

TITLE XV: LAND USAGE

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CHAPTER 150: BUILDING REGULATIONS

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BUILDING CODE

§ 150.01 ADOPTION OF KENTUCKY BUILDING CODE.

(A) The Kentucky Building Code, as contained in Chapter 7, Title 815 of the Kentucky-Administrative Regulations; the Kentucky Plumbing Code, as contained in Chapter 20, Title 815 of the Kentucky Administrative Regulations; the Kentucky Standards of Safety, as contained in Chapter 10, Title 815 of the Kentucky Administrative Regulations; and the latest editions of the Southern Standard Housing Code, Southern Standard Building Code, and Southern Standard Gas Code, together with any amendments, are hereby adopted by reference as if fully set forth in this code of ordinances. Copies of the above codes and any amendments thereto shall be placed on file in the office of the City Clerk/Treasurer/Tax Collector where they shall be available for public inspection during normal business hours.

(B) The Council may make deletions and additions to the codes adopted in division (A) above, which deletions or additions shall be made by ordinance. Unless additions or deletions to the codes are made, each of the codes, including all penalty provisions thereof and including any amendments thereto, shall be in force throughout the city.

PROPERTY MAINTENANCE CODE

§ 150.10 ADOPTION OF *INTERNATIONAL PROPERTY MAINTENANCE CODE*.

A certain document, three copies of which are on file in the office of the City Clerk of the City of Elkton, being marked and

designated as the *International Property Maintenance Code*, 2009 edition, as published by the International Code Council, is hereby adopted as the Property Maintenance Code of the City of Elkton, in the State of Kentucky, for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such existing structures as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said Property Maintenance Code on file in the office of the City Clerk of the City of Elkton are hereby referred to, adopted, and made a part hereof, as if fully set out in this section, with the additions, insertions, deletions and changes, if any, prescribed in § 150.11 of this code of ordinances.

(Ord. 2009-13, passed 6-4-09)

§ 150.11 REVISIONS TO INTERNATIONAL PROPERTY MAINTENANCE CODE.

The following sections are hereby revised:

Section 101.1. Insert: "City of Elkton" for [NAME OF JURISDICTION]

Section 103.1 General. This subsection is replaced as follows: "The City of Elkton Code Enforcement Board shall be responsible for the enforcement of the Property Maintenance Code. The Code Enforcement Board or Code Enforcement Officers shall be known as "code officials" under this Code."

Section 103.5. Insert: "None" for [JURISDICTION TO INSERT APPROPRIATE SCHEDULE]

Section 106.4 Violation Penalties. This subsection is replaced as follows:

"(1) Violation of the provisions of this chapter is hereby declared to be a civil offense and may be enforced by the Code Enforcement Board established in §§ 35.095 et seq., or the alternative, the Todd District Court. The decision on where the chapter will be enforced shall be at the city's discretion.

(2) Any person violating any of the provisions of this chapter, if charged and enforced through the Code Enforcement Board, created in §§ 35.095 et seq., the offense being a civil offense, may be fined in accordance with the Ordinance Fine Schedule, as set forth in § 35.106.

(3) The City of Elkton shall possess a lien on property for all fines, penalties, charges, attorney's fees and other reasonable costs associated with enforcing this code and placing of a lien on the parcel of real property pursuant to this code. The lien shall be superior to and have priority over all other subsequently filed liens, except state, county, school board, and city taxes."

Section 107 NOTICES AND ORDERS. This section is replaced as follows: "Whenever the code official determines that there has been a violation of this code or has grounds to believe that a violation has occurred, notice shall be given as set forth in § 35.095-§ 35.110 pertaining to the Code Enforcement Board."

Section 111 MEANS OF APPEAL. This section is replaced as follows: "Any person directly affected by a decision of the code official or a notice or order issued under this code shall have the right to appeal under the procedures set forth in § 35.095-§ 35.110 pertaining to the Code Enforcement Board."

Section 112.4. Insert: "\$50.00" and "\$500.00" for [AMOUNT]

Section 202 GENERAL DEFINITIONS. The definition of "CODE OFFICIAL" is revised to read as follows: "CODE OFFICIAL. A code enforcement officer or other official who is charged with the administration and enforcement of this code, or any duly authorized representative."

Section 302.4. Insert: 12" for (jurisdiction to insert height in inches)

Section 304.14. Insert: "April 30th" and "October 31st" for [DATE]

Section 602.3. Insert: "September 30th" and "May 31st" for [DATE]

Section 602.4. Insert: "September 30th" and "May 31st" for [DATE]  
(Ord. 2009-13, passed 6-4-09)

#### DEMOLITION OF BUILDINGS OR STRUCTURES

##### § 150.20 PERMIT REQUIRED.

No building or accessory structure shall be demolished without a permit issued by the city. No demolition permit shall be issued except in conformity with the provisions of this chapter. An accessory structure shall be defined as any structure that is, or has previously been, served by electric, water, or sewer service or any combination thereof.

(Ord. 2018-19, passed 12-10-18)

##### § 150.21 SCHEDULE.

A schedule for the demolition shall be submitted when application is made for a demolition permit. The schedule shall set forth the intended dates of commencement and completion of the demolition. No work shall be done until such construction documents and schedule are approved by the city.

(Ord. 2018-19, passed 12-10-18)

§ 150.22 EXPIRATION OF PERMIT.

Any demolition permit shall expire after a period of six (6) months after the date of its issuance. Provided however, that a sixty (60) day extension may be permitted if sufficient proof of justifiable cause can be demonstrated why the work described in the demolition permit was not completed.

(Ord. 2018-19, passed 12-10-18)

§ 150.23 PEDESTRIAN AND TRAFFIC PROTECTION.

The work of demolishing any building or accessory structure shall not be commenced until pedestrian and traffic protection is in place as required by the city.

(Ord. 2018-19, passed 12-10-18)

§ 150.24 REMOVAL OF MATERIALS, VACANT LOT.

(A) Where a building or accessory structure has been demolished, all materials shall be removed from the site and disposed of according to law. The vacant lot shall be filled with clean soil and graded to the surrounding topography, and seeded and strawed. Proper drainage shall be established, and provision shall be made to prevent the accumulation of water or damage to any adjoining property.

(B) All basements, cellars, cisterns or other cavities shall be backfilled with dirt, rock, brick or other suitable backfill material. Wood, roofing or other similar material shall not be placed in the backfill.

(Ord. 2018-19, passed 12-10-18)

§ 150.25 UTILITY CONNECTIONS.

Service utility connections shall be discontinued and capped in accordance with the approved rules and the requirements of the authority having jurisdiction.

(Ord. 2018-19, passed 12-10-18)

§ 150.26 DAMAGE TO ADJACENT PROPERTY.

In all cases where there is a possibility of damage to city or private properties such as sidewalks, streets, adjacent buildings or utilities as a result of the proposed demolition, security in an amount deemed sufficient by the Zoning Administrator must be furnished. The security may be furnished in the form of cash, negotiable securities, or surety bond.

(Ord. 2018-19, passed 12-10-18)

§ 150.27 CIVIL OFFENSE.

