CITY of FALMOUTH
ZONING ORDINANCE

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For Approval of The

PENDLETON COUNTY JOINT PLANNING COMMISSION

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And Adoption By

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ARTICLE 1

A ZONING ORDINANCE

SECTION 1.0 ZONING ORDINANCE: An ordinance dividing the City of Falmouth, Commonwealth of Kentucky, into zones of such shape and area as are deemed best suited to carry out these regulations; regulating the uses of buildings and land for residential and agricultural uses, or for business and other purposes; prescribing penalties for the violations; providing for enforcement; a board of adjustment; and repealing all regulations, resolutions, orders, ordinances and/or codes in conflict with this Ordinance.

BE IT ORDAINED by the City Council of the City adopting this Ordinance (hereinafter "City"), Commonwealth of Kentucky, as follows:

ARTICLE 2

TITLE, AUTHORITY AND PURPOSE

SECTION 2.0 TITLE: These regulations shall be known upon adoption as the CITY OF FALMOUTH Zoning Ordinance."

SECTION 2.1 AUTHORITY: The CITY OF FALMOUTH Zoning Ordinance is prepared pursuant to the authority of Kentucky Revised Statutes (K.R.S. 100.111-100.991) and become effective from and after the date of its approval and adoption as provided by law.

SECTION 2.2 PURPOSE: The zoning regulations and districts as herein set forth have been prepared in accordance with an adopted Comprehensive Plan for Pendleton County to promote the public health, safety, morals and general welfare of the adopting legislative bodies, to facilitate orderly and harmonious development and the visual or historical character of the adopting legislative bodies; and to regulate the locations of the use of property for agricultural and residential purposes and other property for business and other purposes; and to provide safety of transportation facilities; and to protect the environment and natural resources.

ARTICLE 3

INTERPRETATION, SEVERABILITY CLAUSE, AND CONFLICT

SECTION 3.0 PROVISIONS DECLARED TO BE MINIMUM REQUIREMENT: The provisions of this Ordinance shall be held to be the minimum requirements for the promotion of the public safety, health, and general welfare. Where this Ordinance imposes a greater restriction upon the buildings, structures or premises than are imposed or required by any other ordinances, orders, rules, codes, permits or regulations, or by easements, covenants, deed restrictions or agreements, the provisions of this Ordinance shall govern.

SECTION 3.1 SEVERABILITY CLAUSE: Should any Article, Section, subsection, sentence, clause, or phrase of this Ordinance, for any reason, be held unconstitutional or invalid, such decision or holding shall not affect the validity of the remaining portions hereof. It being the intent to enact each section, and portion thereof, individually, and each such section shall stand alone if necessary, and be in force notwithstanding the invalidity of any other Section or provision.

SECTION 3.2 CONFLICT: All ordinances and parts of ordinances in conflict herewith are hereby repealed to the extent necessary to give this order full force and effect providing, however, that such repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any such ordinances and parts thereof hereby repealed prior to the effective date of this Ordinance. After approval of this Ordinance existing land uses not in agreement with this zoning Ordinance become pre-existing non-conforming

SECTION 3.3 GRANDFATHERING OF USES EXISTING BEFORE THIS ORDINANCE: This Ordinance contains provisions (see Section 6.8) for the lawful continuation of existing lawful uses and structures which do not conform to the provisions of this Ordinance, as required by KRS 100.253

SECTION 3.4 INAPPLICABILITY TO FEDERAL, STATE, COUNTY AND CITY CONSTRUCTION AND DEVELOPMENT: This Ordinance shall not apply to construction or development projects performed by or for the federal, state, county or city government, and public bodies operating under or through said governmental authorities, including public schools, departments of government, public corporations and public utilities.

ARTICLE 4

AGRICULTURAL LAND EXEMPT

SECTION 4.0 AGRICULTURAL LAND EXEMPT: As provided by KRS 100.203(4), land which is used for agricultural purposes as defined in KRS 100.111(2) shall not be subject to the regulations in this Ordinance except that:

A. Setback lines, imposed by this Ordinance, which may be required for the protection of existing and proposed streets and highways, shall apply;

B. All buildings or structures in a designated floodway or flood plain or which tend to increase flood heights or obstruct the flow of flood waters shall be fully regulated by this Ordinance;

C. Mobile homes and other dwellings shall be permitted, but shall be subject to applicable regulations in this Ordinance, as well as building codes, if any, and regulations requiring certificates of occupancy.

SECTION 4.1 DEFINITION OF AGRICULTURAL PURPOSES: The term "Agricultural Purposes," as used in this Article, shall be defined as the agricultural use of land as defined by KRS 100.111(2).

ARTICLE 5

PROVISIONS FOR CITY OF FALMOUTH ZONING MAP

SECTION 5.0 ZONING MAP: The districts established in Section 5.2 of this Ordinance are shown on the CITY OF FALMOUTH, Kentucky Zoning Map, which, together with all explanatory matter thereon, are hereby adopted as part of this Ordinance.

SECTION 5.1 IDENTIFICATION OF THE ZONING MAP: The Zoning Map shall be identified by the signature of the Chairman of the Pendleton County Joint Planning Commission and the chief executive or administrative officer of each adopting legislative body accompanied by the most recent date of revision of the map.

SECTION 5.2 ZONING DISTRICT IDENTIFICATION: For the purpose of this Ordinance, all land within the jurisdiction of each adopting legislative body is hereby divided into the following categories of zoning districts:

A. RURAL ZONE

B. COMMERCE ZONES, including a Business Zone and an Intensive Zone

C. CITY-ONLY ZONES, including the three primary zones: Urban Residential Zone, the Suburban Residential Zone, and the Downtown Zone; plus Historic Overlay Districts.

SECTION 5.3 INTERPRETATION OF ZONING DISTRICT BOUNDARIES: Where uncertainty exists with respect to the boundaries of any of the zoning districts defined above as shown on the Zoning Map, the following rules shall apply:

A. Where district boundaries are indicated as approximately following the center lines of thoroughfares or highways, street lines, or highway right-of-way lines, such center lines, street lines, or highway right-of-way lines shall be construed to be such boundaries;

B. Where district boundaries are so indicated that they approximately follow the lot lines or property lines, such lines or property lines shall be construed to be said boundaries;

C. Where district boundaries are so indicated that they are approximately parallel to the centerlines or street lines of streets, or the centerlines or right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto and at such distance there from as indicated on the Zoning Map. If no distance is

given, such dimensions shall be determined by the use of the scale shown on the Zoning Map;

D. Where the boundary of a district follows a railroad line, such boundary shall be deemed to be located in the middle of the main tracks of said railroad line;

E. Where the boundary of a district follows a stream or the shore of a body of water, that stream or shoreline is the boundary of the district;

F. Where the boundary of a district follows the county or city boundary line, including a concurrent state line, such line shall be deemed to be boundary of the district.

G. Where the boundaries of a district are based on a legal description or property survey that was submitted in conjunction with a zoning map amendment application, the boundaries provided in said instrument(s) shall be construed as the district boundaries for the property in question, and may be used in determining district boundaries for adjoining properties.

SECTION 5.4 ACTION BY LEGISLATIVE BODY: When amendments to the zoning map have been approved by the CITY COUNCIL or appropriate legislative body, the legislative unit shall inform the Zoning Administrator of the date which such action becomes effective. A log of all approved zoning map amendments shall be kept by the Zoning Administrator and, the official zoning map shall be updated within 30 days of the date upon which final action approving such amendments was taken. Furthermore, the files maintained by the Planning Commission shall constitute the official record of all requests for zoning map amendments, including those, which have not been approved by the appropriate legislative body.

SECTION 5.5 ZONING DISTRICT DECLARED INVALID: Should any zoning district be declared by a court of competent jurisdiction to be unconstitutional or invalid, by either the construction of its text within this Ordinance or by its application or amendment to the City of Falmouth Zoning Map, the zoning district that applied to the affected properties prior to the unconstitutional or invalid zoning district shall be in force.

SECTION 5.6 AREAS NOT INCLUDED WITHIN ZONES: When an area is annexed or proposed to be annexed by the legislative body, the zoning to be applied to the area shall meet the requirements of KRS 100.209 and KRS 81A.420 (1), as amended.

ARTICLE 6

GENERAL REGULATIONS

SECTION 6.0 PURPOSE: General regulations shall apply to all zoning districts.

SECTION 6.1 REDUCTION IN BUILDING SITE AREA: Except as herein provided, no lot, in any zone, may be reduced in area below the minimum lot area as specified herein for the zone within which said lot is located, if any, except where such reduction has been brought about by the expansion or acquiring of rights-of-way for a street. If, however, by some means (e.g., misinterpretation of law, erroneous lot descriptions, etc.) the lot area is reduced below the minimum required lot area as specified herein for the zone, all of the uses and structures contained on the remaining portion of the area shall be subject to compliance with all other provisions of this Ordinance. In the event that the uses and structures cannot comply in such circumstances, the property owner shall seek relief from the board of adjustment, as provided for in Section 12 of this Ordinance.

SECTION 6.2 VISION CLEARANCE AT CORNERS, CURB CUTS, AND RAILROAD CROSSINGS: No type of structure, vehicle, tree, planting, vegetation, sign, or fence, or any type of obstacle, or any portion thereof, shall be placed or retained in such a manner which would create a traffic hazard or would obstruct the vision clearance at corners, curb cuts, or railroad crossings in any zone.

SECTION 6.3 FRONTAGE ON CORNER LOTS AND DOUBLE FRONTAGE LOTS: On lots having frontage on more than one street, the minimum front yard depth shall be provided on both street frontages.

SECTION 6.4 EXCAVATION, MOVEMENT OF SOIL, TREE REMOVAL, AND EROSION AND SEDIMENTATION CONTROL

A. Except for Agricultural use, Mining use, Underground Mining use, and use as a Sanitary Landfill in accordance with proper permits issued by the Commonwealth of Kentucky and operated in accordance with Section 6.18 of this Ordinance, no person or entity shall undertake grading (as defined below for use in this Section and Section 11.1, A., of this Ordinance), without first insuring that all requirements of the Subdivision Regulations, if applicable, and other requirements of this Ordinance have been fulfilled and then obtaining a permit from the Zoning Administrator. The primary purpose of this permit requirement is to engage a builder or developer early in the project of their need to come into compliance with this Ordinance and alert the Zoning Administrator of a planned project. "Grading" as used in this Section shall be defined as stripping, excavating, filling, or otherwise moving soil, trees, or other vegetation of a parcel of land for the purpose of preparing the lot for development of the property or construction of

buildings or structures, excluding minor changes such as: the filling of small depressions, removal of vegetation which is diseased or endangering the public safety, or minor earth moving projects for drainage improvement, lawn maintenance or beautification.

B. The Zoning Administrator may issue the required permit after determining that the resulting change in grade, or removal of trees and other vegetation, in the affected area will be in conformance with all applicable provisions of this Ordinance. The provisions of this section shall not be construed to prohibit normal excavation or grading incidental to the construction or alteration of a building on the premises for which a building permit has been granted as required otherwise in this Ordinance or for any use that would constitute an agriculture activity.

C. Erosion and Sedimentation Control: Erosion and sedimentation controls for excavation, movement of soil, and tree removal, shall be planned and applied according to the following:

1. The smallest practical area of land shall be exposed at any one time during development.

2. When land is exposed during development, the exposure shall be kept to the shortest practical period of time.

3. Temporary vegetation and/or mulching shall be used to protect critical areas exposed during development.

4. Sediment basins (debris basins or silt traps) shall be installed and maintained to remove sediment from run-off waters from land undergoing development.

5. Provisions shall be made to accommodate the increased run-off caused by changed soil and surface conditions during and after development.

6. Permanent final vegetation and structures shall be installed as soon as practical in the development.

7. The development shall be fitted to the topography and soils so as to create the least erosion potential.

8. Wherever feasible, natural vegetation shall be retained and protected.

SECTION 6.5 NUISANCES, UNFIT/DILAPIDATED BUILDINGS, DANGEROUS CONDITIONS, RUBBISH, ODOR, SMOKE, NOISE, OPEN WELLS, JUNK, SCRAP & MOTOR VEHICLES:

A. NUISANCES: The City may have adopted a city ordinance as part of its code which prohibits certain conditions as nuisances (hereinafter referred to as "Nuisance Ordinance") (for example, in the city of Falmouth, it is City of Falmouth Code Chapter 92, including Sections 92.01 through 92.99). In the event that City has adopted a Nuisance Ordinance, the terms of said Nuisance Ordinance, as may be amended from time to time, shall be incorporated herein by reference, and any condition, act or circumstance prohibited by the Nuisance Ordinance, as amended, shall be deemed to be prohibited by this Ordinance as well, and shall be subject to the penalties contained herein.

B. RECREATIONAL VEHICLES: Parking and storage of recreational vehicles, including campers, boats, boat trailers, trailers, travel trailers, tent trailers, fifth-wheels, horse trailers, motor homes, motorized dwellings, coaches, ATVs, dune buggies, off-road vehicles, trucks designed or licensed for in excess of 26,000 pounds gross vehicle weight, and other such licensed or non-licensed vehicles, may be stored in any district, provided (1) no parking or storage of such vehicles shall be permitted in the front of any dwelling or business, (2) not more than two such vehicles may be stored on any lot containing less than one acre which is used primarily for a residence, (3) such vehicles may not impede the visibility of vehicular or pedestrian traffic, (4) no such vehicle may be parked or stored on a public way for longer than twenty-four hours total during any seven day period, (5) such vehicles must be operable, functional vehicles possessing current vehicle registration; others prohibited except in the Intensive Zone, (6) such vehicles may not be parked or stored in the required setbacks in the district, and (7) such vehicles may not be used as dwelling units, or for living, sleeping or housekeeping, or hooked to utilities. Provided, however, that such vehicles may be parked in the front yard of a business or residence for a maximum of twenty four hours total during any seven day period up to five times per year for the purpose of loading or unloading. School buses shall be exempt from the foregoing regulations.

C. DUMPSTERS: Trash dumpsters, compactors, or receptacles shall be located in the rear yard and screened from public view, from any public street right-of-way and from any adjoining property. This screening shall be accomplished by continuous solid closed fence or wall, or by being completely enclosed within a structure, to minimize their visual impact from public streets, internal circulation areas, and adjoining properties. Provisions for adequate vehicular access to and from trash collection areas shall be required as determined by the Zoning Administrator. Such enclosure structure shall be constructed of brick or masonry walls and/or wooden fences which are a minimum of five (5) feet tall and one foot higher than the trash container to be screened. Chain link fences with slats are

not acceptable enclosure materials. The gates or doors of the garbage collection area or dumpster enclosure shall be kept completely closed except at times when the area or dumpster is being serviced. The foregoing regulations will not apply to temporary (maximum three months, unless extended by resolution of city council) dumpsters used on a construction/remodeling site.

SECTION 6.6 APPLICATION OF ZONING REGULATIONS

A. Except as herein provided, no part of any yard, or other open space, or off-street parking or loading and/or unloading space about or in connection with any building, structure, or use permitted by this Ordinance shall be considered to be part of a required yard, or other open space, or off-street parking or loading and/or unloading space for any other building, structure, or use.

B. Except as herein provided, every structure hereafter erected shall be located on a lot, as herein defined, and in no case shall there be more than one (1) principal building and permitted accessory structure(s) on one (1) lot. No building may be erected on any lot which does not abut a publicly dedicated street, except such lots for which the Pendleton County Joint Planning Commission has granted a waiver of the requirement to abut a publicly dedicated street, pursuant to the Pendleton County Subdivision Regulations, as amended. (See Pendleton County Subdivision Regulations, Section 6.6.A)

C. Except as herein provided, accessory structures and uses shall not be permitted within any front yard or required minimum side yard (on each side of the lot) in any zone. Accessory structures and uses may be permitted to extend into the minimum rear yard areas, as defined herein, in all zones, provided that such structures are set back from the rear lot line a minimum of ten (10) feet, and required minimum side yard clearances are maintained.

D. Permitted Obstructions in Minimum Required Yards: Except as herein provided, the following shall not be considered to be obstructions when located in the minimum required yards specified: Driveways, steps, fire escapes, chimneys, arbors, trellises, flag poles, bird baths, trees, plants, shrubberies, ornaments, utility poles/ wires, lawn furniture, fences, walls, off-street parking, bay windows, overhanging eaves and gutters, air conditioning equipment, and awnings and canopies.

SECTION 6.7 SPECIAL REQUIREMENTS GOVERNING HOME OCCUPATIONS:

Home occupations shall include the use of the premises for services rendered other than by direct contact with customers at the home location (for example, where the bulk of the business is by telephone or internet - actual work is performed in home and customer is contacted in other than that location). A home occupation is a commercial use, otherwise not permitted in the applicable zone (i.e., the Rural zone, Urban Residential, Suburban Residential), but being permitted to operate in the zone if it meets the requirements of this Section. Group Day Care is

permitted for three (3) or fewer children, in addition to related children, without obtaining a conditional use permit. Related children include: children, grandchildren, nieces, nephews, siblings, step-children, and children in legal custody. The following requirements shall apply to home occupations when permitted herein:

A. No persons other than members of the family residing in the premises plus one additional employee shall be engaged in such operation.

B. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants. Not more than twenty-five (25) percent of the gross floor area of any one floor of the dwelling unit (including the basement or cellar) shall be used in the conduct of the home occupation.

C. There shall be no change in the outside appearance of the front façade of the building or premises, or other visible evidence from the front of the property of the conduct of such home occupation, that will indicate from the front exterior that the building is being utilized, in part, for any purpose other than that of a dwelling unit.

D. No home occupation shall be conducted in any accessory building, nor shall there be any exterior storage of any materials on the premises.

E. There shall be no commodity sold upon the premises in connection with such home occupation, except incidental sales which are ancillary, subordinate, and auxiliary to the primary operation or service of the business.

F. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood.

G. The City may have adopted a city ordinance as part of its code which prohibits certain conditions as nuisances (hereinafter referred to as "Nuisance Ordinance")(for example, in the city of Falmouth it is City of Falmouth Code Chapter 92, including Sections 92.01 through 92.99). In the event that City has adopted a Nuisance Ordinance, the terms of said Nuisance Ordinance, as may be amended from time to time, shall be incorporated herein by reference, and any condition, act or circumstance prohibited by the Nuisance Ordinance, as amended, shall be deemed to be prohibited by this Ordinance as well, and shall be subject to the penalties contained herein.

SECTION 6.8 NONCONFORMING LOTS, NONCONFORMING USES, NONCONFORMING STRUCTURES, REPAIRS AND MAINTENANCE:

A. NONCONFORMING LOTS OF RECORD:

1. Any lot of record which does not meet the requirements of this Ordinance shall be considered a nonconforming lot of record.

2. Nonconforming lots of record which have been in effect at the time of adoption of this Ordinance, and do not meet the minimum lot size requirements of this Ordinance shall be permitted to be sold and developed as recorded. However, the lot must be developed in conformance with all other minimum yard setback requirements of this Ordinance. Variances of any requirements other than the square footage of a lot or lot size shall be obtained only through action of the Board of Adjustment as provided in this Ordinance. In the event that the area cannot be reasonably served by a public sanitary sewer system as determined by the Pendleton County Health Department or Three Rivers Health District, on-site sewage disposal may be permitted provided that such a system is designed and constructed in accordance with the regulations of the applicable state and local agencies.

B. NONCONFORMING USES:

1. CONTINUANCE: Except as herein provided, the lawful use of any structure or land existing at the time of the adoption of this Ordinance may be continued although such use does not conform to the provisions of this Ordinance; it shall become a legal nonconforming use. However, no nonconforming use or structure may be enlarged or extended beyond the scope and area of its operation at the time it becomes a legal nonconforming use, unless and until the use is brought into conformance with all provisions of this Ordinance. For purposes of this provision only, "Use" shall include Sanitary Landfills that have been specifically approved or sanctioned by the County, or for which development plans, license or permit applications or requests for applicable regulatory approval have been submitted prior to the adoption of this Ordinance, and such approvals, permits or licenses have been issued or are subsequently issued for such use of the land, or for which preliminary or final development, excavation or construction has commenced prior to the adoption of this Ordinance. Abandonment of a nonconforming use shall terminate the right to further continue the use. Discontinuance of a nonconforming use for a period of one year shall be deemed an abandonment. Where a use has been discontinued due to structural damage beyond the owners' control or due to governmental action, the Board of Adjustment may, upon prior request by the owner, one time grant a six (6) month extension of the one year period.

2. USES EXISTING ILLEGALLY: As provided in KRS 100.253(3), any use which has existed illegally and does not conform to the provisions of the zoning regulations, and has been in continuous existence for a period of (10) ten years, and which has not been the subject of any adverse order or other

adverse action by the administrative official during said period, shall also be deemed a legal nonconforming use.

3. CHANGE FROM ONE NONCONFORMING USE TO ANOTHER: A nonconforming use may be changed from one nonconforming use to another subject to the requirements of this Ordinance.

4. ZONE CHANGE: The foregoing provisions shall apply to uses which become legally nonconforming due to zone changes which take place thereafter.

C. NONCONFORMING STRUCTURES:

1. CONTINUANCE: Except as herein provided, any lawful nonconforming structure, existing at the time of adoption or amendment of this Ordinance, may be occupied, operated, and maintained in a state of good repair, but no nonconforming structure shall be enlarged or extended beyond the scope and area of its operation unless the enlargement or extension can be, and is, made in compliance with all of the provisions of this Ordinance.

2. ZONE CHANGE: The foregoing provisions shall apply to structures which become legally nonconforming due to zone changes which take place thereafter.

D. REPAIRS AND MAINTENANCE: On any building devoted in whole, or in part, to any nonconforming use, work may be done on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring, or plumbing, provided that the cubic content of the building, as it existed at the time of passage or amendment of this Ordinance which rendered it nonconforming, shall not be increased. Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring, to a safe condition, of any building, structure, or part thereof, declared to be unsafe by any official charged with protecting the public health and safety or the construction or expansion of any building or structure required to comply with a law, regulations, order or directive of the state or federal government.

E. VESTED RIGHTS: Nothing in this Ordinance shall be deemed to prevent the lawful use of land or the construction or expansion of any building or structure where prior to the enactment of this Ordinance the property owner has in good faith substantially entered upon the performance of the series of acts necessary to the accomplishments of the end intended.

SECTION 6.9 EXCEPTIONS:

A. EXCEPTIONS TO HEIGHT LIMITS: The height limitations of this Ordinance shall not apply to such things as church spires, various types of towers, stacks, other

related structures, and necessary mechanical appurtenances, etc., or mining related buildings or structures, provided their construction is in accordance with existing or hereafter adopted ordinances of the legislative body, and is approved, when required, by the Federal Aviation Agency and the Federal Communication Commission, or state or federal regulatory agencies, if applicable.

B. OTHER EXCEPTIONS: Service stations shall be so constructed that the pumps shall be at least twenty-five (25) feet from any street right-of-way line.

C. FRONT YARD VARIANCE:

1. Where the average depth of existing front yards within three hundred (300) feet of the lot in question and within the same block front, is greater than the minimum front yard depth required by this ordinance, the required minimum front yard depth on such lot shall be modified to be the average depth of said existing front yards.

2. In any residential zone, no front yard shall be required to exceed the average depth of existing front yards on the same side of the street within the same block, when fifty-one (51) percent or more of lots within that block are improved with residential buildings; provided that in no case shall a front yard depth be less than twelve (12) feet.

SECTION 6.10 WATER AND SANITARY SEWER SERVICE: No building which has access to public water and/or centralized sanitary sewer system may be constructed in any zone unless such building is connected to a public water and central sanitary sewer system of adequate capacity and design, and approved by proper authorities. Individual on-site sewage disposal systems may be permitted only within those areas which are not currently served by a centralized sanitary sewer system. Individual on-site disposal systems may be permitted only if built in accordance with the regulations of the applicable state and local agencies. Where existing or proposed development is presently not served by a public sanitary sewer system, and is located within a reasonable distance of an existing or newly extended sanitary sewer line, as determined by the applicable legislative body, the Pendleton County Health Department and/or Three Rivers Health District, said development shall be required to connect with the public sanitary sewer system and the private sewage disposal system shall be discontinued. A copy of the approved on-site subsurface sewerage disposal permit shall be submitted to the Zoning Administrator prior to issuance of a zoning/building permit. In accord with KRS 100.253, structures existing at the time of the adoption of this Ordinance shall not be required to connect to public utilities as required by this Section.

