

**MCLEAN COUNTY
ZONING ORDINANCE
20.920-1**

**Submitted to:
McLean County Fiscal Court
McLean County Joint Planning Commission**

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ARTICLE I

INTRODUCTION

1.01 GOALS

The goal of this Ordinance is to guide the use of land and the location of buildings in a manner, which will stabilize property values and assist in achieving an orderly pattern of land use within McLean County, Kentucky.

1.02 OBJECTIVES

The objectives of this Ordinance are:

- To promote public health, safety, morals and the general welfare of the county; and
- To facilitate orderly and harmonious development; and
- To preserve the visual and/or historical character of the county and the intensity of land use.

1.03 AUTHORITY

Zoning authority is granted by the Kentucky Revised Statutes, Chapter 100.

1.04 TITLE

This Ordinance shall be known, and may be cited, and referred to as the "McLean County, Kentucky Zoning Ordinance," and the Zoning Map herein referred to, and herein incorporated is entitled "Zoning Map — McLean County, Kentucky."

1.05 INTERPRETATION

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements. Whenever this Ordinance imposes a greater restriction than is imposed or required by other provisions of law, rules, regulations, or ordinances, the provisions of this Ordinance shall govern.

1.06 DEFINITIONS

For the purpose of this Ordinance, certain terms and words are to be used and interpreted as defined hereinafter. Words used in the present tense shall include the future tense; words in the singular number include the plural and words in the plural number include the singular; the word "person" includes a firm or corporation as well as an individual, and the word "lot" includes the words "plot and parcel," except where the natural construction of the writings

indicates otherwise. The word "shall" is always mandatory and not permissive. "Map" means the Zoning Map of McLean County, Kentucky.

1. ALLEY: Any public or private way less than thirty (30) feet in width set aside as a permanent right-of-way for vehicular travel.
2. AGRICULTURAL FACILITY: Any structure relating to, used in, or concerned with agriculture.
3. BUILDING: Any structure designed or intended for the support, shelter or protection of persons, animals, or goods, including permanently attached fixtures and appurtenances such as balconies and porches.
 - A. PRINCIPAL BUILDING A building in which is conducted the principal use of the lot on which it is located.
 - B. ACCESSORY BUILDING: Any building other than a principal building.
4. DWELLING: A residence designed or used for human occupancy, except mobile homes.
5. DWELLING, SINGLE FAMILY: A detached dwelling designed for or occupied by one family only.
6. DWELLING, MULTIPLE FAMILY: A dwelling for or occupied by two or more families, with separate housekeeping and cooking facilities for each.
7. FAMILY: One or more persons occupying a single housekeeping unit and using common cooking facilities.
8. HOME OCCUPATION: Any occupation of activity carried on by a member of the immediate family residing on the premise, provided:
 - A. There is no exterior indication that the premises are being used for other than residential purposes.
 - B. No commodity is sold on the premises except that which is prepared on the premises.
 - C. No person is employed other than a member of the immediate family residing on the premises.
 - D. Not more than twenty-five (25) percent of the total floor area of any dwelling is used for such purpose.

9. **LOT:** For Zoning purposes, as covered by this Ordinance, a lot is a parcel of land at least sufficient size to meet minimum zoning requirements for use, coverage and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an improved public street, and may consist of:
 - A. A single lot of record;
 - B. A portion of a lot of record;
 - C. A combination of complete lots of record and portions of lots of record. or of portions of lots of record;
 - D. A parcel of land described by metes and bounds; provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this Ordinance.
10. **LOT, CORNER:** A lot located at the intersection of two or more streets.
11. **LOT OF RECORD:** A lot, which is part of a subdivision recorded in the Office of the County Clerk, or a lot or parcel described by metes and bounds, the description which has been so recorded.
12. **LOT FRONTAGE:** The front of a lot shall be construed to be the portion nearest the street. For the purpose of determining yard requirements or corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as indicated under yard in this section.
13. **LOT DEPTH:** The distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear.
14. **LOT WIDTH:** The distance between straight lines connecting front and rear lot lines at each side of the lot, measured across the rear of the required front yard, provided however, that width between side lot lines at their foremost points (where they intersect with the street line) shall not be less than eighty (80) percent of the required lot width except in the case of lots on the turning circle of cul-de-sacs, where the eighty (80) percent requirement shall not apply.
15. **MANUFACTURE:** Any process by which the physical or chemical properties of a material are substantially modified or changed.
16. **MOBILE AND MANUFACTURED HOME:** A structure constructed on or after July 15,1976, in one or more sections, fabricated in an off-site facility for installation or assembly at the building site as a permanent structure (with or without a permanent foundation) with transport features removed, with a permanent chassis and designed to be

used as a dwelling, bearing a Class A or B Seal issued by the Kentucky Department of Housing, Building, and Construction, Office of the State Fire Marshall. The structure must also bear a seal certifying that it is built in compliance with the Federal Manufactured Housing Construction and Safety Standards Code as set forth in the Code of Federal Regulations Title 24, Part 3280, 3282, 3283, and 42 USC 5401, ET SEQ, and as mandated by the United States of America and as administered by the United States Department of Housing and Urban Development.

17. **MOBILE HOME PARK**: Any area of land upon which two or more occupied mobile homes are located, and including any building or structure used or intended for use as a park of the equipment of such mobile home park.
18. **MOBILE HOME SPACE**: A plot of ground within a mobile home park designated for the accommodation of one mobile home.
19. **RETAIL**: The sale of goods and services in small quantities directly to the ultimate consumer.
20. **ROOMING HOUSE**: A single-family dwelling containing, in addition to the family living quarter, one or more rooms designed for or occupied by non-family members, provided that no such room shall contain cooking equipment.
21. **SIGN**: Any device designed to inform or attract the attention of persons not on the premises on which the sign is located, provided however, that the following shall to be included in the application of the regulations herein:
 - A. Signs not exceeding one square foot in area and bearing only property numbers, post box numbers, names of occupants of premises, or other identification of premises not having commercial connotations;
 - B. Flags and insignias of any government except when displayed in connection with commercial promotion;
 - C. Legal notices; identification, information, or directional signs erected or required by governmental agencies.
 - D. Integral decorative or architectural features or buildings, except letters, trademarks, moving parts or moving lights;
 - E. Signs directing and guiding traffic and parking on private property, but bearing no advertising manner.
22. **STREET**: Any public or private way thirty (30) feet or more in width set aside as a permanent right-of-way for vehicular travel.
23. **STRUCTURE**: Anything constructed or erected with fixed location on the ground or attached to something having a fixed location on the ground, including, among other things, buildings, fences and walls.

24. **USE:** The purpose or activity for which a building, structure or land is occupied or maintained.
25. **VARIANCE. DIMENSIONAL:** A departure from the terms of the Zoning regulations pertaining to height or width of structures and size of yards and open spaces, where such departure will to be contrary to the public interest, and where, owing to conditions peculiar to the property because of its size, shape or topography and not as a result of the actions of the applicant, the literal enforcement of the Zoning Regulations would result in unnecessary and undue hardship.
26. **YARD:** A required open space unoccupied and unobstructed by any structure or portion of a structure from thirty (30) inches above the general ground level of the graded lot upward, provided however, that fences and walls may be permitted in any yard subject to height limitations as indicated herein.
27. **YARD, FRONT:** A yard adjacent to the front lot line extending between side lot lines. In any required front yard, no fence or wall shall be permitted which materially impedes vision across such yard above the height or thirty (30) inches. and no hedge or other vegetation shall be permitted which materially impedes vision across such yard between the heights of thirty (30) inches and ten (10) feet.
28. **YARD, SIDE:** A yard adjacent to a side lot line extending from the rear line of the required front yard to the rear lot line.
29. **YARD, REAR:** A yard adjacent to the rear lot line extending between inner side yard lines.

ARTICLE 2

DISTRICTS AND BOUNDARIES

2.01 ZONING DISTRICTS ESTABLISHED

For the purposes of this ordinance, the unincorporated territory of McLean County is divided into the following categories of Zoning Districts:

- A-1: Agricultural District
- R-1: Low Density, Single Family Dwelling Residential District
- R-2: Medium and High Density, Single Family and Multi-Family Dwelling Residential District
- B-1: Business and Commercial District
- I-1: Industrial District

2.02 BOUNDARIES

The boundaries of the above Zoning Districts are hereby established as shown on the Zoning Map. A copy of which is appended hereto, and incorporated herein by reference. *The original of this map is on file in the office of the McLean County Judge Executive.*

2.021 BOUNDARY LINES - INTERPRETATION

The boundary lines of districts are lot lines, the centerlines of creeks or of such lines extended, railway rights-of-way, the centerlines of streets or alleys or such lines extended, and/or corporate limit lines.

2.03 DIVIDED LOTS - EXTENSION OF DISTRICTS

Where a district boundary lines established on the Zoning Map divides a lot of single ownership which was a lot of record at the time of the passage of this Ordinance, then the least restrictive district requirements under which the lot was divided shall be applied to the entire lot.

2.04 VACATED STREET OR ALLEY

Whenever any public way is vacated through legal action, portions of it shall immediately, without further action, assume, and be a part of, the Zoning district(s) through which they formerly passed.

2.05 ANNEXED LANDS

In every case where land becomes a part of a city through annexation, such annexed land shall automatically be zoned according to the said city's zoning ordinance.

ARTICLE 3

GENERAL PROVISIONS

3.01 PROVISIONS APPLICABLE TO ZONING DISTRICTS

Not with standing any other provision of this Zoning Ordinance, land which is used solely for agricultural use as defined in this Zoning Ordinance shall have no regulations imposed as to building permits, certificates of occupancy, height, yard, or location requirements for agricultural buildings, except that setback lines may be required for the protection of existing and proposed streets and highways and that buildings or structures in a designated floodway or floodplain or which tend to increase flood heights or obstruct the flow of flood water may be fully regulated.

Except as specified, the following provisions shall apply within all zoning districts:

3.011 ACCESS CONTROL

3.0111 RESIDENTIAL DISTRICTS

Lots of less than one hundred (100) feet in width shall have no more than one (1) point of access to any one public street. Lots wider than one hundred (100) feet shall be allowed one (1) additional point of access for each additional one hundred (100) feet of width or major fraction thereof.