(A) Violation of the provisions of this chapter is hereby also declared to be a civil offense and may be enforced by the Code Enforcement Board established in §§ 35.095 et seq., or the alternative, the Todd District Court. The decision on where the chapter will be enforced shall be at the city's discretion.

(B) Any person violating any of the provisions of this chapter, if charged and enforced through the Code Enforcement Board, created in §§ 35.095 et seq., the offense being a civil offense, may be fined in accordance with the Ordinance Fine Schedule, as set forth in § 35.106. (Ord. 2018-19, passed 12-10-18)

§ 150.99 PENALTY.

Whoever violates any provision of §§ 150.20 through 150.27 shall be guilty of a misdemeanor and shall be fined not more than five hundred dollars (\$500.00). Each day's violation shall constitute a separate offense. (Ord. 2018-19, passed 12-10-18)



## Section

## 151.01 Adoption

**§ 151.01 ADOPTION.**

(A) The City of Elkton, Kentucky, Zoning Regulations are hereby adopted and set out in full in Appendix A to this chapter. A copy of the zoning regulations shall be available for inspection during regular business hours at the Elkton City Hall.

(B) The City of Elkton, Kentucky, Development Plan Approval Guidelines are hereby adopted by reference as if set out in their entirety. A copy of the Development Plan Approval Guidelines shall be available for inspection during regular business hours at the Elkton City Hall.

(C) The City of Elkton, Kentucky, Landscape and Land Use Buffering regulations are hereby adopted by reference as if set out in their entirety. A copy of the Landscape and Land Use Buffering regulations shall be available for inspection during regular business hours at the Elkton City Hall.  
(Ord. 2014-5, passed 7-14-14)

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### ***ARTICLE I: GENERAL PROVISIONS***

#### **§ 1.10 ADOPTION.**

The Elkton Zoning Ordinance, adopted by ordinance of the City of Elkton, is confirmed and adopted as follows.  
(Ord. 2014-4, passed 7-14-14)

#### **§ 1.11 SHORT TITLE.**

This Zoning Ordinance shall be known and may be cited as the “Zoning Ordinance of Elkton, Kentucky”.  
(Ord. 2014-4, passed 7-14-14)

#### **§ 1.12 OBJECTIVES.**

The objectives of this Zoning Ordinance are to promote the public health, safety and general welfare of the City of Elkton; to facilitate orderly and harmonious development in the visual or historic character of the city; to regulate the density of population and the intensity of land use in order to provide for adequate light and air; to provide for vehicle parking and loading space; to improve the appearance of vehicular use areas and property abutting public rights-of-way; to require buffering between non-compatible land uses; and to protect, preserve and promote the aesthetic appeal, character, and value of the surrounding neighborhoods; to promote public health and safety through the reduction of noise pollution, air pollution, visual pollution, air temperature, and artificial light glare; to facilitate fire and police protection; to prevent the overcrowding of land, blight, danger and congestion in the circulation of people and commodities; to prevent the loss of life, health or property from fire, flood, or other dangers; highways, and other transportation facilities, public facilities, including schools and public grounds, historic districts, central districts, natural resources, and other specific areas of the city which need special protection.  
(Ord. 2014-4, passed 7-14-14)

**§ 1.13 INTERPRETATION.**

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

(Ord. 2014-4, passed 7-14-14)

**§ 1.14 CONFLICT OF ORDINANCE.**

Whenever these regulations, or subdivision plats approved in conformance with these regulations, are in conflict with other local ordinances, regulations, or laws, the more restrictive ordinance, regulation, or law shall govern and shall be enforced by appropriate local agencies. When subdivision and development plans, approved by the Elkton Planning Commission, contain setback or other features in excess of the minimum Zoning Ordinance requirements, such features as shown on the approved plan shall govern and shall be enforced by the Zoning Administrator. Private deed restrictions or private covenants for a subdivision, which have not been approved by the Joint Planning Commission and made a part of the approved subdivision plan, do not fall within the jurisdiction of enforcement by any local agency and cannot be enforced by the Zoning Administrator.

(Ord. 2014-4, passed 7-14-14)

**§ 1.15 REPEAL OF CONFLICTING LAW.**

The Elkton Zoning Ordinance adopted by the City of Elkton, Kentucky and amendments thereto, existing prior to adoption of this Zoning Ordinance, is hereby repealed upon the adoption date of this Zoning Ordinance.

(Ord. 2014-4, passed 7-14-14)

**§ 1.16 SEPARABILITY.**

If any clause, sentence, subdivision, paragraph, section or part of this Zoning Ordinance be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, subdivision, paragraph, section or part thereof directly involved in the controversy in which said judgment shall have been rendered.

(Ord. 2014-4, passed 7-14-14)

**§ 1.17 PLANNING AREA.**

The planning area shall include all of the territory in the incorporated city limits of Elkton, Kentucky.

(Ord. 2014-4, passed 7-14-14)

**§ 1.18 RECORDING.**

A copy of the ordinance codified herein shall be filed in the Office of the Todd County Court Clerk. (Ord. 2014-4, passed 7-14-14)

**§ 1.19 OFFICIAL ZONING MAP.**

The City of Elkton is hereby divided into zones and districts as provided herein and as shown on the Official Zoning Map, which together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this zoning ordinance. The Official Zoning Map shall be the official record of zoning status of all land in the city and be kept on file in the office of the City Clerk and shall be known herein as the “Official Elkton Zoning Map”. (Ord. 2014-4, passed 7-14-14)

**§ 1.20 ZONING MAP AMENDMENTS.**

Amendments to the zoning map changing the zoning status of an area made by ordinance of the local legislative bodies, after the effective date of the ordinance, shall be promptly posted on the Official Zoning Map by the Joint Planning Commission. Each amendment shall be identified on the map by a numerical designation referring to the Planning Commission’s record of the amendment proceeding. (Ord. 2014-4, passed 7-14-14)

**§ 1.21 RULES FOR INTERPRETATION OF ZONE AND DISTRICT BOUNDARIES.**

Where uncertainty exists as to the boundaries of zones and districts as shown on the Zoning Map, the following rules shall apply:

1. Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed to follow such centerlines;
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lines;
3. Boundaries indicated as approximately following city limits shall be construed as following such city limits;
4. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;
5. Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in the event of change in the shore line, shall be construed as moving with the actual shore line; boundaries indicated as approximately following the center line of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines; and
6. Where the above stated rules do not indicate the exact location of the zone or district boundaries, then said boundaries shall be determined by appeal before the Board of Adjustment. (Ord. 2014-4, passed 7-14-14)

**ARTICLE II: DEFINITIONS**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Other terms shall be defined as in KRS 100.111.

**ACCESSORY USE or STRUCTURE.** A use or structure subordinate to the principal use and located on the same premises serving a purpose customarily incidental to the principal use. For example, a retail business is not considered customarily incidental to a residential use. Residential **ACCESSORY USES** may include storage of household goods, parking areas, gardening, servants' quarters, private swimming pools, private emergency shelters, garages, carports and other similar uses.

