City of Murray
Kentucky
Zoning Ordinance

2016

2016 ZONING ORDINANCE
CITY OF MURRAY, KENTUCKY

PLANNERS

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REVISIONS TO ZONING ORDINANCE

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PLANNING AND ZONING FEES

Administrative Appeal	$50.00
Board of Zoning Adjustments Special Called Meeting	$580.00
Conditional Use Application	$100.00
Dimensional Variance Application	$100.00
Conditional Use & Dimensional Variance Recording (County Clerk's Fee)	$15.00
Planning Commission Special Called Meeting	$700.00
Zoning Map Amendments or Changes (Non-Refundable)	$450.00
Planned Development Project (Total Fees)	$486.00
Sign Permit	$50.00
Bond Posted for Removal of Temporary Sign	$25.00
Minor Subdivision Plat Review (if reviewed by the Planning Commission)	$25.00
Subdivision Preliminary Plat Review	$150.00
Subdivision Final Plat Review	$150.00
Recording of Plat (County Clerk's Fee)	$20.00
Zoning Ordinance with Zoning Map	$20.00
Subdivision Regulations	$20.00

AREA AND DIMENSION REGULATIONS FOR ALL ZONING DISTRICTS

	RESIDENTIAL DISTRICTS						BUSINESS DISTRICTS				PROF. OFFICE	IND.	AGRI.
	R-1	R-2	R-3	R-3A	R-4	R-5	B-1	B-2	B-3	B-4			
MINIMUM LOT AREA: SINGLE-FAMILY: MULTI-FAMILY:	15,000'	10,000'	7,500' 7,500'[1]	7,500' 7,500'[1]	7,500' 7,500'[2]	5,000' 5,000'[2]	NO LIMIT-ATION	NO LIMIT-ATION	NO LIMIT-ATION	NO LIMIT-ATION	7,500'	NO LIMIT-ATION	NO LIMIT-ATION
MINIMUM LOT FRONTAGE ON PUBLIC STREET[3] SINGLE-FAMILY: MULTI-FAMILY:	100'	75'	75' 80'	75' 80'	75' 75'	75' 75'	75'	75'	75'	75'	75'	75'	75'
MINIMUM FRONT YARD: [4]	40'	30'	25'	25'	25'	25'	35'	50'	NO LIMIT-ATION	35'	35'	50'	80'
MINIMUM SIDE YARD:	15'	10'	10'	10'	10'	10'	NO LIMIT-ATION [7]	NO LIMIT-ATION [7]	NO LIMIT-ATION [7]	10' [7]	10' [7]	NO LIMIT-ATION [7]	25'
MINIMUM REAR YARD:	25'	25'	25'	25'	25'	25'	25' [7]	25' [7]	NO LIMIT-ATION [7]	25' [7]	25'	35' [6]	25'
MAXIMUM LOT COVERAGE:	35%	35%	50%	50%	50%	50%	NO LIMIT-ATION	NO LIMIT-ATION	NO LIMIT-ATION	NO LIMIT-ATION	35%	NO LIMIT-ATION	---
MAXIMUM HEIGHT:	35'	35'	35'	35'	35'	35'	35'	35'	75'	35'	35'	50' [6]	NO LIMIT-ATION
ACCESSORY BUILDINGS: [5]	5'	5'	5'	5'	5'	5'	---	---	---	---	---	---	---

FOOTNOTES:

[1] Plus 3,000 square feet for each additional dwelling unit after the first up to four units.

[2] Plus 2,000 square feet for each additional dwelling unit after the first up to four units.

[3] All lots shall front on a public street for the minimum distance as designated except that lots which front on the turnarounds of permanent dead-end streets shall be permitted to front on such turnarounds for a minimum distance of twenty-five (25) feet.

[4] The front yard on corner lots shall be as designated for the front yard facing the principal street and twenty-five (25) feet for the front yard facing the secondary street.

[5] Accessory buildings are permitted only in rear yards and shall be located at above distances from all lot lines.

[6] The Board of Zoning Adjustments may, upon application by the zoning official, reduce the required rear yard footage or increase the building height accordingly.

[7] All non-residential uses which are located on lots adjacent to a residential district shall maintain a minimum setback requirement for all structures of twenty-five (25) feet in the side or rear yards adjacent to the residential district.

SECTION I

GENERAL PROVISIONS & REQUIREMENTS

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SECTION I-GENERAL PROVISIONS & REQUIREMENTS
ARTICLE I
TITLE, PURPOSE, AND INTERPRETATION

A. TITLE

This ordinance is entitled zoning ordinance for Murray, Kentucky and may be referred to as the zoning ordinance. The zoning map referred to herein is entitled zoning map of Murray, Kentucky and may be referred to as zoning map. The zoning map is hereby made a part of this ordinance and certified copies of this ordinance are on file with the Murray Planning Commission and the Murray City Clerk.

B. PURPOSE

To prescribe, regulate, restrict and limit for the purpose of promoting the public health, safety, morals or general welfare, regulations of and restrictions upon the erection, construction, alteration, repair or use of buildings, structures, or land, including the regulations and restrictions of the height, number of stories, and size of building and other structures, the maximum number of families that may be housed in dwellings, the size of the yards, courts and other open spaces, the density of population, and the location and use of such buildings, structures and land for trade, industry, residence or other purposes; and for said purposes to divide the City of Murray into zones or districts of such number, shape and area as are deemed best suited to carry out the said purposes; and to provide a method of administration and enforcement and to provide penalties for the violation of the within provisions; it is here provided as follows.

C. INTERPRETATION

In their interpretation and application the provisions of this ordinance shall be held to be the minimum requirements adopted for the promotion of the public health, safety, morals, comfort, prosperity and general welfare. It is not intended by this ordinance to repeal, abrogate, annul or in any way impair or interfere with any existing provisions of law, ordinance, or resolution, or with any rules, regulations or permits previously adopted or issued, or which shall be adopted or issued pursuant to law relating to the use of buildings, or premises, or with any private restrictions placed upon property by covenant, deed or recorded plat; provided however, that where this ordinance imposes a greater restriction upon the use of buildings or required greater lot areas, larger yards, courts or other open spaces than are imposed or required by such existing provisions of law, ordinance or resolution, or by such rules, regulations, or permits, or by such private restrictions the provisions of this ordinance shall control.

SECTION I
ARTICLE 2
DEFINITIONS

The words which are defined are those which have special or limited meanings as used in this zoning ordinance and might not otherwise be clear. All words herein used in the present tense shall include the future. The singular shall include the plural and the plural, the singular. The word "shall" is mandatory not directory; the word "may" is permissive. Unless otherwise provided, the following words and phrases are defined as follows:

1. **ABUT OR ABUTTING:** Having a common border with, or being separated from such common border by an alley or easement.

2. **ACCESS:** Any means of ingress/egress to a parcel of property for pedestrians and/or vehicles.

3. **ACCESSORY BUILDING**: A subordinate structure, detached from but on the same development site as the principal structure, the use of which is incidental and secondary to that of the principal structure. Accessory structures shall not be constructed prior to the principal structure. On residential and agricultural property, accessory structures shall not contain kitchen facilities.

4. **ADULT ORIENTED BUSINESS**: See Section III, Article 7 for definitions relating to adult oriented businesses.

5. **AGRICULTURE OR AGRICULTURAL**: The use of land for the cultivation of crops or the raising of animals or for preservation of land in its natural state.

6. **ALLEY**: Any public or private way set aside or dedicated for public travel twenty (20) feet or less in width.

7. **ALTERATION**: Any change or addition to the load-bearing members or the foundation of a structure.

8. **ANTENNA**: Electronic devices, whose purposes is to receive or transmit signals directly from ground based sources, which are freestanding or mounted to a structure.

9. **ATTIC**: The non-habitable part of a building immediately below, and wholly or partly within, the roof framing.

10. **AUTHORIZED AGENT OR OWNER**: The person or persons who have the right or legal title, beneficial interest in, or a contractual right to purchase a lot or parcel of land.

11. **BAKERY**: A place where products such as bread, cake and pastries are baked and sold as the principal use of the establishment with the number of inside seats to be limited to ten (10).

12. **BASEMENT**: The lowest habitable story of a building usually below, or partially below, ground level.

13. **BEDROOM**: A room marketed, designed, or otherwise likely to function primarily for sleeping.

14. **BOARDINGHOUSE AND OR LODGING HOUSE**: A building other than a hotel where, for compensation and by prearrangement of a definite period, meals or lodging and meals are provided for three (3) or more persons, but not exceeding ten (10) persons.

15. **BUFFER**: A unit of land, together with a specified amount of planting thereon, and any fence, wall, or berm which may be required between land uses to eliminate or minimize conflicts between them.

16. **BUILDING**: Any structure for the shelter or enclosure of persons, animals, plant materials or property.

17. **BUILDING AREA**: The total ground area, taken on a horizontal plane at the mean grade level, of each building and accessory building but not including uncovered entrance platforms, terraces and steps.

18. **BUILDING FRONTAGE**: The exterior wall of a building that faces a front lot line of the lot.

19. **BUILDING HEIGHT**: The vertical distance measured from the established mean grade at the front building line to the highest point of the building.

20. **BUILDING LINE**: A line across a lot beyond which no building may extend, as established by ordinance or developer. A building line in some instances may coincide with the property line.

21. **BUILDING PERMIT**: A permit which may be required by appropriate authority in connection with the location, construction, alteration, demolition, or relocation of structures within the area of jurisdiction.

22. **CALIPER**: A measurement of the size of a tree equal to the diameter of the trunk as measured six (6) inches above the ground up to and including trees of four (4) inch caliper size; and twelve (12) inches above the ground for trees of greater than four (4) inch caliper size; unless otherwise specified.

23. **CANOPY**: A roof-like cover extending over a pedestrian way or right of way as a shelter or a shield. This definition shall include the term “awning” and shall apply regardless of the materials used in its construction.

24. **CARPORT**: An unenclosed paved and covered space for the private use of the owner or occupant of a principal building and situated on the same lot as the principal building, intended for the storage of motor vehicles, with no facilities for mechanical service or repair of a commercial or public nature. It is considered an accessory structure, and therefore shall be allowed only in a rear yard.

25. **CARRIER/PROVIDER**: See Wireless Communication Service Provider.

26. **CELLAR**: An uninhabited room used for storage, usually beneath the ground or under a building.

27. **CERTIFIED SURVEY**: Scaled drawing of a parcel or lot, showing property lines, dimensions, building locations, and other features of a property, which has been signed and sealed by a professional surveyor licensed in the Commonwealth of Kentucky.

28. **CHURCH**: A building used for regular religious worship services, by the congregation or parts thereof, of an organized religion.

29. **COMMISSION**: Murray Planning Commission.

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

31. **CONDITIONAL USE PERMIT**: Legal authorization to undertake a conditional use which has been authorized in conformance with the zoning ordinance.

32. **CONDOMINIUM**: Form of multi-unit housing in which the owner owns the area between the walls and ceiling. A condominium can take many physical forms – it can be a townhouse, an apartment, or part of a free-standing duplex house. The owner owns a fee simple interest in the actual dwelling unit and is entitled to all the rights of a fee simple holder. The owner is also given an undivided joint interest in all of the common areas of the building.

33. **CONVENIENCE STORE**: A retail establishment selling food for off-premises consumption and a limited selection of groceries and sundry items (and possibly gasoline, but not required).

34. **CURB CUT**: Vehicular entrance onto a public right-of-way.

35. **DAY CARE CENTER**: Any place, home or institution which receives four (4) or more children, conducted for cultivating the normal aptitude for exercise, play, observation, imitation, and construction.

36. **DEDICATION**: The transfer of property interests from private to public ownership for a public purpose. The transfer may be of fee simple interest or of a less than fee interest, including an easement.

37. **DENSITY GROSS**: The quotient of the total number of dwelling units divided by the gross site area of the site, expressed as dwelling units per acre.

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

39. **DORMITORY**: A building occupied by and maintained as a place of residence exclusively for students affiliated with an academic or professional college or university when approved and regulated by such institution. The word "dormitory" shall not be construed to include dwellings, boarding or rooming houses, fraternity or sorority houses or any building designed for transient residence.

40. **DRAINAGE**: The removal of surface water or ground water from land by drains, grading or other means. Drainage includes the control of runoff to minimize erosion and sedimentation during and after development and includes the means necessary for water supply preservation or for the prevention or alleviation of flooding.

41. **DRAINAGEWAY**: Minor watercourses, natural or manmade, that are defined either by soil type or the presence of intermittent or perennial streams.

42. **DWELLING**: A building or portion thereof, exclusive of mobile homes as herein defined, used for residential purposes.

43. **DWELLING UNIT**: One or more rooms in a dwelling or apartment house designed for residential purposes, and having a kitchen.

44. **EXTERIOR STORAGE**: Unroofed storage area, whether fenced or not.

45. **FAMILY**: One or more persons sharing residency whose income and resources are available to meet the family's needs and who are either related by blood, (immediate family members only), marriage, operation of law or adoption, or having evidenced a stable family relationship. A family shall also be deemed to include domestic servants employed by said family, and foster or boarded children whose room and board is paid by a recognized child care agency.

46. **FLOODPLAIN**: For the purposes of this Ordinance, "Floodplain" shall mean areas adjacent to a river, stream or other drainage way which lie within 100 year flood elevation contour, as established by Flood Insurance Rate Maps or by certified survey.

47. **FLOOR AREA**: The total floor area of all stories including halls, stairways, elevator shafts, and other related uses measured to outside faces of exterior walls.

48. **FRATERNITY OR SORORITY HOUSE**: A building housing the members of a fraternity or sorority group living together under a cooperative arrangement as distinct from a boarding or lodging house or private club.

49. **GARAGE**: A deck or building, or part thereof, used or intended to be used for the parking and storage of motor vehicles.

50. **GARDEN CENTER**: A place of business where garden-related products and produce is sold to the retail consumer. These centers, which may include a nursery and/or greenhouses, bring in most items offered for sale from other locations. These items may include plants, nursery items and stock, fertilizers, potting soil, hardware, power equipment and machinery, manual garden and farm tools and utensils.

51. **GASOLINE SERVICE STATION**: Buildings and premises where gasoline, oils, greases, batteries, tires, and automobile accessories may be supplied and dispensed at retail (or in connection with private operation) where no part of the premises is

used for paint spraying, body or fender repair, or the storage of dismantled or wrecked vehicle parts, and also where minor services are rendered; such as sale and servicing of spark plugs, batteries, and distributors; tire repair and servicing, but no recapping; replacement or minor items of equipment such as mufflers and tail pipes, water hoses, fan belts, and fluids; radiator cleaning and flushing; minor servicing of carburetors; car washing and waxing.

52. **HOME OCCUPATION**: Any business, professional or commercial activity that is conducted or petitioned to be conducted from and performed on property that is zoned for residential use.

53. **HOSPITAL**: An institution providing health services of a medical, surgical or obstetrical nature to ill or injured human patients and including related facilities such as laboratories, out-patient departments, training facilities, central services facilities, and staff offices which are an integral part of the facilities.

54. **HOTEL**: A building or portion of a building, containing sleeping units, which are occupied on a daily or short term basis. A hotel may include a restaurant and banquet or ballrooms.

55. **IMPERVIOUS SURFACE**: A surface that does not absorb water. Buildings, parking areas, driveways, roads, sidewalks, and any surface of concrete or asphalt are impervious surfaces.

56. **INDUSTRY (HEAVY**): Those industries whose processing of products result in the emission of any atmospheric pollutant, light flashes or glare, noise or vibration which may be heard and/or felt off the premises and those industries which constitute a fire or explosion hazard.

57. **INDUSTRY (LIGHT**): Those industries whose processing or products results in none of the conditions described for heavy industry.

58. **JUNKYARD, AUTOMOBILE**: A lot, land or structure, or part thereof, used primarily for the collecting, dismantling, storage and salvaging of motor vehicles not in running condition, or for the sale of parts thereof.

59. **KENNEL**: Commercial business for the sale or temporary boarding of dogs and cats, but not including the ownership and occasional sale of dogs and cats at, in, or adjoining a private residence.

60. **LAND AREA**: The total land area within the property lines.

61. **LANDSCAPING**: Landscaping is considered to be the planting and maintenance of a lawn, in addition to some combination of evergreens, shrubs, hedges, vines or flowers. The combination may include natural features such as rock and stone and structural features including, but not limited to, fountains, walls, fences and benches.

62. **LOT**: A parcel of land under one ownership occupied by or to be occupied by one principal building and its accessory buildings and including the open spaces and yards required under this ordinance.

    A. **LOT AREA**: The area contained within the boundary lines of a lot.

B. **LOT LINE**: The boundary dividing a lot from a right-of-way, adjoining lot, or other adjoining tract of land.

C. **LOT, CORNER**: A lot which abuts on two intersecting streets at their intersection.

D. **LOT, DOUBLE FRONTAGE**: Any lot other than a corner lot which abuts on two streets.

E. **LOT OF RECORD**: A lot which is duly recorded in the office of the county clerk.

63. **LOT WIDTH**: The distance between side lot lines measured at the rear of the minimum required front yard. Lot width shall not be measured at the building line where such line establishes a yard, which exceeds the minimum requirements.

64. **MARQUEE**: Any permanent roof-like structure projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather.

65. **MAJOR RECREATIONAL EQUIPMENT**: Any travel trailer without its own motive power, pickup camper or coach, motorized dwelling and the like, and cases or boxes used for transporting such recreational equipments, whether occupied by such equipment or not.

66. **MINI-WAREHOUSE**: A building or group of buildings in a controlled access and fenced compound that contains varying sizes of individual, compartmentalized stalls of lockers for the "dead" storage of a customer's goods or wares. No sales, service, or repair activities other than the rental of "dead" storage units are permitted on the premises.

67. **MIXED USE DEVELOPMENT**: The development of a tract of land and/or structure with two (2) or more uses of different land use categories. Such developments include, but are not limited to, combination of residential, office, retail, public entertainment, and/or manufacturing uses in a compact urban form such as an office or research park.

68. **MOBILE HOME OR MANUFACTURED HOME**: Any trailer or similar portable structure without its own motive power, having no integral foundation other than wheels, jacks, or skirtings and used, designed or constructed to be transported on the public streets and designed or constructed to permit occupancy, either permanent or temporary. Removal of the means of conveyance from a mobile home does not change the nature of a mobile home as defined in this zoning ordinance. The term mobile home does not include travel trailers without their own motive power, pickup campers or coaches, and dwellings with their own motive power.

69. **MOBILE HOME OR MANUFACTURED HOME PARK**: As defined in KRS 219.320 a mobile home or manufactured home park means a parcel of land, under the control of any person, available to the public in which two or more mobile home lots are occupied or intended for occupancy by mobile homes and includes any service building, structure, enclosure or other facility used as a part of the park.

70. **NONCONFORMING STRUCTURE OR USE**: A structure or use of any premises which does not conform with all provisions of this zoning ordinance but which lawfully existed before its designation as nonconforming by the adoption or amendment of this ordinance.

71. **NON-RETAIL SALES AND SERVICES**: Sales and services to customers who intend resale of the products or merchandise sold or handled. For example, non-retail sales includes wholesaling, warehousing, trucking terminals and similar enterprises.

72. **NURSERY**: An enterprise which conducts the retail and wholesale sale of plants grown on the site, as well as accessory items (but no power equipment such as gasoline or electric lawnmowers or farm implements) directly related to their care and maintenance. The accessory items normally sold include, pots, potting soil, fertilizers, insecticides, hanging baskets, rakes and shovels.

73. **OPACITY**: Opacity is the concealment of office, institutional, business and industrial development from the view of adjacent residential or agricultural properties.

74. **OPEN SPACE**: Any parcel or area of land or water, either publicly or privately owned, set aside, dedicated, designated, or reserved for the private use or enjoyment of owners or occupants of land adjoining such open space, or for the public at large.

75. **PARCEL (TRACT) OF LAND**: A separately designated area of land, larger than an individual lot, delineated by identifiable legally recorded boundary lines.

76. **PARKING SPACE**: An off-street space available for the parking of one (1) motor vehicle and having an area of not less than one hundred sixty-two (162) square feet, exclusive of driveways, and shall have direct access to a street or alley. Except on lots occupied by single-family and two-family dwellings, parking spaces shall be so arranged as to provide for both ingress and egress by forward motion of vehicles using parking spaces.

77. **PLANNED DEVELOPMENT PROJECT**: An area of land on which two (2) or more principal structures are planned to be built.

78. **PLAT**: A map, plan or chart of a tract of land or property which is drawn to scale and shows the existing or proposed location of boundary lines, buildings, structures, uses or any other required data or information.

79. **POND**: Natural or artificial body of water which retains water year round and is a body of water of less than two (2) acres. Artificial ponds may be created by dams or may result from excavation. The shoreline of such bodies of water shall be measured from the maximum condition rather than from the permanent pool in the even of any difference.

80. **PUBLIC RIGHT OF WAY**: All town, state and federal highways and the land on either side as covered by statutes.

81. **PUBLIC SERVICE BUILDING**: Any building necessary for the operation and maintenance of a utility.

82. **PRINCIPAL BUILDING**: Any building in which is conducted the principal use of the lot on which it is situated.

83. **PROCESSING**: Manufacturing, packaging, repairing, cleaning, and any other similar original or restorative treatment applied to raw materials, products, or personal property. Processing does not refer to the fabrication of structures.

84. **PROPERTY LINE**: the recorded boundary of a lot or other tract of land under one ownership.

85. **RECREATIONAL VEHICLE**: A vehicle of unit that is mounted on or drawn by another vehicle primarily designed for temporary living. Recreational vehicles include travel trailers, camping trailers, truck campers and motor homes. Recreational vehicles shall not be permanently affixed to the ground or any structure.

86. **RECREATIONAL VEHICLE PARK**: A lot on which campsites are established for occupancy by recreational vehicles of the general public as temporary living quarters for purposes of recreation or vacation. No recreational vehicle park shall be platted or otherwise divided by fee simple ownership; however, the sales of memberships and assignment of campsites on a condominium basis is permitted. All facilities and amenities, including, but not limited to, roads, clubhouse or recreational facilities, and buffers are privately owned or owned in common by members of a condominium association.

87. **RESTAURANT**: Means a facility where the usual and customary business is the serving of meals including but not limited to sandwiches, ice cream, beverages and other foods served directly or indirectly to consumers, that has a food preparation and/or food distribution facility as approved by the County Health Department, and that receives at least fifty percent (50%) of its food and beverage receipts from the sale of food.

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

89. **SATELLITE DISH**: Parabolic or spherical antenna whose purpose is to receive and/or transmit audio and/or television signals to or from satellites.

90. **SETBACK LINE**: The required minimum distance between a structure and the front, side, or rear lot line.

91. **SHOPPING CENTER**: A unified grouping in one or more buildings or retail shops and stores which are planned, developed, owned and managed as a unit and related in size (gross floor area) and type of shops to the trade area that the unit serves.

92. **SHRUB**: Any woody plant without a trunk but with several stems growing from the base.

93. **SIGN**: Any name, identification, description, display, illustration, or device which is affixed to or represented directly or indirectly upon a building, structure or land, in view of the general public, and which directs attention to a product, place, activity, person, institution or business.

    A. **ADVERTISING SIGN**: A sign which directs attention to a business product, service or activity generally conducted, sold or offered elsewhere than on the premises where such sign is located.

B. **BANNER**: Any sign made of cloth, canvas, plastic sheeting or any other flexible material, which is not rigidly and permanently attached to a building or the ground through a permanent support structure.

C. **BILLBOARD**: A large scale, outdoor sign board exceeding eighty (80) square feet that directs attention to a business, profession, product, service or entertainment not sold or offered on the premises where such sign is located or to which it is attached.

D. **BUSINESS SIGN**: A sign which directs attention to a business profession, product, activity or entertainment, sold or offered upon the premises where such sign is located.

E. **CANOPY SIGN:** A sign that is part of or attached to a canopy or awning.

F. **DIRECTIONAL SIGN**: Any non-commercial sign of an instructional nature, bearing no business advertising and displayed for the convenience of the public.

G. **FASCIA SIGN**: A wall sign.

H. **FLASHING SIGN**: A sign, the illumination of which is not kept constant in intensity at all times when in use. Illumination signs which indicate time, temperature, weather or other similar public service information shall not be considered flashing signs.

I. **IDENTIFICATION SIGN**: A sign which indicates only the name and address of the building and/or management, and has no direct advertising value.

J. **ILLUMINATED SIGN**: Any sign designed to emit artificial light.

K. **INDIRECTLY ILLUMINATED SIGN**: Any sign designed to reflect artificial light from any source.

L. **MARQUEE SIGN**: An identification sign attached to the bottom of a marquee.

M. **MOBILE SIGN**: Mobile signs are signs which are affixed to a frame having wheels and capable of being carried, or otherwise portable, and designed to stand free from a building or other structure. Signs designed to be affixed to the surface of real estate shall be deemed free-standing signs and not mobile signs, but the mere removal of wheels or temporary securing of a sign to the surface of real estate shall not prevent its being a mobile sign within this definition. This type of sign not permitted in any zone.

N. **MONUMENT TYPE SIGN**: Monument type signs shall be signs that are permanently attached to or supported by the ground and where the base of said sign is no higher than two (2) feet above grade. A monument type sign shall include a supporting base composed of stone, brick, architecturally treated wood or similar materials. All monument type signs shall be complimented by landscaping.

1. Said signs shall not exceed fifty-five (55) square feet of sign area, except as provided for in Section III, Article I, C,2,E.

2. Said signs shall be accented with a minimum of landscaping equal to one (1) foot for every one (1) square foot of sign face.

O. **NON-ILLUMINATED SIGN**: Any sign which is not artificially lighted either directly or indirectly.

P. **OFF-PREMISES SIGN**: A sign structure advertising an establishment, merchandise, service or entertainment which is not sold, provided, manufactured or furnished at the property on which said sign is located.

Q. **PROJECTING SIGN**: A sign which is attached directly the wall of a building or other structure and extends perpendicular to the face of the building more than twelve (12) inches.

R. **ROOF SIGN**: A sign attached to the part of a building considered to be the roof. The roof being that part of a building that protects the interior portion of said building.

S. **SURFACE AREA OF SIGN**: The entire aggregate area of the actual sign surface. It does not include any structural elements outside the limits of such sign and not forming an integral part of the display. Only one (1) side of a double-faced sign structure shall be used in computing total surface area. (See Illustration No. 4, Section III, Article 1)

T. **TEMPORARY SIGN**: Any sign or display, banner, pennant, valance or advertising display constructed of cloth, canvas, light fabric, cardboard, wallboard or other light materials, with or without frames intended to be displayed for a limited period of time only.

U. **TRACT SIGN**: A temporary sign advertising the original sale of property.

V. **WALL SIGN**: Any sign including a fascia sign which is attached parallel to the face of the wall of a building or other structure.

W. **WINDOW SIGN**: Any sign, picture or symbol that is attached to the interior or exterior of a window or window frame, not to exceed twenty five (25) percent of the window area.

94. **SCREENING**: Screening is defined as decorative fences or walls, evergreen vegetation, or landscaped areas, which are set forth for the purpose of concealing the view of office, institutional, business and industrial properties from adjacent residential or agriculture properties.

95. **SITE PLAN**: A plan drawn to scale by a licensed engineer or other qualified professional, showing uses, structures, and all other physical features proposed for the development site, including buffers, parking, landscaping and drainage facilities.

96. **STEEP SLOPE**: Land area where the inclination of the land's surface from the horizontal is thirty (30) percent or greater. Slope is determined from on-site topographic surveys with a two (2) foot contour interval.

97. **SLEEPING ROOM**: A single room rented for dwelling purposes but without amenities for separate and independent housekeeping.

98. **STREAM, PERENNIAL**: A natural watercourse which contains flowing water year round.

99. **STREET, CENTERLINE**: That line surveyed, monumented and designated by the City as being the center of a street right of way.

100. **STREET, PRIVATE**: A private vehicular way providing access to two (2) or more lots, permitted as a sole means of access to any such lots if the following conditions are met:

    A. Such street shall be approved by the planning department and the street department as adequate in width, design, improvement and location with respect to the lots it is intended to serve, other adjacent lots, and public street intersections.

    B. All easements required are provided in a manner, scale and location acceptable to the city.

    C. Satisfactory arrangements are made for permanent private maintenance in good condition.

101. **STREET, PUBLIC**: A thoroughfare which affords the principal means of access to abutting property.

102. **STRUCTURE**: Anything constructed, the use of which requires permanent location on the ground, or attached to something having permanent location on the ground.

103. **STRUCTURE, ACCESSORY**: A subordinate structure, detached from but on the same development site as the principal structure, the use of which is incidental and secondary to that of the principal structure. Accessory structures shall not be constructed prior to principal structure. On residential and agricultural property, accessory structures shall not contain kitchen facilities.

104. **STRUCTURE, PRINCIPAL**: A building in which is conducted, or in which is intended to be conducted, the main or principal use of the lot on which it is located. Two or more structures connected by a breezeway or other similar construction, shall not constitute a single or principal structure.

105. **SUBDIVISION**: Any division or redivision of a tract, parcel, or lot into two (2) or more parts by means of platting of boundaries in accordance with the City of Murray Subdivision Regulations.

106. **TELECOMMUNICATION FACILITIES, WIRELESS**: Any and all buildings, structures, fixtures or other accessories (such as electrical boxes, equipment, sheds, guy wires, etc.) installed, used or intended for use in conjunction with any of the following:

    A. **CELLULAR COMMUNICATIONS FACILITIES**: Low power transmitters used to transmit signals in a cell of cellular radio-telephone services (cellular phones), personal communications services (PCS), enhances specialized mobile radios

(ESMR0, truck mobile cellular phones, paging services and similar cellular based communications to the general public.

B. **COMMERCIAL SATELLITE FACILITES**: Satellite earth stations which are greater than two (2) meters in diameter, and are used to send and/or receive satellite signals and similar communications.

