Board of Zoning Adjustment; Appeals**

There shall be a Board of Zoning Adjustment appointed in pursuance of KRS 100.217 through 100.251. After public hearing duly advertised, the Board of Adjustment shall, decide appeals from alleged error by the Zoning Administrator or Building Inspector's decisions, appeals for variance in yard sizes, lot size or height, where exceptional and peculiar hardship would be caused by enforcement of the regulations in this chapter and where such variance would not substantially derogate from the intent of this chapter. The Board of Zoning Adjustment does not possess the power to permit a use prohibited by this chapter. The Board of Zoning Adjustment shall always act with due consideration to promoting the public health, safety, convenience and welfare encouraging the most appropriate use of land and conserving property value, shall permit no building or use detrimental to a neighborhood, and shall prescribe appropriate conditions and safeguards in each case.

### **10.12 Amendments to the Zoning Text or Maps**

A proposed amendment to the zoning regulations may originate with the Planning Commission, legislative body (City Council), or with the owner of the property. Regardless of the origin of the proposed amendment, it shall be referred to the Planning Commission which shall hold a public hearing on the request. The Planning Commission shall review the proposal, and shall, within 60 days from the date of receipt, advise the City Council as to whether it recommends the approval or disapproval of the proposed change. In zoning map amendment requests, the Planning Commission shall state the reason for recommending approval/disapproval with *findings of facts*. Before the Planning Commission makes its recommendation to the City Council, the Planning Commission shall hold at least one (1) public hearing after notice as required by KRS Chapter 424.

A tie vote of the Planning Commission shall be subject to further consideration by the Planning Commission for a period, not to exceed 30 days, at the end of which, if the tie has not been broken, the application shall be forwarded to the City Council without a recommendation of approval or disapproval. It shall take a majority of the entire legislative body (City Council) to override the recommendation of the Planning Commission, and it shall take a majority of the entire legislative body (City Council) to adopt a zoning map amendment whenever the Planning Commissions forwards an application to the Council without a recommendation due to a tie vote. Unless a majority of the entire legislative body votes to override the Planning Commission's recommendation, such recommendation shall become final and effective and if a recommendation of approval was made by the Planning Commission, the ordinance of the City Council adopting the zoning map amendment shall be deemed to have passed by operation of law (KRS 100.211).

### **10.13 Repeal of Conflicting Regulations**

Any zoning regulations interim or otherwise now in effect in the city, and in conflict with these zoning regulations as they are established in this chapter, are repealed. However, all suits at law or in equity and/or all prosecutions resulting from violation of any zoning regulations heretofore in effect, which are now pending in any of the courts of the state or of the United States, shall not be abated or abandoned by reason of adoption of these zoning regulations, but shall be prosecuted to their finality the same as if these zoning regulations had not been adopted, and any and all violations of existing interim zoning regulations, prosecutions for which have not yet been instituted, may be hereafter filed and prosecuted. Nothing in these zoning regulations shall be so construed as to abandon, abate, or dismiss any litigation or prosecution now pending, and/or which may have heretofore been instituted or prosecuted.

### **10.14 Penalty and Enforcement.**

Fines and other penalties may be imposed upon violators according to the provisions of Kentucky Revised Statutes, Section 100.991

## 10.15 Application Fees

The following are Building Permit and application fees for the Planning Commission:

1. Building Permit Accessory Buildings	
Residential	\$35
Commercial/industrial	\$100
2. Building Permit – Single family home	\$0.10 per sq. ft.
3. Building Permit – Duplex home	\$0.10 per sq. ft.
4. Building Permit – Multi-family	\$0.10 per sq. ft.
5. Building Permit – Modular home	\$0.10 per sq. ft.
6. Building Permit – Manufactured home	\$0.10 per sq. ft.
7. Building Permit – Commercial	\$100
8. Building Permit – Industrial	\$100
9. Conditional Use application fee	\$100
10. Variance application fee	\$75
11. Zoning Map amendment application fee	\$150
12. Zoning Text amendment application fee	\$100
13. Cell Tower application fee	\$2,500
14. Development Plan application fee*	\$300 base fee, plus \$100 per acre
15. Building Permit late fee*	\$100

**NOTE: \***

The Building Permit late fee is in addition to the normal Building Permit fee. This fee is charged when any construction has begun on any structure without an approved building permit.

The Development Plan application fee is in addition to any commercial or industrial building permit fee. Commercial and industrial Building Permits cannot be issued before the Development Plan has been approved by the Planning Commission.