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# ZONING ORDINANCE

## CITY OF MADISONVILLE, KENTUCKY

**2003**

(Office Update 08/26/2020)

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# City of Madisonville, Kentucky Zoning Ordinance

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## **Chapter 1 - General Provisions**

### **1.1 Enacting Clause**

The City Council of the City of Madisonville, Kentucky as authorized by the Kentucky Revised Statutes (KRS), Section 100.201 on this \_\_\_\_\_ day of \_\_\_\_\_, 2002 does ordain as follows:

### **1.2 Title**

This Ordinance is entitled “City of Madisonville, Kentucky Zoning Ordinance”, hereinafter also referred to as the “Zoning Ordinance”. The zoning map referred to herein is entitled “City of Madisonville, Kentucky Zoning Map”, hereinafter referred to as the “Official Zoning Map”.

### **1.3 Interpretation**

In interpreting and applying the provisions of this ordinance, said provisions shall be held to be minimum requirements for the protection of the public health, safety and general welfare.

Unless otherwise noted, where the provisions of this ordinance impose greater restrictions than those of any other ordinance or regulations, the provision of this ordinance shall be controlling. Where the provisions of any statute, other ordinance or regulation impose greater restrictions than this ordinance, the provisions of such other statute, ordinance or regulation shall be controlling.

### **1.4 Severability**

Should any chapter, section, part, or provision of this ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any part thereof other than the chapter, section, part, provision so declared to be unconstitutional or invalid.

### **1.5 Repeal of Conflicting Ordinances**

All ordinances or resolutions or parts of ordinances or resolutions in conflict with this zoning ordinance or inconsistent with the provisions of this ordinance are hereby repealed to the extent necessary to give this ordinance full force and effect. This ordinance shall become effective from and after the date of its approval, adoption and publication, as provided by law.

## Chapter 2 - Definitions and Relationship to Comprehensive Plan and Land Use Plan

### 2.1 General

Unless a contrary intention clearly appears, the following words and phrases shall have for the purpose of this ordinance, the meanings given in the following clauses and shall be interpreted as follows:

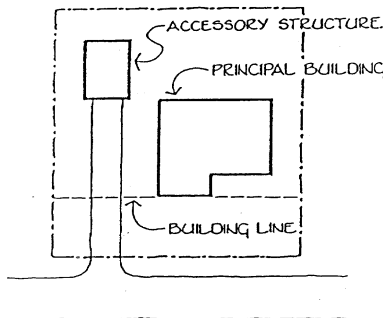
- (1) Words used in the present shall include the future
- (2) The singular includes the plural
- (3) The plural includes the singular
- (4) The word "lot" includes "plot", "parcel" or "tract"
- (5) The term "shall" is always mandatory; the word "may" is a permissive requirement; and the word "should" is a preferred requirement.
- (6) The word "building" includes the word "structure" and "premises" and shall be construed as if followed by the phrase "or part thereof".
- (7) The word "person" includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual.
- (8) The words "used" or "occupied" include the words "intended", "designated", or "arranged to be used or occupied".
- (9) Any word not herein defined by this ordinance shall be defined in any recognized Standard English dictionary.

Where the definitions in this ordinance vary from definitions in the Land Use Plan, Subdivision Regulations, or any other ordinance, the meaning of words in this Ordinance shall take precedence within the context of this ordinance.

### 2.2 Definitions

The following words and phrases, when used herein shall for the purpose of this ordinance, have the meanings respectively ascribed to them in this section, except where the context requires otherwise.

**Accessory Building** – A subordinate building detached but located on the same lot as the principal building, the use of which is incidental or accessory to that of the principal building.



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**MADISONVILLE ZONING ORDINANCE**

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**Accessory Use** – A use conducted on the same lot as the principal use that is clearly incidental to and customarily found in connection with a principal building or use.

**Administrative Official** – The Zoning Administrator or his/her designated representative.

**Adult Establishment** – See Madisonville Code of Ordinances.

**Agricultural** – Agricultural is the use of land primarily for agricultural, farming, dairying, stock, crop or plant-raising or similar purposes.

**Alley** – A public or private thoroughfare which affords only a secondary means of access to abutting property.

**Apartment** – See Dwelling, Multi-Family

**Assisted Living Facility** – A residential facility for persons of varying abilities, ages, infirmities or disabilities that provides shelter, assistance and other services as necessary by the resident.

**Automobile Service Station** – Any building, land area or other premise, or portion thereof, used or intended to be used for the retail dispensing or sales of vehicle fuels and/or vehicle repairs; including as an accessory use the sale and installation of lubricants, tires, batteries, other parts and similar accessories, including food products.

**Bed and Breakfast** – An establishment used for dwelling purposes in which rooms, with or without meals, are offered to transient guests for compensation, may also be known as a Tourist Home.

**Board** – The Board of Adjustments established by ordinance that is charged with administering the zoning ordinance and for reviewing applications for conditional use permits and variances and is separate from the Planning Commission.

**Boarding House** – A dwelling or part thereof in which lodging is provided by the owner or operator to three or more boarders.

**Building** – Any structure having a roof supported by columns or walls designed to be used as a place of occupancy, storage or shelter for persons or property.

**Building, Height of** – The vertical distance from the average grade to the highest point of a flat roof, the deck line of a mansard roof, or the average height between eaves and ridge for gable, hip and gambrel roofs.

**Buildable Width** – The width of the lot left to build on after the side yards are provided.

**Central Business District (CBD)** – The traditional, historic core area of downtown Madisonville traditionally used for residential, commercial, business and/or government purposes.

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**City Council** – The Council of the City of Madisonville.

**Civic Use** – Use of buildings and facilities owned or operated by a public agency.

**Clinic** – An establishment where patients are not lodged over-night but are admitted for examination and treatment by a group of physicians, dentists or other medical practitioners.

**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 use of members and their guests. A club shall also include fraternal and service organizations.

**Commercial** – Buildings, facilities or other structures operated by a corporation, association, partnership, person or other entity rendering goods and/or services for profit.

**Commercial Feed Lot** – An area of land devoted to raising and feeding of livestock where the operation is not part of normal agricultural activity.

**Commission** – The Hopkins County Joint Planning Commission.

**Conditional Use** – A special use permitted within a zoning district other than a principally permitted use, requiring a conditional use permit and approval by the Board of Adjustment.

**Conditional Use Permit** – Legal authorization to undertake a conditional use, issued by the Board of Adjustment consisting of two (2) parts:

- (1) A statement of the factual determination by the Board of Adjustment which justified the issuance of the permit; and
- (2) A statement of the specific conditions which must be met in order for the use to be permitted.

**Conservation District** – Public or semi-public lands being used for either passive or active recreation and/or conservation.

**Court** – Any open space, unobstructed from ground to sky, other than a yard, that is on the same lot with and bounded by two or more sides by the walls of surrounding buildings.

**Day Care Center** – A principal use of a lot containing a facility that employs licensed professional care and provides supervision for four or more unrelated individuals for a fee. The supervision shall comply with all federal, state and local laws and regulations.

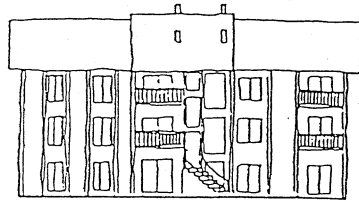
**Density** – A unit of measure; the number of dwelling units per acre of land.

**Dwelling** – Any building, structure or portion thereof which is wholly or partially used, intended or designed to be used exclusively for living or sleeping purposes by one or more human occupants.

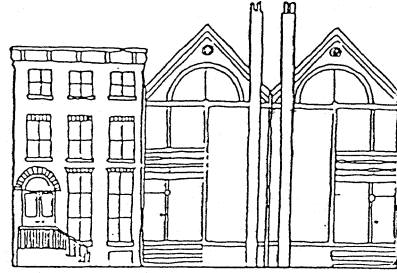
**Dwelling, Modular** – A dwelling unit constructed in accordance with standards set forth in the county and state building codes applicable to site-built homes, comprised of components substantially assembled in a manufacturing plant and transported to the site for final assembly on a permanent foundation.

**Dwelling, Multi-Family** – A residential building containing three or more dwelling units.

**Dwelling, Single Family Attached** – A building containing dwelling units, each of which has a primary ground floor access to the outside and which are attached to others by a party or common wall(s) without openings. The term is intended primarily for dwelling types such as townhouses, row housing or zero lot line homes.



MULTIFAMILY DWELLING



ATTACHED SINGLE-FAMILY DWELLING

**Dwelling, Single Family Detached** – A residential building containing not more than one dwelling unit located on a lot containing no other dwelling units; the minimum length and width dimension being greater than 18 feet and having a minimum living space of 600 square feet excluding porches and garage.

**Dwelling, Two-Family** – A structure on a single lot containing two dwelling units, also called a duplex.

**Dwelling Unit** – One or more rooms in a dwelling occupied or intended to be occupied as living space.

**Duplex** – See Dwelling, Two-Family

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

**Family** – One or more persons occupying a premises and living as a single, non-profit house keeping unit.

**Fence** – An artificially constructed barrier of any material or combination of materials erected to enclose or screen areas of land.

**Floor Area Ratio (FAR)** – The floor area of the building divided by the area of the lot.

**Frontage** – The property line(s) of a lot abutting on a street; the front lot line. For the purposes of determining yard requirements on corner lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as indicated under yards in this ordinance. A property line which abuts a fully controlled access street and which permanently has no access to that street shall be deemed not to have frontage.

**Garage** – A deck, building or structure, or part thereof, used or intended to be used for the parking and storage of automobiles.

**Grade** – The average level of the finished surface of the ground adjacent to the exterior walls of a building.

**Group Home** – A facility or dwelling unit housing persons unrelated by blood or marriage and operating as a group family household.

**Home Occupation** – Any occupation or profession carried out by a member of the immediate family residing on the premises, without advertising, sign or display, except for a name plate not to exceed 4 square feet, that indicates from the exterior of the building that the building is being used in whole or part for any purpose other than that of a dwelling; no commercial vehicles are displayed or parked on the premises; no person is employed other than member(s) of the family residing on the premises; and no goods, stock in trade or commodities other than those associated with the home occupation may be displayed or sold.



**Hospital** – A building or buildings used by medical persons licensed to practice by the State of Kentucky for the treatment and care of patients, generally on an in-patient basis. Also includes sanitariums.

**Hotel** – A building which is open to transient guests as opposed to a boardinghouse or lodging house as herein defined.

**Industrial** – A use relating to production, storage, repair, display, sales or other processes relating to larger-scale raw, intermediate or finished goods and/or materials.

**Institution** – A non-profit establishment primarily for public use and/or benefit.

**Junkyard** – A lot, land, or structure, or part thereof, used primarily for the collecting, processing, storage, salvaging, purchase or sale of waste, scrap, salvaged or discarded goods including vehicles not in working or running condition.

**Kennel** – An establishment where small animals are boarded for compensation or where dogs or small animals are bred or raised on a commercial basis.

**Landscaped Area** – An area that is permanently devoted and maintained to materials such as, but not limited to, living materials such as shrubbery, grass, ground cover, trees and non-living durable materials such as rocks, pebbles, bricks, or decorative walls, but excluding paving.

**Landscaping** – The physical materials, living and non-living that make up the Landscaped Area(s).

**Loading Space** – A space logically and conveniently located for bulk pick-ups and deliveries, scaled to delivery vehicles expected to be used, and accessible to such vehicles when required other spaces (including parking) are filled. Required loading spaces shall be off-street where practical and shall be outside alleys or other public rights-of-way.

**Lodging House or Rooming House** – See Boarding House

**Lot** – A parcel of land, occupied or intended to be occupied, by a building and its accessory buildings, sufficient in size to meet the zoning requirements for use, coverage, and area requirements for the zoning district within which it lies and which has the required frontage on a public street that has been officially accepted for maintenance by either a city, county or state agency. (10/12/05)

**Lot Area** – The total area within the lot lines of a lot, excluding any street rights-of-way.

**Lot of Record** – A lot or parcel of land that has been officially recorded in the Office of the County Court Clerk that was of a size that met the minimum requirements for lots in the district in which it is located at the time of recording or was recorded prior to the effective date of zoning in the area where the lot is located.

**Lot Width** – The width of a lot abutting a public street or right-of-way, also referred to as Frontage.

EXCEPTION: Minimum lot width may be reduced to thirty (30) feet for cul-de-sac lots as long as the required lot width is established at the building line.

**Manufactured Housing Park (MHP)** – See Manufactured Housing Regulations in Chapter 10

**Mixed-Use** – A single family dwelling unit combined with another allowed use in that same zoning district housed in one structure.

**Mobile Home** – See Manufactured Housing Regulations in Chapter 10.

**Motel, Motor Court, Motor Lodge or Tourist Court** – Any building or group of buildings containing guest rooms or dwelling units, some or all of which have a separate entrance leading directly from the outside of the building with garage or parking space conveniently located on the lot, and designed, used or intended wholly or in part for the accommodation of automobile transient guests.

**Non-Conforming Situation** – A situation that occurs when, on the effective date of this ordinance, any existing lot, structure or use of an existing lot or structure does not conform to any one or more of the regulations applicable to the district in which the lot or structure is located.

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

**Office Use** - A building used primarily for conducting the affairs of a business, profession, service, industry or government, or like activity.

**Open Area** – That part of a lot on which no part of a building or structure is located.

**Overlay** – A method of regulating land use in an existing district by applying other guidance parameters “over” the existing zoning codes/regulations. Such overlays may be more restrictive and are in addition to the codes/regulations already applicable to the existing zone/zoning. Such an example in Madisonville is the Medical District Overlay.

**Parking Space** – A paved area (asphalt or concrete), not less than nine (9) feet wide and twenty (20) feet long, enclosed or unenclosed, sufficient in size to store one automobile together with a driveway connecting the parking space with a street, road or alley and permitting ingress and egress of that automobile without the necessity of moving any other automobile.

**Premises** – A lot together with all buildings and structures thereon.

**Public Service Facility** – The use of land and/or buildings for public fire, police, utility and other similar public services by a public utility, railroad, or municipal or other governmental agency.

**Public Utility** - Any person, firm or corporation duly authorized to furnish electricity, gas, steam, telephone, telegraph, water or sewerage systems to the public under public regulation.

**Recreation Facility** – A place designed and equipped for the conduct of sports, leisure time activities, and other customary and usual recreational activities.

**Residential Care Facility** – A residence operated and maintained by a sponsoring private or governmental agency to provide services in a homelike setting for persons with disabilities, as defined in KRS 100.982 to 100.984.

**Right-of-Way** – The land opened and dedicated for a public street or road, which usually includes sidewalk, drainage way, railroad, street pavement, and underground/aboveground utilities.

**Service Use** – An enterprise that does not produce a tangible commodity, such as a beauty salon, barber shop, funeral home.

**Sign** – Any writing, pictorial presentation, number, illustration or decoration, flag, banner or pennant or other devise which is used to announce, direct attention to, identify, advertise or otherwise make anything known. All signs shall be regulated by the city’s Sign Regulations, unless specifically exempted therefrom.

**Street** – The full width between property lines bounding every public right-of-way with a part thereof to be used as a vehicular way, improved or unimproved, which:

- (1) is an existing federal, state, county or municipal roadway; or
- (2) is shown upon a plat approved pursuant to law; or

- (3) is approved by other official action; or
- (4) is constructed to the standards of the controlling body.

**Street Center Line** – The street centerline is a line halfway between the street or right-of-way lines.

**Street Line** – A property line between a street and the adjoining property.

**Structure** – Anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground. Among other things, structures include buildings, walls, fences and signs.

**Structural Alteration** – Any change except those required by law or ordinance, which would prolong the life of supporting members of a building or structure, such as bearing walls, columns, beams, or girders, not including openings for bearing walls as permitted by other ordinances.