C. **MICROWAVE RELAY FACILITIES (REPEATER)**: Used to transmit radio signals between two or more fixed points by microwave antennas and similar transmission services.

107. **TELECOMMUNICATION TOWER**: Any ground-mounted structure that is designed and constructed primarily for the purpose of supporting one or more communication antenna. Communications towers shall include:

A. **MONOPOLE TOWERS**: Cylindrical self-supporting towers constructed as a single spire.

B. **SELF-SUPPORTING OR LATTICED TOWERS**: Self-supporting towers with multiple sides of open-frame supports.

C. **GUYED TOWERS**: Towers anchored with guy wires.

D. **CAMOUFLAGED TOWERS**: Self-supporting towers concealed so that they blend with their surrounds. Such towers may be constructed to resemble objects, such as a tree or a street light, or may be concealed within another structure, such as a clock tower, church steeple or lamp post.

108. **TOWNHOUSE**: Form of multi-unit housing in which the owner owns the area in the unit and also owns the land on which the unit is located.

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

A. **ACCESSORY**: An accessory use is one which: (1) is subordinate to and serves a principal structure or principal use; (2) is subordinate in area, extent, and purpose to the principal structure or use served; (3) is located on the same development site as the principal structure or use served; and (4) is customarily incidental to the principal structure or use.

B. **PRINCIPAL**: The specific primary purpose for which land is used.

C. **TEMPORARY**: A temporary use is one established for a fixed period of time with the intent to discontinue such use upon the expiration of such time. Such uses do not involve the construction or alteration of any permanent structure.

110. **WIRELESS COMMUNICATIONS SERVICE PROVIDER**: Any private company, corporation, or similar such entity providing two-way interactive communication services to the general public by way of cellular communication facilities.

111. **WOODLAND**: An area of natural vegetation or planted material, at least fifty (50) feet in depth, covering one (1) acre or more and consisting substantially of canopy trees.

112. **YARD**: The open space surrounding the principal building on any lot, unoccupied and unobstructed by any portion of that building from the ground to the sky except where specifically permitted by this zoning ordinance. Yards are further defined as follows:

A. **FRONT YARD**: That portion of the yard extending the full width of the lot and measured between the front lot line and a parallel line tangent to the nearest part of the principal building, which line shall be designated as the front yard line.

B. **REAR YARD**: That portion of the yard extending the full width of the lot and measured between the rear lot line and parallel line tangent to the nearest part of the principal building.

C. **SIDE YARD**: Those portions of the yard extending from the front yard to the rear yard and measured between the side lot lines and parallel lines tangent to the nearest parts of the principal building.

113. **ZONING OFFICIAL**: Director of Planning or his/her designee(s).

SECTION I
ARTICLE 3
GENERAL ZONE AND DISTRICT REGULATIONS

A. APPLICATION OF REGULATIONS

1. All existing and future structures and uses of premises within the City of Murray shall conform with all applicable provisions of this zoning ordinance. Each zoning district is established to permit only those uses specifically listed as permitted, except as hereinafter provided and it is intended for the protection of those uses.

B. GENERAL REGULATIONS FOR STRUCTURES AND USES

1. There shall be no more than one principal structure and its accessory structures on any lot or parcel of land unless otherwise specifically permitted in this zoning ordinance or unless a development plan is approved by the commission as provided for by the ordinance.

2. No accessory building to a principal building on the same lot shall be erected or modified for residential purposes unless specifically permitted under the zoning ordinance. In any case where there is doubt concerning whether or not an accessory structure or use is customarily incidental to the principal use of the premises, the zoning official shall request an interpretation by the Board of Zoning Adjustments.

3. Accessory buildings in residential zones shall not exceed the lot coverage nor the total square footage of the building to which they are accessory.

4. Where a corner lot adjoins in the rear a lot in a residential zone, no part of an accessory building within twenty-five (25) feet of the common lot line in the rear shall be nearer a side street lot line than the least depth of any front yard existing or as required, whichever is less, along such side street for a principal building on such adjoining lot, and in no case shall any part of such accessory building be closer to the side street lot line than the main building to which it is accessory.

5. Only those uses specifically permitted or substantially similar to permitted uses are permitted in each zone or district, and all uses specifically prohibited or substantially similar to prohibited uses are prohibited.

6. No structure shall be erected on any lot or tract of land which does not adjoin and have direct access to a street or other public right-of-way for at least twenty feet unless otherwise specifically permitted in this zoning ordinance.

7. The conversion of any building into a dwelling, or the conversion of any dwelling so as to accommodate an increased number of dwelling units or families shall be permitted only within a zone in which a new building for similar occupancy would be permitted under this zoning ordinance, and only when the resulting occupancy will comply with the requirements governing new construction in

such zone with respect to minimum lot size, floor area, dimensions of yards and other open spaces, and off-street parking. Each conversion shall be subject also to such further requirements as may be specified hereinafter applying to such zone. The aforesaid requirements with respect to yards and other open spaces shall not apply if the conversion will not involve any exterior structural changes.

C. LOTS AND YARDS

1. No part of a yard, open space, off-street parking, loading space or other special use area required about or in connection with any building or land for the purpose of complying with the zoning ordinance, shall be included as part of a yard, open space, off-street parking, loading space or other special use area similarly required for any other building or land unless otherwise specifically permitted in this zoning ordinance.

2. No yard or lot existing at the time of adoption of this zoning ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the adoption of this zoning ordinance shall meet at least the minimum requirements established by this zoning ordinance.

3. Within the area defined by the intersection of any two right-of-way lines extended of streets or a street and railroad and a straight line intersecting those two right-of-way lines at points fifty (50) feet from their intersection, no obstructions to vision between a height of two and one-half (2-½) feet and twelve (12) feet above the imaginary plane defined by those three points of intersection shall be permitted. This provision does not apply to buildings permitted within the B-3 central business district. (See Illustration No. 1)

4. Double-frontage lots shall, on both of the adjacent streets meet the front-yard regulations of the district in which they are located.

5. The front yard on corner lots shall be as designated for the front yard facing the principal street and at least twenty-five (25) feet for the front yard facing the secondary street.

D. APPROVED WATER SUPPLY & SEWAGE DISPOSAL FOR BUILDINGS, MANUFACTURED HOMES & MOBILE HOMES

1. It shall be unlawful to construct any building or to occupy any mobile home or manufactured home without water supply and sewage disposal facilities approved by the City of Murray.

E. GENERAL REGULATIONS FOR VEHICLES

1. OFF-STREET PARKING SPACE REGULATIONS FOR AUTOMOBILES

Off-street parking space for automobiles shall be provided for all buildings and uses in accordance with the following regulations:

(A) GENERAL STANDARDS: General standards for automobile off-street parking spaces are as follows:

(1) Off-street parking space shall be provided on the premises so that there will be no generation of automobile parking on any street.

(2) Off-street parking space shall be provided with vehicular access to a street or alley.

(3) All off-street parking space access points on a public street shall be subject to the following regulations:

(a) There shall be only one (1) access point, not to exceed fifty (50) feet in width; or two (2) access points, not to exceed thirty (30) feet in width each measured at the right-of-way line for commercial purposes, permitted on the public street on which the off-street parking space is located. There shall be only one (1) access point, not to exceed twenty-six (26) feet in width; or two (2) access points, not to exceed twenty-four (24) feet in width each measured at the right-of-way line for residential purposes, permitted on the public street on which the off-street parking space is located. The Board of Zoning Adjustments may, however, permit additional access points when such access points are justified and necessary and provided that the additional access points will not substantially increase traffic hazards or congestion. The zoning official shall apply to the Board of Zoning Adjustments for a decision when permits are requested in such cases.

(b) All off-street parking space access points on a public street shall be located at least ten (10) feet measured at the right-of-way line from the end of the radius point of intersecting streets (typical radius 25 feet) but shall not, however, be permitted to be located on the adjacent or intersecting street right-of-way. The zoning official shall apply to the board of Zoning Adjustments for an original interpretation whenever there is doubt concerning the radius points of intersecting streets or in cases where this provision cannot be applied literally.

(c) All off-street parking space access points on a public street shall be located at least ten (10) feet apart (measured at the right-of-way line).

(d) All off-street parking space points on a state or federal road or highway shall be approved by the Kentucky Department of Highways. In such cases, the applicant for a building permit shall provide the zoning official with written approval for the Kentucky Department of Highways prior to the issuance of a building permit.

(4) Off-street parking space shall be provided on the premises at the ratio of three hundred and twenty (320) square feet parking space required. Recommended actual 90^0 parking space size is 10 ft X

20 ft. with 24 ft. aisle between spaces (minimum 9 ft x 18 ft. with 22 ft. aisle).

(5) Parking, loading, and unloading space and access thereto shall be surfaced in a manner adequate to eliminate dust and mud.

(6) In all business, multi-family, and professional office zones where required parking areas are provided for five (5) or more vehicles or contain more than 1,800 square feet of area or are enlarged or expanded to provide for five (5) or more vehicles or to contain more than 1,800 square feet of area, they shall be paved with an asphalt, concrete, brick or other properly bound surface, so as to be durable and dustless. Each parking space shall be physically delineated on the surface of the parking area. The developer shall have one (1) year from date of parking lot construction to complete the bound surface.

(B) OFF-STREET PARKING STANDARDS: The following standards comprise the minimum off-street parking requirements for the common types of buildings and uses listed:

(1) DWELLING:

(a) SINGLE FAMILY AND MULTI-FAMILY: Two (2) parking spaces per dwelling unit with one or two bedrooms; then one (1) additional parking space per bedroom over two (2) bedrooms and up to and including a total of five (5) bedrooms.

(b) MULTI-FAMILY OVER FOUR (4) UNITS: Will provide parking in addition to parking requirements listed in Section I, Article 3, E, 1, (A), (1), (a) of this section as follows: One additional parking space for visitors per dwelling unit.

(2) BOARDING AND ROOMING HOUSES: One (1) parking space for every boarder or roomer based on maximum occupancy in addition to the requirements for dwellings.

(3) DORMITORIES, FRATERNITY OR SORORITY HOUSES: One (1) parking space for every student based on maximum occupancy plus one (1) space for every resident manager and every regular employee on the premises.

(4) TOURIST HOMES, MOTELS OR HOTELS: One and one-half (1½) parking space for each sleeping room or suite including that of the owner or manager residing on the premises plus the parking requirements for retail sales and consumer services if provided on the premises.

(5) PLACES OF PUBLIC ASSEMBLY, INSTITUTIONS AND RECREATIONAL FACILITIES: One (1) parking space for every four (4) persons, based on maximum capacity, unless otherwise provided for in this ordinance.

(6) COMMUNITY CENTER, THEATER, AUDITORIUM, CHURCH SANCTUARY: One (1) parking space for each four (4) seats, based on maximum seating capacity.

(7) CONVENTION HALL, LODGE, CLUB, LIBRARY, MUSEUM, PLACE OF AMUSEMENT OR RECREATION: One (1) parking space for each fifty (50) square feet of floor area used for assembly or recreation within the building.

(8) STADIUM OR SPORTS ARENAS: One (1) space for each five (5) seats based on maximum capacity.

(9) HOSPITALS: One (1) space for each four (4) patient beds, exclusive of bassinets; plus one (1) space for each staff or visiting doctor; plus one (1) space for each three (3) employees including nurses, plus adequate area for the parking of emergency vehicles.

(10) MEDICAL OR DENTAL CLINICS OR OFFICES: Five (5) spaces per doctor plus one (1) space for each two (2) employees.

(11) SANITARIUMS, CONVALESCENT OR NURSING HOMES: One (1) space for each six (6) patient beds, plus one (1) space for each staff or visiting doctor; plus one (1) space for each two (2) employees including nurses.

(12) RETAIL SALES AND CONSUMER SERVICE BUSINESSES: One (1) parking space for each two hundred (200) square feet of building gross floor area plus one (1) space for every truck operated by the business. Parking space for “drive-in” service establishments or “outdoor” retail sales shall be provided as required by the Board of Zoning Adjustments in accordance with Section I, Article 3, C & E of this ordinance.

(13) BOWLING ALLEYS: Five (5) parking spaces for each alley.

(14) MORTUARIES OR FUNERAL HOMES: One (1) space for each fifty (50) square feet of floor space in the slumber rooms, parlors, or individual funeral service rooms.

(15) OFFICE BUILDING: One (1) parking space for each three hundred (300) square feet of gross floor area in the building, exclusive of the area used for storage, utilities and building service.

(16) INDUSTRIAL PLANTS, RESEARCH LABORATORIES, NON-RETAIL SALES AND SERVICE ESTABLISHMENTS: One (1) parking space for every two (2) employees at maximum employment on a single shift plus one (1) space for every truck operated by the plant or establishment.

(17) RESTAURANTS: One (1) for each three (3) persons within the seating capacity of the establishment, or one (1) for each 100 sq. ft. of gross floor area, whichever is greater, plus two (2) for each three (3) employees.

(18) SHOPPING CENTERS: In the case of mixed uses, such as shopping centers, the total requirements for off-street parking facilities shall be the sum of the requirements for the various uses computed separately.

(C) INTERPRETATION OF AUTOMOBILE OFF-STREET PARKING SPACE REQUIRED: The Board of Zoning Adjustments shall interpret the amount of off-street parking space required for any building or use, assisted by the off-street parking standards. In either case, the zoning official shall apply to the Board of Zoning Adjustments for an original interpretation.

(D) EXCEPTION TO AUTOMOBILE OFF-STREET PARKING SPACE REQUIRED ON THE PREMISES: If approved by the Board of Zoning Adjustments, off-street parking space required for any building or use may be located off the premises but within walking distance of four hundred (400) feet from the premises it serves and/or may be consolidated into a large parking area serving other buildings and uses. The zoning official shall apply to the Board of Zoning Adjustments for a decision when building permits are requested in such cases. The Board of Zoning Adjustments shall not authorize total amount of parking space required for all buildings and uses to be diminished except in cases where a consolidated parking area serves buildings or uses which do not generate automobile parking at the same times such as churches and stores. Total parking space in such cases may be diminished only to the maximum required by those buildings and uses which do generate the parking of automobiles at the same time. The Board of Zoning Adjustments may require a plat, deed or any other proof necessary to show that required parking space, if located off the premises it serves, is controlled by and available to the applicant for a building permit. Such off-street parking space, if approved, shall be maintained, required and regulated as if it were actually located on the premises of the permitted use it is designed to serve.

(E) EXCEPTION TO AUTOMOBILE OFF-STREET PARKING SPACE REQUIRED IN THE B-3 CENTRAL BUSINESS DISTRICT: The Board of Zoning Adjustments may waive the requirement for automobile off-street parking space within the B-3 business district provided the following determinations are made. The zoning official shall apply to the Board of Zoning Adjustments for a decision when building permits are requested in such cases.

(1) Construction of the required automobile off-street parking space on the premises would prevent the continuous development of a compact and coordinated row of commercial buildings fronting on an already established commercial block or shopping area.

(2) The required automobile off-street parking space cannot be reasonably provided off the premises in accordance with Section I, Article 3, E & D of this ordinance.

(3) The principal building and use proposed is not designed or oriented to providing sales or services to persons remaining in automobiles or similar vehicles.

(4) Construction of the required automobile off-street parking space would detract from the overall shopping desirability of the adjoining buildings and premises and would result in the incompatible mixing of vehicles, buildings and pedestrian shoppers.

(F) EXISTING NON-CONFORMING AUTOMOBILE OFF-STREET PARKING SPACE: Existing off-street parking space provided for any building or use at the time of adoption of this ordinance shall not thereafter be reduced unless it exceeds the requirements of this ordinance. Any existing building or use not provided with conforming off-street parking spaces shall be provided with off-street parking space in conformance with this ordinance at the time of any structural alteration of the building or expansion of the use.

2. OFF-STREET LOADING AND UNLOADING SPACE REGULATIONS FOR TRUCKS: All buildings and uses which generate regular trucking traffic shall be provided with sufficient off-street loading and unloading space on the premises so that they will generate no loading or unloading activity on their required parking spaces or on any street. Space shall also be provided for the servicing of buildings by refuse collection, fuel and other service vehicles. Off-street loading and unloading space and service areas shall be adequate in size and so arranged that they may be used without blockage or interference with the use of streets, accessways or automobile parking facilities. Loading and unloading space and service areas should be at least sixty-five (65) feet in depth, twelve (12) feet in width, with an overhead clearance of not less than fourteen (14) feet. All loading and unloading space and service areas shall be provided with access to a street or alley as well as with appropriate maneuvering areas. The Board of Zoning Adjustments shall interpret the amount of loading and unloading space required for any building or use whenever the zoning official is unable to apply this provision literally and applies to the Board of Zoning Adjustments for an original interpretation.

3. PARKING, LOADING AND UNLOADING AREAS IN RESIDENTIAL ZONES: MINIMUM REQUIRED PARKING – In every R-1 and R-2 zone, there shall be provided off-street parking space for each dwelling unit as specified in 1. (B) (1) of this section; no such space shall be located within any required front yard and side street side yard area.

F. GENERAL DEVELOPMENT REGULATIONS

1. COORDINATION WITH SUBDIVISION REGULATIONS: In all cases where the ownership of land is divided for the purpose of eventual development of lots of any kind – residential, commercial, or industrial – the provisions of the Murray Subdivision Regulations shall apply in addition to the provision of this

ordinance. It is desirable that access points to major streets serving all zoning districts be located no more frequently than once every one-sixteenth to one-eighth mile. Topography and traffic volumes shall determine the exact locations, heavy volumes requiring greater spacing. Along any major street where subdivided land and its minor streets are not sufficiently developed to permit acceptably spaced access points, the Planning Commission may approve the plating of temporary access points and may require that temporary access points shall be eliminated by the developer when minor streets or marginal access streets are extended to the permanent access points.

G. FRATERNITY OR SORORITY HOUSE

1. Fraternity or sorority houses, other than those permitted within the university district, are permitted only in those districts where they are designated as a conditional use under the zoning district regulations. In addition to conforming with all conditional use regulations and all other provisions of this ordinance, fraternity or sorority houses located outside of the university district shall be subject to the following regulations.

   (A) At lease fifteen thousand (15,000) square feet of land area shall be required before any fraternity or sorority house may be approved as a conditional use.

   (B) Centralized kitchen facilities may be provided in the fraternity or sorority house; however, no provision shall be made for kitchen facilities in any individual student's room or suite. This provision does not apply to separate kitchen facilities which may be provided in the resident manager's or supervisor's room or suite.

   (C) One sign, not over twelve (12) square feet in area, identifying the fraternity or sorority house on the premises shall be permitted.

   (D) A landscaped separation strip, at least five (5) feet in width, shall be provided along all adjoining property lines. The fraternity or sorority house shall be permanently screened from adjoining and contiguous properties by a wall, fence, evergreen hedge and/or other approved enclosures, except in cases where the adjoining and contiguous property is another fraternity or sorority house. Such screening shall be located with the required separation strip and shall have a minimum height of four and one-half (4½) feet and maximum height of seven (7) feet.

H. JUNKYARDS

1. Junkyards are regulated by the Kentucky Department of Transportation. Screening shall be maintained in compliance with requirements of KRS 177. All junkyards operating inside the city limits must maintain valid permits to operate issued by the Kentucky Department of Transportation. Junkyards are not allowed in any zone as a permitted use and are conditional use only in the B-2 zoning district.

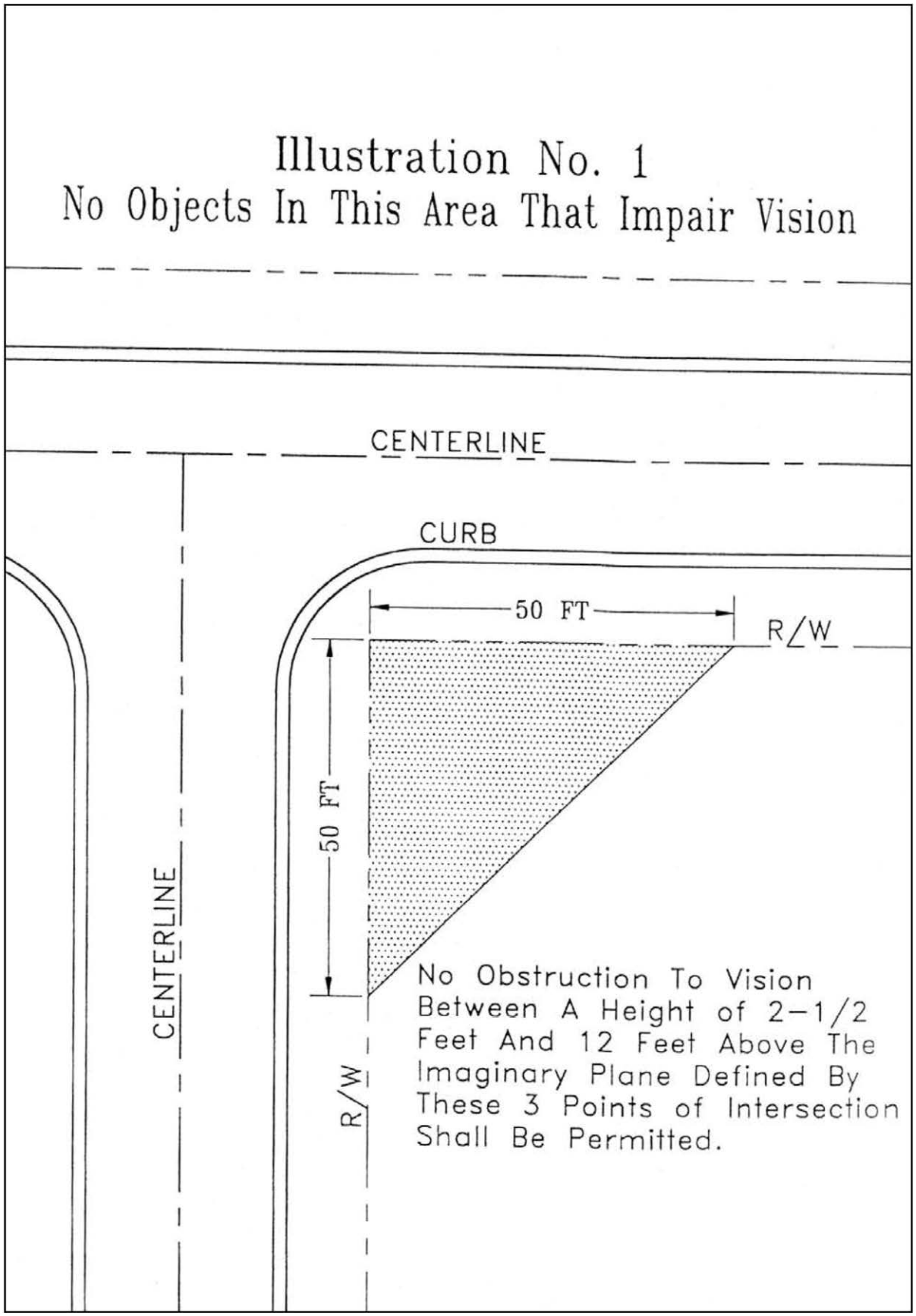
Illustration No. 1
No Objects In This Area That Impair Vision
CENTERLINE
CURB
50 FT
R/W
50 FT
CENTERLINE
R/W
No Obstruction To Vision Between A Height of 2-1/2 Feet And 12 Feet Above The Imaginary Plane Defined By These 3 Points of Intersection Shall Be Permitted.

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SECTION II

Zoning Districts

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SECTION II-ZONING DISTRICTS
ARTICLE 1
ESTABLISHMENT OF ZONING DISTRICTS

A. ESTABLISHMENT AND DESIGNATION

The City of Murray is divided into the following districts as shown on the zoning map of Murray, Kentucky and these districts are designated as follows:

R-1	Residential District
R-2	Residential District
R-3	Residential District
R-3A	Residential District
R-4	Residential District
R-5	Residential District
B-1	Neighborhood Business District
B-2	Highway Business District
B-3	Central Business District
B-4	Medium Density Business District
PO	Professional Office District
I	Industrial District
G	Government District
A	Agricultural District
F	Floodway District
HD	Historic Overlay District

B. INTERPRETATION OF ZONING DISTRICT BOUNDARIES

The following rules shall be used to interpret the exact location of the zoning-district boundaries shown on the zoning map:

1. Where a zoning-district boundary follows a street or railroad, the center line of the street or railroad right-of-way is the boundary of the district.

2. Where a zoning-district boundary approximately follows a lot or property line, that line is the boundary of the district.

3. Where a zoning-district boundary follows a stream or the shore of a body of water, that stream or shore line is the boundary of the district.

4. Where a zoning-district boundary does not clearly follow any of the features mentioned above, its exact location on the ground shall be determined by measurement according to map scale.

5. In any case where the exact location of a boundary is not clear, the Board of Zoning Adjustments shall use these rules to determine the exact location upon application by the zoning official for an original interpretation.

SECTION II
ARTICLE 2
RESIDENTIAL ZONING DISTRICTS

R-1 AND R-2

A. INTENT

These zones are established to provide for low density single-family detached dwellings with their accompanying green areas, their accessory and incidental uses.

B. PERMITTED PRINCIPAL USES

1. Single-Family detached dwellings.

C. PERMITTED ACCESSORY STRUCTURES AND USES

1. Carports, private garages, storage sheds and parking areas. (All property owners are asked to check their subdivision restrictions since they may be more restrictive than the zoning ordinance.)

2. Accessory uses customarily incidental to the principal use of the premise.

D. CONDITIONAL USES

1. Renting of sleeping rooms or taking of boarders by tourists by the owner family on the premises.

2. Home occupations.

3. A group of not to exceed four (4) persons not all related by blood or marriage, occupying the premises and living as a single non-profit housekeeping unit.

4. Churches and related activities.

5. Single Family Residential Planned Development Project (R-2 only).

E. PROHIBITED USES

Any use not listed as permitted is prohibited in the R-1 and R-2 zoning districts. Home occupations in these zones must be incidental to the principal use and not alter the appearance of the structure or the nature of the home in any appreciable manner. Adult oriented businesses are prohibited in these zoning districts.

F. LOT, YARD AND HEIGHT REGULATIONS

1. Minimum Lot:

R-1 = 15,000 square feet
R-2 = 10,000 square feet

2. Minimum Lot Frontage on a Public Street:

   R-1 = 100 feet
   R-2 = 75 feet

   Turnarounds or cul-de-sacs shall front for a minimum of 40 feet on a public street. However, the lots shall be the minimum of 100 feet for R-1 and 75 feet for R-2 at the building line, even on turnarounds.

3. Minimum Front Yards:

   R-1 = 40 feet
   R-2 = 30 feet

   The front yard on corner lots shall be as designated for the front yard facing the principal street and a minimum of 25 feet for the front yard facing the secondary street.

4. Minimum Side Yards:

   R-1 = 15 feet
   R-2 = 10 feet

5. Minimum Rear Yards:

   R-1 and R-2 = 25 feet

6. Maximum Lot Coverage:

   R-1 and R-2 = 35 percent

7. Maximum Height:

   R-1 and R-2 = 35 feet

8. Accessory buildings are permitted only in rear yards and shall be located at least 5 feet from all lot lines except on corner lots where secondary yard restrictions will apply.

Subdivision restrictions may vary from subdivision to subdivision. Please check to see if setbacks differ and if accessory buildings are allowed and where they are allowed.

SECTION II
ARTICLE 3
MULTI-FAMILY ZONING DISTRICTS

R-3, R-3A, R-4 AND R-5

A. INTENT

To accommodate multi-family development of a type generally associated with detached houses occupied by one or two families, or attached housing being occupied by more than three families. In addition, a zone is created to establish a mobile home park district and the rules associated with such.

B. PERMITTED PRINCIPAL USES IN R-3, R-3A, R-4 AND R-5

1. Single-family dwellings.

2. Multi-family dwellings up to four (4) units.

C. PERMITTED ACCESSORY STRUCTURES AND USES IN R-3, R-3A, R-4 AND R-5

1. Carport, garage or other buildings not used as a dwelling and customarily incidental to the principal use of the premises.

2. Accessory uses customarily incidental to the principal use of the premises.

D. CONDITIONAL USES IN MULTI-FAMILY RESIDENTIAL DISTRICTS

1. R-3, R-3A, R-4 and R-5:

   (A) Non-profit public or private facilities such as schools, parks, recreational facilities and churches.

   (B) Renting of sleeping rooms or taking of boarders or tourists by the family resident on the premises provided not more than three (3) rooms are used for such purposes.

   (C) Home occupations.

   (D) Residential planned development projects.

2. Conditional Uses in R-3A Residential Districts:

   (A) Mobile Home Parks.

   (B) Small animal clinics.

   (C) Coin laundry, barbershop and similar service activities.

(D) Planned development projects.

3. Conditional Uses in R-4 Residential Districts:

(A) Planned development projects.

(B) Fraternity and sorority houses.

(C) Nursing homes, rest homes, retirement homes, convalescent homes, and day care nursing schools.

(D) Office planned development projects.

(E) Barber shops and beauty shops.

4. Conditional Uses in R-5 Residential Districts:

(A) Planned development projects.

(B) Coin laundry, barber shop, beauty shop, drug store, neighborhood grocery, restaurants or similar activities.

E. PROHIBITED USES

1. Mobile homes except as provided for in this ordinance.

2. Any use not listed as permitted and not approved as a conditional use is prohibited.

3. Home occupations must be incidental to the principal use and not alter the appearance of the main structure in any appreciable manner.

4. Adult oriented businesses.

F. LOT, YARD AND HEIGHT REGULATIONS

1. Minimum Lot:

(A) R-3 and R-3A = 7,500 square feet (Single-Family)

7,500 square feet plus 3,000 square feet for each additional dwelling unit after the first up to four units.

(B) R-4 = 7,500 square feet (Single-Family)

7,500 square feet plus 2,000 square feet for each additional dwelling unit after the first up to four units.

(C) R-5 = 5,000 square feet (Single-Family)

5,000 square feet plus 2,000 square feet for each additional dwelling unit after the first up to four units.

