

**Zoning Ordinance**

**City of Mortons Gap,  
Kentucky**

**2006**

(Office Update 10/05/2017)

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**ARTICLE I**  
**ENACTING CLAUSE**

**SECTION 1.0**

An Ordinance dividing the City of Mortons Gap, Commonwealth of Kentucky, into zones. Zones of such shape and area as is deemed suited to carry out these regulations: Regulating the location, heights, number of stories and size of building and other structures; regulating the size of yards and other open spaces and the density and distribution of population and uses of buildings, structures and land for residential, commercial, industrial, and other purposes; prescribing penalties for the violations; providing for enforcement; a board of adjustments 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 of Mortons Gap, Commonwealth of Kentucky as authorized by Kentucky Revised Statutes (KRS), Section 100.201 through Section 100.271 on this \_\_\_\_ day of \_\_\_\_\_, 2006 as follows:

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**ARTICLE II**  
**AUTHORITY AND PURPOSE**

**SECTION 2.0**

**AUTHORITY**

The City Council of the city of Mortons Gap in pursuance of the authority of Kentucky Revised Statutes (K.R.S. 100.201 - 100.991) hereby ordains and enacts into law the following Articles and Sections.

**SECTION 2.1**

**PURPOSE**

The zoning regulations and districts as herein set forth have been prepared in accordance with the Comprehensive Plan for the City of Mortons Gap to promote the public health, safety, morals, and general welfare of the city, to facilitate orderly and harmonious development and the visual or historical character of the city, and to regulate the density of population and intensity of land use in order to provide for adequate light and air. In addition, this Ordinance has been prepared to provide for vehicle off-street parking and loading and/or unloading space, as well as to facilitate fire and police protection, and to prevent the overcrowding of land, blight, danger, and congestion in the circulation of people and commodities, and the loss of life, health, or property from fire, flood or other dangers. The zoning regulations and districts as herein set forth are also employed to protect highways, and other transportation facilities, public facilities, including schools and public grounds, the central business district, natural resources and other specific areas in the City of Mortons Gap which needs special protection by the city.

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**ARTICLE III**  
**SHORT TITLE**

**SECTION 3.0**  
**SHORT TITLE**

This Ordinance shall be effective throughout the city of  
Mortons Gap, Kentucky, and shall be known, referred to and recited to as the  
“OFFICIAL ZONING ORDINANCE OF THE CITY OF MORTONS GAP”.

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**ARTICLE IV**  
**INTERPRETATION**

**SECTION 4.0**  
**GREATER RESTRICTION**

The provisions of this ordinance shall be held to be the minimum requirements for the promotion of public safety, health, and general welfare. Where this Ordinance imposes a greater restriction upon the buildings, structures or premises, upon heights of buildings or structures or requires larger open spaces than are imposed or required by any other ordinances, rules, codes, permits or regulations, or by easements, covenants, deed restrictions or agreements, the provisions of this Ordinance shall govern.

**SECTION 4.1**  
**PERMIT OR LICENSE IN VIOLATION**

Notwithstanding any other provisions of this ordinance or any other ordinances, rules, codes, permits, or regulations of the city of Mortons Gap; If any permit or license is issued in violation of any provision of this Ordinance or purports to authorize the doing of any act not permitted by any provision of the Ordinance, said permit or license shall be void.

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**ARTICLE V**  
**CONFLICT**

**SECTION 5.0**  
**CONFLICT**

All ordinances and parts of ordinances of the City of Mortons Gap in conflict herewith are hereby repealed; providing, however, that such repeal shall not effect or prevent the prosecution or punishment of any person for any act done or committed in violation of any such ordinances and parts there of hereby repealed prior to the effective date of this Ordinance.

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**ARTICLE VI**  
**SEVERABILITY CLAUSE**

**SECTION 6.0**

**SEVERABILITY CLAUSE**

That should any Article, Section, sub-section, 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 of the City Council of the city of Mortons Gap to enact each section, and portion thereof, individually, and each such section shall stand alone, if necessary, and be in force not withstanding the invalidity of any other Section or provision.



**ARTICLE VII**  
**DEFINITIONS**

**SECTION 7.0**

**WORDS AND PHRASES**

For the purposes of this Ordinance, certain terms, phrases, words, and their derivatives are herewith defined as follows: Words used in the future tense include the present; Words used in the present tense include the future; Words used in the singular include the plural; Words used in the plural include the singular; Words used in the masculine include the feminine; Words used in the feminine include the masculine; The word “shall” is mandatory and not directory; The word “may” shall be deemed as permissive.

**ABANDONMENT:** The relinquishment of property, or a cessation of the use of the property by the disconnection of water, sewer, or electric for a period greater than ninety (90) days, by the owner with the intention neither of transferring rights to the property to another owner nor of resuming the use of the property.

**ABUT:** To physically touch or border upon, or to share a common property line. (See **ADJOINING LOT OR LAND** and **CONTIGUOUS**)

**ACCESS:** Away or means of approach to provide physical entrance to a property.

**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; and
- B. is subordinate in area, extent, or purpose to the principal building or principal use served; and
- 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

**ACRE:** A measure of land area containing 43,560 square feet.

**ADDITION:** A structure added to the original structure at some time after the completion of the original.

**AESTHETIC:** The perception of artistic elements, or elements in the natural or manmade environment which are pleasing to the eye.

**AGRICULTURE:** The use of land for agricultural purposes including agriculture, dairying, farming, floriculture, horticulture, pasturage, viticulture, and animal and poultry husbandry and the necessary accessory uses for packing, treating, or sorting the produce; provided, however, that the operation of any such accessory use shall be secondary to that of the normal agricultural activities. The agriculture use does not include the operation or maintenance of a commercial stockyard or feedlot where large numbers of livestock are fed concentrated feeds, particularly for the purpose of fattening for market.

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**ALLEY:** All public rights-of-way at the rear of the lot which normally affords a secondary means of access to abutting property and not intended for general traffic circulation.

**ALTERATION:** Any change, addition, or modification in construction, or any change in the structural members of a building, such as bearing walls, columns, beams, or girders.

**AMENITY:** A natural or manmade feature which enhances or makes more attractive or satisfying a particular property.

**AMUSEMENT AND RECREATION SERVICES:** Establishments engaged in providing amusement or entertainment for a fee or admission charge, and includes such activities as dance halls; studios; theatrical producers; bands, orchestras, and other musical entertainment; bowling alleys, and billiard and pool establishments; commercial sports, such as arenas, rings, racetracks, public golf courses, and coin-operated devices; amusement parks; membership sports and recreation clubs; amusement and bathing beaches; swimming pools; riding academies; carnival operations; expositions; game parlors; and horse shows.

**ANNEXATION:** The incorporation of land area into an existing community with a resulting change in the boundaries of that community.

**APARTMENT:** A portion of a building consisting of a room or suite of rooms intended, designed, or used as a permanent residence by an individual or one (1) family.

**APARTMENT HOTEL:** A building in which lodging is offered for compensation, in which part of the building may be separated into individual or single family.

**APARTMENT HOUSE:** See DWELLINGS, MULTIPLE.

**APPROVED PLAN:** A plan which has been granted final approved by the appropriate approving authority

**AUTOMOBILE LAUNDRY:** A building or portion thereof, containing facilities for washing more than two (2) automobiles, using production line methods with chain conveyer, blower, steam cleaning device, or other mechanical devices. The use of personnel for one or more phases of this operation in conjunction with or without complete automatic or mechanical devices does not alter its classification. For the purpose of this Ordinance, coin operated devices, of the above nature, which are operated on a self service basis shall be constructed to be the same.

**AUTOMOBILE AND TRAILER SALES AREAS:** An open, partially open, or enclosed area other than a street, used for the display, sale or rental of new or used automobiles or trailers, and where no repair work is done except minor incidental repair of automobiles or trailers to be displayed, sold or rented from the premises.

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**BASE FLOOD ELEVATION:** The highest elevation, expressed in feet above sea level, of the level of flood waters occurring in the regulatory base flood (100-year flood)

**BASE MAP:** A map having sufficient points of reference, such as state, county, or municipal boundary lines, streets, easements, and other selected physical features, to allow the plotting of other data

**BASEMENT:** That portion of a building between floor and ceiling, which is partly below and partly above the average level of the adjoining grade but 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.

**BLOCK:** A unit of land bounded by streets or by a combination of streets and public land, railroad right-of-ways, waterways, or any other barrier to the continuity of development.

**BOARD:** The Board of Zoning Adjustment.

**BOARD OF ADJUSTMENT OR BOARD:** Board of Adjustment, City of Mortons Gap, Commonwealth of Kentucky.

**BOARDING HOUSE:** A residential building other than a hotel, motel, or tourist cabin where lodging and meals for four (4) or more persons are served for compensation, and by prearrangement for definite periods.

**BORROW PIT:** Any place or premises where dirt, soil, sand, gravel, or other composition, material is removed by excavation or otherwise, below the grade of the surrounding land, for any purpose other than mining operations such as gold, silver, coal, etc., and that is necessary and incidental to grading or to building construction on the premises.

**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.

**BUFFER STRIP:** Land area used to visibly separate one use from another, or to shield or block noise, lights, or other nuisances.

**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.

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**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 excluding those portions of the lot or building site, which shall be reserved for minimum required yard spaces.

**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 appointed by the City of Mortons Gap for carrying out the building codes.

**BUILDING LINE:** A line defining the minimum front, side and rear yard requirements.

**BUILDING, MAIN:** *See* BUILDING, PRINCIPAL.

**BUILDING PERMIT:** A permit issued by the City of Mortons Gap's Building Inspector authorizing the construction or alteration of a specific building, structure, sign or fence on a specific tract.

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

**BUILDING SITE:** One continuous piece of land that meets all of the provisions of the City of Mortons Gap' ordinances, regulations, and codes for building on said site. For the purpose of this Ordinance, the entire amount of ground being called a building site shall be in one (1) specific zone category and this shall not be constructed to mean merely a residential, commercial, industrial, etc., but specifically Residential R-1, R-2, R-3, DC, HC, I, and AG.