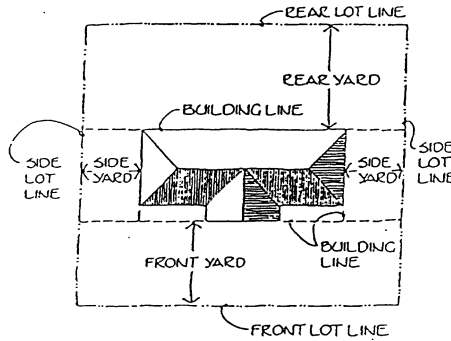
**Studio** – A building or portion of a building used as a place of work by an artist, photographer, or artisan.

**Trailer** – See Mobile Home

**Trailer Court or Mobile Home Court** – See Manufactured Housing Park

**Yard** – A required open space on a lot adjoining a lot line containing only landscaping or other uses as provided by the ordinance.

- (1) Front – A yard across the full width of the lot extending from the front line of the main building to the front line of the lot.
- (2) Rear – A yard extending the full width of the lot between a principal building and the rear lot line.
- (3) Side – A yard between the main building and the side line of the lot, and extending from the front yard line to the rear yard line.
- (4) Width and depth – The shortest horizontal distance from a lot line to the main building.



**Zero Lot Line Home** – A single-family dwelling which is designed such that one side yard is reduced to zero feet in order to maximize the width and usability of the other side yard, and which permits the construction of a single-family dwelling with one side (i.e., wall) of such dwelling placed on the side property line in the case of a detached dwelling and having a common wall in the case of an attached dwelling.

### **2.3 Relationship to Comprehensive Plan and Land Use Plan**

These regulations are related to the Comprehensive Plan that has been prepared for the *entire* County of Hopkins. The Comprehensive Plan includes estimates of population growth, land use surveys, land use plans, plans for major thoroughfares, other transportation facilities, community facilities, and a public works program. It is the intent of the City Council that this ordinance implement the planning policies adopted by the Council for the City as reflected in the Comprehensive Plan, Land Use Plan and other planning documents.

## **Chapter 3 - Regulating Districts, Zoning Map, Permitted and Conditional Uses**

### **3.1 General Regulations**

#### **Zoning Districts**

In order to protect the general health, safety, and welfare of the public, including to classify, regulate, and restrict the use and location of buildings designed for specified uses; to regulate and determine the area of yards, courts, and other open spaces surrounding buildings; and to regulate the density of population, and to realize the general purposes set forth in this ordinance, the city is divided into zoning districts (also called "regulating districts").

#### **Official Zoning Map**

The boundaries of these zoning districts are hereby established as shown on a map entitled "Official Zoning Map for City of Madisonville, Kentucky, (adoption date to be inserted) as amended." This map may also be referred to in this ordinance as the "Official Map" or the "Official Zoning Map." Said zoning map and all notations and references and other matters shown thereon shall be and are hereby made a part of this ordinance. The signature of the Mayor attested by the City Clerk shall identify the Official Zoning Map. This is to certify that this is the Official Zoning Map for the City of Madisonville adopted by the City Council.

No changes of any nature shall be made to the Official Zoning Map or matter shown thereon except in conformity with the procedures set forth in this ordinance. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this ordinance and punishable as provided under this ordinance.

The Official Zoning Map shall be located in the office of the Administrative Official and shall be the final authority on the current zoning classifications of all lands within the City.

#### **Amendments to the Official Zoning Map**

Amendments to the Official Zoning Map shall be carried out using the same procedures that apply to other amendments of the zoning ordinance. The Administrative Official shall update the Official Zoning Map after amendments to it are adopted. No unauthorized person may alter or modify the Official Zoning Map.

The Administrative Official shall keep copies of superseded prints of the zoning map for historical reference.

#### **Rules for Interpreting District Boundaries**

Where uncertainties exist as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

- (1) Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such centerlines.
- (2) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- (3) Boundaries indicated as approximately following City limits shall be construed as following such limits.
- (4) Boundaries indicated as approximately following unplatted property lines shall be construed as following unplatted property lines.
- (5) Boundaries indicated as parallel to or extensions of features shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the graphic scale on the map.

- (6) Where physical or other features existing on the ground are in variance with those shown on the Official Zoning Map, or in circumstances not covered in Chapter 3 above, the Board of Adjustment shall interpret the district boundaries.

**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 occupy a greater percentage of lot area than specifically allowed;
  - d. 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) No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimension or area below the minimum requirements set forth in this Ordinance. Yards and lots created after the effective date of this Ordinance shall meet at least the minimum requirements set forth herein.
- (7) Whenever a lot abuts on a public alley, one-half (1/2) of the width may be considered as a portion of the required yard.
- (8) All minimum frontage requirements for new structures shall be required on a dedicated public street.
- (9) 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.
- (10) No type of building/structure shall be allowed in a utility/drainage easement with the exception of a fence or retaining wall.
- (11) 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) Outdoor Swimming Pools: All private swimming pools over twenty-four (24) inches deep or having a surface area more than two hundred and fifty (250) square feet shall be regulated according to the following requirements:
  - a. No swimming pool shall be permitted within any required setback area nor within any utility easement.
  - b. Swimming pools must be enclosed with a wall or fence (or by a natural barrier if approved by the Administrative Official), including a self-closing and self-locking gate around the pool or property upon which the pool is located. Such wall or fence must be at least four (4) feet above the ground and must be constructed in such a manner that a small child may not reach the pool from the street or any adjacent property without scaling said wall or fence or opening the gate or door.
  - c. Glare from lights used to illuminate the swimming pool area shall be directed away from adjacent properties.
  - d. All swimming pools and associated equipment shall be constructed and erected in accordance with the Kentucky Building Code and all rules and regulations therein.
- (7) 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.
- (8) 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.
- (9) 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.
- (10) 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.

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.

### **Encroachment Exceptions**

In all districts unless otherwise specified herein, fire-escapes, chimneys, window air conditioning units, ground heating and cooling units, steps and eaves may project up to twenty-four (24) inches into a side yard or rear yard setback. Open, unenclosed porches, stoops, awnings and balconies may project up to five (5) feet into a front yard setback. In no instance shall any encroachment be allowed into a utility/drainage easement.

### **Screening and Fencing in Relation to Residential Uses**

The following shall be prohibited in relation to any principal residential use:

- (1) Installation of solid or opaque fence greater than thirty (30) inches in height above the surrounding grade in front of the building setback line.

EXCEPTION: If a parcel of property is adjacent to an incompatible use, installation of a solid or opaque fence which exceeds the height and location restrictions shall be subject to review and approval by the Administrative Officer.

- (2) Installation of any fence or screen that impedes vehicular or pedestrian views or traffic in the area.

### **Height Exceptions**

Height regulations apply to buildings occupied regularly by persons or their activities. They do not apply to other structures or portions of buildings such as radio towers, ornamental spires, water towers, silos, and flag poles which are not occupied regularly by persons except maintenance unless otherwise stipulated in the Zoning Ordinance. No such structure, however, shall exceed seventy-five (75) feet without approval of the Board of Adjustment. The Board of Adjustment shall interpret whether or not height regulations apply upon application by the Administrative Official in doubtful cases. Federal Aviation Agency height regulations in the vicinity of the airport shall take precedence over all other height regulations.

### **Prohibited Uses**

Without limiting the generality of the foregoing provisions, the following uses are specifically prohibited in all districts. In addition, prohibited uses shall be defined to include activities that have a similar impact as uses prohibited by this Chapter.

- (1) Any use that involves the manufacture, handling, sale, distribution or storage of any highly combustible, explosive or hazardous material in manner that is in violation of City, County or State safety or fire prevention codes.
- (2) Tanneries within 1,000 ft. of a residentially zoned lot, or any lot used for residential purposes.

- (3) Use of a camper, travel trailer or motor vehicle as a permanent or temporary residence except as allowed in Chapter 10.2 of this Ordinance.
- (4) Use of a manufactured/mobile home, travel trailer or motor vehicle parked on a lot as a structure in which, out of which, or from which any goods are sold or stored, services are performed or other business is conducted, except when in connection with outdoor retail sales and display of merchandise as provided for in this chapter.
- (5) Hazardous material and/or toxic waste disposal sites within 1,000 feet of a residentially zoned lot, or any lot used for residential purposes.
- (6) Any manufactured/mobile home not conforming to all the regulations set forth for manufactured housing in this Ordinance.
- (7) Any activity that creates or produces noxious emissions of polluting substances, heat or light in such a manner that the activity unreasonably interferes with the reasonable use and enjoyment of neighboring properties of regularly permitted uses or activities, unless it is permitted by state or federal authorities.

Any exceptions listed in Chapter 3 existing at the time of enactment of this Ordinance shall be considered to be non-conforming uses and subject to the requirements for such uses set forth elsewhere in this Ordinance.

**Public Service Facilities**

Public fire, police, utility or other services are permitted in all districts except the Conservation District. Such facilities must abide by the following regulations:

- (1) To the extent possible, all public safety/utility buildings should be similar in architectural design to the surrounding neighborhood.
- (2) Nonessential vehicle parking shall be to the rear of the lot. Wherever possible, storage of public safety and emergency vehicles shall be to the rear of the lot. (NOTE: driveway lanes associated with fire and rescue vehicles are exempt from this provision.)
- (3) Accessory structures shall be placed to the rear of the lot, unless such placement poses a danger to the safety and security of the public or safety personnel.

**Outdoor Retail Sales and Display of Merchandise**

- (1) Outdoor retail sales and display of new merchandise is allowed in nonresidential zoning districts, provided that the sale of such goods is a permitted use in the applicable zoning district, as an accessory to a commercial business which conducts most of its activities within a completely enclosed building or group of buildings when the following requirements are met:
  - (a) Displayed in a neat, orderly manner and kept clean and clear of litter;
  - (b) Does not obstruct clear vision of traffic or traffic signals or interfere with ingress/egress for vehicular traffic or pose a traffic or safety hazard;
  - (c) Does not obstruct pedestrian traffic or intrude upon the public right of way;
  - (d) Screened from any adjoining residential use.
- (2) Additional requirements in the Central Business District (CBD) District:
  - (a) A special use permit must be obtained from the Zoning Administrator; a written plan shall be provided indicating the type, location and time frame of all outside sales and any associated storage areas;
  - (b) Temporary sales and display of merchandise and outside dining areas may occur on a public sidewalk so long as a clear and unobstructed walkway is left for pedestrians and shall at no time obstruct the public's reasonable access upon and across said public sidewalk or create in any way a hazard or unsafe condition or situation;
  - (c) Merchandise must be removed each day at the close of business;



- (d) Outside food sales/dining areas shall be limited to 7 a.m. – 10 p.m. Monday-Thursday and Sunday and 7 a.m. – 11 p.m. on Friday and Saturday;
  - (e) Temporary outdoor storage in crates, portable storage pods and other similar structures for the purpose of storing supplies or excess inventory to be sold is only allowed when not visible from a public right-of-way;
  - (f) Exceptions (3) (c, d and e) below are not applicable in the Central Business District;
  - (g) Where sales and display of merchandise or food sales occur on the sidewalk, a small sign may be allowed so long as it does not obstruct pedestrian or vehicular traffic and is only displayed during businesses hours.
- (3) Exceptions: The following outside sales shall be allowed so long as (N)(1)(a and b) are met:
- (a) Merchandise for sale or rent and/or displayed by a permanent retail establishment which by its nature requires outdoor storage such as nurseries, automobiles, boats, recreational vehicles, farm equipment, truck/trailer/equipment rentals, outdoor furniture/lawn ornaments and other similar type displays;
  - (b) Sales and displays associated with community festivals, activities, or social events;
  - (c) Seasonal items such as produce, plants, pumpkins, Christmas Trees, fireworks, etc;
  - (d) Food trucks and other mobile food vendors as such temporary food sales shall be covered under a separate ordinance;
  - (e) Any other outside sales not allowed in this ordinance may apply for a Special Use Permit to conduct temporary sales up to four times a year, on a quarterly basis, not to exceed 72 consecutive hours at any one location.
- (4) This Ordinance is not intended to prohibit or regulate residential yard sales, so long conducted in accordance with Chapter 156.020 (G) (11), nor the isolated or causal sale of household or other personal items by persons who may live or work in the City.

### **3.2 Agricultural**

- (1) Uses Permitted by Right include:
- Land and/or structures used solely for agriculture, farming, dairying, and stock, crop or plant-raising
  - Horticultural activity and tree farming
  - Kennel, veterinary clinic, and animal hospital
  - Single-family detached dwelling
  - Educational Facility
  - Religious Institution
  - Public recreational facility including playground, sports farm, riding stable, campground, and fishing lake
  - Horse training track
- (2) Uses Permitted by Condition (Conditional Use Permit Required)  
*See Chapter 4 for additional information regarding conditional uses.*
- Bed & Breakfast
  - Cemetery
  - Funeral Home

- Civic Use
- Country Club
- Nursing home, orphanage, rehabilitation home
- Junkyard, disassembly plant
- Airport
- Commercial saw mill
- Mixed Use

(3) Other uses not expressly permitted by Right or with Conditions are prohibited

(4) Permitted Accessory Uses and Structures

- Uses in connection with agriculture, farming, dairying, stock, crop and plant raising, and principal uses listed above, such as barns, agricultural structures, stables, and parking areas
- Private swimming pools and tennis courts associated with dwelling units
- Private garages, storage sheds and parking areas associated with above uses and/or dwelling units
- Roadside stands offering for sale only agricultural products grown on the premises

(5) Lot and Building Provisions

<b>Agriculture</b>	<b>All Uses</b>
<b>Minimum Lot Size</b>	5 acres
<b>Minimum Lot Width</b>	300 feet
<b>Front Yard Setback</b>	75 feet
<b>Side Yard Setback (per side)</b>	25 feet
<b>Rear Yard Setback</b>	25 feet
<b>Maximum Building Height</b>	35 feet

Notes: Accessory structures shall be a minimum of 5 feet from all lot lines; all street frontages are considered front yard setbacks.

(6) Landscaping

- All applicable landscaping provisions shall be observed

### **3.3 Conservation**

The Conservation District is intended to protect natural resources and to encourage preservation of the environment for conservation, recreation, open-space, nature interpretation and other similar uses.

- (1) Uses Permitted by Right include:
  - Open-space, parks, nature centers, conservation areas, forests, tree stands and similar activities
- (2) Uses Permitted by Condition (Conditional Use Permit Required)
  - Any proposed use deemed compatible with spirit and intent of the District, including unmanned utility towers and/or structures
- (3) Other uses not Permitted by Right are expressly prohibited
- (4) Building Height
  - All uses and structures shall maintain a maximum building height of thirty-five (35) feet
- (5) Landscaping
  - All applicable landscaping provisions shall be observed

### **3.4 Rural Residential**

- (1) Uses Permitted by Right include:
  - Single-family detached dwelling
  - Educational Facility
  - Public recreational facility including neighborhood playground
  - Religious Institution
  - Residential Care Facility
- (2) Uses Permitted by Condition (Conditional Use Permit Required)  
*See Chapter 4 for additional information regarding conditional uses.*
  - Bed & Breakfast
  - Cemetery
  - Country Club
  - Day Care Center
  - Assisted living facility, nursing home, orphanage, rehabilitation home, group home
  - Recreational facility
  - Rooming / boarding house
  - Mixed Use

(3) Other uses not expressly Permitted By Right or with Conditions are Prohibited

(4) Permitted Accessory Uses and Structures

- Uses in connection with residential dwellings
- Private swimming pools and tennis courts associated with dwelling units
- Private garages, carports, storage sheds and parking areas associated with above uses and/or dwelling units

(5) Lot and Building Provisions

<b>Rural Residential</b>	<b>All Uses</b>
<b>Minimum Lot Size</b>	1 acre
<b>Minimum Lot Width</b>	100 feet
<b>Front Yard Setback</b>	40 feet
<b>Side Yard Setback (per side)</b>	10 feet
<b>Rear Yard Setback</b>	40 feet
<b>Maximum Building Height</b>	35 feet

Notes: Accessory structures shall be a minimum of 5 feet from all lot lines; all street frontages are considered front yard setbacks.