2. Minimum Lot Frontage on a Public Street:

   R-3, R-3A = 75 feet single-family, 80 feet multi-family
   R-4 = 75 feet single-family, 75 feet multi-family
   R-5 = 75 feet single-family, 75 feet multi-family

3. Minimum Front Yards:

   R-3, R-3A, R-4 and R-5 = 25 feet

4. Minimum Side Yards:

   R-3, R-3A, R-4 and R-5 = 10 feet

5. Minimum Rear Yards:

   R-3, R-3A, R-4 and R-5 = 25 feet

6. Maximum Lot Coverage:

   R-3, R-3A, R-4 and R-5 = 50 percent

7. Maximum Height:

   R-3, R-3A, R-4 and R-5 = 35 feet

8. Accessory buildings are permitted only in rear yards and shall be located at least five (5) feet from all lot lines except on corner lots where secondary yard restrictions will apply.

Subdivision restrictions may vary from subdivision to subdivision. Please check to see if setbacks differ and if accessory buildings are allowed and where they are allowed.

SECTION II
ARTICLE 4
BUSINESS ZONING DISTRICTS

B-1, B-2, B-3 AND B-4

B-1 NEIGHBORHOOD BUSINESS DISTRICTS

A. INTENT

This district is established to provide areas in which to meet the needs of the immediate neighborhood. This district is limited to a narrow range of retail services and convenience goods and services. This district also is intended for areas where large business operations are undesirable.

B. PERMITTED PRINCIPAL USES

Property and buildings in a B-1 neighborhood business district shall be used for the following purposes:

1. Grocery stores and food markets including specialty foods such as bakery goods, delicatessen goods and meats.

2. Restaurants and delicatessen sandwich shops (no drive-thru window service).

3. Fruit markets.

4. Drugstore including fountain service. Book and reading matter, tobacco, vanity goods and pharmacy.

5. Barber shops and beauty shops.

6. Shoe repair shop.

7. Branch laundry or dry cleaning collection stations where no laundering or cleaning is to be done on the premises and self-service laundry.

8. Churches and related activities.

C. PERMITTED ACCESSORY STRUCTURES AND USES

Garage or other storage building not used as a dwelling and incidental to the principal use.

D. CONDITIONAL USES

1. Offices and other retail businesses or services not listed above shall be considered conditional use and will require written approval of the Board of

Zoning Adjustments. The board shall grant such approval if it determines that the proposed use is essential to the convenience of the neighboring residents.

2. Public facilities such as libraries, parks, and recreational facilities.

3. Planned development projects.

4. One (1) dwelling unit for owners, operators and employees of a permitted use provided that such dwelling unit shall be a part of the building and located above or to the rear of such permitted use.

5. Outdoor storage of merchandise and outdoor processing. All above ground structures accessory to any outdoor use shall be located at least twenty-five (25) feet from any public street right-of-way.

6. Transient Businesses as prescribed in Section III, Article 10.

E. PROHIBITED USES

1. Anything not listed above is prohibited and no use shall be permitted by the Board of Zoning Adjustments as a conditional use which would be detrimental to the development of other neighborhood businesses and/or residents.

2. Dwelling units except as provided herein.

3. Adult oriented businesses.

4. Nightclubs, bars, taverns and similar type businesses.

F. LOT, YARD AND HEIGHT REGULATIONS

1. Minimum Lot Size:

   No Limitation.

2. Minimum Lot Frontage on a Public Street:

   75 feet

3. Minimum Front Yard:

   A. 35 feet

   B. Corner lots: Shall have minimum of twenty-five (25) feet for the yard facing the secondary street.

4. Minimum Side Yard:

   No limitation. (See Section II, Article 4, F.8)

5. Minimum Rear Yard:

   25 feet

6. Maximum Lot Coverage:

   No limitation.

7. Maximum Height of any Portion of a Building:

   35 feet

8. Business Uses Adjacent to Residential Districts:

   All non-residential uses which are located on lots adjacent to a residential district shall maintain a minimum setback requirement for all structures of twenty-five (25) feet in the side or rear yard adjacent to the residential district and Section III, Article 3 shall apply.

B-2 HIGHWAY BUSINESS DISTRICT & B-3 CENTRAL BUSINESS DISTRICT:

A. **INTENT**

(1) **B-2** – This district is intended for a wide range of general retail business. Districts in this category are intended to include areas where commercial development has, or is displacing residential development, or is moving in on vacant lands. Regulations are designed so as to discourage formation of future commercial slums, to preserve the carrying capacity of streets, and to provide for adequate off-street parking. It is not the intent of this district to encourage the extension of strip commercial areas, but rather to provide concentrations of general commercial activities. Also, to provide areas in which the principal use of land is devoted to commercial establishments which cater specifically to the needs of motor vehicle-oriented trade.

(2) **B-3** – This district forms the central center for commercial, financial, professional, government and cultural activities. The intent here is to protect and improve the central business district for the performance of its primary functions.

B. **PERMITTED PRINCIPAL USES**

1. Any use permitted in the B-1 Business District with the exception that restaurants in a B-2 zone are allowed to have drive up window.

2. Places of indoor amusement and assembly.

3. Churches.

4. Offices.

5. Hotels and motels.

6. New and used car lots, public garages, and other motor vehicle service.

7. Any retail sales or consumer service including the making of articles to be sold on the premises. Any such manufacturing or processing shall be incidental to a

retail business or service and not more than five (5) persons shall be employed in such manufacturing.

8. Transient Businesses as prescribed in Section III, Article 10 (B-2 zone only)

C. **PERMITTED ACCESSORY STRUCTURES AND USES**

Garage or other storage building not used as a dwelling, and incidental to the principal use.

D. **CONDITIONAL USES**

1. Public facilities such as libraries, parks and recreational facilities.

2. Planned development projects.

3. **B-2** – One (1) dwelling use for owners, operators or employees of a permitted use provided that such dwelling unit shall be part of the building and located above or to the rear of such permitted use.

   B-3 – Single-family and multi-family residential uses provided that the dwelling unit(s) shall be part of the building and located above or to the rear of the principal use.

4. Outdoor storage of merchandise and outdoor processing. All above ground structures accessory to any outdoor use shall be located at least twenty-five (25) feet from any public street right-of-way line.

5. Privately owned outdoor amusement area.

6. B-2 – Adult Oriented Businesses.

7. B-3 – Transient Businesses as prescribed in Section III, Article 10.

8. B-3 Any restaurant or retail sales business with a drive up window.

9. B-3 Sidewalk Cafes (Within Historic Overlay District Only).

10. B-2 and B-3 Nightclubs, bars, taverns and similar type businesses.

E. **PROHIBITED USES**

1. Anything not listed above is prohibited and no use shall be permitted by the Board of Zoning Adjustments as a conditional use which would be detrimental to the development of other businesses.

2. Dwelling units except as provided herein.

3. B-3 – Adult Oriented Businesses.

F. **LOT, YARD AND HEIGHT REQUIREMENTS**

1. Minimum Lot Size:

No limitation.

2. Minimum Lot Frontage on a Public Street:

   A. B-2 75 feet

   B. B-3 No limitation. If less than 75 feet, Planning Commission must determine that lot frontage is compatible with surrounding properties.

3. Minimum Front Yard:

   A. B-2 = 50 feet

   B. B-2 = Corner lots shall have minimum of twenty-five (25) feet for the yard facing the secondary street.

   C. B-3 = No limitation.

4. Minimum Side Yard:

   No limitation except on corner lots where secondary yard restrictions will apply.

5. Minimum Rear Yard:

   A. B-2 = 25 feet

   B. B-3 = No limitation

6. Maximum Lot Coverage:

   No limitation.

7. Maximum Height of any Portion of Building:

   A. B-2 = 35 feet

   B. B-3 = 75 feet

8. Business Uses Adjacent to Residential Districts:

   A. B-2 = All non-residential uses which are located on lots adjacent to a residential district shall maintain a minimum setback requirement for all structures of twenty-five (25) feet in the side or rear yard adjacent to the residential district and Section III, Article 3 shall apply.

   B. B-3 = Same as B-2.

B-4 MEDIUM DENSITY BUSINESS DISTRICT

A. INTENT

To provide for limited retail business, service and business, and professional offices. The standards of development are intended to protect adjacent residential zones, promote orderly development, and avoid traffic congestion within the surrounding neighborhoods.

B. PERMITTED PRINCIPAL USES

1. Any use permitted in the B-1 business district with the exception of restaurants
2. Banks and savings and loans.
3. Barber and beauty shops.
4. Bakeries.
5. Drugstores.
6. Shoe repair shops.
7. Antique shops.
8. Clothing stores.
9. Radio/television sales and repair shops.
10. Professional, business and government offices and laboratories.
11. Churches and related activities.
12. Convenience Store.

C. PERMITTED ACCESSORY STRUCTURES AND USES

Garage or other storage building not used as a dwelling and incidental to the principal use.

D. CONDITIONAL USES

1. Public facilities such as libraries, parks and recreational facilities.
2. Planned development projects.
3. One (1) dwelling unit for owners, operators or employees of a permitted use provided that such dwelling unit shall be a part of the building and located above or to the rear of such permitted use.
4. Other limited business uses which the Board of Zoning Adjustments finds to fall within the intent of this zone that will not be more obnoxious or materially

detrimental to the public welfare or to property in the vicinity of said uses shall be considered a conditional use.

5. Restaurants can be approved after they are reviewed through a planned development process. A planned development process review can be required by the Board of Zoning Adjustments for any project that might raise compatibility concerns.

6. Transient Businesses as prescribed in Section III, Article 10.

E. **PROHIBITED USES**

1. No enterprise shall be permitted which produces or causes any dust, smoke, noise, fumes, odors, or vibrations, which are or may be detrimental to other property in the neighborhood or to the welfare of the occupants thereof.

2. Dwelling units except as provided herein.

3. Adult Oriented Businesses.

4. Nightclubs, bars, taverns and similar type businesses.

F. **LOT, YARD AND HEIGHT REGULATIONS**

1. Minimum Lot Size:

   No limitation.

2. Minimum Lot Frontage on a Public Street:

   75 feet

3. Minimum Front Yard:

   A. 35 feet

   B. Corner lots shall have minimum of twenty-five (25) feet for the yard facing the secondary street.

4. Minimum Side Yard:

   10 feet

5. Minimum Rear Yard:

   25 feet

6. Maximum Lot Coverage:

   No limitation.

7. Maximum Height of any Portion of Building:

   35 feet

8. Business Uses Adjacent to Residential Districts:

   A. All non-residential uses which are located on lots adjacent to a residential district shall maintain a minimum setback requirement for all structures of twenty-five (25) feet in the side or rear yard adjacent to the residential district.

   B. All non-residential uses which are adjacent to a residential use located within the B-4 zone are required to erect screening in accordance with Section III, Article 3 of this zoning ordinance.

SECTION II
ARTICLE 5
PROFESSIONAL OFFICE ZONING DISTRICT

A. INTENT

This zone is primarily for offices and related uses. Generally, this zone should be located between residential and commercial uses on the same frontage so as to serve as a transitional buffer.

B. PERMITTED PRINCIPAL USES

1. Professional business and government offices and laboratories.

C. PERMITTED ACCESSORY STRUCTURES AND USES

1. Garage or other building not used as a dwelling and incidental to the principal use in rear yards only.

D. CONDITIONAL USES

1. Private hospitals & clinics, churches.

2. Planned development projects.

3. Dwelling units occupying the same building in which is conducted the principal use of the premises.

E. PROHIBITED USES

1. Dwelling units except as provided for herein.

2. Any use that is retail in nature and not incidental to the office use.

3. Any use not listed as permitted and not approved as conditional use.

4. Adult oriented businesses.

F. LOT, YARD AND HEIGHT REGULATIONS

1. Minimum Lot:

   7,500 square feet

2. Minimum Lot Frontage:

   75 feet

3. Minimum Front Yard:

   35 feet

4. Minimum Side Yard:

   10 feet

5. Minimum Rear Yard:

   25 feet

6. Maximum Lot Coverage:

   35 percent

7. Maximum Height:

   35 feet

8. Professional Office Uses Adjacent to Residential Districts:

   All non-residential uses in professional office districts which are located on lots adjacent to a residential district shall maintain a minimum setback requirement for all structures of twenty-five (25) feet in the side or rear yard adjacent to the residential district and Section III, Article 3 will apply.

SECTION II
ARTICLE 6
INDUSTRIAL ZONING DISTRICT

A. INTENT

This zone is intended for manufacturing, industrial and related uses. This section distinguishes between light and heavy industry and their potential for becoming a nuisance.

B. PERMITTED PRINCIPAL USES

1. Non-retail sales and services.

2. Light industry: The Board of Zoning Adjustments shall distinguish between light and heavy industry according to the definition in Section I, Article 2 of this zoning ordinance upon application by the zoning official when the classification is in doubt.

3. Research laboratories.

4. All uses in this zone shall be conducted in a completely enclosed building, except for outdoor storage uses which shall be enclosed on all sides by a solid wall or fence not less than six (6) feet in height.

5. Transient Businesses as prescribed in Section III, Article 10.

C. PERMITTED ACCESSORY USES

1. Off-street parking areas and structures, and loading facilities.

2. Dwelling units for watchmen or caretakers provided that such facilities shall be located on the same premises as the permitted use.

3. Outdoor storage of products manufactured on the premises or materials to be used in manufacture on the premises provided that such outdoor storage shall be enclosed on all sides by a solid wall or fence not less than six (6) feet in height.

4. Facilities for serving food only for employees and visitors and having no direct access to the exterior and having no signs visible from the exterior of the building.

5. Offices.

6. Recreational facilities for employees.

D. PERMITTED CONDITIONAL USES

1. Heavy industry.

2. Outdoor storage and processing.

3. Retail sales and consumer services.

4. Planned development projects other than residential uses.

5. Churches and related activities.

6. Adult oriented businesses.

E. PROHIBITED USES

1. Dwelling units except as provided for herein.

2. Heavy industrial use without prior approval from the Board of Zoning Adjustments.

3. Packaged liquor stores, nightclubs, bars, taverns and similar type businesses.

F. LOT, YARD AND HEIGHT REGULATIONS

1. Minimum Lot:

   No limitation.

2. Minimum Lot Frontage:

   75 feet minimum

3. Minimum Front Yard:

   50 feet

4. Minimum Side Yard:

   No limitation.

5. Minimum Rear Yard:

   35 feet. (The Board of Zoning Adjustments may upon application by the zoning official reduce the required rear yard where such rear yards would be adjacent to railroad sidings if such reduction would not be detrimental to surrounding area.)

6. Minimum Lot Coverage:

   No limitation.

7. Maximum Height of any Portion of a Building:

50 feet. (The maximum building height is 50 feet; however, the Board of Zoning Adjustments may increase the building height upon application by the zoning official.)

8. All non-residential uses which are adjacent to a residential use located within the industrial zoning district are required to erect screening in accordance with Section III, Article 3 of this zoning ordinance.

SECTION II
ARTICLE 7
GOVERNMENT ZONING DISTRICT

A. INTENT

It is the intent of the commission to establish a government district. The purpose of this zone is to identify property owned by federal, state, county or municipal governments or by government-owned public corporations or agencies; also, for the purpose of putting the public on notice that the areas so zoned are outside the jurisdiction of the administrator of this zoning ordinance and the development thereon is at the discretion of the government owning the property. It is further intended that this show of public concern may temper the proposals for development in this district and serve to encourage government conformity to the standard of this district.

B. EXTENT

By definition, this zoning classification applies to all property owned by governments and government-owned public corporations or agencies; therefore, this zoning classification shall automatically become the zoning classification of any property acquired by such government or government-owned public corporation or agency, concurrently with such acquisition.

C. REVERSION TO PREVIOUS CLASSIFICATION

Upon sale or other final release of property by a government or government-owned public corporation or agency, to an individual, partnership, private corporation or other non-public organization or association, such property shall revert to the zoning classification or classifications which applied prior to public ownership, if in fact it was ever under such other classification or classification subsequent to the adoption of this zoning ordinance. This provision applies to property acquired by such public bodies after the adoption of this zoning ordinance and subsequently resold.

D. REVERSION TO ADJOINING CLASSIFICATION

Upon sale or other final release of property by a government or government-owned public corporation or agency, to an individual, partnership, private corporation or other non-public organization or association, such property shall revert to the most restrictive of the adjoining or nearest zoning classification, if such property being sold were in fact publicly owned at the time of the adoption of this zoning ordinance and has not been privately owned at any time subsequent to such adoption and prior to such sale.

E. RIGHTS OF GOVERNMENT NOT CONVEYABLE

The rights of government which prevent it from being subject to the provisions of this zoning ordinance are not conveyable to an individual, partnership, private corporation or other non-public organization or association, and upon sale or other final release of public property to an individual or other non-public body, any construction or development or use of that property which does not conform to the permitted construction, uses and regulations in force for the zoning district to which such property reverts, becomes a non-conforming use subject to the restrictions of this zoning district.

F. RIGHTS OF GOVERNMENT EXTEND TO LESSEE

The rights of government which prevent it from being subject to the provisions of this zoning ordinance permit it to develop its property at its own discretion, subject to statutes and regulations based on health and safety, and development of publicly-owned property in this zoning district by leases, whether public or private, shall be subject only to the discretion of the government or government-owned public corporation or agency owning the property and such statutes and regulations as are based on health and safety.

G. PROHIBITED USES

1. Adult oriented businesses.

SECTION II
ARTICLE 8
AGRICULTURAL ZONING DISTRICT

A. INTENT

This zone is established to preserve the rural character of the agricultural service area by promoting agriculture and agricultural related uses.

B. PERMITTED PRINCIPAL USES

1. Land used solely for agriculture, farming, dairying, stock raising.

2. Horticultural services.

3. Hunting, fishing, trapping and game preserves, forestry.

4. Single-family detached dwellings.

5. Churches, religious education buildings and accessory dwellings.

6. Schools and colleges for academic instruction.

C. PERMITTED ACCESSORY USES

1. Agricultural buildings and structures accessory to the principal agricultural use of the land.

2. Single-family dwellings for the owner and employees of the premises and accessory to the principal agricultural use of the land.

3. Carports, garages or other buildings not used as a dwelling and customarily incidental to the principal use of the premises.

4. Accessory uses customarily incidental to the principal use of the premises.

5. Signs identifying the name and type of agricultural activity conducted on the same premises.

6. Sale of agricultural products and services produced on the premises provided that where such products or services are sold from a roadside stand shall be set back from any public street right-of-way at least fifty (50) feet and shall be provided with automobile access and off-street parking space in such a manner so as not to create an undue traffic hazard on the public street on which such roadside stand is located.

D. PERMITTED CONDITIONAL USES

1. Non-profit public or private facilities such as schools, cemeteries, libraries, churches, parks, recreational facilities, hospitals and institutions.

2. Home occupations.

3. Planned development projects.

E. PROHIBITED USES

1. Any use not listed as permitted or a conditional use are prohibited in the agricultural district.

2. Adult oriented businesses.

F. LOT, YARD AND HEIGHT REQUIREMENTS

1. Minimum Lot:

   No limitation except for single-family detached residences as a principal permitted use, then 21,780 square feet (1/2 acre) minimum with connection to sanitary sewers of the city or of an approved sewer district system, or with evidence of satisfactory soil percolation for septic disposal; otherwise, 43,560 square feet (1 acre) minimum.

2. Minimum Lot Frontage:

   75 feet at right-of-way

3. Minimum Front Yard:

   80 feet from center of line of road

4. Minimum Side Yard:

   25 feet

5. Minimum Rear Yard:

   25 feet

6. Maximum Height:

   No limitation.

SECTION II
ARTICLE 9
FLOODWAY ZONING DISTRICT

A. INTENT

It is intended to establish this district to promote public health, safety, and general welfare of the citizens in flood prone areas. Also, to hopefully minimize public and private losses due to flood conditions in specific areas by designation of the areas as floodway.

B. PERMITTED USES

1. The requirements of this zone are subject to the general provisions of Chapter 152 of the code of ordinances for the City of Murray, Kentucky.

2. The following uses are permitted within the floodway:

   (A) Open-type uses, such as loading and unloading areas, parking lots, used car lots, signs and gardens auxiliary to uses permitted in any adjoining district.

   (B) Storage yards for equipment and material not subject to major damage by floods, provided such use is auxiliary to uses permitted in adjoining zoning districts and materials do not include flammables such as gasoline.

   (C) Open-type public and private recreation facilities such as public parks, golf courses and driving ranges, drive-in theaters, fishing lakes and boat docks.

   (D) Circus, carnival and similar transient amusement enterprises.

   (E) Agricultural uses, including farming, grazing and livestock raising.

   (F) Utilities, road and railroad bridges, electric and other transmission lines.

   (G) Any other use customarily accessory or incidental to the above uses.

C. APPROVAL OF PLANNING COMMISSION

No permit shall be issued for the construction of any building or for any use within the floodway zone until the plans for such construction or use have been submitted to the Planning Commission and approval is given in writing for such construction or use. The Planning Commission may make its approval subject to such conditions necessary to carry out the purpose of the floodplain zone. In its review of plans submitted, the Planning Commission shall be guided by the following standards, keeping in mind that the purpose of the floodplain is to prevent encroachment into the floodway which will unduly increase flood heights and endanger life and property.

1. Any use permitted shall be a type not appreciably damaged by the floodwater, provided no structures for human habitation shall be permitted.

SECTION II
ARTICLE 10
HISTORIC OVERLAY DISTRICT

A. INTENT

1. The purpose of the Historic District is to provide a mechanism for the preservation of sites, structures, and districts of historical or architectural significance together with their appurtenances and environmental settings. The Historic District is meant to enhance, not substitute for the underlying zoning classification. This article imposes additional requirements during the construction, alteration, reconstruction, moving and demolition of sites and structures located within the Historic District. The Historic District is intended to work in conjunction with the other zones and for the purpose of protecting and preserving the exterior of the buildings, structures, appurtenances, and places.

2. The Historic District is to improve the economic viability of the designated areas within the City of Murray, while enhancing the visual quality of the environment and the quality of life.

B. APPLICABILITY

1. Upon approval of the Historic District by the City Council, the official zoning map will be amended.

2. The Historic District classification and regulations shall be established in addition to the existing zoning classification and regulations. Where there are conflicts between the procedures and regulations herein established for the Historic District and other procedures and regulations of the underlying zone, it is intended that the more stringent shall apply. The regulations apply to all proposed development within the boundaries of the Historic District, as shown on the official zoning map.

3. It is the intent of this section that the Architectural Review Board be lenient in its judgment of plans for new construction or for alteration, repair, or demolition of structures determined to be non-contributing, except where such construction, alteration, repair, or demolition would seriously impair the historic or architectural value of surrounding structure or the surrounding area. It is not the intent of this subchapter to limit new construction, alteration, or repair to any one period of architectural style.

C. CREATION AND BOUNDARIES

1. The boundaries of the district shall be illustrated in Exhibit A.

2. The description of the Historic District is described as:

   An area of land to be designated as a City of Murray Historic Overlay District generally bounded by Olive Street to the north, Elm Street to the south, the west right-of-way of the KWT Railroad to the east, and South 7th Street to the west in

Calloway County, Kentucky. (For a complete legal description refer to Ordinance Number 2008-1475 or Chapter 32 of the City of Murray Code of Ordinances.)

D. PRINCIPLES AND GUIDELINES

1. Upon the effective date of this Ordinance, no person shall commence any development activity within the Historic District without obtaining a Certificate of Appropriateness certifying compliance with the Historic Design Guidelines (refer to the City of Murray Historic Design Guidelines).

2. The Historic Design Guidelines are not intended to discourage development or to dictate architectural design or style, but to encourage such development that contributes to the overall urban design quality of the district. These guidelines shall be the basis for evaluating applications for development proposals.

E. ADMINISTRATION

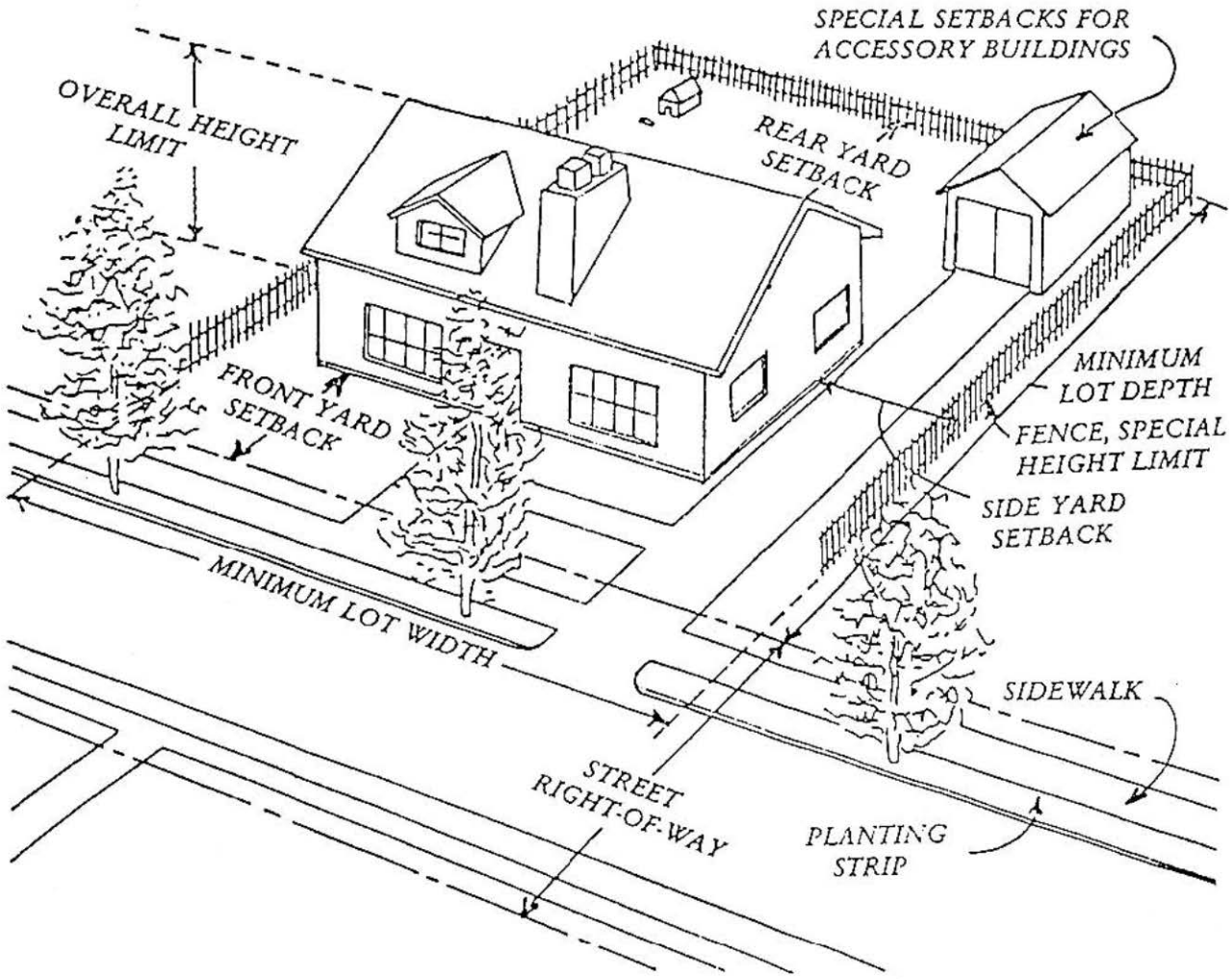
1. Responsibility for administering and implementing the Historic Design Guidelines is delegated to the Architectural Review Board, City Planning Staff and Murray Main Street, a nonprofit corporation pursuant to KRS Chapter 58.

2. Each proposed development within the Historic District shall apply for a Certificate of Appropriateness. The application guidelines will be followed as described in the Architectural Review Board Ordinance, Section 32.65 - 32.69.

ILLUSTRATION NO. 2

APPLICATION OF ZONING REGULATIONS TO A

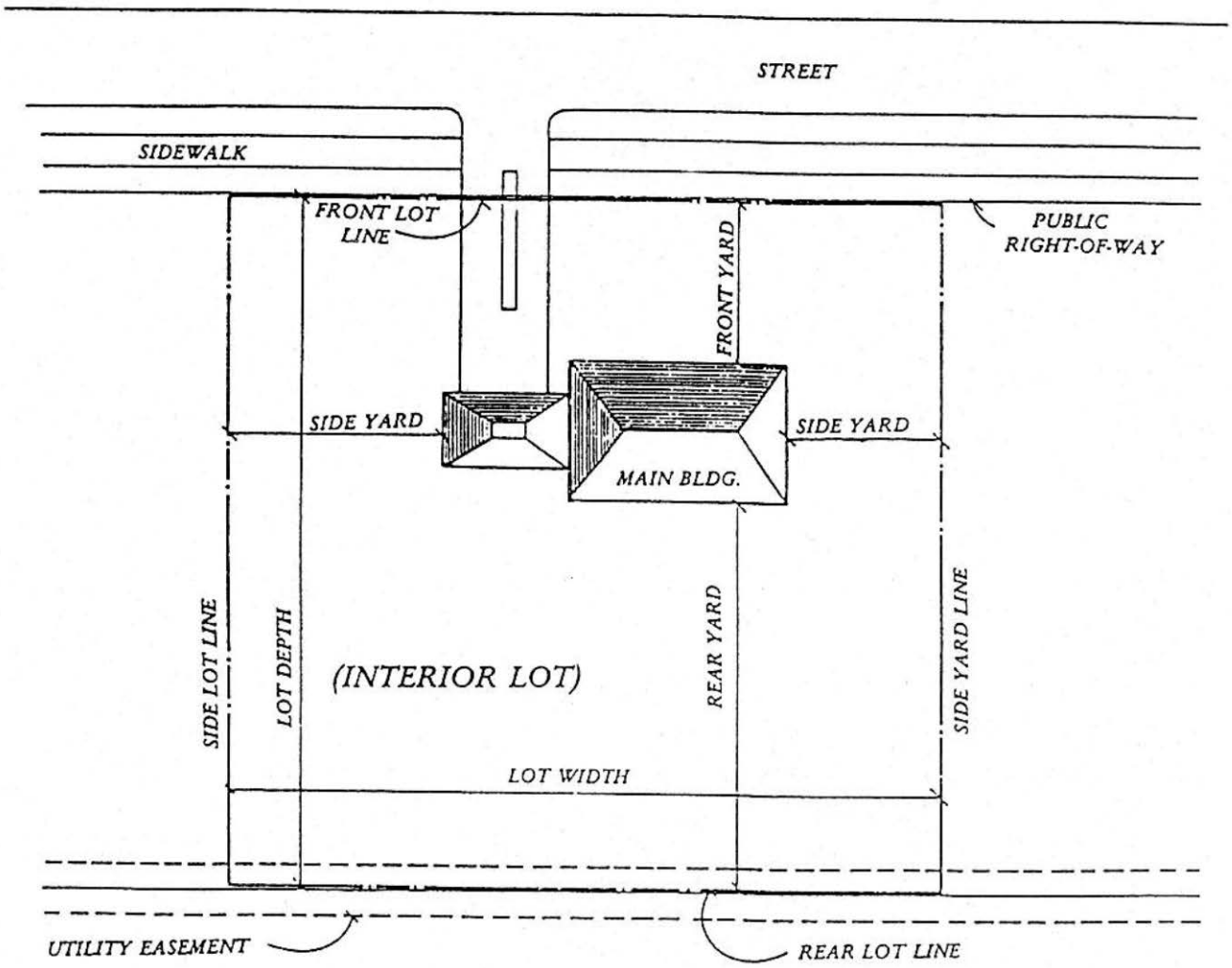
RESIDENTIAL LOT



SOURCE: U.S. DEPARTMENT OF COMMERCE, ECONOMIC DEVELOPMENT ADMINISTRATION, ZONING FOR SMALL TOWNS AND RURAL COMMUNITIES.