SECTION 6.11 LANDSCAPE REGULATIONS: Screening areas shall be provided for the purpose of minimizing the friction between incompatible land uses and improving the aesthetic and functional quality of any development.

A. SCREENING AREA REQUIREMENTS: All screening areas shall be approved by the Zoning Administrator according to a submitted Stage II Development Plan as regulated by the applicable requirements of this Ordinance. Screening shall be required to buffer any development in a Commerce zone to adjacent residential and agricultural uses. Screening areas shall be designed, provided, and maintained according to the following:

1. Where vegetative and/or topographic conditions that provide a natural screening and buffer exist prior to development of properties in question, every effort shall be made to retain such conditions. In such cases additional screening may not be required, provided that provision is made for maintenance of such areas.

2. Wherever screening is required it shall be provided as follows:

   a. Screening shall be provided by the construction of a solid wall or fence a minimum of six (6) feet in height and/or evergreen trees;

   b. All screening trees shall be a minimum of six (6) feet in height when planted, however, smaller trees may be utilized in combination with berms (e.g., earthen mounds) to provide the minimum height requirement; berms must be covered with suitable vegetation such as grass, ivy, and shrubs, to preclude erosion of the berm. Trees which are intended to provide screening shall not be planted further than 10 feet apart. Parking facilities which are located adjacent residential areas shall be additionally screened to a minimum height of three (3) feet (via an earth berm depressed parking, solid fence, etc.) to reduce automobile headlight glare on adjacent property.

3. All trees, shrubs, and other planting materials shall be living plants (not artificial) and shall be suitable to the Pendleton County area and the specific conditions of the site in question, such as soil conditions, slopes, and the type of screening needed.

4. Screening areas shall be provided in such a manner as to obscure the view into the development from adjacent properties. In those cases where property is located adjacent to property within another governmental jurisdiction, screening shall be provided to the adjoining property in the same manner as would be required if the adjacent area was within the jurisdiction of this legislative body.

5. In the case where a zoning map change occurs resulting in adjacency to a different zoning district than was previously the case, and where development has already occurred on property in the unchanged district, required additional setbacks and screening requirements (as required in

each district's regulations) shall be provided for the property in the district where the zone change occurred.

B. PROVISIONS AND MAINTENANCE: Required screening areas shall be provided as a condition of development by the owner and/or developer. All required screening (including the planting of trees and other vegetation) shall be maintained by the property owner.

C. INCLUSION OF DEVELOPMENT PLAN AND/OR SUBDIVISION IMPROVEMENT DRAWINGS: Areas to be set aside as screening areas shall be on the required development plans, and where applicable, on the improvement drawings as regulated by the Pendleton County Subdivision Regulations, where applicable. Sufficient bond, adequate to cover the required improvements as determined by the legislative body, may be required to be posted. It shall be unlawful to occupy any premises unless the required screening has been installed in accordance with the requirements as provided herein.

SECTION 6.12 OUTDOOR SWIMMING POOLS: In order to promote the health and safety of our citizens, especially children, and otherwise the good and welfare of our community, all outdoor swimming pools shall be regulated according to the following requirements:

A. Except as herein provided, no swimming pool or associated equipment shall be permitted within any required minimum yards, nor within any public utility right-of-way or easement.

B. Swimming pools which are constructed in-ground shall be required to have a fence or wall, including a self-closing or self-latching door or gate around the pool or the property on which the pool is located. Such fence or wall shall be at least four (4) feet, but not more than seven (7) feet in height; such fences or walls shall be constructed in such a manner that a small child may not reach the pool from the street or any property without climbing the fence or wall or opening the gate or door.

C. All swimming pools which are located above-ground shall be required to have a fence or wall, including a self-closing or self-latching door or gate around the pool or property upon which the pool is located. Such fence or wall shall be at least four (4) feet, but not more than seven (7) feet in height. Such fence or wall shall be constructed in such a manner that a small child may not reach the pool from the street or any adjacent property without scaling a fence or wall or opening the gate or door. Said wall may be the wall of the above-ground pool, providing that said wall is at least four (4) feet in height above the surrounding ground level. Any access to above ground pools by means of a ladder or stairway shall be provided with a self-closing or self-latching door or gate, or some other device that would prevent a small child from gaining access to the pool by means of a ladder.

D. Glare from lights used to illuminate the swimming pool area shall be directed away from adjacent properties.

E. All swimming pools and associated equipment shall be constructed and erected in accordance with all applicable codes, ordinances, and regulations. Water used in the swimming pool, which is obtained from other than a public source, shall be approved by the Pendleton County Health Department.

SECTION 6.13 REGULATIONS CONCERNING AIR RIGHTS: Any proposed use of air rights, as defined herein, shall be in the form of a development plan submitted to the planning commission, or its duly authorized representative, for its review.

SECTION 6.14 REGULATIONS CONCERNING DESIGN AND CONSTRUCTION OF IMPROVEMENTS: Any proposed development which does not constitute a subdivision, shall be required to provide streets, sidewalks, sanitary sewers, storm sewers and water lines. Improvements to be provided shall be designed and constructed in accordance with this Ordinance or Subdivision Regulations, unless specifically waived, whichever is applicable

SECTION 6.15 HILLSIDE DEVELOPMENT CONTROLS:

A. It is the objective the Pendleton County Comprehensive Plan to ensure, when development is proposed in those areas of the adopting legislative body which have physical characteristics limiting development (hillside slopes of 20 percent or greater), that said development occur in a manner harmonious with adjacent lands so as to minimize problems of drainage, erosion, earth movement, and other natural hazards.

B. Areas of land on which development is physically restricted due to excessive hillside slopes shall be limited according to the following requirements:

1. Development proposed on land areas identified as having slopes of 20 percent or greater, shall require approval before development may occur.

2. No excavation, removal, or placement of any soil, foundation placement, or construction of buildings or structures of any nature within the area identified in (1) above, may occur until plans and specifications for such work have been submitted in the form of a development plan as regulated by this Ordinance. In addition to development plan requirements, the following shall also be submitted:

a. Plan(s) which show existing topography and the proposed physical changes necessary for construction, indicating grading (cutting and filling), compaction, erosion, sedimentation basins, areas to be

defoliated, and any other pertinent information which will change the natural physical features of the site or general area.

b. Information defining results of subsurface investigation of the area under consideration, including test borings, laboratory tests, engineering tests, and a geological analysis. Such investigation shall be made by a qualified, registered civil engineer and a geologist, indicating that any structural or physical changes proposed in the area will be completed in a manner which will minimize hillside slippage and/or soil erosion.

3. The development plan and other information required in this section shall be submitted for review to the Zoning Administrator, who will make a recommendation to the planning commission on what effect the proposed development will have on hillside slippage and/or soil erosion based on the submitted engineering studies. After consideration of the recommendations, the planning commission, or its duly authorized representative, may authorize use of the site in accordance with the submitted plans.

4. If, after review of the plans required by this section of this Ordinance, the planning commission, or its duly authorized representative, determines that said proposed plans will not minimize hillside slippage, the planning commission shall deny a permit for the development of said land.

SECTION 6.16 FLOOD PROTECTION DEVELOPMENT CONTROLS:

The City may have adopted a city ordinance as part of its code providing various regulations relating to flood controls and to development in flood prone areas (hereinafter referred to as "Flood Ordinance"(for example in the City of Falmouth it is Falmouth Code Chapter 152 entitled "Flood Damage Prevention" adopting the provisions of the "Kentucky Model Flood Plain Protection Ordinance" from the state "Environmental and Public Protection Cabinet, Department for Environmental Protection, Division of Water, Water Resources Branch, Flood Plain Management Section, dated September 21, 2004," as modified by the City and incorporated herein by reference). The terms of said Flood Ordinance, as may be amended from time to time, shall be incorporated herein by reference, and any condition, act or circumstance prohibited by the Flood Ordinance, as amended, shall be deemed to be prohibited by this Ordinance as well, and shall be subject to the penalties contained herein.

SECTION 6.17 GENERAL MOBILE HOME REGULATIONS: The following regulations shall apply to all mobile homes and manufactured homes, both as defined herein, but not

qualified manufactured homes as defined herein, whether located individually or in a mobile home park, where permitted herein. Requirements of the zone in which said mobile homes and manufactured homes are permitted shall also apply.

A. Before any mobile homes and manufactured homes, including each section thereof, can be brought into the county or be moved within the county, it must be certified as meeting the Federal Manufactured Housing and Safety Standards Code as set forth in the Code of Federal Regulations, Title 24, Part 3280, 3282 and 42 USC 5410, et seq., and commonly referred to as the HUD Code, or be certified by the state fire marshal's office or certified retailer (as defined in KRS 227.550 et seq.), as being safe and habitable, and bearing a "Class B-1 seal" of approval (as defined at KRS 227.550(3) and 815 KAR 25:050). No unit bearing a B-2 seal shall be permitted in the county.

B. Any person, firm, or corporation desiring to locate a mobile home or manufactured home in this county shall apply for a zoning/building permit and an occupancy permit. No mobile home or manufactured home may be brought into the county, or moved within the county, without first applying for a permit from the Zoning Administrator. Applicable permits must be approved prior to the installation and occupancy of any mobile home or manufactured home. The proper permits must be displayed in a conspicuous location in each mobile home or manufactured home, signifying that all permits have been approved by the building inspector and Zoning Administrator.

C. The mobile home or manufactured home shall be installed by a certified installer (certified under 815 KAR 25:080) in accordance with the state standards set forth in KRS 227.550, et seq., and placed on a permanent foundation system. Site preparation and Installation requirements of 815 KAR 25:090 shall be met by a certified installer.

D. The mobile home or manufactured homes shall, at a minimum, be equipped with plumbing and electrical connections designed for attachment to appropriate external supply systems like conventional dwellings.

E. All health, sanitation (including sewers and/or private secondary sewage treatment plants approved by the Pendleton County Health Department, Three Rivers Health District and other applicable agencies, and including the requirements prescribed in KRS 211.350), and safety requirements applicable to a conventional dwelling, shall be equally applicable to a mobile home and manufactured home.

F. All mobile homes and manufactured homes shall be underpinned or underskirted along its entire perimeter using a material which has been specifically designed and manufactured as underpinning or underskirting material for such use, and no other material may be substituted.

G. All landings or steps at each and every entrance to a mobile home or manufactured home must be built to requirements of the 2002 Kentucky Residential Code, as amended.

H. Per KRS 381.770 it is unlawful for the owner of a mobile home or manufactured home to permit any structure to become unsafe for human habitation for any reason or which is dangerous to the occupants of the structure or the occupants of neighboring structures or other residents of the adopting legislative body. Where mobile homes exist under these conditions, they may only be replaced by a manufactured home if they are in accordance with KRS 381.770.

I. Storage of mobile homes and manufactured homes in Pendleton County is prohibited except by certified manufactured home retailers as outlined in KRS 227.550, et seq.

J. Existing mobile homes and manufactured homes which do not meet all of the requirements of this Ordinance may not be relocated or moved within the Pendleton County.

K. The foregoing regulations contained in this Section 6.17 shall apply to all mobile homes and manufactured homes located in, brought into, moved within or to, relocated in, or stored in, the City. In addition, The City may have adopted a city ordinance as part of its code which provides certain regulations, rules and restrictions on mobile homes and manufactured housing in the City (hereinafter referred to as the "Mobile Home Ordinance")(for example, in the City of Falmouth it is Falmouth Code Chapter 151, including Sections 151.01 through 151.99 and Appendices thereto). The terms of said Mobile Home Ordinance, as may be amended from time to time, shall be incorporated herein by reference, and any condition, act or circumstance prohibited by the Mobile Home Ordinance, as amended, shall be deemed to be prohibited by this Ordinance as well, and shall be subject to the penalties contained herein. In the event that any section of this Ordinance is contrary to, or provides a different requirement than, the Mobile Home Ordinance, the more restrictive provision or requirement shall apply, or if a conflict exists, the Mobile Home Ordinance shall supersede the regulation in this Section 6.17, even though this Ordinance is adopted subsequently.

SECTION 6.18 SANITARY LANDFILL REGULATIONS:

A. Minimum Site Area - Fifty (50) acres.

B. The applicable regulations promulgated by the Kentucky Department of Natural Resources and Environmental Protection pertaining to landfill operations shall be strictly adhered to and are made a part of this Ordinance. In addition, all sanitary landfills shall operate in accordance with the performance standards of the

Division of Air Pollution, Division of Water Quality, and other applicable performance standards of the state of Kentucky.

C. Screening areas shall be provided along all areas of the landfill permitted for waste disposal not protected by comparable vegetative screening, in accordance with the applicable requirements of this Ordinance.

D. Wastes shall not be placed within one hundred (100') feet of any dedicated right-of-way or property line which is the exterior boundary of the landfill, or within three hundred (300') feet of any existing structure on any adjoining or neighboring property if such structure is regularly occupied or utilized by any person for the conduct of residential, commercial, industrial, or public or semi-public activities, unless the owner of such adjoining or neighboring property shall have consented thereto in writing.

E. Development Plan Requirements - Before a permit is issued, a Stage II Development Plan shall be prepared meeting the applicable requirements of this Ordinance and submitted to the Zoning Administrator for approval.

SECTION 6.19 BED AND BREAKFAST REGULATIONS: The following shall apply to bed and breakfast establishments:

A. The owner or operator shall live on the premises of the bed and breakfast establishment.

B. Food service may be provided for resident guests only.

C. The maximum number of guest rooms shall be six (6) rooms.

D. Interior alterations shall maintain the unique characteristics of the structure, wherever possible.

E. One parking space per guest room and two parking spaces for the owner shall be provided on site. Parking shall be limited to the side and rear yards, screened from adjacent properties with a six (6) foot high masonry or wood fence, or dense vegetation.

F. A Stage II Development Plan, as regulated by this Ordinance, shall be required.

G. There shall be no change in the outside appearance of the front façade of the building or premises, or other visible evidence from the front of the property of the conduct of such bed and breakfast that will indicate from the front exterior that the building is being utilized, in part, for any purpose other than that of a dwelling unit.

H. There shall be no exterior additions to the main structure or additional structures added for the purpose of increasing the number of guest rooms.

SECTION 6.20 HOME AUTO REPAIR AND SALES:

A. Only minor repairs and maintenance (of licensed and running vehicles) may be performed.

B. The sale of automobiles at a place of residence shall be restricted to no more than one (1) vehicle at a time and no more than five (5) in one year.

ARTICLE 7

REGULATION FOR ZONES

SECTION 7.0 RURAL (R) ZONE:

A. PURPOSE: The purpose of this district is to establish and preserve areas for agricultural, horticultural, and residential uses without permitting an type of development which would have an adverse impact upon the vitality, uses, assets or character of agricultural and residential uses in the area. The Rural Zone shall be designated by the color "Green" on the zoning map.

B. PERMITTED USES:

1. Single family, two family and multi-family dwelling units.
2. Farms of crops and livestock.
3. Hunting.
4. Riding and boarding stables.
5. Bed and Breakfast facilities, as regulated by Section 6.19 of this Ordinance.
6. Churches and other buildings for the purpose of religious worship.
7. Underground mining.

C. ACCESSORY USES: Accessory uses, buildings and structures customarily incidental and subordinate to any of the Permitted uses.

1. Privately owned parking and garage.
2. Fences and walls.
3. Buildings such as storage sheds, greenhouses, gazebos.
4. Storage of recreational vehicles.
5. Privately-owned recreational activities (not operated as a business).
6. Privately-owned stables or other keeping and use of pets and animals.
7. Offices for farm management and administration of agriculture services offered on the farm premises.
8. Accessory dwelling units.
9. Signs.
10. Home occupations, as regulated by Section 6.7 of this Ordinance.
11. Swimming pools, as regulated by Section 6.12 of this Ordinance.

D. CONDITIONAL USES: The following uses or any customary accessory buildings and uses, subject to the approval by the Board of Adjustment, as set forth in this Ordinance:

1. Cemeteries.
2. Day care centers (Child or Adult).
3. Libraries.
4. Nursery schools and child day care facilities.
5. Public and parochial schools.
6. Publicly or privately owned and/or commercially-operated parks, playgrounds, golf courses, community recreational centers, swimming pools, tennis courts/clubs, fishing lakes, gun clubs and ranges, horse riding arenas, paintball fields, canoe rentals and petting zoos.
7. Funeral homes.
8. Meat processing plants, including slaughterhouses.
9. Kennels.
10. Repair and sales of agricultural equipment and supplies.
11. Farmers markets.
12. Recreation vehicle camping grounds provided such living arrangements are of a transient or seasonal use and such use meets the requirements of KRS 219.310- KRS 219-410.
13. Home occupations conducted in an accessory structure, otherwise meeting the requirements of Section 6.7 of this Ordinance.
14. Privately-owned recreational activities (operated as a business).

E. AREA AND HEIGHT REGULATIONS FOR PERMITTED AND CONDITIONAL USES:

1. Minimum Lot Area – no minimum requirement, except as needed to meet the requirements of this Ordinance and to meet the requirements for septic on the site as regulated by the Pendleton County Health Department or Three Rivers Health District.
2. Minimum Front Yard Depth – Fifty (50) feet.
3. Minimum Side Yard Width, on Each Side of Lot – Five (5) feet.
4. Minimum Rear Yard Depth – Five (5) feet.
5. Minimum Setback from U.S. Highway 27, regardless whether it is front, side or rear yard – One Hundred Twenty-five (125) feet.

F. OTHER DEVELOPMENT CONTROLS:

1. Off-street parking of two spaces for every dwelling unit shall be provided, and such additional spaces reasonably calculated to provide for the regular use of the property, or as otherwise required by this Ordinance.
2. No lighting shall be permitted which would glare onto any street.
3. Land used solely for agricultural purposes shall have a front yard depth of a minimum of fifty (50) feet, from any existing or proposed street or highway.

4. Any ventilation shafts, utilities, and related structures and equipment associated with underground mining shall be set back a minimum of one hundred (100) feet from any dwelling or other structure.
5. Noise from ventilation shafts and utilities related to underground mining shall be controlled by reasonably available controlled technology.

SECTION 7.1 COMMERCE ZONES: There shall be two Commerce Zones, known as the Business Zone and the Intensive Zone.

SECTION 7.2 BUSINESS (B) ZONE:

A. PURPOSE: The purpose of the Business Zone is to allow various commercial and industrial uses which are not permitted in the Rural Zone, but generally operate within a completely enclosed building. The Business Zone shall be designated by the color "Yellow" on the zoning map.

B. PERMITTED USES: The following uses are permitted in the Business Zone (except that Scrap Metal facilities, Salvage Yards, Material Recycling, and Landfills shall be specifically excluded from this Zone):

1. All commercial retail and service uses, including stores and shops.
2. All industrial uses, including manufacturing, processing and assembly.
3. All office uses.
4. Billboards.
5. Schools, government buildings, police and fire stations, libraries.
6. Community centers, including day care facilities.
7. Commercial recreation facilities.
8. Churches and other buildings for the purpose of religious worship.
9. All uses listed as conditional uses in the Rural Zone.
10. Underground mining.

C. ACCESSORY USES:

1. Customary accessory structures and uses, including operations required to maintain or support any use permitted in this zone on the same lot as the permitted use.
2. Fences and/or walls.
3. Signs.
4. One (1) dwelling unit of the property owner, owner-operator, manager or employee of the business.
5. Gas pumps
6. Outdoor display for sale of vehicles and farm implements.

D. CONDITIONAL USES: The following uses or any customary accessory buildings and uses, subject to the approval by the Board of Adjustment, as set forth in this Ordinance:

1. Outdoor storage of product or materials (except vehicles and farm implements).
2. Any outdoor business operation (except gas pumps, Scrap Metal facilities, Salvage Yards, Material Recycling, and Landfills).

3. Kennels.

E. AREA AND HEIGHT REGULATIONS FOR PERMITTED AND CONDITIONAL USES:

1. Minimum Lot Area – no minimum requirement.
2. Minimum Front Yard Depth - Forty five (45) feet
3. Minimum Side Yard Width, on Each Side of Lot - Five (5) feet.
4. Minimum Rear Yard Depth - Five (5) feet.
5. Maximum Building Height – Forty (40) feet.
6. Minimum Setback from U.S. Highway 27, regardless whether it is front, side or rear yard –Sixty (65) feet on all uses located North of US 27/Main Street (Hwy 22) intersection, One-hundred and ten (110) feet on all uses located South of US 27/Main Street (Hwy 22) intersection

F. OTHER DEVELOPMENT CONTROLS:

1. Off-street parking as regulated by Article 8.
2. No lighting shall be permitted which would glare onto any street or any adjacent property.
3. Except as otherwise permitted herein, no outdoor storage of any materials, supplies, or products shall be permitted in this zone.
4. All business activities permitted within this zone shall be conducted within a completely enclosed building, with the exception of recreational activities.
5. No use producing emissions or that otherwise impacts ambient air quality beyond the boundary lines of the property not otherwise allowed by existing federal, state or local regulations shall be permitted.
6. Off Street loading and unloading area as regulated by Article 9.
7. All business operations shall be screened from adjacent residential uses.
8. Any ventilation shafts, utilities, and related structures and equipment associated with underground mining shall be set back a minimum of one hundred (100) feet from any dwelling or other structure.

SECTION 7.3 INTENSIVE (I) ZONE:

A. PURPOSE: The purpose of the Intensive Zone is to allow various commercial and industrial uses not permitted in the Rural or the Business Zone, including outdoor business operations and storage. The Intensive Zone shall be designated by the color "Red" on the zoning map.

B. PERMITTED USES:

1. All commercial retail and service uses, including stores and shops.
2. All industrial uses, including manufacturing, processing and assembly.
3. All office uses.
4. Billboards.
5. Schools, government buildings, police and fire stations, libraries.
6. Community centers, including day care facilities.
7. Commercial recreation facilities.
8. Churches and other buildings for the purpose of religious worship.
9. All uses listed as conditional uses in the Rural Zone and Business Zone.
10. Scrap Metal facilities, Salvage Yards, Material Recycling, and Landfills existing at the adoption of this Ordinance.
11. Mining and underground mining.
12. Lumber Mills/Storage & Retail

C. ACCESSORY USES:

1. Customary accessory structures and uses, including operations required to maintain or support any use permitted in this zone on the same lot as the permitted use.
2. Fences and/or walls.
3. Signs.
4. One (1) dwelling unit of the property owner, owner-operator, manager or employee of the business.

D. CONDITIONAL USES:

1. Scrap Metal facilities.
2. Salvage Yards.
3. Material Recycling.
4. Landfills.
5. Kennels.

E. AREA AND HEIGHT REGULATIONS FOR PERMITTED USES AND CONDITIONAL USES:

1. Minimum Lot Area – no minimum requirement.

2. Minimum Front Yard Depth - Fifty (50) feet
3. Minimum Side Yard Width, on Each Side of Lot - Twenty-five (25) feet
4. Minimum Rear Yard Depth - Twenty-five (25) feet
5. Maximum Building Height - Forty (40) feet.
6. Minimum Setback from U.S. Highway 27, regardless whether it is front, side or rear yard – Sixty (65) feet on all uses located North of US 27/Main Street (Hwy 22) intersection, One-hundred and ten (110) feet on all uses located South of US 27/Main Street (Hwy 22) intersection

F. OTHER DEVELOPMENT CONTROLS:

1. Off-street parking of one space for every employee at the largest shift shall be provided, and such additional spaces reasonably calculated to provide for the regular use of the property.
2. No lighting shall be permitted which would glare onto any street or any adjacent property.
3. No use producing emissions or that otherwise impacts ambient air quality beyond the boundary lines of the property not otherwise allowed by existing federal, state or local regulations shall be permitted.
4. Off Street loading and unloading area shall be provided.
5. All business operations shall be screened from adjacent residential uses.