**CAMPING/VACATION MOBILE UNIT:** Any coach, cabin, house trailer, house car or other vehicle or structure intended for, designed for, and used for temporary human habitation or sleeping purposes, mounted upon wheels or supports, or supported and/or capable of being moved by its own power or transported by another vehicle.

**BUSINESS, CONVENIENCE:** Commercial establishments which cater to and can be located in proximity to or within residential districts without creating excessive

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congestion, noise, or other objectionable influences. Convenience uses include, but need not be limited to, drugstores, beauty salons, barber shops, carry-outs, dry cleaning and laundry facilities, and small grocery stores, if the aggregate total floor area of such facilities do not exceed 10,000 square feet. Uses in this classification tend to serve day-to-day needs of the neighborhood.

**BUSINESS, GENERAL:** Commercial uses which generally require locations on or near major arterial and/or their intersections, and which tend, in addition to serving day-to-day needs of the neighborhood, to also supply the more durable and permanent needs of the whole community. General business uses include, but need not be limited to, such activities as major supermarkets, stores that sell hardware, apparel, footwear, appliances, and furniture, and various department and discount stores. Also included here may be drive-in banks.

**BUSINESS, HIGHWAY:** Commercial uses which generally require locations on or near major arterial and/or their intersections, and which tend to serve the motoring public. Highway business uses included, but need not be limited to, such activities as filling stations, automotive sales and services, restaurants and motels, and commercial recreation.

**BUSINESS, OFFICE TYPE:** Quasi-commercial uses which may often be transitional between retail business and/or manufacturing and residential uses. Office business generally accommodates such occupations as administrative, executive, professional, accounting, clerical, and drafting. Institutional offices of a charitable, philanthropic, religious, or educational nature are included here.

**BUSINESS, SERVICES:** Any profit-making activity which renders services primarily to other commercial or industrial enterprises, or which services and repairs appliances and machines used in business and homes.

**BUSINESS, WHOLESALE:** Business establishments that generally sell commodities and materials in large quantities or by the piece to retailers, other wholesale establishments, or manufacturing establishments. These commodities are basically for further resale, for use in the fabrication of a product, or for use by a business service.

**CANOPY (MARQUEE):** A roof-like structure serving the purpose of protecting pedestrians from rain, snow, sun, or hail which structure projects from a building. Such structure shall be open on three (3) sides and, if ground supported, supports shall be confined in number and cross section area to the minimum necessary for actual support of the canopy.

**CARPORT:** *See* GARAGE, PRIVATE.

**CELLAR:** The portion of a building between floor and ceiling which is wholly or partly below the average level of the adjoining grade and so located that the vertical distance

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from the average level of the adjoining grade to the floor below is equal to or greater than the vertical distance from the average level of the adjoining grade to the ceiling.

**CEMETERY:** Land used or intended to be used for the burial of the human or animal dead and dedicated for cemetery purposes, including crematories, mausoleums, and mortuaries if operated in connection with and within the boundaries of such cemetery for which perpetual care and maintenance is provided.

**CERTIFICATE OF OCCUPANCY:** The certificate issued by the building official which permits the use of a building in accordance with the approved plans and specifications, and which certifies compliance with the provisions of the chapter for the use and occupancy of the building with and special stipulations or conditions of the building permit.

**CHANGE OF USE:** Any use which substantially differs from the previous use of a building or land.

**CHANNEL:** A natural or artificial watercourse of perceptible extent, with definite bed and banks to confine and conduct continuously or periodically flowing water.

**CHARACTERISTICS OF USE:** The use which is characteristic of the principal use of any area of land or a building or structure.

**CHILD CARE CENTER:**

- (1) **FAMILY DAY CARE CENTER:** A private establishment enrolling one to five children.
- (2) **GROUP DAY CARE CENTER:** A private establishment enrolling more than five children.

**CITIZEN MEMBER:** Any member of the Planning Commission or Board of Adjustment who is not an elected or appointed official or employee of the City.

**CITY:** The City of Mortons Gap, Kentucky.

**CLINIC, ANIMAL:** A building used by a group of professional medical persons for the healing arts or treatment of small animals on an out-patient/in-patient, but on non-boarding basis only, without runs.

**CLINIC, PERSONS:** A building used by a group of professional medical persons for the healing arts or treatment of persons on an out-patient or non-boarding basis.

**CLUB:** A building or portion thereof or premises owned or operated by a person for a social, literary, political, educational, or recreational purpose primarily for the exclusive use of members and their guests, but not including any organization, group or association,

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the principal activity of which is to render a service usually and ordinarily carried on as a business.

**CLUSTER:** A development design technique that concentrates buildings in a specific area on the site allow the remaining land to be used for recreation, common open space, and preservation of environmentally-sensitive features.

**COMMERCIAL ENTERTAINMENT FACILITY:** Any profit-making activity which is generally related to the entertainment field, such as a motion picture theater, carnival, cocktail lounge, nightclub, and similar entertainment activities.

**COMMISSION (PLANNING COMMISSION):** The Hopkins County Joint Planning Commission.

**COMMUNITY CENTER:** Building and facilities for a social, educational, or recreational purpose generally open to the public, but not primarily for profit or to render a service customarily carried on as a business.

**COMPREHENSIVE (MASTER) PLAN:** A guide for public and private actions and decisions to assure the development of public and private property in the most appropriate relationships. It shall contain, as a minimum, the following elements:

- A. A statement of goals and objectives, principles, policies, and standards;
- B. A land use plan element;
- C. A transportation plan element;
- D. A community facilities plan element;
- E. May include any additional elements, such as, without being limited to, community renewal, housing, flood control, pollution, conservation, natural resources, and others.

**COMPUTER STORE – RETAIL:** Business in which computers, computer components, and software are available for retail sales. Service and upgrades are secondary to the retail aspect of the operation.

**COMPUTER STORE – SERVICE:** Business in which computer repair, service, and/or consulting is offered as the primary function of the business with the sale of components and other repair items being a part of that service. Software is secondary to the service aspect of the business.

**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.

**CONDEMNATION:** The exercise by a governmental agency of the right to eminent domain.

**CONDITIONAL USE:** A use which may be suitable as determined by the Board of Adjustments in zones herein defined, but which would impair the integrity and character

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of the zone in which it is located, or in adjoining zones, unless restrictions on locations, size, extent, and character of performance are imposed.

**CONDITIONAL USE PERMIT:** Legal authorization to undertake a conditional use, issued by the Zoning Administrator pursuant to authorization by the Board of Adjustment, consisting of two parts;

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

**CONDOMINIUM:** A type of ownership or management in which the building or group of buildings, where the units are owned individually and the structure, common areas, and facilities are owned by all the owners on a proportional, undivided basis.

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

**CONSOLIDATION:** The removal of lot lines between contiguous parcels.

**CONTIGUOUS:** Next to, abutting, or touching, and having a boundary, or portion thereof, which is conterminous

**CONVERSION:** A change in the use of land or structure

**COUNCILMEN:** Members of the City Council, City of Mortons Gap, Commonwealth of Kentucky.

**COURT:** An open, unoccupied space other than a yard, on the same lot with a building and which is bounded on two (2) or more sides by the building.

**CUL-DE-SAC:** The turnaround at the end of a dead end street

**CURB CUT:** Any interruption, or break in the line of a street curb in order to connect a driveway to a street, or otherwise to provide vehicular access to abutting properties.

**CURB LEVEL:** The level of the established curb in front of the building measured at the center of such front. Where no curb has been established, the City Engineer shall authorize and approve the establishment of such curb level or its equivalent for the purpose of the Ordinance.

**DECIBEL:** A unit of measurement of the intensity (loudness) of sound. Sound level meters which are employed to measure the intensity of sound are calibrated in "decibels".

**DEED:** A legal document conveying ownership of real property.



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**DEEDED AND ACCEPTED RIGHT-OF-WAY:** An appropriation of land to some public uses, made by the owner of the fee and accepted for such use by and in behalf of the public.

**DETENTION (BASIN):** A storage facility for the temporary storage of storm water runoff.

**DETERIORATION:** The marked diminishing of the physical condition of structures or buildings.

**DEVELOPER:** The legal or beneficial owner or owners of a lot or of any land included in a proposed development, including the holder of an option or contract to purchase, or other persons having enforceable proprietary interests, in such land.

**DEVELOPMENT REGULATION:** Zoning, subdivision, site plan, official map, floodplain regulation, or other governmental regulation of the use and development of land.

**DILAPIDATION:** Deterioration of structures or buildings to the point of being unsafe or unfit for human habitation or use.

**DISH:** That part of a satellite signal receiving station characteristically shaped like a saucer or dish.

**DISH-TYPE SATELLITE SIGNAL RECEIVING STATION:** A signal receiving device (antenna, dish antenna, or dish-type antenna) the purpose of which is to receive communications or other signals from satellites in each orbit or other extraterrestrial sources. The device usually has a low-noise amplifier (LNA) which is situated at the focal point of the receiving component and the purpose of which is to magnify, store, transfer and/or transmit electronic of light signals.

**DECOMPOSE BY DETONATION:** Refers to the detonation of explosives as part of blasting and to those uses that utilize blasting during processing, manufacturing, compounding, packing or assembling.

**DISTRICT:** For purpose of this Ordinance, Synonymous with “Zone”.

**DORMITORY:** A building used to provide residences for a group or persons (including students, faculty, or staff) of whom all are exclusively associated with an institution of higher education.

**DRIVE-IN, EATING OR DRINKING PLACE:** *See* EATING ESTABLISHMENTS—RESTURANTS.

**DUMP:** A land site used primarily for disposal by dumping, burial, burning, or other means, and for whatever purposes, of garbage, sewage, trash, refuse, junk, discarded

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machinery, vehicles, or parts thereof, and other waste, scrap, or discarded material of any kind.