ILLUSTRATION NO. 3

LOT & AREAS



LOT AREA: TOTAL HORIZONTAL AREA

LOT COVERAGE: PERCENT OF LOT OCCUPIED BY BUILDING

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SECTION III

Special Regulations

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SECTION III-SPECIAL REGULATIONS
ARTICLE 1
SIGN REGULATIONS

A. INTENT

It is the intent of this ordinance to regulate signs. A permit for the installation of any sign is required unless otherwise provided for in this ordinance. Permits must be obtained from the zoning official before installation of any type of sign. Failure to obtain a permit can result in the zoning official having the sign removed at the owner's expense. If the owner fails to pay for such removal, the city may attach a lien to the lot on which the sign was located.

B. SIGNS FOR R-1, R-2, R-3, R-3A, R-4 AND R-5 ZONES

1. Temporary signs are allowed in residential zoning districts per approval of the zoning official.

2. Real estate signs are allowed not exceeding six and a quarter (6.25) square feet on residential properties of less than one (1) acre in size. Real estate signs may not exceed twelve (12) square feet on properties from one (1) to ten (10) acres in size. All residential properties greater than ten (10) acres in size shall be allowed real estate signage up to thirty-two (32) square feet. All real estate signs are considered temporary for the period of the sale of the property.

3. Yard sale signs are permitted only on property of the sale and only on the day before and the days of the sale. No yard sign shall be attached to a tree, fence or public utility pole. No other advertising, except for the yard sale, will be allowed on the sign.

4. Temporary signs not exceeding six and a quarter (6.25) square feet may be placed for special events subject to placement of a bond to assure their removal as outlined in the general sign regulations.

5. One (1) unlighted sign not over two (2) square feet in area identifying home occupations permitted as a conditional use on the premises. The sign location shall be subject to control by the Board of Zoning Adjustments.

6. One (1) free-standing or one (1) wall sign not to exceed twelve (12) square feet in area, identifying the fraternity or sorority house on the premises shall be permitted.

7. One (1) free-standing sign or one (1) wall sign not to exceed 32 square feet for churches or buildings used for church related activities.

8. Signage for residential developments will be approved through the review process.

C. SIGNS FOR B-1, B-2, B-3, B-4 & INDUSTRIAL ZONES

1. The following non-illuminated, indirectly illuminated, or directly illuminated signs shall apply:

(A) One (1) identification sign for each individual building and/or business not to exceed three (3) square feet and must be attached to the building. The identification sign must be attached to the wall of the building or displayed under a canopy or marquee not to extend more than 12" below the canopy or marquee.

(B) Private directional signs indicating entrance, exit, or location of parking not exceeding two (2) square feet in surface area for each sign and the height must not be more than 30" from the street level. These signs must be placed on private property and not on public right-of-way.

(C) One (1) canopy sign is permitted for businesses having an attached canopy covering a privately or publicly owned walkway. The total area of the canopy sign will be determined in conjunction with the allowable wall signage for the business.

2. The following regulations for business signs (non-illuminated, indirectly illuminated, or directly illuminated shall apply):

(A) The total number of business signs on a lot shall not exceed three (3).

(B) Only one (1) free standing business sign shall be permitted with the size to be determined as follows: .5 sq. ft. per lineal foot of street frontage not to exceed 80 square feet. Small lots with under 60 feet of street frontage will be allowed a 30 square foot sign if desired. The outer edge of the sign shall be set back at least ten (10) feet from the side lot line. All permitted free standing signs shall not exceed a height of 24 feet from mean property level. All freestanding signs are to be placed in a landscaped area, with a ratio of one (1) square foot of landscaping to equal one (1) square foot of sign area up to a maximum of eighty (80) square feet.

(C) One (1) wall business sign for each tenant or lessee mounted on the face of the building with the size to be determined as follows: 5% of square footage of face of building if the building is located up to 100 feet from the street and an additional 5% of square footage of face of building for each 100 feet thereafter, not to exceed 10%. For double frontage or corner lots, two (2) wall business signs for each tenant or lessee mounted on the face of the building which fronts on both primary and secondary street with the size to be determined above. No flat wall sign shall project above the roof or parapet line.

(D) Only a wall sign or a projecting sign is allowed in a B-3 zone where the right-of-way does not permit a free standing sign. A projecting sign shall be permitted, provided it does not exceed a surface area of twelve (12) sq. ft. It shall be at least 9 feet above ground level, but shall not project above the roof or parapet line. The front edge of a projecting sign must not project closer than two (2) feet inside the street curb.

(E) Monument type signage shall be required in place of free standing signage along the Twelfth Street corridor from the southern city limits to the northern city limits and along KY 121 North Bypass at the

intersection of Twelfth Street, a/k/a US Highway 641, to the western city limits. Freestanding signs existing at the date of adoption of this Ordinance will be allowed to remain under the terms of §156.050(J)(3). The size of a monument type sign shall be determined as follows: .5 square feet per lineal foot of street frontage not to exceed fifty-five (55) square feet except on lots with a frontage road or a shopping center with four (4) or more businesses in which case such sign shall not exceed eighty (80) square feet excluding base and columns. Columns shall not exceed 30" in width or depth. The overall height of a monument type sign shall not exceed ten (10) except on lots with a frontage road or a shopping center with four (4) or more businesses in which case such sign shall not exceed fourteen (14) feet in height with height being measured from mean property level. All monument type signs shall be placed in a landscaped area.

(F) Real estate signs are allowed not exceeding six and a quarter (6.25) square feet on commercial properties less than one (1) acre in size. Real estate signs may not exceed twelve (12) square feet on properties from one (1) to ten (10) acres in size. All commercial properties greater than ten (10) acres in size shall be allowed real estate signage up to thirty-two (32) square feet.

(G) Electronic reader boards are allowed in B-2, B-3, B-4 and Industrial Zones. Electronic changeable copy shall be permitted for all signs, which shall conform to the following: Non-flashing mode, with electronic changeable copy displaying only on-premises messages or public service messages. Changes in copy shall be limited as follow:

1. Size shall not exceed 30% of allowable sign area

2. Amber in color

3. No more than one (1) electronic message board per business

4. A single message or segment of a message shall have a display time of at least two (2) seconds including the time needed to move the message onto the sign board, with all segments of the total message to be displayed within ten (10) seconds.

5. A message consisting of one (1) segment may remain on the signboard any amount of time in excess of two (2) seconds. An electronic sign requiring more than four (4) seconds to change from one (1) single message to another shall be turned off during the change interval.

6. A display traveling horizontally across the signboard shall move between sixteen (16) and thirty-two (32) light columns per second. A display may scroll onto the signboard but shall hold for two (2) seconds including the scrolling time.

7. A display shall not include an art animation or graphic that portrays motion, except for movement of a graphic onto or off of the signboard.

D. SIGN FOR PROFESSIONAL OFFICE ZONE

1. The following non-illuminated, indirectly illuminated, or directly illuminated signs shall apply:

   (A) One (1) free standing sign or business wall sign not to exceed twenty (20) square feet. The free-standing sign shall not exceed ten (10) feet in height. It shall be set back at least ten (10) feet from front lot line/right-of-way and five (5) feet from the side lot line/right-of-way line.

   (B) One (1) identification sign for each tenant or lessee limited to two (2) square feet in area, mounted on face of the building.

   (C) Private directional signs indicating entrance, exit, or location of parking not exceeding two (2) square feet in surface area for each sign.

E. SIGNS FOR AGRICULTURAL ZONE

One (1) sign identifying the name and type of agriculture activity conducted on the same premises not to exceed thirty-two (32) square feet.

F. GENERAL SIGN REGULATIONS

1. No sign shall be erected or maintained at any location where by reason of its position, wording, illumination, size, shape, or color it may obstruct, impair, obscure, interfere with the view of, or be confused with, any authorized traffic control sign, signal or device.

2. No sign shall contain or make use of any word, phase, symbol, shape, form or character in such a manner as to interfere with, or confuse traffic.

3. No illuminated sign shall be permitted within fifty (50) feet of property in any residential district.

4. Business ground signs shall be located not closer than ten (10) feet to a street right-of-way line.

5. No sign shall be placed in any public right-of-way, except publicly owned signs, such as traffic control signs and directional signs.

6. Signs projecting from a building or extending over public property shall maintain a clear height of nine (9) feet above the sidewalk and all such signs shall not project closer than two (2) feet inside the street curb.

7. Wall signs shall not be attached to or obstruct any window, door, stairway or other opening intended for egress, ingress, ventilation and light.

8. No sign shall be attached to any tree, fence or utility pole.

9. Any business sign now or hereafter existing which no longer advertises a bona fide business conducted or product sold on the premises, and any advertising sign now or hereafter existing which no longer advertises a bona fide business

conducted or a product sold, or activity or campaign being conducted shall be taken down and removed by the owner, agent or person having the beneficial use of the building, structure or lot upon which such sign may be found within forty five (45) days after written notification from the zoning official. Upon failure to comply with such notice within the time specified in such order, the zoning official is hereby authorized to cause removal of such sign, and any expense incident thereto shall be paid by the owner of the building, structure, or lot to which such sign is attached.

10. All signs shall be adequately maintained. Such maintenance shall include proper alignment of structures, continued readability of the structure and preservation of the structure with paint or other preservatives.

11. All real estate and tract signs shall be removed within ten (10) days after completion of sales activities in connection with the property or tract to which they pertain.

12. All temporary signs shall be removed within five (5) days after completion of the activity being advertised, and the posting of a performance bond with the zoning official shall be required to insure such removal.

13. All signs placed upon private property must have the written consent of the owner or his agent.

14. Permitted temporary signs may be erected or posted for the period not to exceed fourteen (14) days for any quarter of a year. Any sign posted for a longer period must meet the requirements for permanent signs.

15. The area of a free standing sign shall be measured by drawing eight (8) or fewer straight lines encompassing the extremities of the sign within the smallest possible area. The area of a free standing sign shall not include poles, supports, or other structures which are used solely for support and which do not contain any advertising of any kind. (See Illustration No. 4)

16. Business announcement signs may consist of wall signs, banners and other similar signs approved by the Murray zoning official. Mobile signs, pennants, streamers, and any moving, rotating or flapping signs, excluding balloons, are prohibited. Signs are limited to two (2) per proprietor, not to exceed 32 square feet each. A $10.00 permit fee and a sign permit issued by the planning office will be required. The following time limitations also apply:

    (A) "Going out of business" and "grand opening" signs may be erected for a period of 30 days and only once per year per proprietor.

    (B) Temporary signs for "special sale", "under new management" and similar announcements may be erected for a period of fourteen (14) consecutive days and only once every three (3) months per proprietor.

17. Window signage is defined as any sign, picture or symbol that is attached to the interior or exterior of a window or window frame. Said signage is not to exceed twenty five (25) percent of the window area. Said signage shall not require a sign permit. Existing businesses will have one hundred and twenty (120) days to come into compliance with this ordinance.

G. SIGNS PERMITTED IN ALL ZONES AND DISTRICTS

The following non-illuminated signs are permitted in all zones and districts and no permit is necessary for erection:

1. Temporary signs not exceeding thirty-two (32) square feet in surface area, for architectural, engineering, construction, or other similar firms engaged in the work on a construction site. Such signs shall not be erected prior to submission of a building permit application and shall be removed at the end of construction.

2. One (1) temporary sign not to exceed 32 square feet to announce the construction of a new subdivision with lots for sale, to be removed upon the completion of sales of 80% of lots.

3. Any official sign, or any informational or directional signs or historic marker erected by a public agency.

4. One temporary real estate sales or rental sign indicating only sales or rental of the premises are allowed not exceeding six and a quarter (6.25) square feet of surface area or as provided for in Article I, B and C in this section. The sign shall be placed flat against the building or back from the street not less than ten (10) feet.

5. Political campaign signs provided they are kept on private property, shall be removed within fourteen (14) days after the election. Signs must be limited to eight (8) square feet and one (1) sign per candidate, per lot with the bottom of the sign no higher than two (2) feet from ground level. Placement of campaign signs on public property such as traffic signs, utility light poles or buildings is prohibited and if found, will be removed at the cost of the candidate.

6. One (1) unlighted sign not over two (2) square feet in area identifying home occupations permitted as a conditional use on the premises. The sign location shall be subject to control by the Board of Zoning Adjustments.

7. The flag, pennant, or insignia of any nation, state or city.

8. Temporary signs associated with community festivals or events of a cultural or educational nature, not to be displayed more than fourteen (14) consecutive days. Only two (2) signs allowed per event in all zones, except residential, with the size not to exceed 32 square feet each and the posting of a performance bond with the Zoning Official shall be required to insure compliance.

9. Unique or unusual signs, such as artistic renderings, murals, etc. are permitted in all zones, except residential, subject to the approval of the Board of Zoning Adjustments based on aesthetics, size, location, and effect upon the general area.

10. Two (2) signs not exceeding 32 square feet each advertising the date and location of an auction are allowed. Only one (1) of the permitted signs is allowed off-site indicating the direction to the auction site. The signs can only be erected for a period of fourteen (14) days prior to the event. The signs are to be removed within 24 hours of the completion of the auction.

H. SIGNS PROHIBITED IN ALL ZONES AND DISTRICTS

1. Flashing or blinking signs.

2. Roof signs.

3. Exposed lighting and tubing is not permitted to outline the building or building wall.

4. Temporary signs except as provided herein.

5. Signs painted directly upon the wall surface of a building.

6. Mobile signs.

7. Pennants, banners or streamers advertising special sales or events.

8. Moving, rotating or flapping signs.

9. Billboards as defined in Section I, Article 2.

10. Projecting signs, except in B-3 zone.

11. Yard sale signs, except as provided for in Article 1,B in this section.

12. Signs lettered in a crude or amateurish fashion.

13. Inflatable signs and tethered balloons.

14. Vehicles or trailers (operable or inoperable), which contain advertising and are not used in the daily conduct of business.

15. Off-premises signage as defined in Section I, Article 2.

I. APPLICATION, FEES AND PENALTIES

1. No sign, except as specifically exempted herein, shall be displayed, or erected, relocated or altered until a permit has been issued by the zoning official. Application materials shall include, but shall not be limited to the following:

   (A) A completed application form.

   (B) A site plan and/or building elevations drawn to scale showing the locations of the proposed sign(s) on the lot and/or building, including setbacks.

   (C) Detailed sign information including type of construction, method of illumination, dimensions, methods of mounting and/or erecting and other similar information.

   (D) A permit fee.

J. REGULATION OF SIGNS

1. Signs are permitted only in those zoning districts where they are designated as permitted uses under the zoning district regulations or where specifically permitted under other provisions of this ordinance. Each zoning district will designate the type and size limitations for signs. For the type and size for a particular zoning district, please refer to that section of the ordinance.

2. All existing prohibited signs shall be removed within six months from the enactment of this sign ordinance.

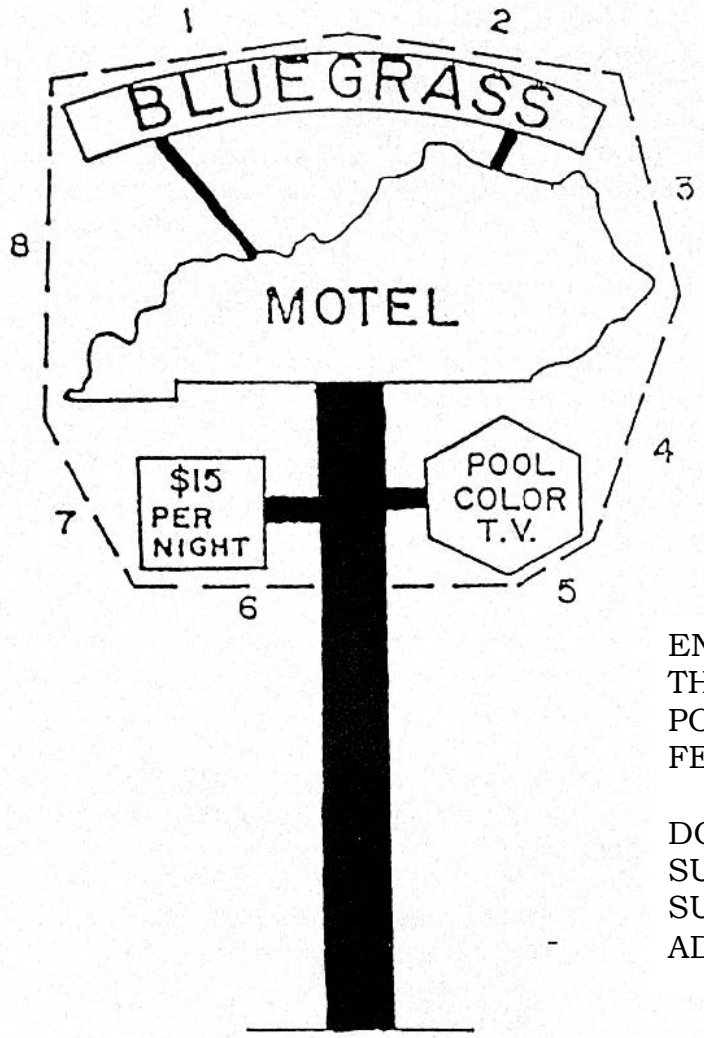
3. Any business sign legally existing on the effective date of the enactment of this sign ordinance that does not meet the requirements of this ordinance or any amendment thereto shall be considered non-conforming. Such sign shall be allowed to remain unless otherwise provided herein. No such non-conforming sign shall be moved to a new location on the building or lot, altered, expanded or enlarged. No such sign (non-conforming) shall be repaired when damaged from any cause if repairs exceed 50% of the replacement value of the sign as determined by the building inspector. Any replacement sign must comply with the regulations. If a business is discontinued, any non-conforming sign that exists must be removed and any new business occupying the same location must conform to this sign ordinance.

K. APPEALS

Appeals to the Board of Zoning Adjustments may be taken by any person, or entity claiming to be injuriously affected or aggrieved by an official action or decision of the zoning official. Such appeal shall be taken within thirty (30) days after the appellant or his agent receives notice of the action appealed from, by filing with said officer and with the board a notice of appeal specifying the grounds thereof, and giving notice of such appeal to any and all parties or record. Said officer shall forthwith transmit to the board all papers constituting the record upon which the action appealed from was taken and shall be treated as and be the respondent in such further proceedings. At any hearing by the board any interested person may appear and enter his appearance and all shall be given an opportunity to be heard. The board shall fix a reasonable time for hearing the appeal and give public notice in accordance with KRS Chapter 424, as well as written notice to the appellant and the zoning official at least one (1) week prior to the hearing, and shall decide it within sixty (60) days. The affected party may appear at the hearing in person or by attorney.

ILLUSTRATION NO. 4

MEASURING THE AREA OF THE SIGN



ENCOMPASS THE EXTREMITIES OF THE SIGN WITHIN THE SMALLEST POSSIBLE AREA USING EIGHT OR FEWER LINES.

DO NOT INCLUDE THE POLES, SUPPORTS, ETC., USED SOLELY FOR SUPPORT AND THAT CONTAINS NO ADVERTISING OF ANY KIND.

SECTION III
ARTICLE 2
MANUFACTURED/MOBILE HOME REGULATIONS

A. INTENT

The intent of this section of the zoning ordinance is to provide for the use of mobile homes and mobile home parks within the City of Murray. It is intended to provide a blend between dwellings and mobile homes such that neither will create a nuisance to the other. Because of their unusual characteristics, mobile homes pose special problems in the application of land use techniques and require special consideration as to their proper location and character in relation to adjacent uses and to the development of the community, and use to the circumstances and conditions under which each use may be permitted. The standards contained in this provision represent an attempt to provide adequate protection for, and consideration of, both the community and the mobile home dweller.

The following regulations are provided for the purposes outlined above:

1. MOBILE HOME PARKS – Mobile home parks may be permitted only in those zoning districts where they are designated as a conditional use under the zoning district regulations. A mobile home park shall be defined as used in KRS 219.320 (5) "Mobile Home Parks". All mobile home parks shall conform with all provisions of the KRS 219.310 to 210.410 and shall conform with all applicable provisions of this zoning ordinance.

   (A) Plat – A plat shall be submitted to the zoning official along with the conditional use permit application. The plat shall conform with the Department for Human Resources, Bureau for Health Services (902 KAR 15.010 – effective date 2/5/75).

   (B) Uses – The premises of a mobile home park shall be used for mobile homes and those accessory buildings and uses specifically designated in the approved conditional use permit only.

   (C) Compatibility – The tract of land must be suitable for a mobile home park by virtue of its location, shape, topography and the nature of surrounding development.

   (D) Screening – A landscaped separation strip at least five (5) feet in width shall be provided along all property lines and public streets on which the project is located. The Board of Zoning Adjustments may also require that the mobile home park be permanently screened from adjoining and contiguous properties by a wall, fence, evergreen ridge, and/or other approved enclosures. Such screening, if required, shall conform to the screening section of this ordinance and be located within the required separation strip.

   (E) Construction Permit Required – The zoning official shall not issue a building permit for an approved mobile home park until the applicant presents a valid construction permit from the State Department of Health

as required by KRS 219.350, and has agreed in writing to the conditions imposed by the Board of Zoning Adjustments.

(F) Operators Permit Required – The zoning official shall not issue a certificate of occupancy for an approved mobile home park until the applicant presents a valid operators permit from the State Department of Health as required by KRS 219.330, and has fulfilled all conditions imposed by the Board of Zoning Adjustments.

(G) Existing Mobile Home Parks – All existing mobile home parks legally operating within the corporate limits of the City of Murray at the time of the passage of this ordinance may continue to operate as existing nonconforming structures and uses, but shall be required to maintain a valid operating permit as required under KRS 219.340, and shall not expand or intensify their use without bringing mobile home into compliance with this ordinance.

2. CLASSIFICATION OF MANUFACTURED/MOBILE HOMES

(A) CLASSIFICATION STANDARDS

(1) Class A: A manufactured home certified as meeting the Mobile Home Construction and Safety Standards of the Department of Housing and Urban Development, Residential and Commercial Designed Home Placed on a Permanent Foundation.

(2) Class B: A manufactured/mobile home certified as meeting the Mobile Home Construction and Safety Standards of the Department of Housing and Urban Development, Standard Designed Home Placed on a Temporary or Permanent Foundation.

(3) Class C: A manufactured/mobile home unit built before the HUD Code (1976).

(B) PERMITTED PLACEMENT

(1) The establishment, location, and use of Class A manufactured home as a permanent structure approved individually, by specific materials, or by design, shall be permitted in any district permitting a dwelling unit or commercial building, subject to the requirements applying to residential uses and commercial uses in the district and provided the structure shall meet the exterior appearance standards, as hereinafter set forth in Section C. A building permit shall be required for all applications for use. Applications for approval shall be submitted to the Department of Planning & Engineering on such forms as they may require to make a determination.

(2) The establishment, location, and use of a Class B and C manufactured homes as permanent residence approved individually, by specific materials, or by design, shall be permitted subject to the requirements of this ordinance only in R-3A zones in mobile home parks approved as conditional uses.

(3) TEMPORARY PLACEMENT FOR EMERGENCY SITUATIONS: The Zoning Official shall have the authority to allow the placement of manufactured/mobile homes as an accessory to or temporary replacement of a structure in all zones, except in residential zones. The zoning official shall grant such authority only on a temporary basis in hardship cases for a period not to exceed ninety (90) days. Any request for a time period exceeding ninety (90) days or for an extension of a previously granted request shall be submitted to the Planning Commission for approval.

(C) EXTERIOR APPEARANCE STANDARDS

(1) RESIDENTIAL: Class A Manufactured Homes for Residential Purposes Shall:

a. Meet all requirements for lot, yard, building, and other requirements for the district in which it is located.

b. Be placed on a permanent foundation.

c. Be anchored to a solid continuous foundation of concrete, concrete blocks, or other permanent materials.

d. Be anchored to the ground in accordance with the manufacturer's specifications.

e. Have all wheels, axles, and hitch mechanisms removed.

f. Have utilities connected, in accordance with the manufacturer's specification.

g. Have siding material which looks like the type used on site-constructed residences.

h. Have a pitch roof of not less than one (1) foot of rise for each four (4) feet of horizontal run and have roofing material of a type used on site-constructed residences. Eaves with a minimum of six (6) inch overhang must be provided.

i. Have a minimum width of the main body as assembled on the site of not less than twenty (20) feet, measured across the narrowest portion.

j. The home shall appear to face the public street.

k. Have a living area with the square footage generally compatible to similar site-built housing in the vicinity.

l. Disputes involving the Department of Planning and Engineering and an applicant, concerning the design and construction compatibility of a unit to be located on a

particular site, shall be resolved by the Planning Commission prior to placement of said unit on the site.

(2) COMMERCIAL: Class A Manufactured Homes for All Business, Industrial, Professional Office and Agricultural Zoning Districts Shall:

(a) Meet all requirements for lot, yard, building, or other requirements for the district in which it is located.

(b) Be placed on a permanent foundation.

(c) Be anchored to a solid continuous foundation of concrete, concrete blocks, or other permanent materials.

(d) Be anchored to the ground in accordance with the manufacturer's specifications.

(e) Have all wheels, axles, and hitch mechanisms removed.

(f) Have utilities connected, in accordance with the manufacturer's specifications.

(g) Have siding material which looks like the type used on site-constructed commercial buildings.

(h) Have a pitch roof of not less than one (1) foot of rise for each four (4) feet of horizontal run and have roofing material of a type used on site-constructed buildings. Eaves with a minimum of six (6) inch overhang must be provided.

(i) Have a minimum width of the main body as assembled on the site of not less than twenty (20) feet, measured across the narrowest portion.

(j) The structure shall appear to face the public street.

(k) Disputes involving the Department of Planning & Engineering and an applicant, concerning the design and construction compatibility of a unit to be located on a particular site, shall be resolved by the Planning Commission prior to placement of said unit on the site.

3. THE FOLLOWING REGULATIONS ARE FOR MAJOR RECREATIONAL EQUIPMENT:

(A) No major recreational equipment shall be parked or stored on any lot in a residential district except in a garage or carport or in a required rear yard or in a required side yard where it is no closer than 5 feet to any building or lot line provided, however, that such equipment may be parked anywhere on residential premises for a period not to exceed 24 hours during loading or unloading. No such equipment shall be used for living,

sleeping, or housekeeping purposes when parked or stored on a residential lot or in any location not approved for such use.

(B) Subsection 3.A above may be modified or waived in unusual cases by the Board of Zoning Adjustments where it is shown that the requirements are impractical or impossible to meet. An application in writing must be filed with the Board of Zoning Adjustments outlining the reasons for such request, and explaining why this case is different from others in the area. The board will decide each case on its own merits without prejudice or precedent.

(C) No major recreational equipment shall be stored out of doors on residential premises unless it is in condition for safe and effective performance of the function for which it is intended or can be made so at a cost not exceeding the value of the equipment in its existing state. In no case shall any such equipment be so stored for a period of more than six months if not in condition for safe and efficient performance of the function for which it was intended.

SECTION III
ARTICLE 3
SCREENING & LANDSCAPING

A. INTENT

The intent of this ordinance is to require buffering between noncompatible land uses; to protect, preserve, and promote the aesthetic appeal, character, and value of the surrounding neighborhood; to promote public health and safety through the reduction of noise, air pollution, unsightly areas, and artificial light glare.

B. DEFINITIONS AS USED IN THIS ORDINANCE

1. SCREENING – Screening is defined as decorative fences or walls, evergreen vegetation, or landscaped areas, which are set forth for the purpose of concealing the view of office, institutional, business and industrial properties from adjacent residential or agricultural properties.

2. LANDSCAPING – Landscaping is considered to be the planting and maintenance of a lawn, in addition to some combination of evergreens, shrubs, hedges, vines or flowers. The combination may include natural features such as rock and stone and structural features including, but not limited to, fountains, walls, fences and benches.

3. OPACITY – Opacity is the concealment of office, institutional, business and industrial development from the view of adjacent residential or agricultural properties..