No point of access shall be allowed within twenty (20) feet of the intersection of the right-of-way of intersecting streets. A point of access shall not exceed twenty (20) feet in width for one-way and/or one land entrance or exit. No two-way exit and/or entrance access shall exceed thirty-five (35) feet in width.

3.0112 BUSINESS AND COMMERCIAL DISTRICTS

In all commercial districts, points of access to highways and streets shall be controlled by the regulations of the Planning Commission. Before any building permit for any structure in a business or commercial zone may be issued, the prospective builder or operator of the proposed activity shall submit a sketch of the layout and design of the proposed structure(s) and/or the access points to the highway or street to the *Chairman of the McLean County Joint City County Planning Commission* for review as to their conformity with the regulations of the Planning Commission.

The Planning Commission may require that when two or more consumer commercial establishments adjoin, or are so located along one side of a street as to make a single point of access practical, the establishments should share such access.

Planned shopping areas of four or more establishments which adjoin, or are located in close proximity to each other on any major street, may be required by the Planning Commission to be served by a road parallel to the highway or street which has no more than two points of entry or exit. Such roadway shall be constructed at the expense of the owner(s).

In a planned commercial district, entrance and exit shall be so designed as to minimize traffic congestion. No more than one entry/exit way shall be constructed for every one hundred fifty (150) feet of highway frontage or bordering roadway.

3.012 ACCESSORY BUILDINGS

Accessory buildings must be at least six (6) feet from other buildings situated on the same lot and six (6) feet from the boundary line of all adjoining lots.

An accessory building in a residential district shall not be used for, or be involved with the conduct of any business, trade or industry on the premises.

3.013 DWELLINGS IN REAR OF MAIN BUILDINGS PROHIBITED- EXCEPTIONS

No building in the rear of a principal building shall be used for residential purposes unless it conforms to all yard, open space and off-street parking requirements for a rear dwelling, measured from the required rear yard line of the principal building. A Certificate of Occupancy must be obtained before a rear dwelling can be used for residential purposes.

3.014 HEIGHT LIMITATIONS - EXCEPTIONS

The height limitations of this Ordinance shall not apply to church spires, belfries, cupolas, domes not intended for human occupancy, monuments, water towers, observation and transmission towers, windmills, chimneys, smokestacks, derricks, conveyors, flag poles, masts and aerials.

3.015 LOTS OF RECORD

The owner of a vacant lot of official record, which at the time of this adoption of this Ordinance did not include sufficient area of land to conform to the yard or other dimensional requirements of this Ordinance, may make application to the Board of Adjustments for a variance from the terms of this Ordinance. Such lot may be used as a building site to conform with the district in which it is located, provided, however, that the yard and other requirements of this district are complied with as closely as it is possible to achieve in the opinion of the Board.

3.016 OFF-STREET PARKING

Off the street automobile storage or standing space shall be provided on any lot on which, any of the following uses are hereafter established. Such space shall be provided with vehicular access

to a street or alley. (For purposes of computing the number of parking spaces available in a given area, the ratio of four hundred (400) square feet per parking space shall be used). The following are the minimum requirements for specific use:

- A. DWELLINGS - One (1) space for each family dwelling unit.
- B. APARTMENT BUILDINGS - One and one-half (1 & 1/2) spaces for each housing unit.
- C. ROOMING HOUSES -- One (1) space for each two (2) rooms occupied, or intended for occupancy by roomers, in addition to the requirements of Subsection A above.
- D. TOURIST ACCOMMODATIONS - One (1) space for each room offered for tourist accommodation, plus one (1) space for each employee on duty at any time.
- E. RESTAURANTS AND BOARDING HOUSES - One (1) space for each five (5) service seats at full capacity, plus one (1) space for each three employees.
- F. THEATER, AUDITORIUM. CHURCH, OR OTHER PLACE OF PUBLIC ASSEMBLY-One (1) space for each five seats available at maximum capacity.
- G. COMMERCIAL OR BUSINESS BUILDINGS IN B-1 DISTRICT- Four (4) spaces for the first one thousand (1,000) square feet of floor space, and one additional space for each two hundred fifty (250) square feet of space above that,
- H. INDUSTRIAL PLANT- One (1) parking space for each four (4) employees at maximum employment on a single shift plus one space for each car or truck operated by the plant. The Planning Commission may require additional parking spaces, as it deems necessary.
- I. TRAILER OR MOBILE HOME PARKS - One (1) space for each mobile home lot or unit, plus one-fourth (1/4) space for each mobile home lot the additional parking may be in a central location. Combined uses (such as tourist accommodation and restaurant) shall meet minimum requirements for both or all uses.

3.017 UNLOADING SPACE

Every new building or structure intended for business or trade shall provide not less than one (1) loading and unloading space, which will accommodate large trucks, tractors and semi-trailers for the delivery and receipt of merchandise off the street. Such spaces shall have access to a public alley, or if there is no alley, to a public street.

3.018 SETBACK LINES, EXCEPTIONS

Front yard setback lines shall be measured from the centerline of the street facing the property line to the outermost protrusion of the building or structure.

Front yard setback lines may be varied where the average depth of principal buildings on adjoining properties is less or greater than the depth prescribed elsewhere in this Ordinance. In such case, the front yard in question shall not be less than the average depth of existing front yards on the two (2) lots immediately adjoining.

3.019 STREET FRONTAGE REQUIRED

Except as permitted by other provisions of this Ordinance, no lot shall contain any building which is used in whole or in part for residential purposes unless such lot abuts for at least fifty (50) feet on a street or public way.

3.020 SUBDIVISION COORDINATION REQUIRED

In all cases where the ownership of land is divided for the purpose of eventual development of building lots, the provisions of the subdivision regulations shall be applicable in addition to the provisions of this Ordinance.

3.021 TRAFFIC VISIBILITY ACROSS CORNER LOTS

On a corner lot, within the area formed by the center lines of the intersecting streets and a line joining points on such center lines at a distance of ninety (90) feet, there shall be no obstruction to vision between a height of three and one-half (3-1/2) feet and a height of ten (10) feet above the average elevation of the existing surfaces of each street, at the center line thereof.

The provisions of this section do not apply to the central business district, nor shall the requirements of this section be deemed as prohibiting any necessary retaining wall.

The Board of Adjustments may either increase or reduce the requirements of this section, where unusual or special conditions warrant consideration.

3.022 WATER SUPPLY AND SEWAGE DISPOSAL APPROVAL

It shall be unlawful to construct any residential or commercial building without water supply and sewage facilities, which have been approved by the County Health Officer. Wherever water and sewer mains are accessible, buildings shall be connected to such mains. In every case, individual water supply and sewage disposal must meet the requirements set by the County Health Officer's Certificate Approving Proposed and/or Complete Water and Sewage facilities must accompany applications for building permits and Certificates of Occupancy.

3.023 SIGNS AND ADVERTISING DEVICES

Purpose of this Section: The purposes of this section are:

- A. To assure maximum visibility along streets and to prevent unreasonable distraction for motor vehicle operators.

- B. To preserve and enhance natural scenic beauty and historical sites by the avoidance of unsightly cluttering of advertising signs and devices.
- C. To promote pedestrian safety and to facilitate police and fire protection.
- D. To provide for orderly and visible informative advertising opportunities for all businesses and attractions. which benefit from appropriate signs and attractions.

SCOPE OF THIS SECTION: The provisions of this section shall apply to the construction, erection, use, location and maintenance of signs in all districts. The provisions of this Ordinance shall apply to signs existing on the effective date of this Ordinance. Signs in legal existence on the effective date of this Ordinance, but not in conformity with it, and not obstructing traffic visibility, may remain in place; but the non-conforming use shall not be extended, enlarged, or moved to occupy a portion of land or a structure except in conformity with this Ordinance. Only routine maintenance may be performed on the sign and its structure until such time as the sign is brought into conformance with these regulations. Unless otherwise permitted by this Ordinance, no new sign may be erected, constructed or displayed within the Planning Area after the effective date of this Ordinance unless all the provisions of this Ordinance are met.

Signs and billboards placed along the Federal Aide Highway. U.S. 431 must conform to the regulations of the Kentucky Department of Transportation in accordance with Kentucky Revised Statutes, 177.

3.0231 SIGNS PERMITTED IN ZONING DISTRICTS

- A. **RESIDENTIAL DISTRICTS** — Unlighted real estate signs advertising the sale, rental or lease of only the premises on which they are maintained. Such signs must not exceed ten (10) square feet in area, and are to be used only temporarily. Real estate signs must be displayed at least five (5) feet from all lot boundaries. Signs advertising home occupations may not exceed one (1) square foot in area and must be affixed to the front of the building in which the activity is carried on.

Churches, schools, and other public and semi-public institutions may erect bulletin boards not exceeding twenty (20) square feet in area.

Subdivisions may be identified by one non-illuminated sign at each entrance. These signs shall not exceed thirty (30) square feet in area.

Apartment complexes containing eight or more housing units may be identified by a permanent sign of no more than thirty (30) square feet in area.

- B. BUSINESS AND COMMERCIAL DISTRICTS** — In the Central business District advertising signs are permitted, but care must be taken to preserve the Historical Nature of the District. The use of lighting is permitted, but signs and advertising devices shall be placed on buildings in a flat manner and shall not extend more than twelve (12) inches from the building. However, this provision may be waived if it is determined that a proposed sign will be in keeping with the Historic Nature of the area and will not detract or interfere with any surrounding buildings, with said determination being made by a four person committee consisting of the McLean County Judge Executive, *The Chairman of the Planning Commission* and a Planning Commission Member to be appointed by the McLean County Planning Commission and a Fiscal Court member to be appointed by the Judge Executive. No flashing lights of any kind shall be permitted.

Outside of the Central Business District, individual establishments in a commercial district which are not within a shopping center or a planned commercial district may choose to display either a free-standing sign, or to *hang* a sign perpendicular to the front of the establishment. Such signs must not exceed one hundred (100) square feet in area, and the outermost edge of the sign must be at least ten (10) feet from the property line. These signs may be lit so long as they are not illuminated in such a way as to constitute a hazard inhibiting the vision of vehicle operators. Retail gasoline sales establishments may also have one additional sign to display its prices and said sign shall not exceed fifty (50) square feet. The committee established pursuant to Section 3.0241(B) above shall have the authority to approve non-conforming signs outside of the Central Business District if it is determined that a sign will not detract from, or interfere with any surrounding buildings and will comply with the General Planning of the Area.