**ADMINISTRATIVE OFFICIAL.** Any department, employee, or advisory elected or appointed body which is authorized by the body of jurisdiction to administer any provision of the planning, zoning, and/or subdivision regulations, and if delegated, any provision of any housing or building regulations or any other land use control regulations.

**ADULT ORIENTED USES.** This includes, but is not limited to, all the following uses:

a. *Adult bookstore/video store.* An establishment whose primary business includes the sale or rental of material (including books, periodicals, magazines, films, videotapes, CD-ROMs, DVDs, audio tapes, or other printed or pictorial material) whether for on-premise or off-premise viewing, that is intended to provide sexual stimulation or gratification, or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas; and who devotes more than 15% of their total floor area to the items listed above.

b. *Adult theater.* An establishment, whether open or enclosed, used for presenting material, for viewing, that is distinguished or characterized by an emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas. This definition includes adult arcade, adult mini-motion picture theater, adult booth(s), and adult drive-in theaters.

c. *Adult dancing.* Shall mean and include, but not limited to any dancing which exposes to view by patrons or spectators on the premises at any time the specified anatomical areas and/or specified sexual activities, as set forth herein.

d. *Adult dancing establishments.* An establishment including but not limited to any restaurant (eating and drinking establishment), lounge, dance hall, night club, or other such place whose business includes the offering to customers of live entertainment wherein employees, agents, servants, or independent contractors perform routines and/or display or expose specific anatomical areas, offered as adult oriented entertainment for viewing by patrons and spectators on the premises and characterized by the emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas.

e. *Adult motel.* A motel or similar establishment with the word "adult" or otherwise that advertises the presentation of adult material, offering public accommodations for any form of considerations which provides patrons with closed circuit television transmissions, films, motion pictures, video cassettes, or other adult cable or satellite transmissions for the primary purpose of engaging in sexual gratification or as related to specific sexual activities.

f. *Massage parlor.* An establishment providing massages, for hire, by persons other than a licensed health care professional, including those activities that rub, stroke, knead, or tap the body with the hand or an instrument or both for the purpose of engaging in sexual gratification or as related to

specific sexual activities. This does not include any licensed or sanctioned athletic activity that generally employs or uses a physical trainer and/or those listed herein under the definition of licensed massage therapist.

g. *Specified anatomical areas.* Less than completely and opaquely covered human genitals or pubic region; the cleavage of the human buttock; any portion of the human female breast below a horizontal line across the top of the areola at its highest point; the entire lower portion of the female breast, not including cleavage of the human female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other wearing apparel provided that the areola is not exposed in whole or part.

h. *Specified sexual activities.* Shall include, but not be limited to, human genitals in a state of sexual stimulation or arousal; sexual intercourse or sodomy.

i. *Licensed massage therapist (licensed health care professional).* Any person who has graduated from a 600 hour massage therapy school, accredited by the State of Kentucky or who possesses a valid state license in massage therapy from any state which regulated the same by means of written examination; this may also include a physician, nurse, occupational therapist, physical therapist, podiatrist, or chiropractor.

j. *Protected uses.* Any use or area identified herein that may be influenced by or are susceptible to the secondary effects of adult oriented uses including: any residentially zoned area, public or private school, church, library, day care facility, public park or playground.

#### ***AGRICULTURAL USE.***

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

b. Regardless of the size of the tract of land, small farm wineries licensed under KRS 243.155;

c. A tract of at least five contiguous acres used for the following activities involving horses:

1. Riding lessons;
2. Rides;
3. Training;
4. Projects for educational purposes;
5. Boarding and related care; or

6. Shows, competitions, sporting events, and similar activities that are associated with youth and amateur programs, none of which are regulated by KRS Chapter 230, involving 70 or less participants. Shows, competition, sporting events, and similar activities that are associated with youth and amateur programs, none of which are regulated by KRS 230, involving more than 70 participants shall be subject to local applicable zoning regulations; or

d. A tract of land used for the following activities involving horses:

1. Riding lessons;
2. Rides;
3. Training;
4. Projects for educational purposes;
5. Boarding and related care; or

6. Shows, competitions, sporting events, and similar activities that are associated with youth and amateur programs, none of which are regulated by KRS 230, involving 70 or less participants. Shows, competition, sporting events, and similar activities that are associated with youth and amateur programs, none of which are regulated by KRS 230, involving more than 70 participants shall be subject to local applicable zoning regulations. This paragraph shall only apply to acreage that was being used for these activities before July 13, 2004.

**ALLEY.** A dedicated public right-of-way other than a street, that affords a secondary means of access to abutting properties.

**ALTERATION.** Any change, rearrangement, or addition to a building, its supporting members, or its foundation other than repairs, and any modification in construction or in building equipment.

**AUTOMOTIVE REPAIR, MAJOR.** Repair of motor vehicles or trailer, including rebuilding or reconditioning of engines and/or transmissions, collision services repair, overall painting or paint shop and vehicle steam cleaning.

**AUTOMOTIVE REPAIR, MINOR.** Incidental minor repairs, including tires, upholstery, replacement of parts and motor service to passenger cars and trucks not exceeding one and one-half tons capacity, but not including any operation named under automotive repair, major, or any other similar thereto. Cars or trucks being repaired or under repair shall not be so stored outside the building for more than 7 days.

**AUTOMOTIVE WRECKING.** The dismantling or disassembling of used motor vehicles, or the storage, sale or dumping of dismantled, obsolete, or wrecked vehicles or their parts.

**BASEMENT.** The portion of a building located partially underground but having more than one-half of its clear floor-to-ceiling height below the average grade of adjoining ground.

**BLOCK.** A surface land area which is separated, and distinguished from other surface land areas by visible physical boundaries such as streets, railroads, rivers, extremely steep land, or other physical barriers.

**BOARD.** The Board of Adjustments of the city, having jurisdiction unless the context indicates otherwise.

**BOARDING HOUSE (ROOMING or LODGING HOUSE).** A residential building, or portion thereof, other than a motel, apartment hotel, or hotel, containing lodging rooms for accommodation of three or more persons who are not members of the keepers' family and where lodging or meals or both are provided by prearrangement and for definite periods at a definite prearranged price.

**BOAT REPAIR.** Repair and servicing of boats and other marine crafts.

***BUILDING or STRUCTURE.*** Any covered structure for the support, shelter, or enclosure of person, animals or moveable property of any kind, and which is permanently affixed to the land.

***BUILDING, HEIGHT OF.*** The vertical distance from the average contact ground level at the front wall of the building to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the mean height level between the eaves and ridge for gable, hip or gambrel roofs.

***BUILDING PERMIT.*** A permit issued by the authorized officer allowing a proprietor or his or her agent to construct, alter, or remove a building, and the like, or engage in similar activity which would alter the character of the building or lot in question.

***BUILDING, PRINCIPAL.*** A building, including any permanently covered space such as porch and carports, and attached garages in which is conducted the principal use of the lot on which it is situated. In a residential district, any dwelling shall be deemed to be the principal building on its lot.