4. FENCE – A structure, consisting of rails, pickets, woven wire, hedges, or the like.

5. WALL – A structure, consisting of stone, brick or the like.

C. SITES AFFECTED BY THIS ORDINANCE

1. NEW SITES – No new site development, building structure or vehicular use area shall hereafter be created and used unless landscaping is provided as required by the provisions of this ordinance.

2. EXISTING SITES – No property lines shall be altered, nor shall any building, structure, or vehicular use area be expanded, unless the minimum landscaping required by the provisions of this ordinance is provided for the property to the extent of its alteration of expansions, and not the entire property.

D. SCREENING AND LANDSCAPING REQUIREMENTS

For office, institutional, business and industrial development when established on property adjacent to any residential, agricultural or government zoning districts the following shall apply:

1. Screening shall be provided along all side and rear lot lines adjacent to a residential zone to extend to within ten feet of each street right-of-way line. However, screening may be omitted for office and institutional uses along any lot line or portion thereof, whenever a property is developed with a 25-foot landscaped yard adjacent to such lot line or portion thereof. Screening along a side or rear lot line can be extended to the street right-of-way line at a height of three feet where deemed essential for the intent of this ordinance.

2. Whenever a front or side yard is across the street from any property located in a residential zone, there shall be provided adjacent thereto a landscaped yard ten feet in depth for a distance equal to the residential zoning lot line along the street.

3. Whenever properties are developed adjacent to an alley, screening is also required, but may also be omitted at driveways deemed essential for ingress and egress at uses established on the property.

4. Landscaped yards required by this section of the code shall not be used for driveways, parking, loading, outdoor storage, displays, work areas, sights, or similar uses.

5. Screening shall be provided on all new, altered or expanded developments sufficiently to hide from ground level view, all loading docks, trash receptacles, outdoor storage, outdoor work areas, or areas of similar use from any residential zoning district located within 150 feet of such uses.

6. Screening shall be provided at a height and density to achieve the opacity required. Where evergreens are used, the following shall be required: Trees shall be a minimum of five feet in height, with a minimum caliper of 1-1/2" immediately after planting. Shrubs and hedges shall be at least three feet in height when planted, and shall conform to the opacity requirements within three years after planting. In most cases to achieve the opacity required, this shall constitute a solid hedge or shrubbery wall six feet in height.

7. When fencing is used for screening, it shall not be less than five feet nor more than eight feet in height. Acceptable fencing for screening includes solid walls constructed of masonry, architectural tile, stone, wood or other similar materials (excluding chain link fences). The solid wall should be reduced to three feet in height when adjacent to a public street, and shall not be placed closer to the street than the right-of-way. On corner lots, the solid wall shall not be placed any closer to the street on the side yard than the required building set back line.

8. All types of screening shall be kept in a neat, clean and healthful condition. The owner of the property shall be responsible for this maintenance. Where landscaping is used, this shall include property pruning, mowing of lawns, weeding, removal of litter, fertilizing, and the replacement of plants when necessary.

9. When all types of screening is used, the property owner shall prepare a landscape plan for submission to the planner's office. The zoning official shall follow the requirements of this ordinance in approving or disapproving any

landscape plan. If the property owner disagrees with the ruling of the zoning official, he or she may appeal to the Board of Zoning Adjustments for a ruling.

10. All screened areas will be subject to review annually. If deficiencies are found, the property owner will be notified by letter and the deficiencies shall be corrected within three months.

E. FENCES AND WALLS

Fences and walls located in any residential district shall be subject to the following height and location restrictions unless a variance is granted by the Board of Zoning Adjustments.

1. Fences or walls shall meet the following height limitations:

Front Yard	4 feet
Rear & Side Yard	8 feet

2. No fence or wall shall be located closer than ten (10) feet to any street right-of-way.

3. On corner lots, the side facing the secondary street shall be treated as a front yard.

4. Barbed wire or electric fences shall not be permitted in any residential zone or adjacent to any residential zone.

5. No fence or wall that obstructs sight along any public way shall be erected.

SECTION III
ARTICLE 4
NON-CONFORMING USES, STRUCTURES AND PREMISES

A. INTENT

Within the zones and districts established by this zoning ordinance or amendments thereto, there exists lots, structures, uses of land structures, and characteristics of use which were lawful before this zoning ordinance was adopted or amended, but which would be prohibited, regulated, or restricted under the terms of this zoning ordinance or future amendment. It is the intent of this zoning ordinance to permit these non-conformities to continue until they are removed, but not to encourage their survival. It is further the intent of this zoning ordinance that non-conformities shall not be enlarged or extended beyond the scope and area of their operation at the time of the adoption or amendment of this zoning ordinance, nor be used as grounds for adding other structures or uses prohibited elsewhere in same zone or if all or part of.

B. NON-CONFORMING LOTS OF RECORD

1. In any zone or district in which single-family, two-family or multi-family dwellings are permitted, a single-family, two-family or multi-family dwelling as appropriately permitted in said zone and customary accessory buildings may be erected or enlarged on any single lot of record at the date of adoption or amendment of this zoning ordinance, or amendment notwithstanding limitations imposed by other provisions of this zoning ordinance. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or frontage, or both, that are generally applicable in the zone or district, providing that dimensional requirements other than those applying to area or frontage or both, of the lots shall conform to the regulations for the zone or district in which such lot is located. Dimensional variance must be obtained through action of the Board of Zoning Adjustments as provided by this ordinance.

2. If two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of records at the date of adoption or amendment of this zoning ordinance, and if all or part of the lots do not meet the requirements established for lot width and area, the land involved shall be considered to be an undivided parcel for the purpose of this zoning ordinance. No subdivision of such parcel shall be made which creates a lot with width or area below the requirements stated in this zoning ordinance.

C. NON-CONFORMING USES OF LAND

Where at the date of adoption or amendment of this zoning ordinance, lawful use of land exists which would not be permitted by the regulations imposed by this zoning ordinance, the use may be continued so long as it remains otherwise lawful, provided:

1. No such non-conforming use shall be enlarged or extended to occupy a greater area of land than was occupied at the date of adoption or amendment of this zoning ordinance.

2. No non-conforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the date of adoption or amendment of this zoning ordinance. However, said use may be moved to another position on the lot or parcel through appeal to the Board of Zoning Adjustments in Section IV, Article 3.

3. When a non-conforming use of land is discontinued or abandoned so as to show a gross lack of diligence in using for one (1) year or more (except when governmental action prevents such use), the land shall not thereafter be used except in conformity with the regulations of the zone or district in which it is located.

D. NON-CONFORMING STRUCTURES

Where a lawful structure exists at the effective date of adoption or amendment of this ordinance that could not be built under the terms of this zoning ordinance by reason of restrictions on area, lot coverage, heights, yards, its location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No such non-conforming structures may be enlarged or altered in a way which increases its non-conformity, but any structure or portion thereof may be altered to decrease its non-conformity.

2. Should such non-conforming structure or non-conforming portion of a structure be damaged, destroyed or demolished by any means, it may be reconstructed or repaired but not to exceed the number of cubic feet existing in it, and not to extend or enlarge the scope and area of its operation prior to its damage, destruction, or demolition except as otherwise provided in Section E,5 hereinbelow.

3. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the zone or district in which it is located after it is moved. However, said structure may be moved to another part of the same lot by appeal to the Board of Zoning Adjustments as provided in Section IV, Article 3.

E. NON-CONFORMING USES OF STRUCTURE OR OF STRUCTURES AND PREMISES IN COMBINATION

If lawful use involving individual structures or of structures and premises in combination exists at the date of adoption or amendment of this zoning ordinance that would not be allowed in the zone or district under the terms of this zoning ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No existing structure devoted to a use not permitted by this zoning ordinance in the zone or district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in the zone or district in which it is located except as provided in Section E,5 hereinbelow.

2. Any non-conforming use may be extended throughout any part of a building which was arranged or designed for such use at the date of adoption or

amendment of this zoning ordinance, but no such use shall be extended to occupy any land outside such building.

3. If no structural alterations are made, any non-conforming use of a structure, or structure and premises, may be changed to another non-conforming use by appeal to the Board of Zoning Adjustments if the proposed use is in the same or a more restrictive classification. In permitting such change, the Board of Zoning Adjustments may require appropriate conditions and safeguards in accord with the provision of this zoning ordinance.

4. Any structure, or structure and land in combination, in or on which a non-conforming use is superseded by a permitted use, shall thereafter conform to the regulations for the zone or district, and the non-conforming use may not thereafter be resumed.

5. When a non-conforming use of a structure, or structure and premises in combination, is halted because of the damage, destruction or demolition of the structure by any means, the structure may be reconstructed or repaired but not to exceed the number of cubic feet existing in it prior to its damage, destruction or demolition, and the non-conforming use resumed but not to extend or enlarge the scope and area of its operation prior to its damage, destruction or demolition.

6. When a non-conforming use of a structure, or structure and premises in combination, intentionally is discontinued or abandoned so as to show a gross lack of diligence in using for one (1) year or more (except when government actions prevents such use), the structure or structure and premises in combination, shall not thereafter be used except in conformity with the regulations of the zone or district in which it is located.

F. REPAIRS AND MAINTENANCE

1. On any non-conforming structure or portion of structure, and on any structure containing a non-conforming use, work may be done on ordinary repairs, or on repair or replacement of walls, fixtures, wiring or plumbing or other parts, provided that the cubic content of the non-conforming structure or portion shall not be increased. Nothing in this zoning ordinance shall be deemed to prevent the strengthening, repairing, or restoring to a safe condition of any structure or part thereof.

G. CONDITIONAL USES NOT NON-CONFORMING

1. All existing principal permitted use at the date of the adoption or amendment of this zoning ordinance which would thereafter require a conditional use permit shall without further action be deemed a conforming use, but any enlargement or replacement of such use, in buildings or on land, shall require a conditional use permit.

PLANNED DEVELOPMENT PROJECT REGULATIONS

PLANNED DEVELOPMENT PROJECTS ARE CONDITIONAL USES IN THE FOLLOWING ZONING DISTRICTS:

R-2 – SINGLE FAMILY RESIDENTIAL PDP'S ONLY

R-3 – RESIDENTIAL PDP'S ONLY

R-3A

R-4

R-5

B-1

B-2

B-3

B-4

PROFESSIONAL OFFICE

INDUSTRIAL – PDP'S OTHER THAN FOR RESIDENTIAL USES

PLANNED DEVELOPMENT PROJECTS ARE PROHIBITED IN THE FOLLOWING ZONING DISTRICTS:

R-1

AGRICULTURAL

FLOODWAY

SECTION III
ARTICLE 5
PLANNED DEVELOPMENT PROJECT REGULATIONS

A. INTENT

It is the intent of the commission to allow some flexibility in this ordinance. This is done in recognition that times have changed and are changing. A planned development project is unique and is not intended for every development. It is intended that a condominium project, or an office park, or any combination of such be considered.

B. PROCEDURE

The planned development project process is designed for projects that are complex or innovative and perhaps different from normal development within the area. All planned development projects shall be subject to the following regulations:

1. The zoning official will determine if a project should follow the planned development project process.

2. ADVISORY MEETING WITH PLANNING COMMISSION: The development of a proposed planned development project shall meet with the Planning Commission prior to the preparation or submission of a plat. The purpose of this meeting shall be to discuss informally with the Planning Commission the minimum requirements and design standards for planned development projects as well as to discuss existing or proposed development which may affect, or be affected by, the proposed project. For the purpose of such discussion, the development shall provide a sketch plan indicating the proposed project area, its relationship to the surrounding area and general development scheme to be presented in the preliminary plat application. Formal application or filing of a plat with the Planning Commission is not required for the advisory meeting.

3. BOARD OF ZONING ADJUSTMENTS TO DETERMINE COMPATIBILITY: After the advisory meeting with the Planning Commission, the Board of Zoning Adjustments will meet to determine if a project is compatible in its proposed location. If the Board of Zoning Adjustments finds the project to be compatible with the surrounding area, a planned development project application and a plat shall be filed with the zoning official. A public hearing will be held by the Planning Commission within 60 days.

4. NOTICE OF HEARING: Notice of the public hearing shall be given as follows:

   (A) Notice of time, place and reason for holding a public hearing shall be given by one publication in the newspaper or general circulation in Calloway County, Kentucky not earlier than twenty-one (21) days nor later than seven (7) days before the public hearing.

(B) Notice of the hearing shall be given at least fourteen (14) days in advance of the hearing by first class mail to the owners of all property adjoining the property where the project is proposed. This includes those properties across public right-of-ways. If the property is jointly owned all property owners must be listed. It shall be the duty of the project applicant to furnish the names and addresses of the owners of all adjoining properties.

(C) Notice of the hearing shall be posted conspicuously on the property for fourteen (14) consecutive days immediately prior to the hearing. The sign shall state "PLANNED DEVELOPMENT PROJECT SITE" in letters three (3) inches in height. The time, place and date of hearing shall be in letters at least one (1) inch in height. The sign shall be constructed of durable material and shall state the telephone number of the appropriate zoning commission.

5. PUBLIC HEARING BEFORE THE PLANNING COMMISSION: The Planning Commission will conduct the public hearing as follows:

(A) The chairman of the Planning Commission shall preside at the hearing and shall be responsible for its conduct.

(B) The applicant or opponent may represent themselves, may be represented by counsel, or may be represented by another person or persons. Both the applicant and opponent may present witnesses to testify. Both the applicant and opponent shall have the right to cross-examine any witnesses who testify against them.

(C) The order of the hearing shall be as follows:

(1) Opening statement by applicant
(2) Opening statement by opponent
(3) Presentation of evidence and testimony by applicant
(4) Presentation of evidence and testimony by opponent
(5) Rebuttal of evidence and testimony by applicant
(6) Rebuttal of evidence and testimony by opponent
(7) Closing statement by applicant
(8) Closing statement by opponent

(D) No formal rules of evidence shall be required. The hearing itself shall be as informal as possible, consistent with an orderly determination in a fair and impartial manner of the issues before the commission.

(E) The hearing shall be electronically recorded. If a transcript is requested by either the applicant or opponent, the expense shall be accrued to said party requesting the transcript. If the Planning Commission gives preliminary approval to the proposed project, the commission must recommend to the Board of Zoning Adjustments that the project is considered for a conditional use permit.

6. CONDITIONAL USE PROCESS: An application for a conditional use permit must be filed with the zoning official prior to the meeting of the Board of Zoning Adjustments. The conditional use application process for a planned development project will be the same as for any other conditional use once the Planning Commission has given preliminary approval, except that a conditional use permit for any planned development project will not be valid until the Planning Commission has reviewed and approved the final plat of the project and certified such on the final plat.

7. PLANNING COMMISSION FINAL APPROVAL: Upon receiving written authorization by the Board of Zoning Adjustments of their approval for a conditional use permit, the applicant shall submit the plat of the proposed planned development project to the Planning Commission for its review and final approval within six (6) months from the date of such written approval. If the Planning Commission finds that the plat is substantially in accord with preliminary approval and fulfills the attached special conditions, the Planning Commission may approve the project and the chairman of the Planning Commission shall indicate such approval on the final plat. The planned development project shall thereafter be subject to all of the provisions of this ordinance regarding conditional use permits including recording, effect, noncompliance, time limit and permanently satisfied permits.

C. DIMENSIONAL AND AREA REGULATIONS

Dimension and area regulations and lot sizes may vary from that allowed in the applicable zoning district but are intended to be consistent and compatible with existing development. The overall density shall be consistent with the applicable zoning district.

D. SIGNS

Signs are allowed as provided by the Planning Commission, and only as specified on the approved development plan.

E. OTHER REQUIREMENTS

1. All PDP's must be filed as approved by the Planning Commission and Board of Zoning Adjustments with the Calloway County Clerk's office and the Murray Planning Commission. No changes will be permitted unless prior approval is received by the Board of Zoning Adjustments and these must be consistent with the Planning Commission's intent and direction. All changes will also be recorded with the clerk and the Planning Commission and will originate with the zoning official.

2. The plat submitted to the Board of Zoning Adjustments and Planning Commission shall have the following information contained and data, and shall be drawn to appropriate scale as approved by the Planning and Engineering Department as to the size and nature of the project.

   (A) Buildings.

   (B) Parking areas with arrangement and number of parking spaces.

(C) Entrance and exit roads and their relationship to existing and proposed streets, alleys and other public ways.

(D) Setback lines, permanent open spaces, separation strips and landscaped areas.

(E) Date, title, name and location of the PDP, graphic scale, and true north line.

(F) All dimensions, angles, bearings and similar data on plat shall be tied to the primary control points, location and description of such control points shall be given.

(G) Project boundary lines, buildings, parking areas, setback lines, permanent open spaces, separation strips, landscaped areas, easements, access roads and street right-of-way lines with accurate dimensions to the nearest one-hundredths of a foot; bearings or deflection angles, radii, arcs, and central angles of all curves with dimensions to the nearest minute.

(H) Designation of all buildings, parking areas, permanent open spaces, separation strips, landscaped areas, easements, access roads, street right-of-way and other areas by name, use, purpose or other appropriate method as well as by width, length, land area or floor area devoted to such use or purpose.

(I) Location and description of monuments.

(J) Name and locations of adjoining subdivisions, streets, or other property.

(K) Certification, on plat, of title showing that the applicant is the owner and a statement by such owner dedicating streets, rights-of-way and any other sites for public uses, if any.

(L) Certification, on plat, by surveyor or engineer as to accuracy of survey and plat.

(M) All special conditions attached to preliminary approval or any restrictions specified by the owner shall be placed directly on the final plat or attached thereto in form for recording.

(N) Certification attached to plat stating that the owner has complied with the following:

(1) A surety bond or certified check has been posted with the city in sufficient amount to assure completion of all such required improvements within two (2) years.

(O) Certification on plat by the chairman of the Planning Commission and Board of Zoning Adjustments that the plat has been approved for recording in the office of the county clerk.

3. The requirements for all planned development projects shall be as follows:

(A) Construction of all PDP's shall be initiated within one year after approval of the final plat.

(B) The owner of a PDP shall provide and permanently maintain the areas required for landscaping purposes. The landscaping is subject to review and approval by the Planning Commission before preliminary or final approval.

(C) The applicant of a PDP may be required to provide a detailed statement of proposal, including covenants, agreements, or other specific documents, showing the ownership and method of assuring perpetual maintenance to be applied to those areas within the project that are to be used for open space, recreational or other common or quasi-public purposes. Such a statement, if required, shall be attached to the preliminary and final plats as special conditions.

(D) The applicant of a PDP may be required to provide a statement of financial responsibility including the posting of a surety bond or certified check payable to the City of Murray to assure the installation of improvements required as special conditions. The bond or check shall be subject to the condition that the improvements will be completed within two years after approval of the final plat.

(E) In addition to the Board of Zoning Adjustments fees for two meetings and the zoning fee, the Planning Commission shall set a plat review fee to $50 per final plat reviewed by the Planning Commission.

(F) An application for a PDP may include a proposed subdivision of the tract of land within the project property lines into one or more separately owned and operated units. Such proposed subdivision, if approved with the proposed PDP and is in compliance with the Murray Subdivision Regulations, shall be permissible without further subdivision regulation approval. Any PDP which includes a proposed subdivision of the total tract of land within the property lines into one or more separately owned and operated units shall, if approved, be subject to all attached special conditions and all provisions of this ordinance regarding conditional use permits in its entirety including all approved subdivisions regardless of their ownership.

(G) There shall be no subdivision of an approved PDP unless such subdivision is in conformance with the originally approved and recorded final plat or an amended final plat of the PDP has been approved and recorded in conformance with this ordinance regarding the procedure for review and approval of all PDP's.

(H) There shall be no change, alteration, amendment or extension of any approved PDP final plat unless such change, alteration, amendment or extension is approved in conformance with this ordinance.

(I) Construction of all PDP's shall be completed within two (2) years after approval of the final plat. The Planning Commission may, however, require as a special condition the completion of the project at an earlier

date and may grant an extension of completion time when such extension is deemed reasonable and necessary by the Planning Commission.

F. GENERAL STANDARDS

In any PDP, although it is permissible to depart from the conformance with the principal building and single-lot dimension and area regulations contained in this ordinance, there shall be no diminution of the regulations and standards set forth; in this ordinance for PDP's.

1. The Planning Commission shall examine the proposed PDP with particular attention to the following:

   (A) The influence the proposed project may be expected to have on existing or future development in surrounding areas and the achievement of a desirable spatial relationship between the buildings and the land, and between the buildings themselves.

   (B) To insure that the roads, thoroughfares, streets, and accompanying access points proposed are suitable and adequate to carry anticipated traffic and increased land use intensity will not generate traffic in such amounts as to overload the existing or proposed street network.

   (C) To insure that existing or proposed utility services are adequate for the population densities or land use intensities proposed.

2. Off-street parking space shall be provided on the site as provided in Section I, Article 3, E. of this ordinance. All parking space and access thereto shall be paved in a manner approved by the Planning Commission.

3. Areas shall be provided for the loading and unloading of delivery trucks and other vehicles and for the servicing of buildings by refuse collection, fuel and other service vehicles, in addition to the required automobile parking spaces. Such areas shall be adequate in size and so arranged that they may be used without blockage or interference with the use of accessways or automobile parking facilities.

4. No PDP shall be permitted vehicular access to a minor residential street unless specifically approved by the Planning Commission.

5. Lighting facilities shall be arranged in such a manner so as to prevent direct glare or hazardous interference of any kind to adjoining streets or properties.

6. All PDP building construction shall conform to all local, state and federal regulations pertaining to the particular type of building or buildings proposed. The Planning Commission may also require as a special condition that any building construction in a PDP be of an approved fire resistant material or that before the certificate of occupancy for any building within the project is approved, the developer must provide the enforcement officer written certificates of approval from the state fire marshal and/or state health department.

7. The Planning Commission shall attach any reasonable special condition necessary to insure that there be no departure from the intent of this zoning ordinance.

8. Because a PDP is inherently more complex than single lot development and because each such project must be tailored to the topography and neighboring uses, the standards and special conditions for such projects cannot be inflexible.

9. Adult oriented businesses are prohibited as a planned development project.

SECTION III
ARTICLE 6
HOME OCCUPATION REGULATIONS

A. INTENT

The purpose of this home occupation provision is to allow for certain types of restricted occupational uses within residential districts that are compatible with the neighborhood in which they are located.

B. DEFINITIONS AS USED IN THIS ORDINANCE

1. HOME OCCUPATION – Any business, professional or commercial activity that is conducted or petitioned to be conducted from and performed on property that is zoned for residential use unless the following conditions can be met:

    a. No generation of traffic, noise or odor
    b. No employees other than those that reside on the premises
    c. No sign on premises
    d. No external storage of inventory or vehicles
    e. No external alteration of the dwelling
    f. Use is conducted entirely within a dwelling or accessory building

2. HOME OCCUPATION CONDITIONAL USE PERMIT – A permit which may be authorized by the Board of Zoning Adjustments. The permit shall be temporary in nature and may be granted to a designated person who resides at a residential address. The permit shall not be transferable from one person to another person, one home occupation to another home occupation, or from one address to another address.

C. PROCEDURE

1. Application for a home occupation conditional use permit shall be made to the zoning official on a form provided by the zoning official and shall be accompanied by the prevailing filing fees. The zoning official will then present the request to the Board of Zoning Adjustments for it's action within 45 days.

2. The zoning official may revoke any home occupation permit for noncompliance with the criteria set forth in section D. If the permit is revoked, it becomes null and void, and the home occupation shall be terminated.

3. The decision of the zoning official concerning revocation of the home occupation conditional use permit shall be final unless a written appeal by the applicant is filed with the Board of Zoning Adjustments within thirty days of the applicants receipt of the notice to revoke the permit.

4. If a person holding a home occupation permit moves to a new location, the existing permit shall be automatically terminated. The individual shall notify the zoning official of any move from the permit location or termination of the home occupation.

D. REQUIRED CONDITIONS

The Board of Zoning Adjustments may only grant a conditional use permit for a home occupation which meets the following conditions and requirements:

1. A home occupation shall be clearly incidental and secondary to the use for dwelling purposes.

2. The use shall be conducted primarily entirely within a dwelling or its accessory structures.

3. The use does not require substantial external alteration of the dwelling.

4. On the premises retail sales shall be prohibited.

5. The applicant may employ in the home occupation only individuals who permanently reside on the premises in which the home occupation is to be conducted. Additional employees shall be prohibited.

6. There shall be no exterior storage of materials to be used in conjunction with a home occupation.

7. A home occupation shall produce no offensive noise, vibration, smoke, dust, odors or heat. The premises and structures on the premises shall be maintained to conform to neighborhood standards.

8. The home occupation shall not generate additional vehicular or pedestrian traffic to the residence unless approved by the Board of Zoning Adjustments.

9. External storage or display of materials, goods, supplies, or equipment related to the operation of a home occupation is prohibited.

10. Home occupations shall comply with all local, state or federal laws or regulations pertinent to the activity pursued, and the requirements of or permission granted by this section shall not be construed as an exemption from such regulations.

11. Only one unlighted sign not over two (2) square feet in area identifying home occupations shall be permitted on the dwelling premises.

Persons with demonstrated physical handicaps may be permitted special consideration by the Board of Zoning Adjustments. The applicant may request waiver of a portion or all of one or more of the foregoing requirements. This special request shall be considered at a Board of Zoning Adjustments meeting, after notification to adjacent property owners. The Board of Zoning Adjustments may only grant waivers on the basis of applicant's physical inability to function within said requirements.

E. THE FOLLOWING USES SHALL BE PROHIBITED AS HOME OCCUPATIONS:

1. Ambulance service
2. Automobile repair; parts sales, upholstery, detailing or painting; washing service
3. Beauty salons or barber shops
4. Boarding house, bed & breakfast, hotel
5. Churches, religious instruction
6. Health salons, dance studios, aerobic exercise studios
7. House painting
8. Medical, dental or psychological services
9. Mortician, hearse service
10. Private clubs
11. Restaurants
12. Retail sale from site
13. Veterinary uses (including care, grooming or boarding)
14. Welding shop
15. Any similar type services as determined by the Board of Zoning Adjustments
16. Adult oriented businesses

SECTION III
ARTICLE 7
ADULT ORIENTED BUSINESSES

A. PURPOSE

The purpose of the ordinance is to regulate adult oriented businesses through the application of uniform zoning, locational and distance requirements to promote the health, safety, morals and general welfare of the citizens of Murray, Kentucky and establish reasonable and uniform regulations for the operation of adult oriented businesses with the goal of reducing or eliminating the adverse secondary effects associated with adult oriented businesses. It is not the intent of this ordinance to limit or restrict the content of communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this ordinance to restrict or deny access by adults to materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this ordinance to condone or legitimize the distribution of obscene materials.

B. DEFINITIONS

For the purposes of this ordinance, certain terms and words are defined as follows:

1. "Adult Oriented Businesses" are those businesses defined as:

   a. "Adult Bookstore," "Adult Novelty Store" or "Adult Video Store" means a commercial enterprise which has a significant or substantial portion of its stock-in-trade or derives a significant or substantial portion of its individual sales or devotes a significant or substantial portion of its interior business or advertising to the sale or rental, for any form of consideration, of any one or more of the following:

      (1) Books, magazines, newspapers, periodicals or other printed matter, or drawings, photographs, films, motion pictures, video cassettes, slides, compact discs, laser discs, computer driven video productions, or other visual representations which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas" as defined herein.

      (2) Instruments, devices, or paraphernalia which are designed for use or marketed primarily for stimulation of human genital organs or for sadomasochistic use or abuse.

   For the purposes of this definition, "significant or substantial portion" shall mean at least twenty-five (25%) of the business sales, interior business premises or advertising is devoted to an adult oriented business purpose.

   b. "Adult cabaret" means a nightclub, bar, restaurant, "bottle club", adult dancing business or similar commercial enterprise, whether or not alcoholic beverages are served, which regularly features:

(1) Persons who appear nude, semi-nude or in a state of nudity; or

(2) Live performances which are characterized by the exposure of "specified anatomical areas" and/or the exhibition of "specified sexual activities" or

(3) Photographs, films, motion pictures, video cassettes, slides, compact discs, laser discs, computer driven video productions, or other visual representations which are characterized by the depiction or description of "specified sexual activities" and/or "specified anatomical areas" as defined herein; or

(4) "Adult dancing." "Adult dancing" shall mean and include, but not be limited to the following: any dancing which exposes to view by patrons, spectators or persons on the premises at any time the "specified anatomical areas" and/or consists of "specified sexual activities".

c. "Adult motel" means a motel, hotel or similar commercial enterprise which offers public accommodations, for any form of consideration, which provides patrons with closed-circuit television transmissions, photographs, films, motion pictures, video cassettes, slides, compact discs, laser discs, computer driven video productions, or other visual representations which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas" as defined herein; and which advertises the availability of this adult oriented type of material by means of a sign visible from the public right-of-way, or by means of any off-premises advertising including but not limited to, newspapers, magazines, pamphlets or leaflets, radio or television.

d. "Adult movie theater" means a commercial enterprise where photographs, films, motion pictures, video cassettes, slides, compact discs, laser discs, computer driven video productions, or other visual representations which are characterized by the dominant depiction or description of "specified sexual activities" or "specified anatomical areas" as defined herein; are regularly shown for any form of consideration.

e. "Adult theater" means a theater, concert hall, auditorium, or similar commercial enterprise which, for any form of consideration, regularly features persons who appear in a state of nudity or live performances which are characterized by an emphasis on and/or exposure of "specified anatomical areas" or by "specified sexual activities".

f. "Escort agency" means a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration; including, but not limited to an out-call service in the form of nude or semi-nude dancing or exhibition.

g. "Adult personal service business" means any commercial enterprise where, either on or off the business premises, for any form of consideration or gratuity; massage, alcohol rub, administration of fomentations, electric or magnetic treatments, hair care, manicures,

pedicures, exotic rubs, and/or any other treatment manipulation of the human body, occurs as a part of or in connection with "specified sexual activities," or where any person providing such treatment, manipulation, or service related thereto, exposes any of his or her "specified anatomical areas" for another person, who may or may not appear in a state of nudity or display "specified anatomical areas". The definition of adult personal service business or adult oriented business shall not include the practice of any treatment manipulation in any licensed hospital, nor by a licensed hospital, nor by a licensed physician, surgeon, chiropractor or osteopath, nor by any nurse or technician working under the supervision of a licensed physician, surgeon, chiropractor or osteopath, nor by trainers for any amateur, semiprofessional or professional athlete or athletic team or school athletic program.

h. "Nude Model Studio" means any place where a person, who regularly appears in a state of nudity or displays "specified anatomical areas" is provided for money or any form of consideration to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons. This definition does not include a modeling class offered by a college, junior college, or university supported in whole or in part by taxation; by a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or in a structure: (a) which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and where, in order to participate in a class, a student must enroll at least three (3) days in advance of the class.

i. "Sexual Encounter Center" means a business or commercial enterprise, that as one of its primary business purposes, offers for any form of consideration, a place where two or more persons may congregate, associate, or consort for the purpose of "specified sexual activities" or the exposure of "specified anatomical areas" or activities when one or more of the persons is in a state of nudity or semi-nudity. The definition of sexual encounter center shall not include a business where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in medically approved and recognized sexual therapy.

j. "Adult Arcade" shall mean any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image producing devices are regularly maintained to show images to five or fewer persons per machine at any one time, where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activites or specified anatomical areas.