- C. SHOPPING CENTERS** — For the purposes of this Ordinance, a shopping center is defined as two or more commercial establishments, which share a common place name such as "Shopping Center" "Market Place" or similar identification. A shopping center may have one (1) free standing sign not exceeding one hundred (100) square feet in area, and a directory of occupants not exceeding one hundred (100) square feet. Signs on stores or service establishments within the center shall be placed on buildings in a flat manner, extending no more than twelve (12) inches outward from the building.
- D. PLANNED COMMERCIAL DEVELOPMENTS**— Each planned commercial development shall be permitted two (2) freestanding signs not over twenty-five (25) feet in height. or more than one hundred fifty (150) square feet in area, and a directory of firms not exceeding one hundred (100) square feet. Other signs in the development shall be attached to the buildings in a flat manner and shall not extend from the building more than twelve (12) inches.

- E. **INDUSTRIAL DISTRICTS** — Industrial parks designed for multiple occupancy shall be permitted one (1) free standing sign or billboard not to exceed one hundred fifty (150) square feet in area for each roadway or street, which borders the park. No sign may be located closer to the street right-of-way than twenty (20) feet.

Individual industry locations shall be permitted one (1) sign not exceeding one hundred fifty (150) square feet in area for each roadway or street, which borders its property. Such sign(s) shall not be located closer than twenty (20) feet from the property borderline(s). Other signs shall be affixed flat against the building.

Each industry, whether in a park, or occupying a separate lot, shall be permitted one (1) free-standing sign of not more than twenty (20) square feet for directional purposes to assure the convenience of vendors and visitors.

3.0232 TEMPORARY SIGNS

The following signs shall be permitted in all districts and shall not require a permit unless otherwise noted:

- A. Construction signs, which identify the architects, engineers, contractors and other individuals or firms which, are involved in a permitted project. Product logos may be displayed, but no additional advertising shall be allowed. Such signs shall be restricted to an area of sixteen (16) square feet for each firm. The signs must be restricted to the construction site, and shall be placed at least five (5) feet inward from the property line. They must be removed within fourteen (14) days after the completion of the advertised project.
- B. Real Estate signs advertising the sale, rental or lease of premises shall be restricted to a total of thirty-five (35) square feet for properties other than residential. For residential properties the limit shall be ten (10) square feet. These signs shall not be illuminated, and must be placed at least five (5) feet inward from the property line. They must be removed within fourteen (14) days after the sale, lease or rental by the seller, lessor or his agent.

Signs advertising an auction shall be limited to thirty-two (32) square feet in size, and shall be removed within seven (7) days after the auction occurs.

- C. Political campaign signs announcing the candidacy of individuals, or those which seek support for or against a proposition to be voted on may be placed upon private property with the consent of the owner(s). Such political signs must not exceed twenty (20) square feet in area. and must be removed within seven (7) days after the vote is taken.
- D. Street banners advertising public entertainment or an event requires the approval of the *Chairman of the planning Commission or his or her designee*. Such approval may be given for a period of thirty (30) days prior to the event. The banners must be taken down within seven (7) days after the event takes place.

3.0233 PORTABLE SIGNS

In locations other than planned commercial developments, or shopping centers, mobile/portable signs shall be permitted for periods of thirty (30) days for the purpose of advertising special events or sale specials which may be offered by an enterprise. Such signs must be placed so as not to obstruct the motorist's view of the right-of-way, and must be setback at least to the midpoint of the required setback line and the traveled portion of the roadway. In no instance shall such sign be closer than ten (10) feet to the roadway.

A permit for the placement of portable signs must be obtained from the *Chairman of the Planning Commission or his or her designee*. Permits will be valid for a period of thirty (30) days from the date of issue.

The fee for the issuance of a portable sign permit shall be set by the McLean County Planning Commission for a thirty (30) day period.

3.0234 PERMANENT SIGNS, BILLBOARDS

Permanent signs, such as billboards, are classified as structures within the meaning of this Ordinance and require that a permit be obtained prior to erection or construction. (As previously noted, billboards along Federal Aid Highways are subject to State and Federal Regulation. However, the regulations of this Ordinance may be more stringent than those of the Kentucky Department of Transportation).

No billboards shall be permitted in any residential district.

Unless otherwise proscribed in other sections of this Ordinance, the following maximum dimensions apply to billboards:

Maximum Area:	400 Feet
Maximum Height:	40 Feet

Measured from the average grade level at the base of the sign; however, if the average level at the base of the sign is lower than the average grade level of the adjacent highway, then the maximum height shall be thirty (30) feet, measured from the average grade level of the highway.

Minimum distance from right-of-way or property line: 20 Feet

3.0235 PERMITS FOR SIGN CONSTRUCTION OR ERECTION

Applications for the construction or erection of new permanent signs, or for modification of existing billboards and signs shall be made to the *Chairman of the Planning Commission or his or her designee*, on forms to be provided by him/her. A fee set by the Planning Commission, per square foot, subject to a minimum fee of twenty-five dollars (\$25) shall accompany the application to defray the cost of issuing a permit and for the inspection of the sign after its installation.

3.0236 AMORTIZATION OF NON-CONFORMING SIGNS

All non-conforming signs must either be altered to conform to this Ordinance or be removed.

ARTICLE 4

ZONING DISTRICTS AND BASIC REQUIREMENTS

4.01- AGRICULTURAL DISTRICTS (A-1)

Land dedicated to agricultural purposes, including row cropping, plant nurseries, greenhouses, commercial kennels, riding stables and fishing lakes shall be permitted in agricultural districts within the political boundaries of McLean County, as allowed by Kentucky Revised Statute 413.

4.011 PERMITTED USES

Within the A-1 district the following agricultural activities are permitted: Animal husbandry, egg and poultry production, dairying, farrowing and other agricultural activities, which do not constitute noise and/or waste nuisances.

4.012 CONDITIONALLY PERMITTED USES

Subject to the approval of the Board of Adjustment, the following uses of land may be approved within an agricultural district: Churches, Sunday school buildings, parish houses, hospitals, convalescent or nursing homes, public and parochial schools and colleges and private schools for academic instruction public buildings and properties, public parks, public utilities, public and private sewage disposal plants and wireless transmitting stations. Travel-trailer parks and/or campground sites may also be established in an agricultural district as a special exception.

4.02 LOW DENSITY SINGLE FAMILY RESIDENTIAL DISTRICT (R-1)

4.021 PRINCIPAL PERMITTED USES

Single family dwellings and planned residential development projects as described in Section 6.04 of this Ordinance.

4.022 CONDITIONALLY PERMITTED USES REQUIRING BOARD OF ADJUSTMENT AUTHORIZATION

The following permitted uses are exceptions in R-1 district, and require the written approval of the Board of Adjustment: Churches and other places of worship; parish houses; public libraries; schools offering general or specialized education courses; day care and/or nursery services; public parks and non-commercial public recreational facilities; nursing homes; hospitals for the care of humans; philanthropic institutions and clubs of which the chief activity is customarily carried on as a business.

4.023 ACCESSORY BUILDINGS AND USES

Accessory buildings and uses shall be permitted as customarily incidental to the conditional use.

4.024 LOT AREA, FRONTAGE AND YARD REQUIREMENTS

Minimum Dimensional Requirements:

Lot Area	20,000 feet or as required by the County Health Department for minimum lot size for septic tanks
Lot Width at Bldg. Line	200 feet

Yard Space (Excepting Unattached Accessory Buildings)

Rear Depth	35 feet
Side Yards	15 feet
Front Depth	45 feet
Frontage	50 feet

The minimum width of side yards along intersecting streets shall be the same, as the front yard setback required for the residential district on such side street.

4.03 MEDIUM AND HIGH DENSITY SINGLE FAMILY AND MULTI-FAMILY RESIDENTIAL DISTRICT MEDIUM DENSITY (R-2)

The requirements for the district shall be the same as those for the R-1 district with the following exceptions:

4.031 LOT AREA AND YARD REQUIREMENTS

Dimensional Minimums:

Lot Area	40,000 feet
Rear Depth	35 feet
Side Depth	12 feet
Front Depth	45 feet
Frontage	50 feet

4.032 PRINCIPAL PERMITTED USES

Single and multi-family residences and planned residential development subject to Article 6. Mobile home parks, which meet requirements of Article 5 of this Ordinance.

4.033 CONDITIONALLY PERMITTED USES REQUIRING BOARD OF ADJUSTMENT AUTHORIZATION

The following uses are special exceptions in an R-2 district and require the written approval of the Board of Adjustment: Churches and other places of worship, parish houses, public libraries, schools, daycare and/or nursery services, public parks and public recreational facilities, public utilities, funeral homes, cemeteries, nursing homes, clinics and hospitals for human care, philanthropic institutions and clubs (except clubs of which the chief activity is customarily carrying on as a business).

Other conditionally permitted uses within an R-2 district may include: an office in the residence of a physician, dentist, lawyer, engineer, architect, realtor, insurance agent, the studio of an artist, or a teacher of music (limited to one pupil at a time). Such uses must not involve more than one-quarter (1/4 or 25%) of the area of one floor of the dwelling and no more than one (1) person on the premises may be employed, not including the resident. It is further required that such use shall not require structural alteration, or features not customary in dwellings. An indirectly lighted sign or nameplate not more than one (1) square foot in area may be attached flat against the side of the building.

Additional conditionally permitted uses may include such customary home occupations as handicraft, dressmaking, laundering, beauty and barbershops, etc. These occupations must be conducted exclusively by resident occupants in their place of residence, and not more than one-fourth (1/4) of the area of one floor of the residence shall be used for such purpose.

It is further required that with the exception of handicrafts, no more than twenty percent (20%) of the revenue of home occupations shall be derived from the sale of items at retail. The use of a residence for home occupations shall not require alteration, or structural features not customarily found in a dwelling. An indirectly lighted sign of not more than one (1) square foot may be affixed against the wall of the building. The Board of Adjustment may attach such conditions, as it deems necessary to preserve and protect the nature of the district.

4.034 ACCESSORY BUILDINGS AND USES

Accessory buildings and uses customarily incidental to the conditional uses shall be permitted.

4.035 HEIGHT REQUIREMENTS

No principal structure in an R-2 district shall exceed three (3) stories, or thirty-six (36) feet in height.