(6) Landscaping

- All applicable landscaping provisions shall be observed

### ***3.5 Low-Density Residential***

(1) Uses Permitted by Right include:

- Single-family detached dwelling, excluding zero lot line dwellings
- Residential Care Facility

(2) Uses Permitted by Condition (Conditional Use Permit Required)

*See Chapter 4 for additional information regarding conditional uses.*

- Bed & Breakfast
- Cemetery

- Religious Institution
- Educational Facility
- Country Club
- Day Care Center
- Public recreational facility including neighborhood playground
- Assisted living facility, nursing home, orphanage, rehabilitation home
- Rooming / boarding house

(3) Other uses not expressly Permitted By Right or with Conditions are Prohibited

(4) Permitted Accessory Uses and Structures

- Uses in connection with residential dwellings
- Private swimming pools and tennis courts associated with dwelling units
- Private garages, carports, storage sheds and parking areas associated with above uses and/or dwelling units

(5) Lot and Building Provisions

<b>Low-Density Residential</b>	<b>All Uses</b>
<b>Minimum Lot Size</b>	12,000 square feet
<b>Minimum Lot Width</b>	75 feet
<b>Front Yard Setback</b>	25 feet
<b>Side Yard Setback (per side)</b>	8 feet
<b>Rear Yard Setback</b>	25 feet
<b>Maximum Building Height</b>	35 feet

Notes: Accessory structures shall be a minimum of 5 feet from all lot lines; all street frontages are considered front yard setbacks.

(6) Landscaping

- All applicable landscaping provisions shall be observed

### **3.6 Medium-Density Residential**

(1) Uses Permitted by Right include:

- Single-family and two-family dwellings for a maximum density of 13 dwelling units per acre
- Educational Facility
- Residential Care Facility

(2) Uses Permitted by Condition (Conditional Use Permit Required)  
*See Chapter 4 for additional information regarding conditional uses.*

- Bed & Breakfast
- Multi-family dwellings for a maximum density of 13 dwelling units per acre
- Rooming/Boarding House
- Cemetery
- Hospital, assisted living facility, nursing home, orphanage, rehabilitation home
- Religious Institution
- Day Care Center
- Public recreational facility including neighborhood playground

(3) Other uses not expressly permitted By Right or with Conditions are prohibited.

(4) Permitted Accessory Uses and Structures

- Uses in connection with residential dwellings
- Private swimming pools and tennis courts associated with dwelling units
- Private garages, carports, storage sheds and parking areas associated with above uses and/or dwelling units

(5) Lot and Building Provisions

<b>Medium-Density Residential</b>	<b>Two-Family and Multi-Family Dwelling Units</b>	<b>All Other Uses</b>
<b>Minimum Lot Size</b>	6000 square feet for the first unit + 3000 square feet per additional unit*	6,000 square feet
<b>Minimum Lot Width</b>	50 feet	50 feet
<b>Front Yard Setback</b>	25 feet	25 feet
<b>Side Yard Setback (per side)</b>	10 feet	5 feet

<b>Rear Yard Setback</b>	15 feet	20 feet
<b>Maximum Building Height</b>	35 feet	35 feet
<b>Minimum Setback From Internal Structure</b>	10 feet + additional 5 feet per story over 2	10 feet + additional 5 feet per story over 2

Notes: Accessory structures shall be a minimum of 5 feet from all lot lines; all street frontages are considered front yard setbacks.

\*A maximum of 16 dwelling units per acre are permitted.

(6) Landscaping

- All applicable landscaping provisions shall be observed

### **3.7 High-Density Residential**

(1) Uses Permitted By Right Include:

- Two-family, and multi-family dwellings with a maximum density of 20 dwelling units per acre
- Public recreational facility including neighborhood playground
- Residential Care Facility
- Religious Institution
- Educational Facility
- Mixed Use

(2) Uses Permitted by Condition (Conditional Use Permit Required)

*See Chapter 4 for additional information regarding conditional uses.*

- Single-family dwelling
- Day Care Center
- Bed & Breakfast
- Rooming/Boarding House
- Group Home
- Funeral Home
- Community Building
- Cemetery
- Hospital, assisted living facility, nursing home, orphanage, rehabilitation home
- Manufactured Housing Park Complex and Subdivision
- Office

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- Recreational facility
- Civic Use

(3) Other uses not expressly Permitted By Right or with Conditions are Prohibited

(4) Permitted Accessory Uses and Structures

- Uses in connection with residential dwellings
- Private swimming pools and tennis courts associated with dwelling units
- Private garages, carports, storage sheds and parking areas associated with above uses and/or dwelling units

(5) Lot and Building Provisions

<b>High-Density Residential</b>	<b>Two-Family and Multi-Family Dwelling Units</b>	<b>Single-Family Dwelling Units</b>	<b>All Other Uses</b>
<b>Minimum Lot Size</b>	3000 square feet for the first unit + 1800 square feet per additional unit*	5000 square feet	3000 square feet
<b>Minimum Lot Width</b>	40 feet	40 feet	40 feet
<b>Front Yard Setback</b>	25 feet	25 feet	25 feet
<b>Side Yard Setback (per side)</b>	5 feet	5 feet	5 feet
<b>Rear Yard Setback</b>	15 feet	15 feet	15 feet
<b>Maximum Building Height</b>	50 feet	35 feet	50 feet
<b>Minimum Setback From Internal Structure</b>	10 feet + additional 5 feet per story over 2	Not applicable	10 feet + additional 5 feet per story over 2

Notes: Accessory structures shall be a minimum of 5 feet from all lot lines; all street frontages are considered front yard setbacks.

\* A maximum of 23 dwelling units per acre are permitted.

(6) Landscaping

- All applicable landscaping provisions shall be observed



### **3.8 Neighborhood Commercial**

The Neighborhood Commercial (NC) district is intended as a limited retail category for the use of nearby neighborhood areas to supply day-to-day needs and personal services. Establishments should include small, free-standing retail structures, and neighborhood oriented personal service establishments.

(1) Uses Permitted by Right include:

- Retail sales establishments for the sale of convenience goods, personal service establishments, and other consumer services (with the exception of those uses expressly prohibited in this Chapter), provided that all processing is performed as a service for customers served on the premises and all such establishments are limited to a maximum of 5,000 square feet
- Office Use
- Restaurant having a maximum seating capacity of 40 without drive-through or outdoor seating
- Bed & Breakfast
- Group Home
- Civic Use
- Educational Facility
- Religious Institution
- Indoor Theater
- Vocational Center

(2) Prohibited Uses

- Adult Establishments
- Automotive Repair
- Garage
- Welding and Machine Shop

(3) Uses Permitted by Condition (Conditional Use Permit Required)

*See Chapter 4 for additional information regarding conditional uses.*

- Retail sales establishments, personal service establishments, and other consumer services exceeding 5,000 square feet, provided that all processing is performed as a service for customers served on the premises
- Day Care Center
- Community Building
- Gas Station
- Parking Garage
- Mini-storage Facility
- Hotel up to 50 rooms
- Restaurant having a seating capacity over 40 and/or with a drive thru and/or with outdoor seating
- Pool Hall/Game Room

- Residential Use

(4) Lot and Building Provisions

<b>Neighborhood Commercial</b>	<b>Commercial</b>	<b>All Other Uses</b>
<b>Minimum Lot Size</b>	¼ acre (10,890 square feet)	½ acre (21,780 square feet)
<b>Minimum Lot Width</b>	35 feet	50 feet
<b>Front Yard Setback</b>	20 feet	20 feet
<b>Side Yard Setback (per side)</b>	3 feet	10 feet
<b>Rear Yard Setback</b>	15 feet	20 feet
<b>Maximum Building Height</b>	35 feet	35 feet

Balconies and awnings shall be permitted to encroach within sidewalk areas as follows:

- Balconies: 3 feet
- Awnings: 6 feet

Balconies and awnings must have a minimum clearance of eight (8) feet from the lowest point of the balcony or awning to the sidewalk.

If a balcony and/or awning is projecting over a public right-of-way, proof of insurance naming the City as an insured party must be provided and authorization must be obtained from the City Council.

(5) Parking and Loading Requirements

- See Chapter 9 for additional parking and loading requirements

(6) Architectural Standards

- To maintain the visual consistency of building in the NC district, the City of Madisonville suggests (but does not require) that all construction conform in street orientation and massing to adjacent structures

(7) Landscaping

- All applicable landscaping provisions shall be observed

### **3.9 General Commercial**

The General Commercial (GC) district is intended for new commercial clusters along collector and arterial corridors within and for existing commercial clusters within Madisonville which are less pedestrian-oriented in design than the Neighborhood Commercial district or the Central Business District (CBD).

(1) Uses Permitted by Right

- Commercial, Service, Office Use
- Civic Use
- Religious Institution
- Mini-storage Facility

(2) Prohibited Uses

- Outdoor storage of hazardous materials

(3) Uses Permitted by Condition (Conditional Use Permit Required)

*See Chapter 4 for additional information regarding conditional uses.*

- Light Manufacturing
- Adult Establishment
- Drive-in Theater
- Welding and Machine Shop
- Warehousing
- Indoor storage of hazardous material(\*)

(\*) Fireworks sales shall not be permitted except as a minor stock item (less than 20% of total stock)

- Residential Use

(4) Lot Provisions

<b>General Commercial</b>	<b>All Uses</b>
<b>Minimum Lot Size</b>	6000 square feet
<b>Minimum Lot Width</b>	50 feet
<b>Front Yard Setback</b>	20 feet
<b>Side Yard Setback (per side)</b>	5 feet
<b>Rear Yard Setback</b>	10 feet
<b>Maximum Building Height</b>	35 feet

(5) Parking and Loading Requirements

- See Chapter 9 for parking and loading regulations

(6) Landscaping

- All applicable landscaping provisions shall be observed

**3.10 Central Business District (CBD)**

The Central Business District (CBD) is intended to provide mixed use redevelopment or investment opportunities for the existing traditional downtown of Madisonville. Developments in the CBD are to be characteristic and similar in use, physical layout and architectural style to established structures and businesses that already exist in downtown.

(1) Uses Permitted by Right Include:

- Bed & Breakfast
- Restaurant
- Commercial Use up to 10,000 square feet (with the exception of those uses expressly prohibited below)
- Office Use up to 10,000 square feet
- Civic Use
- Indoor Theater
- Vocational Center

(2) Prohibited Uses

- Welding and Machine Shop
- Pool Hall, Gaming Room
- Auto Repair Shop
- Adult Establishments
- Outdoor storage or sales except in compliance with Chapter 3, 3.1
- Drive-through restaurant
- Zero Lot Line Residential

(3) Uses Permitted by Condition (Conditional Use Permit Required)

*See Chapter 4 for additional information regarding conditional uses.*

- Residential apartments
- Day Care Center
- Gas Station
- Nightclub
- Religious Institution

- Hotel
- Parking Garage
- Commercial or Office use over 10,000 gross square feet
- Service Use with drive-in window

(4) Lot Provisions

<b>Central Business District</b>	<b>Commercial &amp; Mixed Use</b>	<b>Other Uses</b>
<b>Minimum Lot Size</b>	4000 square feet	No minimum
<b>Minimum Lot Width</b>	10 feet	20 feet
<b>Front Yard Setback</b>	0 feet, maximum 10 feet	** (special)
<b>Side Yard Setback (per side)</b>	No minimum	5 feet
<b>Rear Yard Setback</b>	10 feet	10 feet
<b>Minimum Building Height</b>	26 feet	26 feet
<b>Maximum Building Height</b>	35 feet	35 feet

\*\* Equal to the average existing front setback within 75 feet of the midpoint of the lot in question.

Balconies and awnings must have a minimum clearance of eight (8) feet from the lowest point of the balcony or awning to the sidewalk.

If a balcony and/or awning is projecting over a public right-of-way, proof of insurance naming the City as an insured party must be provided and authorization must be obtained from the City Council.

(5) Parking and Loading Requirements

- See Chapter 9 of this Ordinance

(6) Landscaping

- All applicable landscaping provisions shall be observed

(7) Architectural Standards

- All construction shall conform in design, street orientation and massing to adjacent structures. Metal paneling shall not exceed 10% of the surface area of a building wall. Two wall materials may be combined horizontally on one facade. All rooftop equipment visible from the ground shall

be enclosed in building material that matches the structure or is visually compatible with the structure.

**3.11 Light Industrial**

In order to maintain an attractive and viable environment for businesses and residents, this district was developed to promote medium-scale industrial, business, and mixed-use developments. Regulations for the Light Industrial district are written to encourage developments to achieve high-quality site design and use flexibility inherent in this district. Specific guidelines are established to direct such development issues as architectural compatibility with other buildings and the relationship of buildings to and other spaces including public and open spaces.

(1) Uses Permitted by Right Include:

- Office Use, Research Facility, Kennel, and warehousing
- Indoor Theater
- Commercial Use up to 20,000 square feet
- Mini-storage Facility
- All types of industrial activity except: Uses considered dangerous or unsafe, such as explosives; uses considered objectionable or a nuisance by reason of odor, dust, fumes, smoke, noise, vibration, refuse matter, or water-carried waste; and uses considered objectionable by reason of adverse effect on adjoining uses, such as junk or salvage yards
- Outdoor storage of materials
- Storage of hazardous materials

(2) Uses Permitted by Condition (Conditional Use Permit Required)  
*See Chapter 4 for additional information regarding conditional uses.*

- Day Care Center
- Auto Repair Shop
- Welding and Machine Shop
- Parking Garage
- Hotel, bank, convention facility, restaurant, and educational facility (excluding primary and secondary school)
- Commercial Use over 20,000 square feet
- Recreational use, both indoor and outdoor facility
- Residential Use

(3) Development and Design Provisions

<b>Light Industrial</b>	<b>All Uses</b>
<b>Minimum Lot Size</b>	Average within development 0.75 acres; minimum individual lot 0.5 acres
<b>Minimum Development Setbacks</b>	40 feet front as defined as main entrance on plat 20 feet all other sides

<b>Minimum Lot Setbacks</b>	20 feet front 15 feet per side 30 feet rear – no rear yard required where rail spur forms rear property line
<b>Maximum Height</b>	60 feet

(4) Parking and Loading Requirements

- See Chapter 9 for parking and loading regulations

(5) Landscaping

- All applicable landscaping provisions shall be observed.

**3.12 General Industrial**

In order to maintain an attractive and viable environment for businesses and residents, this district was developed to promote larger-scale industrial, business, and mixed use developments. Regulations for the General Industrial district are written to encourage developments to achieve high-quality site design and use flexibility inherent in this district. Specific guidelines are established to direct such development issues as architectural compatibility with other buildings and the relationship of buildings to and other spaces including public and open spaces.

(1) Uses Permitted by Right Include:

- Office Use, Research Facility, Kennel, and Warehousing
- Support retail, such as goods and commodities manufactured on site
- All manufacturing and industrial use
- Welding and machine shop
- Auto repair shop
- Parking Garage
- Storage of hazardous materials

(2) Uses Permitted by Condition (Conditional Use Permit Required)

*See Chapter 4 for additional information regarding conditional uses.*

- Adult Establishment
- Residential Use

(3) Development and Design Provisions

<b>General Industrial</b>	<b>All Uses</b>
<b>Minimum Lot Size</b>	Average within development 10 acres; minimum individual lot 2 acres
<b>Minimum Development Setbacks</b>	40 feet front as defined as main entrance on plat; 20 feet all other sides
<b>Minimum Lot Setbacks</b>	20 feet front

	25 feet per side 25 feet rear – no rear yard required where rail spur forms rear property line
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(4) Parking and Loading Requirements

- See Chapter 9 for parking and loading regulations

(5) Landscaping

- All applicable landscaping provisions shall be observed

**3.13 Office Professional**

The Office Professional district is designed to provide a district for low-profile professional uses suitable for location abutting residential uses. The Office Professional district shall be for professional and limited commercial office development which will be compatible and harmonious with the existing or potential development of adjacent residential or other areas and to foster professional and limited commercial office developments. The OP districts are established to provide suitable alternative locations for offices and services of a professional, clerical or administrative nature.