7.4 APPLICATION AND PROCESSING FOR COMMERCE ZONES:

A. Applications for development within either Commerce Zone shall be processed as follows:

1. Applications for a map amendment to zone an area as a Commerce Zone shall follow the procedures set forth in this Ordinance. The application shall be accompanied by a Stage I Development Plan, as regulated by Section 11.3.A. of this Ordinance, for the entire area under single ownership.

2. When a site is proposed to be developed within an area which is currently in a Commerce Zone, a Stage I Development Plan, as regulated by Section 11.3.A. of this Ordinance, for the entire area under single ownership, as regulated by this Ordinance, shall be submitted for review and approval by the planning commission. Development shall include: grading of any land; construction of any streets or other improvements; and the demolition, erection, physical expansion, or change of use of any structure. Development shall not include the normal maintenance (e.g., cleaning, painting, etc.) of any structure.

    a. The planning commission shall hold a public hearing on the proposed Stage I Development Plan in accordance with the requirements of KRS Chapter 424, and review said Stage I Development Plan with regard to its compliance with the stated purpose of the Commerce Zone, the required elements of the Stage I Development Plan, applicable requirements of this section of this Ordinance, and other applicable requirements of this Ordinance. Upon holding such hearing, the planning commission shall take one of the following actions: approval, approval with conditions, or disapproval including the supporting bases for their action.

    b. Upon approval by the commission, a copy of the approved Stage I Development Plan shall be forwarded to the Zoning Administrator, or its duly authorized representative, for further processing, in accordance with the requirements for a Stage II Development Plan.

3. Stage II – Before development may occur in the Commerce Zones, and in other circumstances provided for in this Ordinance, a Stage II Development Plan, for the area proposed to be developed, in conformance with the approved Stage I Development Plan, and in accordance with the requirements of this Ordinance, shall be submitted to the Zoning Administrator, for review.

    a. The Zoning Administrator shall review the submitted Stage II Development Plan with regard to its compliance with the required

elements of Section 11.3, B. of this Ordinance, its conformity with the approved Stage I Development Plan, applicable requirements of this section of this Ordinance, and other applicable requirements of this Ordinance. Minor adjustments from the approved Stage I Development Plan may be permitted, provided that the adjustments do not affect the spatial relationship of structures, change land uses, increase overall density, significantly alter circulation patterns (vehicular and pedestrian), decrease the amount and/or usability of open space or recreation areas, or conflict with other applicable requirements of this Ordinance. Following review of the submitted Stage II Development Plan, the Zoning Administrator shall approve, approve with conditions, or disapprove the Plan. Upon approval of the Stage II Development Plan, the Zoning Administrator shall grant permits only in accordance with the approved Stage II Development Plan, and other regulations as may be required by this Ordinance.

SECTION 7.5 THROUGH 7.10 IS APPLICABLE IN THE CITY ONLY:

SECTION 7.5 CITY-ONLY ZONES:

A. There shall be three primary City-only Zones, known as the Urban Residential Zone, the Suburban Residential Zone and the Downtown Zone, plus Historic Overlay Districts.

B. The City may have previously adopted ordinances relating to the requirements for lot dimensions, lot sizes or setbacks (hereinafter "Land Use Regulations")(for example, in the City of Falmouth it is Falmouth City Ordinance Code Section 150.14 entitled "LOTS: DIMENSIONS AND SETBACK REQUIREMENTS,") The following provisions of this Zoning Ordinance shall be deemed from their adoption to replace the provisions of the Land Use Regulations, which Land Use Regulations are hereby repealed. All remaining city regulations and ordinances addressing building construction, building development, building codes, building safety, building permits, electrical standards, unsafe buildings, fire hazards, and other such regulations not specifically addressed in this Ordinance, shall remain in full force and effect.

SECTION 7.6 URBAN RESIDENTIAL (UR) ZONE:

A. PURPOSE: The purpose of the Urban Residential Zone is to allow various residential uses. The Urban Residential Zone shall be designated by the color "Blue" on the zoning map.

B. PERMITTED USES: The following uses are permitted in the Urban Residential Zone:

1. Single Family Dwellings.
2. Duplexes, townhouses, multi-family dwellings and condominiums.
3. Mobile Homes, manufactured homes and qualified manufactured homes, as regulated by Section 6.17 of this Ordinance.
4. Bed and Breakfast facilities, as regulated by Section 6.19 of this Ordinance.

C. ACCESSORY USES:

1. Home occupations, as regulated by Section 6.7 of this Ordinance.
2. Fences and walls.
3. Customary accessory buildings such as storage sheds, greenhouses, garages and gazebos.
4. Storage of recreational vehicles, as regulated by Section 6.5 of this Ordinance.
5. Customary Accessory dwelling units.
6. Swimming pools, as regulated by Section 6.12 of this Ordinance.

D. CONDITIONAL USES: The following uses or any customary accessory buildings and uses, subject to the approval by the Board of Adjustment, as set forth in this Ordinance:

1. Cemeteries.
2. Day care centers (Child or Adult).
3. Libraries.
4. Nursery schools and child day care facilities.
5. Public and parochial schools.
6. Publicly or privately owned and/or commercially-operated parks, playgrounds, golf courses, community recreational centers, and swimming pools.
7. Funeral homes.
8. Home occupations conducted in a customary accessory structure, otherwise meeting the requirements of Section 6.7 of this Ordinance.
9. Churches and other places of worship.
10. Nursing homes and assisted living facilities.
11. Professional offices.

E. AREA AND HEIGHT REGULATIONS FOR PERMITTED AND CONDITIONAL USES:

1. Minimum Lot Area – 5000 square feet, except if not serviced by sewer, then as needed to meet the requirements of this Ordinance and to meet the requirements for septic on the site as regulated by the Pendleton County Health Department or Three Rivers Health District.
2. Minimum lot width at building setback- fifty (50) feet.
3. Minimum lot depth- one hundred (100) feet
4. Minimum Front Yard Depth - twenty (20) feet from right-of-way line.
5. Minimum Side Yard Width, on Each Side of Lot - Three (3) feet
6. Minimum Rear Yard Depth - Ten (10) feet.
7. Maximum Building Height – Forty (40) feet.
8. Minimum Setback from U.S. Highway 27, regardless whether it is front, side or rear yard –Sixty (65) feet on all uses located North of US 27/Main Street (Hwy 22) intersection, One-hundred and ten (110) feet on all uses located South of US 27/Main Street (Hwy 22) intersection

F. OTHER DEVELOPMENT CONTROLS:

1. Off-street parking of two spaces for every dwelling unit shall be provided, and such additional spaces reasonably calculated to provide for the regular use of the property, or as otherwise required by this Ordinance.

SECTION 7.7 SUBURBAN RESIDENTIAL (SR) ZONE:

A. PURPOSE: The purpose of the Suburban Residential Zone is to allow single family dwellings. The Suburban Residential Zone shall be designated by the color "Orange" on the zoning map.

B. PERMITTED USES: The following uses are permitted in the Suburban Residential Zone:

1. Single-family dwellings.

C. PROHIBITED USES: The following uses are prohibited in the Suburban Residential Zone:

1. Duplexes, townhouses, multi-family dwellings and condominiums.
2. Mobile Homes and manufactured homes.
3. Bed and Breakfast facilities, as regulated by Section 6.19 of this Ordinance.
4. Businesses other than home occupations meeting the requirements of Section 6.7 of this Ordinance.

D. ACCESSORY USES:

1. Home occupations, as regulated by Section 6.7 of this Ordinance.
2. Fences and walls.
3. Customary accessory buildings such as storage sheds, greenhouses, garages and gazebos.
4. Storage of recreational vehicles, as regulated by Section 6.5 of this Ordinance.
5. Swimming pools, as regulated by Section 6.12 of this Ordinance.

E. CONDITIONAL USES: The following uses or any customary accessory buildings and uses, subject to the approval by the Board of Adjustment, as set forth in this Ordinance:

1. Cemeteries.
2. Libraries.
3. Publicly or privately owned and/or commercially-operated parks, playgrounds and golf courses.
4. Funeral homes.
5. One "customary accessory" residential dwelling unit, as defined in Section 15.0.
6. Churches and other places of worship.
7. Single family qualified manufactured homes, as regulated by Section 6.17 of this Ordinance.

F. AREA AND HEIGHT REGULATIONS FOR PERMITTED AND CONDITIONAL USES:

1. Minimum Lot Area – 10,000 square feet, except if not serviced by sewer, then as needed to meet the requirements of this Ordinance and to meet the requirements for septic on the site as regulated by the Pendleton County Health Department or Three Rivers Health District.
2. Minimum lot width at building setback- eighty (80) feet.
3. Minimum lot depth- one hundred and twenty-five (125) feet.
4. Minimum Front Yard Depth - thirty (30) feet from right-of-way line.
5. Minimum Side Yard Width, on Each Side of Lot - Ten (10) feet.
6. Minimum Rear Yard Depth - Twenty (20) feet.
7. Maximum Building Height – Thirty (30) feet.
8. Minimum Setback from U.S. Highway 27, regardless whether it is front, side or rear yard –Sixty (65) feet on all uses located North of US 27/Main Street (Hwy 22) intersection, One-hundred and ten (110) feet on all uses located South of US 27/Main Street (Hwy 22) intersection

G. OTHER DEVELOPMENT CONTROLS:

1. Off-street parking of two spaces for every dwelling unit shall be provided, and such additional spaces reasonably calculated to provide for the regular use of the property, or as otherwise required by this Ordinance.

SECTION 7.8 DOWNTOWN (D) ZONE:

A. PURPOSE: The purpose of the Downtown Zone is to allow various residential and commercial uses which are appropriate in the downtown area of the City. The Downtown Zone shall be designated by the color "Brown" on the zoning map.

B. PERMITTED USES: The following uses are permitted in the Downtown Zone:

1. The following commercial retail and service uses:

   a. Miscellaneous retail stores with merchandise that can be displayed, sold and carried by a consumer without special facilities or equipment, including electronics, computers, small appliances, groceries, pharmaceuticals, toys, sporting goods, jewelry, liquor, firearms, books, music, gifts, novelties, auto parts, pets, pawn, hardware, bicycles, apparel and accessories.
   b. Theatres, places of amusement and places of assembly.
   c. Barber & beauty salons.
   d. Furniture and large appliance stores.
   e. Restaurants.
   f. Department and general merchandise stores.
   g. Banks and other financial institutions.
   h. Child/adult day care facilities.
   i. Hotels and motels.
   j. Print, paper, photo, postal and copy facilities.

2. Residential dwelling units, but only on floors above the front street ground level floor.
3. All office uses, including lawyers, accountants, engineers, architects, realtors, tax services, insurance, investments, medical, therapy, social services, travel, check-cashing and counseling.
4. Schools, government buildings, libraries, post office, and police/fire stations.
5. Community centers, including day care facilities.
6. Commercial recreation facilities.
7. Churches and other buildings for the purpose of religious worship.
8. Funeral homes.
9. Parking garages and lots.
10. Animal care and veterinarian clinics (No outside runs or kennels)

C. PROHIBITED USES:

1. All industrial uses, including manufacturing, processing and assembly.
2. Auto body & repair.
3. Service stations and gas pumps.

4. Auto dealerships & mobile home sales facilities.
5. Deleted
6. Warehousing, storage, moving and freight facilities.
7. Agricultural uses, including crop or livestock production.
8. Mobile homes, manufactured homes and qualified manufactured homes.
9. Signs employing neon or similar lighting systems.

C. ACCESSORY USES:

1. Customary accessory structures and uses, including operations required to maintain or support any use permitted in this zone on the same lot as the permitted use.
2. Fences and/or walls.
3. Signs as regulated in Article 10 of this Ordinance.
4. One (1) dwelling unit of the property owner, owner-operator, manager or employee of the business.

D. CONDITIONAL USES: The following uses or any customary accessory buildings and uses, subject to the approval by the Board of Adjustment, as set forth in this Ordinance:

1. Dry cleaners and laundromats.
2. Detached Single Family Dwellings

E. AREA AND HEIGHT REGULATIONS FOR PERMITTED AND CONDITIONAL USES:

1. Minimum Lot Area – no minimum requirement.
2. Minimum Front Yard Depth - no minimum requirement.
3. Minimum Side Yard Width - no minimum requirement.
4. Minimum Rear Yard Depth - no minimum requirement.
5. Maximum Building Height – Fifty (50) feet.

F. OTHER DEVELOPMENT CONTROLS:

1. Off-street parking as regulated by Article 8, except that the requirements may be reduced or waived by a formal act of the City Council upon its finding that adequate public or on-street parking exists at the time of the application or development in light of anticipated demand, such that the requirements of the off-street parking regulations are unnecessary or excessive.

2. Except as otherwise permitted herein, no outdoor storage or display of any materials, supplies or products shall be permitted in this zone. Limited

display of merchandize in front of a business, which is taken in and out daily, is permitted if it does not unduly restrict the sidewalk.

3. All business activities permitted within this zone shall be conducted within a completely enclosed building, with the exception of playgrounds and outdoor dining areas.

4. No use producing emissions or that otherwise impacts ambient air quality beyond the boundary lines of the property not otherwise allowed by existing federal, state or local regulations shall be permitted.

5. Off Street loading and unloading area as regulated by Article 9, except that the requirements may be reduced or waived by a formal act of the City Council upon its finding that other adequate areas for such exist at the time of the application or development in light of anticipated demand, such that the requirements of the Off Street loading and unloading area regulations are unnecessary or excessive.

7.9 APPLICATION AND PROCESSING FOR THE DOWNTOWN ZONE:

A. Applications for development within either Downtown Zone shall be processed as follows:

1. Applications for a map amendment to zone an area as the Downtown Zone shall follow the procedures set forth in this Ordinance. The application shall be accompanied by a Stage I Development Plan, as regulated by Section 11.3.A. of this Ordinance, for the entire area under single ownership.

2. When a site is proposed to be developed within an area which is currently in the Downtown Zone, a Stage I Development Plan, as regulated by Section 11.3.A. of this Ordinance, for the entire area under single ownership, as regulated by this Ordinance, shall be submitted for review and approval by the planning commission. Development shall include: grading of any land; construction of any streets or other improvements; and the demolition, erection, physical expansion, or change of use of any structure. Development shall not include the normal maintenance (e.g., cleaning, painting, etc.) of any structure.

   a. The planning commission shall hold a public hearing on the proposed Stage I Development Plan in accordance with the requirements of KRS Chapter 424, and review said Stage I Development Plan with regard to its compliance with the stated purpose of the Downtown Zone, the required elements of the Stage I Development Plan, applicable requirements of this section of this Ordinance, and other applicable requirements of this Ordinance. Upon holding such hearing, the planning commission shall take one of the following actions: approval, approval with conditions, or disapproval including the supporting bases for their action.

   b. Upon approval by the commission, a copy of the approved Stage I Development Plan shall be forwarded to the Zoning Administrator, or its duly authorized representative, for further processing, in accordance with the requirements for a Stage II Development Plan.

3. Stage II – Before development may occur in the Downtown Zone, and in other circumstances provided for in this Ordinance, a Stage II Development Plan, for the area proposed to be developed, in conformance with the approved Stage I Development Plan, and in accordance with the requirements of this Ordinance, shall be submitted to the Zoning Administrator, for review.

   a. The Zoning Administrator shall review the submitted Stage II Development Plan with regard to its compliance with the required

elements of Section 11.3, B. of this Ordinance, its conformity with the approved Stage I Development Plan, applicable requirements of this section of this Ordinance, and other applicable requirements of this Ordinance. Minor adjustments from the approved Stage I Development Plan may be permitted, provided that the adjustments do not affect the spatial relationship of structures, change land uses, increase overall density, significantly alter circulation patterns (vehicular and pedestrian), decrease the amount and/or usability of open space or recreation areas, or conflict with other applicable requirements of this Ordinance. Following review of the submitted Stage II Development Plan, the Zoning Administrator shall approve, approve with conditions, or disapprove the Plan. Upon approval of the Stage II Development Plan, the Zoning Administrator shall grant permits only in accordance with the approved Stage II Development Plan, and other regulations as may be required by this Ordinance.

SECTION 7.10 HISTORIC OVERLAY DISTRICTS

A. Purpose: The Historic Overlay Districts regulations serve the following purposes:

1. Preserve, protect, and utilize the properties and areas that have a special historic, architectural or cultural value to the city, county, state and nation.

2. Promote the educational, cultural, economic and general welfare of the people and to safeguard the history and heritage of the City and Pendleton County, as reflected in such districts.

3. Stabilize and improve property values of such districts, and in the city and county as a whole.

4. Strengthen the local economy by protecting and enhancing the role that these sites play in attracting visitors to the City and Pendleton County.

5. Enhance the visual and aesthetic character of the local area,

B. Designation of Historic Overlay Districts: A proposal for designation of a historic overlay district on any property may originate with the filing of an application to the Planning Commission by the Renaissance Board, the Planning Commission, the legislative body or by an owner as to their own property. The Renaissance Board, or any other board or body designated by an official action the City Council to undertake the duties and responsibilities provided for in this Section 7.10 (hereinafter referred to as the "Renaissance Board"), shall make recommendations to the Planning Commission and to the appropriate legislative body, for the designation of "historic" districts. The legislative body may make these designations by the enactment of ordinances. Each designation of a district as "historic" shall specifically identify the land on which historic buildings and structures are located. The recommendation from the Planning Commission shall identify the property that will be included as part of the historic designation and will thus be subject to the provisions of this section. The historic designation to a property shall render it subject to the rules and regulation of this Section 7.10 and shall be as an addition to the rules and regulations of the underlying zoning designation, which shall remain applicable to the properties and areas (i.e., the Downtown zone with an Historic Overlay designation.)

C. Criteria: The criteria for designation as an historic overlay district are as follows:

I. Its value as a reminder of the cultural or archaeological heritage of the City, Pendleton County, Kentucky, or the nation;

2. Its location as a site of a significant local, state, or national event;

3. Its identification with a person or persons who made a significant contribution to the development of the City, Pendleton County, Kentucky or the nation;

4. Its identification as the work of a master builder, designer or architect whose individual work has influenced development of the City, Pendleton County, Kentucky or the nation;

5. Its value as including buildings that are recognized for the quality of their architecture and that retain sufficient elements showing their architectural significance;

6. Its distinguishing characteristics of an architectural style valuable for the study of a period, method of construction or use of indigenous materials;

7. Its character as a geographically defined area possessing a significant concentration of sites, buildings, objects or structures united by past events or aesthetically by plan or physical development; or

8. Its character as an established and geographically definable neighborhood, united by culture, architectural style, or physical plan and development.

D. Procedures for Review. The following procedures shall be followed in the review of a proposal for designation of a historic district:

1. The applicant shall provide the Planning Commission with the names and addresses of the owners of the affected property and the owners of all adjoining property as well as property across the street from the affected property. The Planning Commission shall promptly notify such owner by first class mail, that the property is under consideration for designation and that a public hearing will he held concerning the proposed designation. Written notice shall he considered sufficient when it is mailed to the owners' last known address, relying on tax assessment records.

2. The Planning Commission shall hold a public hearing concerning the proposed designation within 60 days after the application was submitted to it. The Planning Commission shall review the information received, and vote to approve or disapprove the proposed designation. It shall then forward its written recommendations to the legislative body.

3. The legislative body shall act upon a proposed application for the establishment of a historic overlay district within 90 days after it has received the written recommendation thereon from the Planning Commission. If the City Council or Fiscal Court approves the establishment

of said district, the official zoning map shall be amended to reflect the new district.

4. Historic Overlay Districts shall be designated and displayed on the official zoning map using "cross-hatching" so identified on the legend of the map.

5. The Administrative Official shall certify and file all approved designations to the City Clerk and Pendleton County Clerk who shall preserve them as permanent records.

6. The amendment or rescission of any designation shall be accomplished through the same steps as were followed in the original designation.

E. Effects of historic overlay designation on land use regulations.

1. The zoning administrator shall issue no permits for the construction, demolition, alteration, relocation, or change in the exterior appearance of a landmark or a building in a historic district until the applicant shall have received a Certificate of Appropriateness from the Renaissance Board.

2. Except as modified by the provisions of this Section 7.10, the property shall be subject to the requirements of the underlying zone of the site.

F. The application for a Certificate of Appropriateness shall be filed with the Renaissance Board, which shall meet within thirty (30) days of notification. Based upon the scope of the application/project the board shall require the submission of any information they deem necessary to adequately review the application/project and may require the following items: a drawing of the proposed work, architectural plans, plot plans, landscaping plans, plans for off-street parking, proposed signs, elevations of all visible portions of proposed structures facing streets, photographs of the existing building or structure and adjacent properties, and information about the building materials to be used. In the event work is being performed without the required certificate of appropriateness, the zoning administrator shall issue a stop work order on behalf of the city or county. No additional work shall be undertaken as long as such stop work order shall continue in effect. The city or county may apply to the Pendleton County District Court or Circuit Court for injunctive relief to enforce its stop work order.

The Renaissance Board shall hold a hearing and act upon each certificate of appropriateness application within 30 days after it is received. The Renaissance Board may extend the time for decision an additional 30 days when the application is for demolition or new construction however, the 30 day period does not begin to run until such time as the board has been provided all information deemed necessary to review the application/project. The Renaissance Board shall recommend approval, conditional approval (based on suggested modifications), or

disapproval of an application, and shall give the reasons for its decision. Failure to make a recommendation on an application within the specified time period shall he deemed approval of the application.

If the Renaissance Board approves the application, it shall immediately forward the certificate of appropriateness to the zoning administrator, who shall then issue the certificate to the applicant. If the application meets all other requirements of law. a building permit may he issued.

If the Renaissance Board disapproves the certificate of appropriateness, the applicant may appeal to the Board of Adjustments within 30 days of the Board's decision. If the Board of Adjustments upholds the previous decision, the applicant may appeal to the Pendleton County Circuit Court.

The Renaissance Board may promulgate additional procedures, standards, guidelines, rules and requirements, and issue bylaws governing its operation and actions, not inconsistent with this Ordinance.

G. Standards for granting certificates of appropriateness.

1. In making a recommendation on an application for a certificate of appropriateness, the Renaissance Board shall consider historic and architectural significance, architectural style, design, arrangement, texture, methods or materials to he used, method of construction and color scheme. The reviewing agency may adopt guidelines on acceptable color schemes.

2. Applications to demolish designated property. When an applicant wishes to demolish a building or structure in a historic district, the Renaissance Board may grant or deny the application on the basis of whether or not the structure contributes to the historic district.

H. Ordinary repairs and maintenance is identified as any work the purpose of which is to correct deterioration or to prevent deterioration of designated historic property. The work shall restore the property to its appearance prior to deterioration or shall result in the protection of its present appearance. The work shall involve the use of the same building materials or available materials that are as close as possible to the original. Work that changes the external appearance of a property shall he considered an alteration for purposes of this ordinance. Ordinary repairs and maintenance may he undertaken without a certificate of appropriateness provided that work on a property in a historic district does not noticeably change its exterior appearance that is visible to the public.

I. Emergency conditions: In any case where the zoning administrator determines that there are emergency conditions dangerous to life, health, or property affecting

a property in a historic overlay district, he may order the remedying of these conditions without an application to the Renaissance Board. The necessary action may include the demolition of a building or structure. The zoning administrator shall promptly notify the chairman of the Renaissance Board of the action being taken.

J. Condemnation. Notice shall be provided to the Renaissance Board when any code enforcement official or agency files a condemnation order for a piece of property located within a historic overlay district.