4.036 LOT AREA, FRONTAGE AND YARD REQUIREMENTS---WHERE PUBLIC SEWER SERVICE IS AVAILABLE

The minimum required lot size in an R-2 district shall be 8,000 square feet for a single-family dwelling and 6,000 square feet for the first family when the dwelling is for multi-family use with 2,000 square feet additional being required for each additional family occupying the building.

Other Dimensional Minimums:

Width at Building Line

Single Family	85 feet
Multi-Family	100 feet

Yard Space (Except unattached buildings)

Rear Depth	35 feet
Side Widths	12 feet
Front Depth	35 feet

Minimum width of side yards along intersecting streets shall be the same as the front yard setback required for the residential district on such side street.

4.04 BUSINESS AND COMMERCIAL DISTRICT. B-1

4.041 PRINCIPAL PERMITTED USES

Any consumer and personal service and/or retail establishment.

4.042 CONDITIONALLY PERMITTED USES REQUIRING BOARD OF ADJUSTMENT AUTHORIZATION

The following uses are special exceptions in a B-1 district and require written approval of the Board of Adjustment:

Apartments, townhouses, and single-family dwellings, churches and other places of worship, parish houses, schools, day care centers and nurseries, funeral homes, hospitals or clinics for human care industry, and philanthropic institutions and clubs (except those whose principal activities are carried on as a business or commercial activity suitable to the district).

The Board of Adjustment may attach such conditions to its approval as are deemed essential to the preservation of the character of the district as an historical area.

4.043 ACCESSORY USES

Any accessory use or building customarily incidental to permitted uses may be permitted.

4.044 SIGNS

As permitted in Section 3.023 of this Ordinance.

4.045 REQUIRED CONDITIONS

Screening: Where a commercial lot adjoins a residential lot, a well-maintained compact hedge, a solid fence, or similar solid screening device at least six (6) feet in height shall be installed to screen the business use from the adjoining lot in the residential district. The screen shall begin at the front building line and extend along the common side lot line to the rear property line.

Access to streets and highways: As required in section 3.018 of this Ordinance.

4.046 LOT AREA, FRONTAGE AND YARD REQUIREMENTS

Minimum Dimensional Requirements:

Lot Area:	No Set Dimensions
Frontage:	No Set Dimensions

In commercial districts along Federal Aid Highways, buildings may be no closer to the highway right-of-way than fifty (50) feet.

Side Yard Widths	No Set Dimensions
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(However, if the lot adjoins a residential district, buildings shall be so located as to comply with the requirements of the adjoining residential district as to lot coverage, width and side yards).

Rear Yard Depth	No Set Dimensions
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(However, if the lot bounds on an alley, there shall be a rear depth sufficient for loading, unloading and access for emergency vehicles such as fire trucks).

All buildings on corner lots adjoining a residential district shall be located so as to conform to corner lot side yard requirements of said residential district.

4.05 INDUSTRIAL DISTRICT, I-1

For the purpose of this Ordinance, industry is defined as the activity of assembly, conversion, or change of form or appearance of physical materials or chemical elements, natural or manmade, in anticipation of enhanced economic value or usefulness.

In addition to such activity, certain types of commercial operations of sales, service and warehousing are deemed to be especially suited for location in an industrial district.

Commercial or business enterprises other than those specifically noted may be permitted with the approval of the Board of Adjustment.

4.0511 PERMITTED USES

4.0511 MANUFACTURING

Permitted uses include any manufacturing.

ACTIVITY: Assembly, fabrication or processing, which does not, by its nature create a public nuisance. A new industry locating in an industrial district must furnish to the Planning Commission through the *Chairman of the Planning Commission or his or her designee*, assurances that it will comply with all federal, state and local regulations with regard to air pollution, noise pollution and solid waste and hazardous waste disposal prior to the issuance of building and Construction Permits:

4.0512 SALE FIRMS

Sales lots, display and stocking areas for the following types of businesses are deemed to be suitable for industrial districts: automobiles, trailers, and mobile homes, farm implements, lumber and building materials; and wholesale or jobbing firms.

4.0513 SERVICE ESTABLISHMENTS

The following types of service establishments are designated as suitable for industrial districts: automobile rental agencies; animal hospitals, veterinary clinics, and associated kennels, motorcycle repair, and carpet cleaning.

4.0514 WAREHOUSING AND STORAGE

Warehousing and storage facilities as a general category are permitted in industrial districts.

4.0515 PUBLIC FACILITIES

Public water and sewage treatment plants and other public facilities and utility plants are permitted in industrial districts.

4.052 CONDITIONALLY PERMITTED USES REQUIRING BOARD OF ADJUSTMENT AUTHORIZATION

The following manufactures require the written approval of the Board of Adjustment for conditional permitting in *an* industrial zone: slaughter house; acids; acetylene gas; refining; blast furnaces; bricks; charcoal; chemicals; creosote treatment and production; exterminator or insect poisons; rendering; fertilizer; leather curing and tanning; lime; monuments; plaster of paris;

quarrying, rock crashing, sawmills, sulfur, sulfuric acid and derivatives; tar distillation and terra cotta.

Other conditional uses include: refuse dump; scrap iron and salvage yards; junk car lots; coal washing; and wrecking material yards.

4.053 ACCESSORY BUILDINGS AND USES

Any accessory building or use customarily incidental to the above permitted or conditionally permitted use shall be permitted.

4.054 REQUIRED CONDITIONS

On lots adjacent to a residential district, all buildings shall be located so as to provide a minimum side yard of five hundred (500) feet on the side adjoining the residential property.

Loading docks: where possible, loading docks should be located so as not to front on a public way or roadway.

Storage facilities: No materials or supplies shall be stored or permitted to remain on any part of the property outside of the buildings constructed thereon without proper screening and adequate distance from adjoining properties.

Waste Disposal: No waste material or refuse may be dumped upon, or be permitted to remain upon any part of an industrial site outside of the buildings erected thereon except as it may be required for pretreatment of waste prior to its being discharged into the municipal sewage system. No property shall be used for industrial purposes unless an existing treatment facility agrees to accept its sewage, or the industry constructs its own approved facilities.

4.055 LOT AREA, FRONTAGE AND YARD REQUIREMENTS

Dimensional Minimums:

Lot Area	None
Frontage	None
Front Depth	45 feet
Side Yards	250 feet
Rear Depth	250 feet

No yard shall be required for that part of a lot which abuts upon a railroad siding. All buildings on corner lots adjoining a residential district shall be so located as to conform to corner lot requirements of said district.

4.056 SIGNS AND BILLBOARDS As permitted in section 3.023.

ARTICLE 5

MOBILE HOMES AND MOBILE HOME PARKS

5.01 DEFINITIONS

The definition of terms used in this article shall be those set forth in section 1.06 of this Ordinance.

5.02 WHEN MOBILE HOMES ARE CONSIDERED STANDARD HOUSING

Mobile homes shall be considered standard housing when the following conditions are met.

- (1) A building permit is obtained.
- (2) The home is anchored to a solid continuous foundation of concrete, concrete blocks or other permanent material.

The above conditions must be met within ninety (90) days from the date the permit is issued, and a performance bond shall be required.

5.03 MOBILE HOME PARKS

Mobile home parks are permitted in R-2 zones subject to the provisions of this article. (By definition, the permanent placement of recreational vehicles is prohibited. Vehicles used for the purpose of travel which do not exceed the length of twenty-four (24) feet may be stored in the rear yard of any residential lot, provided that yard lot requirements of this Ordinance are maintained).

5.031 AREA AND DENSITY REQUIREMENTS

The developer may be permitted to develop the park in stages so long as he complies with the overall plan approved for the entire tract, and initially has a minimum of two (2) mobile home lots developed for use. The number of mobile home lots permitted in a park shall not exceed twelve (12) per net acre. (A net acre is defined as being the land remaining to be subdivided into lots after the street and other required improvements are installed).

5.032 LOT SIZE

Individual lots within a mobile home park shall not be less than four thousand (4,000) square feet in area, and in no instance shall more than one (1) mobile home be permitted on a single mobile home lot. The minimum width of a mobile home lot shall be forty (40) feet.

5.033 SETBACK

No mobile home shall be located closer than fifteen (15) feet to any building within the park, or to any property or road line. The setback requirements for R-1 and R-2 districts must be met.

5.034 SPACING

No mobile home shall be located within twenty-five (25) feet of another mobile home, except that minimum end-to-end clearance of not less than fifteen (15) feet may be permitted.

5.035 STREETS

All mobile homes shall abut on a street. All streets within a mobile home park shall have a right-of-way of not less than twenty-five (25) feet and a pavement of not less than twenty (20) feet in width. All of the streets within a mobile home park must be hard surfaced, as set forth in Section 62.3 in the McLean County Subdivision Regulations.

5.036 MAINTENANCE OF STREETS

The owner of the park shall maintain the streets and roadways of a mobile home park. Should the lots within the park be sold to individual owners, McLean County may take over the maintenance of the streets as county streets upon the following conditions:

- A. Upon the first sale of a lot within the park to an individual purchaser, the owner(s) of the park must post a security bond assuring the county that the streets and roads within the park meet the standards of the McLean County Subdivision Regulations. Upon the sale of sixty (60) percent of the lots within the park to individual owners, the county will assume a proportional cost of the maintenance if the standards have been met.
- B. If all of the lots are sold to individual owners, and the streets and/or roadways meet acceptable standards, the streets within the park shall become city/county streets.
- C. The cost of engineering studies and tests to determine the acceptability of streets and roads of a mobile home park shall be borne by the developer, or the owner(s) of lots within the park.

5.037 ACCESS TO PUBLIC STREETS AND ROADWAYS

Each mobile home park shall have one (1) street, which gives access to a public street, highway or roadway.

5.038 LIGHTING

All streets within a mobile home park must be well lighted, and such lighting shall meet the

standards of street lighting in McLean County.

5.039 DRAINAGE

Adequate drainage must be provided to assure that there will be no property damage or health hazard due to standing water or flooding conditions.

5.044 PARKING

Parking spaces must be provided as detailed in section 3.016 of this Ordinance.

5.041 UTILITIES

All lots within a mobile home park must be provided with water, sewer, electrical, and/or gas facilities meeting the standards specified by the county and state regulations. Each mobile home shall be properly connected with said utilities.

5.042 FIRE PROTECTION

Water mains serving mobile home parks shall not be less than six (6) inches in diameter, including hydrant branch connections installed in conformity with the minimum requirements of the servicing utility.