**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, ATTACHED SINGLE-FAMILY:** A dwelling unit which is attached to one or more dwelling units, each of which has independent access to the outside of the building to ground level and which has no more than two (2) exterior walls fully exposed and not in common with the exterior walls of any other unit. The minimum living space square footage excluding porches and garage shall be 600 sf per unit.

**DWELLING, DETACHED SINGLE-FAMILY:** A dwelling standing by itself and containing only one (1) dwelling unit, separate from other dwellings by open space, but shall not include mobile homes. The lowest minimum length and width dimension being greater than 18 feet and a minimum living space square footage excluding porches and garage shall be 600 sf and is affixed to a solid foundation of permanent material built between the ground and first floor of the dwelling.

**DWELLING, DUPLEXES:** *See* DWELLING, TWO FAMILY.

**DWELLING, GROUP HOUSE:** A building that has not less than three (3) one-family housekeeping units erected in a row as a single building on one lot or one adjoining lot, each being separated from the adjoining unit or units by an approved masonry party wall or walls extending from the basement or cellar floor to the roof along the dividing lot line, and each such building being completely separated from any other building by space on all sides and such space shall be at least the required minimum yard setbacks as so specified in this Ordinance. The minimum living space square footage excluding porches and garage shall be 600 sf per unit.

**DWELLING, MULTI-FAMILY:** A residential building used and/or arranged for rental occupancy, owner occupancy, or cooperatively owned by occupants, have three (3) or more dwelling units, as separate housekeeping units. This type of dwelling shall be inclusive of apartment buildings and group house dwellings. The minimum living space square footage excluding porches and garage shall be 600 sf per unit.

**DWELLING, TRAILER:** *See* MOBILE HOME.

**DWELLING, TWO-FAMILY:** A residential building designed, arranged, or used exclusively by two (2) families, living independently of each other. The minimum living space square footage excluding porches and garage shall be 600 sf per unit.

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

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**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.

**EASEMENT (DRAINAGE):** An easement required for the installation of stormwater sewers or drainage ditches, and/or required for the preservation or maintenance of a natural stream or watercourse or other drainage facility.

**EATING ESTABLISHMENTS — RESTAURANTS:**

**A. Fast Service Restaurants -** Those restaurants which have limited variety of menu and use limited food preparation techniques to serve food quickly. The food is often dispensed in disposable material, there is less need for storage (food or china) and less elaborate scullery area (Dishwashing machinery) is needed.

1. Carry-out: A fast service of “call in and order” restaurant which does not have sit down eating arrangements and consumptions of food on the premises is prohibited (or discouraged).
2. Drive-in: A restaurant which encourages the consumption of food on the premises (in car, no seating facilities) serving the food by “car-hop” or self-service.

**B. Sit Down Restaurants –** Those restaurants which provide waiter service, seating arrangements, whether interior or exterior. This category would also include cafeteria type self-service, sit down restaurants (the variety of food and preparation is still elaborate). The menu will have a variety of preparation techniques; scullery areas, china storage, and larger food storage facilities will be necessary.

1. Combination – A restaurant which provides any combination of sit down service plus the capability of providing carry-out, drive-on, or both services.

**ESSENTIAL SERVICES:** The erection, construction, alteration or maintenance by public utilities or municipal or other governmental agencies of underground or overhead gas, electrical, steam or water transmission or distribution systems, collection, communication, supply or disposal systems; including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, traffic signals, hydrants, and other similar equipment and accessories reasonably necessary for furnishing adequate service for the public health, safety, or general welfare. This definition is not mean to include buildings.

**EXISTING GRADE OR ELEVATION:** The vertical location of the ground surface prior to excavating or filling.

**EXISTING USE:** The use of a lot or structure at the time of the enactment of a zoning ordinance.

**EXTERIOR WALL:** Any wall which defines the exterior boundaries of a building or structure.

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**FAMILY:** An individual or two (2) or more persons related by blood or marriage, or group of not more than three (3) persons (excluding servants) who need not be related by blood or marriage, living together in a single housekeeping unit as their common home for the time, as distinguished from a group occupying a boarding house, lodging house, hotel, club, fraternity or sorority house.

**FARM:** An area used for agricultural operations, including gardening, forestry, the operation of a tree or plant nursery, or the production of livestock and poultry.

**FARM STRUCTURE:** Any building or structure used for agricultural purposes, but not for commercial retail sale.

**FENCE:** A structure made of wire, wood, metal, masonry, or other material, including hedges, which is constructed or erected in a more or less permanent location in or on the ground and which constitutes an enclosure or barrier around or along a field, year, etc.

**FILL:** Sand, gravel, earth, or other materials of any composition whatsoever placed or deposited by humans

**FILLING STATION:** *See* SERVICE STATION

**FINAL APPROVAL:** The last official action of the Planning Board or Board of Zoning Adjustment taken on a development plan which has been given preliminary approval, after all conditions and requirements have been met, and the required improvements have been installed or guarantees properly posted for their installation, or approval conditioned upon the posting of such guarantees.

**FLEA MARKET:** An occasional or periodic market held in an open area or structure where groups of individual sellers offer goods for sale to the public.

**FLOOD or FLOODWATER:** An overflow or inundation of normally dry lands from a stream or other body of water; the high stream flow overtopping the banks of a stream; or a high flow as measured by each stage or discharge.

**FLOOD 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 center lines 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 center line 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 appertains to a residential commercial, or office use in the same structure.

**FLOOD HAZARD AREA:** A floodplain, or portion thereof, which has not been adequately protected from floodwater by means of dikes, levees, reservoirs.

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**FLOODPLAIN, 100-YEAR:** A flood having a peak discharge which can be expected to be equaled or exceeded on the average of once in a 100 year frequency flood is equivalent to a flood having a probability of occurrence of 1% in any given year (a flood magnitude which has a 1% chance of being equaled or exceeded in any given year).

**FOOD PROCESSING:** The preparation, storage, or processing of food products. Examples of these activities include bakeries, dairies, canneries, and the like.

**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 lot lines as extended to intersect said right-of-way line of said street. In no case shall the line along an alley be considered as acceptable for frontage.

**GARAGE, PRIVATE:** An accessory building or portion of a principal building not exceeding eight hundred (800) square feet in area, per dwelling unit, designed, intended and used for the storage of not more than four (4) motor driven vehicles, per dwelling unit, owned, used and registered in the name of the occupants of the dwelling unit for which said private garage is intended. Not more than one (1) of the vehicles shall be a commercial vehicle and this vehicle shall not be more than two (2) ton capacity. This definition shall not include a public garage.

**GARAGE, PUBLIC:** A building or portion thereof designed, intended and used exclusively for the car, repair or equipment or self-propelled motor vehicles or other vehicles. This definition shall not include private garages.

**GARAGE, STORAGE:** Any building or premises used for housing only motor-driven vehicles, other than trucks and commercial vehicles

**GRADE:** The average level of the finished surface of ground adjacent to the exterior walls of the building

**GRADE, FINISHED:** The final elevation of the ground surface after development.

**GRADE, NATURAL:** The elevation of the ground surface in its natural state before manmade alterations

**GROUP HOUSING:** *See* DWELLING, GROUP HOUSE.

**HOME OCCUPATION:** An accessory use customarily conducted entirely within a dwelling, as permitted; herein, and carried on solely by the inhabitants thereof, and further meeting the requirements specified in Section 8.1.

**HOSPITAL, PERSONS:** A building used by a group of professional medical persons for the healing arts or treatment of persons on an, generally, in-patient or boarding basis.

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**HOSPITAL, ANIMAL:** A building used by a group of professional medical persons for the healing arts or treatment of animals on an, generally, in-patient or boarding basis and shall not have outside runs.

**HOTEL:** A building occupied as the more or less temporary abiding place for travelers and transient guests who are lodged with or without meals and in which there are sleeping rooms usually occupied singly and with no provisions made for cooking in any individual room or a group of rooms occupied by a person or persons and with no provision made for cooking in any of the rooms as specified.

**HOUSE TRAILER:** *See* MOBILE HOME.

**HOUSING UNIT:** A room or group of rooms used by one or more individuals living separately from others in the structure, with direct access to the outside or to a public hall and containing separate toilet and kitchen facilities

**IMPROVED LOT:** A lot containing an improvement

**IMPROVEMENT:** Any manmade, immovable item which becomes part of, is placed upon, or is affixed to, real estate

**INDUSTRY:** Those fields of economic activity including forestry, fishing, hunting and trapping, mining, construction, manufacturing; transportation, communication, electric, gas, and sanitary services; and wholesale trade.

**INFRASTRUCTURE:** Facilities and services needed to sustain industry, residential and commercial activities.

**INSTITUTION:** Building(s) and/or land designed to aid individuals in need of mental, therapeutic, rehabilitative counseling, or other correctional services.

**JUNK YARD:** An open area where any waste, used or second hand materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including but not limited to scrap iron and other metals, paper, rags, rubber tires and bottles. A “Junk Yard” includes an auto wrecking yard or other storage or keeping of one (1) or more inoperative motor vehicles unless where otherwise specifically permitted but does not include uses established entirely within enclosed buildings.

**KENNEL:** Any building or a portion of a building or open space devoted in its entirety or in part to the raising, boarding or harboring of four (4) or more dogs, at least four (4) months of age.

**LABORATORY:** A building or portion of a building devoted to the experimental study in science, or the testing and analysis of chemicals, drugs, explosives, minerals, etc.

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**LABORATORY, MEDICAL OR DENTAL:** A building or portion of a building devoted in use of providing bacteriological, biological, medical, X-Ray, pathological and similar analytical or diagnostic services to doctors or dentists and where no fabrication is conducted on the premises, except the custom fabrication of dentures.

**LAND SURVEYOR:** One who is licensed by the state as a land surveyor, and is qualified to make accurate field measurements and mark, describe, and define land boundaries.