K. Conformity with the certificate of appropriateness. The zoning administrator shall inspect periodically the construction or alteration approved by the certificate of appropriateness to insure that it conforms to the provisions of such certificate. If the work being performed is not in conformance with the provisions of the certificate, the zoning administrator shall notify the Chairman of the Renaissance Board, and shall issue a stop work order on behalf of the city or county. All work on the designated property shall cease until such work is brought into conformity, as determined by the zoning administrator. No additional work shall be undertaken as long as such stop work order shall continue in effect. The city or county may apply to the Pendleton County District Court or Circuit Court for injunctive relief to enforce its stop work order.

L. Signage.

1. Purpose. The purpose of this section is to encourage the use of well designed signage within the Historic Overlay Districts which will enhance the architectural styles and historic atmosphere of the district, rather than detract from them. It is recognized that commercial signage is, and always has been vital to the character and livelihood of the Historic Overlay Districts and of their merchants. It is also recognized that poorly designed and haphazardly placed signage cannot only destroy the atmosphere of the Districts, but can spoil their beauty and character.

2. Certificate of Appropriateness required: Except for the signs listed below, the zoning administrator shall not issue any sign permit unless the permit application is accompanied by a certificate of appropriateness issued by the Renaissance Board:

   a. Residential nameplates
   b. Real estate signs
   c. Incidental signs

3. Prohibited signs: In addition to the signs prohibited in section 411.23, the following signs shall be prohibited in the Historic Overlay District:

a. Off-premise signs
b. Any sign or sign support which conceals any aspect of the site's historic or architectural significance, architectural style, design or arrangement.
c. Signs employing neon or similar lighting systems

4. Sign regulations. Except as provided above, the sign regulations in the historic overlay districts shall be the same as the underlying zone.

ARTICLE 8

OFF-STREET PARKING AND ACCESS CONTROL REGULATIONS

SECTION 8.0 GENERAL REQUIREMENTS:

A. OFF-STREET PARKING:

In all Commerce and Downtown zones and all conditional uses in the Rural, Urban Residential and Suburban Residential Zones, off-street parking facilities for use by occupants, employees, and patrons of the building hereafter erected, altered, or extended, and all uses of the land after the effective date of this Ordinance, shall be provided and maintained as herein prescribed. Off-street parking requirements as regulated by Article 8 may be reduced or waived in the Downtown Zone by a formal act of the City Council upon its finding that adequate public or on-street parking exists at the time of the application or development in light of anticipated demand, such that the requirements of the off-street parking regulations are unnecessary or excessive.

B. COMPUTATION OF PARKING SPACES: In determining the number of required off-street parking spaces, if such spaces result in fractional parts thereof, the number of said required spaces shall be construed to be the next highest whole number.

C. ADDITIONAL PARKING SPACES TO BE PROVIDED: Whenever the intensity of use of any building, structure, or premises shall be increased through addition of dwelling units, gross floor area, seating capacity, change of use, or other units of measurement specified herein, additional parking spaces shall be provided in the amounts hereafter specified for that use, if the existing off-street parking area is inadequate to serve such increase in intensity of use.

D. LOCATION OF OFF-STREET PARKING FACILITIES: Off-street parking facilities shall be permitted in driveways in the front, side, and rear yards, provided all requirements of this Ordinance are met, and provided that all off-street parking facilities shall be set back a minimum of five (5) feet from any street right-of-way line. All off-street parking facilities shall be located on the same lot as the building served.

E. DRIVEWAYS NOT COMPUTED AS PART OF REQUIRED PARKING AREA: Entrances, exits, or driveways shall not be computed as any part of a required off-street parking area.

F. OFF-STREET PARKING SPACE TO BE USED FOR PARKING ONLY: Any vehicle parking space shall be used for parking only. Any other use of such space, including repair work or servicing of any kind, other than in an emergency, or the requirement of any payment for the use of such space, shall be deemed to constitute a separate commercial, use in violation of the provisions of this Ordinance.

G. NO BUILDING TO BE ERECTED IN OFF-STREET PARKING SPACE: No building of any kind shall be erected in any off-street parking area, except a parking garage containing parking spaces equal to the requirements set forth in this section of this Ordinance or a shelter house/booth for a parking attendant, provided the number of required spaces are not reduced.

H. PARKING PLAN APPROVAL REQUIRED: Plans for all off-street parking facilities, including parking garages, shall be submitted to the Zoning Administrator for review and for compliance with the provisions of this Ordinance and such other pertinent ordinances. Plans for all off-street parking facilities, including parking garages, shall be submitted as part of a Stage II Development Plan. Such plans shall show the number of spaces and arrangements of parking aisles, location of access points onto adjacent streets, provisions for vehicular and pedestrian circulation, location of sidewalks and curbs on or adjacent to the property, utilities, location of shelters for parking attendant, locations of signs, typical cross-sections of pavement, including base and sub-base, proposed grade of parking lot, storm drainage facilities, location and type of lighting facilities, and such other information or plans as the circumstances may warrant. Where such parking plans include provisions for access points to adjacent streets, then said plans shall also be prepared in accordance with the requirements of Section 11.3 of this Ordinance.

SECTION 8.1 DESIGN AND LAYOUT OF OFF-STREET PARKING AREAS:

A. SIZE OF OFF-STREET PARKING SPACES: For the purposes of this Ordinance, one (1) off-street parking space shall be a minimum of nine (9) feet in width and twenty (20) feet in length, exclusive of access drives and aisles. Such parking spaces shall have a vertical clearance of at least seven (7) feet.

B. WIDTH OF ACCESS DRIVES:

1. All off-street parking areas shall be laid out with the following minimum aisle or access drive widths:

   a. Ninety (90) degree (perpendicular) parking - Twenty-two (22) feet (either one (1) or two (2) way circulation).

b. Sixty (60) degree (angle) parking - Fifteen (15) feet (one-way circulation only).

c. Forty-Five (45) degree (angle) parking - Thirteen (13) feet (one way circulation only).

d. Thirty (30) degree (angle) parking - Eleven (11) feet (one way circulation only).

e. Zero (0) degree (parallel) parking - Twelve (12) feet (one way circulation only).

2. Except as herein provided, the minimum width of access drives or aisles, as provided for in Section 8.1, B., 1. of this Ordinance, shall be required whether the access drive or aisle provides access to an off-street parking area or individual off-street parking spaces.

3. When any combination of these types of parking is used (facing the same aisle) the most restricted aisle or access drive width requirements shall prevail. In addition, a two (2) foot overhang may be permitted on the external sides of a parking area.

4. If the width of the parking space is increased over nine (9) feet, the drive aisle width can be decreased proportionally (two (2) foot width in drive aisle per one (1) foot increase in space width) except that a drive aisle for two-way traffic may not be decreased below twenty (20) feet in width and a drive aisle for one-way traffic may not be decreased below eleven (11) feet in width.

C. ACCESS TO OFF-STREET PARKING SPACES: Each required off-street parking space shall be connected with a deeded public right-of-way by means of aisles or access drives. The off-street parking area shall be so designed to ensure that all maneuvering into and out of each off-street parking space shall take place entirely within property lines of lots, garages, and/or storage areas.

D. OFF-STREET PARKING AREAS IN COMMERCE AND DOWNTOWN ZONES: All such off-street parking areas shall have a protective wall and/or bumper blocks around the perimeter of said off-street parking area and shall be so designed that all vehicles leaving the facility will be traveling forward to approaching traffic. All off-street parking areas shall be effectively screened on each side adjoining or fronting on any property situated in a zone permitting single-family residential dwellings, as regulated by Section 6.11 of this Ordinance. Ground cover shrubs and trees shall be located and maintained so as to not interfere with vehicular and pedestrian traffic on the property or with sight distance clearance at entrances and exits.

E. LIGHTING: Any lighting used to illuminate off-street parking areas shall not glare upon any right-of-way or adjacent property.

F. PAVING OF NEW OFF-STREET PARKING AREAS: Except as provided below in this paragraph, all new off-street parking areas shall be paved with asphalt concrete or Portland Cement concrete. Alternative hard surface paving systems, including decorative pavers, may be used, provided that the system and materials used will have the same or greater load bearing strength as asphalt concrete or cement concrete. The Zoning Administrator may, however, allow parking lots to be paved with gravel for a period of up to one (1) year to allow settling when such lot is constructed on a former building site, or when weather conditions prevent immediate paving with a hard surface. Under no circumstances shall an off-street parking area be used for more than one (1) year without being paved in accordance with the above requirements. EXCEPTION: Upon written application to the Zoning Administrator, waiver of the paving requirement may be temporarily or permanently granted by the Zoning Administrator for parking areas to be used as follows: (1) when the following conditions are met: (a) only by owners, operators and employees of the business, and not customers or consumers, (b) only when the parking facility will service limited or minimal quantities of traffic, and (c) only in remote or rural areas not easily visible to the general or traveling public; or (2) for the annual Woolfest and for parking at athletic fields located in flood plains.

SECTION 8.2 SPECIFIC OFF-STREET PARKING REQUIREMENTS:

A. The amount of required off-street parking for uses, buildings, or additions, and changes in intensity of uses thereto, shall be determined according to the following requirements, and the space, so required, shall be stated in the application for a zoning and building permit and shall be reserved for such use. Where more than one use is located in the same building, each individual use shall be in accordance with the off-street parking requirements of this section of this Ordinance.

1. Residential: Two (2) parking spaces for each dwelling unit, rented room, and family.

2. Non-residential: One (1) parking space for each employee on shift of largest employment; plus the following as applicable:

   a. one space for each for each 200 feet of gross floor space for office, retail and service operation.

   b. one space for every two (2) students in school.

c. one space for each customer/client/user which the facility is designed to serve at fullest capacity.

d. one space for every four (4) available seats in an auditorium, church, gymnasium or other place of assembly.

e. Restaurants: one (1) space for every fifty (50) square feet of dining floor area **or** one (1) space per two (2) seat accommodations at maximum capacity, whichever is greater.

B. If the foregoing requirements result in an excessive number of parking spaces based on a well-reasoned study submitted by the owner or operator of a facility, the Zoning Administrator shall have authority to modify the foregoing requirements, to a number justified by said study, provided that the study adequately identifies the proposed uses, their use at peak conditions, and proposes adequate parking for employees and the general public, without the requirement of using off-site parking. In the event that any such facility, after developed and utilized, presents parking inadequacy problems, the Zoning Administrator shall require the owner or operator to provide additional parking as determined by this Ordinance or have their zoning permit revoked and be subject to penalties for violation of this Ordinance after issuance of a notice letter of violation.

SECTION 8.3 ACCESS CONTROL REGULATIONS:

A. PURPOSE: In order to promote greater safety of passage between streets and land, improve the convenience and ease of movement of travelers on streets, permit reasonable speeds and economy of travel, and increase and protect the capacity and safety of streets, the location and design of access points shall be in accordance with the following access control regulations. These regulations shall apply to all arterial and collector type streets, as identified in the adopted comprehensive plan.

B. PROVISION OF RESERVED TURNING LANES: At those access points where vehicles turning to and from arterial and collector streets will substantially affect the roadway capacity, reserved turn lanes shall be constructed by the developer.

C. PROVISION OF FRONTAGE ROAD: Where possible, provision for the construction of a frontage road shall be made. However, access to arterial or collector streets via an intersecting street or a common driveway shall be investigated if such a design is not reasonable.

D. COORDINATION OF ACCESS POINTS: Access points on opposite sides of arterial and collector streets shall be located opposite each other, otherwise turning movement restrictions may be imposed by the planning commission, or

its duly authorized representative. In addition, in order to maximize the efficient utilization of access points, access drives shall be designed, located, and constructed in a manner to provide and make possible the coordination of access with, and between, adjacent properties developed (present or future) for similar uses. As a condition of approval for construction, use, or reuse of any access road, the Zoning Administrator may require that unobstructed and unencumbered access, in accordance with the provisions of this Ordinance, be provided from any such access point to adjacent properties.

E. SPACING RESTRICTIONS FOR SIGNALIZED ACCESS POINTS: Except when approved by the Kentucky Transportation Cabinet, access points which will warrant signalization shall be spaced a minimum distance of one quarter (1/4) mile apart. The exact location of the signal light shall be determined by a traffic engineering study which shall at least account for the following variables:

1. Speed.
2. Traffic signal phasing.
3. Traffic signal cycle length.
4. Roadway geometrics.
5. Accident experience.

Provision for all turning movements to maintain the design capacity of the roadway shall be required.

F. SIGHT DISTANCE: The location of access points shall comply with safe sight distance requirements, based on the six second standard of the Kentucky Transportation Cabinet. The centerline of all access points shall intersect as nearly at a ninety (90) degree angle as possible, but in no case shall the angle of intersection be less than seventy-five (75) degrees or greater than one hundred five (105) degrees, unless approved by the planning commission, or its duly authorized representative, whichever is applicable, due to certain exceptional conditions. The site distance requirements of this Ordinance are in addition to, not replacement of, any sight distance regulations contained in other Ordinances of the legislative bodies.

G. LOCATION OF UNSIGNALIZED ACCESS POINTS:

1. Arterials:

   a. Access points along principal arterials (US 27) shall be spaced a minimum distance of measured from point of curb return to point of curb return. Turning restrictions and/or reserved lanes may be required.

b. One (1) access point per tract will be permitted. However, if the spacing requirements for a direct access point onto an arterial street, as provided for in Section 8.3, G., 1., a. of this Ordinance, cannot be met, then an access point may be located on a frontage road, on an intersecting local street, or share a common driveway that meets the spacing requirements. In order for the intersecting local street or frontage road to function properly, access onto them shall be controlled as follows:

(1) Access points onto local streets which intersect an arterial street shall be spaced a minimum distance of one hundred (100) feet, measured from point of curb return to point of curb return, from the arterial street.

(2) In areas zoned to permit commercial uses, access points from adjacent properties onto frontage roads, shall be spaced a minimum distance of fifty (50) feet, measured from point of curb return to point of curb return, from intersections of the frontage road with local or collector streets.

c. If a tract of land has no means of access that would meet the requirements of this section of the Ordinance, one (1) access point shall be permitted. However, all such access points shall be considered temporary and may be terminated, reduced, limited to certain turning movements, or caused to be relocated by the planning commission at such time as the particular use served by the access point changes and/or the property is otherwise provided an alternate means of access via a frontage road, an intersecting local street, or sharing of a common driveway. Provisions for the construction of a frontage road, restricted turning movements, or other improvements, may be required, as a condition to approval, in order to minimize the number of access points and congestion to the adjacent street. In all cases where said access points are classified as temporary, such designation shall be noted on the Stage I and Stage II Development Plans submitted for a zoning permit and also upon the deed of the property in question.

2. Collector Streets:

a. One (1) access point per tract will be allowed. The minimum spacing between adjacent access points on this type of facility shall be one-hundred (100) feet, measured from point of curb return to point of curb return. However, if the spacing requirements for a direct access point onto a collector street cannot be met, then an access point may be located on a frontage road, on an intersecting

street, or share a common driveway that meets the spacing requirements.

b. If a tract of land has no means of access that would meet the requirements of this section of this Ordinance, one (1) access point shall be permitted. However, all such access points shall be considered temporary and may be terminated, reduced, limited to certain turning movements, or caused to be relocated by the Zoning Administrator at such time as the particular use served by the access point changes and/or the property is otherwise provided an alternate means of access via a frontage road, an intersecting local street, or sharing of a common driveway. Provisions for the construction of a frontage road, restricted turning movements, or other improvements, may be required, as a condition to approval, in order to minimize the number of access points and congestion to the adjacent street. In all cases where said access points are classified as temporary, such designation shall be noted on the Stage I and Stage II Development Plans submitted for a zoning permit and also upon the deed of the property in question.

H. WIDTH OF ACCESS POINTS:

1. Except as herein provided, in Rural zones **(City only add:** ", Urban Residential zone and Suburban Residential zone"**)**, no access point width shall be less than nine (9) feet nor more than twenty (20) feet. In all Commerce zones **(City only add:** "and Downtown zone"**)**, access points shall not be less than eleven (11) feet in width for one way traffic and twenty-two (22) feet in width for two-way traffic. The width shall be measured from the point of curb return to point of curb return, or edge of pavement if no curb exists, excluding the curb radius.

2. The Zoning Administrator may modify (enlarge or reduce) the width to provide for a more efficient and safe channelization and/or flow of traffic.

I. EXCEPTIONS TO ACCESS POINT REQUIREMENTS: Where situations develop that may require special treatment, the requirements as provided for in Section 8.3., B.- H. of this Ordinance may be varied, provided that a traffic engineering report is prepared by a qualified traffic engineer, establishing that the special treatment will have no adverse effects on the roadway safety and capacity.

J. ACCESS POINT PROBLEM AREAS: If, after special study, it is determined that the type of use or activity proposed would have an adverse effect on the safety and capacity of the adjacent roadway, the access point spacing requirements, as

contained in this section of this Ordinance, may be increased in order to adequately solve the traffic movement.

K. APPROVAL OF ACCESS POINTS REQUIRED: Plans for all access points, and modifications thereto (including plans to use existing access points where a change of use for any tract of land would generate more traffic than the previous use, thus producing an adverse effect on the adjacent roadway), shall be submitted to the Zoning Administrator and the Planning Commission, or its duly authorized representative, at a scale not less than 1 inch = 100 feet. No action of approving or rejecting these plans by the Zoning Administrator shall be taken until a review and recommendation of said plans have been made by the Planning Commission, or its duly authorized representative. Such plans shall show the location of all access points on the site in question, and access points on both sides of the site within 600 feet in either direction for principal arterials. The proposed access point shall include typical cross-sections of pavement, the base and subbase, proposed grade, storm drainage, and such other information or plans as the circumstances may warrant. If such access points are being located in conjunction with off-street parking and/or loading and unloading facilities, then said plans shall also include off-street parking and off-street loading and/or unloading plans, in accordance with Sections 8.0 and 9.0 of this Ordinance.

L. APPROVAL OF ACCESS POINTS ALONG STATE MAINTAINED ROUTES BY KENTUCKY DEPARTMENT OF TRANSPORTATION: Plans for all access points to be constructed along a state maintained route shall be submitted to the Kentucky Department of Transportation for review and approval prior to the time as plans are submitted to the Zoning Administrator, as provided for in this Ordinance. No access point plans shall be approved, or permits issued, for construction by the Zoning Administrator, until said access point plans have been approved by the Kentucky Department of Transportation.

ARTICLE 9

OFF-STREET LOADING AND/OR UNLOADING REGULATIONS

SECTION 9.0 OFF-STREET LOADING AND/OR UNLOADING REGULATIONS: For all buildings and structures erected, altered or extended, and all uses of land established as specified therein, after the effective date of this Ordinance, off-street loading and/or unloading facilities shall be provided as required by the regulations herein. However, where a building permit has been issued prior to the date of the adoption of this Ordinance, and provided that construction has not begun within one hundred and eighty (180) days of such effective date, off-street loading and/or unloading facilities in the amounts required by this Ordinance shall prevail.

SECTION 9.1 OFF-STREET LOADING AND/OR UNLOADING USE AND BULK REGULATIONS: Off-street loading and/or unloading facilities shall be provided in accordance with the following regulations.

A. SPACES REQUIRED:

Every building, structure, or part thereof, erected and occupied for manufacturing, storage, warehousing, wholesale stores, retail stores, market, hotel, hospital, laundry, dry cleaning, mortuary and other uses similarly, including conditional uses as approved by the Board of Adjustment in the Rural, Urban Residential or Suburban Residential zones involving the receipt or distribution of vehicles, materials, or merchandise and having up to 10,000 square feet of gross floor area shall be provided with at least one loading and/or unloading space. One additional loading and/ or unloading space shall be provided for every additional 10,000 square feet, or fraction thereof, of gross floor area in the building. The Zoning Administrator may reduce these requirements if sufficient proof can be shown that less than these requirements will be satisfactory for the operation in question, or that such use will share common loading/unloading with an adjacent use. Off Street loading and unloading area requirements as regulated by Article 9 may be reduced or waived in the Downtown Zone by a formal act of the City Council upon its finding that other adequate areas for such exist at the time of the application or development in light of anticipated demand, such that the requirements of the Off Street loading and unloading area regulations are unnecessary or excessive.

B. SIZE OF OFF-STREET LOADING AND/OR UNLOADING SPACE: Each off-street loading and/or unloading space shall be at least twelve (12) feet in width and at lease sixty (60) feet in length, exclusive of aisle and maneuvering spaces and shall have a vertical clearance of at least fourteen (14) feet; provided however, that when it is demonstrated that a particular loading and/or unloading

space will be used by shorter trucks, the Zoning Administrator may reduce the minimum length to not less than thirty-five (35) feet.

C. LOCATION: All required loading and/or unloading spaces shall be located on the same zoning lot as the use served. No loading and/or unloading space for vehicles over two-ton capacity shall be closer than fifty (50) feet to any property in the Rural zone. No loading and/or unloading space shall be located in any required yards, except as herein provided.

D. DRIVEWAYS NOT COMPUTED AS PART OF REQUIRED LOADING AND/OR UNLOADING AREA: Entrances, exits, or driveways shall not be computed as any part of a required loading and/or unloading space.

E. ACCESS: Each required off-street loading and/or unloading space shall be designed with direct access via an approved access drive, to a deeded right-of-way which offers satisfactory ingress and egress for trucks. Access drives or aisles shall be laid out with a width of at least twelve feet for one-way circulation and at least twenty-two (22) feet for two-way circulation. Off-street loading and/or unloading space shall be so designed and constructed so that all maneuvering for loading and/or unloading can take place entirely within the property lines of the premises. Such off street loading and/or unloading spade shall be so located as not to hinder the free movement of pedestrians and vehicles over a sidewalk, street, road, highway or deeded rights-of-way.

F. ENLARGEMENT OF BUILDINGS: The off-street loading and/or unloading requirements, as listed in this article of this Ordinance, shall apply at any time any building is enlarged or increased in capacity by adding floor area.

G. DESIGN AND MAINTENANCE:

1. Surfacing - All open off-street loading and/or unloading spaces shall be paved with asphalt paving or Portland Cement concrete. EXCEPTION: Upon written application to the Zoning Administrator, waiver of the paving requirement may be temporarily or permanently granted by the Zoning Administrator for off-street loading and/or unloading spaces to be used as follows: (1) when the following conditions are met: (a) only by owners, operators and employees of the business, and not customers or consumers, (b) only when the parking facility will service limited or minimal quantities of traffic, and (c) only in remote or rural areas not easily visible to the general or traveling public; or (2) for the annual Woolfest and for parking at athletic fields located in flood plains.

2. Lighting - Any lighting used to illuminate off-street loading and/or unloading areas shall be directed away from property in any residential zone and roadways in such a way as not to create a nuisance.

3. Space allocated to any off-street loading and/or unloading space shall not be used to satisfy the space requirements for any off-street parking facilities or portion thereof.

H. OFF-STREET LOADING AND/OR UNLOADING PLAN APPROVAL REQUIRED: Plans for all loading and/or unloading facilities shall be submitted to the Zoning Administrator for review and for compliance with the provisions of this Ordinance and such other pertinent ordinances of the legislative body. Plans for all loading and/or unloading facilities shall be submitted as part of a Stage II Development Plan. Such plans shall show the exact proposed layout of all loading and/or unloading areas, drives and accessories, entrances and exits, type of surface to be used, typical cross sections of pavement, base and subbase, location of lighting facilities, storm drainage facilities, proposed grade of off-street loading and/or unloading area, and such other information or plans as the circumstances may warrant. Where such loading and/or unloading plans include provisions for access points to adjacent streets, then said plans shall also be prepared in accordance with the requirements of Section 8.3.

ARTICLE 10

SIGN AND BILLBOARD REGULATIONS

SECTION 10.0 SCOPE OF REGULATIONS: The regulations set forth herein shall apply and govern signs and billboards in all zones, except as otherwise specifically provided within this Ordinance.

SECTION 10.1 GENERAL RULES, REGULATIONS, AND LIMITATIONS:

A. All business and identification signs shall be deemed accessory uses and all billboards shall be deemed non-accessory uses.