Fire hydrants shall meet minimum specifications and shall be installed no farther apart than five hundred (500) feet. In no instance shall the distance of any mobile home from a fire hydrant exceed three hundred (300) feet.

5.043 ACCESSORY STRUCTURES

No accessory structure, including patios and pads shall be located within five (5) feet of any mobile home or trailer lot line. The maximum floor area of accessory structures shall not exceed one hundred (100) square feet, and the maximum height shall be no greater than ten (10) feet. All structures shall be built in compliance with building code.

5.044 PROCEDURE FOR PERMITTING

Applicants for a permit to operate a mobile home park shall submit a copy of the application submitted to the Kentucky Cabinet for Human Resources as required by KRS 219.350 as amended, and in addition shall furnish the following information:

- A. Dimensions and locations of all proposed lot lines, roads, and easements, number for each mobile home lot.
- B. Contour lines to indicate slope and drainage.
- C. Location of all utilities, public and private water, sewer, drainage, electrical, and gas

facilities and easements.

- D. The location of public areas such as visitor parking, recreational areas, etc.
- E. A large-scale plan of one typical mobile home lot showing location, automobile parking etc.
- F. The location of plantings for landscape purposes, or as may be required for protective screening by the Board of Adjustment.

5.045 ISSUANCE OF BUILDING PERMITS

The Planning Commission may attach reasonable conditions to its approval of a mobile home or trailer park and may direct the *Chairman of the Planning Commission or his or her designee* to issue a permit subject to such conditions.

5.046 ISSUANCE OF CERTIFICATE OF OCCUPANCY

The *Chairman of the Planning Commission or his or her designee* shall issue a Certificate of Occupancy only after he *or she* has determined that the mobile home park has been developed according to all applicable regulations and special conditions, and that the applicant has received a valid permit to operate from the State Department of Health as required by KRS 219.130.

5.047 ENFORCEMENT

The *Chairman of the Planning Commission or his or her designee* shall ensure that all mobile home and trailer parks maintain valid permits to operate, and that they maintain conformance with all the applicable regulations and special conditions.

5.048 EXCEPTION

The Planning Commission may reject any proposed mobile home or trailer park application even though it meets all requirements if the Planning Commission determines that existing conforming mobile home and trailer parks are not fully occupied and/or utilized, and therefore that the development of more land for such use is not in accord with the public welfare of the community.

ARTICLE 6

PLANNED DEVELOPMENTS

6.01 PLANNED DEVELOPMENTS IN GENERAL

The development of land exceeding one (1) acre in size for residential and commercial uses (other than for one (1) single family dwelling on a lot of such size), and for industrial parks shall be subject to the specific review of the Board of Adjustments. The developer(s) of such acreage shall submit a plan for the proposed development showing metes and bounds and a plat showing proposed usage. This plat must be accompanied by a survey by a Certified Land Surveyor.

If the tract of land proposed to be developed is not appropriately zoned for the requested use, a zoning amendment must be requested. All legal procedures must be followed, and a map amendment duly authorized prior to the start of the proposed development.

In approving proposals for planned, developments, the Board of Adjustments must be satisfied that the proponents of the Planned Development Project(s) are financially able to carry out the proposed project(s), and that construction will begin within one (1) year after approval of the plan.

6.02 PLANNED COMMERCIAL DEVELOPMENTS

A planned commercial development is defined as a proposal for the utilization of an area exceeding one (1) acre in size for the construction of building(s) and/or facilities to house two (2) or more commercial establishments either in separate or a common structure.

The owner(s) of the land, or the developer(s) shall be required to submit to the Board of Adjustments for its review a preliminary plan for the use and development of the tract of land and survey accurately describing its metes and bounds.

It shall be the duty of the Board of Adjustments to investigate, and to ascertain, whether the proposed location and plan comply with the following:

- A. That the project is at a location where traffic congestion does not exist at present on the streets to be used for access to the proposed commercial development, and where such congestion is not likely to be created by the proposed development.
- B. That the plan provides for a project consisting of two (2) or more establishments in a building, or in buildings of unified and harmonious design together with adequate, and properly arranged traffic and parking facilities and landscaping, and will have no adverse effect upon adjoining or surrounding development.

C. That the uses proposed are consistent with those permitted within the district.

6.021 REGULATIONS

The following regulations shall apply to the planned commercial development:

A. Tract Coverage

The area around occupied by all buildings shall not exceed, in aggregate, fifty (50) percent of the total area of the lot or tract.

B. Customer Parking Space

Notwithstanding any other requirement of this Ordinance, there shall be provided one (1) off-street parking space for each four hundred (400) square feet of retail or customer service floor space.

C. Loading Space

Notwithstanding any other requirement of this Ordinance, there shall be provided one (1) off-street loading space for each ten thousand (10,000) square feet of building floor space, or major fraction thereof.

At least one third (1/3) of the loading spaces shall be significant in area and offer vertical clearance for the accommodation of trucks of the tractor-trailer type.

D. Signs.

Signs shall be permitted as per section 3.023 of this Ordinance.

6.022 SPECIAL CONDITIONS

The Board of Adjustments may attach reasonable special conditions to ensure that there will be no departure from the intent of this Ordinance. The proposed commercial development shall comply with all such conditions, and a final plat shall be submitted to the Board of Adjustments for its review prior to the start of construction.

6.03 PLANNED INDUSTRIAL PARK

When a development is defined as a planned industrial park, it shall be subject to the following:

The owner or owners of land in an industrial district co-owning not less than four (4) acres

shall submit to the Board of Adjustments for its review a preliminary plan for the use and development of such land as a planned industrial park.

6.031 CONDITIONS

It shall be the duty of the Board to investigate, and to ascertain, whether the proposed location and plan comply with the following conditions:

- A. That the proposed industrial park is located where traffic congestion does not exist at present on the streets to be utilized for access to the proposed park and where congestion will not be likely to be created by the development.
- B. That the plan provides for an industrial park consisting of one or more buildings of unified and harmonious design, together with the required parking facilities and landscaping, and that the development will have no adverse effect upon adjoining or nearby developments.
- C. That the uses permitted shall be those, which are authorized for an industrial district as set forth in section 4.08 and 4.084.

6.032 REGULATIONS

The following regulations shall apply to a planned industrial park:

6.0321 BUILDING HEIGHTS

No building shall exceed six (6) stories, or seventy-five (75) feet in height.

6.0322 FUMES AND ODORS

No noxious or offensive trade or activity shall be carried on, nor shall anything be done which may be or become an annoyance or nuisance by reason of unsightliness, or the excessive emission of odor, dust, fumes or smoke. Signs shall be permitted as per Section 3.0231 of this Ordinance.

6.0323 LANDSCAPING

The area between the building lines and the property lines is to be used either for open landscaped and green areas or for off-street parking. Any landscaped area shall be properly maintained in a sightly condition. Parking areas shall also be maintained in good condition.

6.0324 BUILDING SETBACKS

No building may be erected within an industrial park nearer than one hundred (100) feet to the street right-of-way upon which it faces, nor nearer than twenty-five (25) feet to the right-of-

way of any other existing or proposed streets nor shall any such building be erected nearer than twenty-five (25) feet to the side or rear property lines.

6.0325 GENERAL PROVISIONS

Other provisions as set forth in Article 4 of this Ordinance dealing with loading docks, parking, storage, signs, screening and waste disposal shall apply to an industrial park.

6.0326 OTHER CONDITIONS

The Board of Adjustments may attach reasonable conditions to ensure that there shall be no departure from the intent of this Ordinance. The proposed industrial park shall comply with all such conditions, and a final plat shall be submitted to the Board of Adjustments for its review and approval before construction begins.

6.04 PLANNED RESIDENTIAL DEVELOPMENTS

A planned residential development is a large-scale development constructed by a single owner or a group of owners acting jointly, located on a single tract of land, and involving a related group of residences and associated uses, planned as an entity, and therefore constituting one complex land use unit.

A planned residential development project plat and plan must be presented to the Planning Commission for review and approval.

6.041 REGULATIONS

The following regulations shall apply to a planned residential development:

- A. **Zoning:** The proposed site must be located in a residential district.
- B. **Plat Plan:** A plat shall be presented for Planning Commission review, which shows the following:
 - (1) Kind, location, build, and capacity of structures and uses.
 - (2) General floor plan of buildings.
 - (3) Location and identification of open spaces, streets, and all other means for pedestrian and vehicular circulation, parks recreational areas, and other non-building sites.
 - (4) Provision for automobile parking.

- (5) General nature and location of public and private utilities and other community facilities and services.

6.042 INTENSITY OF LAND USE

The intensity of land use shall be no higher, and the standard for open space shall be no lower than, that permitted by this Ordinance.

6.043 ZONING RESTRICTIONS TO APPLY

In no case shall the Planning Commission authorize a use prohibited in the district in which the housing is located, or a smaller gross lot area per family than the minimum required for said district, or a greater height, or a larger coverage than required by this Ordinance.

ARTICLE 7

CELLULAR ANTENNA TOWERS

7.01 PURPOSE

The purpose of these regulations is 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 the recommendations of the Comprehensive Plan; and to allow for such facilities with the intention of furthering the public health, safety, and general welfare.