(1) Uses Permitted by Right Include:

- Office buildings not exceeding 7,500 square feet for professional and business uses; office buildings may provide professional offices, such as offices for doctors, dentists, lawyers, and accountants, and general business offices for insurance companies, trade associations, banks and trust companies, real estate companies, and other similar concerns; office buildings within the Office Professional district shall not include veterinary offices.
- Medical and Dental Clinic and Laboratory
- Drug Store/Pharmacy when clearly incidental to a permitted use in this district

(2) Uses Permitted by Condition (Conditional Use Permit Required)

*See Chapter 4 for additional information regarding conditional uses.*

- Office building exceeding 7,500 square feet for professional and business uses
- Religious Institution
- Educational Facility
- Day Care
- Meeting Facility
- Indoor Recreational Facility
- Performing Arts Building
- Funeral Home
- Civic Use
- Residential Use

(3) Development Provisions

<b>Office Professional</b>	<b>All Uses</b>
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<b>Minimum Lot Size</b>	½ acre
<b>Minimum Setbacks</b>	25 feet front 20 feet all other sides
<b>Maximum Height</b>	35 feet

\* No lighting shall be permitted which would glare from this zoning district onto any adjacent residential property that would be harmful or disruptive to the residential use.

(4) Parking and Loading Requirements

- See Chapter 9 for parking and loading regulations

(5) Landscaping

- All applicable landscaping provisions shall be observed

**3.14 Medical District Overlay**

The Medical District Overlay is designed to provide areas for medical-related hospital, office and professional development in a campus-like development setting and in close proximity to similar existing and planned developments. The intent is to create a cluster of healthcare and related office/professional development which compliments other districts with physical proximity and interaction with low intensity business uses.

(1) Uses Permitted by Right Include Any Uses Permitted in the Underlying Zoning District

(2) Uses Permitted by Condition (Conditional Use Permit Required): All development plans shall be reviewed and approved in accordance with major development plan requirements  
*See Chapter 4 for additional information regarding conditional uses.*

- Hospital and clinic
- Office use and service related to healthcare
- Medical Supply
- Drug Store/Pharmacy
- Day Care Center
- Recreational Facility
- Residential Care Facility
- Parking deck/garage
- Civic Use
- Group Home

(3) Development Provisions

<b>Medical District Overlay</b>	<b>All Uses</b>
<b>Minimum Lot Size</b>	¼ acre
<b>Minimum Setbacks</b>	10 feet, except where the property adjoins a residential use then 25 feet
<b>Maximum Height</b>	75 feet

(4) Architectural Standards

Important structures shall be of sufficient design to create visual anchors for the district. All principle structures within the district shall maintain a consistent architectural style

- Materials
  - a. Walls shall be clad in stone, brick, marble, approved metal paneling or cast concrete or similarly finished materials
  - b. Roofs shall be clad in slate, sheet metal, corrugated metal, tile, asphalt shingles, or any other material similar in appearance and composition to existing buildings
- Techniques
  - a. All rooftop equipment shall be enclosed in the building material that matches the structure or is visually compatible with the structure

(5) Parking and Loading Requirements

- See Chapter 9 for parking and loading regulations

(6) Landscaping

- All applicable landscaping provisions shall be observed

**3.15 Zero Lot Line District**

The Zero Lot Line district is intended to promote more efficient use of land as compared with typical single-family residential development and to introduce a type of housing design that is more affordably priced. The use of design principals allows for the integration and relation of the internal and external living areas by placing the dwelling units against one or more of the property lines thus permitting outdoor spaces to be grouped and utilized at a larger scale.

(1) Uses Permitted by Right include:

- Single-family attached and single-family detached dwellings
- Public recreational facility including neighborhood playground
- Residential Care Facility

(2) Permitted Accessory Uses and Structures

- Uses in connection with residential dwelling
- Private swimming pool and tennis court associated with dwelling units
- Private garage, carport, storage shed and parking area associated with above uses and/or dwelling units

(3) Other uses not expressly Permitted by Right are Prohibited

(4) Lot and Building Provisions

**MADISONVILLE ZONING ORDINANCE**

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<b>Zero Lot Line District</b>	<b>For Attached Dwelling Units</b>	<b>For Detached Dwelling Units</b>
<b>Minimum Lot Size</b>	2,750 sq ft interior 3,850 sq ft exterior	4,200 square feet
<b>Minimum Lot Width</b>	25 feet interior lots 35 feet exterior lots	40 feet
<b>Front Yard Setback</b>	20 feet	20 feet
<b>Side Yard Setback</b>	10 feet exterior lots (per side)	10 feet one side 0 feet other side
<b>Rear Yard Setback</b>	10 feet	10 feet
<b>Maximum Building Height</b>	35 feet	35 feet

Notes: Accessory structures shall be a minimum of 5 feet from all lot lines; all street frontages are considered front yard setbacks.

- The total lot coverage permitted for all buildings on the site shall not exceed fifty (50) percent of the lot area.
- The detached dwelling unit shall be placed on one interior side property with a zero (0) setback, and the dwelling unit setback on the other interior side property shall be a minimum of ten (10) feet (excluding the connecting elements such as fences, walls, and other similar elements). Patios, pools, garden features and other similar elements shall be permitted within the ten (10) foot setback area provided, however, no structure, with the exception of fences or walls, shall be placed within easements required. All dwelling units shall be placed ten (10) feet from all exterior property lines.
- The attached dwelling unit shall be placed on the interior side property line with a zero (0) setback, and the dwelling unit setback on the other interior side property line can also be placed on the property line with a zero (0) setback. All dwelling units shall be placed ten (10) feet from all exterior property lines.

(5) General Requirements

- Each dwelling shall be located on its own individual platted lot. If areas for common use of occupants of the development are shown on the plat, satisfactory arrangements shall be made for the maintenance of the common open space and facilities. The plat shall indicate the zero lot lines and easements appurtenant thereto.
- The wall of the dwelling located on the lot line shall have no windows, doors, air conditioning units, or any other type of openings, provided however, that atriums or courts shall be permitted on the zero lot line side when the court or atrium is enclosed by three (3) walls of the unit and a solid wall of as least eight (8) feet in height is provided on the zero lot line. Said wall shall be constructed of the same material as exterior walls of the dwelling unit.
- A perpetual four (4) foot wall-maintenance easement, for detached dwellings, shall be provided on the lot adjacent to the zero lot line property line, which, with the exception of walls and/or fencing, shall be kept clear of structures. This easement shall be shown on the plat and incorporated into each deed transferring title to the property. The wall shall be maintained in its original color and treatment unless agreed to by the two affected lot owners. Roof overhangs may penetrate the easement of the adjacent lot by a maximum of twenty-four (24) inches, but the roof shall be

designed so that water runoff from the dwelling placed on the lot lines is limited to the easement area.

- Separation between detached dwellings shall not be less than ten (10) feet.
- No building or accessory structure shall be located within a required front or street-abutting side yard, nor within five (5) feet of a dwelling or another accessory building or structure nor within two (2) feet or any interior property line.
- If carports or garages are to be incorporated in the future, the development plan must show the placement of such structures prior to approval by the Administrative Official.
- Common open space is not required but may be permitted. If common open space is provided, provisions satisfactory to the Administrative Official shall be made to assure that nonpublic areas and facilities for the common use of occupants of the zero lot line development shall be maintained in a satisfactory manner, without expense to the general taxpayers of Madisonville.
- There shall be an open space on each lot of not less than three hundred (300) square feet with no dimension less than fifteen (15) feet. Said open space area shall be exclusive of required front and street-abutting side yards and vehicular driveways and further shall be subject to the following: (1) required open space may include side or rear yards, (2) pools and paved recreational areas may be developed in the required open space, (3) the gradient or slope for any required open space shall not exceed twelve (12) percent, (4) the open space may be provided on a deck, (5) the open space shall be fully open to the sky, and (6) accessory building(s) shall not occupy any part of the open space.
- A major development plan review is required for all zero lot line developments.

(6) Landscaping

- All applicable landscaping provisions shall be observed

**3.16 Planned Unit Development (PUD)**

The purpose of a Planned Unit Development is to permit a greater flexibility in land use regulations than is possible under conventional zoning regulations thereby allowing the developer to use a more creative approach in the development of land. A PUD encourages renewal of older sections of the City where new development is needed to revitalize an area and allows a variety of uses and structures to be placed on a single lot along with common recreational/open space. Ideally, this flexibility results in a development that is better planned, contains more amenities, is more desirable to live and work in and, ultimately, provides substantial benefits to the community and environment compared to the conventional zoning. Because of the flexibility and uniqueness of a PUD, additional requirements may be imposed to ensure that the proposed development pattern blends with its unique surroundings and is a benefit to the community at large.

(1) General Standards and Requirements:

- A PUD should be in agreement with the Comprehensive Plan's Goal and Objectives.
- Land must be deemed one lot. Any parcel of land including interior street(s) which is designed as and used for a planned unit development may be deemed to be one lot and under a single ownership or control. If there is more than one owner or entity with an interest in the project, then there shall be a commitment in writing by all owners and/or entities to work in unison toward completion of the project in conformity with this Ordinance.

- The site area shall be at least three acres in area. However, in the interest of making use of the Planned Unit Development as a tool to implement the Comprehensive Plan, this size requirement may be waived to allow a PUD project on a site as small as one (1) acre in size if:
  - (a) The project has unique characteristics and benefits and/or;
  - (b) The parcel in question has unique characteristics that significantly impact development, such as having unusual shape or proportions, unusual topography or potentially incompatible land uses on surrounding property.
- Most uses or mixture of uses may be approved within a PUD, provided that uses within the site are compatible and not injurious to the adjacent neighborhood or otherwise detrimental to the public health, safety and general welfare. Only the specific uses proposed in an approved application and shown on the Final Development Plan shall be allowed in the PUD District.
- A PUD shall generally have a mixed-use layout (a combination of a variety of residential housing types, varying density levels, and commercial, institutional and/or recreational uses).
- Measures shall be taken to assure compatibility with adjacent sites.
- A minimum of ten percent (10%) of the land area should be set aside for Common Open Space for amenities for the PUD. Such amenities may include trails, sidewalks, recreational facilities, street trees, playgrounds, bus shelters and/or cluster mailboxes.

(2) Approval Process:

A PUD is approved in the same way as a zoning map amendment (rezoning). The Planning Commission holds a public hearing and then forwards their recommendation to the City of Madisonville for final action. A Development Plan, in accordance with the requirements as set forth herein, must accompany the request for a PUD. Any subdivision plans associated with the PUD, may be reviewed by the Planning Commission simultaneously with the PUD. A Planned Unit Development approval process includes three (3) steps.

- The first step is to secure the PUD designation in the form of the map amendment. This step also requires the submittal of a Conceptual Plan outlining the entire tract. The Conceptual Plan must show general location and uses of all structures, parking and circulation patterns and common open/green space areas;
- The second step is to submit the Preliminary Development Plan for review and approval. To expedite the approval process, the Preliminary Development Plan (as opposed to the Conceptual Plan) may be submitted when applying for the PUD designation. Should the PUD not be approved, the Preliminary Development Plan will become void;
- The third step is the approval or disapproval of the Final Development Plan.

(3) Specific Steps:

The specific steps for approval are:

- Pre-application conference with staff: At this conference, staff reviews a conceptual plan of the proposed PUD Development and makes substantive suggestions concerning process, timing, site design and layout as well as any other relevant matter. This meeting is required to assist the

developer/applicant in making a complete application and expedite the process as well as minimize unnecessary costs.

- Application is made to the City of Madisonville who will then forward the matter to the Planning Commission for a public hearing.
- After final approval of the PUD designation, a Preliminary & Final Development Plan shall be submitted to the Planning Commission for its consideration and approval. The Preliminary Development Plan will be reviewed in the same manner as a Major Development Plan. In addition to all items required to be shown on a Major Development Plan, the additional information shall be required:
  - (a) Areas designated for each particular land use including a tabulation of total acreage of the site designated for various uses (i.e., parking, residential, commercial, streets, open/green spaces, etc.);
  - (b) Common open/green spaces and drafts of appropriate restrictive covenants and documents concerning construction, operation and administration of the area such as open/green spaces, stormwater facilities, etc.;
  - (c) Other conditions as applicable to the PUD;
  - (d) Review fees & development schedule.
- Once all requirements of the Preliminary Development Plan have been satisfied and approved, a Final Development Plan, and any binding elements, shall be submitted for recording purposes.
  - (a) The Final Development Plan shall reflect all conditions and requirements imposed by the Planning Commission and/or legislative body during the approval process for the Preliminary Development Plan and/or the PUD designation.
  - (b) No building permit may be issued until such documents have been recorded.

(4) Expiration of Development Plan:

Construction shall be initiated within one (1) year from the date of the Final Development Plan approval by the Planning Commission. The Planning Commission may, however, grant an extension to the applicant, provided that:

- A formal written request for the extension is presented to the Planning Commission at least sixty (60) days prior to the deadline; and
- The written request explains the reasons that construction was not initiated within the time allotted.

(5) Changes and Modifications:

Any changes or modifications to the approved Final Development Plan, except for minor adjustments which may be approved by staff, shall be made in accordance with the procedure required by this Ordinance, subject to the same limitations and requirements as those under which such plans were originally approved. Minor changes may include minor shifting of the location of proposed streets, public or private ways, utility easements, parks or other open spaces. Such minor changes shall not affect the density, boundary lines, use, location of structures or amount of land devoted to open/green spaces.

(6) Revocation:

In the event of a failure to comply with the approved Final Development Plan, the Planning Commission may, after notice and hearing, revoke a Planned Unit Development application. For any future consideration, the Development Plan must be resubmitted in accordance with (C) above.

## **Chapter 4 - Uses Permitted with Conditions**

### **4.1 Purpose**

This Ordinance finds that there are certain uses that exist which may be constructed, continued, and/or expanded provided they meet mitigating conditions specific to their design, operation, and/or use. Such conditions ensure different building uses and types may locate in proximity to one another without adverse affects on the surrounding community. This Chapter specifies the requirements that must be met to obtain a Conditional Use Permit from the Board of Adjustment for certain uses. Other applicable parts of this Ordinance and/or other local laws and ordinances still apply.

### **4.2 Conditional Uses**

Each use shall be permitted in compliance with all conditions listed for the use in this Chapter and other requisite chapters of this Ordinance as applicable.

#### **RESIDENTIAL USE IN CENTRAL BUSINESS DISTRICT**

- (1) Any facade work should be designed and maintained in a way to promote and enhance the downtown area.
- (2) The minimum square footage for living space per apartment shall be 800 square feet.
- (3) Residential use of the ground floor is allowed provided:
  - (a) It is located behind a permitted commercial use.
  - (b) Does not occupy the first 25' of storefront. The BOA may waive the 25' rule if deemed impractical, due to building location, building configuration or type of business, so long as the storefront business integrity is maintained.
  - (c) The storefront appearance does not indicate a residential use occupies the ground floor; and there shall be no display of personal property or ornamentation outside of the structure or in any windows or doors which is not business related.
- (4) Off street parking must be provided in accordance with this ordinance.
- (5) A building permit shall be required prior to the start of any work.
  - Plans shall be drawn to scale with sufficient clarity and detailed dimensions to show the nature and character of the work to be performed.
- (6) All construction work shall be completed in compliance with all applicable building codes, rules and regulations.
- (7) Prior to the occupancy of any apartment, a Certificate of Occupancy must be issued by the Building Inspector.
- (8) The Building Inspector shall have the right to inspect all units once a year for the purpose of seeing that all requirements are being maintained including, but not limited to, the working condition of all required fire/smoke detectors.