B. No sign or billboard shall be erected, maintained, or continued unless it is in full compliance with the regulations for the zone in which it is located, all applicable provisions and regulations of this Ordinance or any other applicable laws, codes, or ordinances of the legislative body. The Zoning Administrator shall have the duty and authority to remove, as provided herein, any sign or billboard not in full compliance with all applicable provisions and regulations of this Ordinance or any other applicable laws, codes, or ordinances of the applicable legislative body when the owner or agent has failed to comply within the time specified by the Zoning Administrator to make said sign or billboard comply.

C. For the purpose of the order, "sign" does not include signs erected and maintained pursuant to and in discharge of any government function, or required by any law, order, or governmental regulations.

D. TIME SCHEDULE FOR COMPLIANCE OF SIGN REGULATIONS: Compliance with the provisions of this article of this Ordinance shall be according to the following time schedule:

1. All new signs and billboards shall comply when erected.

2. Except as herein provided, signs and billboards which become nonconforming upon the adoption of this Ordinance may be continued and maintained. Nonconforming signs and billboards may not be altered structurally unless such signs and billboards are brought into compliance with all the provisions of this Ordinance.

E. No sign or billboard constituting a nuisance, because of light, glare, focus, noise, animation, flashing, intensity of illumination as to unduly disturb the use of surrounding properties, as determined by the Zoning Administrator, or causing a traffic hazard, shall be erected, maintained, or continued in any zone.

F. No radio, phonograph, tape recorder, whistle, bell, gong, siren, or other sound or noise-making or transmitting device or instrument shall be allowed, permitted, or continued in connection with any sign or billboard, or may it be used separately for advertising purposes in any zone.

G. No sign or billboard shall be erected, maintained, or continued which constricts the flow of air through any window or door.

H. No sign or billboard shall be erected, maintained, or continued which is misleading, fraudulent, obscene, immoral, indecent, or unsightly in character, as determined by the Zoning Administrator.

I. No billboard, except those of a governmental entity, shall be erected, maintained, or continued unless the name of the company or person owning, maintaining, or erecting said sign is plainly displayed thereon.

J. No sign or billboard shall be erected, maintained, or continued over or into any street, public way, or alley right-of-way, unless specifically provided for within this Ordinance.

K. It shall be unlawful and a violation of this Ordinance for any person to fasten, place, paint, or attach in any way any sign, handbill, poster, advertisement, or notice of any kind, whether political or otherwise, or cause the same to be done in or upon any curb-stone, lamp post, telephone pole, telegraph pole, electric light or power pole, hydrant, bridge, culvert, public drinking fountain, public trash container, courtesy benches, rest station building, tree, or in or upon any portion of any public sidewalk, street, or sign, except as specifically permitted within this Ordinance.

L. No sign or billboard shall be erected, maintained, or continued upon the inside of a curve of a street which causes any interference to sight distance, as determined by the Zoning Administrator.

M. No sign or billboard shall be erected, maintained, or continued displaying flashing or intermittent lights, or lights of changing degrees of intensity, with changed alternating on net less than a eight (8) second cycle.

N. When any sign or billboard becomes defective or dangerous, as determined by the Zoning Administrator or building department, the Zoning Administrator shall have the power and the authority to remove, or cause to have removed, as provided by law, such sign or billboard when the owner or agent has failed to comply within the time specified by the Zoning Administrator to repair or make said sign or billboard safe. If the Zoning Administrator, or applicable building official, determines that said sign or billboard is of possible immediate danger to persons or vehicles, which may be passing nearby, the Zoning Administrator

shall place, or cause to have placed, signs or barriers indicating such danger. Whenever any sign or billboard, which does not comply with the provisions and regulations of this Ordinance, collapses, burns, or if said sign or billboard is removed from its location, except for normal maintenance, said sign or billboard shall not be replaced or reconstructed, except after review and approval by the Board of Adjustment. The Zoning Administrator shall have the power and authority to remove, or cause to have removed, any and all signs and billboards which have been determined to be a traffic hazard, when the owner or agent responsible for the maintenance of said sign or billboard has failed to eliminate such traffic hazards within two (2) weeks from the date that the written notice is mailed by the Zoning Administrator.

O. Except as otherwise specified in this Ordinance, signs and billboards shall be in conformance with the building code, where applicable, and shall be subject to the inspection and approval.

P. ABANDONED SIGNS: An abandoned sign shall be defined as a sign and/or supporting structure which no longer directs attention to a bona fide business being conducted, product being sold, or activity or campaign being conducted, or for which no legal owner can be found. A sign and/or supporting structure shall be deemed as abandoned when the conditions described above have been in evidence for a period exceeding one hundred twenty (120) days. Abandoned signs are deemed illegal and are prohibited, and shall be removed by the owner and/or business operator immediately.

Q. Permanent use of portable signs, folding signs, "A" frame signs, or any other similar free-standing signs is prohibited.

R. Changeable Copy Signs shall only be permitted on Permanent Signs, except that changeable copy signs are permitted for all governmental/civic buildings and educational facilities.

SECTION 10.2 SIGN PERMIT REQUIRED FOR ERECTION OF SIGNS: No sign or billboard shall be erected, except as exempted or specified within this Ordinance, until all required fees have been paid to the proper authorities, or their agents, and a permit has been issued for such, by the Zoning Administrator.

A. If any sign or billboard is removed and any new sign or billboard is erected in its place, a permit shall be obtained the same as if a new sign or billboard were erected at a new location, subject to all requirements enumerated herein.

B. If any sign or billboard is removed for maintenance and replaced on the same supports, a new permit will not be deemed necessary if the size or type of sign or billboard is not changed.

C. If any sign or billboard is removed from one location and erected at a new location, a new permit shall be obtained.

D. Alteration or enlargement of any sign or billboard shall require a permit the same as for a new sign or billboard.

E. No permit shall be granted until and after an application has been filed with the Zoning Administrator, showing the plans and specifications, including dimensions, materials, and details of construction of proposed structure nor until all provisions herein have been met.

F. EXEMPTIONS: The Following signs may be permitted without a sign permit, however, should comply with Section 10.1 and any other applicable regulations of this Ordinance.

1. One (1) real estate sign per acre not exceeding twelve (12) square feet in outside area; single or double faced; maximum height of eight (8) feet, which advertises the sale, rental or lease of the premises on which said sign is located. Said sign shall not be animated. Such signs shall be removed by owners or agent within ten (10) consecutive calendar days after the sale, rental,or lease of the premises.

2. Political Signs

3. Municipally or State owned signs

4. Signs not over thirty-two (32) square feet and eight (8) feet in height, denoting person/firm, architect, engineer, or contractor when placed upon the premises where construction work is being performed. Said sign shall be removed within ten (10) consecutive calendar days after completion of the project.

5. Signs painted or stenciled on the interior or exterior of a window, limited to no more than twenty-five (25) per cent of the total window area.

6. Temporary window signs in commercial zoning districts – Total area of window signs shall not exceed 30% of the window area of the façade of the building.

7. Professional name plates not exceeding one (1) square foot in outside area; single or double faced. Shall not be animated or illuminated.

8. Signs under two (2) square feet denoting the name and address of a residence.

9. Directional signs and informative signs for an on-premises use. Directional signs must be six (6) square feet or less.

10. Memorial signs or tablets, containing the name of the building and the date of erection when built into the walls of the building and constructed of bronze, brass, marble, stone or other incombustible materials.

11. Non-illuminated special promotional banners hanging on commercial buildings where the promotion is being held for no longer than thirty (30) days.

12. Repainting or cleaning of an advertising structure or the changing of the advertising copy or message thereon, unless a structural change is made.

13. Signs integrated into or on a coin-operated machine, vending machine, gasoline pump, or telephone booth.

14. Sponsorship signs for an event or sporting venue, provided they are placed in an enclosed fashion directed inward towards the venue.

15. "No Trespassing" signs of four (4) square feet or less in area.

16. Temporary signs announcing auctions, civic events, elections, and events of religious and charitable institutions, not to exceed thirty-two (32) square feet. Signs advertising special events may be permitted not more than two (2) weeks prior to the date of the beginning of the event, and must be removed not more than three days after the event ends.

17. Banners erected by the County/City within street rights-of-way advertising special events for public, charitable, or religious institutions when the banner is secured to the City's utility poles.

SECTION 10.3 APPLICATION FOR A SIGN PERMIT:

A. Application for a sign or billboard permit shall be made and submitted at the office of the Zoning Administrator on the appropriate forms furnished by said administrator.

B. If any required information is left off of the application, or if any of the submitted information is misrepresented on the application, the permit shall be denied or shall become null and void if already issued, regardless of actual construction being started or completed.

C. Any sign or billboard not erected or constructed as represented on the application upon which the permit was issued shall not be construed as a hardship case, but shall be construed as a misrepresentation of facts on the application and a violation of this Ordinance, and the owner or agent shall be given a two (2) week notice to remove said sign or billboard, or correct the error.

SECTION 10.4 SIGN PERMIT FEES: The fee for a sign or billboard permit shall be as provided for in the fee schedule or as otherwise established by the legislative body.

SECTION 10.5 PERMITTED USE AND LOCATION OF SIGNS: The following classes of signs may be erected and maintained:

A. RURAL ZONE: Permitted signs within this zone may be either freestanding or wall-mounted unless otherwise specified; no freestanding sign may exceed eight (8) feet in height.

1. One nameplate per residence; not exceeding two (2) square feet in area.

2. One identification sign for a permitted home occupation, not exceeding thirty-two (32) square feet; maximum height of eight (8) feet.

3. One identification sign for a permitted bed and breakfast facility, not exceeding thirty-two (32) square feet; maximum height of eight (8) feet.

4. One identification sign for a farm or estate exceeding five (5) acres in size; not exceeding thirty-two (32) square feet. For farms exceeding 25 acres utilizing more than one point of access no closer than 600 feet, one additional non-illuminated or indirectly illuminated sign per entrance indicating the name of the farm and directional information as necessary to provide information as to the particular farm activity which must be served by only that point of access; not to exceed thirty-two (32) square feet in area; maximum height of eight (8) feet.

5. One non-illuminated business sign advertising agricultural products grown or raised on the premises; not exceeding thirty-two (32) square feet in area.

6. All freestanding signs shall be set back at least five (5) feet from the front property line.

C. COMMERCE ZONES: Each business in these zones shall be permitted to have permanent outside signs. Signs permitted under this section shall be limited to those as described below:

1. Each business shall be entitled to have one (1) sign which is mounted flush against a building (wall-mount) for each building face that fronts a public street. The depth of such a sign from a face to the building shall not exceed two (2) feet. The area of such a wall-mount sign shall be limited to a total surface area equivalent to two (2) square feet of sign area for each linear foot of building width occupied by such enterprise, not to exceed one hundred (100) square feet. The Board of Adjustment may grant a variance of the one hundred (100) square feet size limit if the franchisee of a national franchise company presents viable information that the franchisor requires a sign which larger in size in order to approve the location.

2. Additionally, one (1) free-standing sign structure shall be permitted for each lot of one hundred (100) foot frontage or more; and one (1) additional freestanding sign structure if the lot has an additional one hundred (100) feet of lot frontage on a separate road (corner lots or double frontage lots. Where multiple businesses cohabitate a site parcel, each business shall be entitled share the free standing sign. All such freestanding signs shall be set back at least five (5) feet from the front property line. All such free-standing signs shall not exceed one hundred (100) square feet.

3. Free standing signs shall not exceed a height of twenty-five (25) feet.

4. No illuminated business signs within a Commerce zone shall be located closer than thirty (30) feet to a Rural zone.

5. Awnings with signage thereon shall be permitted to be used in lieu of the wall-mount sign in (1) above under the following conditions:

   a. Such awnings shall extend no further than five (5) feet from the front of a building or to within one foot of the curb of the street to which the awning fronts.

   b. Awnings shall have a clearance of eight (8) feet above the sidewalk and shall not be supported from the sidewalk.

D. URBAN RESIDENTIAL AND SUBURBAN RESIDENTIAL ZONES: Permitted signs within these zone may be either freestanding or wall-mounted unless otherwise specified; no freestanding sign may exceed eight (8) feet in height. Signs permitted under this section shall be limited to those as described below:

1. One nameplate per residence; not exceeding two (2) square feet in area.

2. One identification sign for a conditional use, permitted bed and breakfast facility or permitted home occupation, not exceeding thirty-two (32) square feet; maximum height of eight (8) feet.

3. All freestanding signs shall be set back at least five (5) feet from the front property line.

E. DOWNTOWN ZONES: Each business in this zone shall be permitted to have permanent outside signs. Signs permitted under this section shall be limited to those as described below:

1. Each business shall be entitled to have one (1) sign which is mounted flush against a building (wall-mount) for each building face that fronts a public street, up to a maximum of two. The depth of such a sign from a face to the building shall not exceed two (2) feet. The area of each wall-mount sign shall be limited to a total surface area equivalent to one and one half (1.5) square feet of sign area for each linear foot of building width occupied by such enterprise, not to exceed thirty-two (32) square feet. The height of the wall-mount sign shall not exceed twenty (20) feet. Painted wall signs shall be prohibited. In the case of a building containing two (2) or more separate business uses, these requirements shall be applied separately to the wall area of the building space leased, rented or owned by the individual business tenant.

2. Additionally, if either face of the building containing a wall-mount sign provided in E.1. above is set back from the right-of-way line by the distance of fifteen (15) feet or more, one (1) free-standing ground sign structure shall be permitted. All such freestanding ground signs shall be set back at least five (5) feet from the front property line. All such free-standing signs shall not exceed thirty-two (32) square feet. Free standing ground signs shall not exceed a height of eight (8) feet. Where multiple businesses cohabitate a site parcel, each business shall be entitled share the one permitted free standing ground sign.

3. Window signs shall be permitted; limited to no more than twenty-five (25) per cent of the total window area.

4. Electronic message display systems for wall-mount or free standing ground signs may be permitted as an allowable conditional use, after approval by the board of adjustments. Such signs shall be included in the computation for maximum allowable square footage and shall not exceed the allowable height for permitted signs within the zone.

5. Canopy or awning sign shall be permitted as all or part of a business's wall-mount sign, and included in the computation of the maximum

permitted sign area. Such awnings shall extend no further than five (5) feet from the front of a building or to within one foot of the curb of the street to which the awning fronts. Awnings shall have a clearance of eight (8) feet above the sidewalk and shall not be supported from the sidewalk.

6. Directional signs shall be permitted, not exceeding three (3) square feet in area; not exceeding four (4) feet in height; if freestanding not to exceed one (1) sign per entrance.

7. One nameplate per tenant or lessee shall be permitted; not exceeding two (2) square feet in area; which may only be non-illuminated or indirectly illuminated.

8. One wall-mount menu board per restaurant use only shall be permitted; which shall have no direct illumination; shall not exceed eight (8) square feet in area; and shall have a maximum height of six (6) feet.

ARTICLE 11

ADMINISTRATION

SECTION 11.0 ENFORCING OFFICER:

A. A Zoning Administrator shall be appointed by the legislative body and work under the direction of the legislative body and the Pendleton County Planning Commission for carrying out the provisions and enforcement of this Ordinance. They may be provided with assistance of such other persons as the legislative body directs. The Zoning Administrator shall be the Pendleton County "administrative official" designated under KRS 100.271. **(City only:)** The Zoning Administrator shall be the City's "administrative official" designated under KRS 100.271

B. DUTIES OF THE ZONING ADMINISTRATOR: For the purpose of this Ordinance, the Zoning Administrator shall have the following duties:

1. Upon finding that any of the provisions of this Ordinance are being violated, notify in writing the person responsible for such violation(s), ordering the action(s) necessary to correct such violation.

2. Order discontinuance of illegal uses of land, buildings, or structures.

3. Order removal of illegal buildings or structures or illegal additions or structural alterations.

4. Order discontinuance of any illegal work being done.

5. Determine the classification of a use of land, buildings or structures as a permitted, accessory or conditional use in a specific zoning district, as well as determine the applicability and substance of development performance standards, based on interpretation of the requirements of the zoning regulations.

6. Take any other action authorized by this order or this Ordinance to ensure compliance with or to prevent violation(s) of these regulations. This may include the issuance of and action on zoning and certificate of occupancy permits and such similar administrative duties as are permissible under provisions of KRS 100.271.

7. Interpretation and enforcement shall be first presented to the Zoning Administrator, and that such questions shall be presented to the Board of Adjustment only on appeal from the decision of the Zoning Administrator as provided in KRS100.257.

SECTION 11.1 ZONING PERMITS: Zoning permits shall be issued in accordance with the following provisions:

A. ZONING PERMIT REQUIRED: No building or other structure shall be erected, moved, added to, structurally altered or changed from one permitted use to another, nor shall any grading take place on any lot or parcel of ground without a permit issued by the Zoning Administrator's office. No zoning permit shall be issued except in conformity with the provisions of this Ordinance, except after written orders from the Board of Adjustment.

B. APPLICATION FOR ZONING PERMITS: All applications for zoning permits shall be accompanied by:

1. A completed application form provided by the Zoning Administrator.

2. The required fee for a zoning permit as provided for in Section 14 of this Ordinance.

3. A development plan, and other plans, where required by this Ordinance; or

4. Two copies of a plan drawn at a scale of not less than one (1) inch to one hundred (100) feet showing the following information as identified in Section 11.3 B of this Ordinance (Stage II Development Plan).

C. ISSUANCE OF ZONING PERMIT: The Zoning Administrator shall either approve or disapprove the application. When required by this Ordinance (e.g., Development Plan submitted required) the Planning Commission's approval or disapproval shall also be required. If disapproved, one copy of the submitted plan shall be returned to the applicant marked "Disapproved: and shall indicate the reasons for such disapproval thereon. Such disapproval shall be attested by the Zoning Administrator's signature. The other copy similarly marked, shall be retained by the Zoning Administrator.

If approved or approved with conditions and so noted on the plan or by letter, one (1) copy of the submitted plans shall be returned to the applicant marked "Approved" or "Approved with Conditions". Such approval shall be attested by the Zoning Administrator's signature. The other copy similarly marked, shall be retained in the offices of the Zoning Administrator. The Zoning Administrator

shall also issue a zoning permit to the applicant at this time and shall retain a duplicate copy for his records.

D. FAILURE TO COMPLY: Failure to obtain a zoning permit shall be a violation of this Ordinance and punishable under Section 11.10 of this Ordinance per KRS100.991.

E. EXPIRATION OF ZONING PERMIT: If a building permit, where required by the legislative body, has not been obtained within one hundred and twenty (120) consecutive calendar days from the date of issuance of zoning permit, said zoning permit shall expire and be canceled by the Zoning Administrator and a building permit, where applicable, shall not be obtainable until a new zoning permit has been obtained unless sufficient evidence can be shown that conditions were beyond the applicants control (e.g. weather conditions, or some other extraordinary conditions that would not allow the project to proceed).

SECTION 11.2 DEVELOPMENT PLAN REQUIREMENTS:

A. For any development in the Commerce Zone **(City only: add: "and Downtown Zone)** and conditional uses in the Rural Zone **(City only: add: "and Urban Residential and Suburban Residential Zones")**, no building shall be erected or structurally altered nor shall any grading take place on any lot or parcel in zones, except in accordance with the regulations of this section and an approved Stage II Development Plan as hereinafter required. Before a permit is issued for construction, at least one (1) copy of the Stage II Development Plan of the area at a scale no smaller than one (1) inch to one hundred (100) feet, shall be submitted to the Zoning Administrator. The Stage II Development Plan shall identify and locate, where applicable, the information as listed in Section 11.3.B. for Stage II Plan Requirements.

B. All such development plans shall be reviewed by the Planning Commission or Zoning Administrator, as required, and the factual determination approving or rejecting such plans shall be made in accordance with requirements of this and other applicable sections of this Ordinance, and any specifically applicable requirements of the Comprehensive Plan.

C. All development plans approved shall be binding upon the applicants, their successors and assigns and shall limit the development to all conditions and limitations established in such plans.

D. Amendments to plans may be made in accordance with the procedure required by this Ordinance subject to the same limitations and requirements as those under which such plans were originally approved.

E. After final approval, the subject area may be developed in phases, provided all of the procedures required by the Planning Commission, or its duly authorized representative, have been complied with.

F. AMENDMENTS: Any amendments to Stage I and Stage II Development Plans, except for the minor adjustments which may be made by the Zoning Administrator, shall be made in accordance with the procedure required by Subsection A., 2. or A., 3., above, subject to the same limitations and requirements as those under which such development plans were originally approved.

G. EXPIRATION: Stage II Development plans within the Commerce Zones **(City only: add: "and Downtown Zone)** shall be subject to the time constraints noted below. Upon expiration of said time constraints, and any extensions thereto, the legislative body may initiate a request for a public hearing by the planning commission, in accordance with the requirements of KRS Chapter 100, for the purpose of determining: (1) whether said Commerce Zone **(City only: add: "or Downtown Zone)** should revert to its original zoning designation; or (2) that the approved Development Plan should be voided. A public hearing may be initiated if the following condition applies: substantial construction has not been initiated within a period of twelve (12) consecutive months from the date of approval of the Stage II Development Plan, provided that an extension may be permitted upon approval of the planning commission, or its duly authorized representative, if sufficient proof can be demonstrated that the construction was delayed due to circumstances beyond the applicant's control, and that prevailing conditions have not changed appreciably to render the approved Stage II Development Plan obsolete. Substantial construction shall be deemed to mean the placing of footers and/or foundation. Notwithstanding anything to the contrary stated in this provision, Development Plans for a Sanitary Landfill subject to the provisions of Section 6.18 of this Ordinance, and for the development of which a favorable statement of local determination has been filed pursuant to KRS 224.40.315(1), shall not expire as provided herein absent an affirmative finding by the zoning administrator that such Development Plans have been abandoned by the owner or developer.

SECTION 11.3 PLAN REQUIREMENTS - STAGES I, II, AND RECORD PLAT:

A. STAGE I -- PLAN REQUIREMENTS: The Stage I Plan shall identify and provide the following information:

1. Plan(s) of the subject property, drawn to a scale not smaller than one (1) inch equals one hundred (100) feet showing:

   a. The total area in the project including the proposed phasing, as applicable.

b. The present zoning of the subject property and all adjacent properties.
c. All public and private rights-of-way and easement lines located on or adjacent to the subject property, which are proposed to be continued, created, enlarged, relocated, or abandoned.
d. Delineation of all existing and proposed residential units in the project, including number, location and description of the housing types.
e. Delineation of all existing and proposed nonresidential uses in the project, including location and type of all uses, and the approximate number of acres, gross floor area and heights of buildings.
f. Location of proposed streets, pedestrian walkways and landscape areas, identifying approximate dimensions.
g. Location of all existing and proposed water, sanitary sewer, and storm drainage lines, indicating approximate pipe sizes.
h. Certification from appropriate water and sewer agencies whether services will be available.
i. Other information that may be determined necessary for description and/or to insure proper integration of the proposed project in the area.

2. The aforementioned information required may be combined in any suitable and convenient manner so long as the data required is clearly indicated. A separate plan or drawing for each element is not necessary, but may be provided at the option of the applicant. All of the above elements of the plan must be included with the application, unless a specific waiver of an element is granted by the Zoning Administrator.

B. STAGE II - PLAN REQUIREMENTS: The Stage II Plan shall contain all elements of a Stage I Development Plan and shall further conform to the following requirements:

1. Plan(s) of the subject property, drawn to a scale of not smaller than one (1) inch equals one hundred (100) feet, that identifies and provides the following information:

a. All items required for a Stage I Development Plan above.
b. The existing and proposed finished topography of the subject property shown by contours with intervals not to exceed five (5) feet. Where conditions exist that may require more detailed information on the proposed topography, contours with intervals of less than five (5) feet may be required by the planning commission.
c. Identification of the soil types and geologic formations on the subject property, indicating anticipated problems and proposed methods of handling said problems.

d. All housing units on the subject property, including location, maximum height of buildings, number of units in each building, lot arrangement, number of all lots, lot dimensions and setbacks.

e. Location, height, arrangement, and identification of all nonresidential buildings and uses on the subject property and, where applicable, location and arrangement of all lots with lot dimensions.

f. Location and arrangement of all common open space areas, and recreational facilities, including lot dimensions. Methods of ownership and operation and maintenance of such lands shall be identified.

g. Landscaping features, including identification of planting areas and the location, type, and height of walls and fences.

h. Location of signs indicating their orientation, type, size, height and description.

i. All utility lines and easements:

(1) Water distribution systems, including line sizes, width of easements, type of pipe, location of hydrants and valves, and other appurtenances.