7.02 DEFINITIONS

- A. ALTERNATIVE CELLULAR ANTENNA TOWER - Man-made trees, clock towers, bell towers, steeples, light poles and similar alternative-design mounting structures that accommodate, camouflage, minimize or conceal the presence of cellular antennas or cellular antenna towers and 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.
- B. 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.
- C. CELLULAR ANTENNA, ROOFTOP - Any exterior transmitting or receiving device mounted on, or attached to, the rooftop of a building through gravity mounts or other surface attachments used for cellular wireless or other cellular telecommunications signals; integrated into the natural rooftop profile of a building so that it resembles a permissible rooftop structure, such as a ventilator, cooling equipment, solar equipment, water tank, chimney or parapet.
- D. CELLULAR ANTENNA TOWER - A tower constructed for, or an existing facility that has been adapted for, the location of transmission or related equipment to be used in the provision of cellular telecommunications services or personal communications services.
- E. CELLULAR ANTENNA TOWER HEIGHT - The distance from the anchored base of the tower, whether on the top of another building or at grade, to the highest point of the antenna structure.
- F. CELLULAR EQUIPMENT CABINET - A cabinet designed to house radio equipment similar in size to a traffic signal cabinet, not designed for human occupancy. Any maintenance to radio equipment can only be done from outside the cabinet, as

- opposed to a larger-sized equipment shelter that can be totally accessed by service personnel.
- G. CELLULAR TELECOMMUNICATIONS SERVICE — A retail telecommunications service that uses radio signals transmitted through cell sites and mobile switching stations.
 - H. CELLULAR TELEPHONE TRANSMITTING FACILITY. TEMPORARY - Any system of wires, poles, rods, reflecting disks, or similar devices used for the transmission or reception of electromagnetic waves, not meeting the definition of a "structure" as defined by this chapter. Temporary facilities shall be subject to issuance of a locational permit from the Planning Commission prior to being located on a property.
 - I. CO-LOCATION - Locating two or more transmission antennas or related equipment on the same cellular antenna tower.
 - J. ENVIRONMENTALLY SENSITIVE AREAS - Significant wildlife habitat and migration corridors, unique vegetation and critical plant communities, and ridgelines.
 - K. GEOLOGIC HAZARDS •- Unstable or potentially unstable slopes, undermining, faulting, landslides, rockfalls, flood, wildfire, or similar naturally occurring dangerous features or soil conditions or natural features unfavorable to development.
 - L. GUYED CELLULAR ANTENNA TOWER -A type of wireless transmission tower that is supported by thin guy wires.
 - M. LATTICE CELLULAR ANTENNA TOWER - A self-supporting tower with multiple legs and cross-bracing of structural steel.
 - N. MONOPOLE CELLULAR ANTENNA TOWER - A slender self-supporting tower on which wireless antennas can be placed.
 - O. PERSONAL COMMUNICATIONS SERVICE - Has the meaning as defined in 47 U.S.C. § 332(c).
 - P. SEARCH RING — The necessary search area within which a site for a cellular antenna tower should, pursuant to radio frequency requirements, be located.
 - Q. 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.
 - R. UTILITY — Has the meaning as defined in KRS 278.010(3)

7.03. PERMITTED LOCATIONS.

To the greatest extent feasible, applicants are encouraged to consider properties owned by the local government for the location of cellular towers. Whenever possible, cellular antenna towers, whether temporary or permanent, shall be sited at locations that minimize their adverse effect on residential uses in the immediate area. Only when no other adequate site is available shall a cellular antenna tower be permitted in a residential zone, unless located on a property not used or intended for residential purposes. In accordance with the procedures established by this article, cellular antenna towers § 7.02 § 7.03 may be permitted in any zone when approved by the Planning Commission, with the following exceptions.

1. No cellular antenna tower shall be constructed on land that is environmentally sensitive or a geologic hazard area as delineated in the McLean County Comprehensive Plan and the definitions herein, unless the tower has received approval or necessary permits from the appropriate state or federal governmental regulatory agency charged with permitting activities in these areas.
2. No cellular antenna tower shall be located along a scenic byway, as designated by the Commonwealth of Kentucky, so as to have a negative impact on the scenic qualities of the roadway and the views from the roadway. When approved by the Planning Commission, any wireless communications facility proposed to be located along a state and/or federally designated scenic byway, or within a scenic view corridor, shall be located on an existing tower structure or utility pole, or shall be designed as an alternative tower, as described in § 7.02. Any tower or antenna that is not an alternative tower design shall be designed to blend into the surrounding environment through the use of color and/or other camouflaging architectural treatments, except in instances where color is dictated by federal or state authorities, such as the Federal Aviation Administration. In addition, the base of the tower and any supporting equipment shall be located either 300 feet from the right-of-way or beyond the view shed of the designated scenic byway, whichever is greater.

7.04. UNIFORM APPLICATION REQUIREMENTS.

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

- A. **Applicability.** Every utility, or company that is engaged in the business of providing the required infrastructure to a utility, that proposes to construct a cellular antenna tower shall submit a completed uniform application to the Planning Commission. Where the Planning Commission finds that circumstances or conditions relating to the application of an alternative cellular antenna tower are such that one or more of the requirements of the uniform application listed below are not necessary or desirable for the protection of surrounding property or the public health, safety, and general welfare, and that such special conditions or circumstances make one or more said requirements unreasonable, the Planning Commission, or its duly authorized representative, may modify or waive

such requirement of the uniform application, either permanently or on a temporary basis. Any such modification or waiver shall be requested by the applicant, and the applicant shall submit a written justification for each requested modification or waiver. The Planning Commission shall not regulate the placement of antennas or related equipment on an existing structure.

B. Uniform Application Requirements. Applications for the construction of cellular antenna towers for cellular telecommunications services or personal communications services shall include the following:

- 1) The full name and address of the applicant.
- 2) The applicant's articles of incorporation, if applicable.
- 3) A geotechnical investigation report signed and sealed by a professional engineer registered in Kentucky that includes boring logs and foundation design recommendations.
- 4) A written report, prepared by a professional engineer or land surveyor registered in Kentucky, of findings as to the proximity of the proposed site to flood hazard areas.
- 5) 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.
- 6) The identity and qualifications of each person directly responsible for the design and construction of the proposed tower.
- 7) A site development plan or survey, signed and sealed by a professional engineer registered 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.
- 8) 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.
- 9) 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.
- 10) 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.

- 11) A statement that every person who, according to the records of the property valuation administrator, owns property within 500 feet of the proposed tower or property contiguous to the site upon which the tower is proposed to be constructed has been:
 - a. Notified by certified mail, return receipt requested, of the proposed construction, which notice shall include a map of the location of the proposed construction;
 - b. Given the telephone number and address of the local Planning Commission; and
 - c. Informed of his or her right to participate in the Planning Commission's proceedings on the application.
- 12) A list of the property owners who received the notice, together with copies of the certified letters sent to the listed property owners.
- 13) A copy of the notice that the Chief Executive Officer of the affected local government and the legislative body (i.e., City Mayors; City Commissioners; County Judge Executive for McLean County; and McLean County Fiscal Court), have been notified, in writing, of the proposed construction.
- 14) 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 radiofrequency 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.
- 15) 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 radiofrequency requirements, be located.
- 16) A grid map that shows the location of towers or other structures (including buildings) located within the search ring for the subject facility and which are capable of its support within an area that includes:
 - a. All of the planning unit's jurisdiction (McLean County, Kentucky); and
 - b. A one-half-mile area outside of the boundaries of the planning unit's jurisdiction, if that area contains either existing or proposed construction sites for cellular antenna towers.
 - c. 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 antenna 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.

- C. **Application fee.** An applicant for the construction of cellular antenna towers for cellular telecommunications services or personal communications services shall pay an application fee in the amount set by the Planning Commission upon submission of a uniform application.
- D. **Processing of application.** Applications for the construction of cellular antenna towers for cellular telecommunications services or personal communications services shall be processed as follows:
 - 1) At least one (1) 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 highest circulation newspaper in the City-County, provided that one publication occurs not less than seven calendar days nor more than twenty-one (21) calendar days before the occurrence of such hearing. A public notice sign will also be placed on the property by the Planning Commission.
 - 2) Notice of the hearing shall be given at least fourteen (14) days in advance of the hearing 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. 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 or 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.
 - 3) 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 sixty (60) days, and if there is no written agreement between the Planning Commission and the utility to a specific date for the Planning Commission to issue a decision, it shall be presumed that the Planning Commission has approved the utility's uniform application.

7.05. DESIGN STANDARDS.

An 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 street rights-of-way, existing utility towers, industrial zones, commercial zones, and government buildings. 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 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.

- A. 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.
- B. Lattice and guyed cellular antenna towers distance from residential buildings when constructed in an agricultural zone, said towers shall be located a minimum distance of not less than 250 feet from all existing residential structures. Distance shall be measured from the base of the tower to the nearest wall of the residential structure.
- C. Setbacks. 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 1/2 the height of the tower, but not less than 50 feet. All structures constructed in connection with monopole or alternative cellular antenna tower shall comply with the applicable setback requirements established for other structures within the applicable zoning district. Alternative cellular antenna towers that are to be located as part of a utility service facility (e.g., power pole or telephone pole) shall comply with setback requirements applicable to such utility service facilities, if any.
- D. 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 herein § 7.05.
- E. Construction. The cellular antenna tower shall be constructed in compliance with the current ANSI/EIA/TIA 222-F standards and other applicable state standards.
- F. Illumination. Cellular antenna towers shall not be illuminated, except in accordance with other state or federal regulations.

- G. Site unstaffed. 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.
- H. Fencing. Woven wire or chain link (eighty-percent open) or solid fences made from wood or other materials (less than fifty-percent open) shall be used to enclose the site. Such fences shall not be more than eight feet in height and may be located within the front, side, or rear yard. The use of barbed-wire or sharp pointed fences shall be prohibited in or along any boundary adjoining residential or MI IP Zones.
- I. 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.
- J. Access drives. Surfacing of all driveways and off-street parking areas shall comply with the requirements of the applicable local zoning ordinance; the Planning Commission may allow gravel access drives in cases where it is determined there is a hardship or other mitigating circumstances.
- K. 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 five square feet in area.
- L. Number of service providers. All new cellular antenna towers shall be designed and constructed to accommodate a minimum of three service providers.
- M. 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.
- N. Approval of Federal Aviation Administration and the Kentucky Airport Zoning Commission is required; 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.
- O. Mitigating design standards for cellular antenna towers in residential zones. When no adequate alternate site for a cellular antenna tower is available, a site in a residential zone may be permitted. The Planning Commission shall consider the following mitigating design standards and may reduce or modify these standards in cases where it can be demonstrated that there is extreme hardship:
 - 1. The Planning Commission shall have the power to impose additional landscaping requirements, which may include plantings, trees, and fencing designed to complement the character of the landscaping in the surrounding residential area.
 - 2. Design and materials to be used in the accessory building or buildings may be required to be submitted to the Planning Commission for review and approval.

3. Asphalt or other hard-surface paving shall be provided for driveways and parking.
4. A 1:1 height-to-yard ratio shall be required. A reduction in the height-to-yard ratio may be permitted if no other location for the tower can be found.
5. Monopole or alternative tower design shall be used in any residential zone; and paint colors, such as light gray or light blue, shall be used to minimize any negative visual impact the tower or antenna may have on adjoining properties. The tower must be maintained on a regular basis by the owner of the facility in order to ensure that it continues to have a minimal visual impact on the surrounding area.