#### **RESIDENTIAL USE IN NEIGHBORHOOD COMMERCIAL, GENERAL COMMERCIAL, LIGHT INDUSTRIAL, GENERAL INDUSTRIAL AND OFFICE PROFESSIONAL**

- (1) Residential Use, in this instance refers to one Single Family Dwelling as defined in this Chapter, may be allowed so long as it does not occupy more than 50% of the structure occupied by the primary use and is incidental to the primary use allowed in that district..



- (2) The minimum square footage for living space per apartment shall be 400 square feet.
- (3) Residential use of the ground floor is allowed provided:
  - (a) It is located behind an allowable use in that district (unless otherwise deemed appropriate by the BOA);
  - (b) The residential use is not apparent from outside of the building area being occupied by the primary use.
- (4) Off street parking must be provided in accordance with this ordinance.
- (5) A building permit shall be required prior to the start of any work.
  - Plans shall be drawn to scale with sufficient clarity and detailed dimensions to show the nature and character of the work to be performed.
- (6) All construction work shall be completed in compliance with all applicable building codes, rules and regulations.
- (7) Prior to the occupancy of any residential use, a Certificate of Occupancy must be issued by the Building Official.
- (8) The Building Official shall have the right to inspect all units once a year for the purpose of seeing that all requirements are being maintained including, but not limited to, the working condition of all required fire/smoke detectors.

**BED & BREAKFAST**

- (1) Single family homes used as a Bed and Breakfast shall have a minimum floor area of 1,500 square feet, excluding attic, basement, and garage areas.
- (2) Single family homes used as a Bed and Breakfast may not subdivide existing rooms into less than 200 square feet each.
- (3) All off-street parking shall be to the side and/or rear of the home on paved surfaces. Where on-street parking is permitted, the length of the street in front of the lot may be counted as parking.
- (4) Bed and Breakfast Facilities shall have no more than four (4) rooms for rent. However, the Board of Adjustment may waive this restriction, provided that the original building has more than four (4) rooms and/or is listed on the National Register of Historic Places.

**CEMETERY**

- (1) Shall not include embalming or cremation facilities.
- (2) Combination wall and fence is permitted.
- (3) Setbacks from all rights-of-way to a wall or grave shall be a minimum of 8 feet.

**HOME OCCUPATION**

- (1) Business operations shall be housed only in the dwelling unit and shall not change the character of the dwelling.
- (2) Any outside storage associated with the home occupation shall be stored in an appropriate accessory building. All regulations concerning accessory buildings in that district (including height, placement, materials, and items prohibited from storage) shall be observed.
- (3) No more than 25% of the home shall be used in connection with the home occupation.

- (4) No employees are permitted except family members residing on the premises.
- (5) Only vehicles used primarily as personal passenger vehicles shall be permitted to be stored or parked at the residence in connection with the home occupation. No more than two (2) such vehicles shall be permitted. Temporary parking or storage of commercial vehicles is prohibited except as specifically allowed in this Ordinance.
- (6) No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood.
- (7) No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odor, or electrical interference detectable to normal senses outside the residence. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.
- (8) The storage, mixing, or disposal of dyes, pesticides, lawn chemicals, and other toxic or hazardous materials associated with commercial uses is prohibited on site.

**RECREATIONAL FACILITY**

- (1) Recreational facilities are encouraged to be built adjoining educational facility campuses, greenbelts, parks, or other similar uses.

**ROOMING OR BOARDING HOUSE**

- (1) Single family homes used as rooming/boarding houses may not subdivide existing rooms.
- (2) The rooming/boarding house shall be owner-occupied.
- (3) All off-street parking shall be to the side and/or rear of the home on paved surfaces. Where on-street parking is permitted, the length of the street in front of the lot may be counted as parking. There shall be one space per room of lodging.

**DAY CARE CENTER**

- (1) Provisions for Residential Districts
  - Day care centers shall conform in architecture to the surrounding residential structures.
  - Day care centers must be able to comply with all open area and outdoor playground space (as required by Kentucky Revised Statutes) on the actual lot. Adjacent parks and open areas shall not satisfy the space requirements of this Ordinance for the purposes of granting the conditional use permit even if the presence of such adjacent spaces satisfy other state requirements not related to zoning.
  - On-street parking may be used to fulfill parking requirements. Off-street parking shall be appropriately screened.
  - The play area of the lot shall be walled or fenced.
- (2) Provisions for Other Districts
  - Minimum lot size shall be 6,500 square feet.
  - Day care centers must be able to comply with all open area and outdoor playground space (as required by Kentucky Revised Statutes) on the actual lot. Adjacent parks and open areas shall not satisfy the space requirements of this ordinance for the purposes of granting the conditional use

permit even if the presence of such adjacent spaces satisfy other state requirements not related to zoning.

- On-street parking may be used to fulfill parking requirements. Off-street parking shall be appropriately screened.

**GROUP HOME**

- (1) All group homes shall be residential in architectural design.
- (2) Minimum lot size shall be 10,000 square feet.
- (3) All off-street parking shall be to the side and/or rear of the home on paved surfaces. Where on-street parking is permitted, the length of the street in front of the lot may be counted as parking.

**GAS STATION IN NEIGHBORHOOD COMMERCIAL DISTRICT**

- (1) Outdoor storage shall be screened from all public rights-of-way and is only permitted in the rear yard. Screening shall comply with the provisions set forth in Chapter 8 (Landscaping).

**NIGHTCLUB**

- (1) Unless governed by a more restrictive local noise ordinance, music/other noise emitting from the establishment shall not be audible at decibel levels louder than normal background noise for the adjacent areas after 11:00 PM, if such establishments are located within 350 feet of a residence (including multi-family).

**PARKING GARAGE**

- (1) Parking decks shall not access streets in the central business unless entering or exiting from a one-way street.
- (2) Parking decks fronting streets in a historic district shall have the ground floor fronting the street corners reserved for commercial uses.
- (3) Parking deck facades shall be visually similar to the material used on surrounding buildings.

**ADULT ESTABLISHMENT**

- (1) All adult establishments are subject to specific requirements as described in the Madisonville Code of Ordinances.

**INDOOR STORAGE OF HAZARDOUS MATERIAL(S)**

- (1) All indoor storage of hazardous materials shall be in compliance with all federal, state and local regulations.
- (2) Such material(s) shall be listed via appropriate placards, material safety data sheets (MSDS) or other printed materials and made known to the Fire Department of the appropriate jurisdiction.

**DRIVE-IN THEATER**

- (1) Minimum lot size shall be 3 acres.

**WELDING & MACHINE SHOP IN GENERAL COMMERCIAL**

- (1) No outside storage shall be permitted between the principal building and any street right-of-way.
- (2) Hours of operation shall be normal and customary to other commercial uses in the surrounding district.
- (3) All work areas shall be enclosed.
- (4) Impacts on adjacent property (including noise, heat, vibration, dust, and other pollutants) shall be mitigated.
- (5) Parking and other service areas shall be fenced or screened.
- (6) The Board of Adjustment shall be permitted to impose any additional conditions for the granting of a conditional use permit to ensure the general health, safety, and welfare of the community.

**SERVICE USES WITH DRIVE-IN WINDOWS IN THE CENTRAL BUSINESS DISTRICT**

- (1) Sites should be designed so that there is a minimum of five (5) reservoir spaces for each drive-in lane.
- (2) Off-street parking shall be to the side and/or rear of the lot. Where on-street parking is permitted, the length of the street in front of the lot may be counted as parking.
- (3) The Board of Adjustment shall have the authority to alter these conditions, or impose additional conditions, to better effect the spirit of this chapter.

***4.3 Alteration and Expiration***

No person may engage in any activity that causes an alteration and/or an increase in the extent of a conditional use that would cause such use to be in violation of the required conditions, this Chapter or any other Chapter of the Zoning Ordinance. Minor repairs and routine maintenance of property where uses are permitted with conditions are allowed and encouraged. All conditional use permits shall be exercised within one (1) year from the date of issuance within the meaning of KRS 100.237 or they shall expire.

## **Chapter 5 – Permits and Development Plans**

### **5.1 Intent and Purpose**

Through the permitting process, it is the intent of these regulations to promote the general health, safety and welfare of the community. It is the further intent of these regulations to ensure the optimum conservation, protection, preservation, development and use of the natural and man-made resources of the area by regulating land use activity throughout the community through review and approval of plans.

### **5.2 Grading and Paving Permit**

Any grading, excavation, filling or removal of soil, trees, or other vegetation, except for minor changes such as the filling of small depressions, removal of vegetation which is diseased or endangering the public safety, etc. or paving on any lot or parcel (except the paving of driveways for single and two-family dwellings), must first obtain a grading and paving permit. A grading and paving permit may be issued by the Administrative Official after determining that the resulting paving, change in grade, or removal of trees and other vegetation in the affected area will be in conformance with all applicable provisions of this ordinance and all other applicable ordinances and codes. This section shall not be construed to prohibit normal excavation or grading incidental to the construction or alteration of a building on the premises for which a building permit has been granted.

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

- (1) A site plan shall be submitted which will provide for the proper drainage of surface water from the development so as to prevent flooding of property in the area.
- (2) Temporary vegetation and/or mulching shall be used to protect critical areas exposed during development
- (3) The least area of land shall be exposed at any one time during development
- (4) Provisions shall be made to accommodate the increased run-off caused by changed soil and surface conditions during and after development
- (5) Permanent final vegetation and structures shall be installed as soon as practical in the development
- (6) Wherever feasible, natural vegetation shall be retained and protected.

### **5.3 Encroachment/Access Permit**

No driveway shall be connected onto the city right-of-way without first obtaining an encroachment permit. This is to ensure that original construction of all access drives meet the standards of the city and, more specifically, to improve and promote proper surface drainage of water.

### **5.4 Change of Use Permit**

All applications for change of use permits shall be accompanied by building plans; a recorded plat, if available, and deed showing the actual dimensions and shape of the lot; and the exact sizes and locations on the lot of existing buildings. The application shall include such other information as lawfully may be required by the appropriate building inspector, Administrative Official, or any other department involved in the change of use permit process, as may be necessary to determine conformance with, and provide for, the enforcement of other ordinances. Any change of use shall be according to all applicable building codes, as amended.

**ISSUANCE OF CHANGE OF USE PERMIT**

If the proposed change of use conforms to all applicable provisions of the Zoning Ordinance and all other applicable ordinances, regulations and codes, the Administrative Official shall approve a change of use permit authorizing such change. If the proposed change of use fails to conform, the Administrative Official shall refuse to approve a change of use permit and shall deliver written notice to the applicant stating the reason for the refusal. The Administrative Official shall act upon the applications for change of use permit within ten (10) days from the date of submission of a complete application.

If the change of use is not implemented within six (6) months from the date the change of use permit was issued, the permit is void.

**5.5 Building Permit**

No building or other structure shall be erected, moved, added to or structurally altered without a permit issued by the Administrative Official. No building permit shall be issued by the Administrative Official except in conformity with the provisions of this Ordinance, unless the Administrative Official receives a written order from the Board of Adjustments in the form of an administrative review, conditional use permit, or variance as provided by this Ordinance.

If no building permit has been issued and approved, and a builder begins or continues to build, a restraining order may be obtained upon application to the proper court of record and evidence of the lack of a building permit shall establish a prima facie case for the issuance of the restraining order. Further legal action may be taken as necessary to ensure compliance with this Zoning Ordinance.

**APPLICATION FOR BUILDING PERMIT**

All applications for building permits shall be accompanied by building/development plans in accordance with Chapter 5.6; and such other matters as may be necessary to determine conformance with, and provide for, the enforcement of other ordinances.

**ISSUANCE OF BUILDING PERMIT**

If the proposed construction or alteration conforms to all applicable provisions of the Zoning Ordinance and all other applicable ordinances, regulations and codes, the Administrative Official shall approve a building permit authorizing such construction or alteration. If the proposed construction or alteration fails to conform, the Administrative Official shall refuse to approve a building permit and shall deliver written notice to the applicant stating the reason for the refusal.

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

The building permit shall become void six (6) months from date of issuance unless substantial progress has been made on construction or alteration by that date.

**5.6 Minor/Major Development Plan Review Criteria**

The Administrative Official is hereby authorized to review and approve or disapprove all minor development plans for structures and/or land uses within the City in accordance with standards set forth in this chapter. Minor development plan is defined as any proposed structure or combination of structures having 5,000 square feet or less, disturbing less than 1 acre and not involving street or utility extensions.

Major development plans are to be reviewed and approved or disapproved within the City in accordance with standards set forth in this Chapter, by the Administrative Official and the Administrative Official of the Planning Commission. Major development plan is defined as any proposed structure or combination of structures greater

than 5,000 square feet, and/or on sites disturbing 1 acre or more and/or requiring street or utility extensions. Major development plans having a structure or combined structures greater than 20,000 square feet and/or are part of a larger development or redevelopment plan greater than 20,000 square feet require approval from the Hopkins County Joint Planning Commission.

Single family structures are exempt from these requirements.

All development plan reviews will be in conjunction with all pertinent utilities and departments (City and non-City).

A predevelopment meeting shall be held with the applicant and the Administrative Official(s) prior to the preparation and formal submission of a development plan. The intent of the predevelopment meeting is to enable the applicant to inform the Administrative Official(s) of the basic site design concept, advise the applicant as to potential issues or concerns and to generally determine the information to be included on the development plan. In order to accomplish these objectives, the applicant shall provide a rough sketch showing the location and dimensions of all structures, parking areas, points of ingress/egress, signs, landscaping and any anticipated changes in the site's natural features. Two copies of the sketch are required; one to be retained by the Administrative Official and the other returned to the applicant with any comments.

**MINOR DEVELOPMENT PLAN REQUIREMENTS** (Developments having 5,000 square feet or less and/or; disturbing less than 1 acre and/or not involving new streets or utility extensions). The development plan shall include the following:

- The plan shall be legible, drawn in ink and to scale, including vicinity map, north arrow, scale and date. Minimum scale 1"=60'. If more than 2 pages, an index sheet is required;
- The title of the drawing, name, address and telephone number(s) of the owner and developer as well as the person responsible for preparing the drawing;
- Where applicable, the plan must be stamped and dated with the certificate of a design professional (each sheet and drawing document shall be stamped and dated);
- A copy of the deed and any recorded plat of the property;
- PVA map and parcel numbers and the property address;
- The boundaries of the property, easements, setback lines, and interior lot lines drawn to scale with dimensions. All dimensions should be given to the nearest foot. Total property size, given in square feet, must also be included;
- Location, dimensions, square footage and primary use of all existing and/or proposed buildings with distances to the property lines and distances between structures;
- Names of all adjacent streets and all points of ingress and egress (both existing and proposed) including right-of-way width and pavement width;
- Location and arrangement of all loading areas, parking areas and interior circulation including parking space sizes, driving lane widths and handicap detail;
- Location of any outdoor storage, including dumpsters and other waste disposal areas, and types of buffering/screening (all dumpsters must be screened);
- Location, size and design of all existing and proposed signs;
- Location of all landscaping and screening requirements;
- Location, intensity, type, size and direction of existing and proposed outdoor lighting;
- Indicate direction of water runoff. Any natural stream or important surface drainage course must be included on the plan. Drainage improvements shall maintain any natural watercourse and shall prevent the collection of water in low areas unless part of an approved stormwater detention/retention facility;
- Erosion control plan shall be provided showing location of silt fences, construction entrances, inlet/outlet protection, etc.;
- Estimated project construction schedule;

- Public utilities may be withheld until a Certificate of Occupancy is issued;
- Multiple copies of the development plan are required (as determined by the Administrative Official).