(2) Sanitary sewer system, including pipe sizes, width of easements, gradients, type of pipes, invert elevations, location and type of manholes, the location, type, size of all lift or pumping stations, capacity, and process of any necessary treatment facilities, and other appurtenances.

(3) Storm sewer and natural drainage system, including pipe and culvert sizes, gradients, location of open drainage courses, width of easements, location and size of inlets and catch basins, location and size of retention and/or sedimentation basins, and data indicating the quantity of storm water entering the subject property naturally from areas outside the property, the quantity of flow at each pickup point (inlet), the quantity of storm water generated by development of the subject area, and the quantity of storm water to be discharged at various points to areas outside the subject property.

(4) Other utilities (e.g., electric, telephone, etc.) including the type of service and the width of easements.

j. Location of all off-street parking, loading and/or unloading, and driveway areas, including typical cross sections, the type of surfacing, dimensions, and the number and arrangement of off-street parking and loading and/or unloading spaces.

k. Circulation System:

(1) Pedestrian walkways, including alignment, grades, type of surfacing, and width.
(2) Streets, including alignment, grades, type of surfacing, width of pavement and right-of-way, geometric details, and typical cross sections.

l. Provisions for control of erosion, hillside slippage and sedimentation, indicating the temporary and permanent control practices and measures which will be implemented during all phases of clearing, grading, and construction.

m. A schedule of development, including the staging and phasing of:

(1) Residential area, in order of priority, by type of dwelling unit;
(2) Streets, utilities, and other public facility improvements, in order of priority;
(3) Dedication of land to public use or set aside for common ownership; and
(4) Non-residential buildings and uses, in order of priority.

2. The aforementioned information required may be combined in any suitable and convenient manner so long as the data required is clearly indicated.

C. RECORD PLAT REQUIREMENTS: The applicant shall submit a Record Plat, in conformance with the Stage II approved plans. If the Record Plat is submitted in sections, an index shall be developed showing the entire plan area. The particular number of the section and the relationship of each adjoining section shall be clearly shown by a small key map on each section submitted. The Record Plat shall conform to the requirements of the subdivision regulations, where applicable, unless specifically waived by the Planning Commission. The Record Plat shall identify any proposed phasing of development within the submitted Record Plat area, indicating how such phasing is to be tied into the total area.

SECTION 11.4 BUILDING PERMITS (REQUIRED IF KENTUCKY BUILDING CODE ADOPTED): Building permits, if so required by the legislative body, shall be issued in accordance with the following provisions:

A. BUILDING PERMITS REQUIRED: No building or other structure shall be erected, moved, added to, or structurally altered without a permit issued by the Zoning Office. No building permit shall be issued except in conformity with the provisions of this Ordinance, except after written orders from the Board of Adjustment.

B. APPLICATION FOR BUILDING PERMITS: All applications for building permits shall be accompanied by:

1. A completed application form provided by the Zoning Office;

2. An approved zoning permit;

3. The required fee for a building permit as provided for in Section of this Ordinance;

4. A development plan, if required by this Ordinance; or

5. Plans approved by the Zoning Office and including any additional information required by the Building Code as may be necessary to determine conformance with and provide for the enforcement of the Building Code and the Kentucky Revised Statutes.

6. All Building Permit applications shall be good for only sixty (60) days after which time they shall expire and no Building Permit may be issued.

C. ISSUANCE OF BUILDING PERMIT: The Zoning Office shall either approve or disapprove the application. If disapproved, one (1) copy of the submitted plans shall be returned to the applicant marked "Disapproved" and shall indicate the reasons for such disapproval thereon. Such disapproval shall be attested by the Reviewer's signature. The second copy similarly marked, shall be retained in the Zoning office. The Zoning Office shall also issue a building permit to the applicant at this time and shall retain a duplicate copy for there records.

D. COMPLIANCE: It shall be unlawful to issue a building permit or occupancy permit, to build, create, erect, change, alter, convert, or occupy any building or structure hereafter, unless a zoning permit has been issued in compliance with this Ordinance.

E. CONSTRUCTION AND USE: To be as provided in application, plans, permits, zoning permits and building permits issued on the basis of plans and application approved by the Zoning Administrator authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Use arrangement or construction at variance with that authorized shall be deemed in violation of this Ordinance and punishable as provided by Section 11.10 of this Ordinance.

SECTION 11.5 CERTIFICATE OF OCCUPANCY: It shall be unlawful for an owner to use or permit the use of any building or premises or part thereof, hereafter created, changed, converted or enlarged, wholly or partly, until a certificate of occupancy, which shall be a part of the building permit, where applicable, shall have been issued by the Building Inspector. Such certificate shall show that such building or premises or part thereof and the proposed use thereof are in conformity with the provisions of this

Ordinance. It shall be the duty of the Building Inspector to issue a certificate of occupancy provided that he has checked and is satisfied that the building and the proposed use thereof conform with all the requirements of this Ordinance and the Building Code. No permit for excavation or construction shall be issued by the Building Inspector until the inspector is satisfied that the plans, specifications and intended use conform to the provisions of this Ordinance.

SECTION 11.6 DENIAL OF CERTIFICATE OF OCCUPANCY: Except as herein stated, a certificate of occupancy shall not be issued unless the proposed use of a building or land conforms to the applicable provision of this Ordinance and to the plans for which the building permit was issued.

SECTION 11.7 CERTIFICATE OF OCCUPANCY RECORDS: A record of all certificates of occupancy shall be kept on file in the office of the Zoning Administrator and copies shall be furnished, on request to any person having a proprietary building affected by such certificate of occupancy.

SECTION 11.8 COMPLAINTS REGARDING VIOLATIONS: Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the Zoning Administrator. The Zoning Administrator shall record properly such complaint, immediately investigate, and take action thereon as provided by this Ordinance and the Kentucky Revised Statutes.

SECTION 11.9 FILING OF CERTIFICATE OF LAND USE RESTRICTIONS: A "Certificate of Land Use Restriction" shall be filed in the office of the county clerk by the planning commission, legislative body, and/or board of adjustment, which imposes any land use restrictions according to the provisions of KRS 100.3681 to 100.3684. A $10.50 fee for recording such filing shall be collected by the body imposing the restriction. This fee shall be paid over to the county clerk. An additional fee, not to exceed $10.50, may be imposed by the body imposing the restriction for costs of completing and filing the certificate.

SECTION 11.10 PENALTIES: Penalties shall be as provided in KRS 100.991. Violation of this Ordinance shall be a class B Misdemeanor. Each day of this violation shall constitute a separate offense.

ARTICLE 12

BOARD OF ADJUSTMENT

SECTION 12.0 ESTABLISHMENT OF BOARD OF ADJUSTMENT; MEMBERSHIP; APPOINTMENT; TERMS; VACANCIES; OATHS; COMPENSATION; REMOVAL; OFFICERS:

A. A board of adjustment is hereby established for adopting legislative bodies.

B. The board of adjustment shall consist of five (5) members, all of whom must be citizen members.

C. The judge/executive shall be the appointing authority subject to the approval of the Fiscal Court.

(City only:) Pursuant to the "Agreement Establishing Joint Planning Unit, a Joint Planning Commission and Board of Adjustment for Pendleton County, Falmouth and Butler," the Board of Adjustment shall include an additional member from each city when the cities of Falmouth and Butler adopt zoning, to be appointed by the Mayor of the respective city subject to approval of the respective city council. The City, by hereby adopting zoning, will add one member to be appointed to the existing five-member county Board of Adjustment, and the other city shall also have the right to one member, bringing the number of members to seven (7). The term of office of the additional members shall be staggered to comply with KRS 100.217 (4) and the above-mentioned Agreement. Provided however that, if an amendment is enacted to the "Agreement Establishing Joint Planning Unit, a Joint Planning Commission and Board of Adjustment for Pendleton County, Falmouth and Butler," allowing a city to establish its own separate board of adjustment, then the city shall form its own separate five-member board of adjustment with jurisdiction within its city limits, and all appointees will be by be appointed by the Mayor of the respective city subject to approval of the respective city council.

D. The term of office for the board of adjustment members shall be four (4) years, but the term of office of members first appointed shall be staggered so that a proportionate number serve one (1), two (2), three (3), and four (4) years, respectively.

E. Vacancies on the board of adjustment shall be filled within sixty (60) calendar days by the appropriate appointing authority. If the authority fails to act within that time, the planning commission shall fill the vacancy. When a vacancy

occurs, other than through expiration of the term of office, it shall be filled for the remainder of that term.

F. All members of the board of adjustment shall, before entering upon their duties, qualify by taking the oath of office, prescribed by Section 228 of the Constitution of the Commonwealth of Kentucky, before any judge, notary public, clerk of court, or justice of the peace, within the district or legislative body in which they reside.

G. Reimbursement for expenses or compensation or both may be authorized for members on the board of adjustment.

H. Any member of the board of adjustment may be removed by the appropriate appointing authority, subject to the approval by their respective legislative body, for inefficiency, neglect of duty, malfeasance, or conflict of interest. The appointing authority, in exercising the power to remove a member from the board of adjustment, shall submit a written statement to the planning commission setting forth the reasons and the statement shall be read at the next meeting of the board of adjustment which shall be open to the general public. The member so removed shall have the right of appeal from the removal to the circuit court of Pendleton County.

I. The board of adjustment shall elect annually a chairman, vice-chairman, and secretary, and any other officers it deems necessary, and any officer shall be eligible for re-election at the expiration of their term.

SECTION 12.1 MEETINGS OF BOARDS; QUORUM; MINUTES; BYLAWS; FINANCES; SUBPOENA POWER; ADMINISTRATION OF OATHS:

A. The board of adjustment shall conduct meetings at the call of the chairman, who shall give written or oral notice to all members of the board at least seven (7) days prior to the meeting, which notice shall contain the date, time, and place for the meeting, and the subject or subjects which will be discussed. Written notice of the meeting containing date, time, and place of the meeting, shall also be provided to the applicant, by first class mail, at least seven (7) days prior to the meeting.

B. A simple majority of the total membership of the board of adjustment, as established by regulation or agreement, shall constitute a quorum. Any member of the board of adjustment who has any direct or indirect financial interest in the outcome of any question before the body shall disclose the nature of the interest and shall disqualify himself from voting on the question. A quorum must exist for each agenda item to be voted upon after any member disqualifications.

C. The board of adjustment shall adopt bylaws for the transaction of business and shall keep minutes and records of all proceedings including regulations, transactions, findings, and determinations and the number of votes for and against each question, and if any member is absent or abstains from voting, indicating the fact, all of which shall, immediately after adoption, be filed in the office of the board of adjustment. A transcript of the minutes of the board of adjustment shall be provided if requested by a party, at the expense of the requesting party, and the transcript shall constitute the record.

D. The board of adjustment shall have the right to receive, hold, and spend funds which it may legally receive from any and every source in and out of the state of Kentucky, including the United States Government.

E. The board of adjustment shall have the power to issue subpoenas to compel witnesses to attend its meetings and give evidence bearing upon the questions before it.

F. The chairman of the board of adjustment shall have the power to administer an oath to witnesses prior to their testifying before the board on any issue.

G. A board of adjustment may appoint one (1) or more of its members to act as hearing examiner to preside over a public hearing or public meeting and make recommendations to the board based upon a transcript or record of the hearing.

SECTION 12.2 PROCEDURE FOR ALL APPEALS TO BOARD:

A. Appeals to the board of adjustment may be taken by any person or entity claiming to be injuriously affected or aggrieved by an official action, order, requirement, interpretation, grant, refusal, or decision of the Zoning Administrator. Such appeal shall be taken within thirty (30) calendar days after the appellant or his agent receives notice of the action of the official to be appealed from, by filing with said Zoning Administrator and with the board, a notice of appeal specifying the grounds thereof, and giving notice of such appeal to any and all parties of record. A fee, as required by Section 14 of this Ordinance, shall also be given to the Zoning Administrator at this time. Said Zoning Administrator shall forthwith transmit to the board all papers constituting the record upon which the action appealed from was taken and shall be treated as and be the respondent in such further proceedings. At the public hearing on the appeal held by the board, an interested person may appear and enter his appearance, and all shall be given an opportunity to be heard.

B. The board of adjustment shall fix a reasonable time for hearing the appeal and give public notice in accordance with KRS Chapter 424, as well as written notice to the appellant and the Zoning Administrator at least one (1) calendar week prior to the hearing, and shall decide on the appeal within sixty (60) consecutive

calendar days. The affected party may appear at the hearing in person or by attorney.

SECTION 12.3 APPEALS FROM PLANNING COMMISSION, BOARD OF ADJUSTMENT, OR LEGISLATIVE BODY: Any appeal from the planning commission, board of adjustment, or legislative body action may be taken in the following manner:

A. Any person or entity claiming to be injured or aggrieved by any final action of the planning commission shall appeal from the final action to the circuit court of Pendleton County. Such appeal shall be taken within thirty (30) days after such action. Such action shall not include the commission's recommendations made to other governmental bodies. All final actions which have not been appealed within thirty (30) days shall not be subject to judicial review. In such case, the thirty (30) day period for taking an appeal begins to run at the time the legislative body grants or denies the map amendment for the same development. The planning commission shall be a party in any such appeal filed in the circuit court. After the appeal is taken, the procedure shall be governed by the rules of civil procedure.

B. Any person or entity claiming to be injured or aggrieved by any final action of the board of adjustment shall appeal from the action to the circuit court of Pendleton County, which is the subject of the action of the board of adjustment, lies. Such appeal shall be taken within thirty (30) consecutive calendar days after the final action of the board of adjustment. All final actions which have not been appealed within thirty (30) days shall not be subject to judicial review. The board of adjustment shall be a party in any such appeal filed in the circuit court.

C. Any person or entity claiming to be injured or aggrieved by any final action of the legislative body of any city or county, relating to a map or text amendment, shall appeal from the action to the circuit court of Pendleton County. Such appeal shall be taken within thirty (30) days after the final action of the legislative body. All final actions which have not been appealed within thirty (30) days shall not be subject to judicial review. The legislative body shall be a party in any such appeal filed in the circuit court.

D. The owner of the subject property and applicants who initiated the proceeding shall be made parties to the appeal. Other persons speaking at the public hearing are not required to be made parties to such appeal.

E. For purposes of this Ordinance, final action shall be deemed to have occurred on the calendar date when the vote is taken to approve or disapprove the matter pending before the body.

SECTION 12.4 STAY OF PROCEEDINGS: An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Administrator from whom the

appeal is taken, certifies to the board of adjustment, after the notice of appeal is filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life and/or property. In such case, proceedings shall not be stayed other than by a court of record on application, or on notice to the Zoning Administrator from whom the appeal is taken and on due cause shown.

SECTION 12.5 POWERS OF BOARD OF ADJUSTMENT: The board of adjustment shall have the following powers:

A. VARIANCES: To hear and decide on applications for variances.

B. APPEALS: To hear and decide appeals, where it is alleged, by the appellant, that there is an error in any order, requirement, decision, grant, or refusal made by the Zoning Administrator in the enforcement of this Ordinance. Such appeal shall be taken within thirty (30) consecutive calendar days.

C. CONDITIONAL USES: To hear and decide applications for conditional use permits to allow the proper integration into the community of uses which are specifically named herein, which may be suitable only in specific locations in the zone only if certain conditions are met, as specified in Section 12.8 of this Ordinance.

D. INTERPRETATIONS: To hear and decide, in accordance with the provisions of this Ordinance, requests for interpretation of the official zoning map or for decisions upon other special questions upon which said board is authorized to act upon.

E. NON-CONFORMING USES: To hear and decide, in accordance with the provisions of this Ordinance and the adopted comprehensive plan, requests for the change from one nonconforming use to another.

SECTION 12.6 VARIANCES; CHANGE FROM ONE NONCONFORMING USE TO ANOTHER; CONDITIONS GOVERNING APPLICATIONS; PROCEDURES:

A. VARIANCES:

1. A variance shall not be granted by the board of adjustment unless and until:

   a. A written application for a variance, including the required fee per Section 14 of this Ordinance and a Stage I Development Plan, subject to the applicable requirements of Section 11.2 of this Ordinance, are submitted.

b. Notice of public hearing shall be given in accordance with Section 12.2 of this Ordinance.

c. The public hearing shall be held. Any person may appear in person, or by agent, or by attorney.

2. Before any variance is granted, the board of adjustment must find that the granting of the variance will not adversely affect the public health, safety, or welfare, will not alter the essential character of the general vicinity, will not cause a hazard or a nuisance to the public, and will not allow an unreasonable circumvention of the requirements of the zoning regulations. In making these findings, the board shall consider whether:

a. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity, or in the same zone;

b. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant; and

c. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

3. The board shall deny any request for a variance arising from circumstances that are the result of willful violations of this Ordinance by the applicant subsequent to the adoption of this Ordinance from which relief is sought.

4. In granting any variance, the board of adjustment may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance and punishable under Section 11.10 of this Ordinance.

B. VARIANCE CANNOT CONTRADICT ZONING REGULATION: The board of adjustment shall not possess the power to grant a variance to permit a use of any land, building, or structure which is not permitted by this Ordinance in the zone in question, or to alter the density of dwelling unit requirements in the zone in question.

C. VARIANCE RUNS WITH LAND: A variance applies to the property for which it is granted and not to the individual who applied for it. A variance runs with the land

and is transferable to any future owner of the land, but it cannot be transferred by the applicant to a different site.

SECTION 12.7 CHANGE FROM ONE NONCONFORMING USE TO ANOTHER: A nonconforming use shall not be changed to another nonconforming use without the specific approval of the board of adjustment, as provided for herein.

A. The board of adjustment shall have the power to hear and decide on applications to convert or change nonconforming use to another nonconforming use, subject to the following:

1. A written application for a change from one nonconforming use to another (including the required fee per Article 14 of this Ordinance) and a Stage I Development Plan, if applicable, subject to the applicable requirements of Section 11.2 of this Ordinance, shall be submitted to the board.

2. Notice of public hearing shall be given in accordance with Section 12.2 of this Ordinance.

3. The public hearing shall be held. Any person may appear in person, by agent, or by attorney.

4. Prior to granting a change from one nonconforming use to another, the board of adjustment shall find that the new nonconforming use is in the same or more restrictive classification of use as the prior nonconforming use. In the determination of the same or more restrictive classification of use, the applicant shall establish and the board of adjustment shall find:

   a. That the new nonconforming use shall generate less vehicular traffic (automobile and truck) than the prior nonconforming use.

   b. That the new nonconforming use is of a nature which will emit less noise and air pollution than the prior nonconforming use.

   c. That the new nonconforming use will be more in character with the existing neighborhood than the prior nonconforming use, in that it is more in conformance with the adopted comprehensive plan, and also, more in conformance with the uses permitted in the zone in which the use is located, than the prior nonconforming use.

5. Any change of nonconforming use granted by the board of adjustment shall conform to the requirements of this Ordinance, including, but not limited to, parking requirements, sign regulations and yard requirements, and all other pertinent ordinances of the legislative body, unless specifically waived by the Board of Adjustment upon written application and for good cause shown at the public hearing.

6. The board of adjustment shall not allow the enlargement or extension of a nonconforming use beyond the scope and area of its operation at which time its use became nonconforming.

7. The board of adjustment, in granting a change of nonconforming uses, may attach such conditions thereto as it may deem necessary and proper. The action, limitations, and conditions imposed, if any, shall be in writing, directed to the applicant, with a copy to be furnished to the Zoning Administrator.

8. The change of nonconforming use, as may be granted by the board of adjustment, applies to the property for which it is granted and not to the individual who applied and, therefore, cannot be transferred by the applicant to a different property.

9. In the case where the change of nonconforming use has not occurred within one (1) year after the date of granting thereof, the change of nonconforming use permit shall be null and void and reapplication to the board of adjustment shall have to be made.

SECTION 12.8 CONDITIONAL USE PERMITS: In accordance with KRS 100.237, the board of adjustment shall have the power to hear and decide applications for conditional use permits to allow the proper integration into the community of uses which are specifically named herein which may be suitable only in specific locations in the zone only if certain conditions are met.

A. The board of adjustment shall have the power to hear and decide on applications for conditional use permits, subject to the following:

1. A written application for a conditional use permit (including the required fee per Article 14 of this Ordinance) and a Stage I Development Plan subject to the applicable requirements of Section 11.3.A. of this Ordinance, shall be submitted to the board.

2. Notice of public hearing shall be given in accordance with this Section of this Ordinance.

3. The public hearing shall be held. Any person may appear in person, or by agent, or by attorney.

4. Prior to granting a conditional use permit, the board of adjustment shall find that the application for a conditional use permit meets the requirements of this Ordinance, That the proposed use at the particular location is necessary or desirable to provide a service or facility which will

contribute to the general well-being of the neighborhood or the community; and that such use will not be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity.

5. CRITERIA: Evaluation of the proposed conditional use and/or development plan shall be based upon the following criteria (In review of the application, the Board may modify the area and height requirements of the zone in which the conditional use is located provided that the Board finds that such changes are in agreement with the criteria established within this section of this Ordinance) :

   a. Agreement with the various elements of the Comprehensive Plan, and where applicable, any other adopted plan.

   b. Extent to which the proposed development plan is consistent with the purpose of the zoning district in which it is proposed to be located.

   c. Adequacy of the proposed site, considering such factors as the sufficiency of the size of the site to comply with the established criteria, the configuration of the site, and the extent to which the site is formed by logical boundaries (e.g., topography, natural features, streets, relationship of adjacent uses, etc.).

   d. Nature and extent of the proposed uses in relation to the unique characteristics of the site.

   e. Extent to which the design of the proposed development responds to the natural and man - made features of the site.

   f. Building locations should be planned to accomplish a desirable transition with open spaces, pedestrian areas, and off - street parking areas.

   g. Extent to which the scale of the proposed use relates to and is harmonious with the natural environment and adjacent buildings and will not change the essential character of the same area.

   h. Heights of structures should be compatible with the height of existing structures adjacent to the site.

   i. Amount of traffic that would be generated by the proposed development and the ability of the existing street system to adequately handle said traffic. Where deficiencies exist, proposed

traffic improvements that would correct such deficiencies should be considered.

j. Existing trees, streams, natural features, and scenic views should be preserved and maintained where feasible and practicable.

k. Extent to which an overall landscaping plan is developed and achieved to compliment the overall project.

l. Landscaping should be an integral part in the design of off - street parking areas to soften the impact of hard surfaced areas on adjacent areas.

m. Open spaces and landscaping along the perimeter of the site shall be compatible with adjoining uses and zones.

n. Extent to which all necessary public utilities and facilities are available to service the proposed development, including police and fire protection, water and sewer services (where applicable) and other services normally provided within the area. Where deficiencies exist, improvements that would correct such deficiencies may be considered.

B. The board of adjustment may approve, modify, or deny any application for a conditional use permit. If it approves such permit, it may attach necessary conditions such as time limitations, requirements that one or more things be done before the request can be initiated, or conditions of a continuing nature. Any such conditions shall be recorded in the board's minutes and on the conditional use permit, along with a reference to the specific section in the zoning regulation listing the conditional use under consideration. In addition, a certificate of Land Use Restriction shall be filed pursuant to Section 11.9 of this Ordinance. The board shall have the power to revoke conditional use permits, or variances for noncompliance with the condition thereof. Furthermore, the board shall have the right of action to compel offending structures or uses removed at the cost of the violator and may have personal judgment for such cost.

C. Granting of a conditional use permit does not exempt the applicant from complying with all of the requirements of this Ordinance, the building code, housing code, and other regulations of the governing body.