7.06. PLANNING COMMISSION ACTION.

The Planning Commission shall have the authority to hear and decide requests by an applicant for a cellular antenna tower. The Planning Commission may approve, disapprove, or take no action on the request for a cellular antenna tower. The burden shall be on the applicant to establish the following by a clear preponderance of the evidence:

1. The application is in agreement with the Comprehensive Plan;
2. The application meets all requirements of the Zoning Ordinance;
3. Reasons why the site is appropriate for a cellular antenna tower and why it will not have an adverse effect on the health, safety and welfare of the adjoining area;
4. Reasons why the tower will not alter the essential character of the surrounding area;
5. Reasons why the applicant has been unsuccessful in its attempts to co-locate on towers designed to host multiple wireless service providers' facilities or other existing structures, such as a telecommunications tower or another suitable structure capable of supporting the applicant's facilities.
6. The Planning Commission shall not regulate the placement of a cellular antenna tower on the basis of the environmental effects of radiofrequency emissions to the extent that the proposed facility complies with the regulations of the Federal Communications Commission concerning radiofrequency emissions.

ARTICLE 8

SOLAR ENERGY SYSTEM (SES)

Section 8.01. Design Standards

The components and subsystems required to convert solar energy into electric energy suitable for use. The area of the system includes all the land inside the perimeter of the system, which extends to any fencing. For the purposes of these zoning regulations, solar energy systems are divided into three (3) classes.

- A. Level 1 Solar Energy System.** A roof mounted system on any code compliant structure, an area of up to fifty (50) percent of the footprint of the primary structure on the parcel but not more than one (1) acre and not more than twenty-five (25) feet tall or any building integrated system (i.e. shingle, hanging solar, canopy, etc.)
- B. Level 2 Solar Energy System.** Any ground mounted system not included in a Level 1 SES and meets the following area restrictions:
- 1)** In an agricultural zone the area of the SES shall not exceed one half (1/2) acre in size and shall require a building permit issued by the Chairman of the Planning Commission or his or her designee.. In areas exceeding one half (1/2) acre, a Site Plan shall be required by the Mclean County Planning Commission.
 - 2)** In an Industrial Zone the SES shall not exceed ten (10) acres in size.
 - 3)** In an Industrial Zone, an SES of any size shall require a site plan approved by the Mclean County Planning Commission.
- C. Level 3 Solar Energy System.** Any system that does not satisfy the parameters for a Level 1 or Level 2 SES.
- D.** A panel measuring less than 20 square feet for the primary purpose of charging a battery/s at a remote site shall be exempt from this regulation. (Ie. Weather station, Storm Warning Siren, Communications tower, etc...)

Section 8.02. Requirements

Solar Energy Systems (SES) shall comply with the following criteria:

- A. The height of any ground mounted SES shall not exceed twenty-five (25) feet as measured from the highest natural grade below each solar panel (excludes utility poles, substations and antennas constructed for the project).
- B. Setback requirements for Level 1 and Level 2 SES shall be in compliance with the zoning classification for the parcel.
- C. Setback requirements for Level 3 SES shall be as follows: (1) All equipment shall be at least twenty-five (25) feet from the perimeter property lines of the project area; (2) No interior property line setbacks shall be required if the project spans multiple contiguous properties; (3) All equipment shall be located at least one hundred (100) feet from any residential structure and; the maximum height of any individual component will be 25 feet measured from the local ground level of the component.
- D. All Level 3 SES shall be screened with a seven (7) foot tall fence and, to the extent reasonably practicable, a visual buffer that provides reasonable screening to reduce the view of the SES from residential dwelling units on adjacent lots (including those lots located across a public right of way). A vegetation screening plan to reduce the view of the SES from residential dwelling units on adjacent lots will be submitted for approval of the Mclean County Planning Commission. The existing natural tree growth and natural land forms along the SES perimeter may create a sufficient buffer and shall be preserved when reasonably practicable. When no alternative vegetation screening plan is approved by the Mclean County Planning Commission, a double row of staggered evergreen trees will be planted 15' on center from adjacent non participating residential dwellings including the outdoor living space immediately near residential dwellings.
- E. Parcel boundaries with no proximity to residential dwellings shall not require screening. The proposed evergreen trees shall be placed on the exterior of security fencing. The use of barbed wire or sharp pointed fences shall be prohibited in or along any boundary adjoining residential properties. 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 five (5) square feet in area.

F. Excessive lighting shall be prohibited except that required by federal or state regulations.

G. Decommissioning of Level 3 SES shall be as follows:

1. The developer shall post a Surety Bond, or other form of Security acceptable to the County, for the abandonment of the site and in the event the Commission must remove the facility. Abandonment shall be when the SES ceases to transfer energy on a continuous basis for twelve (12) months. The surety bond or other form or security, shall be one (1) percent of the total project cost recalculated every 5 years during the project life.
2. A decommissioning plan shall be submitted at the time of application by the developer responsible for decommissioning and must include the following: (1) Defined conditions upon which the decommissioning will be initiated. i.e. there has been no power production for 12 months, the land lease has ended, or succession of use of abandoned facility, etc.; (2) Removal of all non-utility owned equipment, conduit, structures, fencing, roads, and foundations to the depth of three (3) feet; (3) Restoration of the property to substantially similar physical condition that existed immediately prior to construction of the SES; (4) The time frame for completion of decommissioning activities; (5) the party currently responsible for decommissioning, and; (6) Plans for updating the decommissioning plan.

ARTICLE 9

ZONING ADMINISTRATION

9.01 ZONING ADMINISTRATION

The provisions of this Ordinance shall be enforced by the Chairman of the Planning Commission or his or her designee,

The Chairman of the Planning Commission or his or her designee shall keep accurate records in a permanent file for the issuance of building permits, Certificates of Occupancy, Inspections, Violations, Stop Orders and Condemnations. If the Chairman of the Planning Commission or his or her designee find any provision of this Ordinance being violated, the person or persons responsible for such violation shall be notified by the Chairman of Planning Commission or his or her designee through registered mail. Said notification shall order the discontinuation of any illegal use of land, buildings and/or structures.

In the event of this issuance of a discontinuation order, the Chairman of the Planning Commission or his or her designee shall be required to inform the McLean County Joint Planning Commission of his action. Said information shall be in writing, and shall be issued to the Planning Commission on or before each meeting.

Any permit or Certificate of Occupancy issued in conflict with the provisions of this Ordinance shall be null and void.

9.02 BUILDING PERMITS

9.021 BUILDING PERMIT REQUIRED PRIOR TO CONSTRUCTION OR ALTERATION

It shall be unlawful to commence the excavation for, or the construction of any building. or to commence the building of any building, including accessory buildings before the Zoning Administrator has issued a permit for such work.

9.022 FEES APPLICABLE TO ISSUANCE OF BUILDING PERMITS

Unless otherwise set by this Ordinance, the fees to be charged for building permits shall be set by the McLean County Planning Commission.

9.023 EXCEPTIONS

No building permit or Certificate of Occupancy shall be required in the following cases:

- A. Recurring maintenance.
- B. Installation of required improvements in accordance with an approved plan.
- C. Agricultural Facilities, as defined in Section 1.06 of this Ordinance.

9.024 PROCEDURE

A. Applications

In applying to the Chairman of the Planning Commission or his or her designee for a building permit, the applicant shall submit a plan along with the application. This plan must be drawn to scale, showing the dimensions of the lot to be built upon, the outside dimensions of all structures to be constructed or altered and all existing structures. The use of structures and the proposed yard depths should be detailed, and any other information pertinent to the assessment of conformance should be included. The County Health Officer's certificate approving the water and sewage facilities must accompany the application.

B. Issuance of Permit

If the proposed construction or alteration conforms to all applicable Ordinances, regulations and codes, the Chairman of the Planning Commission or his or her designee shall issue a building permit authorizing construction or alteration.

If the proposed construction or alteration fails to conform, the Chairman of the Planning Commission or his or her designee shall refuse to issue a building permit, and shall cause delivery of written notice to the applicant stating the reason for refusal. The Chairman of the Planning Commission or his or her designee shall act upon all applications for building permits within two (2) weeks from the date of their submission.

C. Restraint of Construction without Permit

If no building permit has been issued, and a builder begins, or continues to build, a restraining order may be obtained upon application to the appropriate court, and evidence of the lack of a building permit shall establish a Prima Facie Case for the issuance of the restraining order.

D. Validity

The issuance of a building permit shall not waive any provisions of this Ordinance.

E. Duration

A building permit shall become void one (1) year from the date of issuance unless substantial progress has been made by that date on the construction or alteration authorized therein.

9.025 CERTIFICATE OF OCCUPANCY

No land or building or part thereof hereafter erected or altered shall be used until the *Chairman of the Planning Commission* shall have issued a Certificate of Occupancy stating that such land, building, or part thereof and the proposed use thereof, are found to be in conformity with the provisions of this Ordinance. Within three (3) days after notification that a building or premises, or part thereof, is ready for occupancy or use, it shall be the duty of the Chairman the Planning Commission or his or her designee to make a final inspection thereof and to issue a Certificate of Occupancy if the land, building, or part thereof are found to conform with the provisions of this Ordinance; or if such certification is refused, to state in writing the cause for such refusal, and to immediately thereon mail notice of such refusal to the applicant at the address indicated on the application.

9.026 BOARD OF ADJUSTMENT

There shall exist a Board of Adjustment with the duties and responsibilities of such boards as set forth in KRS 100.217-261, as amended.

9.03 GRIEVANCE PROCEDURE

Appeals from the decisions of the Planning Commission and/or the Board of Adjustment may be taken to the Circuit Court of McLean County within thirty (30) days after final action of the bodies in accordance with KRS 100.347, as amended.

**ARTICLE 10
VARIANCE**

The Board of Adjustments may grant dimensional variances in accordance with the following requirements:

10.01 CONDITIONS WHICH WARRANT A VARIANCE

The Board shall have the power to hear and decide on applications for dimensional variance on a lot of record. A variance can be granted where because of unusual shape, smallness of size or other extraordinary physical conditions, the property owner is deprived of a reasonable capacity to use the land in a manner equivalent to the use permitted other landowners in the same zone. The conditions, which warrant a variance, must have existed at the time this regulation was adopted.