A business may have other principal business purposes that do not involve any of the aforementioned "Adult Oriented Businesses" and still be categorized as an "Adult Oriented Business". Such other business purposes will not serve to exempt such businesses from being categorized as an "Adult Oriented Business" so long as one of

its principal business purposes, in form or substance, is an "Adult Oriented Business" as defined by this ordinance.

2. "Establishment" means and includes any of the following:

   a. The opening or commencement of any adult oriented business as a new business.

   b. The conversion of an existing business, whether or not an adult oriented business, to any of the adult oriented businesses defined in this ordinance;

   c. The addition of any of the adult oriented businesses defined in this ordinance to any other existing adult oriented businesses; or

   d. The relocation of any such adult oriented business.

3. "Nudity" or "State of Nudity" means:

   a. The appearance of the human bare buttocks, anus, male genitals, female genitals, or the areola or nipple of the female breast; or

   b. A state of dress which fails to opaquely and fully cover human buttocks, anus, male or female genitals or any portion of the human female breast below a horizontal line across the top of the areola at its highest point. This definition shall include the entire lower portion of the human female breast; but shall not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, shirt, leotard, bathing suit or other wearing apparel provided that the areola and/or nipple is not exposed in whole or in part. This definition shall include the cleavage of the human buttocks, but shall not include any portion of the cleavage of the human buttocks exhibited by a bathing suit, thong, g-string or other wearing apparel.

4. "Operator" means and includes the owner, permit holder, manager or person in charge of any permitted or licensed premises.

5. "Permitted Premises" means any premises that requires a permit and that is classified as an Adult Oriented Business.

6. "Permittee and/or Licensee" means a person in whose name a permit and/or license to operate, work in, perform in or entertain in an adult oriented business has been issued, as well as the individual listed as an applicant on the application for a permit and/or license.

7. "Person" means an individual, proprietorship, partnership, corporation, association or other legal entity recognized by the Kentucky Revised Statutes or any other state.

8. "Specified Anatomical Areas" as used in this ordinance means and includes any of the following:

   a. Less than completely and opaquely covered human genitals, buttocks, the anus, the human female breast below a horizontal line across the top of the areola at its highest point. This definition shall include the entire lower portion of the human female breast; but shall not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, shirt, leotard, bathing suit or other wearing apparel provided that the areola and/or nipple is not exposed in whole or in part. This definition shall include the cleavage of the human buttocks, but shall not include any portion of the cleavage of the human buttocks exhibited by a bathing suit, thong, g-string or other wearing apparel; or

   b. Human male genitals in a clearly discernible turgid state, even if completely and opaquely covered.

9. "Specified Sexual Activities" as used in this ordinance means and includes any of the following:

   a. The fondling or other intentional touching of human genitals, buttocks, anus, or female breasts; or

   b. Sex acts, normal, deviant, or perverted, actual or simulated; including, but not limited to sexual intercourse, oral copulation, anilingus, cunnilingus, fellatio, flagellation, sadism or sadomasochism;

   c. Erotic or sexual stimulation with objects or mechanical devices; or

   d. Masturbation, actual or simulated; or

   e. Human genitals in a state of sexual stimulation, arousal or tumescence; or

   f. Bestiality; or

   g. Excretory functions as part of or in connection with any of the activities set forth in subdivisions (1) through (6) of this subsection.

10. "Substantial Enlargement of an Adult Oriented Business" means increase in the floor area occupied by the business by more than 15%, as the floor areas exist on the date of the enactment of this ordinance.

11. "Transfer of Ownership or Control of an Adult Oriented Business" means and includes any of the following:

   a. The sale, lease or sublease of the business;

   b. The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or

c. The establishment of a trust, gift, or other similar legal devise which transfers ownership or control of the business, except for transfer by bequest or other operation of law upon the death of a person possessing the ownership or control.

12. "Protected Uses" are those uses listed below and defined as:

a. "Public building" means any building owned, leased, or held by the United States, the State of Kentucky, Calloway County, the City of Murray, any special district, school district, or any other agency or political subdivision of the State or the United States, which building is used for governmental purposes.

b. "Public Park" or "recreation area" means public land, structure or building which has been designated for park or recreational activities including but not limited to a park, playground, swimming pool, athletic field, basketball or tennis courts, pedestrian/bicycle paths, open space, or similar public land within the city which is under the control, operation, or management of the city park and recreation authorities.

c. "Religious institution" means any church, synagogue, mosque, temple or building which is used primarily or regularly for religious worship and related religious activities.

d. "School" means any public or private educational facility including but not limited to "Day Care Centers" (as defined in the Zoning Ordinance), kindergartens, elementary schools, primary schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, school administration buildings or facilities, junior colleges, and universities. School includes any building upon the school grounds.

13. "Residential Zone" means any land so designated by the Zoning Ordinance of the City of Murray as R-1, R-2, R-3, R-3A, R-4, R-5 or any residential zone as hereafter created.

C. ESTABLISHING AND CLASSIFICATION OF REGULATED BUSINESSES

1. Adult oriented businesses shall be established only in identified B-2 and Industrial zones and shall be subject to the restrictions of this article. In those zones, adult oriented businesses shall be conditional uses; provided all other requirements of this Chapter are satisfied. No person shall establish an adult oriented business within 1000 feet of another adult oriented business or within 750 feet of any protected use(s), as previously defined, or within 300 feet of any residential zone. The adult oriented business zoning map is hereby incorporated by reference as if fully set forth herein. Adult oriented businesses, as defined in Section III, Article 7,B,1, are classified as follows:

a. Adult Bookstores.
b. Adult Novelty Stores.
c. Adult Video Stores.
d. Adult Cabarets.
e. Adult Motels.

f. Adult Motion Picture Theaters.
g. Adult Theaters.
h. Adult Personal Service Businesses.
i. Sexual Encounter Centers.
j. Escort Agencies.
k. Nude Model Studios, and
l. Adult Arcades.

D. MEASUREMENT OF DISTANCE

For the purpose of this ordinance, the distance between any two adult oriented businesses shall be measured in a straight line, without regard to intervening structures, from the closest exterior structural wall of each business. The distance between any adult oriented business and any protected use, as defined in this ordinance, shall be measured in a straight line, without regard to intervening structures, from the nearest part of the adult oriented business to the closest exterior structural wall of the protected use. The distance between any adult oriented business and any residential zone shall be measured by a straight line, without regard to intervening structures, from the nearest part of the adult oriented business to the exterior line of the residential zone.

E. NON-CONFORMING USES

An adult oriented business lawfully operating as a conforming use is not rendered non-conforming by the subsequent location of a protected use within 750 feet of the adult oriented business, the subsequent location of an adult oriented business within 1000 feet of the adult oriented business and/or the location of a residential zone within 300 feet of the adult oriented business. This subsection does not apply to an adult oriented business whose permit and/or license has expired or been revoked.

F. LOCATION OF ADULT ORIENTED BUSINESS

A person commits a Class B Misdemeanor as defined by Section III, Article 7(H), if he/she/it operates or causes to be operated an adult oriented business:

1. In any manner except as provided under this ordinance,

2. Within 750 feet of any protected use,

3. Within 1000 feet for any other adult oriented business,

4. Within 300 feet of a residential zone,

5. Operates more than one adult oriented business under a single roof, or

6. Causes the substantial enlargement of an adult oriented business.

G. ADVERTISING AND LIGHTING REGULATIONS

A person commits a violation as defined by Section III, Article 7(H) if he/she/it operates or causes to be operated an adult oriented business; and displays or exhibits adult oriented materials and adult oriented performances in advertising which is visible outside the premises except for advertising showing the existence or location of

an adult oriented business. Nothing in this section relieves the permittee from compliance with any other provision of the ordinances or planning and zoning requirements of the City of Murray, Kentucky.

H. CRIMINAL PENALTIES AND LEGAL, EQUITABLE AND INJUNCTIVE RELIEF

1. For the purpose of this ordinance, the following definitions of crimes shall apply:

    a. A Class A Misdemeanor shall be punished by a term of imprisonment not to exceed 12 months and/or a fine not to exceed $500.00.

    b. A Class B Misdemeanor shall be punished by a term of imprisonment not to exceed 90 days and/or a fine not to exceed $250.00.

    c. A Violation shall be punished by a fine not to exceed $250.00.

2. Each violation of or non-compliance with this ordinance shall be considered as a separate offense as will each day of continued violation or non-compliance.

3. The City may take any such lawful action to prevent or remedy any violation or non-compliance including but not limited to an equitable action for injunctive relief or an action at law for damages. In such action, attorneys fees and costs of the City shall be assessed against the Defendant(s).

I. IMMUNITY FROM PROSECUTION

The City, the Police Department and all other city officers, agents and employees, charged with enforcement of state and local laws and codes shall be immune from prosecution, civil or criminal, for reasonable, good faith trespass upon an adult oriented business while acting within the scope of authority by this ordinance.

J. SEVERABILITY

If any article, section, subsection, sentence, clause, phrase, work or provision of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction whether for substantive, procedural, or any other reason, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance.

SECTION III
ARTICLE 8
STORMWATER CONVEYANCE, EROSION CONTROL, AND POLLUTION PREVENTION

A. PURPOSE

Proper stormwater management and good water quality are ~~is~~ vital in promoting the health, safety and general welfare of the public. It is the intent of this chapter, in an effort to minimize the dangers of flooding to life and property, and to assist in the preservation and protection of the Murray water quality and natural environment and more specifically:

A. Regulating the alteration of land and topography.

B. Regulating the removal of vegetation.

C. Requiring re-vegetation, and reducing erosion and sedimentation through control requirements.

D. Reducing pollutants in stormwater discharges.

E. Prohibiting non-stormwater discharges to the storm sewer drainage system.
The design criteria for stormwater conveyance, erosion control, and stormwater pollution prevention are outlined in this ordinance.

B. DEFINITIONS

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

80th PERCENTILE RAINFALL EVENT. The rainfall event, based on historical rainfall records, that represents an event that is equal to or greater than 80 percent of the rainfall events that would be expected to occur in a typical year.

AUTHORIZED ENFORCEMENT AGENCY. Mayor, City of Murray, MS4 Operator or authorized representative.

BEST MANAGEMENT PRACTICE OR BMP. Any structural or nonstructural control measure utilized to improve the quality and, as appropriate, reduce the quantity of stormwater run-off. The term includes schedules of activities, prohibitions of practice, treatment requirements, operation and maintenance procedures, use of containment facilities, land use planning, policy techniques, and other management practices.

CHANNEl. A natural or man-made watercourse of perceptible extent, with definite bed and banks to confine and conduct continuously or periodically flowing water.

CLEAN WATER ACT. The Federal regulations (33 U.S.C. -1251 et seq. and as amended) that prohibit the discharge of pollutants to waters of the United States unless such discharge is in accordance with an approved National Pollutant Discharge Elimination System (NPDES) permit.

CONSTRUCTION ACTIVITY. Activities subject to NPDES Construction Permits include construction projects resulting in land disturbance of 1 acre or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

CONTIGUITY. An entity's proximity to a designated MS4 area in such a way that it allows for direct discharges of stormwater run-off into the regulate MS4 conveyance.

CONTROLLED RELEASE STRUCTURE. A facility constructed to regulate the volume of stormwater runoff that is conveyed during a specific length of time.

CONVEYANCE. Any structure process for transferring stormwater between at least two (2) points. The term includes piping, ditches, swales, curbs, gutters, catch basins, channels, storm drains, and roadways.

CONVEYANCE STRUCTURES. Water carrying devices or improvements such as channels, ditches, storm sewers, culverts, inlets, and the like.

CULVERTS AND CROSS DRAINS. A short, closed (covered) conduit that passes stormwater runoff under an embankment.

DETENTION* or *RETENTION. Delaying the rate of stormwater runoff in a controlled manner, typically by using temporary storage areas and a man-made outlet device.

DEVELOPED. Conditions after construction or other manmade change to improved or unimproved (land), including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.

DISPOSAL. The 1) discharge; 2) deposit; 3) injection; 4) spilling; 5) leaking; or 6) placing of any solid waste or hazardous waste into or on any land or water so that the solid waste or hazardous waste, or any constituent of the waste, may enter the environment, be emitted into the air, or be discharged into any waters, including ground waters.

ERODED. Weathered or worn away outer layers of soil by the action of water.

ESCP PLAN. Erosion and Sediment Control Plan which includes a set of best management practices or equivalent measures designed to control surface runoff and erosion and to retain sediment on a specific development site or parcel of land during the period in which pre-construction and construction related land disturbances, fills, and soil storage occur, and before final improvements are completed, all in accordance with this Ordinance.

EXCESS STORMWATER. That portion of stormwater runoff, which exceeds the capacity of the storm sewers or natural drainage channels serving a specific watershed.

EXISTING STORMWATER FACILITY. Any existing structural feature that slows, treats, filters, or infiltrates runoff after a rainfall event.

GARBAGE. All animal solid, vegetable solid, and semisolid wastes resulting from the 1) processing; 2) handling; 3) preparation; 4) cooking; 5) serving; or 6) consumption of food or food materials.

HAZARDOUS WASTE. Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infections characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of or otherwise managed.

HOTSPOT. An area where the land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in Storm Water.

ILLICIT DISCHARGE. Any discharge to an MS4 conveyance that is not composed entirely of stormwater.

ILLICIT CONNECTIONS. An illicit connection is defined as either of the following:

A. Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allows any non-stormwater discharge including sewage, process wastewater, effluent, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains, washing machines, bathtubs, and sinks regardless of whether said drain or connection had been previously allowed, permitted, or approved by any enforcement agency.

B. Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

IMPERVIOUS SURFACE. Asphalt, concrete or any other surface, which does not allow measurable infiltration.

INDUSTRIAL ACTIVITY. Activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26(b) (14).

INLET (STORM DRAIN). An opening leading to an underground pipe or open ditch for carrying surface runoff.

(MS4) MUNICIPAL SEPARATE STORM SEWER SYSTEM. A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, and storm drains) owned or operated by a state, city, town, county, district, association, or other public body (created by or pursuant to state law) having jurisdiction over disposal of sewage, industrial water, stormwater, or other wastes, that discharge to waters of the United States.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER DISCHARGE PERMIT. A permit issued by EPA or the Kentucky Department of Environmental Protection that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area wide basis.

NATURAL DRAINAGE. Water which flows in natural channels formed by the surface topography of the earth.

NON-STORMWATER DISCHARGE. Any discharge to the storm drain system that is not composed entirely of stormwater.

NOTICE OF INTENT (NOI). Formal notice to the EPA or a state agency having delegated NPDES authority that a construction project seeking coverage under a General Permit is about to begin.

OFF-SITE. External to the boundary of a development.

ON-SITE. Internal to the boundary of a development.

PERSON. Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

POINT DISCHARGE (OUTFALL). Release of stormwater at a specific location.

POLLUTANT. Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, solvents: oil and automotive fluids; non-hazardous liquid and solid wastes; yard wastes; refuse, rubbish, garbage, litter, floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, effluent, fecal coliform, E. Coli, and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from construction a building or structure and noxious or offensive matter of any kind.

POND. An inland body of standing water that is usually smaller than a Lake.

PREMISES. Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

RECEIVING WATERS . The "water of the Commonwealth" as defined in KRS 224.01-010 (33) into which the regulated stormwater discharges (modified EPA CGP).

REDEVELOPMENT. The improvement of a lot or lots that have been previously developed.

REVIEW STAFF. The City Engineer and/or other designated officials.

RUBBISH. Combustible and noncombustible waste materials except garbage; the term shall include the residue from the burning of wood, coal, coke and other combustible materials, paper, rags, cartons, boxes, wood excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery and dust and other similar materials.

RUNOFF. Rainfall excess after natural losses from infiltration, evaporation, transpiration, or incidental pondage.

SEDIMENT. Solid material, either mineral or organic, that is in suspension, is being transported, or has been moved from its site of origin by erosion.

STORM DRAINAGE SYSTEM. Publicly owned facilities by which stormwater is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and other drainage structures.

STORM SEWER. Two or more inlets connected by pipes.

STORMWATER. Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

STORMWATER POLLUTION PREVENTION PLAN. A document which describes the Best Management Practices (BMPs) and activities to be implemented by a person or business to identify source of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters.

STORMWATER RUNOFF RELEASE RATE. The rate at which stormwater runoff is released from dominate to servient land.

STORMWATER STORAGE AREA. An area designed to temporarily accumulate excess stormwater.

STREAM. For the specific purpose of Vegetated Buffers, a Stream is defined as a linear surface water conveyance that can be characterized with either perennial or ephemeral base flow.

STRUCTURE. Anything constructed or erected such that the use of it requires a more or less permanent location on or in the ground. Such construction includes, but is not limited to, objects such as buildings, towers, smokestacks, overhead transmission lines, carports and walls.

SWALE. Surface-type conveyance for stormwater usually designated to carry incidental, localized runoff.

TMDL. Total Maximum Daily Load. A TMDL is a calculation of the maximum amount of a pollutant that a waterbody can receive and still meet water quality standards, and an allocation of that amount to the source(s) of the pollutant.

TRANSPORTING. Any moving of earth materials from one place to another, other than such movement incidental to grading, as authorized on an approved plan.

VEGETATIVE BUFFER. A use-restricted vegetated area that is located along the perimeter of Streams, Ponds, Lakes or Wetlands, containing natural vegetation and grasses, or enhanced or restored vegetation.

WASTEWATER. Any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

WATER QUALITY CONTROL STRUCTURE. The structures (e.g. grass swales, filter strips, infiltration basins, detention ponds, stormwater wetlands, natural filtration areas, sand filters, and rain gardens, etc.), used to slow runoff, promote infiltration, and reduce sediments and other pollutants in stormwater runoff.

WATER QUALITY MANAGEMENT FACILITIES. Structures and constructed features designed to prevent or reduce the discharge of pollution in Storm Water runoff from a Development or Redevelopment. Water Quality Management Facilities can often be referred to as BMPs.

WATER QUALITY MANAGEMENT PLAN. An engineering plan for the design of Water Quality Management Facilities and Best Management Practices within a proposed Development or Redevelopment. The Water Quality Management Plan includes a map showing the extent of the land development activity and location of Water Quality Management Facilities and BMPs, design calculations for Water Quality Management Facilities and BMPs, and may contain record drawings/certifications and covenants for permanent maintenance of Water Quality Facilities and Best Management Practices.

WATER QUALITY RUNOFF STANDARDS. The stormwater volume to be treated through a water quality control structure based on the surface runoff produced by an 80th percentile rainfall event

WATER QUALITY STANDARDS. Administrative regulation promulgated by the State of Kentucky establishing the designated use of a surface water and the water quality criteria necessary to maintain and protect that designated use (4041 KAR 5:002; 401 KAR 5:031 as amended).

WETLAND. An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetland determination shall be made by the United States Army Corps of Engineers, and/or the Kentucky Division of Water, and/or the Natural Resources Conservation Service.

C. STORMWATER CONVEYANCE, MANAGEMENT, AND WATER QUALITY FACILITIES REQUIRED

All development occurring within the city and its area of extraterritorial jurisdiction for subdivision regulations shall provide for properly sized stormwater conveyance facilities and shall contain on-site, or provide off-site stormwater management facilities capable of controlling increased runoff relative to its pre-developed condition, and water quality control structures capable of managing the stormwater runoff quality produced from an 80th percentile rainfall event under post-construction conditions (See Section E.4). Unless included in exemptions listed in Section E, no application for preliminary or final plan of subdivision shall be approved unless it includes either a plan describing the manner in which stormwater erosion and sediment resulting from the development will be controlled or managed or a documented request for a waiver thereof. Similarly, unless exempt, no building permit shall be issued for any parcel or lot until either an adequate stormwater management plan addressing erosion, sediment and stormwater, or a documented request for a waiver thereof, has been approved.

D. STORMWATER CONVEYANCE FACILITIES AND WATER QUALITY DESIGN CRITERIA

The following criteria shall control when designing stormwater conveyance facilities and water quality control structures:

1. Open channels and roadside ditches. The design storm for the design of open channels and roadside ditches shall be a storm with a recurrence frequency of ten year/24-hour duration. The time of concentration for open channel and roadside ditch design should be 15 minutes.

2. Storm sewers and inlets. The design storm for the design of storm sewers and inlets shall be the 25 year storm/24-hour duration (TR-55 Method and Rational Method) loading conditions for ponding limits. The ponding limit for streets with curb and gutter shall be an eight-foot spread measured from gutter to driving lane. Spread calculations shall be based upon an intensity of four inches per hour. Pipes should be sized based upon the actual time of concentration. The minimum time of concentration should be assumed to be eight minutes.

3. Entrance pipes and cross drains. The design storm for the design of entrance pipes and cross drains shall be the 25 year storm/24-hour duration (TR-55 Method and National Method). The duration of the peak rainfall event shall be assumed to be equal to the calculated time of concentration. The minimum time of concentration shall be assumed to be eight minutes. Entrance pipes and cross drains shall be checked for overtopping of roadways and flood damage to affected areas. Situation requiring pipes larger than 36 inches shall be designed using the culvert criteria located in Part D.4 of this section.

4. Culverts and cross drains. The design storm for the calculation of runoff for culvert design shall be the 25-year storm. The duration of the peak rainfall event shall be assumed to be equal to the calculated time of concentration. The recommended check storm is the 100-year storm. The maximum headwater under 100-year storm conditions should not be allowed to overtop roads or increase the flooding potential.

5. Erosion control. Plans for stormwater conveyance systems shall include appropriately designed temporary and permanent erosion-control measures both for the open channel conduits and all disturbed land draining to both open and closed conduits within the system. (*Best Management Practices for Construction Activities* prepared by the Kentucky Natural Resources and Environmental Protection Cabinet and section F of this ordinance should be used as design guides for erosion and sediment control).

6. Water Quality Control Structures. The design rainfall event for the design of all stormwater quality control structures shall be the surface depth of runoff produced from an 80th percentile precipitation event. Stormwater quality control structures shall be designed, built, and maintained to treat, filter, flocculate, infiltrate, screen, evapo-transpire, harvest, and reuse stormwater runoff, or otherwise manage the stormwater runoff quality for the 80th percentile precipitation event. Green Infrastructure devices may be used as water quality control structures if it meets the design criteria.

7. Design certification. Design of all stormwater conveyance and water quality facilities shall be prepared and stamped by a licensed professional engineer (Kentucky registration required). Design methods shall be in accordance with the Kentucky Department of Highways' *Manual of Instructions for Drainage Design*, latest edition.

E. STORMWATER MANAGEMENT FACILITIES DESIGN CRITERIA

As a minimum, the following criteria shall be followed when designing a stormwater management facility:

1. The rainfall events shall be analyzed using the Soil Conservation Service TR-55 method, Rational Method or other methods only as pre-approved by the City.

2. The stormwater discharge point onto adjoining property may not be relocated without the permission of the affected adjoining landowner and the City of Murray.

3. If the stormwater discharge onto adjoining property is of a sheet flow nature before development, the stormwater discharge onto adjoining property after development of the property may not be changed to a concentrated discharge point without the written agreement of the affected adjoining landowner.

4. The initial reference conditions for an undeveloped site shall be the conditions that existed on that site as of April 1, 1998. This date refers to the aerial photography on file at the City Engineering Department and available on request.

5. When a property to be developed experiences stormwater runoff from upstream, the effects of that runoff under current conditions shall be included in the stormwater analysis. If the off-site runoff is not isolated from the detention system, the effects of routing the off-site runoff through the detention facilities shall be included in the analysis (routed through design).

6. Design storm. Stormwater management facilities shall be designed to retain the difference in the pre-development and post-development 5-year, 10-year, and 25-year, 24- hour storm event. Stormwater management facilities that discharge to High Quality Waters shall be designed to retain the difference in the pre-development and post-development 2-year, 24-hour storm event. High Quality Waters are categorized by the Kentucky Division of Water as high quality pursuant to the requirements of 401 KAR 10:030, Section 1(3).

7. Emergency spillways. Emergency spillways shall be designed to pass the 100-year storm. The effect of the 100-year storm must be accommodated and documented in the design of all stormwater management facilities.

8. Design calculations. Design calculations submitted must include, but not be limited to, the following:

    A. Contributing drainage area in acres. Indicate if pre-development and post-development areas differ.

B. A breakdown of surface type for pre-development and post-development conditions (such as grassed, paved, roofed, and the like).

C. Stage-storage curve for the proposed stormwater management facility.

D. Stage-discharge curve for the outlet structure of the proposed stormwater management facility.

E. Inflow and outflow hydrographs for pre-development and post-development conditions.

F. Emergency spillway design calculations.

G. Embankment design criteria as it relates to slope stability and compaction requirements during construction.

9. Stormwater Management and Water Quality Plan. The final stormwater management and water quality plan shall include, but not be limited to, the following:

A. All calculations, assumptions and criteria used in the design of the stormwater management facilities and water quality control structures.

B. All plans and profiles of proposed storm sewers and open channels including horizontal and vertical controls, elevations, sizes, slopes and materials.

C. All plans will depict all contributing areas on the plans.

D. Locations, dimensions, and design details required for the construction of all facilities.

E. A description of the operation and maintenance needs for the stormwater management facilities and water quality control structures.

F. All information relative to the design and operation of emergency spillways.

G. Project specifications relative to erosion and sedimentation control. (Refer to *Best Management Practice for Construction Activities* prepared by the Kentucky Natural Resources and Environmental Protection Cabinet for design guidelines associated with erosion and sediment control.)

H. All deed restrictions, easements and rights-of-way.

I. The ownership and maintenance responsibilities for all stormwater management and water quality control structures during and after development. The identity of the responsible individual, corporation, association or other specific entity and the specific maintenance must be outlined on the plan.

1. Stormwater detention facilities and water quality control structures that are not maintained in proper working condition will be subject to corrective action by the authorized enforcement agency along with appropriate fees and fines as referred to in Part I of this ordinance.

2. The property owner shall be responsible for maintaining the stormwater detention facilities and water quality control structures on the property unless a maintenance agreement exists with multiple property owners for a regional detention facility.

10. Exemptions. Exemptions from the stormwater management requirements contained herein shall be granted to the following:

A. All existing residentially subdivided property developments excluding sites to be used or developed as a residential planned development project.

B. Residential subdivisions or residential planned development projects where minimum lot size is greater than five acres.

C. Any nonresidential development for which the area paved and under roof is less than 7,500 square feet.

D. Waivers may also be granted if, in other cases, the developer can provide sufficient documentation that the proposed development will not result in an adverse impact either upstream or downstream of the proposed site. Waivers shall be granted solely at the discretion of the city plan review staff, based upon interpretation of the documentation presented by the developer in conjunction with staff knowledge of the relationship of the proposed development to the adjacent property.

11. Design certification. Design of all stormwater management and conveyance facilities and water quality control structures shall be prepared and stamped by a licensed professional engineer (Kentucky registration required).

12. Construction certification. Prior to final approval of the development or issuance of certificate of occupancy, the licensed professional engineer must submit certification that the stormwater management and conveyance facilities were constructed in accordance with the approved plan. Final approval shall also provide evidence of the recording of all stormwater conveyance, management,

and water quality facilities deed restrictions, easements and rights-of-way. Any request for deviation from the approved plan during construction shall be submitted to the city plan review staff in writing for approval.

13. Ownership, operation and maintenance of detention systems and water quality management facilities:

    A. For commercial, industrial and multifamily residential developments, ownership and maintenance responsibilities remain with the property owner/developer.

    B. For single family residential subdivisions, the city may at its discretion accept ownership and maintenance responsibilities provided that:

        1. Construction and certification is in accordance to the approved plan; and

        2. Appropriate land dedication and easements are provided, including adequate public ingress and egress from the facility to a public street.

14. Additional treatment and monitoring may be required. The City reserves the right to require for new and redeveloped properties superseding or additional treatment criteria or objectives for specific pollutant(s) as necessary to meet overall stormwater quality management program objectives or directives under a watershed improvement or Total Maximum Daily Load (TMDL) program or KPDES/NPDES permit program as administered by the USEPA or Commonwealth of Kentucky.

15. Self-Inspection Required. The property owner shall provide self-inspection documentation for water quality management facilities. Stormwater Management staff will periodically inspect water quality management facilities for the purpose of identifying maintenance and structural deficiencies and if required proof of monitoring. If additional treatment and or monitoring is required, the property owner shall be fully responsible for monitoring their stormwater management and water quality facilities in accordance with the most recent directives under a watershed improvement or Total Maximum Daily Load Program or KPDES/NPDES permit program as administered by the USEPA or Commonwealth of Kentucky,

17. In lieu of fee, an off-site mitigation program may be established. The City of Murray Stormwater Management Department may develop a payment-in-lieu program to allow property owners/developers make payment to the City in lieu of constructing stormwater quality management structures. The in lieu of fee funds shall be applied to public stormwater projects. Another option is to allow the property owner/developer to provide off site mitigation in the same watershed.