**LAND USE:** A description of how land is occupied or utilized

**LANDSCAPE:**

- (1) An expanse of natural scenery.
- (2) The Addition of lawns, trees, plants, and other natural and decorative features to land.

**LAUNDROMAT:** A business that provides home-type washing, drying and/or ironing machines for hire to be used by customers on the premises.

**LEASABLE AREA, GROSS:** The total floor area designed for tenant occupancy and exclusive use, including basements, mezzanines, and upper floors, if any, expressed in square feet and measured from the centerline of joint partitions and from outside wall faces.

**LIGHT INDUSTRY:** Industrial uses which meet the performance standards, bulk controls, and other requirements established in this chapter.

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

**LOADING AND/OR UNLOADING SPACE:** A surfaced space within the main building or on the same lot providing for the temporary standing, loading and/or unloading of trucks; said space having a minimum dimension of forty-eight (48) feet in length, twelve (12) feet in width and fourteen (14) feet in height, except as herein provided; and connected with an accepted deeded public right-of-way which affords ingress and egress for vehicles.

**LOCAL AUTHORITY:** Any city or other legally authorized agency charged with administration and enforcement of land use regulations

**LODGING HOUSE:** A building, other than an apartment, hotel-motel, hotel, motel, or tourist court where lodging for five (5) or more persons is provided for compensation.

**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

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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, flood plains, the water of any lake, river, creek or major drainage ditch, and shall be in one (1) zone only. For the purposes of this Ordinance all of the area of a given lot shall be in the same specific zoning category

**LOT CORNER:** A “Corner Lot” is a lot situated at the intersection of two streets or on a curved street in which the interior angle of such intersection or curved street does not exceed one hundred thirty-five (135) degrees.

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

**LOT, FRONTAGE:** The front of a lot shall be construed to be the portion nearest the street. For the purpose of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as indicated under the definitions of “yard”- related terms in this section.

**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 an interior lot (other than a double frontage lot) and a street right-of-way line or the common boundary line of a corner lot (other than a double frontage lot) and that street right-of-way line toward which the principal or usual entrance to the main building situated on such lot most nearly faces, or the common boundary line of a through lot and any adjacent road or street right-of-way line.

**LOT LINE, REAR:** The boundary line of a lot which is most nearly opposite the front line of such lot. In the case of a triangular or wedge shaped lot, for the 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 the 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 Hopkins County Clerk, Commonwealth of Kentucky.



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**LOT WIDTH:** The width of a lot as measured along the minimum building front set back line.

**LOT, ZONING:** A “zoning lot or lots” is a single tract of land located within a single block, which (at a time of filing for a building permit) is designated by its owner or developers as a tract to be used, developed, or built upon as a unit, under single ownership or control. Therefore, a “zoning lot or lots” may or may not coincide with a lot of record.

**MANUFACTURED HOME:** A single-family residential dwelling constructed after June 15, 1976, in accordance with the federal act, transportable in one or more sections, which is built on a permanent chassis and designed for use with or without a permanent foundation when attached to the required utilities.

**MASSAGE THERAPIST:** One who has received a diploma or other recognized credentials, issued by a recognized school of massage which has been approved by the American Massage and Therapy Association or like institution.

**MEZZANINE:** An intermediate or fractional story between the floor and ceiling of a main story, used for a purpose accessory to the principal use. A mezzanine is usually just above the ground floor and extending over only part of the main floor.

**MINIMUM BUILDING SETBACK LINE:** A line parallel to the front, side and/or rear lot line and setback from the lot line a sufficient distance as specified in this Ordinance, to provide the required minimum 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 street right-of-way line and the front lot line as defined herein.

**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.

**MOBILE HOME:** A structure manufactured prior to June 15, 1976, which was not required to be constructed in accordance with the Federal Act. Any coach, cabin, mobile home or other mobile structure in a single unit which is intended for, designed for, and used for the fixed residence of a person, a family, or a household, mounted upon wheels or supports, or supported and/or capable of being moved or transported by another vehicle. For the purpose of this Ordinance, the removal of wheels and/or the permanent or semi-permanent attachment of a foundation to said mobile structure shall not change its classification.

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**MOBILE HOME PARK:** A4 lot, parcel or premises, subdivided, designed, maintained, intended or used for the purpose of supplying a location or accommodation for mobile homes; or any lot parcel or premises on which is parked, standing or located two (2) or more mobile homes for a longer period than twenty-four (24) hours; or one (1) or more mobile homes connected to either electrical lines, or water or sewer pipes; or any mobile home being utilized on the premises on which it is located. For the purpose of this Ordinance, any lot or premises used for the wholesale or retail sale of mobile homes shall not be included with this definition.

**MODULAR:** Housing manufactured off-site, often mass produced, and designed so that sections are interchangeable. This is a production technique which can be applied to low or high density type construction.

**MOTELS:** A group of attached or detached buildings but not house trailers containing individual sleeping or living units for travelers and transient guests, with garage attached or parking facilities conveniently located to each unit. The term includes tourist court when related to the context specified herein.

**NONCONFORMING LOT:** A lot which was lawfully created but which does not conform to the minimum lot 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 health department.

**NUISANCE:** An interference with the enjoyment and use of property.

**NURSERY:** Any building or lot, or portion thereof, used for the cultivation or growing of plants and including all accessory buildings, but does not include the wholesale or retail sale of any items other than those incidental to the items raised or grown on said premises.

**NURSERY SCHOOL:** Any building used for the daytime care or education of pre-school age children and including all accessory buildings and play areas, and shall, for the purpose of this Ordinance, be considered group activity.

**NURSERY HOME:** A health establishment which provides nursing care under the direction of a Kentucky licensed physician to patients who for reason of illness or physical infirmities are unable to care for themselves properly.

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**OCCUPANT:** The individuals in actual possession of a premises.

**ODOROUS MATTER:** Any matter or material that yields an odor which is offensive in any way to a person with reasonable sensitivity.

**OFFICE BUILDING:** A building used primarily for conducting the affairs of a business, profession, service, industry, or government, or like activity, that may include ancillary services for office workers, such as a restaurant, coffee shop, newspaper or candy stand.

**OFF-STREET PARKING SPACE:** A temporary storage area for a motor vehicle that is directly accessible to an access aisle, and which is not located on a dedicated street right-of-way

**ORDINANCE:** Any legislative action, however denominated, of a local government which has the force of law, including and amendment or repeal of any ordinance.

**PARKING AREA, OFF-STREET:** An open surfaced area other than the rights-of-way of a street, road, highway, alley, or place, used for temporary parking of self-propelled motor vehicles and available for public use either free, for compensation or as an accommodation for clients or customers.

**PARKING BUILDING OR GARAGE:** A building or portion thereof designed, intended and used exclusively for the temporary parking of self-propelled motor vehicles and may be publicly or privately owned and/or operated and may be remuneration, free or privately utilized.

**PEDESTRIAN:** An individual who travels on foot.

**PERFORMANCE BOND or SURETY BOND:** An agreement by a subdivider or developer to the city for the amount of the estimated construction cost, guaranteeing the completion of physical improvements according to plans and specifications within the time prescribed by the subdivider's agreement

**PERMIT:** Written governmental permission issued by an authorized official, empowering the holder thereof to do some act not forbidden by law, but not allowed without such authorization.

**PLAT:**

- (1) A map representing a tract of land, showing the boundaries and location of individual properties and streets.
- (2) A map of subdivision or site plan.

**PREMISES:** One or more lots which are in the same ownership and are contiguous or separated only by a road or water body, including all buildings, structures, and improvements.

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**PRINCIPAL BUILDING:** The building in which the premises are devoted, and the main purpose for which the premises exist.

**PRINCIPAL USE:** The primary use to which the premises are devoted, and the main purpose for which the premises exist

**PROHIBITED USE:** The use marked as prohibited for a certain district in the schedule of uses, Appendix A to this chapter; and which is not to be allowed to locate in that district except as specified under nonconformities.

**PUBLIC AREAS:** Public parks, play grounds, trails, paths, and other recreational areas and other public open spaces; scenic and historic site; schools and other public buildings and structures.

**PUBLIC DOMAIN:** All lands owned by government

**PUBLIC HEARING:** A meeting announced and advertised in advance, and open to the public, with the public given an opportunity to talk and participate.

**PUBLIC NOTICE:** The advertisement of a public hearing in a paper of general circulation in the area and through other media sources, indicating the time, place, and nature of the public hearing.

**PUBLIC RIGHT-OF-WAY:** A general term denoting land, property, or interest therein, usually in a strip, acquired for devoted to a transportation facility.

**PUBLIC USES:** Public parks, schools, administrative and cultural buildings and structures, not including public land or buildings devoted solely to the storage and maintenance of equipment and materials and public service facilities.

**PUBLIC UTILITY:** Any person, firm, or corporation duly authorized to furnish electricity, gas, telephone, water, or sewerage systems to the public under public regulations

**RECREATIONAL VEHICLE:** A vehicle primarily designed as temporary living quarters for recreation, camping, or travel, either with its own motor power, or mounted on or towed by another powered vehicle.

**RECREATION CAMPGROUND:** An area of land on which two or more recreational vehicles, including campers, tents or other similar temporary recreational structures are regularly accommodated with or without charge, including any building, structure, or fixture of equipment that is used or intended to be used in connection with providing such accommodations.

**REHABILITATION:** The upgrading of a building previously in a dilapidated or substandard condition, for human habitation or use.

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**RELIGIOUS USE:** A structure or place in which worship, ceremonies, rituals, and education pertaining to a particular system of beliefs are held.

**RELOCATE:** To move an individual, household, use or building from its original place to another location.

**RESIDENCE:** A home, abode, or place where an individual is actually living at a specific point in time.

**RESIDENTIAL DENSITY:** The number of dwelling units per acre of residential land.

**RESTRICTION:** A limitation on property which may be created in property deed, lease, mortgage, through certain zoning or subdivision regulations, or as a condition of approval of an application for development.