10.02 VARIANCE FOR MULTI-BUILDING DEVELOPMENT

A variance from this ordinance may be granted for multi-building development if it is shown that the land in question cannot be subdivided and that more open space is created, and a lower density can be established and traffic problems are lessened, and a better relationship between the land and the building is created by not subdividing the land. However, in no case shall the Board of Adjustments grant a variance, which does not comply with the Zoning Regulations, where applicable, or which destroys the character of the neighborhood.

However, any future subdivision of a multi-dwelling development requires that all lots and buildings meet the requirements of the Subdivision Regulation at the time of such subdivision.

10.03 VARIANCES WHICH ARE PROHIBITED

The Board of Adjustments shall not possess the power to grant a variance to permit a use or alteration or extension of any land, building, or structure which is not permitted in the one in question; to alter density requirements in the zone in question; or to permit a use not authorized by this Ordinance.

10.04 GRANTING A VARIANCE

Before any variance is granted, the Board must find all of the following facts which shall be recorded along with any imposed conditions or restrictions in its minutes and records and issued in written form to the applicant to constitute proof of the dimensional variance:

- A. The specific conditions in detail, which are unique to the applicant's land and do not exist on other land in the same zone.

- B. The manner in which the strict application of the provisions of the regulations would deprive the applicant of the reasonable use of the land in the manner equivalent to the use permitted other landowners in the same zone.
- C. That the unique conditions and circumstances are not the result of actions of the applicant taken subsequent to the adoption of the Zoning Regulation.
- D. Reasons that the variance will preserve, not harm, the public safety and welfare, and will not alter the essential character of the neighborhood.
- E. Map Requirements: A map of the proposed area shall be made available to the Board of Adjustments upon review of a variance. The map shall illustrate:
 - 1. A title block containing the name of the property owner and address of the property in question, the name of the plan preparer (if applicable), a north arrow and a written and graphic scale.
 - 2. The boundary of the subject property and the zoning and owner names of all adjoining property.
 - 3. Location, arrangement, and approximate dimensions of existing and proposed driveways, walkways, parking areas, and arrangement of spaces. dumpster pads, points of ingress and egress, and other vehicular and pedestrian right-of-way.
 - 4. Location of any proposed or existing streets or deceleration lanes (when deemed necessary) within or abutting the subject property.
 - 5. Screening. landscaping. buffering, recreational, and other opens spaces.
 - 6. Approximate size, location, height, floor area, area arrangement, and use of proposed and existing buildings and signs.
 - 7. Storm drainage areas, floodplain, conceptual drainage controls and storm water retention, and any other designated environmentally sensitive or geologic hazard areas.
 - 8. Proposed and existing easements for utilities or other purposes, locations of sanitary sewers including lengths and alignments of laterals.

Areas of substantial existing trees including those located along fence rows and drainage areas.

10.05 ADDITION TO POWERS

In granting a variance, the Board may attach thereto such conditions regarding the location, character and other features of the proposed building, structure or use, as it may deem advisable in the furtherance of the purposes of this Regulation.

10.06 PROCEDURE FOR APPEALS TO THE BOARD OF ADJUSTMENTS

10.061 WHO MAY APPEAL

Any appeal to the Board of Zoning Adjustment may be taken by any person, firm or corporation aggrieved or by any governmental officer, department, board or bureau affected by any decision of the *Chairman of the Planning Commission or his or her designee* based in whole or in part upon the provisions of this regulation.

10.062 TIME LIMITATION

Such an appeal shall be made by filing with the Board of Zoning Adjustment, a notice of appeal, specifying the grounds thereof. Said notice of appeal shall be filed within thirty (30) days from the date upon which the notice of refusal of building permit or certificate of occupancy is mailed by the *Chairman of the Planning Commission or his or her designee* and failure to file notice of appeal within thirty (30) days shall constitute a waiver of the right to appeal.

10.063 ESTABLISHING MEETING DATE

The Board of Adjustments shall set a date not more than thirty (30) days after receiving the above records for hearing of the appeal.

10.064 NOTICE

Public notice shall be given in accordance with Kentucky Revised Statutes Chapter 424 and all interested parties shall be notified of the pending hearing. The appellant will be given written notice at least one week prior to the hearing.

An appropriate sign will be posted on the property for which the variance is requested at least ten (10) days before the public hearing. The sign will describe the variance requested and the meeting date, time and place. The Secretary of the Board of Adjustments for a person appointed by the Board shall post the sign.

10.065 EVIDENCE OF HARDSHIP

The applicant must present evidence that the property will not yield a reasonable return if used in compliance with the Regulation; that the conditions causing the hardship are unique and not shared by neighboring property in the same zone; that the granting of the variance will not conflict with

the Zoning Regulations. The Board shall use this evidence, and any other evidence presented in accordance with Kentucky Revised Statutes, Chapter 100, in granting a variance in accordance with Section 10 of this *Ordinance*.

10.07 NOTICE OF DECISION

The Board of Adjustments shall decide the appeal within sixty (60) days and give written notice to the *Chairman of the Planning Commission or his or her designee* and appeal applies to the property for which it is granted and may be transferred with the land.

ARTICLE 11
AMENDMENT

All regulations restrictions and boundaries provided for in this Ordinance may be amended or repealed but only in accordance with the following procedures.

A written request for amendment shall be presented to the Planning Commission for its study and recommendation. Any property owner or resident of the county or county officer, department, board or bureau, including the Planning Commission or a member thereof may request such amendment.

1. Within 90 days after receipt of a request for amendment, the Planning Commission shall hold a public hearing at which parties in interest and citizens shall have an opportunity to be heard. Notice shall be given as required by law, stating the time, place and purpose of the hearing.
2. Within 60 days after the hearing the Planning Commission shall forward a written recommendation to the McLean County Fiscal Court that the proposed amendment be adopted, rejected or modified. If the Planning Commission fails to make a recommendation within the allotted time, such failure shall be construed as a favorable recommendation.
3. Upon receipt of the Planning /Commission recommendation, the fiscal court shall adopt, reject or modify the proposed amendment in accordance with its usual procedures. In case the project is against either of the area of the lots included in the proposed change, or of those immediately adjacent in the rear thereof extending 150 feet therefrom, or of those directly opposite thereto extending 150 feet from the street frontage of the opposite lots, an amendment shall become effective only by the favorable vote of three-fourths (3/4) of all the members of the fiscal court.
4. If in accordance with the provisions of this Ordinance and Chapter 100, Kentucky Revised Statues changes are made in district boundaries or other matter portrayed on the official Zoning Map, such changes shall be made on the official zoning map promptly after the amendment has been approved by the fiscal court and an entry shall be made on the official zoning map as follows:

"ON _____, 2020 BY OFFICIAL ACTION OF THE
MCLEAN COUNTY FISCAL COURT, THE FOLLOWING CHANGES WERE MADE IN
THE OFFICIAL ZONING MAP: (DESCRIPTION OF CHANGES)."

A proposal for amendment of the zoning map of McLean County, Kentucky, shall include a metes and sounds description of the property to be rezoned along with a plat on the same scale as the "Zoning Map of McLean County, Kentucky" located in the Office of the McLean County Judge Executive.

Before any map amendment is granted, the Planning Commission and the fiscal court 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 and the McLean County Fiscal Court:

- A. That the original zoning classification given to the property was inappropriate or improper.
- B. That there have been major changes of an economic, physical or social nature within the area involved which were not anticipated in the community's comprehensive plan and which have substantially altered the basic character of such neighborhood.

ARTICLE 12

LEGAL STATUS, VALIDITY, EFFECTIVE DATE, RECORDING

12.01 LEGAL STATUS

The provisions of this Ordinance shall be held as minimum requirements for the promotion of public health, safety, morals and general welfare. Whenever the provisions of this Ordinance require a more restrictive use of land, or impose other higher standards than are required in other ordinances or regulations, private deed restrictions, or private covenants, this Ordinance shall govern. However, if the requirements of state statutes and/or administrative regulations, county ordinances and/or covenants are more restrictive than those established in this Ordinance, then those requirements shall govern.

12.02 VALIDITY

If any section, clause, provision or portion of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, it shall not affect or prejudice in any way the validity of this Ordinance, or of any other part of this Ordinance, which is not of itself invalidated.

12.03 REPEAL

Ordinance No. 01-920.1 is hereby repealed and all other Ordinances or parts of Ordinances in conflict herewith are hereby repealed to the extent of said conflict.

12.04 EFFECTIVE DATE

This Ordinance shall take effect, and be in force, immediately after its legal adoption and publication.

12.05 RECORDING

A copy of this Ordinance shall be filed in the Office of the County Court Clerk.

SCHEDULE OF FEES
EFFECTIVE _____, 2020

BUILDING PERMIT:

Residential:

13 cents per each square foot constructed

Commercial:

New Construction and Additions:

0 to 1,000 square feet.....	\$75.00
1,001 to 2,000 square feet.....	\$150.00
2,001 to 5,000 square feet	\$225.00
5,001 to 25,000 square feet	\$300.00
Over 25,000 square feet.....	\$450.00

Industrial:

New Construction and Additions:

0 to 2,000 square feet	\$150.00
2,001 to 25,000 square feet.....	\$300.00
25,001 to 50,000 square feet.....	\$450.00
50,001 to 100,000 square feet	\$900.00
Over 100,000 square feet	\$1,800.00

Certificate of Occupancy.....	Fee Included in cost of building permit
Zoning Change	\$250.00 plus advertising/mailing costs
Appeal to Board of Adjustments.....	\$50.00 plus advertising costs
Hearing for Variance	\$100.00 plus advertising/mailing costs
Hearing for Conditional Use Permit.....	\$100.00 plus advertising costs
Plat Fee.....	\$200.00 plus \$5.00 per lot
Cell Tower Application.....	\$2,500.00
Sign Permit.....	32 sq feet or less.....\$50.00
.....	33-50 sq feet.....\$75.00
.....	Over 50 sq feet.....\$120.00
Solar Panel Application.....	Level 1.....\$150.00
.....	Level 2 Agricultural...\$ 300.00
.....	Level 2 Industrial...\$1,000.00
.....	Level 3.....\$ 2,000.00

Approved upon 1st Reading at the regular Fiscal Court meeting held on the 8th day of July, 2020.

Approved upon 2nd Reading at the regular Fiscal Court meeting held on the 21st day of July, 2020.

Signed: Curtis Dame
Curtis Dame, McLean County Judge Executive

Attest:

Wendy M. Clark
Wendy M. Clark
Fiscal Court Clerk