***BUILDING SETBACK.*** A line parallel to the street right-of-way, or other property line, at any story level of a building that includes the overhang of the building, and set at a distance which all or any part of the building is to be set back to from the property line, except as otherwise provided by these regulations.

***CAMPS or CAMPGROUNDS.*** Tracts of land or a design or character suitable for and used for seasonal, recreational, and other similar living purposes. The tracts may have located on them a structure of a seasonable, temporary, or moveable nature such as a recreation vehicle (RV) or tent. There shall be no sites within any ***CAMP*** or ***CAMPGROUND*** that has any tent, RV or lodging that is on the site for longer than three contiguous months in any one calendar year. This excludes cabins as part of a Planning Commission approved site plan and rented to different tenants on a daily or weekly basis. Mobile homes are not allowed even as temporary uses.

***CERTIFICATE OF ZONING COMPLIANCE, ZONING CERTIFICATE or ZONING PERMIT.*** A certificate issued by the Building Inspector, before use or occupancy of any building or land stating that the proposed use of the building or land conforms to the requirements of these planning-zoning regulations. This shall apply to any building, premises, or land, or combination (except for the raising of crops and other agricultural activities) hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use of structure.

***COMMERCIAL CONFINED FEEDING OPERATIONS.*** Any livestock operation that has over the 300 head of cattle, hogs (swine), sheep or chickens that have more than 50% of their feed imported into their pens or buildings.

***COMMISSION or PLANNING COMMISSION.*** The Elkton Planning Commission.

***COMPREHENSIVE PLAN.*** The extensively developed and evolving plan, also called a master plan, adopted by the Planning Commission.

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

***CONDITIONAL USE PERMIT.*** Legal authorization to undertake a conditional use, issued by the administrative official pursuant to authorization by the Board of Adjustment consisting of two parts:

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

**CONSERVATION.** Preservation of land, water, flora, fauna, and cultural artifacts in their original state.

**CONSUMER SERVICE.** Sale of any service to individual customers for their own personal benefit, enjoyment, or convenience. For example, **CONSUMER SERVICES** include the provision of the personal services such as beautician and barbering services, the provision of lodging, entertainment, specialized instruction, financial services, transportation, laundry and dry cleaning services, and all other similar services.

**CONVALESCENT or NURSING HOME.** An establishment which provides full-time convalescent or chronic care or both for three or more individuals who are not related by blood or marriage to the operator and who by reason of chronic illness or infirmity, are unable to care for themselves. No care for the acutely ill or surgical or obstetrical services shall be provided in such a home. A hospital or a sanitarium shall not be construed to be included in this definition.

**DEVELOPER.** An individual, partnership, corporation or other legal entity or agent thereof, which undertakes the activities covered by these regulations. Inasmuch as the subdivision plan drawings are merely a necessary means to the end of assuring satisfactory development, the term **DEVELOPER** includes “subdivider”, “owner”, “builder”, and the like, even though the persons and their precise interests may vary at different project stages.

**DIMENSIONAL VARIANCE.** A departure from the terms of the planning-zoning regulations pertaining to height or width of structures and size of yards and open spaces, where such departure will not conflict with the public interests and where, owing to conditions peculiar to the property only because of its size, shape or topography, and not as a result of the actions of the applicant, the literal enforcement of the planning-zoning regulations would result in unnecessary and undue hardship.

**DWELLING or DWELLING UNIT.** Any building or portion thereof with one, or a suite of two or more rooms occupied or intended to be occupied exclusively for residential purposes, that is living and sleeping, by one family or housekeeping unit, and which includes permanently installed cooking and lawfully required sanitary facilities. This definition shall thus exclude a tent, cabin, trailer, or trailer coach or other temporary or transient structure or facility.

- a. *Single-family.* A single independent building occupied or construction to be occupied exclusively for residential purposes by one family or housekeeping unit.
- b. *Two-family.* A single independent building occupied or constructed to be occupied exclusively by not more than two families or housekeeping units.
- c. *Multi-family.* A building or portion thereof, or group of buildings on one lot but containing separate living units, occupied or constructed to be occupied by more than two families of housekeeping units.

**DWELLING GROUP.** A group of two or more detached dwellings located on a parcel of land in one ownership and having any yard or court in common.

**DWELLING UNIT RENTALS.** Any single-family residential, duplex or condo units that are rented with short term rental leases involving renting units by the day or week.

**EASEMENT.** The right to use another person's property, but only for a limited and specifically named purpose. The owner generally may continue to make restricted use of such land since he has given up only certain, and not all, ownership rights.

**ENGINEER.** A qualified person registered and currently licensed to practice civil engineering in the state. Whenever qualifications are questioned, the commission will consult with the local chapter of The Kentucky Society of Professional Engineers or The Consulting Engineers Council of Kentucky.

**ESSENTIAL SERVICES.** Services provided by public and private utilities necessary for the exercise of the principal use or service of the principal structure. These services include underground, surface to overhead, gas, electrical, steam, water, sanitary sewerage, stormwater drainage, and communication systems and accessories thereof such as poles, towers, wires, mains, drains, vaults, culverts, laterals, sewers, pipes, catch basins, water storage tanks, conduits, cables, fire alarm boxes, police call boxes, traffic signal, pump lift stations, hydrants, and the like, but not including buildings.

**FAMILY.** A collective number of individuals domiciled together in one dwelling unit whose relationship is of a continuing nontransient domestic character and who are cooking and living as a single nonprofit housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, organization, or group of students or other individuals whose domestic relationship is of a transitory or seasonal nature or for an anticipated limited duration of a school term or other similar determinable period.

**FARM.** A place on which agricultural operations are conducted at any time under the control or supervision of one person, partnership or a manager. Places of less than five acres are counted as farms if the estimated sales of agricultural products for the year amounted or normally would amount to at least \$500. (Based on 2013 dollar to be adjusted for inflation.)

**FLOOR AREA.** The sum of the gross floor area for each of the several stories under roof measured from the exterior limits or faces of a building or structure.

**GARAGE, PUBLIC.** A building or land available to the public to use, operated for gain and which is used for storage, repair, rental, greasing, washing painting, servicing or equipping motor vehicles.

**GARDEN HOME.** A zero-lot-line structure.

**GRADE.** The inclination, with the horizontal, of a road, unimproved land, and the like, which is generally expressed by stating the vertical rise or fall as a percentage of the horizontal distance.

**GRADE, FINISHED.** The completed surfaces of ground, lawns, walks, paved areas and roads brought to grades as shown on plans or designs relating thereto, or in existence at the time the certificate of zoning compliance is issued.

**GROUP HOUSEHOLD.** A group of individuals not related by blood, marriage, adoption or guardianship living together in a dwelling unit as a single household unit under a common housekeeping management plan based on an intentionally structured relationship providing organization and stability.

**HOME OCCUPATION.** An accessory use carried on in a dwelling unit or other structure accessory to a dwelling unit, but in no case occupying more than 25% of the total floor area of the building or buildings, by a member or members of the bona fide residents of the dwelling, except as permitted for a professional home occupation, and which is clearly incidental and secondary to the use of the dwelling unit for residential purposes, so that the character thereof is not changed, and it shall not have any exterior evidence of such secondary use. Home occupations may have one indirectly lit wall or window sign that does not exceed three square feet that does not require a permit and must be attached flatly to a wall or window of the home.