**RESTRICTIVE COVENANT:** A restriction on the use of land usually set forth in the deed.

**RETAINING WALL:** A structure constructed to hold back or support an earthen bank.

**RETENTION BASIN:** A pond, pool, or basin used for the permanent storage of water runoff.

**REZONE:** To change the zoning classification of particular lots or parcels of land.

**RIGHT-OF-WAY:**

- (1) A strip of land acquired by reservation, dedication, forced dedication, prescription, or condemnation, and intended to be occupied, or occupied, by a road, crosswalk, railroad, electric transmission lines, oil or gas pipeline, water line, sanitary storm sewer, and other similar uses.
- (2) Generally, the right of one to pass over the property of another.

**ROADSIDE STAND:** A temporary structure designed or used for the display or sale of agricultural and related products, or novelties and other items of interest, to the motoring public

**SANITARY SEWAGE:** Any liquid waste containing animal or vegetable matter in suspension or solution, or the water-carried waste resulting from the discharge of water closets, laundry tubs, washing machines, sinks, dishwashers, or any other source of water-carried waste of human origin or containing putrescible material.

**SANITARY SEWERS:** Pipes that carry only domestic or commercial sewage, and into which storm surface and ground waters are not intentionally admitted.

**SCHOOLS, PUBLIC:** An institution or place for instruction of education belonging to the public and established and conducted under public authority in the various districts,

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counties or cities and maintained at the public expense by taxation, and open with or without charge to the public for their attendance. This does not include schools owned and/or conducted by private parties though said schools may be open to the public generally and though tuition may be free. Schools in the aforementioned category of public schools shall include all public cottage or kindergarten, elementary, middle school, high school, junior colleges, college and universities, but no others.

**SCREENING:** A structure erected or vegetation planted for concealing an area from view

**SCREENING AREA:** An area set aside to remain vacant of buildings and to be planted and landscaped to reduce the blighting effect of certain land uses on adjacent property.

**SEPTIC SYSTEM:** An underground system with a septic tank used for the decomposition of domestic wastes.

**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 space is incidental to a service facility.

**SERVICE STATION:** Any building, structure, or land used for the dispensing, sale, or offering for sale at retail of any motor vehicle fuels, oils, or accessories and in connection with which is performed general automotive servicing as distinguished from automotive repairs.

**SETBACK LINE:** A line established by this chapter, generally parallel with and measured from the lot line (property line), defining the limits of a yard in which no building, other than accessory building, or structure may be located aboveground, except as may be provided in this chapter.

**SEWER, ON-SITE:** A septic tank or similar installation on an individual lot which utilizes an aerobic bacteriological process or equally satisfactory process for the elimination of sewage and provides for the proper and safe disposal of the effluent, subject to the approval of health and sanitation officials having jurisdiction.

**SIDEWALK:** The portion of the road right-of-way outside the roadway, which is improved for the use of pedestrian traffic.

**SIGN:** Any work, lettering, figures, numbers, phrases, sentences, emblems, devices (including loud speakers), designs, pictures, trade names or trademarks, by which is affixed to, or represented directly or indirectly upon a building, structure, vehicle (including portable type vehicles) or piece of land and which directs attention to an object, place, activity, person, firm, corporation, institution, business, service, commodity

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or a product, which are visible from the rights-of-way of any street, road, highway, or pedestrian area, and designed to attract attention. The term “sign” shall not include the flag, pennant or insignia of any nation, state, county, city, or other political unit, or any political, educational, charitable, philanthropic, civic, professional, religious or like campaign, drive, monument, event or any type of traffic or warning sign or signal or the usual house or building number or a sign posted on a service or delivery type vehicle.

**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 or industry located upon the premises where such sign is displayed or to which it is affixed to type of products sold, manufactured or assembled and/or to service or entertainment offered upon said premises, but not pertaining to an advertising sign if such activity is only minor and incidental to the principal use of the premises.

**SIGN, CANOPY:** Any sign affixed directly to any canopy.

**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 a rigid manner and parallel to the building wall and shall not extend outward from the building wall more than twelve (12) inches, except, however, if the sign is illuminated, the reflectors shall project not more than four (4) feet beyond the face of the sign. Such sign or signs shall not extend beyond the top or ends of the wall surface on which they are placed.

**SIGN, GROSS AREA OF:** The entire area within a single continuous perimeter enclosing the extreme limits of a sign and in no case passing through or between any adjacent elements of the same. 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.

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**SIGN, POLE:** Any sign affixed to a free standing supporting pole or poles, embedded in, and extending upward from the ground with a minimum ground clearance of 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. For the purpose of Article XIV, SIGN REGULATIONS, the word window shall be construed to mean any glass which comprises part of the surface of the wall regardless of its moveability.

**STABLE, PRIVATE:** A separate accessory building with a capacity for not more than one (1) horse or pony for each six thousand (6,000) square feet of lot area whereon such stable is located and where such horses or ponies are owned by the owners or occupants of the premises and not kept for compensation, hire or sale.

**STABLE, PUBLIC:** A main building with a capacity for not more than one (1) horse or one (1) pony for each six thousand (6,000) square feet of lot area whereon such stable is located and where such horses or ponies are owned by the owners or occupants of the premises and not kept for compensation, hire or sale.

**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 be counted as a story.

**STORY, HALF:** A story under a gable, hip, or gambrel roof, the wall plates of which on at least two (2) opposite exterior walls are not more than three (3) feet above the floor of such story.

**STREET, ARTERIAL:** Public thoroughfares which serve the major movements of traffic within and through the community as identified in the adopted Comprehensive plan for the city.

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

**STREET, EXPRESSWAY:** A divided arterial highway for through traffic with full or partial control of access in general with grade separations at major intersections.

**STREET, PARKWAY:** A divided multi-lane highway for through traffic with all crossroads separated in grades and with full control of access.

**STREET, LOCAL:** Facilities which are designed to be used primarily for direct access to



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abutting properties and leading into the collector street system.

**STREET, PRIVATE:** A paved private thoroughfare 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.

**STREET, PUBLIC:** A public thoroughfare, constructed within the boundaries or an officially deeded and accepted public right-of-way, which affords principle 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.

**STRUCTURE:** Anything constructed or erected, the use of which requires more or less permanent location in or on the ground or attachment to something having a permanent location in or on the ground, including buildings, mobile homes, signs, and fences, but not including earthworks, ditches, canals, dams, reservoirs, pipelines, telephone or telegraph or electric power lines, driveways or curbs.

**SUBDIVISION:** The division of a parcel of land into two or more lots or parcels for the purpose, whether immediate or future, of sale, lease, or building development, or if a new street is involved any division of a parcel of land; providing that a division of land for agricultural purposes into lots or parcels of five acres or more and not involving a new street shall not be deemed a subdivision. The term includes re-subdivision and when appropriate to the context shall relate to the process of subdivision or to the land subdivided.

**SWIMMING POOL:** 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, or any depression or excavation in any natural or constructed material or type of berm of any material or type of construction; including all appurtenances to such structure or device and all appliances used in connection there-with; 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. Outdoor swimming pools shall be deemed to consist of the following classes: private, semi-private, public and commercial, as follows:

A. Private: when consisting of an accessory structure appurtenant to a one family or a two-family dwelling and used only as such by persons residing on the same lot and their private guests (as distinguished from groups of any kind) with no payment of any kind or in any form charged or received for such use.

B. Semi-public: when consisting of an accessory structure appurtenant to a multiple dwelling, hotel, motel, church, school or private club, or country club, and used only as such by persons who reside or are housed on the same lot or who are regular members of such church, club, country club or regular attendants at such school and by individual guests (as distinguished from groups of any kind) of the foregoing with no payment of any kind or in any form being charged or being received for such use.

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C. Public: a swimming pool operated by a unit of government for the general public.

D. Commercial: a swimming pool operated for profit, open to the public upon payment (of an hourly, a daily, weekly, monthly, annual, or other fee).

TAVERN: Any establishment selling, by the drink, fermented malt beverages or malt, vinous or spirituous liquors.

TEMPORARY: Use for thirty (30) consecutive days during each six (6) month period

TENT: Any structure or enclosure, the roof of which and/or one-half (1/2) or more of the sides are constructed of silk, cotton, canvas, fabric, or a similar light material.

TINY HOUSE: A dwelling standing by itself with a minimum length and width dimension of 14 feet, affixed to a foundation, and with a minimum living space square footage as defined by Kentucky Residential Code, excluding porches and garages.

TOURIST COURT: *See* MOTELS.

TOURIST HOME: A building designed for or used by a single family or two-family dwelling in which sleeping rooms are provided or offered to transient guests for compensation, but not more than four (4) transient guests.

USE: The specific purpose for which land or a building is designated arranged, intended, or for which it is or may be occupied or maintained.

USED or OCCUPIED: Includes the words “intended, arranged, or designed to be used or occupied”

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

VACANCY: Any unoccupied land, structure, or part thereof which is available and suitable for occupancy.

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

WALKWAY: A public way, four feet or more in width, for pedestrian use only whether along the side of a street or not.

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**YARD:** An open space on the same lot or building site with a main building unoccupied and unobstructed from the ground upward, except by trees, Plants, shrubberies, ornaments, utility poles and wires, dog houses, outdoor furniture, gas pumps, pump islands.

**YARD DEPTH, FRONT:** An open space 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 open space 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 open space 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.

**ZERO LOT LINE:** The location of a building on a lot in such a manner that one or more of the building's sides rest directly on a lot line.

**ZONING:** The division of an area into districts, and the public regulation of the character and intensity of the use of the land and of the buildings and structures which may be located thereon, in accordance with a comprehensive plan.

**ZONING ADMINISTRATOR:** The official or officials appointed by the city for carrying out the provisions and enforcement of this ordinance.