**MAJOR DEVELOPMENT PLAN REQUIREMENTS** (Developments having a structure or combined structures greater than 5,000 square feet and/or on sites disturbing 1 acre or more; and/or requiring street or utility extensions). The Major Development Plan shall be submitted to the City's Administrative Official who will then coordinate the review process. Said plan shall include the following:

- The plan shall be legible, drawn in ink and to scale, including vicinity map, north arrow, scale and date. Minimum scale 1"=60'. If more than 2 pages, an index sheet is required;
- The title of the drawing, name, address and telephone number(s) of the owner and developer as well as the person responsible for preparation of the drawing;
- The plan must be stamped and dated with the certificate of a design professional where applicable. Every plan sheet and drawing document shall be stamped and dated, where applicable;
- A copy of the deed and any recorded plat of the property;
- PVA map and parcel numbers and the property address;
- The boundaries of the property, easements, setback lines, and interior lot lines drawn to scale with dimensions. All dimensions should be given to the nearest foot. Total property size, given in square feet, must also be included;
- Location, dimensions, square footage and primary use of all existing and/or proposed buildings with distances to the property lines and distances between structures;
- Names of all adjacent streets and all points of ingress and egress (both existing and proposed) including right-of-way width and pavement width;
- Location and arrangement of all loading areas, parking areas and interior circulation including parking space sizes, driving lane widths and handicap detail;
- Location of any outdoor storage, including dumpsters and other waste disposal areas, and types of buffering/screening (all dumpsters must be screened);
- Location, size and design of all existing and proposed signs;
- Location of all landscaping and screening requirements;
- Location, intensity, type, size and direction of existing and proposed outdoor lighting;
- Location and size of existing and/or proposed extensions of public water (including water mains, valves and hydrants), sanitary and storm sewers (including force mains, gravity sewer, manholes and culverts), and all associated easements that are within or adjacent to the site;
- Grading and drainage plan, including proposed contours, natural streams or important surface drainage courses, and associated easements. Drainage improvements shall maintain any natural watercourse and shall prevent the collection of water in low areas unless part of an approved stormwater detention/retention facility. If applicable, location of floodplain and/or floodway and any other flood prone areas. All drainage calculations are to be presented on or with the site plan;
- Stormwater plan shall be provided showing the post development run off rates which shall be reduced from the pre-development run off rate by 10% if there are structures downstream that are currently in a special flood hazard area as defined by FEMA FIRM Maps adopted by the City. If there are no such downstream structures, post development run off rate may equal, but not exceed, pre-development run off rates. In addition, a Stormwater Pollution Prevention Plan (SWPPP) is required and applicant must submit a copy of their State Stormwater Notice of Intent (NOI) Permit;
- Erosion control plan shall be provided showing location of silt fences, construction entrances, inlet/outlet protection, etc.;
- If infrastructure development is required, then such development shall take place before a Certificate of Occupancy is issued. Infrastructure development includes the building of roadways, utility main



extensions, storm water management facilities, etc. Stormwater management facilities shall be the first items of construction;

- Estimated project construction schedule;
- Public utilities may be withheld until a Certificate of Occupancy is issued;
- Multiple copies of the development plan are required (as determined by the Administrative Official).

The City reserves the right to require a professional design plan when the Administrative Official believes the proposed development, due to site constraints, has the potential to adversely affect adjoining properties. In addition, the City reserves the right to require other information integral to the review and approval of the development plan. This includes, but is not limited to, drainage calculations in areas that are flood prone, near a stream and/or in an area known to directly impact downstream properties.

### ***5.7 Building Permit Non-Transferable***

A building permit is valid only for the lot to which it was issued and is non-transferable.

### ***5.8 No Building Permit or Certificate of Occupancy Required For the Following:***

- (1) Local public utility distributing and collecting structures such as pipes and transmission lines, transformers, meters, etc.
- (2) Public streets and all official appurtenances necessary for traffic direction and safety. All street and traffic control signs shall conform to the code established and adopted by the Kentucky Transportation Cabinet.
- (3) Landscaping and grading which is not intended to be used in connection with a land use reviewable under the provisions of this Chapter.
- (4) Ordinary repair and maintenance or interior alterations to existing uses or structures.
- (5) Any other items or structures specifically exempted elsewhere in this Ordinance.

### ***5.9 Certificate of Occupancy***

If the proposed building or structure conforms to all requirements of the building permit, all applicable provisions of the Zoning Ordinance and all other applicable ordinances, regulations and codes, the Administrative Official shall approve a certificate of occupancy authorizing such building or structure to be inhabited. If the proposed building or structure fails to conform, the Administrative Official shall refuse to approve a certificate of occupancy and shall deliver written notice to the applicant stating the reason for refusal. The Administrative Official shall act within (10) days from the date of notice of building or structure completion.

If infrastructure development is required for the proposed building or structure, such development shall take place before a certificate of occupancy is issued. Public utilities may be withheld or discontinued until a certificate of occupancy has been issued.

### ***5.10 Demolition Permit***

A demolition permit is required for any demolition of any building or structure prior to the start of any such work. All demolition shall be carried out in a manner to provide reasonable safety to persons and property. Safety measures at the demolition site must be in accordance with all applicable ordinances and codes.

## **Chapter 6 – Administration, Enforcement and Variances**

### **6.1 Administrative Official**

An administrative official designated by the City of Madisonville shall administer and enforce this Ordinance. The administrative official may be provided with the assistance of such other persons as the City of Madisonville may direct. The city's enforcement officers, in the performance of their duties and functions, may enter upon any land and make examinations and surveys that do not do damage or make injury to private property.

For the purpose of this Ordinance the Administrative Official shall have the following duties:

- Issue building permits or change of use permits, or both, but may not have the power to permit any use or any change of use which does not conform to the terms of the Zoning Ordinance;
- Upon finding that any of the provisions of this ordinance are being violated, notify in writing the person responsible for such violation(s), ordering the action necessary to correct such violation(s);
- Order discontinuance of illegal uses of land, buildings or structures;
- Order removal of illegal buildings or structures or illegal additions or structural alterations;
- Order discontinuance of any illegal work being done;
- Take any other action authorized by this ordinance or Article 119.0 of the Kentucky Building Code to ensure compliance with or to prevent violation(s) of this Ordinance;
- Make records of all official actions of this office relating to the administration and enforcement of the provisions of this Ordinance including but not limited to written records of all complaints and actions taken with regard thereto, all violations discovered and actions taken thereto, and the final disposition of all such matters.

### **6.2 Complaints**

Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person aggrieved thereby may file a complaint with the Administrative Official. The complaint shall be verified, shall be signed by the person making the complaint and shall state fully the causes and basis thereof. The Administrative Official shall record properly such complaint thereby admitting it to the public record, immediately investigate and take action thereon as provided by this Ordinance.

### **6.3 Violations**

Violation of the provisions of this Ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) shall constitute a misdemeanor.

### **6.4 Penalties for Violations**

Any person who so violates this Ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not less than \$100 but no more than \$500 for each conviction. The violator shall be responsible for paying reasonable attorney fees. Each day of violation shall constitute a separate offense.

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

### **VIOLATIONS REGARDING BUILDING PERMITS**

Any person who begins construction of a structure without first obtaining a building permit shall be assessed a penalty of 100% of the scheduled building permit fee, in addition to any fines and/or penalties and the fee itself.

## **6.5 Schedule of Fees**

The City of Madisonville shall establish a schedule of fees, charges, and expenses and a collection procedure for building permits, change of use permits, variance requests, conditional use permits, appeals, and other matters pertaining to this Ordinance as permitted by KRS 100. The schedule of fees shall be posted in the office of the Administrative Official, and may be altered or amended only by the City. Until all applicable fees, charges and expenses have been paid in full, no action shall be taken on any application or appeal.

All development plans, certificates of conditional uses or other land use restrictions shall be filed with the Administrative Official at the expense of the applicant. All fees, as established by the Planning Commission or City of Madisonville, shall be collected at the time the proceeding is initiated which may result in approval of any of the above, or imposition, adoption, amendment or release of any land use restrictions. The Administrative Official shall charge the applicant a reasonable fee for the cost of copying, completing and filing the plat or certificate.

## **6.6 Board of Adjustment**

### **Appointment, Proceedings, Funding and Record Keeping**

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

### **PROCEDURE FOR APPEALS TO THE BOARD OF ADJUSTMENT**

Appeals to the Board of Adjustment may be taken by any person or entity claiming to be injuriously affected or aggrieved by an official action, order, requirement, interpretation, grant, refusal, or decision of any zoning enforcement officer. Such appeal shall be taken within thirty (30) days after the appellant or the appellant's agent receives notice of the action of the official by filing with said officer and with the Board of Adjustment a notice of such appeal specifying the grounds thereof, and giving notice of such appeal to any and all parties of record. Said officer shall forthwith transmit to the Board of Adjustment all papers constituting the record upon which the action appealed from was taken and shall be treated as and be the respondent in such further proceedings. At the public hearing on the appeal held by the Board of Adjustment, any interested person may appear and enter his or her appearance, and all shall be given an opportunity to be heard.

### **POWERS AND DUTIES OF THE BOARD OF ADJUSTMENT**

In exercising its duties the Board may, as long as such action is in conformity with the terms of this Ordinance, reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination appealed from. The concurring vote of a majority of the members present and voting shall be necessary to affirm or reverse any order, requirement, decision, or favor of the applicant on any matter upon which it is required to pass under this Ordinance or to effect any variation in the application of this Ordinance.

## **6.7 Administrative Review**

To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, determination or interpretation of the Zoning Ordinance or District Boundaries on the Official Zoning Map made by the Administrative Official. Such appeal shall be filed within thirty (30) days.

## **6.8 Conditional Use Permits**

To hear and decide only such exception as the Board of Adjustment is specifically authorized to pass on by the terms of this Ordinance; to decide such questions as are involved in determining whether conditional use permits should be granted; and to grant conditional use permits with such safeguards as are appropriate under this Ordinance, or to deny conditional use permits when not in harmony with the purpose and intent of this Ordinance or with the purpose and intent of the Comprehensive Plan. Conditional use permits shall not be granted by the Board of Adjustment unless and until:

- (1) A written application for a conditional use permit is submitted indicating the Chapter of this Ordinance under which the permit is sought and stating the grounds on which it is requested. Applicable fees must be paid before action is taken.

- (2) Notice shall be given no more than twenty-one (21) days nor less than seven (7) days in accordance with KRS 424.130(b) before the date of said hearing. Notice shall be sent to every adjoining property owner by first class mail postmarked at least seven (7) days prior to the public hearing. In cases where the subject property is located within or abutting a residential zoning district, written notice shall be at least fourteen (14) days in advance of the public hearing.
- (3) Notice shall be published in a newspaper at least once no more than twenty-one (21) days or less than seven (7) days in advance of the public hearing.
- (4) The public hearing shall be held. Any party may appear in person, or by an agent or attorney.
- (5) The Board of Adjustment shall make a finding that:
  - It is empowered under the Chapter of this Ordinance described in the application to grant the conditional use permit; and
  - The granting of the permit will not adversely affect the general health, safety, and welfare of the public.

Before any conditional use permit shall be issued, the Board of Adjustment shall make written findings certifying compliance with the specific rules governing individual permits and that satisfactory provision arrangement has been made concerning the following, where applicable:

- (1) Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;
- (2) Off-street parking and loading areas where required with particular attention to the items in Chapter 9 and the noise, glare, or odor effects of the conditional use permit on adjoining properties and properties generally in the district;
- (3) Refuse and public service areas;
- (4) Utilities, with reference to locations, availability, and compatibility;
- (5) Screening and buffering with reference to type, dimensions, and character;
- (6) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;
- (7) Required yards and other open space;
- (8) Specific criteria as established in Chapter 4 of this ordinance;
- (9) General compatibility with adjacent properties and other properties in district;
- (10) Other items pertaining to the general health, safety, and welfare of the public; or, as required in individual district regulations (see Chapter 3).

A conditional use permit shall be exercised within one (1) year from the date of issuance within the meaning of KRS 100.237 or it shall expire.

The Administrative Official shall review all conditional use permits except for those for which all conditions have been permanently satisfied, at least once annually and shall have the power to inspect the land or structure where the conditional use is located in order to ascertain that the landowner is complying with all the conditions which are listed on the conditional use permit. If the landowner is not complying with all conditions listed on the permit, the Administrative Official shall report the fact in writing to the Chairman of the Board of Adjustment. The report shall state specifically the manner in which the landowner is not complying with the conditions on the conditional use permit and a copy of the report shall be furnished to the landowner at the same time that it is furnished to the Chairman of the Board of Adjustment. Upon hearing the report as required by KRS 100.237, if the Board of Adjustment finds the facts alleged to be true and that the landowner has taken no steps to comply with all the conditions of the conditional use permit between the date of the report and the date of the hearing, the Board of Adjustment shall authorize the Administrative Official to revoke the conditional use permit and to take the necessary legal action to cause the termination of the activity.

### **6.9 Variances; Conditions Governing Applications; Procedures**

To authorize upon appeal in specific cases such variance from only the terms of dimensions and setbacks as specified in this Ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of the Ordinance would result in undue hardship or practical difficulty. A variance from the terms of this Ordinance shall not be granted by the Board of Adjustment unless and until:

A written application for a variance is submitted, along with applicable fees, demonstrating all of the following to be true:

- That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zone;
- That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance;
- That the special conditions and circumstances do not result from the actions of the applicant taken after adoption of this Zoning Ordinance, or previous applicable Zoning Ordinances;
- That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures, or buildings in the same zoning district, and will not be detrimental to any neighboring premises.

Notice of public hearing shall be given in accordance with the appropriate provision(s) above.

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

The Board of Adjustment shall make findings that the requirements of KRS 100.243 have been met by the applicant for a variance.

The Board of Adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of land, building, or structure.

The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this Ordinance, as well as with the general purpose and intent of the Comprehensive Plan, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance and punishable under this Ordinance. No non-conforming use of neighboring lands, structures, or buildings in the same district, and no permitted or non-conforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of this Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said district.

A non-conforming use shall not be extended or enlarged in any way by a variance or any other action of the Board of Adjustment.

### ***6.10 Appeals from the Board of Adjustment***

Any person aggrieved by any decision of the Board of Adjustment may seek relief by a court of record of such decision, in the manner provided by the laws of the Commonwealth of Kentucky and particularly by KRS 100.347. Appeal shall be filed within thirty (30) days after final action of the Board of Adjustment.

### ***6.11 Duties of Administrative Official, Board of Adjustment, and Courts on Matters of Appeal***

It is the intent of this Ordinance that all questions of interpretation and enforcement shall be first presented to the Administrative Official, and that such questions shall be presented to the Board of Adjustment only on appeal from the decision of the Administrative Official, and that recourse from the decisions of the Board of Adjustment shall be to the courts as provided by law and particularly KRS 100.347. Such appeal shall be filed within thirty (30) days after such action.

### ***6.12 Limits of Authority***

The Board of Adjustment shall act only within the strict limits of its authority as defined in the Zoning Ordinance and Kentucky Revised Statutes (KRS) Chapter 100. The Board of Adjustment has no authority to vary the use regulations or other regulations not specifically delegated to it. The Board of Adjustment shall not hold hearings on applications or appeals seeking decisions that the Board of Adjustment is not authorized to make.

## **Chapter 7 - Non-conforming Situations**

### **7.1 Continuation of Non-conforming Situations**

The lawful use of a building or premises, existing at the time of the adoption of this Ordinance, may be continued except as otherwise provided herein, although such use does not conform to the provisions of the ordinance. Pursuant to KRS 100.253, any use which has existed illegally and does not conform to the provisions of this Ordinance, and has been in continuous existence for a period of ten (10) years, and which has not been the subject of any adverse order or other adverse action by any governing or administrative official during said period, shall be deemed a non-conforming use. Thereafter, such use shall be governed by the provisions of this Chapter.