**HOSPITAL.** Includes sanitarium, clinic, rest home, nursing home, convalescent home, house for the aged, and other place for observation, diagnosis, treatment or care of two or more individuals suffering from illness, injury, deformity or abnormality or from a condition requiring medical services.

**HOTEL.** An establishment containing lodging rooms for occupancy by transient guests, but not including a boarding or rooming house. Such an establishment provides customary hotel services such as maid and bellboy services, furnishings of and laundry of linens used in the lodging rooms, and central desk with telephone.

**HOUSING or BUILDING REGULATION.** Any regulations incorporating any housing, building or safety code, including, but not limited to such codes as plumbing, electrical, elevator, boiler, fire safety, and minimum housing, or any other regulation.

**HUD LABEL.** The label affixed to a new manufactured home by the manufacturer after it has been approved by a third-party inspector, as required under the HUD Act.

**IMPACT AREA.** A radius of 200 yards drawn around the proposed placement of a qualified manufactured home with the proposed placement being the center point of the manufactured home.

**IMPROVEMENT BOND.** Performance bond or other type of surety with fixed expiration date after which date the Commission shall cause the surety to be used in completing any necessary work.

**IMPROVEMENTS.** Physical changes made to raw land, and structures placed on or under the land surface, in order to make the land more usable for people's activities. Typical **IMPROVEMENTS** in these regulations would be grading, street pavement, curbs, gutters, drainage ditches, storm and sanitary sewers, utility lines of all types, street name signs, property number signs, trees, and the like.

**INDUSTRY.** The processing of products or raw material. The two categories of **INDUSTRY** are defined according to the following performance standards.

a. *General industry.* The industry in which processing of products results in the emission of any atmospheric pollution, visible light flashes or glare, odors, or noise or vibration which may be heard or felt off the premises, or that industry which constitutes a fire or explosion hazard.

b. *Light industry.* The industry in which procession of products results in none of the conditions described for above type industry.

**JUNK YARD.** A lot, land or structure, or part thereof of 200 square feet or more, used primarily for the collecting, storage or sale of waste paper, rags, scrap metal or discarded material, or for the collecting, dismantling, storage and salvaging of machinery or vehicles not in running condition and/or for the sale of parts thereof.

**KENNEL.** Any premises or portions thereof on which four or more dogs, cats or other household domestic animals over four months of age are kept, or on which more than two such animals are maintained, bred, or cared for, for enumeration or sale. (See KRS 100.365 for further definition.)

**LAND SURVEYOR.** A person licensed as a land surveyor by the state.

**LOADING AREA (SPACE).** An off-street space or berth on the same lot with a building or contiguous to a group of buildings and accessory building, for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials, and which abuts on a street, alley or other appropriate means of access.

**LODGING ROOM.** A room rented as sleeping and living quarters, but without cooking facilities, and with or without an individual bathroom. In a suite of rooms, each room which provides sleeping accommodations shall be counted as one **LODGING ROOM**.

**LOT.** A single parcel of land which may be legally described as such, or two or more adjacent numbered lots or parts of such lots in a recorded subdivision plat having principal frontage on a street which comprises a site occupied by, or intended for occupancy by one principal building or principal use together with accessory buildings and uses, yards and other open spaces required by this chapter.

**LOT AREA.** An amount of surface land contained within the property lines of a lot, including land within easements on the lot, but excluding any land within street rights-of-way.

**LOT, CORNER.** A lot which has an interior angle of less than 135 degrees at the intersection of two street lines. A lot abutting upon a curved street shall be considered a corner lot in the tangents to the curve at the points of intersection of the side lot lines intersect at an interior angle of less than 135 degrees

**LOT, DEPTH.** The average horizontal distance from the street line of the lot to its opposite rear line measured at right angles to a straight front lot line, or the tangent to the middle of the arc if it is a curved front line.

**LOT, DOUBLE FRONTAGE.** A lot having two or more of its nonadjoining property lines abutting upon a street or streets.

**LOT, FRONTAGE.** The distance along the front lot line.

**LOT, INTERIOR.** A lot other than a corner lot.

**LOT, RECORDED.** A lot designated on a subdivision plat or deed duly recorded pursuant to statute in the County Clerk's office.

**LOT, REVERSE FRONTAGE.** A double frontage lot which has its vehicular access point limited to the back of the lot, rather than having access on its front as do most lots.

**LOT, ZONING.** A parcel of land composed of one or more recorded lots, occupied or to be occupied by a principal building or buildings or principal use or uses along with permitted accessory buildings or uses meeting all the requirements for area, buildable area, frontage, width, yards, setbacks, and any other requirements set forth in this chapter.

**LOT LINE, FRONT.** The line separating the lot from the street right-of-way, and in this respect it constitutes a portion of the street right-of-way line.

**LOT LINE, REAR.** A lot line other than front or side lot lines, contributing to the definition of property boundaries.

**LOT LINE, SIDE.** A lot line starting from a point along the front lot line and other than a rear lot line and contributing to the definition of property boundaries.

**LOT WIDTH.** The straight horizontal distance measured between the opposite two points of the intersection of the building line with the two opposite side lot lines.

**MANUFACTURED HOME.** A single-family residential dwelling constructed after June 15, 1976, in accordance with the National Manufactured Home Construction and Safety Standards Act, Act of 1974,

42 U.S.C. §§ 5401 *et seq.*, as amended, and designed to be used as a single-family residential dwelling with or without permanent foundation when connected to the required utilities, and which includes plumbing, heating, air conditioning and electrical systems contained therein. (KRS 100.348). See Qualified Manufactured Home definition.

**MANUFACTURED HOME PARK.** A parcel of land under single ownership on which two or more manufactured homes are occupied as residences and meeting the requirements of this section.

**MOBILE HOME.** A structure manufactured prior to June 15, 1976, that was not required to be constructed in accordance with the National Manufactured Housing Construction in Safety Standards Act, that is transportable in one or more sections, that, in the traveling mode is eight body feet or more in width and 40 body feet or more in length, or when erected on site, 400 or more square feet, and that is built on a permanent chassis and designed to be used as a dwelling on a temporary or permanent foundation, when connected with the permanent required utilities, including plumbing, heating, air conditioning and electrical systems. (KRS 100.348)

**MODULAR HOME.** An off-site building system which is designed to be used as a residence and which is not a manufactured home, qualified manufactured home or mobile home. A **MODULAR HOME** meets the same Kentucky Residential Building Code as site-built homes, and it does not have a HUD Label or title.

**MOTEL.** A series of attached, semi-attached or detached sleeping or living units, each with at least a bedroom and a bathroom, for the temporary accommodation of transient guests, the units having convenient access to off-street parking spaces, for the exclusive use of guests or occupants.

**MULTI-FAMILY DWELLING.** A building grouping a number of rooms or suite of rooms with an independent entrance for each from outside or from a common hallway, and consisting of at least one habitable room, together with a kitchen or kitchenette and sanitary facilities per each such room or suite of rooms.