D. In any case, where a conditional use permit has not been exercised within the limit set by the board, or within twelve (12) consecutive calendar months from date of issuance, such conditional use permit shall not revert to its original designation, unless there has been a public hearing. "Exercised," as set forth in this section, shall mean that binding contracts for the construction of the main

building or other improvement has been let; or in the absence of contracts that the main building or other improvement is under construction to a substantial degree, or that prerequisite conditions involving substantial investment shall be under contract, in development, or completed. When construction is not a part of the use, exercised shall mean that the use is in operation in compliance with the conditions as set forth in the permit.

E. The Zoning Administrator shall review all conditional use permits, except those for which all conditions have been permanently satisfied, at least once annually and shall have the power to inspect the land or structure where the conditional use is located in order to ascertain that the landowner is complying with all of the conditions which are listed on the conditional use permits. If the landowner is not complying with all of the conditions listed on the conditional use permit, the Zoning Administrator shall report the fact in writing to the chairman of the board of adjustment. The report shall state specifically the manner in which the landowner is not complying with the conditions on the conditional use permit, and a copy of the report shall be furnished to the landowner at the same time it is furnished to the chairman of the board of adjustment. The board shall hold a hearing on the report within a reasonable time, and notice of the time and place of the hearing shall be furnished to the landowner at least one week prior to the hearing. If the board of adjustments finds that the facts alleged in the report of the Zoning Administrator are true and that the landowner has taken no steps to comply with them between the date of the report and the date of the hearing, the board of adjustment may authorize the Zoning Administrator to revoke the conditional use permit and take the necessary legal action to cause the termination of the activity on the land which the conditional use permit authorizes.

F. Once the board of adjustment has completed a conditional use permit, and all the conditions required are of such type that they can be completely and permanently satisfied, the Zoning Administrator, upon request of the applicant, may, if the facts warrant, make a determination that the conditions have been satisfied, and enter the facts which indicate that the conditions have been satisfied and the conclusion in the margin of the copy of the conditional use permit which is on file.

G. When an application is made for a conditional use permit for land located within or abutting any residential zoning district, written notice shall be given at least fourteen (14) days in advance of the public hearing on the application to the applicant, administrative official, an owner of every parcel of property adjoining the property to which the application applies, and such other persons as this Ordinance or board of adjustment bylaws shall direct. Written notice shall be by first class mail with certification by the board's secretary or other officer that the notice was mailed. It shall be the duty of the applicant to furnish to the board the name and address of an owner of each parcel of property as described in this subsection. Records maintained by the property valuation administrator may be

relied upon conclusively to determine the identity and address of said owner. In the event such property is in condominium or cooperative forms of ownership, then the person notified by mail shall be the president or chairperson of the owner group which 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.

SECTION 12.9 DECISIONS OF THE BOARD OF ADJUSTMENT:

A. In exercising the aforementioned powers, the board of adjustment may, so long as such action is in conformity with the provisions of this Ordinance, reverse or affirm wholly or partly, or may modify the order, requirements, decision, or determination as made by the Zoning Administrator, from whom the appeal is taken.

B. A majority of board members present and voting shall be necessary to reverse any order, requirement, decision or determination of the Zoning Administrator, so long as such action is in conformity with the provisions of this Ordinance, or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance, or to effect any variation in the application of this Ordinance. A quorum must exist for each agenda item to be voted upon after any member disqualifications.

C. The details of the decision of the board shall be forwarded to the zoning administrator.

SECTION 12.10 CONDITIONAL USE PERMITS AND VARIANCES REQUESTED IN CONJUNCTION WITH ZONING MAP AMENDMENTS: Applicants for zoning map amendments may elect, at the time of application, to have variance(s) or conditional use permit(s) for the same development heard and decided by the Planning Commission at the same public hearing as the map amendment proposal. In such cases, the Planning Commission shall assume all powers and duties otherwise exercised by the Board of Adjustments pursuant to KRS 100.231, 100.233, 100.237, 100.241, 100.243, 100.247, and 100.251. For purposes of Article 12 only, references to the Board of Adjustment shall also include the Planning Commission when the Commission is considering Variance(s) or Conditional Use Permit(s). Determinations on the issuance of Variance(s) or Conditional Use Permits shall be made in accordance with the provisions of KRS 100.237. Any judicial proceeding to appeal the planning commission action authorized by this section in granting or denying any variance or conditional use permits shall be taken pursuant to KRS 100.347 (2) and Section 12.3 of this ordinance.

ARTICLE 13

AMENDMENT PROCEDURES

SECTION 13.0 AMENDMENT PROCEDURES:

A. FILING OF AMENDMENT APPLICATION: All applications for amendments to this ordinance shall be filed with the Pendleton County Joint Planning Commission. The Pendleton County Joint Planning Commission staff shall immediately notify the legislative body by promptly forwarding the application to the local legislative body. A public hearing shall be scheduled to be held within forty-five (45) days of the date of receipt of the application by the Planning Commission. The fee required for applying for such amendment shall be as provided for in the Schedule of Fees contained herein.

B. PLANNING COMMISSION REVIEW REQUIRED: A proposal for a zoning map amendment to this ordinance may be initiated by the planning commission, any fiscal court or legislative body, or by an owner of the property in question. A proposal to amend the text of this ordinance may be initiated by the planning commission or by any legislative body. Regardless of the origin of the proposed amendment, it shall be referred to the planning commission for its action before adoption.

1. The planning commission may hear and decide applications for variances and conditional use permits when a proposed development requires a map amendment and one (1) or more variances or conditional use permits as stated in Section 12.10 of this ordinance.

C. PUBLIC HEARING REQUIRED, NOTICE GIVEN:

1. The planning commission shall hold at least one public hearing on the proposed amendment, at which hearing parties in interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published at least once, but may be published two or more times, in a newspaper of general circulation in the county, provided that one publication occurs not less than seven (7) calendar days nor more than twenty-one (21) calendar days before the occurrence of such hearing.

2. In addition to the public notice requirements prescribed herein, when the planning commission, or legislative body initiates a proposal to amend the zoning map, notice of the public hearing before the planning commission, fiscal court, or legislative body shall be given at least thirty (30) days in

advance of the hearing, by first class mail, to an owner of every parcel of property, the classification of which is proposed to be changed. Records by the property valuation administrator may be relied upon to determine the identity and address of said owner.

D. OTHER HEARING REQUIREMENTS, ZONING MAP AMENDMENT: In addition to the public hearing notice required in Section 13.0, C., above, the following notices shall also be given when a proposal is submitted by a property owner to amend the official zoning map:

1. Notice of the hearing shall be posted conspicuously on the property, the classification of which is proposed to be changed, for fourteen (14) consecutive days immediately prior to the hearing. Said posting shall consist of one or more signs, constructed of durable material, and clearly depicting the following information: the words "ZONING CHANGE" (three (3) inch high lettering); current zoning classification of property and proposed zoning classification (three (3) inch high lettering); date, place, and time of public hearing (one (1) inch high lettering); and address, including telephone number, of the planning commission where additional information regarding hearing may be obtained; and

2. Notice of the hearing shall be given at least fourteen (14) days in advance of the hearing, by first class mail, with certification by the commission secretary, or other officer of the planning commission, that the notice was mailed to an owner of every parcel of property adjoining the property, the classification of which is proposed to be changed. Where said property adjoins a street or alley, property abutting the opposite side of such street or alley shall be considered adjoining property. It shall be the duty of the person(s) proposing the amendment to furnish to the planning commission the names and addresses of the owners of all adjoining property. Records maintained by the property valuation administrator may be relied upon conclusively to determine the identity and address of said owner. In the event such property is in condominium or cooperative forms of ownership, then the person notified by mail shall be the president or chairperson of the owner group which 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.

3. If the property, the classification of which is proposed to be changed, adjoins property in a different planning unit, or property which is not part of any planning unit, notice of the hearing shall be given at least fourteen (14) days in advance of the hearing, by first class mail to certain officials, as follows:

a. If the adjoining property is part of a planning unit, notice shall be given to that unit's planning commission; or

b. If the adjoining property is not part of a planning unit, notice shall be given to the mayor of the city in which the property is located or, if the property is in an unincorporated area, notice shall be given to the judge/executive of the county in which the property is located.

4. All procedures for public notice and publication, as well as for adoption, shall be the same as for the original enactment of a zoning regulation, and the notice of publication shall include the street address of the property in question, or if one is not available, or if it is not practicable due to the number of addresses involved, a geographic description sufficient to locate and identify the property, and the names of the two (2) streets on either side of the property which intersect the street on which the property is located. If the property is located at the intersection of two (2) streets, the notice shall designate the intersection by name of both streets rather than name the two (2) streets on either side of the property.

E. FINDINGS NECESSARY FOR MAP AMENDMENT: Before any map amendment is granted, the planning commission, or legislative body, must find that the amendment is in agreement with the adopted comprehensive plan, or in the absence of such a finding, that one or more of the following apply, including the making of a written report, setting forth explicitly, the reasons and substantiation as to how each would apply, and such finding and report shall be recorded in the minutes and records of the planning commission or legislative body.

1. That the existing zoning classification given to the property is inappropriate and that the proposed zoning classification is appropriate; and

2. That there have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in the adopted comprehensive plan and which have substantially altered the basic character of such area.

F. PLANNING COMMISSION ACTION:

1. MAP AMENDMENT: Following the public hearing held by the planning commission on a proposed map amendment, the commission shall, within sixty (60) calendar days from the date of its receipt, make findings of fact and a recommendation of approval or disapproval of the proposed map amendment to the legislative body, including a statement setting forth explicitly the reasons and substantiation for such action and, in the case of a map amendment, the submission of a written report as required in

Section 13.0, E., above. The findings of fact and recommendation shall include a summary of the evidence and testimony presented by the proponents and opponents of the proposed amendment. A tie vote shall be subject to further consideration by the planning commission for a period not to exceed thirty (30) days, at the end of which, if the tie has not been broken, the application shall be forwarded to the fiscal court or legislative body without a recommendation of approval or disapproval.

2. TEXT AMENDMENT: Following the public hearing held by the planning commission on a proposed text amendment, the commission shall make a recommendation as to the text of the amendment and whether the amendment shall be approved or disapproved and shall state the reasons for its recommendation. In the case of a proposed text amendment originating with a legislative body or fiscal court, the planning commission shall make its recommendation within sixty (60) days of the date of its receipt of the proposed text amendment.

G. LEGISLATIVE BODY DISPOSITION:

1. MAP AMENDMENT: The legislative body or fiscal court shall take final action upon a proposed map amendment within ninety (90) days of the date upon which the planning commission takes its final action upon such proposal. It shall take a majority of the entire legislative body or fiscal court to override the recommendation of the planning commission; and it shall take a majority of the entire legislative body or fiscal court to adopt a zoning map amendment whenever the planning commission forwards the application to the legislative body or fiscal court without a recommendation of approval or disapproval due to a tie vote. Unless a majority of the entire legislative body or fiscal court 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 legislative body or fiscal court adopting the zoning map amendment shall be deemed to have passed by operation of law.

2. TEXT AMENDMENT: It shall take an affirmative vote of a majority of the legislative body or fiscal court to adopt a proposed text amendment.

H. SUBMISSION OF DEVELOPMENT PLAN AS CONDITION TO COMMERCE **(CITY ONLY: ADD: "AND DOWNTOWN")** ZONING MAP AMENDMENT: Any request for a zoning map amendment, excluding those submitted by the legislative body and the planning commission, to any Commerce Zone **(City only: add: "and Downtown Zone")** shall be made in accordance with all applicable requirements of this ordinance, including the following:

1. APPLICATION AND PROCESSING: Application for a zoning map amendment shall be processed in two stages. The requirements for the first stage are enumerated below. The requirements for the second stage are enumerated in Section 11.2 above.

   a. Application for a zoning amendment shall be filed with the zoning administrator as required by Section 13.0, A., and shall include a Stage 1 Development Plan in accordance with the applicable requirements of Section 11.3., A., of this ordinance. The zoning administrator may waive the submission of certain data otherwise required by Section 11.3., A., until such time as the zoning amendment has been granted.

   b. The planning commission shall hold a public hearing on the proposed application and review said application with regard to the required elements of the Development Plan, and other applicable requirements of this section. Upon holding such a hearing, the planning commission shall make one of the following recommendations to the legislative body: approval, approval with condition(s), or disapproval. The planning commission shall submit, along with their recommendations, a copy of the Development Plan and the bases for their recommendation.

   c. The legislative body shall, within ninety (90) consecutive days after receiving the recommendations of the planning commission, review said recommendations and take action to approve or disapprove the proposed Development Plan. Such approval may incorporate any conditions imposed by the planning commission.

   d. Approval of the zoning map amendment shall require that development be in accordance with the approved Development Plan. Additionally, upon approval of the zoning map amendment, the official zoning map shall be amended for the area as shown on the approved development plan.

   e. The legislative body shall forward a copy of the approved Development Plan to the zoning administrator, or the legislative body's duly authorized representative, for further processing, in accordance with the applicable requirements of this ordinance.

   f. If any data required under Section 11.3, A. had been waived by the zoning administrator in the initial submission of the Development Plan, then such data shall be submitted for review in accordance with the requirement of Section 7.4., A.3.a. before a permit may be issued for construction.

g. The zoning administrator, in reviewing the Stage II Development Plan, may authorize minor adjustments from the approved development plan, provided that the adjustments do not affect the spatial relationship of structures, change land uses, increase overall density, alter circulation patterns (vehicular and/or pedestrian), decrease the amount and/or usability of open space or recreation areas, or affect other applicable requirements of this ordinance.

2. AMENDMENTS: Any amendments to plans, except for the minor adjustments which may be permitted by the zoning administrator as noted above, shall be made in accordance with the procedure required by this ordinance, subject to the same limitations and requirements as those under which such plans were originally approved.

3. EXPIRATION: The zoning map amendment shall be subject to the time constraints as noted below. Upon expiration of said time period, and any extensions thereto, the legislative body may initiate a request for a public hearing by the planning commission, in accordance with the requirements of KRS Chapter 100, for the purpose of determining whether said zoning map amendment should revert to its original designation. A public hearing may be initiated if substantial construction has not been initiated within a period of twelve (12) consecutive months from the date of approval of the Development Plan by the legislative body, provided that an extension may be permitted upon approval of the legislative body, or its duly authorized representative, if sufficient proof can be demonstrated that the construction was delayed due to circumstances beyond the applicant's control, and that prevailing conditions have not changed appreciably to render the approved Development Plan obsolete. The amount of construction that constitutes initiating substantial construction shall be as approved in the Development Plan.

SECTION 13.1 ACTIONS OF LOCAL GOVERNMENTAL UNITS TO BE FURNISHED TO THE PENDLETON COUNTY JOINT PLANNING COMMISSION: The legislative body shall, after final adoption of any zoning ordinance or resolution, including text amendments and map amendments, furnish, or cause to be furnished, within sixty (60) days after adoption, a copy of same to the Pendleton County Joint Planning Commission.

ARTICLE 14
SCHEDULE OF FEES

SECTION 14.0 FEES:

Fees for zoning applications (a permit is required for all) shall be charged as follows:

Type of Application/Permit/Development	Fee
Accessory Structure/Use	$10
Home Occupation	$25
Change of Use (Existing Structure/Parking)	$50
Single Family	$50
Two-Family	$100
Multi-Family	$300
Residential Additions	$25
Sign	$35
Cell Tower	$2,500
Board of Adjustment Application	$150
Map Amendment	$200
Stage I Development Plan	$300
Stage II Development Plan	$200
Copies: Zoning Ordinance/Subdivision Regulations/Comprehensive Plan	$20
Copies	$0.25/Page
Zoning Certifications/Letters	$25.00

Advertising and notification fees, signage, and filing fees are included in Board of Adjustment and PCJPC application fees.

ARTICLE 15

DEFINITIONS

SECTION 15.0 WORDS AND PHRASES: For the purposes of this Ordinance, certain terms, phrases, words, and their derivatives are herewith defined as follows:

A. Words used in the future tense include the present;
B. Words used in the present tense include the future;
C. Words used in the singular include the plural;
D. Words used in the plural include the singular;
E. Words used in the masculine include the feminine;
F. Words used in the feminine include the masculine;
G. The word "shall" is mandatory;
H. The word "may" shall be deemed as permissive.

ACCESSORY BUILDING OR USE, CUSTOMARY: A "customary accessory building or use" is one which:

A. Is subordinate to and serves the principal building or principal use;
B. Is subordinate in area, extent, or purpose to the principal building or principal use served;
C. Contributes to the comfort, convenience, or necessity of occupants of the principal building or principal use served; and
D. Is located on the same lot as the principal building or principal use served, with the single exception of such accessory off-street parking facilities as are permitted to locate elsewhere than on the same lot with the building or use served.

ACCESS POINT: An access point is:

A. A driveway, a local street, or a collector street intersecting an arterial street;
B. A driveway or a local street intersecting a collector street; or
C. A driveway or a local street intersecting a second local street.

AGRICULTURE: means the use of a tract of at least five (5) contiguous acres for the production of agricultural or horticultural crops, including but not limited to livestock, livestock products, poultry, poultry products, grain, hay, pastures, soybeans, tobacco, timber, orchard fruits, vegetables, flowers, or ornamental plants, including provision for dwellings for persons and their families who are engaged in the agricultural use on the tract, but not including residential building development for sale or lease to the public

AIR RIGHTS: The ownership or control of that area of space at and above a horizontal plane over the ground surface of land. This horizontal plane shall be at a height above the existing or proposed development (depending on the individual property in question) which is reasonably necessary or legally required for the full and free use of the ground surface.

ALLEY: Public rights-of-way which normally affords a secondary means of access to abutting property.

BASEMENT: That portion of a building between floor and ceiling, which is so located that the vertical distance from the average level of the adjoining grade to the floor below is less than the vertical distance from the average level of the adjoining grade to the ceiling.

BILLBOARD: A sign which directs attention to a business, community service, entertainment or other purpose not exclusively related to the premises where such sign is located.

BOARD OF ADJUSTMENTS: Board of Adjustments of Pendleton County **(City only add: "... , Falmouth and Butler, Kentucky")**

BUFFER AREA: Areas so planned and/or zoned which act as a buffering or separation area between two (2) or more uses or structures not compatible, due to design, function, use, or operation.

BUILDING: A structure enclosed within exterior walls or firewalls for the shelter, housing, support, or enclosure of persons, animals, or property of any kind.

BUILDING, ALTERATION OF: Any change or rearrangement in the supporting members (such as bearing walls, beams, columns, or girders) of a building, or any addition to a building, or movement of a building from one location to another.

BUILDING AREA OR LOT COVERAGE BY BUILDING: That portion of a lot or building site that can be legally occupied by the ground floor of the principal building or use and all permitted accessory uses.

BUILDING, COMPLETELY ENCLOSED: A building separated on all sides from the adjacent open space, or from other buildings or other structures, by a permanent roof and by exterior walls or party walls, pierced only by windows and normal entrance or exit doors.

BUILDING, DETACHED: A building surrounded by open space on the same lot or tract of land.

BUILDING, HEIGHT OF: The vertical distance measured from average elevation of the finished grade adjoining the building at the front building line to the highest point of the roof surfaces, if a flat roof; to the deck line of a mansard roof; and to the average height level between eaves and ridge for gable, hip, and gambrel roofs.

BUILDING INSPECTOR: The official or officials, when so appointed, appointed by a legislative body to administer and enforce the Kentucky building codes.

BUILDING PERMIT: A permit issued by the building inspector, when so appointed, authorizing the construction or alteration of a specific building, structure, sign, or fence.

BUILDING, PRINCIPAL: The building on a lot used to accommodate the primary use to which the premises are devoted.

BUILDING SITE: One contiguous piece of land that meets all of the provisions of the ordinances, regulations, and codes for building on said site.

CANOPY: A roof-like structure open on three (3) sides serving the purpose of protecting pedestrians from rain, snow, sun, or hail, which structure projects from a building.

CHILD DAY CARE CENTER: See NURSERY SCHOOL.

CITIZEN MEMBER: Any member of the Planning Commission or Board of Adjustments who is not an elected or appointed official or employee of the legislative body.

COMMISSION (PLANNING COMMISSION OR PLANNING AND ZONING COMMISSION): The Pendleton County Joint Planning Commission, Pendleton County, Commonwealth of Kentucky.

COMPREHENSIVE PLAN: A guide for public and private actions and decisions to assure the development of public and private property in the most appropriate relationships. Where applicable, it is defined as the most recent such Comprehensive Plan as adopted by the Pendleton County Joint Planning Commission.

CONCEALED LIGHTING: An artificial light source intended to illuminate the face of a sign, the direct source of which is shielded from public view and surrounding properties.

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

CONDITIONAL USE PERMIT: Legal authorization to undertake a conditional use, issued by the Zoning Administrator, pursuant to authorization by the board of adjustments, consisting of two parts:

A. A statement of the factual determination by the board of adjustments 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.

CONFORMING USE: Any lawful use of a building, structure, lot, sign, or fence, which complies with the provisions of this Ordinance.

CURB CUT: Any interruption, or break in the line of a street curb in order to provide vehicular access to a street. In the case of streets without curbs, curb cuts shall represent construction of any vehicular access which connects to said street.

DEVELOPMENT PLAN: Written and graphic material for the provision of a development, including any or all of the following: location and bulk of buildings and other structures, intensity of use, density of development, streets, ways, parking facilities, signs, drainage of surface water, and all other conditions agreed to by the applicant. Whenever not specified, the term shall refer to a Stage I Development Plan, unless otherwise indicated.

DISTRICT: For purposes of this Ordinance, synonymous with "ZONE".

DWELLING: Any building which is completely intended for, designed for, and used for residential purposes, but for the purposes of this Ordinance, shall not include a hotel-motel, hotel, motel, nursing home, tourist cabins, college or university dormitories, or military barracks.

DWELLING UNIT: A building, or portion thereof, providing complete housekeeping facilities for one (1) person or one (1) family.

EASEMENT: A right, distinct from the ownership of the land, to cross property with facilities such as, but not limited to, sewer lines, water lines, and transmission lines, or the right, distinct from the ownership of the land, to reserve and hold an area for drainage or access purposes.

FAMILY: Shall consist of one individual, or any number of individuals related by genetics, adoption, marriage, or personal affinity, or any number of unrelated individuals occupying a dwelling unit as a single housekeeping unit. The term shall include individuals residing in a residential care facility as defined in KRS 100.984, state licensed adult family homes, homes for the disabled, and foster homes. The term shall not include group homes licensed for juvenile offenders, or other facilities, whether or

not licensed by the state, where individuals are incarcerated or otherwise required to reside pursuant to court order under the supervision of paid staff and personnel.

FENCE: A structure made of wire, wood, metal, masonry, or other material, including hedges.

FLOOD: A general and temporary condition of partial or complete inundation of normally dry land areas from: (a) the overflow of inland waters; (b) the unusual and rapid accumulation of runoff of surface waters from any source; and (c) mudslides (i.e., mudflows) which are proximately caused or precipitated by accumulations of water on or under the ground.

FLOODPLAIN OR FLOOD PRONE AREA: Any normally dry land area that is susceptible to being inundated by water from any source.

FLOOR AREA, GROSS: The sum of the gross horizontal area of the several floors of a dwelling unit or units exclusive of porches, balconies, and garages, measured from the exterior faces of the exterior walls or from the centerline of walls or partitions separating dwelling units. For uses other than residential, the gross floor area shall be measured from the exterior faces of the exterior walls or from the centerlines of walls or partitions separating such uses and shall include all floors, lofts, balconies, mezzanines, cellars, basements, and similar areas devoted to such uses. The gross floor area shall not include floors used for parking space when such parking pertains to a residential, commercial, or office used in the same structure.

FRONTAGE: All the property abutting on one (1) side of the right-of-way of a street, measured along the right-of-way line of the street between the intersecting lot lines. In no case shall the line along an alley be considered as acceptable for frontage.