**ZONING ORDINANCE:** A legal tool for accomplishing the objectives of a land use plan. It is an effective regulatory measure designed to encourage high standards of development and to foster the cost efficient use of land.

**ZONE:** An established area within the city for which the provisions of this ordinance are applicable. (Synonymous with the word "District").

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**ARTICLE VIII**  
**ESTABLISHMENT OF ZONES**

**SECTION 8.0**

**Establishment of Zones**

For the purpose of this ordinance, the city is divided into the following zones:

**SFR-1 SINGLE FAMILY RESIDENTIAL 1**

**SFR-2 SINGLE FAMILY RESIDENTIAL 2**

**MFO MULTI-FAMILY OVERLY**

**DC DOWNTOWN COMMERCIAL**

**HC HIGHWAY COMMERCIAL**

**I INDUSTRIAL**

**AG AGRICULTURAL**

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ZONING DISTRICT REQUIREMENTS								
District Name	Lot Area (SQ FT)	Lot Width (FT)	Front Setback (FT)	Rear Setback (FT)	Side Setback (FT)	Lot Frontage (FT)	Frontage Cul-de-Sac (FT)	Building Height (FT)
RESIDENTIAL SINGLE FAMILY 1 (RSF-1)	6000	60	25	15	15' TOTAL (MIN 5' ONE SIDE)	50	35	50
RESIDENTIAL SINGLE FAMILY 2 (RSF-2)	6000	60	25	15	15' TOTAL (MIN 5' ONE SIDE)	50	35	50
MULTI-FAMILY OVERLAY (MFO)	6000 w/ 1000 Additional per Unit	60	25	15	15' TOTAL (MIN 5' ONE SIDE)	50	35	50
DOWNTOWN COMMERCIAL (DC)	2000	20	0 No More Than 10	5 (adj res 10)	0 (adj res 5)	20	20	50
HIGHWAY COMMERCIAL (HC)	7500	75	25	20 (adj res 30)	10 (adj res 15)	75	45	50
INDUSTRIAL (I)	30000	100	40	30	15	100	60	75
AGRICULTURAL (AG)	1 Acre (43560 Sq Ft)	100	35	25	10	50	35	50

**NOTE: ALL NUMBERS REPRESENT MEASUREMENT IN FEET**

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**ZONING DISTRICT PERMITTED AND CONDITIONAL USES**

	SINGLE FAMILY RESIDENTIAL ONE	SINGLE FAMILY RESIDENTIAL TWO	MULTI-FAMILY OVERLAY	DOWNTOWN COMMERCIAL	HIGHWAY COMMERCIAL	INDUSTRIAL	AGRICULTURAL
<u>RESIDENTIAL</u>							
Detached SFD	P	P	P				P
Duplex Dwelling			C				
Townhomes and Condominiums			C				
Multi-Family Dwelling			C				
Bed and Breakfast Inn	C	C	C				
Residential Care Facilities			C				
Single-Wide Manufactured Homes		P					C
Tiny House		P					
<u>PUBLIC AND SEMI-PUBLIC</u>							
Schools	C	C	C	P	P		C
Police and Fire Stations				P	P		
Government Offices				P	P		
Parks and Playgrounds				P	P		
Swimming Pools, Sports/Recreation				P	P		

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Facilities							
Utility Facilities				P	P		
Cellular Antenna Towers				C	C		C
Libraries, Museums				P	P		
Churches	C	C	C	P	P		C
<u>BUSINESS AND PERSONAL SERVICES.</u>							
Private Recreation and Sports Center				P	P		
Art Galleries, Exhibition Hall				P	P		
Private Golf Courses				P	P		C
Arenas and Amphitheaters				P	P		
Private Clubs & Lodges				C	C		C
Photography, Art				P	P		
Barber and Beauty Shops				P	P		
Health Spas, Weight Loss Facilities				P	P		
Tanning Salons				P	P		
Auto Repair, Auto Parking				P	P		
Auto Body Shops				P	P		
Miscellaneous Repairs				P	P		
Laundromats				P	P		
Tailors, Seamstresses, Upholstering	C	C	C	P	P		

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Photo Developing				P	P		
Video Rental Shops				P	P		
Amusement and Recreation				P	P		
Adult (sexually explicit) Entertainment							
Hotels, Motels				P	P		
<u>RETAIL TRADE</u>							
Food Stores (Convenient)				P	P		
Food Stores (Community)				P	P		
General Merchandise				P	P		
Auto Dealers				P	P		
Service Stations				P	P		
Apparel and Accessory Stores				P	P		
Furniture, Furnishing and Appliances				P	P		
Eating and Drinking Est.				P	P		
Drug Stores/Pharmacies				P	P		
Office Supplies				P	P		
Toys and Sporting Goods				P	P		
Books, Records, Tapes				P	P		
Hardware and Related				P	P		



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Gifts, Jewelry, Novelties	C	C	C	P	P		
Bicycles, Motorcycles				P	P		
Auto Parts and Supplies				P	P		
Package Liquor, Beer, Wine				P	P		
Pet Stores				P	P		
Farm Equipment/Supplies				P	P		
Feed, Seed, and Garden Supplies				P	P		
Computers, Electronics				P	P		
Miscellaneous Retail				P	P		
Prefab/Manufactured Structure Sales				P	P		C
Salvage Yards							
Artisan/Craft Studios				P	P		
<u>PROFESSIONAL Serv.</u>							
Architects, Engineers	C	C	C	P	P		
Accountants	C	C	C	P	P		
Bank, Investment Serv.	C	C	C	P	P		
Business Consultants	C	C	C	P	P		
Real Estate	C	C	C	P	P		
Tax Serv.	C	C	C	P	P		
Attorneys	C	C	C	P	P		
Advertising/Public	C	C	C	P	P		

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Relations							
<u>HEALTH SERVICES.</u>							
Hospitals				P	P		
Physical Therapy				P	P		
Assisted Care Facilities				P	P		
Doctor/Dentist Office				P	P		
Hospices				P	P		
Veterinary Offices				P	P		
<u>EDUCATIONAL AND SOCIAL SERVICES.</u>							
Child Care Facilities	C	C	C	P	P		
Counseling Serv.	C	C	C	P	P		
Social Service Organizations				P	P		
Business/Technical Training				P	P		
<u>WAREHOUSING AND STORAGE</u>							
Warehouses				C	P		C
Mini-warehouses				C	P		
Moving and Storage				C	P		
Truck Freight Terminals				C	P		
Food Lockers				C	P		
Warehouse Distributors				C	P		

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<u>AGRICULTURE</u>							
Crop Production							P
Pastures							P
Timber							P
Orchard Fruits/Vineyards							P
Horticulture							P
Livestock Production							
Poultry Production							
Farm Machinery Repair/Servicing				C	P		C
Crop Production Retail Serv.				C	C		C
Horticulture Retail					C		C
Aquaculture					C		C
Equine Activities							C

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**SECTION 8.1**

**Application of District Regulations**

The regulations set forth in this Ordinance shall be the minimum regulations and shall apply uniformly to each class or kind of structure or land, and particularly as follows:

- (1) No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, structurally altered or demolished unless in conformity with all of the regulations herein specified for the district in which it is located.
- (2) No building or structure shall hereafter be erected or altered:
  - a. To exceed the maximum allowed height;
  - b. To accommodate or house a greater number of families than specifically allowed;
  - c. To have narrower or smaller yards or other open spaces than herein required or in any manner contrary to the provisions of this ordinance.
- (3) No part of a yard or other open space, required landscape area, parking or loading area for any building or structure shall hereafter be included as part of the same requirements for any other building or structure, except as specifically provided for in this Ordinance.
- (4) Whenever a lot in a nonresidential district has a common boundary line with a lot in a residential district, and the setbacks in the nonresidential district are less than the setbacks in the residential district, the nonresidential district lot shall be required to observe the setbacks applicable to the adjoining residential lot.

EXCEPTION: Whenever a lot in an industrial district has a common boundary line with a lot used for residential purposes, a fifty (50) foot setback is required along all common boundaries.
- (5) Any non-emergency access to any use in an industrial district is prohibited through any residential district.
- (6) All minimum frontage requirements for new structures shall be required on a dedicated public street.
- (7) No type of building/structure, vehicle, tree, planting, vegetation, 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 of vehicular traffic.
- (8) No type of building/structure shall be allowed in a utility/drainage easement with the exception of a fence or retaining wall.

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- (9) Exceptions Relating to Agriculture Use: Land which is used solely for agricultural purposes shall have no regulations except that:
- a. Setback lines and minimum road frontages shall be required for the protection of existing and proposed streets and highways.
  - b. All building or structures in a designated floodway or flood plain or which tend to increase flood heights or obstruct the flow of flood waters may be fully regulated.

**Non-Residential Uses in Residential Districts**

The minimum width of side yards for educational facilities, libraries, churches/religious institutions, community buildings, and other public and semipublic buildings in residential districts shall be 25 feet.

**Additional Residential Use Requirements**

The regulations set forth in this Ordinance shall be the minimum regulations and shall apply uniformly to all structures and land particularly as follows:

- (1) All accessory uses shall only be permitted when a principal use exists on the property.
- (2) No more than one (1) principal use on a lot is permitted in residential districts.
- (3) No more than one (1) principal building/structure per lot is permitted in residential districts and agricultural districts, except when otherwise permitted by this Ordinance.
- (4) All accessory structures on the lot shall not exceed 30% of the rear yard. Accessory structures shall only be permitted in the side or rear yard.  
EXCEPTION: Carports may be permitted within the front yard so long as they comply with all required setbacks.
- (5) Any accessory building closer than five (5) feet to the principal structure shall be considered as part of the principal structure and shall meet the minimum side and rear yards required for the principal structure.
- (6) Driveways may not extend closer than one foot to the side property line; except that in the event that a common driveway will be used to serve two or more lots, then driveways may be permitted to abut the property line.
- (7) 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 51% 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.
- (8) For two-family and multi-family developments, all structures are required to maintain the front yard and rear yard setbacks from all roadways, including private access ways.