**NONCONFORMING USE or STRUCTURE.** An activity or a building, sign, structure or a portion thereof which lawfully existed before the adoption or amendment of the zoning regulation, but which does not conform to all of the regulations, contained in the zoning regulations which pertain to the zone in which it is located.

**NONRETAIL COMMERCIAL.** Commercial sales and services to customers who intend resale of the products or merchandise sold or handled. For example, **NONRETAIL COMMERCIAL** includes wholesale activities, warehousing, trucking terminal, and similar commercial enterprises.

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

**OPEN SALES LOT.** Land used or occupied for the purpose of buying or selling merchandise stored or displayed out-of-doors prior to sale. Such merchandise includes, but is not limited to, passenger cars, trucks, motor scooters, motorcycles, boats, monuments, and trailers.

**OPEN SPACE.** Parks, common greens, other recreation space or generally open areas available to the public or yards or other open areas provided in connection with residential buildings occupied by more than two families per lot which are intended for the sole use of the occupants of such buildings and their guests.

**OUTDOOR ADVERTISING.** Visible or immobile structure in any shape or form the purpose of which is to advertise any product or service, campaign, event, and the like.

**PARKING SPACE.** An off-street space used for the temporary location of one licensed motor vehicle, which is at least 200 square feet in area and nine feet wide, not including access driveway, and having direct access to a street or alley (space may be either enclosed or open).

**PERFORMANCE STANDARDS.** A criterion established to control noise, odor, smoke, particulate matter, toxic or noxious matter, vibration, fire and explosion hazards, or glare or heat generated by or inherent in uses of land or buildings.

**PERMANENT FOUNDATION.** Any structural system for transposing loads from a structure to the earth at a depth below the established frost line without exceeding the safe bearing capacity. The **PERMANENT FOUNDATION** system shall include a method of transporting loads to the earth and shall provide for a continuous exterior enclosure between the perimeter of the house and the earth. The overall system shall be an engineered system to comply with soil conditions. Applicable standards would include manufacturer's recommendations in compliance with H.U.D. requirements and recognized standards such as A225.1 (ANSI) and Guideline Standards for the Installation of Manufactured Housing (CABO).

**PERMIT.** Refers to a written official document permitting an action relating to the use, development, or improvement of land or building. **PERMIT** shall include the certification indicating compliance with the requirements of these regulations as well as certification permitting occupancy and/or use of the land or building in question.

**PLANNED UNIT DEVELOPMENT.** An area of land controlled by a single landowner and developed as a single entity for a number of dwellings and/or buildings, the plan for which does not necessarily correspond in lot size, bulk, type of dwelling unit, density, lot coverage or required open space to any other residential or commercial zone.

**PLAT.** The map of a subdivision, recorded with the county courthouse.

**PREMISES.** A lot or other tract of land under one ownership and all structures on it.

**PROCESSING.** Manufacturing, reduction, extraction, packaging, repairing, cleaning, and any other similar original or restorative treatment applied to raw material, products, or personal property.

**PROFESSION or PROFESSIONAL.** A business in which gain or livelihood depends on and requires specialized knowledge and often long intensive academic preparation, and usually follows a line of conduct and requires adherence to technical or ethical standards. Included in this definition, but not limited, are the following professional business activities: accounting, chiropractic, dentistry, practice of medicine, landscape architecture, land surveying, practice of law, optometry, osteopathy physiotherapy, podiatry, professional planning, architecture, brokerages (stocks, real estate) engineering, or psychology.

**PROFESSIONAL RESIDENCE OFFICE.** A residence in which the occupant has a professional office which is clearly secondary to the dwelling used for dwelling purposes and does not change the residential character thereof, and where not more than three persons are working.

**PUBLIC FACILITY.** Any use of land whether publicly- or privately-owned for transportation, utilities, or communication, or for the benefit of the general public, including, but not limited to, libraries, streets, schools, fire or police station, governmental building, municipal building, cemeteries, and recreational centers including parks.

**QUALIFIED MANUFACTURED HOME.** A manufactured home meeting all of the following criteria:

- a. Is manufactured on or after July 15, 2002;
- b. Is affixed to a permanent foundation and is connected to the appropriate facilities and is installed in compliance with KRS 227.570;
- c. Has a width of at least 20 feet at its smallest width measurement and oriented on the lot or parcel so its main entrance door faces the street;
- d. Has a minimum total living area of 900 square feet; and
- e. Is not located in a manufactured home land-lease community.

**RECREATION VEHICLE (RV).** Any of the following:

- a. *Travel trailer* means a vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreation, or vacation;
- b. *Pickup coach* means a structure designed to be mounted on a truck for use as a temporary dwelling for travel, recreation, or vacation;
- c. *Motorhome* means a portable, temporary dwelling to be used for travel, recreation, or vacation, constructed as an integral part of a self-propelled vehicle;
- d. *Camping trailer* means a canvas or other collapsible folding structure, mounted on wheels and designed for travel, recreation, or vacation use;
- e. *Dependent recreational vehicle* means a recreational vehicle which does not have toilet, lavatory, or bathing facilities; or
- f. *Self-contained recreational vehicle* means a recreational vehicle which can operate independent of connections to sewer, water, and electric systems. It contains a water-flushed toilet, lavatory, shower or bath, kitchen sink, all of which are connected to a water storage and sewage holding tanks located within the recreational vehicle.

**RELATIVES.** Persons standing in the relation of son, daughter, son-in-law, daughter-in-law, aunt, uncle, niece, nephew, father, or mother, brother, sister, grandchildren or grandparents.

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

**RIGHT-OF-WAY.** Land used generally for streets, sidewalks, alleys or other public uses. Right-of-way also is a land measurement term, meaning the distance between lot property lines which generally contains not only the street pavement, but also the sidewalks, grass area, and underground and above-ground utilities.

**ROADWAY.** The portion of the street right-of-way which contains the street pavement and gutter or surface ditch and is used primarily as a channel for vehicular movement and secondarily as a drainage channel for stormwater.

***SALES AREA: AUTOMOBILE, MOBILE HOME or TRAILER.*** An enclosed or open area, other than a street, used for the display sale or rental of new or used motor vehicles, mobile homes, trailers, or boats in operable condition, and where no repair work is done.

***SANITARY LANDFILL.*** A method of disposing of refuse by spreading and covering such refuse with earth to a depth of two or more on the top surface and one foot or more on the sides of the bank.

***SECTION.*** A unit of a manufactured home at least ten body feet in width and 30 body feet in length.

***SERVICE AREA.*** Includes those parts of any lot which are used primarily to provide access for servicing the use on the lot, including land used for delivery of goods, storage and collection of wastes and provision for maintenance.

***SETBACK, BUILDING.*** The minimum horizontal distance between the front line of a building or structure and the lot line to include the furthest part of the building's overhang.

***SIGN.*** A structure, building or part thereof, or pennant, for visual communication that is used for the purpose of bringing the subject thereof the attention of the public. A ***SIGN*** does not include the flag or insignia of any nation, state or city nor any political, education, charitable, philanthropic, religious advertising campaign, provided that such advertising shall not be displayed for a period exceeding 30 days.