Both of these options may be developed by the City of Murray Stormwater Management Department following the permit requirements of the KPDES Permit for Small Municipal Separate Storm Sewer Systems.

F. EROSION CONTROL

1. *Permit required.* Prior to any person engaging in a land disturbance activity within the corporate boundaries of Murray they shall possess a City issued permit for the land disturbance activity. A Land Disturbance/Development permit will be issued by the City once all requirements and criteria of this chapter have been fully complied with.

2. Land disturbance activity within the corporate boundaries of the City of Murray subject to NPDES permit coverage within the Provisions of this Ordinance shall include but not limited to:

   A. Land disturbing activities including development and re-development activities that disturb an area greater than or equal to one (1) acre. Sites that are smaller than one (1) acre are also covered by this ordinance if they are part of a larger common plan of development or sale.

   B. Land disturbing activities of less than 1 acre that have the potential to negatively impact local water quality or sensitive areas. This determination will be made at the sole discretion of the Director of Planning and Engineering or his designee.

3. *Permit coverage requirements.* Prior to any person engaging in construction and or land disturbance activity subject to permit coverage within the corporate boundaries of Murray must comply with the following requirements to achieve and maintain coverage under the "National Pollutant Discharge Elimination System" (NPDES) General Permit for construction activity:

   A. Develop and submit an Erosion and Sediment Control Plan to the City of Murray Planning and Engineering Department.

   B. Develop and submit a "Stormwater Pollution Prevention Plan." (SWPPP) to the City of Murray Planning and Engineering Department.

   C. Submit an electronic Notice of Intent (NOI) form to the Kentucky Division of Water at least 7 days before construction begins.

   D. Submit a copy of the (NOI) to the City of Murray Planning and Engineering Department.

   E. All design, testing, installation, and maintenance of erosion protection and sediment control operations and facilities shall adhere to the criteria,

standards and specifications as set forth in the most recent version of the Kentucky Erosion Prevention and Sediment Control Field Guide

F. Continue to implement all plans and procedures during construction activity, including inspections every 7 days, or every 14 days and after each rainfall event of one-half inch or more.

G. Submit a signed Notice of Termination (NOT) form to the Kentucky Division of Water, and the City of Murray Planning and Engineering Department after the site has been stabilized.

4. *Contents of Erosion and Sediment Control Plan.* Plans shall be prepared by a licensed professional engineer, drawn to an appropriate scale and shall include sufficient information to evaluate the environmental characteristics of the affected areas, the potential impacts of the proposed grading on water resources, and show measures proposed to minimize soil erosion and off-site sedimentation. The permitee shall assure that all clearing, grading, drainage, construction, and development are performed in strict accordance with the approved plan and this Ordinance. The ESCP Plan shall include the following:

A. A project narrative.

B. The location of the site in relationship to the surrounding area's watercourses, water bodies, sinkholes, roads, structures, and other significant geographic features vulnerable to erosion from the disturbed site.

C. An indication of the scale used.

D. The name, address, and telephone number of the owner and/or developer of the property where the land disturbing activity is proposed.

E. Contours with a minimum 2 foot interval for the existing and proposed topography.

F. The proposed grading or land disturbance activity including: the surface area involved, excess spoil material, use of borrow material, and specific limits of disturbance.

G. A clear and definite delineation of any areas of vegetation or trees to be saved.

H. A clear and definite delineation of any wetlands, sinkholes, natural or artificial water storage detention areas, and drainage ditches on the site.

I. A clear and definite delineation of any one hundred (100) year floodplain on or near the site.

J. Existing and proposed storm drainage systems.

K. Standard details for storm water facilities and erosion and sediment control measures.

L. Erosion and sediment control provisions to minimize on-site erosion and prevent off-site sedimentation, including provisions to preserve topsoil and limit disturbance.

M. Design details for both temporary and permanent erosion control structures.

N. Details of temporary and permanent stabilization measures.

5. *Review of plan.* The City Engineer shall review the erosion and sediment control plan. The plan will be approved and a permit issued if found compliant with the following land disturbance activity standards:

A. Land disturbance activities shall be done in a manner to ensure minimal soil erosion:

1. The extent of the disturbed area and the duration of its exposure shall be kept within reasonable limits.

2. Cut and fill operations shall be minimized. Developments calling for excessive cutting and filling may be refused a permit if it is determined that the land use proposed for the site can be reasonably constructed with less alteration of the natural terrain.

B. Land shall be developed in increments of workable size which can be completed during a single construction season. Erosion and sedimentation control measures shall be coordinated with the sequence of grading, development and construction operations.

C. When feasible, natural vegetation shall be retained, protected and supplemented.

D. Topsoil shall be saved where practical and reapplied to the site after grading has been finished.

E. Provisions shall be provided which minimize the damage from surface water to the cut face of excavations or the sloping surface of fills.

F. Disturbed soils shall be stabilized as quickly as possible; however, no area shall be left disturbed for more than fourteen (14) days.

G. Temporary seeding, mulching or other suitable methods of stabilization shall be used to protect exposed areas which have been disturbed longer than thirty (14) days.

H. Water runoff shall be minimized and retained on-site, wherever possible, to facilitate groundwater recharge and reduce erosion.

I. Measures shall be taken to contain as much sedimentation as practical on-site:

1. Sedimentation shall be trapped by the use of debris, basins, sediment basins, silt traps or similar measures approved by the City Engineer until the area has been stabilized.

2. All required sedimentation and erosion reduction measures and structures shall be in place prior to any land disturbance.

3. Sedimentation shall be kept out of sinkhole throats/outlets.

4. All necessary soil erosion and sedimentation control measures installed shall be adequately maintained by the developer until the land has been completely stabilized as verified by the City Engineer.

5. Techniques shall be employed to prevent the blowing of dust or sediment from the site.

6. No mud, gravel, debris, etc., shall be allowed to accumulate or collect, or be deposited onto public streets or washed into storm drains.

J. The type of stabilization or revegetation shall be appropriate for the slope and soil type of the site.

K. Provisions shall be made for reseeding areas which do not vegetate the first time.

L. Difficult areas, such as ditch lines and other slopes may have to be sodded or stabilized in some other approved manner.

The City Engineer shall review the plan within thirty (30) days of its receipt and notify the applicant of his action. In the case of a denial, the reasons for the denial shall also be given. An applicant may appeal a denial of a permit to the

Planning Commission. All appeals shall be made in writing within ten (10) days of the denial and the applicant shall be entitled to a hearing before the Planning Commission within thirty (30) days of the date of appeal.

A land disturbance/development permit will be issued on the basis of approved plans. No fee will be charged for the permit.

6. Exemptions from this permit.

The following land disturbance activities are specifically exempt from this article:

A. Land disturbance associated with existing one and two family dwellings.

B. Use of land for home gardening.

C. Agricultural landuse which is in accordance with a farm conservation plan approved by the local soil conservation service or which has been determined by said service that such use will not cause excessive erosion or sedimentation.

D. Land disturbance activities covered under an approved subdivisions sedimentation and erosion control plan. (NOTE: Often these plans will cover only the land disturbance associated with lot arrangement and street development and not the individual lot development.)

7. Existing unvegetated and eroded areas.

All existing unvegetated areas within the city shall submit and have approved an erosion and sediment control plan, a SWPPP, and a NOI from the Division of Water as per Part F.2 and 3 of this ordinance. All areas of the city shall be vegetated or stabilized in accordance with this article. The existing unvegetated areas shall institute measures to keep their sedimentation on-site and out of sinkhole outlet areas while the erosion control and revegetation measures are in progress.

G. ISSUANCE OF CERTIFICATE OF OCCUPANCY

No certificate of occupancy shall be issued for any development which is subject to the regulations of this chapter until all requirements and criteria of this chapter are fully met.

H. STORMWATER POLLUTION PREVENTION

1. **Purpose Intent.** The purpose and intent of this article is to ensure the health, safety and general welfare of the inhabitants within the corporate limits of the City of Murray and protect and enhance the water quality of watercourses and

water bodies in a manner pursuant to and consistent with the National Pollutant Discharge Elimination System (NPDES) permit process by reducing pollutants in stormwater discharges and by prohibiting non-stormwater discharges to the storm drain system.

2. **Applicability.** This ordinance shall apply to all water entering the storm drainage system and/or receiving waters generated on any developed or undeveloped lands unless explicitly exempted by the authorized enforcement agency.

3. **Ultimate Responsibility.** The standards set forth herein and promulgated pursuant to this Ordinance are minimum standards; therefore this Ordinance does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants into waters of the State caused by said person. This Ordinance shall not create liability on the City of Murray, or any agent or employee thereof for any damages that result from any discharger's reliance on this Ordinance or any administrative decision lawfully made hereunder.

4. **Severability.** The provisions of this ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this ordinance.

5. **Prohibition of Illegal Discharges**. No person shall discharge or cause to be discharge into the storm drainage system and or receiving waters of the Commonwealth, any materials, including but not limited to pollutants or waters_containing any pollutants that cause or contribute to a violation of applicable water quality standard, other than stormwater.

   The commencement, conduct, or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:

   A. Waterline flushing or other potable water sources,

   B. Landscape irrigation or lawn watering.

   C. Diverted steam flows,

   D. Rising ground water or ground water infiltration to storm drains,

   E. Uncontaminated pumped ground water,

   F. Foundation or footing drains (not including active ground water dewatering systems), and crawl space pumps,

G. Air conditioning condensation,

H. Springs,

I. Non-commercial washing of vehicles,

J. Natural riparian habitat or wetland flows,

K. Fire fighting activities,

L. And any other water source not containing pollutants.

M. Dye testing discharge upon verbal notification to the authorized enforcement agency prior to the time of the test.

N. Any non-storm water discharge permitted under NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharge is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

O. Discharges specified in writing to the authorized enforcement agency as being necessary to protect public health and safety.

6. **Prohibition of Illicit Connections.** The construction, use, maintenance or continued existence of illicit connections to the storm drainage system is prohibited.

This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

A person is considered to be in violation of this ordinance if the person connects a line conveying sewage, effluent, or biologically contaminated water to the storm drainage system, or allows such a connection to continue.

A person is considered to be in violation to this ordinance if the person reinstates a suspended connection to the storm drainage system without prior approval of the authorized enforcement agency.

7. **Waste Disposal Prohibitions.** No person shall throw, deposit, leave, maintain, keep, or permit to be thrown, deposit, left, or maintained, in or upon any public or private property, driveway, parking area, street, alley, sidewalk, component of the storm drain system, or water of the State, any refuse, rubbish, garbage, litter, or

other discarded or abandoned objects, articles, and accumulations, so that the same may cause or contribute to pollution. Wastes deposited adjacent to streets in proper waste receptacles for the purposes of collection are exempted from this prohibition.

8. **Industrial or Construction Activity Discharges.** Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the authorized enforcement agency prior to allowing discharges to the MS4.

9. **Monitoring of Discharges.** The authorized enforcement agency shall be permitted to enter and inspect facilities subject to regulation under this ordinance as often as necessary to determine compliance with this ordinance.

Persons shall allow the authorized enforcement agency ready access to all parts of the premises for the purpose of inspection, sampling, examination and copying of records that must be kept under the condition of an NPDES permit to discharge stormwater, and the performance of any additional duties as defined by State law.

The authorized enforcement agency shall have the right to set up on any permitted facility such devices as necessary in the opinion of the authorized enforcement agency to conduct monitoring and/or sampling of the facility's stormwater discharge.

The authorized enforcement agency has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to their accuracy.

Any temporary or permanent obstruction to the facility being inspected and/or sampled shall be promptly removed by the facility operator at the written or oral request of the authorized enforcement agency and shall not be replaced. The costs of clearing such access shall be borne by the facility operator.

Unreasonable delay and/or denial of access to a permitted facility are violations of a stormwater discharge permit and this ordinance. The authorized enforcement agency is hereby empowered to seek assistance from any court of competent jurisdiction in obtaining such entry.

10. **Requirements to Prevent, Control, and Reduce Stormwater Pollutants.** The owner and/or facility operator shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the storm drainage system of watercourses through the use of these structural and non-structural BMPs. Any person responsible for a property or premise, which is, or may

be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the storm drainage system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity to the extent practicable shall be deemed compliant with the provisions of this section. These BMPs shall be part of a storm water pollution prevention plan (SWPPP) as necessary for compliance with requirements of the NPDES permit.

11. **Watercourse Protection.** Every person owning property within a watershed, through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse.

12. **Notifications of Spills.** Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into stormwater, the storm drainage system, or water of the State said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the authorized enforcement agency in person, by phone, or by facsimile no later than the next business day and written notice given no later than three business days of initial notification. The owner or facility operator shall also retain an onsite written record, for three years, of the discharge and the actions taken to prevent its recurrence.

13. **Program Enforcement.**

A. Suspension of MS4 Access

I. In the event of an emergency, the authorized enforcement agency may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to public health, the environment, the MS4, or the waters of the State. If the violator fails to comply with a suspension order issued in an emergency, the authorized enforcement agency may take such steps as deemed necessary to prevent or minimize the danger to the public, damage to the MS4 or waters of the State

II. Any person discharging to the MS4 in violation of this ordinance may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The authorized enforcement agency will notify a violator so they may petition the authorized enforcement agency for a reconsideration and hearing.

B. Notice of Violation

I. Whenever the authorized enforcement agency finds that a person has violated any prohibition or failed to meet any requirements of this ordinance the authorized enforcement agency may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

a. The performance of monitoring, analyses, and reporting,

b. The elimination of illicit connections or discharges,

c. That violating discharges, practices, or operations shall cease and desist,

d. The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property,

e. Payment of penalty to cover administrative and remediation costs, or

f. The implementation of source control or treatment BMPs.

II. If abatement of violation and/or restoration of affected property are required, the notices shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall advise that should the violator fail to remediate or restore within the established deadline, the work will be done by a contractor and all expense shall be charged to the violator.

C. Appeal of Notice of Violation

I. Any person receiving a notice of violation may appeal, in writing, the determination of the authorized enforcement agency. The notice of appeal must be received by the office of Planning and Engineering, within 15 days from the date of the notice of violation.

D. Enforcement Measures after Appeal

I. If the violation has not been corrected pursuant to the requirements set forth in the violation or deadline, the enforcement agency shall enter upon the subject private property and is authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the authorized enforcement agency or its designated contractor to enter upon the premises for the purposes set forth above.

E. Cost of Abatement

I. Within 30 days after the abatement of the violation, the owner of the property will be notified of the cost of the abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment with 15 days of notification. If the amount due is not paid within 30 days or by the date expressed by the authorized enforcement agency, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. A copy of the resolution shall be turned over the County Auditor so that the auditor may enter the amounts of the assessment against the parcel as it appears on the current assessment roll, and the tax collector shall include the amount of the assessment on the bill for taxes levied against the parcel of land.

F. Injunctive Relief

I. It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Ordinance. If a person has violated or continues to violate the provisions of this ordinance, the authorized enforcement agency may petition the courts for a preliminary of permanent injunction restraining the person from activities which would create further violation or compelling the person to perform abatement or remediation of the violation.

G. Compensatory Action

I. In lieu of enforcement proceedings, penalties, and remedies authorized by this ordinance, the authorized enforcement agency may impose upon a violator alternative compensatory action, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, and etc.

H. Violations Deemed a Public Nuisance

I. In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this ordinance, is a threat to public's health, safety, and welfare, and is deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

I. Remedies Not Exclusive

I. The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the authorized enforcement agency to see cumulative remedies.

I. PENALTY

Any person who is subject to the regulations of this chapter shall be liable to the city for a civil penalty of $250 per violation per day for as long as the violation continues. In addition to such penalty, the city may recover from person reasonable attorney fees, court costs and other expensed incurred in any enforcement proceedings.

(Ord. 2014-1636, passed 4-10-14)

SECTION III
ARTICLE 9
CELLULAR ANTENNA TOWER REGULATIONS

A. PURPOSE

The purposes of these regulations are: to provide for the safest and most efficient integration of cellular antenna towers for cellular telecommunications services or personal communications services within the community; to provide for such facilities in coordination with any recommendations of the comprehensive plan; and to allow for such facilities with the intention for furthering the public health, safety, and general welfare.

B. PREAPPLICATION CONFERENCE

Applicants are encouraged to notify the Planning Commission to discuss proposals, to allow for early coordination, and to identify those items that are in conformance/nonconformance with the comprehensive plan, zoning ordinance, and the provisions of these regulations.

C. DEFINITIONS

For the purposes of these regulations, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

1. **ALTERNATIVE CELLULAR ANTENNA TOWER**: Man-made trees, clock towers, bell towers, steeples, light poles and similar alternative-design mounting structures that accommodated, camouflage, minimize or conceal the presence of cellular antennas or cellular antenna towers that are constructed primarily for the purpose of accommodating cellular antennas or cellular antenna towers or are reconstructed for the purpose of accommodating cellular antennas or cellular antenna towers. This does not include existing structures erected for another primary purpose, but which subsequently have cellular antennas attached to or located within them, without any reconstruction of the original structure. For the provisions of these regulations, an alternative cellular antenna tower is considered a cellular antenna tower.

2. **ANTENNAS OR RELATED EQUIPMENT**: Transmitting, receiving, or other equipment used to support cellular telecommunications service or personal communications service. This definition does not include towers.

3. **CELLULAR ANTENNA TOWER**: A tower constructed for, or an existing facility that has been adapted for, the locations of transmission or related equipment to be used in the provision of cellular telecommunications services or personal communications services.

4. **CELLULAR TELECOMMUNICATIONS SERVICE:** A retail telecommunications service that uses radio signals transmitted through cell sites and mobile switching stations.

5. **CO-LOCATION:** Locating two or more transmission antennas or related equipment on the same cellular antenna tower.

6. **GUYED CELLULAR ANTENNA TOWER:** A type of wireless transmission tower

that is supported by thin guy wires.

7. **LATTICE CELLULAR ANTENNA TOWER:** A self-supporting tower with multiple legs and cross bracing of structural steel.

8. **MONOPOLE CELLULAR ANTENNA TOWER:** A slender self-supporting tower on which wireless antennas can be placed.

9. **PERSONAL COMMUNICATION SERVICE:** Has the meaning as defined in 47 U.S.C. sec. 332(c).

10. **PLANNING COMMISSION:** The City of Murray Planning Commission.

11. **UNIFORM APPLICATION:** An application to construct a cellular antenna tower submitted to the Planning commission in conformity with KRS 100.985 through KRS 100.987.

12. **UTILITY:** As defined KRS 278.010(3).

D. GENERAL

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

1. **Applicability**

Every utility, or a company that is engaged in the business of providing the required infrastructure to a utility, that proposes to construct a cellular antenna tower shall submit a completed uniform application to the Planning Commission. Where the Planning Commission finds that circumstances or conditions relating to the application of an alternative cellular antenna tower are such that one or more of the requirements of the uniform application listed bellow are not necessary or desirable for the protection of surrounding property or the public health, safety, and general welfare, and that such special conditions or circumstances make one or more said requirements unreasonable, the Planning Commission, or its duly authorized representative, may modify or waive such requirement of the uniform application, either permanently or on a temporary basis. Any such modification or waiver shall be requested by the applicant, and the applicant shall submit a written justification for each requested modification or waiver. The Planning Commission shall not regulate the placement of antennas or related equipment on an existing structure. However, every utility/entity choosing to locate an antenna or related equipment on an existing structure, shall file with the City of Murray Planning Commission the name and address of the entity/utility, the structure(s) upon which the utility/entity plans to place antennas or related equipment and the information set forth in section (d)(2), e, f, r and t below.

2. **Application Requirements**

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

(A) The full name and address of the applicant.

(B) The applicant's articles of incorporation, if applicable.

(C) A geotechnical investigation report signed and sealed by a professional engineer registered in Kentucky that includes boring logs and foundation design recommendations.

(D) A written report prepared by a professional engineer or land surveyor, of findings as to the proximity of the proposed site to flood hazard areas.

(E) Latitude/Longitude coordinates with associated reference datum, clear directions to the proposed site, including highway numbers and street names, if applicable, with the telephone number of the person who prepared the directions.

(F) The lease or sale agreement for the property on which the tower is proposed to be located, except that, if the agreement has been filed in abbreviated form with the county clerk, an applicant may file a copy of the agreement as recorded by the county clerk and, if applicable, the portion of the agreement that specifies, in the case of abandonment, a method that the utility will follow in dismantling and removing the proposed cellular antenna tower including a timetable for removal.

(G) The identity and qualifications of each person directly responsible for the design and construction of the proposed tower.

(H) A site development plan, signed and sealed by a professional engineer or surveyor licensed in Kentucky, that shows the proposed location of the tower and all easements and existing structures within 500 feet of the proposed site on the property on which the tower will be located, and all easements and existing structures within 200 feet of the access drive, including the intersection with the public street system. Additionally the development plan shall show the following:

(1) A survey, prepared by a surveyor licensed in Kentucky. The survey shall be in accordance with all of the requirements of the Murray Subdivision Ordinance and KRS 100, that shows lease lines or property line, which upon approval, shall be recorded.

(I) A vertical profile sketch of the tower, signed and sealed by a professional engineer registered in Kentucky, indicating the height of the tower and the placement of all antennas.

(J) The tower and foundation design plans and a description of the standard according to which the tower was designed, signed, and sealed by a professional engineer registered in Kentucky.

(K) A map, drawn to a scale no less than one inch equals 200 feet, that identifies every structure and every owner of real estate within 500 feet of the proposed tower.

(L) A statement that every person who, according to the records of the property valuation administrator, owns property within 500 feet of the proposed

tower or property contiguous to the site upon which the tower is proposed to be constructed, has been:

(1) Notified by certified mail, return receipt requested, of the proposed construction which notice shall include a map of the location of the proposed construction.

(2) Given the telephone number and address of the City of Murray Planning Commission.

(3) Informed of his or her right to participate in the Planning Commission's proceedings of the application.

(M) A list of the property owners who received the notice, together with copies of the certified letters sent to the listed property owners.

(N) A statement that the mayor of City of Murray has been notified, in writing, of the proposed construction and a copy of the notification.

(O) A statement that Kyle-Oakley Airport Board has been notified, in writing, of the proposed construction and a copy of the notification.

(P) A statement that:

(1) A written notice of durable material at lease two feet by four feet in size, stating that "[Name of applicant]" proposes to construct a telecommunications tower on this site" and including the addresses and telephone numbers of the applicant and the Planning Commission, has been posted in a visible location on the proposed site.

(2) A written notice, at lease two feet by four feet in size, stating that "[Name of applicant] proposes to construct a telecommunications tower near this site" and including the addresses and telephone numbers of the applicant and the Planning Commission, has been posted on the property nearest to the public road.

(Q) A statement that notice of the location of the proposed construction has been published in the Murray Ledger & Times newspaper.

(R) A brief description of the character of the general area in which the tower is proposed to be constructed, which includes the existing land use for the specific property involved.

(S) A statement that the applicant has considered the likely effects of the installation on nearby land uses and values and has concluded that there is no more suitable location reasonably available from which adequate service to the area can be provided, and that there is no reasonably available opportunity to locate its antennas and related facilities on an existing structure, including documentation of attempts to locate its antennas and related facilities on an existing structure, if any, with supporting radio frequency analysis, where applicable, and a statement indicating that the applicant attempted to locate its antennas and related facilities on a tower designed to host multiple wireless service providers' facilities or on an existing structure, such as a

telecommunications tower or other suitable structure capable of supporting the applicant's antennas and related facilities.

(T) A map of the area in which the tower is proposed to be located, that is drawn to scale, and that clearly depicts the necessary search area within which an antenna tower should, pursuant to radio frequency requirements, be located.

(U) A grid map that shows the location of all existing cellular antenna towers and that indicates the general position of proposed construction sites for new cellular antenna towers within an area that includes:

(1) All of the area within the City of Murray Planning Commission's jurisdiction.

(2) A one-half mile area outside the boundaries of the City of Murray Planning Commission's jurisdiction, if that area contains wither existing or proposed construction sites for cellular antenna towers.

3. **Confidentiality of application**

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

4. **Application fee**

An applicant for the construction of cellular antenna towers for cellular telecommunications services or personal communications services shall pay an application fee of $2,500.00.

5. **Processing of application**

Applications for the construction of cellular antenna towers for cellular telecommunications services or personal communications services shall be processed as follows:

(A) The Planning Commission shall review the uniform application to determine whether it is in agreement with the Comprehensive Plan and locally adopted zoning regulations.

(B) At lease one public hearing on the proposal shall be held, at which hearing interested parties and citizens shall have the opportunity to be heard. Notice of the time and place of such hearing shall be published at least once, in the Murray Ledger & Times newspaper, provided that one publication occurs not less than seven calendar days nor more than 21 calendar days before the occurrence of such hearing.

(C) Notice of the proposed shall be posted on the site at least 14 days in advance of the hearing. The notice shall consist of a written notice, of durable material at least two feet by four feet in size, stating that "[Name of applicant]"proposes to construct a telecommunications tower on this site" and including the addresses and telephone numbers of the applicant and the Planning Commission. Notice of the proposal shall also be posted on the property nearest to the public road. This notice shall consist of a written notice, of durable material at least two feet by four feet in size, stating that "[Name of applicant] proposes to construct a telecommunications tower near this site" and including the addresses and telephone numbers of the applicant and the Planning Commission.

(D) Notice of the hearing shall be given at least 14 days in advance of the hearing, by certified mail, return receipt requested, to the owner of every parcel of property within 500 feet of the proposed tower or property contiguous to the site upon which the tower is proposed to be constructed. The notice shall include a map of the location of the proposed construction, the telephone number and address of the Planning Commission and shall inform the addressee of his or her right to participate in the Planning Commissioner's proceedings on the application. Records maintained by the property valuation administrator may be relied upon conclusively to determine the identity and address of said owner. In the event a property is in condominium of cooperative forms of ownership, then the person notified by mail shall be the president or chairperson of the owner group that administers property commonly owned by the condominium or cooperative owners. A joint notice may be mailed to two or more co-owners of an adjoining property who are listed in the property valuation administrator's records as having the same address.

(E) Upon holding the hearing, the Planning Commission shall, within 60 days commencing from the date that the application is received by the Planning Commission, or within a date specified in a written agreement between the Planning commission and the applicant, make its final decision to approve or disapprove the uniform application. If the Planning Commission fails to issue a final decision within 60 days, and if there is no written agreement between the Planning Commission and the utility to a specific date of the Planning commission to issue a decision, it shall be presumed that the Planning Commission has approved the utility's uniform application.

(F) If the Planning commission disapproves of the proposed construction, it shall state the reasons for disapproval in its written decision and may make suggestions which, in it opinion, better accomplish the objectives of the comprehensive plan and the locally adopted zoning regulations. No permit for construction of a cellular or personal communications services antenna tower shall be issued until the Planning Commission approves the uniform application or the sixty (60) day time period has expired, which ever occurs first.

(G) Upon approval of an application for the construction of a cellular antenna tower by a Planning Commission, the applicant shall notify the Public service Commission within ten (10) working days of the approval. The notice to the Public Service Commission shall include a map showing the location of the construction site. If an applicant fails to file notice of an approved uniform application with the Public Service Commission, the applicant shall be

prohibited from beginning construction on the cellular antenna tower until such notice has been made.

E. DESIGN STANDARDS

The applicant shall provide information demonstrating compliance with the requirements contained herein. Potential sites that should be considered (in order from most-preferred to least-preferred) include existing utility towers, industrial zones, commercial zones, and government buildings and properties. Where the Planning Commission finds that circumstances or conditions relating to the particular application are such that one or more of the requirements listed below are not necessary or desirable for the protection of the surrounding property or the public health, safety, and general welfare, and that such special conditions or circumstances make one or more said requirements unreasonable, the Planning Commission, or its duly authorized representative, may modify or waive such requirement, either permanently or on a temporary basis. Any such modification or waiver shall be requested by the applicant, and the applicant shall submit a written justification for each requested modification or waiver.

1. **Monopoles**

   Monopole cellular antenna towers shall be permitted in any zone. Lattice and guyed cellular antenna towers shall be permitted in any zone except for residential zones.

2. **Minimum Lot Size**

   Regardless of the minimum lot sizes listed in the specific zoning districts, or the Murray Subdivision Ordinance, the lot size may be the minimum necessary to comply with the objectives and standards of this section.

3. **Setbacks**

   Setbacks for all structures constructed in connection with guyed or lattice cellular antenna towers, except fences and/or guy wires, shall be a minimum distance from the property line or lease line equal to at least the height of the tower, but not less than 50 feet. All structures constructed in connection with monopole or alternative cellular antenna tower shall comply with the applicable setback requirements established for other structures within the applicable zoning district. Alternative cellular antenna towers that are to be located as part of a utility service facility (eg. power pole or telephone pole) shall comply with setback requirements applicable to such utility service facilities, if any.

4. **Height**

   A cellular antenna tower, or alternative antenna tower structure, may be constructed to a maximum height of 200 feet regardless of the maximum height requirements listed in the specific zoning district. This also applies to any tower taller than 15 feet constructed on the top of another building or structure, with the height being the overall height of building/structure and tower together, measured from the grade to the highest point. The Planning Commission may allow antennas greater than 200 feet in height upon review of the applicant's justification that the additional height meets the criteria identified in subsection (f).

5. **Construction Standards**

   The cellular antenna tower shall be constructed in compliance with the current ANSI/EIA/TIA 222-F standard and other applicable state standards.

6. **Illumination**
Cellular antenna towers shall not be illuminated, except in accordance with other state or federal regulations.