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- (9) Home Occupations are allowed in the agricultural and residential districts as conditional uses and subject to all requirements herein. Home Occupations that meet the following criteria are considered “Limited” Home Occupations and do not require a conditional use permit: a) have no signage or additional parking, b) does not occupy more than twenty-five (25) percent of the dwelling, c) have limited deliveries, d) have no customer/clientele/public visits, and e) have no goods or products offered for sale on the premises.

The following activities, so long as they meet other requirements of this ordinance, may be regarded as accessory to residential principal uses:

- (1) Hobbies or recreational activities of a noncommercial nature.
- (2) Yard, garage or estate sales, so long as such sales are not conducted for a period of longer than forty-eight (48) hours on the same lot and no more than five (5) times per year.
- (3) Camping trailers, so long as they are placed in the rear or side yard. Residence in a camping trailer shall only be temporary, as defined by this Ordinance and shall take place no more than (1) one time (temporarily) per six month period.

The following activities shall not be considered as accessory to a principal residential use and shall be prohibited:

- (1) Storage outside of substantially enclosed structure, any motor vehicle that is either unlicensed or not operational.
- (2) Unscreened construction equipment, including, but not limited to backhoes and front-end loaders.
- (3) Unscreened over-the-road tractor trailers and semis parked at a residence for more than 72 consecutive hours (3 days) during any consecutive seven (7) day period.
- (4) Use of a partial or complete mobile home, manufactured home or vehicle for storage purposes.

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**ARTICLE IX**  
**ZONING MAP**

**SECTION 9.0**

**OFFICIAL ZONING MAP OR MAPS:** The zones are bounded and defined as shown on the map (or maps) entitled, "OFFICIAL ZONING MAP OF THE CITY OF MORTONS GAP, KENTUCKY", and shall so remain on file in the office of the city Zoning Administrator.

**SECTION 9.1**

**CHANGES ON ZONING MAP:** If, in accordance with the provisions of this ordinance and the Kentucky Revised Statutes, changes area made in zone boundaries or other matters portrayed on the Official Zoning Map (or maps), such changes shall be made on the Official Zoning Map (or maps) promptly after the amendment to this ordinance has been approved by the legislative body. Such change shall not become effective until said changes have been made on sail map (or maps). In addition, no building, structure, sign or fence permit shall be approved or issued until the OFFICIAL ZONING MAP (or maps) indicate the proper zoning for the used intended as indicated upon the application for the permit. No changes of any nature shall be made on the Official Zoning Map (or maps) or matter shown thereon which are not in conformity with procedures set forth in this ordinance. Regardless of the existence of purported copies of the Official Zoning Map (or maps), the OFFICIAL ZONING MAP, which shall be located in the office designated by law, shall be the final authority as to the current zoning status of land, buildings and other structures in the city.

**SECTION 9.2**

**REPLACEMENT OF OFFICIAL ZONING MAP:** In the event that the Official Zoning Map (or maps) become damaged, destroyed, lost, or are deemed necessary to be replaced due to the age of the map or corrections in location of right-of-way or subdivisions, the City of Mortons Gap may, by ordinance, cause to have prepared and by ordinance, adopt a new Official Zoning Map (or maps) which shall supersede the prior Official Zoning Map (or maps), but no such corrections shall have the effect of amending the original Zoning Ordinance or any subsequent amendment thereof.

**SECTION 9.3**

**RULES FOR INTERPRETATION OF ZONE BOUNDARIES:** Rules for interpretation of zone boundaries shown on the Official Zoning Map (or maps) are as follows:

- A. Boundaries indicated as approximately following the rights-of-way boundary of a street, road, or highway shall be construed to follow such rights-of-way lines and when said rights-of-way are officially vacated the zones bordering such rights-of-way shall be extended out to the centerline of said vacated rights-of-way.

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- B. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- C. Boundaries indicated as approximately following political boundary lines shall be construed as following such boundary lines.
- D. Boundaries indicated as approximately following the rights-of-way of railroad lines shall be construed as following such lines.
- E. Boundaries indicated as approximately following the centerlines of streets, streams, rivers, ditches, gullies, ravines or other bodies of water shall be construed to follow such centerlines.
- F. Boundaries indicated as approximately parallel to features indicated in Rules A through E, of this section, shall be construed as parallel to such features. Boundaries indicated as approximate extensions of features indicated in Rules A through E or this section shall be construed as being extensions of such features. Distances not specifically indicated on the Official Zoning Map (or maps) shall be determined by the scale of the map (or maps), if an accurate legal description cannot be determined from the original zoning case.

**SECTION 9.4**

**ANNEXED TERRITORY: AREAS NOT INCLUDED WITHIN ZONES:** In any case where territory is annexed to the City of Mortons Gap, the zoning classification for such territory shall be the same as it was under the unit of government which exercised jurisdiction of such territory prior to its annexation. That all regulations, resolutions and ordinances necessary to administer the said zoning shall be adopted into this ordinance by reference until the action provided for below is complete.

Within a period of sixty (60) calendar days after a territory is finally annexed to the City of Mortons Gap, the Planning Commission shall initiate action to amend its comprehensive plan, to include the annexed territory in accordance with requirements of KRS Chapter 100. Following said action, the Planning Commission shall further take action to review the appropriate zoning classification for said territory in accordance with the City's adopted comprehensive plan for implementing changes, if any, appropriate or necessary, in accordance with KRS Chapter 100.

**SECTION 9.5**

**NONCONFORMING USES REGULATED**

A nonconforming use shall be permitted to continue provided it remains otherwise lawful and shall be regulated as follows:

- A. A nonconforming use shall not be enlarged or extended, nor the building it occupies enlarged, or rebuilt, so as to occupy a greater area of land than was occupied at the date of adoption of this Ordinance.
- B. When a nonconforming use is replaced by a permitted use for any period of time, it shall thereafter conform to this Ordinance.



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- C. A nonconforming use shall not be permitted to change from that nonconforming use to another nonconforming use unless the new nonconforming use is in the same or more restrictive classification and the new nonconforming use is not an enlargement or extension of the scope of the existing nonconforming use.
- D. When a nonconforming use is abandoned or non-use is continued for a period of ninety (90) consecutive days, or if non-use is continued through a lack of diligence as to amount to an abandonment, then it shall thereafter conform with this Ordinance.
- E. Any principal use at the date of the adoption of this ordinance that would thereafter require a conditional use permit shall be deemed a conforming use, but any enlargement or replacement shall require a conditional use permit.

**SECTION 9.6**  
**NONCONFORMING STRUCTURES REGULATED**

A nonconforming structure may continue to exist provided it remains otherwise lawful and shall be regulated as follows:

- A. On any nonconforming structure or portion of a structure containing a nonconforming use, work may be done for ordinary repairs provided that the number of square feet is not increased, nor the scope of the nonconforming use enlarged. This Ordinance shall not be construed to prevent the strengthening, repairing, restoring to a safe condition any structure or parts thereof
- B. Should a nonconforming structure or nonconforming portion of a structure be demolished by any means, it shall not be reconstructed except in a manner to make it conforming under this Ordinance.
- C. Should a nonconforming structure be moved for any reason for any distance, it shall thereafter conform to this ordinance.
- D. A nonconforming structure shall not be enlarged or altered in a manner that increases its degree of nonconformity, but a structure may be altered to decrease its nonconformity.

**SECTION 9.7**  
**NONCONFORMING LOTS OF RECORD**

In any district where a specified use is permitted, permitted buildings and customary accessory structures may be constructed on any single lot of record as defined by this Ordinance, notwithstanding limitations imposed by other provisions of this Ordinance. Such lot must be of separate ownership and not of continuous frontage with other lots in the same ownership. If two or more lots or combinations of lots and portions of lots with continuous frontage in a single ownership are of record at the time of passage of this Ordinance, and if all or part of the lots do not meet the requirements established for lot

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width and lot area, the lands involved shall be considered an undivided parcel for the purpose of this Ordinance.

**ARTICLE X**  
**GENERAL REGULATIONS**

**SECTION 10.0**

**PURPOSE**

General regulations apply to all districts. Where requirements of a general regulation and a district regulation differ, the more restrictive requirement shall prevail.

**SECTION 10.1**

**REDUCTION IN BUILDING SITE AREA**

Notwithstanding other provisions of this ordinance, 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 except where such reduction has been brought about by the expansion or acquiring of rights-of-way for a street, road, or highway. 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 in the remaining portion of the area shall be subject to compliance with all 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 11 of this ordinance.

**SECTION 10.2**

**INTERFERENCE WITH TRAFFIC SIGNALS**

Notwithstanding other provisions of this ordinance, in any zone, no sign, structure, tree, planting or vegetation or any portion thereof shall protrude over or into any street, road or highway so as to create confusion around, or otherwise interfere with, traffic signals of any kind.

**SECTION 10.3**

**VISION CLEARANCE AT CORNERS, CURB CUTS, AND RAILROAD CROSSINGS**

Notwithstanding any part of this ordinance or any permit granted, or any variance granted by the Board of Adjustment, 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 10.4**

**FRONTAGE ON CORNER LOTS AND DOUBLE FRONTAGE LOTS**

On lots having frontage on more than one street, in any zone, the minimum front yard shall be provided for each street, road, or highway in accordance with the provisions of this ordinance.

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**SECTION 10.5**

**UTILITIES LOCATION**

Electrical transformer stations, gas regulator stations, sewage and water treatment plants, pumping stations, standpipes for public water supply and other similar utility uses may be located in any zone. The location of such facilities shall be in accordance with Kentucky State law and the following requirements shall be complied with:

A. Such facilities shall be essential for the immediate area or for the proper functioning of the total utility system of which the above element is a part.