### **7.2 Abandonment and Discontinuance of Non-conforming Situations**

Where a structure is non-conforming or where the use of a structure is non-conforming or where the land has non-conforming status, such status shall be forfeited under any of the following circumstances:

- (1) If the non-conforming land is legally joined under common ownership with other adjoining land so that the entity is conforming.
- (2) If a non-conforming use of land ceases for a period of twelve (12) consecutive months.
- (3) If a non-conforming structure is made to conform.
- (4) If a non-conforming use of a structure or a non-conforming use of a structure and land in combination is discontinued or abandoned for twelve (12) consecutive months. (As used herein, the words “discontinued/abandoned” means that one owner or responsible party for the use of the property cannot demonstrate that he/she had clear intent to continue using the property for the non-conforming purpose and that he/she had augmented that intent by making every reasonable effort to continue to have the property so used.) Intent can be demonstrated by providing documentation or evidence that:
  - a. The owner has made reasonable continuous effort to have the property rented or sold for the non-conforming purpose;
  - b. The property has been vacant as a result of legal proceedings; or
  - c. The owner, by reason of age or infirmity, was unable to manage or cope with the responsibility of a tenant.
- (5) The non-conforming use is changed to a conforming use no matter how short the period of time.

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

### **Intermittent Use**

The casual, intermittent, temporary, or illegal use of land or buildings shall not be sufficient to establish the existence of a non-conforming use and the existence of a non-conforming use on the part of a lot or tract shall not be construed to establish a non-conforming use on the entire lot or tract.

### **7.3 Enlargements to Non-conforming Situations**

Except if specifically provided for in this Chapter, no person may engage in any activity that causes an increase in the extent of nonconformity in a non-conforming situation. In particular, it shall be unlawful to:

- Increase the total amount of space devoted to a non-conforming use.

EXCEPTION: A non-conforming use may be extended throughout any portion of a completed building, that when the use was made non-conforming by this Ordinance, was manifestly designed or arranged to accommodate such use.

- Increase nonconformity with respect to density restrictions, dimensional requirements such as, but not limited to, setbacks and other requirements such as, but not limited to, parking.

**Guidelines for Board of Adjustment**

Pursuant to KRS 100.253, and notwithstanding this ordinance, the Board of Adjustment shall not allow the enlargement or extension of a non-conforming situation beyond the scope and area of its operation at the time the regulation which makes its use non-conforming was adopted, nor shall the Board permit a change from one (1) non-conforming use to another unless the new non-conforming use is in the same or a more restrictive classification, except as is permitted herein below.

**7.4 Non-Conforming Structures**

**Alterations**

A non-conforming structure shall not be enlarged, replaced or structurally altered except in conformance with the Zoning Ordinance.

An accessory structure that is closer to property lines than allowed by this Ordinance may be added to laterally as long as the addition comes no closer to a property line than the existing portion of the structure, does not exceed twenty-five (25) percent of the existing structure, and no new non-conformity is created. Any structure, however, may be restored to a safe condition if declared unsafe by the Enforcement Officer or other public official with jurisdiction, except as provided elsewhere in this Ordinance.

**7.5 Repair, Maintenance and Reconstruction**

Minor repairs and routine maintenance of property where non-conforming situations exist are permitted and encouraged.

If a structure is removed or destroyed other than by intentional means of the owner, the structure may be reconstructed, provided the owner makes application within six (6) months of the date of removal or destruction, but the structure shall not be enlarged, extended or moved, so long as reconstruction does not create new non-conformities with respect to such matters as, but not limited to, setback and parking requirements.

## **Chapter 8 - Landscaping and Screening**

### **8.1 Intent and General Provisions**

The intent of this section is to:

- Improve the appearance of off-street parking areas and property abutting public rights-of-way;
- Require buffering between incompatible uses;
- Protect, preserve and promote the aesthetic appeal, character and value of the surrounding neighborhoods; and
- Promote public health and safety through the reduction of artificial light glare, heat and noise, and visual pollution.

Applicability.

- No new site development, building, structure or off-street parking area shall hereafter be constructed unless landscaping is provided as required by the provisions of this Section.
- No building, structure, or off-street parking area shall be expanded, moved, removed and/or reconstructed unless the minimum landscaping required by the provision of this section is provided for the property to the extent of its alteration or expansion, but not for the entire property.
- This section shall not apply to Single-Family Residential use.

### **8.2 Off Street Parking**

All off-street parking areas of 3 or more spaces shall be landscaped in accordance with the following requirements.

- Perimeter landscaping: Parking lots of 3 or more spaces which abut a street right-of-way shall be required to maintain a three (3) foot wide strip of landscaped area.
- Internal landscaping: A minimum of three (3) percent of the total parking area shall be landscaped in parking lots having twenty (20) or more spaces. The landscaped areas shall be dispersed throughout the parking lot with ends of aisles and corners landscaped. One tree per every two hundred (200) square feet of landscaped area shall be provided.

### **8.3 Landscape and Land Use Buffers**

Landscaping shall be required as a buffer between non-compatible land uses with common property boundaries.

Landscape buffer areas shall be designed, provided, and maintained according to the following:

- 1) A permanent landscape buffer of evergreen plant material or other suitable buffer, as approved by the Administrative Official, is required where a non-compatible use abuts a residential use.
- 2) Trees which are intended to provide screening to separate non-compatible uses, shall not be planted further than ten feet apart; parking and loading facilities which are located adjacent to residential areas shall be additionally screened to a minimum height of three feet (via on earth berm, depressed parking, solid fence, etc.) to reduce automobile headlight glare onto adjacent property.
- 3) Where vegetative or topographic conditions that provide a natural screening and buffer exist prior to development of properties in question and meet or exceed the minimum requirements, every effort shall be made to retain such conditions. In such cases additional screening may not be required, provided that provision is made for maintenance of such condition to the satisfaction of the Administrative Official.
- 4) All landscaping shall utilize living plant materials (not artificial), and shall be planted in-ground (not in above ground planters) and shall be suitable to the Western Kentucky area and specific conditions of the site in question.
- 5) Maintenance. The owner of the property shall be responsible for maintaining, repairing, and replacing all required plant material and ensuring that they remain in good health and are kept free from refuse and debris. Any dead, unhealthy or missing plants shall be replaced by the next planting season or within one



(1) year, whichever comes first. All landscape planting areas shall be stabilized from soil erosion immediately upon planting and shall be maintained for the duration of the premises. In the event that plant material is severely damaged due to an unusual weather occurrence or other Act of God, the owner shall have six (6) months to replant.

#### ***8.4 Transitional Screening & Barriers for Storage and Utility Areas***

All open storage of merchandise, material, automobiles, trucks and equipment shall be screened (approved by the Administrative Official) by either a wall, fencing or evergreen planting at the side and rear of the lot abutting a residential use on which said storage occurs; the height of which shall be adequate to obstruct the visibility of such materials from the abutting residential use. In all zoning districts, dumpsters are required to be screened.

#### ***8.5 Landscaping at Driveways and Street Intersections***

To ensure that landscape materials do not constitute a driving hazard, a sight triangle shall be observed at all street intersections or intersection of driveways or alleys with streets or railroad crossings. The site triangle shall consist of the area measured within the radius of 20' from the point where the curb line of any street, driveway or alley intersects the curb line of another street, driveway or alley. Within this sight triangle, no landscape material nor other fixed object shall obstruct vision between a height of three (3) feet and a height of ten (10) feet above the average elevation of the existing surfaces at the center line of each street, driveway, or alley.

#### ***8.6 Waiving Screening and Buffer Requirements***

In the event that the unusual topography or elevation of a development site or the location or size of the parcel to be developed would make strict adherence to the requirements of this Chapter serve no meaningful purpose or would make it physically impossible to install and maintain the required screen and buffer, the Administrative Official may alter the requirements provided the spirit and intent is maintained. Such an alteration may occur only at the written request of the owner/developer, who shall submit a plan to the Administrative Official showing existing site features that would screen the proposed use and any additional screening materials the owner/developer may propose to have installed. The Administrative Official shall have no authority to alter the screening and buffer requirements unless the subdivider/developer demonstrates that existing site features and any additional screening materials will screen the proposed use as effectively as the required screen.

## Chapter 9 – Parking Regulations

### 9.1 General Design Standards

Any off-street parking area, other than those for residential uses, shall be designed so that vehicles may exit such areas without backing onto a public street.

Off-street parking areas of all developments shall be designed so that sanitation, emergency, and other public service vehicles can serve such developments.

Every off-street parking area shall be designed so that vehicles do not extend onto public rights-of-way, sidewalks or tend to bump against or damage any wall, vegetation, or other obstruction.

The minimum standard for off-street parking areas shall be paved with asphalt or concrete with a compacted crushed stone base. Subject to prior approval of the application and design, alternative designs and materials which are incorporated into the overall Stormwater abatement and treatment system will be allowed. Such systems may be used if constructed over an approved drainage collection system. The collection system and basin shall be designed and constructed to meet all City, state and federal regulations and be designed by a professional engineer licensed in the State of Kentucky. Examples of such alternative parking surfaces include: pervious concrete and contained and supported gravel, paver and grass infiltration systems. Similar surfaces may be incorporated in associated project walkways.

Circulation areas shall be designed so that vehicles can proceed safely without posing a danger to pedestrians and without interfering with parking areas.

No off-street parking area shall be located over an active or auxiliary septic tank field.

### 9.2 Parking Space Dimensions

Each parking space, other than those designed for the disabled, shall contain a rectangular area at least twenty (20) feet long and nine (9) feet wide. Lines defining parking spaces may be drawn at various angles in relation to curbs or aisles, so long as the parking spaces so created contain within them the rectangular area required by this Chapter.

Wherever parking areas consist of spaces set aside for parallel parking, the dimensions of such parking spaces shall be not less than twenty-two (22) feet by twelve (12) feet.

#### **AISLE AND DRIVEWAY WIDTHS**

Parking area aisle widths shall conform to the following table, which varies the width requirement according to the angle of parking.

<b>Aisle Width (In Feet)</b>	<b><u>Angle of Parking (In Degrees)</u></b>				
	<b>0</b>	<b>30</b>	<b>45</b>	<b>60</b>	<b>90</b>
One-way Traffic	13	13	13	18	20
Two-way Traffic	19	19	20	22	24

Driveways shall be not less than ten (10) feet in width for one-way traffic and eighteen (18) feet in width for two-way traffic, except that ten (10) foot wide driveways are permissible for two-way traffic when:

- (1) The driveway is not longer than fifty (50) feet;
- (2) It provides access to not more than six (6) spaces; and

- (3) Sufficient turning space is provided so that vehicles need not back into a public street.

For a residential use, in no case shall a driveway width exceed thirty (30) feet.

**PARKING FOR PERSONS WITH DISABILITIES**

Except for a lot containing a single-family or duplex dwelling, all uses shall be required to provide the following number of spaces designed for persons with disabilities.

<b>Total Lot Spaces</b>	<b>Required Number of Accessible Spaces</b>
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2% of total spaces
1,001 and over	20 + 1 for each 100 spaces over 1,000

Source: US Department of Justice, Civil Rights Division, Disability Rights Section. Reference Document: ADA Standards for Accessible Design (28 CFR Part 36): Sections 4.1.2 and 4.1.6.

The number of accessible spaces required shall be in addition to any required spaces.

Off-street parking spaces for persons with disabilities shall be designed as follows:

- (1) All spaces for persons with disabilities shall have access to a curb-ramp or curb-cut when necessary to allow access to the building served, and shall be located so that users will not be compelled to wheel behind parked vehicles, and shall be located the shortest possible distance between the parking area and the entrance to the principal building it serves.
- (2) Parallel parking spaces for persons with disabilities shall be located either at the beginning or end of a block or adjacent to alley entrances. Curbs adjacent to such spaces shall be of a height that will not interfere with the opening and closing of motor vehicle doors.
- (3) Each parking space for persons with disabilities shall be paved and prominently outlined with paint, with a permanent sign of a color and design approved by the Kentucky Transportation Cabinet

(KYTC), bearing the internationally accepted wheelchair symbol, posted at the head of the parking space.

- (4) The size of the parking space shall be per building code specifications.
- (5) In cases where state or federal regulations concerning parking access for persons with disabilities are greater than those in this Ordinance, such regulations shall take precedence over this local Ordinance.

### **9.3 Cooperative Parking**

Cooperative provisions for off-street parking may be made by contract between two (2) or more adjacent property owners. The parking area provided on any one (1) lot may be reduced to not less than one-half (1/2) the number of required parking spaces for the use occupying such lot.

To the extent that developments that wish to make joint use of the same parking spaces operate at different times, up to one-half (1/2) of the parking spaces may be credited to both uses if one use is a church, theater, or assembly hall whose peak hours of attendance will be at night or on Sundays, and the other use or uses are ones that will be closed at night or on Sundays.

### **9.4 Parking Requirements and Certificates of Occupancy**

Certificates of Occupancy shall not be issued until all provisions of this chapter have been met. All square footage is in leasable square feet. Additional or supplemental provisions for specific districts are described herein. Uses less than 2,500 leasable square feet are exempt from parking requirements.

Any use not specifically addressed or referred to in this list shall have parking requirements determined by the Administrative Official. Where two or more standards exist for determining the number of spaces, the one yielding the greatest number shall govern.

<b>USE</b>	<b>PARKING SPACES REQUIRED *see note after table for mixed uses</b>
Assisted Living Facility	1 space per 3 residents plus 1 space per employee of largest shift
Athletic Field	20 space per diamond or athletic field, or 1 space per 4 seats (equal to two feet of bench length), whichever is greater
Auction House	1 space per 4 patron seats
Auditorium/Performing Arts	1 space per 4 patron seats plus 1 space per two employees
Auto Body Shop/Oil Change Shop/Auto Repair	1 space per service bay plus 1 space per mechanic
Auto Parts Store	1 space per 500 square feet
Auto Rental	1 space per 400 square feet of gross floor area, including rental auto spaces
Automobile Sales	2 spaces per employee
Auto Wash	3 stack-up spacer per washer bay
Bank/Financial Institution	1 space per 250 square feet plus 5 stacking spaces per drive-through lane
Barber Shop/Beauty Shop	2 spaces per chair plus 1 space per barber/beautician
Basketball Court	7 spaces per court
Bed and Breakfast	1 space per sleeping room plus 1 space per resident
Bowling Alley	4 spaces per lane
Bus Terminal	1 space per 250 square feet of waiting room
Civic Use	1 space per employee at largest shift plus 1 space per 500 square feet of space used by the public
Clubs/Lodges/Country Club	1 space per 400 square feet of lodge area plus 2 spaces per hole on golf course,

**MADISONVILLE ZONING ORDINANCE**

	2 spaces per tennis court, 1 space per 150 square feet of surface for swimming pool
Coin Operated Laundry	1 space per 2 machines
College/Secondary School	1 space per 5 classroom seats
Community Building	4 spaces per 1000 square feet
Construction Sales/Service	1 space per 1000 square feet
Contractor's Yard	1 space per 500 square feet of yard
Day Care Center	1 space per employee plus 1 space per 8 children
Dwelling	2 spaces per dwelling unit plus 1 additional space per bathroom over 2.5
Educational Facility: preschool, Kindergarten	2 spaces per teacher plus 1 loading space per 8 pupils
Educational Facility: Elementary, Middle School	1 space per classroom plus 1 space per 150 students at design capacity
Educational Facility: High School, Secondary	2 spaces per 3 teachers plus 1 space per 5 students at design capacity
Fire/Police Station	1 space per employee plus 1 space per 3 volunteer personnel on a normal shift
Funeral Home	1 space per 4 seats
Gasoline Service Station	1 space per employee plus 2 spaces per service bay or 5 fuel pumps
Group Home	1 space per 4 beds plus 1 space per employee
Gymnasium	1 space per 4 persons of maximum occupancy
Hospital	1 space per 4 beds plus 1 space per 2 employees of largest shift
Hotel	1 space per 2 guest units plus 1 space per 6 seats in public meeting rooms and restaurants
Junk Yard/Salvage Yard	1 space per employee plus 1 space per 10,000 square feet of yard
Library	1 space per 500 square feet
Lumber Yard	1 space per 500 square feet
Manufacturing/Industrial Use	1 space per 2 employees of largest shift plus space for all vehicles associated with use
Medical/Dental Clinic	3 spaces per doctor plus 1 space per employee
Mini Storage Facility	1 space per 7 storage units
Mobile Home Park/Court	2 spaces per mobile home space; if clubhouse is in park, an additional 2 spaces per 20 mobile home spaces
Museum	1 space per 500 square feet
Nursery/Greenhouse	1 space per 2 acres of land, minimum of 3 spaces
Nursing Home	1 space per 5 beds plus 1 space per employee
Office/Office Unit	1 space per 300 square feet
Orphanage	1 space per employee plus 1 space per 1000 square feet
Park	1 space per 3 users at maximum utilization
Plumbing/Heating Supply	1 space per 1000 square feet plus 1 space per employee
Pool Hall/Game Room	1 space per 8 persons of maximum occupancy
Post Office	1 customer space per 200 square feet of mailbox and sales area plus 1.5 spaces per employee
Radio/TV Station	1 space per 2 employees
Rehabilitation House	1 space per employee plus 1 space per 3 occupants at design capacity

Religious Institution	1 space per 6 seats of the main assembly room/sanctuary
Residential Care Facility	1 space per 4 beds plus 1 space per employee of largest shift
Restaurant	1 space per employee plus 1 space per 4 seats
Restaurant Fast Food	1 space per 60 square feet
Retail Outdoor	1 space per 1000 square feet of display area
Rooming/Boarding House	1 space per sleeping room plus 1 space per non-resident owner or employee
School – Dance, Gymnastic, Karate, etc.	1 space per 300 square feet
Shopping Center	1 space per store employee plus 12 spaces per store
Skating Rink	1 space per 300 square feet
Stadium/Sports Arena	10 spaces per acre of land plus 1 space per 6 spectator seats
Swimming Pool	1 space per 50 square feet of surface area
Theater	1 space per 5 seats at design capacity
Transport and Warehousing	1 space per 2500 square feet
Wholesale Establishment	1 space per 150 square feet
Vet Clinic/Animal Hospital	1 space per employee plus 4 spaces per doctor
Unspecified Retail/Service Establishment	1 space per 300 square feet

\* Mixed uses shall provide parking equal to the sum of the individual uses.