***STABLE.*** A building in which horses are kept for public or private use, remuneration, hire or sale.

***STATION, FILLING or GASOLINE.*** An area of land, together with any structure thereon, used for the retail sale of motor, fuel and lubricants and incidental services, such as lubrication and handwashing, of motor vehicles, and the sale, installation or minor repair of tires, batteries or other automobile accessories, but not for painting or major repairs. Open storage shall be limited to no more than four vehicles stored for minor repair bearing current license plates. Such storage shall not exceed 72 hours duration and shall not permit the storage of wrecked vehicles.

***STORAGE or STORAGE SPACE.*** Land or enclosed building used for the keeping of goods, wares, supplies or equipment.

***STORY.*** That part of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it then the ceiling above it. See Appendix A to this chapter.

***STREET.*** An improved, public right-of-way 50 feet or more in width which provides a public means of access to abutting property consisting of more than one lot in more than one ownership, or any such right-of-way more than 30 feet and less than 50 feet in width provided it existed prior to the enactment of these regulations and provided such street has been accepted by the city. The term ***STREET*** shall include avenue, drive, circle, road, parkway, boulevard, highway, thoroughfare or any other similar term.

***STREET, CENTERLINE OF.*** The line which is usually at an equal distance from both street lines, or right-of-way lines.

***STREET GRADE.*** The officially established grade of the street upon which a lot fronts. If there is no officially established grade, the existing grade of the street shall be taken as the ***STREET GRADE***.

***STRUCTURAL ALTERATION.*** Any change, other than incidental repairs which would prolong the life of the supporting members of a building or structure such as bearing walls or partitions, columns, beams or girders or any substantial change in the roof or exterior walls.

**STRUCTURE.** See definition of **BUILDING or STRUCTURE** above.

**SUBDIVISION.** A division of real property, improved or unimproved, or portion thereof shown, on the last preceding tax roll as a unit or as contiguous units, into three or more parcels, lots, plots, sites, or other division of land, with or without streets for the purpose of immediate or future sale, transfer of the ownership, or building development, except that the division of land for agricultural purposes in parcels of more than ten acres not involving any new streets or easement of access shall be exempted from the application of this term. The term **SUBDIVISION** includes resubdivision and when appropriate to the context, shall relate to the process of subdivision or to the land subdivided; and division or redivision of land into parcels occurring within 12 months following the division of the same land shall be deemed a subdivision within the meaning of this section.

**SUPPORT SYSTEM.** A pad or combination of footing, piers, caps, plates and shims, which when properly installed, support the manufactured/mobile home.

**THEATER, DRIVE-IN.** Open land with its appurtenant facilities, devoted primarily to the showing of moving pictures or theatrical production, to patrons seated in automobiles or on outdoor seats.

**TOURIST HOME.** Same as **BOARDING or LODGING HOUSE** except where the overnight accommodation is provided for compensation for transient type of guests.

**TOWNHOUSE.** A zero-lot-line structure that is a tall, narrow, traditional rowhouse, generally having three or more floors.

**TRAILER, TRAVEL TRAILER.** A vehicular portable structure built on a chassis and not exceeding a gross weight of 4,500 pounds when factory equipped for the road or an overall length of 30 feet and designed to be used as a temporary dwelling for travel, recreational, and vacation uses.

**USE.** The purpose or activity for which the land or building thereon is designed, arranged, or intended, or for which it is occupied or maintained.

**USE, CONDITIONAL.** Uses of such variable nature as to make control by rigid preregulation impractical. After due consideration in each case, by the Board of Adjustments, after receiving the report and recommendation of the Planning Commission relative to the impact of such use at the particular location, such **CONDITIONAL USE** may or may not be granted by the Board of Adjustments.

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

**USE, PRINCIPAL.** The main use of land or buildings as distinguished from a subordinate or accessory use. It may be either a permitted or special use.

**UTILITIES.** Public and private facilities such as water wells, water and sewage pumping stations, water storage tanks, power and communication transmission lines, electrical power substations, static transformer stations, telephone and telegraph exchanges, microwave radio relays, and gas regulation stations, but not including sewage disposal plants, municipal incinerators, warehouses, shops, and storage yards.

**VARIANCE.** A modification from the literal provisions of these regulations by the Board of Adjustment in cases where a literal enforcement of its provisions would result in unnecessary hardship due to circumstances unique to the individual property or use for which the variance is granted. Financial disadvantage to the property owner is no proof of hardship within the purpose of these regulations. No granting of a **VARIANCE** shall be materially detrimental to the public welfare or injurious to the surrounding improvements or subdivision.

**WILDLIFE RESERVE.** Includes bird sanctuary, zoo, forest reserve, game reserve, botanical garden.

**YARD.** The space or grounds surrounding or surrounded by a building or group of buildings, except as otherwise provided in this chapter.

**YARD, CORNER SIDE.** A side yard which adjoins a street or thoroughfare.

**YARD, FRONT (SETBACK).** That portion of the yard extending the full width of the lot and extending between the front lot line and the nearest part of the principal building, including the front porch. **EXCEPTION:** Front yard setback lines may be varied where the average depth of principal buildings on adjoining properties is less than or greater than the depth prescribed elsewhere in this chapter. In such case, the front yard in question shall not be less than the average depth of existing front yards on the two lots immediately adjoining.

**YARD, INTERIOR SIDE.** A side yard which is located immediately adjacent to another lot or to an alley separating such side yard from another lot.

**YARD, REAR (SETBACK).** That portion of the yard extending the full width of the lot and extending between the rear lot line and the nearest part of the principal building.

**YARD, SIDE (SETBACK).** Those portions of the yard extending from the nearest part of the principal building to the side lot line.

**ZERO-LOT-LINE HOUSE.** A zero-lot house is a structure that comes up to, or very near to, the edge of the property line. Types of property that may be zero-lot-line homes are: rowhouses, garden houses, patio homes, and townhouses. These structures may be attached or detached single-story or multi-story.

**ZONE.** An established area within the community in which the provisions of these regulations are applicable.  
(Ord. 2014-4, passed 7-14-14; Am. Ord. 2015-10, passed 12-14-15; Am. Ord. 2016-12, passed 9-12-16; Am. Ord. 2017-11, passed 7-20-17; Am. Ord. 2020-10, passed 10-15-20)

### **ARTICLE III: GENERAL REGULATIONS**

#### **§ 3.10 MANUFACTURED, MOBILE AND MODULAR HOME PLACEMENT GUIDELINES.**

*Permitted placement.*

1. A *mobile home* as defined by KRS 219.320 and incorporated herein is not allowed in any zoning districts in the city.

2. Manufactured homes constructed between June 1976 and July 15, 2002 are not allowed in any zoning districts in the city.

3. Modular homes as defined herein are allowed in all residential zoning districts providing they meet all size and other requirements of each district.