GARAGE, PRIVATE: A building or portion of a principal building, designed, intended, and used for the storage of motor driven vehicles. This definition shall not include a public garage. A private garage is clearly accessory to the principal use permitted, and may contain additional rooms for storage, without plumbing facilities for the preparation of food, i.e., a kitchen.

GROUP DAY CARE: Provides care in a family home during the day for one and not more than six children, including the day care parent's own children

HOME OCCUPATION: An accessory use customarily conducted entirely within a dwelling, as permitted herein and further meeting all requirements of this Ordinance.

KENNEL: Any area specifically used for the raising, boarding, or harboring of ten (10) or more small domestic animals.

LANDFILL: A permitted facility for the disposal of any type of solid waste which facility complies with the "environmental performance standards" specified in 401 KAR 47:030.

LEASABLE AREA, GROSS: The floor area occupied exclusively by tenant, including finished basement and mezzanine areas and excluding such areas as elevators, stairways, corridors, and lobbies.

LEGISLATIVE BODY: Refers to the Pendleton Fiscal Court. The term may also refer to the city council or city commission of either Falmouth and/or Butler if these regulations are adopted by them.

LIVESTOCK: Domestic animals of types customarily raised or kept on farms for profit or other productive purposes.

LOADING AND/OR UNLOADING SPACE: A space used for the temporary standing, loading and/or unloading of vehicles.

LOT: A parcel of land or any combination of several lots of record, occupied or intended to be occupied by a principal building or a building group, as permitted herein, together with their accessory buildings or uses and such access, yards, and open spaces required under this Ordinance.

LOT AREA: The total area of a horizontal plane bounded by the front, side, and rear lot lines, but not including any area occupied by rights-of-way, the waters of any lake or river.

LOT, CORNER: A "corner lot" is a lot situated at the intersection of two streets or on a curved street on which the interior angle of such intersection or curved streets does not exceed one hundred thirty-five (135) degrees.

LOT, DEPTH OF: The distance measured in the mean direction of the side lot lines from the midpoint of the front lot lines to the midpoint of the rear lot lines.

LOT, DOUBLE FRONTAGE: A lot other than a corner lot that has frontage on more than one (1) street.

LOT, INTERIOR: A lot other than a corner lot with only one (1) frontage on a deeded and occupied public right-of-way.

LOT LINE, FRONT: The common boundary line of a lot and a street right-of-way line. In the case of a corner lot or a double frontage lot, the common boundary line and the street right-of-way line toward which the principal or usual entrance to the main building faces.

LOT LINE, REAR: The boundary line of a lot which is most nearly opposite the front lot line of such lot. In the case of a triangular or wedge shaped lot, for measurement purposes only, a line ten (10) feet in length within the lot parallel to and at the maximum distance from the front lot line. In the case of a corner lot, providing that all requirements for yard space are complied with, the owner may choose either side not abutting a street as the rear lot line, even though it is not opposite the front lot line. Once the choice has been made, it cannot be changed unless all requirements for yard space can be complied with.

LOT LINE, SIDE: Any boundary line of a lot, other than a front lot line or rear lot line.

LOT OF RECORD: A designated fractional part or subdivision of a block, according to a specific recorded plat or survey, the map of which has been officially accepted and recorded in the office of the Pendleton County Clerk Office, state of Kentucky.

LOT WIDTH: The width of the lot as measured along the building front setback line.

MANUFACTURED HOME: A single-family residential dwelling constructed after June 15, 1976, in accordance with the National Manufactured Home Construction and Safety Standards Act of 1974, 42 U.S.C. Section 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 the plumbing, heating, air conditioning, and electrical systems contained therein and installed in accordance with KRS 227.570 by a Kentucky certified installer.

MINIMUM BUILDING SETBACK LINE: A line parallel to the front, side, and/or rear lot line and set back from the lot line a sufficient distance as specified in this Ordinance, to provide, at the minimum, the required yard space.

MINIMUM FRONT YARD DEPTH: The minimum distance required by this Ordinance to be maintained within the lot between a line parallel to the front lot line, as defined herein, and the front lot line.

MINIMUM REAR YARD DEPTH: The minimum distance required by this Ordinance to be maintained within the lot between a line parallel to the rear lot line, as defined herein, and the rear lot line.

MINIMUM SIDE YARD WIDTH: The minimum distance required by this Ordinance to be maintained within the lot between a line parallel to the side lot line, as defined herein, and the side lot line.

MINING: Mining includes the development, drilling, blasting, extraction, severing, milling, crushing, screening, conveying, sizing, washing, and processing of minerals, limestone, sand, gravel, coal, and other materials; operation maintenance and repair of mining and processing equipment and facilities; transportation of materials within, to

and from the mine property; processing, manufacturing, and production of products, byproducts, waste and other materials, including lime, lime products, and stone products; dredging; filling; grading; paving; research, development, and analysis; purchase and sale of materials; and storage and disposal, on the surface and underground, of products, byproducts, waste, and other materials generated at the mine property or generated by any source at any other location.

MINING, UNDERGROUND: Underground mining is mining where all of the mining activity is conducted three hundred (300) feet or more below the natural contour of the surface of the property except for ventilation shafts, utilities, and related structures to ventilation shafts and utilities, including fences, on or leading to the surface.

MOBILE HOME: A structure manufactured prior to June 15, 1976, which was not required to be constructed in accordance with the federal National Manufactured Housing Construction in Safety Standards Act, which is transportable in one (1) or more sections, which, in the traveling mode, is eight (8) body feet or more in width and forty (40) body feet or more in length, or, when erected on site, is four hundred (400) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. Mobile homes must be installed in accordance with KRS 227.570 by a Kentucky certified installer.

MODULAR HOUSING: Housing manufactured off-site, often mass-produced, and designed so that sections are interchangeable. For purposes of this Ordinance, this definition shall not include mobile homes.

NONCONFORMING LOT: A lot which was lawfully created but which does not conform to the minimum area or dimensional requirements specified for the zone in which it is located.

NONCONFORMING USE OR STRUCTURE: An activity or a building, sign, fence, structure, or a portion thereof, which lawfully existed before the adoption or amendment of this Ordinance, but which does not conform to all of the regulations contained in this Ordinance, or amendments thereto, which pertain to the zone in which it is located.

NOXIOUS MATTER OR MATERIALS: Matter or material which is capable of causing injury to living organisms by chemical reaction or is capable of causing detrimental effects upon the physical or economic well-being of individuals as determined by the appropriate health department or the Three Rivers Health District.

NURSERY SCHOOL: Any building used for the daytime care or education of preschool age children with or without compensation, and including all accessory buildings and play areas.

PARKING AREA, OFF-STREET: An open, surfaced area, other than the rights-of-way of a street, alley, or place, used for temporary parking of motor vehicles.

PARKING BUILDING OR GARAGE: A building, or portion thereof, designed, intended, and used exclusively for the temporary parking of motor vehicles which may be publicly or privately owned and/or operated.

PARTICULATE MATTER: Any material, except uncombined water, which exists in a finely divided, suspended form as a liquid or solid at standard conditions.

PERFORMANCE STANDARDS: Criteria established to control building enclosure, landscaping, noise, odorous matter, exterior lighting, vibration, smoke, particulate matter, gasses, radiation, storage, fire, and explosive hazards, and humidity, heat, or glare generated by or inherent in, uses of land or buildings.

PERMANENT FOUNDATION: A system of supports that is: (1) capable of transferring, without failure, into soil or bedrock, the maximum design load imposed by or upon the structure; (2) constructed of concrete; and (3) placed at a depth below grade adequate to prevent frost damage.

PCJPC: Pendleton County Joint Planning Commission.

PLANNING COMMISSION: The Pendleton County Joint Planning Commission, Pendleton County, Kentucky.

QUALIFIED MANUFACTURED HOME: A manufactured home that meets all of the following criteria:

A. Is manufactured on or after July 15, 2002;
B. Is affixed to a permanent foundation as is connected to the appropriate facilities and is installed in compliance with KRS 227.570;
C. Has a width of at least twenty (20) feet at its smallest width measurement or is two (2) stories in height and oriented on the lot or parcel so that its main entrance door faces the street;
D. Has a minimum total living area of nine hundred (900) square feet;
E. Is not located in a manufactured home land-lease community; and
F. Is compatible, in terms of assessed value, with existing housing located immediately adjacent to: (1) either side of the proposed site within the same block front; (2) adjacent to the rear; or (3) within a one-eighth (1/8) mile radius or less from the proposed location of the qualified manufactured home.

RAILROAD RIGHTS-OF-WAY: A strip of land within which the railroad tracks and auxiliary facilities for track operation are normally located, but not including freight depots or stations, loading platforms, train sheds, warehouses, car or locomotive shops, or car yards.

SALVAGE YARDS: An open area where waste materials are bought, sold, exchanged, stored, shredded, baled, packed, or disassembled, including, but not limited to, scrap metals, paper, rags, tires, bottles, and motor vehicles.

SERVICE FACILITIES, PUBLIC UTILITIES: Service facilities include all facilities of public utilities operating under the jurisdiction of the Public Service Commission, or the Department of Motor Transportation, or Federal Power Commission, and common carriers by rail, other than office space, garage and warehouse space and include office space, garage space and warehouse space when such place is incidental to a service facility.

SETBACK: An area of land bounded by a property boundary line and a defined line parallel thereto, which area is generally prohibited from construction or development.

SIGN: Any combination of letters, pictures, characters, or other display used to identify or direct attention to some activity or direction.

SIGN, ADVERTISING: A sign which directs attention to a business, commodity, service, or entertainment conducted, sold, or offered only elsewhere than upon the premises where such sign is located or to which it is affixed.

SIGN, ANIMATED: Any sign having a conspicuous and intermittent variation in the illumination or physical position of any part of the sign.

SIGN, BUSINESS: A sign which directs attention to a business, profession, industry, to type of products sold, manufactured, or assembled, and/or to service or entertainment offered upon said premises and located upon the premises where such sign is displayed.

SIGN, CHANGEABLE COPY: Any sign having the capability to change content, whether electronically or manually

SIGN, FLASHING: Any sign having a conspicuous and intermittent variation in the illumination of the sign.

SIGN, FLAT: Any sign which is attached directly, in rigid manner, and parallel to the building wall.

SIGN, GROSS AREA OF: The entire area within a single continuous perimeter enclosing the limits of a sign. However, such perimeter shall not include any structural elements lying outside the limits of such sign and not forming an integral part of the display.

SIGN, GROUND: Any sign erected, constructed, or maintained directly upon the ground or upon uprights or braces placed in the ground, with a maximum permitted ground clearance of three (3) feet.

SIGN IDENTIFICATION: A sign used to identify: the name of the individual, family, organization, or enterprise occupying the premises; the profession of the occupant; the name of the building on which the sign is displayed.

SIGN, INDIVIDUAL LETTER: Letters and/or numbers individually fashioned from metal, glass, plastic or other materials and attached directly to the wall of a building, but not including a sign painted on a wall or other surface.

SIGN, POLE: Any sign affixed to a freestanding supporting pole or poles, embedded in, and extending upward from the ground with a ground clearance exceeding three (3) feet.

SIGN, PROJECTING: Any sign projecting from the face of a building and securely attached to the building by bolts, anchors, chains, guys, or to posts, poles, or angle irons attached directly to the building.

SIGN, WINDOW: Any type of sign or outdoor advertising device which is attached to a window of any building, but shall not extend past the limits of said window.

STORY: That portion 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 space between such floor and the ceiling next above it. For purposes of this Ordinance, a basement shall not be counted as a story.

STREET, PRIVATE: A paved private roadway which affords access to abutting property for private users of such property. For the purposes of density calculations, a private street shall constitute the areas of its paved surface and sidewalks or the private right-of-way if designated on the recorded plat.

STREET, PUBLIC: A public roadway, constructed within the boundaries of an officially deeded and accepted public right-of-way, which affords principal means of access to abutting property. For purposes of density calculations, a public street shall constitute all of the area within the public right-of-way.

STREET, ARTERIAL: Public thoroughfares which serve the major movements of traffic within and through the community, as identified in the adopted comprehensive plan. U.S. Highway 27 and KY 9 are arterial streets.

STREET, COLLECTOR: Public thoroughfares which serve to collect and distribute traffic, primarily from local to arterial streets.

STREET, FRONTAGE ROAD (SERVICE OR ACCESS ROAD): A street adjacent to a freeway, expressway, or arterial, street separated therefrom by a dividing strip and providing access to abutting properties.

STREET, LOCAL: Roadways which are designed to be used primarily for direct access to abutting properties and feeding into the collector street system.

STRUCTURE: Anything constructed or erected, the use of which requires permanent location in or on the ground or attachment to something having a permanent location in or on the ground, including such as: buildings, mobile homes, signs, fences, etc.

SUBDIVISION: Means the division of a parcel of land into three (3) or more lots or parcels for the purpose, whether immediate or future, of sale, lease, or building development, or if a new street is involved, any division of a parcel of land; provided that a division of land for agricultural use and not involving a new street shall not be deemed a subdivision. The term includes resubdivision and when appropriate to the context, shall relate to the process of subdivision or to the land subdivided; any division or re-division of land into parcels of less than one (1) acre occurring within twelve (12) months following a division of the same land shall be deemed a subdivision within the meaning of this section;

SWIMMING POOL, OUTDOOR: Any structure or device of any kind that is intended for swimming purposes, including but not limited to: any pool or tank of any material or type of construction, including all appurtenances to such structure or device and all appliances used in connection therewith; which structure or device is intended to cause, or would cause, if completely filled, the retaining of water to a greater depth than eighteen (18) inches at any point. Any such structure or device shall be deemed to be included within the meaning of the term "structure" as used in this Ordinance.

TRAILER: See CAMPING/VACATION MOBILE UNIT: The definition of trailer shall also include any non-powered vehicle, designed to be attached to a motor vehicle, for the purpose of transporting persons, property, or animals.

USE, PERMITTED: A use which may be lawfully established, if permitted, in a particular zone provided it conforms with all requirements of such zone.

VARIANCE: A departure from dimensional terms of this Ordinance pertaining to the height, width, or location of structures, and the size of yards and open spaces where such departure meets the requirements of KRS 100.241 to 100.251.

WEEDS: The existence of thistles, burdock, Jimson weed, ragweed, milkweeds, poison ivy, poison oak, iron weeds, and all other noxious weeds and rank vegetation of whatsoever kind of nature, on improved or unimproved real estate, occupied lots or vacant lots, to accumulate in piles, bundles, or heaps, or to grow or stand to a height in excess of ten (10) inches.

YARD DEPTH, FRONT: An area extending the full width of the lot or building site measured between a line parallel to the street right-of-way line intersecting the foremost point of any building excluding steps and unenclosed porches and the front lot line, as defined herein.

YARD DEPTH, REAR: An area extending across the full width of the lot and measured between a line parallel to the rear lot line, as defined herein, which intersects the rearmost point of any building excluding steps and unenclosed porches and the rear lot line.

YARD WIDTH, SIDE: An area between any building and the side lot line, as defined herein, extending from the front to the rear yard, or on through lots or building sites from one front lot line to the other front lot line.

ZONE: An established area in the county or city for which the provisions of this Ordinance are applicable. (Synonymous with the word "DISTRICT".)

ZONING ADMINISTRATOR: The official or officials appointed by the legislative bodies to administer and enforce the provisions of this Ordinance.

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APPENDIX A
Summary of Amendments:

December 9, 2014: Ord 2014-097.1

CITY OF FALMOUTH
ORDINANCE 2014-97.1

AN ORDINANCE AMENDING THE TEXT OF THE CITY OF FALMOUTH ZONING ORDINANCE RELATING TO ADMINISTRATIVE AND DESIGNATIONS; GROUP DAYCARE AS A PERMITTED HOME OCCUPATION; HEIGHT LIMITS; FRONT YARD VARIANCES; FLOOD PROTECTION; MOBILE HOME REGULATIONS; HOME AUTO REPAIRS AND SALES; SETBACK REGULATIONS IN THE INTENSIVE, URBAN RESIDENTIAL, AND SUBURBAN RESIDENTIAL ZONES; PERMITTING ANIMAL CARE AND VET CLINICS IN DOWNTOWN AND DETACHED SINGLE FAMILY RESIDENCES AS CONDITIONAL USES; REDUCING OFFSTREET PARKING AISLES, AND NUMBER OF LOT SPACES IN SCHOOLS, AND RESTAURANTS; ACCESS POINTS ON US 27, LOCAL STREETS, AND CONNECTOR STREETS; RESTRICTING PORTABLE SIGNS AND CHANGEABLE COPY SIGNS, ESTABLISHING EXEMPTIONS FOR SIGNS; AUTHORIZING CONDITIONAL USES AND VARIANCES TO BE DECIDED BY THE JOINT PLANNING COMMISSION WHEN A ZONE MAP AMENDMENT OR SUBDIVISION IS UNDER CONSIDERATION; ESTABLISING FEES FOR APPLICATIONS; AND ADDING DEFINITIONS.

Be it ordained by the City of Falmouth:

Section 1. That the city hereby amends the text of the Zoning Ordinance as set forth in Exhibit A, attached hereto and incorporated herein by reference.

Section 2. This Ordinance shall take effect upon its passage, approval, and publication in summary as required by law.

Introduced and First Reading: Special Meeting, November 20, 2014

Second Reading and Enacted December 9, 2014

Signed by the Mayor: December 9, 2014

Recorded by Clerk: December 10, 2014

Published in summary: December 16, 2014

CITY OF FALMOUTH, KENTUCKY

BY: _____
Mark A. Hart, Mayor

ATTEST:

_____
Terry England, City Clerk

CERTIFICATE:

I hereby certify that the Title of the forgoing Ordinance accurately summarizes its contents in a manner to be understood by the general public; further that I am an attorney licensed to practice in the Commonwealth of Kentucky.

_____
Henry Watson III
Counsel to the City of Falmouth
by PATRICK H. WATSON
with permission

CITY OF FALMOUTH
ORDINANCE 2014-97.1

AN ORDINANCE AMENDING THE TEXT OF THE CITY OF FALMOUTH ZONING ORDINANCE RELATING TO ADMINISTRATIVE AND DESIGNATIONS; GROUP DAYCARE AS A PERMITTED HOME OCCUPATION; HEIGHT LIMITS; FRONT YARD VARIANCES; FLOOD PROTECTION; MOBILE HOME REGULATIONS; HOME AUTO REPAIRS AND SALES; SETBACK REGULATIONS IN THE INTENSIVE, URBAN RESIDENTIAL, AND SUBURBAN RESIDENTIAL ZONES; PERMITTING ANIMAL CARE AND VET CLINICS IN DOWNTOWN AND DETACHED SINGLE FAMILY RESIDENCES AS CONDITIONAL USES; REDUCING OFFSTREET PARKING AISLES, AND NUMBER OF LOT SPACES IN SCHOOLS, AND RESTAURANTS; ACCESS POINTS ON US 27, LOCAL STREETS, AND CONNECTOR STREETS; RESTRICTING PORTABLE SIGNS AND CHANGEABLE COPY SIGNS, ESTABLISHING EXEMPTIONS FOR SIGNS; AUTHORIZING CONDITIONAL USES AND VARIANCES TO BE DECIDED BY THE JOINT PLANNING COMMISSION WHEN A ZONE MAP AMENDMENT OR SUBDIVISION IS UNDER CONSIDERATION; ESTABLISING FEES FOR APPLICATIONS; AND ADDING DEFINITIONS.

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Section 2. This Ordinance shall take effect upon its passage, approval, and publication in summary as required by law.

Introduced and First Reading: Special Meeting, November 20, 2014

Second Reading and Enacted December 9, 2014

Signed by the Mayor: December 9, 2014

Recorded by Clerk: December 10, 2014

Published in summary: December 16, 2014

CITY OF FALMOUTH, KENTUCKY

BY: Mark A. Hart
Mark A. Hart, Mayor

ATTEST:

Terry England
Terry England, City Clerk

CERTIFICATE:

I hereby certify that the Title of the forgoing Ordinance accurately summarizes its contents in a manner to be understood by the general public; further that I am an attorney licensed to practice in the Commonwealth of Kentucky.

Henry Watson III
Henry Watson III
Counsel to the City of Falmouth
by PATRICK H. WATSON
with permission

December 16, 2014 - THE FALMOUTH OUTLOOK - 7

"Mistakes are stepping stones to success."
~ Charles E. Popplestone

FLASH

CITY OF FALMOUTH
ORDINANCE 2010-910

AN ORDINANCE ADOPTING BY REFERENCE, LAND USE REGULATIONS IN THE FORM OF A ZONING ORDINANCE PURSUANT TO KRS CHAPTER 100, GOVERNING THE REGULATION OF THE USES OF BUILDINGS AND LAND IN THE CITY OF FALMOUTH FOR RESIDENTIAL, AGRICULTURAL, OR BUSINESS PURPOSES, PRESCRIBING PENALITIES FOR VIOLATION, PROVIDING FOR ENFORCEMENT, AND CREATING A BOARD OF ADJUSTMENT.

Be it ordained by the City of Falmouth:

Section 1. That pursuant to KRS 83A (5), the City hereby adopts the City of Falmouth Zoning Ordinance, attached hereto and incorporated herein by reference.

a. Articles 1-3 deal with the title, authority, purpose and interpretations of the Zoning Ordinance.

b. Article 4 declares agricultural land exempt and defines the term "agricultural purposes."

c. Article 5 contains the provisions for the Falmouth Zoning Map and the identification and interpretation of Zoning Districts and the boundaries therein.

d. Article 6 contains the general regulations that shall apply to all zoning districts, including sight distances at intersections, lot frontage, excavation of land, nuisances, home occupations, nonconformities, utility service, landscape regulations, swimming pools, air rights, hillside developments, mobile homes, landfills and bed & breakfasts.

e. Article 7 details the regulations applicable to the Rural Zone and the Commerce Zones: The Business and Intensive Zones.

f. Article 8 sets forth the general requirements for off-street parking and access control regulations.

g. Article 9 contains the regulations regarding off-street loading and/or unloading.

h. Article 10 contains the regulations that shall apply and govern signs and billboards.

i) Article 11 addresses administration of the Zoning Ordinance, and lists the duties of the Zoning Administrator appointed to carry out the provisions and to enforce the regulations contained in the Ordinance, and details the requirements for various permits, development plans, building permits, certificates of occupancy, complaints and filing certificates of land use restriction. Article 11 also imposes penalties for violation of the Zoning Ordinance in accordance with KRS 100.991, providing that violation of the Zoning Ordinance is a class B misdemeanor, and each day of violation is a separate offense.

j) Article 12 deals with the establishment of the Board of Adjustment and covers all aspects of the Board with regard to membership, appointment, terms, vacancies, oaths, compensation, removal, officers, meetings, and powers. Article 12 also addresses the powers of the Board of Adjustment, including variances, appeals, interpretations, nonconforming uses, and conditional use permits.

k) Article 13 sets forth the procedures for amendments to the map or text of the Zoning Ordinance.

l) Article 14 states that fees for zoning applications shall be provided by separate Ordinance of the City.

m) Article 15 covers the definitions of words and phrases in the Ordinance.

Section 2. This Ordinance shall be read and published in summary form, the full text being available for public inspection in the Clerk's Office in City Hall of the City Falmouth, 230 Main Street, Falmouth, Kentucky 41040.

Section 3. This Ordinance shall be effective upon its passage, approval, and publication in summary full as required by law, with an effective date of July 1, 2010.

Introduced and First Reading: Regular Meeting, December 3, 2009

Second Reading and Enacted: Regular Meeting, January 12, 2010

Signed by the Mayor: January 12, 2010

Recorded by Clerk: January 12, 2010

Published in Summary: July 6, 2010

CITY OF FALMOUTH, KENTUCKY

BY: April DeFalco
April K. DeFalco, Mayor

ATTEST:

Terry England
Terry England, City Clerk

CERTIFICATE

I hereby certify that the Title of the forgoing Ordinance accurately summarizes its contents in a manner to be understood by the general public; further that I am an attorney licensed to practice in the Commonwealth of Kentucky.

Henry Watson III
Counsel to the City of Falmouth