### ***9.5 Additional Parking Requirements in Industrial District***

- (1) All parking required by the uses in an industrial district shall be provided on-site and in sufficient number not to require on-street parking on adjacent streets or encroachment on adjacent property.
- (2) Parking cannot occur in required development setbacks.  
EXCEPTION: a single lot, single principle building development may have parking encroach up to but not exceeding ten (10) feet into the required setback.
- (3) Parking for interior lots may not occur within front lot setbacks. Adjacent parking lots shall be interconnected within the development.

### ***9.6 Off-Street Loading Requirements***

All loading areas shall be to the rear of the structure whenever possible. Off-street Loading Requirements shall be as follows:

Office/Restaurant:

- Less than 5,000 square feet: None
- 5,000 to 50,000 square feet: 1
- Over 50,000 square feet: 2 plus 1 for each additional 100,000 square feet of space

All other uses:

- Less than 5,000 square feet: None
- 5,000 to 20,000 square feet: 2
- Over 20,000 square feet: 2 plus 1 for each additional 30,000 square feet.

## Chapter 10 - Manufactured Housing Regulations

### 10.1 Definitions

**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.

**MANUFACTURED HOUSING PARK (MHP):** A planned development in a high density residential district of ten (10) acres or more in area, designed for ten (10) or more manufactured/mobile homes. All manufactured/mobile home parks shall conform with all the provisions of the Kentucky Revised Statutes 219.320 through 219.410 and shall conform with all applicable provisions herein.

**MOBILE HOME:** A structure manufactured prior to June 15, 1976, which was not required to be constructed in accordance with the federal act, which is transportable in one (1) or more sections, which, in the traveling mode, is eight (8) body feet or more in width and forty (40) body feet or more in length, or when erected on site, is three hundred twenty (320) square feet or more, and which is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation when connected to the required utilities.

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

### 10.2 Location

No manufactured/mobile home shall be parked, maintained or used as a dwelling unit on any lot or tract of land except as allowed below:

- Manufactured/Mobile Homes are allowed in a Manufactured Housing Park (MHP).
- One manufactured/mobile home may be occupied as living quarters for a watchman or caretaker in conjunction with a industrial or commercial establishment or a public or private recreational use when approved by the Board of Adjustment and provided that other adequate facilities are not available on the premises.
- A manufactured/mobile home, travel trailer or camper may be occupied as a temporary living quarters at a construction or excavation site. A renewable temporary certificate of occupancy for such use is required and is to be issued for a period of time not to exceed six (6) months. Any such manufactured/mobile home must be removed from the site no later than thirty (30) days after substantial completion of the construction or excavation process, or no later than thirty (30) days after efforts for the timely completion for the construction or excavation project have ceased, whichever occurs first.
- At the discretion of the Board of Adjustment, a temporary conditional use permit may be granted to allow a manufactured/mobile home, travel trailer or camper as a place of temporary residence while an otherwise allowed residential structure, destroyed in some calamity, is being built.

### 10.3 Replacement of Non-Conforming Manufactured/Mobile Homes Not in a MHP

Non-conforming manufactured/mobile homes not located in a Manufactured Housing Park may be replaced, provided approval is given by the Board of Adjustment (BOA) in accordance with the following criteria:

- Application is made within three (3) months of the date of its removal and replacement home occupies the lot within thirty (30) days of approval by the BOA.

- The replacement home does not create new non-conformities with respect to such matters as, but not limited to, setback and parking requirements.
- The replacement home’s appearance standards and value must be equal to or higher than the home being replaced and in no case have a minimum value of less than \$5,000. The BOA may use an assessed value, bill of recent sale or, when meeting the minimum \$5,000 value is in question, require a certified appraisal conducted by a licensed appraiser to establish a current value. The cost of such appraisal shall be at the owner’s expense.
- If the replacement home is built prior to June 15, 1976, the home must be HUD inspected and written approval for habitation provided.
- All other applicable provisions of this Ordinance are met.

**10.4 General Regulations and Procedures**

- All manufactured/mobile homes are to be single-family residences.
- Building, construction, inspection and/or occupancy permits are required for all manufactured/mobile homes, additions and accessory structures with the following exceptions. Replacement of an existing manufactured/mobile home in a MHP does not require a building or occupancy permit; however, if built prior to June 15, 1976, the home must be HUD inspected and approved for habitation. An accessory structure not exceeding 120 square feet, located in a MHP, does not require a building permit.
- All manufactured/mobile homes must be affixed to a permanent foundation and connected to the appropriate facilities and installed in compliance with KRS 227.570.
- Manufactured/mobile homes shall be anchored to the ground per the manufacturer’s ground anchor installation instructions. Skirting is required on all manufactured/mobile homes as follows:
  1. Shall be installed in accordance with the manufacturer’s installation instruction,
  2. Shall be of material suitable for exterior exposure and contact with the ground,
  3. Shall be of like material to the manufactured/mobile home,
  4. Shall enclose the perimeter of the manufactured/mobile home.

**MHP Guidelines Summary Table**

<b>Manufactured Housing Park</b>	<b>Complex</b>
Minimum MHP Size	10 acres
Minimum Number of Lots or Spaces	10 spaces
Minimum Perimeter Setback	20 feet
Minimum Front Setback	20 feet
Minimum Setback from All Other Property Lines	Not Applicable
Minimum MHP Lot Size	2,000 sq. feet
Minimum Home Spacing	10 feet
Maximum Density	8 spaces per acre
Minimum Floor Area of Structure	320 sq. feet

**10.5 Manufactured Housing Park (MHP) Regulations**

The intent of a Manufactured Housing Park is to provide an area for the placement of manufactured/mobile homes. Because of their unusual characteristics, manufactured housing parks pose special problems in the application of land use control techniques and require special consideration as to their proper location and character in relation to adjacent uses and to the circumstances and conditions under which each such use may be permitted. The standards



contained in this section represent an attempt to provide adequate protection for, and consideration of, both the community and the manufactured/mobile home dweller.

**Application**

Application for a manufactured housing park shall be made to the Administrative Official and shall meet all of the Major Development Plan requirements. Content of the plan shall be as stated in Chapter 5 (Major Development Plan) plus dimensions, location and number of all lots, and a large-scale plan for one (1) typical manufactured/mobile home showing home location, parking spaces, walks, accessory structures, and any other items requested by the Administrative Official.

**Minimum Design Standards**

All manufactured housing parks shall conform with the following standards for development:

- Manufactured/mobile homes are not permitted on lots outside of an approved manufactured housing park unless specifically permitted by other provisions of this Ordinance.
- The developer may be permitted to develop a MHP in stages as long as he/she complies with the overall approved plan for the entire tract and initially has a minimum of ten (10) lots developed for use.
- No more than one (1) manufactured/mobile home, with its accessory structures, shall be permitted on a single lot.
- A minimum of two (2) off-street parking spaces shall be provided for each manufactured/mobile home.
- The home pad shall be improved to provide adequate support for the placement and tie-down of the manufactured/mobile home.

**Landscape Buffers**

Manufactured Housing Parks shall meet all applicable requirements of landscaping and screening set forth in Chapter 9 of this Ordinance.

**Accessory Uses**

Accessory uses and structures which are customarily accessory and clearly incidental to a MHP, such as those listed below, are allowed. Accessory uses shall be for the convenience of the occupants of the park, and shall present no visible evidence of a commercial character that would attract customers other than the occupants of the park. Any community facility buildings shall be permitted one wall sign per building not to exceed four (4) square feet in area. All common areas for recreational, management or service facilities shall be of adequate area and configuration to accommodate contemplated structures and uses, and shall be conveniently located to all MHP residents. The following uses are considered accessory to a MHP:

- Management headquarters
- Recreational facilities
- Postal area
- Community building
- Laundry facilities
- Tennis courts
- Other uses and structures customarily incidental to the operation of a manufactured housing park

## **Chapter 11 - Amendments**

### **11.1 General**

Whenever the general health, safety, or welfare of the public, or good zoning practices require, the City Council may, by ordinance after receiving a recommendation thereon from the Planning Commission, and subject to procedures by law, amend, supplement, change or repeal the regulations, restrictions, and boundaries or classification of property.

No amendment, supplement, change or repeal of regulations to the text of this Ordinance or to the Official Zoning Map shall be contrary to the stated goals and objectives of the Comprehensive Plan, except as noted in this Ordinance.

### **11.2 Zoning Map and Text Amendments**

A proposal to change the text of the zoning regulations may originate with the City Council or the Planning Commission. A proposal for a zoning map amendment may originate with:the City Council, Planning Commission, or with an owner of the property in question.

When a landowner requests a change in the zoning classification of his or her land, the request must be in writing clearly stating the reason for the requested change and accompanied by a fee payable to the City of Madisonville and the Planning Commission in an amount set by the City Council for such requests.

### **11.3 Planning Commission Procedure**

Any proposed amendment, supplement, change or repeal of this Ordinance or parts thereof, or of the Official Zoning Map, not originating upon petition of the Planning Commission shall be referred to the Planning Commission for consideration and report before any final action is taken by the City Council.

### **11.4 Notice of Public Hearing**

Before voting upon any proposed amendment, notice of the time, place and reason for holding a public hearing shall be given as required by KRS Chapters 424, 100.211, 100.212, and 100.2111.

### **11.5 Public Hearing on Application**

After notice of the public hearing as provided for above, the Planning Commission shall hold a public hearing on the proposed amendment.

### **11.6 Recommendation of Commission for Zoning Map Amendments**

The Planning Commission shall make its recommendation within sixty (60) days of the receipt of the administratively complete proposed amendment and forward its recommendation, in writing, to the City Council. A tie vote shall be subject to further consideration by the Planning Commission for a period not to exceed thirty (30) days, at the end of which, if the tie has not been broken, the application shall be forwarded to the City Council without a recommendation of approval or disapproval. Before recommending that an application for an amendment to the Official Zoning Map be granted, the Planning Commission must find:

- (1) That the map amendment is in agreement with the community's Comprehensive Plan, or in absence of such a finding that:
  - (a) That the original zoning classification given to the property was inappropriate or improper; or
  - (b) 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 adopted by the Planning Commission and which have substantially altered the basic character of such area.

In accordance with KRS 100.2111, the Planning Commission recommendation relating to the proposed amendment shall become final and the map amendment shall be automatically implemented subject to the provisions of KRS 100.347, all as set forth in the Planning Commission recommendations, unless within twenty-one (21) days after the final action by the Planning Commission:

- (1) Any aggrieved person files a written request with the Planning Commission that the final decision shall be made by the Madisonville City Council, or
- (2) The City Council files a notice with the Planning Commission that the City Council shall decide the map amendment.

**ACTION BY MADISONVILLE CITY COUNCIL ON ZONING MAP AMENDMENTS**

If an aggrieved person or the City Council files a written request that the final decision for a map amendment is to be made by the City Council, the City Council shall have the final decision on the application of the zoning map amendment. The City Council shall make their own findings of fact and conclusions of law by reviewing the record made by the Planning Commission or hold their own trial type hearing giving notice as set forth in KRS 424, 100.211, and 100.212. Council action must be in accordance with the following:

- (1) A vote on a zoning change shall be taken in not more than ninety (90) days after the Planning Commission takes its final action upon the proposed amendment.
- (2) It shall take a majority of the entire City Council to override the recommendation of the Planning Commission and it shall take a majority of the entire City Council to adopt a zoning map amendment whenever the Planning Commission forwards the application to the City Council without a recommendation of approval or disapproval due to a tie vote.
- (3) Unless a majority of the entire City Council votes to override the Planning Commission's recommendation, such recommendation shall become final and effective and if a recommendation of approval was made by the Planning Commission, the ordinance of the City Council adopting the zoning map amendment shall be deemed to have passed by operation of law.

***11.7 Recommendation of Commission for Text Amendment***

After voting to recommend that an application for amendment to the text of this Ordinance be granted or denied, the Planning Commission shall forward its recommendation in writing to the City of Madisonville.

***11.8 Action by Madisonville City Council on Text Amendments***

The Madisonville City Council shall act upon a proposed amendment to the text of this Ordinance after it has received the written recommendation thereon from the Planning Commission. It shall take the approval by a majority of the City Council to enact a text amendment.

***11.9 Zone Change Reconsideration***

A denied map amendment shall not be reconsidered for a period of six (6) months.

## Chapter 12 – Enactment

CITY OF MADISONVILLE, KENTUCKY  
ORDINANCE 2003-06

AN ORDINANCE AMENDING THE ZONING ORDINANCE FOR THE CITY OF MADISONVILLE,  
KENTUCKY, ADOPTED THE 3<sup>rd</sup> DAY OF March, 2003.

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

1. These amendments to the Zoning Ordinance for the City of Madisonville, Kentucky, adopted the 3<sup>rd</sup> day of March, 2003.
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 Madisonville, Kentucky, for first reading on the 17<sup>th</sup> day of February, 2003, and the second reading on the 3<sup>rd</sup> day of March, 2003. Motion was made by Councilmember Legate, seconded by Councilmember Stewart, that the Ordinance be adopted as the law of the City of Madisonville, Kentucky, to be effective upon publication, as required by law.

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

COUNCILMEMBER	YEA	NAY
Dallas Cunningham	<u>_x_</u>	___
Clark Legate	<u>_x_</u>	___
Nora Stewart	<u>_x_</u>	___
Roy Tucker	<u>_x_</u>	___
Bob Simmons	<u>_x_</u>	___
Will Cox	<u>_x_</u>	___

It appearing that \_6\_ Councilmember(s) voted for the Motion and \_0\_ Councilmember(s) voted against it, the Mayor announced that the Motion was passed and that the above Ordinance would be published as required by law and would be effective as a new Ordinance of the City of Madisonville, Kentucky, immediately upon publication thereof, unless otherwise stated.

Dated this the 4<sup>th</sup> day of March, 2003.

/s/ Karen L. Cunningham

Karen L. Cunningham, Mayor  
City of Madisonville, Kentucky

ATTEST:

/s/ Gina Munger

Gina Munger, Clerk/Treasurer  
City of Madisonville, Kentucky

(City Seal)