**ARTICLE XI**  
**ADMINISTRATION**

**SECTION 11.0**

**ENFORCING OFFICER**

A Zoning Administrator (official or officials appointed by the city of Mortons Gap, Commonwealth of Kentucky for carrying out the provisions and enforcements of this Ordinance) shall administer and enforce this Ordinance. He may be provided with assistance of such other persons as the city of Mortons Gap directs. If the Zoning Administrator finds that any of the provisions of this Ordinance are being violated, he shall notify in writing the person responsible for such violation and order the action necessary to correct it. If within thirty (30) consecutive calendar days, the violation has not been corrected, a second written notice shall be sent to the person responsible informing him that as of specified date he shall be considered to be in violation of this Ordinance and liable to be penalized as per Section 11.7 of this Ordinance. The Zoning Administrator shall have the authority to order discontinuance of illegal use of land, buildings, structures, signs, fences or additions, alterations or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to insure compliance with or to prevent violation of its provisions. It is the intent of this Ordinance that all questions of 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, and that recourse from the decisions of the Board of Adjustment shall be to the courts as provided by State Statutes, Commonwealth of Kentucky. It is further the intent of this Ordinance that the duties of the Zoning Administrator in connection with this Ordinance shall not include hearing and deciding questions or interpretation and enforcement that may arise. Under this Ordinance the City Council shall have only the duties of one (1) considering and adopting or rejecting this Ordinance, proposed amendments or the repeal of one (1) considering and adopting or rejecting this Ordinance, as provided by law and two (2) of establishing a schedule of fees and charges as stated in Section 13.0 of this Ordinance.

**SECTION 11.1**

**BOARD OF ADJUSTMENTS**

The Board of Adjustments, hereinafter referred to as, “Board”, shall be established before the Zoning Ordinance shall be legally enforced. The Board shall be established in accordance with the provisions of Kentucky Revised Statutes Chapter 100.217 and the 1977 Planning Commission Charter Agreement. The Board shall have the following powers as allowed under Kentucky Revised Statutes, including but not limited to:

- A. The right to employ or contract with planners or other persons from any and every source in and out of the Commonwealth of Kentucky.
- B. To receive, hold and spend funds which it may legally receive from any and every source in and out of the Commonwealth of Kentucky.
- C. To issue subpoenas, and to hear and decide applications for conditional use permits, variances and dimensional variances.

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D. To review administrative action in enforcement of this Ordinance.

**SECTION 11.2**

**BUILDING PERMITS**

Building permits shall be issued in accordance with the following provisions:

A. **BUILDING PERMITS REQUIRED:** No public or private building or other structure shall be erected, moved, added to, or structurally altered without a permit issued by the Building Inspector. 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 made to the Hopkins County Joint Planning Commission office.

C. **ISSUANCE OF BUILDING PERMIT:** After thorough study of the submitted information, the Building Inspector 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 Building Inspector's signature. The second copy similarly marked, shall be retained by the Building Inspector. If approved, the Building Inspector shall also issue a building permit to the applicant at this time and shall retain a duplicate copy for his 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. **BUILDING PERMITS ISSUED PRIOR TO THE ADOPTION OF THIS ORDINANCE:** Building Permits issued in conformance with the Building Code of the city of Mortons Gap prior to the date of adoption of this Ordinance, whether consistent or inconsistent with this Ordinance, shall be valid for a period of ninety (90) consecutive calendar days from the time of issuance of the permit to start construction. If construction in connection with such a permit has not been started within such a ninety (90) consecutive calendar day period, the permit shall be void and a new permit, consistent with all provisions of this ordinance and the Building Code shall be required. For purposes of this section, construction shall be deemed to have been started at the time of completion of the foundation.

F. **EXPIRATION OF BUILDING PERMIT:** If the work described in any building permit has not begun within one hundred eighty days (180) consecutive calendar days from the date of issuance thereof, said permit shall expire and be cancelled by the Building Inspector and no construction shall be permitted until a new building permit has been obtained.

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**SECTION 11.3**

**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, 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 construction shall be issued by the Building Instructor before he is satisfied that the plans, specifications and intended use conform to the provisions of this ordinance.

**SECTION 11.4**

**MANUFACTURED HOME PLACEMENT PERMIT**

No mobile home shall be placed, or moved from one location to another location without acquiring a mobile home placement permit from the Mortons Gap City Clerk.

**SECTION 11.5**

**CERTIFICATE OF OCCUPANCY RECORDS**

A record of all certificates of occupancy shall be kept on file in the offices of the Building Inspector and copies shall be furnished, for a normal charge, on request to any person having a proprietary building affected by such certificate of occupancy.

**SECTION 11.6**

**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 State Statutes, Commonwealth of Kentucky.

**SECTION 11.7**

**PENALTIES**

Any person or entity who violates any of the provisions of this ordinance shall, upon conviction, be fined not less than ten (10) but no more than five hundred (500) dollars for each conviction. Each day of violation shall constitute a separate offense.

**ARTICLE XII**  
**AMENDMENT PROCEDURE**

**SECTION 12.0**

**AMENDMENT PROCEDURE**

A. FILING OF AMENDMENT APPLICATION: All applications for amendments to this ordinance shall be filed, in writing, with the Planning Commission forms furnished by this Zoning Ordinance (See Appendix “A”). The fee required for applying for such amendment shall be as provided for in Section 13.0 of this ordinance.

B. PLANNING COMMISSION REVIEW REQUIRED: A proposal for an amendment to this ordinance may originate with the Planning Commission, the legislative body, or with the owner of the property in question. Regardless of the origin of the proposed amendment, it shall be referred to the Planning Commission for its action before adoption.

C. PUBLIC HEARING REQUIRED, NOTICE GIVEN: 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 city, 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.

D. OTHER HEARING REQUIREMENTS, ZONING MAP AMENDMENT: In addition to the public hearing notice required in Section 12.0, C, above, the following notices shall also be given when a proposal is submitted 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. Said posting shall consist of one or more signs clearly depicting the following information: current zoning classification of property; proposed zoning classification; date and time of public hearing; and address, including telephone number where additional information regarding hearing may be obtained; and
2. Notice of the hearing shall be given by first class mail to the owners of all property adjoining the property, the classification of which is proposed to change. 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 or persons proposing the amendment to furnish to the Planning Commission the names and addresses of the owners of all adjoining 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 by the Planning Commission for the city, 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:



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1. That the original zoning classification given to the property was inappropriate or improper; 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 comprehensive plan and which have substantially altered the basic character of such area.

G. PLANNING COMMISSION ACTION: Following the public hearing held by the Planning Commission on the proposed amendment, the Commission shall, within ninety (90) calendar days from the date of its receipt, advise the legislative body whether it approved or disapproved of the amendment to the zoning regulation, including a statement setting forth explicitly the reasons an substantiation for such action and, in the case of a map amendment, the submission of a written report as required in Section 12.0, E.

F. LEGISLATIVE BODY DISPOSITION: Within ninety (90) consecutive calendar days after receipt of the Planning Commission's recommendations and findings concerning the application and a copy of the application, the legislative body shall act on such application. A majority of the entire legislative body shall be required to override the recommendations of the Planning Commission. If no action is taken by the legislative body within ninety (90) consecutive calendar days, the Planning Commission recommendation becomes final and effective.

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**ARTICLE XIII**  
**FEEES**

**SECTION 13.0**

**Fees**

Fees for permits and other applications shall be as follows:

- A. Manufactured Home Set-UP Fee - \$50.00 (paid to Mortons Gap City Clerk)
- B. Manufactured Home Pull-In Fee - \$25.00 (paid to Mortons Gap City Clerk)
- C. Request for Zoning Amendment - \$250.00 (paid to Planning Commission)
- D. Request for Conditional Use Permit - \$100.00 (paid to Mortons Gap City Clerk)
- E. Request for Dimensional Variance - \$100.00 (paid to Mortons Gap City Clerk)

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**ARTICLE XIV**  
**ENACTMENT**

CITY OF MORTONGS GAP, KENTUCKY  
ORDINANCE \_\_\_\_\_

AN ORDINANCE AMENDING THE ZONING ORDINANCE FOR THE CITY OF  
MORTONS GAP, KENTUCKY, ADOPTED THE\_\_ DAY OF \_\_\_\_\_.

BE IT ORDAINED BY THE CITY OF MORTONS GAP, KENTUCKY, AS  
FOLLOWS:

1. These amendments to the Zoning Ordinance for the City of Mortons Gap, Kentucky, adopted the \_\_\_ day of \_\_\_\_\_.
2. Any Ordinance in conflict with this Ordinance shall be and hereby is repealed.
3. This Ordinance shall be effective upon publication.

The foregoing Ordinance is read to and presented to a regular meeting of the City Council of Mortons Gap, Kentucky, for first reading on the \_\_\_\_\_ day of \_\_\_\_\_, and the second reading on the \_\_\_\_\_ day of \_\_\_\_\_. Motion was made by Council Member \_\_\_\_\_, seconded by Council Member \_\_\_\_\_, that the Ordinance be adopted as the law of the City of Mortons Gap, Kentucky, to be effective upon publication, as required by law.

Upon vote being taken thereon, the votes were cast as follows:

COUNCILMEMBER	YEA	NAY
Linus Schwagel	___	___
James Sharber	___	___
Betty Winfree	___	___
Alex Applebee	___	___
Sheila Canler	___	___
Chris Phelps	___	___

It appearing that \_\_\_ Councilmember(s) voted for the Motion and \_\_\_ Councilmember(s) voted against it, the Mayor announced that the Motion was \_\_\_\_\_ and that the above Ordinance would be published as required by law and would be effective as a new Ordinance of the City of Mortons Gap, Kentucky, immediately upon publication thereof, unless otherwise stated.

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Dated this the \_\_\_\_ day of \_\_\_\_\_.

/s/ Frank Stafford

Frank Stafford, Mayor

City of Mortons Gap, Kentucky

ATTEST:

/s/ Vicki Marsh

Vicki Marsh Clerk/Treasurer

City of Mortons Gap, Kentucky

(City Seal)