7. **Staffing**
The site shall be un-staffed. Personnel may periodically visit the site for maintenance, equipment modification, or repairs. To accommodate such visits, ingress/egress shall be only from approved access points.

8. **Fencing**
Woven wire or chain link (80 percent open) or solid fences made from wood or other materials (less than 50 percent open) shall be used to enclose the site. Such fences shall not be less than four feet and no more than eight feet in height, and may be located within the front, side, or rear yard.

9. **Screening**
Screening shall be provided by evergreen trees, with a minimum height of six feet, planted in a staggered pattern at a maximum distance of 15 feet on center. The screening shall be placed in an area between the property line, or lease line, and a ten foot setback. Screening shall be required when located in or adjacent to a residential zone.

10. **Surfacing**
All driveways and off-street parking areas shall be paved with a durable surface such as asphalt or concrete.

11. **Signs**
There shall be no signs permitted, except those displaying emergency information, owner contact information, warning or safety instructions, or signs that are required by a federal, state or local agency. Such signs shall not exceed six square feet in area.

12. **Number Of Service Providers**
All new cellular antenna towers shall be designed and constructed to accommodate a minimum of three service providers.

13. **Lease Agreements**
All option and site lease agreements shall not prohibit the possibility of co-location, and in the case of abandonment, shall include a method that the utility will follow in dismantling and removing the proposed cellular antenna tower including a timetable for removal.

14. **Other Approvals Required**
Approval of the Federal Aviation Administration (FAA) and the Kentucky Airport Zoning Commission (KAZC) or documentation where approval is not required shall be submitted prior to the issuance of a building permit for the construction of the cellular antenna tower.

F. CRITERIA

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

(A) The Planning Commission may require the applicant to make a reasonable attempt to co-locate additional transmitting or related equipment. The Planning Commission may provide the location of existing cellular antenna towers on which the commission deems the applicant can successfully co-locate its transmitting and related equipment. If the Planning commission requires the applicant to attempt co-location, the applicant shall provide the Planning Commission with a statement indicating that the applicant has:

(1) Successfully attempted to co-locate on towers designed to host multiple wireless service providers' facilities or existing structures such as a telecommunications tower or another suitable structure capable of supporting the applicant's facilities, and that identifies the location of the tower or suitable structure on which the applicant will co-locate its transmission and related facilities; or

(2) Unsuccessfully attempted to co-locate on towers designed to host multiple wireless service provider's facilities or existing structure such as a telecommunications tower or another suitable structure capable of supporting the applicant's facilities and that:

(a) Identifies the location of the towers or other structures on which the applicant attempted to co-located; and

(b) Lists the reasons why the co-location was unsuccessful in each instance.

(B) The Planning Commission may deny a uniform application to construct a cellular antenna tower based on an applicant's unwillingness to attempt to co-locate additional transmitting or related equipment on any new or existing towers or other structures.

(C) The Planning Commission shall not regulate the placement of a cellular antenna tower on the basis of the environmental effects of radio frequency emissions to the extent that the proposed facility complies with the regulations of the Federal Communications Commission concerning radio frequency emissions.

G. <u>ABANDONMENT AND DISMANTLING</u>

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

H. <u>AMENDMENTS</u>

Any amendments to plans, except for minor adjustments and determined by the Planning Commission, or its duly authorized representative, shall be made in accordance with the procedure required by subsection (e), subject to the same limitations and requirements as those under which such plans were originally

approved.

I. LEGAL INTERPRETATION

Nothing in this Ordinance hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in this Ordinance; nor shall any just or legal right or remedy of any character be lost impaired or affected by this Ordinance.

All other sections and provisions of the City of Murray Zoning Ordinance, not specifically amended herein, shall remain in full force and effect and shall not be considered amended and shall be incorporated by reference as if fully stated herein.

SECTION III
ARTICLE 10
TRANSIENT BUSINESS REGULATIONS

A. INTENT

The purpose of the Transient Business Regulations section is to establish minimum guidelines for transient (i.e. temporary, mobile) businesses wishing to conduct business within the city limits of Murray. The section provides requirements that promote the health, safety, morals, and general welfare of the citizens of Murray, Kentucky and establish reasonable and uniform regulations for transient businesses.

B. DEFINITIONS

TRANSIENT BUSINESS/MERCHANT: The sale of goods or services from roadside or public view by way of tent, trailer, roadside stand, parked vehicle or other similar enclosure not attached by permanent foundation.

C. PROCEDURE

1. Anyone wishing to operate a transient business must first obtain a business license application from the Murray Planning Department. No person shall operate a transient business in the city without an issued license.

2. The business license application will be reviewed by the Murray Planning Department to ensure zoning compliance. If all requirements in section D are met, the Murray Planning Department will issue a Transient Business Permit to the applicant.

3. If during the time the permit is in effect, the transient business fails to maintain the required conditions pursuant to section D, the City of Murray may revoke the permit and the transient business activity shall be terminated.

4. The decision of the City of Murray official concerning revocation of the Transient Business permit shall be final, unless a written appeal by the applicant is filed with the Murray Board of Zoning Adjustments within thirty days of the applicant's receipt of the notice to revoke the permit.

5. Each location shall only maintain one transient business. Permits are non-transferable.

6. It shall be the duty of the Chief of Police and the Police Department and/or the Code Enforcement Officer, to see that any person, firm, corporation, partnership, or other entity which engages in, does or transacts any temporary or transient business in the City have the license required and shall cause a citation to be issued for any person not having an appropriate license.

D. REQUIRED CONDITIONS

Approval of a Transient Business permit is subject to the following conditions:

1. Transient businesses are permitted uses in B-2 (Highway Business), B-3 (Central Business), B-4 (Medium Density Business), and I (Industrial) zoning districts and as a Conditional Use in a B-1 (Neighborhood Business) zoning district.

2. Transient businesses must be a minimum of 500 ft. from one another (measured by radial distance).

3. A copy of a lease agreement, deed, or similar document from the property owner is required.

4. Any signage, other than that permanently affixed to the mobile transient facility must be approved by the Murray Planning Department.

5. The maximum length of time a transient business will be allowed at an approved location will be ninety (90) consecutive days. The owner/operator may reapply for a permit at the end of that period, but the transient business must be relocated at a minimum of 500 ft. (measured in radial distance) from the prior location. The owner/operator may return to a previous location after 90 consecutive days.

6. A site plan must be submitted for review and approval. The site plan shall include a mapped location of the proposed business, including existing parking spaces, roadways, sidewalks, and buildings; it should also entail measurements of distance from proposed display/enclosure to nearby parking spaces, roadways, sidewalks, setbacks, and buildings. Aerial photography, existing surveys, or plat will suffice for this purpose. The site plan shall include any photography of tents, trailers, stands, etc. that will be used. The City of Murray has the right to accept or reject any site plan submitted. Once approved by the City, all site plans must be maintained by the transient business through the duration of the permit. Any deviation from the site plan by the transient business may result in revocation of the permit and the transient business activity shall be terminated.

7. All transient businesses are subject to the Public Noise Ordinance as prescribed in § 99 of the City of Murray Code of Ordinances.

8. If a transient business distributes or prepares food products, a copy of the current health permit issued by the Calloway County Health Department is required to be produced and must be displayed. Any revocation of the Health permit may constitute revocation of the transient business license.

9. The provisions of this ordinance shall not apply to any general sale, fair, auction, or bazaar sponsored by any religious, education, public service, or charitable organization.

10. Failure to comply with this ordinance could result in revocation of the transient business license or a penalty as prescribed in § 110.99 of the City of Murray Code of Ordinances.

12. The provisions of this ordinance shall not be interpreted to be in contravention of KRS 365.

(ORD. 2016-1697, past 4/28/16)

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SECTION IV

Administration

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SECTION IV-ADMINISTRATION
ARTICLE I
AMENDMENTS

A. APPLICATION FOR ZONING MAP AND TEXT AMENDMENTS

1. A proposal for a zoning map amendment may originate with the Planning Commission, the Murray City Council, the owner of the subject property, or by a person having notarized written authorization from the owner of the subject property. Regardless of the origin of the proposed map amendment, an application must be filed with the Planning Commission at least twenty-one (21) days prior to the regular monthly meeting date requesting the proposed amendment in such form and accompanied by such information as required by the zoning official. The commission may require the submission of further information subsequent to the filing of an application as provided by the zoning ordinance. An incomplete application will not be docketed for public hearing. At the time of filing an application, a non-refundable filing fee shall be paid according to the schedule of fees as established by this ordinance; however, there shall be no filing fee for a~~n~~ a zoning map amendment requested by the Murray City Council, the Planning Commission, or any governmental agency. Upon the filing of an application for a map amendment by a governmental body, the commission shall promptly notify the owner of the subject property by first-class mail. In accordance with Kentucky Revised Statutes, Section 100.212, regardless of the origin of a proposed zoning map amendment, the owners of all property adjoining the subject property shall be notified. Property owners across public rights-of-way shall be notified as they are considered adjoining.

2. A proposal for a text amendment may originate with any person, the Planning Commission or the Murray City Council. Regardless of the origin of the proposed text amendment, it shall be referred to the Planning Commission for review prior to a public hearing being scheduled.

B. NOTICE OF PUBLIC HEARING

1. Before voting upon any proposed zoning map or text amendment, notice of the time, place and reasons for holding a public hearing shall be given as required by Kentucky Revised Statutes, Chapter 424 and Kentucky Revised Statutes, Section 100.212 and 100.211.

A. PUBLIC HEARING ON APPLICATION

1. After notice of the public hearing as provided here in above, the commission shall hold at least one (1) public hearing on the proposed amendment. The hearing will be held in accordance with procedures as outlined in KRS Chapter 100 and the published opinions of the Kentucky Court of Appeals and the Kentucky Supreme Court and any applicable published opinions of the United States Supreme Court, the United States District Courts for the Eastern and Western Districts of Kentucky, and their successors.

2. The hearing will be a trial-type hearing with procedures adopted by the Planning Commission pursuant to KRS 100.345 and in compliance with the Planning Commission by-laws. No formal rules of evidence shall be required. The hearing itself shall be as informal as possible, consistent with an orderly determination in a fair and impartial manner of the issues before the Commission.

3. Testimony at the public hearing shall be taken under oath administered by the Chairman of the Commission.

4. After voting to recommend that an application for amendment to the zoning map be granted or denied, the commission shall forward its findings of facts and recommendations in writing to the Murray City Council.

D. PROCEDURE OF COMMISSION FOR ZONING MAP AMENDMENT

The Planning Commission shall follow the procedures as outlined in KRS 100.2111 when making a recommendation to approve or deny a proposed zoning map amendment. The recommendation 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 of which will be forwarded to the Murray City Council the next business day following the final action by the Planning Commission, unless within twenty-one (21) days after the final action by the Planning Commission:

a. Any aggrieved person files a written request with the Planning Commission that the final decision shall be made by the legislative body or

b. The legislative body files a notice with the Planning Commission that the legislative body shall decide the map amendment.

E. FINDINGS NECESSARY FOR ZONING MAP AMENDMENT

1. Before any zoning map amendment is granted by the Planning Commission it must find that the map amendment is in agreement with the community's comprehensive plan, or, in the absence of such a finding, that one or more of the following apply and such finding shall be recorded in the minutes and records of the Planning Commission.

   (A) That the existing zoning classification given to the property is inappropriate and that the proposed zoning classification is appropriate.

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

2. The findings of fact made by the commission shall be recorded in the minutes and records of the commission.

3. The Commission's findings shall not merely parrot the statutory requirements of KRS 100.213, as amended but shall include sufficient findings of adjudicatory facts specific to the property requested to be rezoned and/or the surrounding area.

4. Once the Planning Commission has made a determination of fact and recommendation to the Murray City Council concerning the disposition of zoning on an individual tract of land, said tract of land, or any portion thereof, shall not be reconsidered by the Planning Commission for reclassification to the same zone for a period of at least six (6) months, except upon application for reclassification initiated by the Planning Commission or Murray City Council.

F. ACTION BY MURRAY CITY COUNCIL ON ZONING MAP AMENDMENTS

1. The final action for a zoning map amendment is made by the Planning Commission. As the legislative body the Murray City Council may choose to file a notice with the Planning Commission to request that the legislative body decide the proposed map amendment An aggrieved person may also file a written request that the final decision be made by the legislative body.

2. Before any amendment to the zoning map is granted, the Murray City Council must find that the map amendment is in agreement with the comprehensive plan adopted by the commission, or in the absence of such a finding, that (A). The existing zoning classification given to the property was inappropriate or improper; or (B). There have been major changes of an economic, physical or social nature within the area involved which were not anticipated by the commission and which have substantially altered the basic character of such area.

3. The City Council's findings shall not merely parrot the statutory requirements of KRS 100.213, as amended or 2(A) or (B) above, but shall include sufficient findings of adjudicatory facts specific to the property requested to be rezoned and/or the surrounding area.

4. It shall take a majority of the entire Murray City Council to override the recommendations of the Commission.

5. All procedures for public notice and publication as well as for adoption shall be the same as for the original enactment of a zoning regulation as outlined in KRS 100.211, and the notice of publication shall include the street address of the property in question, or if one is not available, or if it is not practicable due to the number of addresses involved, a geographic description sufficient to locate and identify the property, and the names of the two (2) streets on either side of the property which intersect the street on which the property is located. If the property is located at the intersection of two (2) streets, the notice shall designate the intersection by name of both streets rather than name the two (2) streets on either side of the property.

RECOMMENDATION OF COMMISSION FOR TEXT AMENDMENTS

1. After voting to recommend that an application for amendment to the text of this zoning ordinance be granted or denied, the commission shall forward its recommendation in writing to the Murray City Council.

H. ACTION BY MURRAY CITY COUNCIL ON TEXT AMENDMENTS

The Murray City Council shall not act upon a proposed amendment to the text of this zoning ordinance until it shall have received the written recommendation thereon from the commission. It shall take a majority of the entire Murray City Council to override the recommendation of the commission.

(Ord. 2016-1710, Passed 8-11-16)

SECTION IV
ARTICLE 2
ADMINISTRATION, ENFORCEMENT AND VIOLATIONS

A. ADMINISTRATION AND ENFORCEMENT

1. The provisions of this Zoning Ordinance shall be administered and enforced by the Code Enforcement Officer and/or Zoning Official, except as otherwise provided herein.

2. The Code Enforcement Officer and/or Zoning Official shall promptly investigate complaints of violations and report the findings and actions to complainants. Such enforcement personnel shall use their best efforts to prevent violations and to detect and secure the correction of violations. If they should find any of the provisions of this zoning ordinance are being violated, they shall in writing notify the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. The enforcement personnel shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of illegal additions, alterations, or structural changes; discontinuance of any illegal work being done; and shall take or cause to be taken any other action authorized by this zoning ordinance to insure compliance with, and prevent violations of, the provisions hereof.

3. The Code Enforcement Officer and/or Zoning Official shall make records of all official actions of this office relating to the administration and enforcement of the provisions of this zoning ordinance including but not limited to written records of all complaints and actions taken with regard thereto, all violations discovered with actions taken thereto, and the final disposition of all such matters.

B. BUILDING PERMITS REQUIRED

1. No building or other structures shall be erected, moved, added to, or structurally altered, nor shall any of said activities be commenced without a building permit reviewed by the zoning official. No building permit shall be approved by him except in conformity with the provisions of this zoning ordinance unless he has a written order from the Board of Zoning Adjustments in the form of an administrative review decision, a conditional use permit, or dimensional variance as provided under the provisions of this ordinance.

2. All applications for building permits shall be accompanied by plans in duplicate, drawn to scale, showing the actual shape and dimensions of the lot to be built upon; the exact size and location on the lot of any existing principal buildings; the lines within which the proposed building or structure is to be erected or altered; the proposed height; the existing and intended use of each

building or part of building; the number of families or housekeeping units the building is designed to accommodate and such other information with regard to the lot and neighboring lots as may be necessary to determine and provide for the enforcement of this zoning ordinance. One copy of the plans shall be returned to the applicant by the zoning official, after he shall have marked such copy either as "approved" or "disapproved" and attested to same by signature on such copy. The original, similarly marked, shall be retained by the zoning official. The approved plan will have been reviewed and approved by the fire marshal prior to permit issuance.

C. CERTIFICATE OF OCCUPANCY REQUIRED

No person shall use or permit the use of any structure or premises or part thereof hereafter created, erected, changed, converted, enlarged or moved, wholly or partly, until a certificate of occupancy shall have been issued by the city building official. Such certificate shall show that the structure or use, or both, or the premises, or the affected part thereof, are in conformity with the provisions of this zoning ordinance. It shall be the duty of the building official to issue such certificate if he finds that all of the provisions of this zoning ordinance have been met, and to withhold such certificate unless all requirements of this zoning ordinance have been met. The building official may not require a certificate of occupancy for certain use groups. However, this will be determined at the issuance of the permit.

1. TEMPORARY CERTIFICATES OF OCCUPANCY: A temporary certificate of occupancy may be issued by the building official for a period not exceeding ninety (90) days during alterations or partial occupancy of a building pending its completion in accordance with general rules or regulations concerning such temporary certificate and with such additional conditions or safeguards as are necessary in the circumstances of the case to protect the safety of the general public. The temporary certificate of occupancy is not renewable.

2. CERTIFICATE OF OCCUPANCY FOR EXISTING USES OR STRUCTURES**:** Upon written application from the owner or tenant, and upon inspection to determine the facts in the case, the building official shall issue a certificate of occupancy for any building, premises or use, certifying that the building, premises or use is in conformity with the provisions of this zoning ordinance or that a legal non-conformity exists as specified in the certificate.

3. STRUCTURES AND USES TO BE PROVIDED IN BUILDING PERMITS, PLANS AND CERTIFICATES OF OCCUPANCY: Building permits or certificates of occupancy issued on the basis of plans and applications approved by the building official or fire marshal authorize only the use, arrangement and construction set forth in such permits, plans and certificates, and no other. The use, arrangement and certificates at variance with that authorized shall be deemed a violation of this zoning ordinance.

D. COMPLAINTS REGARDING VIOLATIONS

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

E. PENALTIES FOR VIOLATIONS

1. Failure to comply with the provisions of this zoning code for which no other penalty is specifically provided, or failure to comply with any of its requirements (including violations of the conditions and safeguards established in connection with grants or variances or conditional uses) shall constitute a violation.

2. Any person who so violates this zoning code or fails to comply with any of its requirements including the compliance with any official notice of violation, shall be subject to a fine as detailed in the City of Murray Code of Ordinances Chapter 40.39 except as provided in Section E.3.,below. A separate civil fine shall be assessed for each day a violation continues.

3. Any person owner or agent who violates this zoning code shall upon conviction be fined not less than $100 nor more than $500 for each lot or parcel which was the subject of sale or transfer or a contract for sale or transfer. (KRS100.991.2)

F. APPLICATIONS AND PERMITS

1. The Board of Zoning Adjustments shall charge a fee for reviewing all dimensional variance and/or conditional use applications.

2. The Planning Commission shall charge fees for zoning changes at regular Planning Commission meetings, plus additional fees for special called meetings.

3. There will be a small fee charged for copies of the zoning ordinance, zoning map, and other planning documents as needed.

5. All above fees will be set by the Planning Commission and approved by the City Council.

(Ord. 2016-1692, Passed 2-25-16)

SECTION IV
ARTICLE 3
BOARD OF ZONING ADJUSTMENTS

A. ESTABLISHMENT

The Board of Zoning Adjustments as constituted at the time of the adoption of this zoning ordinance shall continue in power. Future appointments shall be made as required by KRS 100.217 and this city ordinance.

B. PROCEEDINGS

The Board of Zoning Adjustments shall conduct meetings at the call of the chairman or zoning official who shall give written or oral notice to all members of the board at least seven (7) days prior to the meeting, and the subject or subjects which will be discussed. The board may at their choosing, meet monthly or more often as desired. A simple majority of the total membership of the board shall constitute a quorum. The Board of Zoning Adjustments may adopt bylaws for the transaction of business and shall keep minutes and records of all proceedings, including regulations, transactions, findings, determinations, the number of vote for and against each question, whether any member is absent or abstains from voting, all of which shall, immediately after adoption, be filed in the city planning office. A transcript of the minutes of a Board of Zoning Adjustments meeting shall be provided if requested by a party, at the expense of the requesting parties, and the transcript shall constitute the record.

C. POWERS

The Board of Zoning Adjustments shall have the following powers:

GENERAL POWERS – The board may employ or contract with planners or other persons as it deems necessary to accomplish its assigned duties. The board shall have the right to receive, hold, and spend funds which it may legally receive from any and every source in and out of the Commonwealth of Kentucky, including the United States Government, for the purpose of carrying out the provisions of this zoning ordinance. The board shall have the power to issue subpoenas to compel witnesses to attend its meetings and give the evidence bearing upon the questions before it. The chairman of the Board of Zoning Adjustments shall have the power to administer oaths to witnesses prior to their testifying before the board on any issue

D. CONDITIONAL USE PERMITS

1. The board shall have the power to hear and decide applications for conditional use permits to allow the proper integration into the planning area of uses which are specifically named in this zoning ordinance which may be suitable only in specific locations in the zone only if certain conditions are met.

2. The board may approve, modify or deny any application for conditional use permit. If it approves such permit, it may attach necessary conditions such as time limitations, requirements that one or more things be done before the request can be initiated, or conditions of a continuing nature. Any such conditions shall be recorded in the board's minutes and on the conditional use permit, along with a reference to the specific section in the zoning ordinance listing the conditional use under consideration. The board shall have the power to revoke conditional use permits, or variance for noncompliance with the conditions thereof. Furthermore, the board shall have a right of action to compel offending structures of uses removed at the cost of the violator and must have judgment in personam for such cost.

3. The granting of a conditional use permit does not exempt the applicant from complying with all the requirements of building, housing and other regulations.

4. In any case where a conditional use permit has not been exercised within the time limit set by the board, or within one (1) year, if no specific time limit has been set, the granting of such conditional use permit shall be reconsidered by the Board of Zoning Adjustments. "Exercised" as set forth in this section, shall mean that binding contracts for the construction of the main building or other improvements have been let; or in the absence of contracts that the main building or other improvement is under construction to a substantial degree or that prerequisite conditions involving substantial investment shall be under contract, in development, or completed. When construction is not a part of the use, exercised shall mean that the use is in operation in compliance with the conditions as set forth in the permit.

5. The zoning official shall review all conditional use permits, except those for which all conditions have been permanently satisfied, at least once annually and shall have the power to inspect the land or structure where the landowner is complying with all of the conditions which are listed on the conditional use permit. If the landowner is not complying with all conditions listed on the conditional use permit, the zoning official shall report the fact in writing to the chairman of the Board of Zoning Adjustments. The board shall hold a public hearing on the report within a reasonable time, and notice of the time and place of the hearing shall be furnished to the landowner at least one (1) week prior to the hearing. If the Board of Zoning Adjustments finds that the facts alleged in the report of the zoning official are true and that the landowner has taken no steps to comply with them between the date of the report and the date of the hearing, the board may authorize the zoning official to revoke the conditional use permit and take the necessary legal action to cause the termination of the activity on the land which the conditional use permit authorizes.

6. Once the Board of Zoning Adjustments has granted a conditional use permit and all of the conditions required are of such type that they can be completely and permanently satisfied, the zoning official, upon request of the applicant, may if the facts warrant, make a determination that the conditions have been satisfied and the conclusion of the margin of the copy of the conditional use permit which is on file with the county clerk, as required in KRS 100.3681. Thereafter said use, if it continues to meet other requirements of the regulations, will be treated as a permitted use.

E. DIMENSIONAL VARIANCES

1. The board shall have the power to hear and decide on applications for dimensional variances where, by reasons of the exceptional narrowness, shallowness, or unusual shape of a site on the date of adoption or amendment of this zoning ordinance or by reason of exceptional topographic conditions, or some other extraordinary situation or condition of that site, the literal enforcement of the dimensional requirements (height or width of building or size of yards, but not population density) of this zoning ordinance would deprive the applicant of reasonable capacity to make use of the land in a manner equivalent to the use permitted other landowners in the same zone. The board may impose any reasonable conditions or restrictions on any variance it decides to grant.

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

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

   (B) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

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

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

4. The board shall not possess the power to grant a variance to permit a use of any land, building, or structure which is not permitted by the zoning ordinance in the zone in question.

5. A dimensional variance applies to the property for which it is granted, and not the individual who applied for it. A variance also runs with the land and is transferable to any future owner of the land, but it cannot be transferred by the applicant to a different site.

F. ADMINISTRATIVE REVIEW

The Board of Zoning Adjustments shall have the power to hear and decide cases where it is alleged by an applicant that there is an error in any order, requirement, decision, grant or refusal made by the zoning official in the enforcement of this zoning ordinance. Appeals under this section must be taken within sixty (60) days of the date of official action by the zoning official.

G. APPEALS

Appeals to the board may be taken by any person, or entity claiming to be injuriously affected or aggrieved by an official action or decision of the zoning official. Such appeal shall be taken within thirty (30) days after the appellant or his agent received notice of the action appealed from, by filing with said officer and with the board a notice of appeal specifying the grounds thereof, and giving notice of such appeal to any and all parties of record. Said officer shall forthwith transmit to the board all papers constituting the record upon which the action appealed from was taken and shall be treated as and be the respondent in such further proceedings. At any hearing by the board any interested person may appear and enter his appearance and all shall be given an opportunity to be heard. The board shall fix a reasonable time for hearing the appeal and give public notice in accordance with KRS Chapter 424, as well as written notice to the appellant and the zoning official at least one (1) week prior to the hearing, and shall decide it within sixty (60) days. The affected party may appear at the hearing in person or by attorney.

H. ADMINISTRATIVE PROCEDURE

1. The Board of Zoning Adjustments will meet at the call of the zoning official, chairman, or on a regular basis, whichever is convenient, and in the wishes of the majority of the board.

2. Application must be filed by the zoning official in order for the board to hear any questions involving the literal interpretation of this ordinance, the exact location of zoning district boundaries, or any other interpretations and decisions specifically delegated to it by the provisions of this ordinance.

3. The zoning official has initial authority for literal enforcement and interpretation of the zoning ordinance. He has no discretionary authority to allow any departure from the literal conformance with this ordinance.

4. Any appeals from decisions made by the zoning official shall be appealed only according to Section IV, Article 3.G. of this ordinance. This administrative power is intended to correct any possible misinterpretation by the zoning official.

5. The Circuit Court has jurisdiction to determine all questions and issues properly brought before it on appeal from decision of the Board of Zoning Adjustments.

6. An application process is required prior to the Board of Zoning Adjustments hearing any conditional use or dimensional variance requests. Applications shall be obtained from the zoning official and properly filled out according to their instructions and returned prior to their consideration. The zoning official shall review all applications for their completeness. All applicants for a conditional use permit or dimensional variance will require written notice of the date and time of the public hearing, as well as a copy of the application, be given by first class mail to the applicant and all adjoining property owners at least fourteen (14) days in advance of the meeting. Adjoining property owners include those across a public right-of-way. Notice of the public hearing shall be published at least seven (7) days and not more than twenty-one (21) days in advance in the Murray Ledger and Times. It shall be the duty of the applicant

to furnish the names and addresses of all adjoining property owners. A fee as established by the City Council will be charged to all applicants.

SECTION IV
ARTICLE 4
PLANNING COMMISSION

The Planning Commission's main function is the adoption and amendment of the ordinance. It has primary responsibility in guiding the overall planning activities of the City of Murray.

A. ESTABLISHMENT

The Planning Commission is established as provided by KRS Chapter 100. Appointments and terms are made as provided for by state law and local city ordinances.

B. PROCEEDINGS

1. The Murray Planning Commission shall conduct monthly meetings on the third Tuesday of each month. The meeting date and time may be changed by mutual agreement of the Planning Commission. The establishment of this regular date does not preclude the Planning Commission from scheduling additional public hearings whenever such meetings are deemed necessary.

2. The chairman of the Planning Commission shall give seven (7) days written or oral notice of a special meeting. The notice shall contain the date, time and place of the meeting, and the subject or subjects which will be discussed. The Planning Commission shall conduct business only when a majority of the total membership is present constituting a quorum. The commission may adopt bylaws for the transaction of business and shall keep minutes and records of all proceedings, including regulations, transactions, findings, determinations, the number of votes for and against each question, whether any member is absent or abstains from voting, all of which shall immediately after adoption, be filed in the city planning office. A transcript of the minutes of the commission meeting shall be provided if requested by a party, at the expense of the requesting party, and the transcript shall constitute the record.

C. POWERS

The Murray Planning Commission shall have the following general powers:

The commission may employ or contract with planners or other persons as it deems necessary to accomplish its assigned duties. The commission shall have the right to receive, hold and spend funds which it may legally receive from any and every source in and out of the Commonwealth of Kentucky, including the United States Government, for the purpose of carrying out the provisions of this ordinance. The commission shall have the power to issue subpoenas to compel witnesses to attend its meetings and give the evidence bearing upon the questions before it. The chairman of the Planning Commission shall have the

power to administer oaths to witnesses prior to their testifying before the commission on any issue.

D. OTHER AUTHORITY

The Planning Commission, in addition to its other responsibilities concerning adoption and amendment of this ordinance, has the authority and responsibility for reviewing all planned development projects. This responsibility, like subdivision plat review, involves guiding the initial disposition of land including the proper arrangement of streets in relation to other existing and planned streets, provisions of adequate open space, and the avoidance of congestion and is consequently equivalent to the Planning Commission's primary responsibility for subdivision plat review and approval.

E. ADMINISTRATIVE PROCEDURE

1. The Circuit Court has jurisdiction to determine all questions and issues properly brought before it on appeal from decisions of the Planning Commission.

2. Applications shall be filed with the zoning official for any action to come before the Planning Commission. Applications shall be obtained from the zoning official and properly filled out according to their instruction and returned prior to their consideration. The zoning official shall review all applications for their completeness. A fee as established by the City Council will be charged for all applications.

3. The administrative procedure for a zoning amendment is contained in Section IV, Article 1.

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