4. *A qualified manufactured home* as a permanent residence approved individually, by specific materials and design, can be permitted as a conditional use in any district permitting a dwelling unit, subject to the requirements applying to residential uses in the district, subject to the compatibility criteria herein. Applications for approval shall be submitted to the Zoning Administrator on the appropriate forms as required to make a determination on the compatibility of the proposed structure.  
(Ord. 2014-4, passed 7-14-14; Am. Ord. 2020-10, passed 10-15-20)



**§ 3.11 PROCEDURE FOR APPROVAL OF QUALIFIED MANUFACTURED HOMES.**

1. At a minimum, the application shall contain the following information:
  - a. Name, address and phone number of applicant;
  - b. Building detail, including but not limited to, structure size, structure height, building area, roof pitch, foundation detail, photo or illustration of home and number of stories;
  - c. Legal description of property;
  - d. Plan of the proposed site for the qualified manufactured home placement showing streets, property lines, lot dimensions, setbacks, existing structures, proposed structures, setback distances and all utility and drainage easements.
2. Within 60 days from the receipt of the application, the Planning Commission will make a determination to deny, conditionally approve or approve the proposed placement of the qualified manufactured home based on the compatibility standards for qualified manufactured homes as stated herein.  
(Ord. 2014-4, passed 7-14-14)

**§ 3.12 COMPATIBILITY STANDARDS FOR QUALIFIED MANUFACTURED HOMES.**

1. In order to determine the percent of compatibility or incompatibility of qualified manufactured homes the following calculations apply.
  - a. The site of the proposed qualified manufactured home will be the center point and a radius of 200 yards will be drawn encompassing the impact area.
  - b. The number of habitable single-family units within the impact area will be counted. The number of existing units, which meet or exhibit the same characteristics of the proposed qualified manufactured homes, will be counted.
  - c. In determining compatibility, each characteristic, i.e., size, roof pitch and elevation, will be counted separately. The following measurements apply.
    - 1) The size of a proposed qualified manufactured home that has a gross floor area of 200 square feet above or below the median of existing structures within a 200-yard radius of the proposed site is deemed compatible.
    - 2) The roof pitch of a proposed qualified manufactured home that demonstrates a roof pitch at or above the median of existing structures within a 200-yard radius of the proposed site is deemed compatible.
    - 3) The elevation of a proposed qualified manufactured home that measures at or above the median vertical height of the surrounding existing structures shall be deemed compatible.
    - 4) The number of stories of a proposed qualified manufactured home that conforms with the median number of stories of existing structures shall be deemed compatible.
    - 5) The skirting of all proposed qualified manufactured homes must be masonry in the form of brick or concrete block based on the average footers on homes in the area.

6) Roofed front porches must be included on of all proposed qualified manufactured homes, provided 50%, or more, of the homes in the same block or 200 yard radius have front porches.

d. The number of units for each characteristic will be totaled and divided by the total number of units to determine the applicable percentage

2. The qualified manufactured home must be, at least, 20 feet wide at its smallest width measurement.

(Ord. 2014-4, passed 7-14-14)

### **§ 3.13 REPLACEMENT OF NONCONFORMING HOMES.**

1. A manufactured or mobile home placed and maintained on a tract of land and deemed to be a legal nonconforming use prior to the adoption of this chapter, shall continue to be a legal nonconforming use. If the nonconforming use is discontinued, or abandoned for more than two years, the land thereafter must be used in conformity with all provisions of this chapter.

2. A manufactured or mobile home deemed a legal nonconforming use may not be replaced by a qualified manufactured home unless it meets all compatibility standards for qualified manufactured homes and all other requirements herein, unless it is in a manufactured home residential district.

(Ord. 2014-4, passed 7-14-14)

### **§ 3.14 OFF-STREET PARKING, STORAGE AND LOADING.**

1. Off-street automobile and vehicle storage and parking 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 street or alley and shall be deemed to be required open space associated with the permitted use and shall not thereafter be reduced or encroached upon in any manner. All parking spaces must be a minimum of 10 feet wide and 20 feet long.

a. *Dwellings.* Two parking spaces for each dwelling unit. Garage parking is not included in these two required spaces.

b. *Tourist accommodations.* One parking space for each room offered for tourist accommodations.

c. *Theater, stadium, auditorium, or other places of public assembly.* One parking space for each four seats, based on maximum seating capacity.

d. *Hotel.* One parking space for each guest sleeping room.

e. *Stores and similar establishments for business use.* One parking space for each 150 square feet of store floor area, plus loading, unloading and servicing areas.

f. *Office building.* One parking space for each 150 square feet of office floor area.

g. *Industrial or manufacturing establishments.* One parking space for each five workers, based on peak employment, and adequate space for loading and unloading all vehicles used incidental to the operation of the industrial or manufacturing establishment.

2. Commercial vehicles, recreational vehicles, buses and trailers of all types, including travel, boat, camping and hauling, shall not be parked on any lot occupied by a dwelling or on any lot in a residential district except in accordance with the following provisions:

a. Not more than one per dwelling unit shall be permitted to be parked on the premises, outside of a garage or storage building, for a period not to exceed more than 72 hours unless it is located behind the front building line.

b. Any commercial vehicle, recreational vehicle, bus or trailer of any type, including travel, boat, camping or hauling used for hauling explosives, gasoline or liquefied petroleum products or toxic chemicals shall not be permitted.

c. Any commercial vehicle, recreational vehicle, or trailer of any type including travel, boat, camping or hauling which is occupied permanently or temporarily, including the temporary connection to any utility for more than seven days in a 30-day period, while it is parked or stored shall not be permitted except in a mobile home park as authorized by this chapter or other ordinances.

d. **COMMERCIAL VEHICLES** are defined for the purposes of this section as any vehicle with a rated capacity over two and one-half tons or a tractor and trailer.

3. Commercial vehicles, recreational vehicles, buses and trailers of all types, including travel boat, camping and hauling, whether attached to a towing vehicle or not, shall not be parked or stored on a public right-of-way for a period longer than 60 minutes.  
(Ord. 2014-4, passed 7-14-14; Am. Ord. 2015-10, passed 12-14-15; Am. Ord. 2018-12, passed 8-13-18)

### § 3.15 NON-CONFORMING USES OR STRUCTURES.

An activity, building sign, structure, or portion thereof, which lawfully existed before the adoption or amendment of the zoning ordinance, but which does not conform to all the regulations contained in the zoning ordinance for such use or structure. Any use or building which does not conform to this chapter may not be:

1. Changed to another non-conforming use;
2. Re-established after discontinuance for six months;
3. Extended except in conformity to this chapter; or
4. Rebuilt after damage exceeding 2/3 of its PVA value immediately prior to damage, residences excepted.  
(Ord. 2014-4, passed 7-14-14)

### § 3.16 ADULT USES PLACEMENT GUIDELINES.

*Permitted use in I-1 Industrial District.* All adult oriented uses may only be permitted in an I-1 Industrial District provided they meet a 1,000 foot separation distance from all protected uses to include any residential zoned area, public or private school, church, place of worship, library, day care facility, public park or playground. The separation distance will be measured from the closest property line from which the adult use is proposed to the closest property line of the parcel which is listed herein as a protected use. See the definition section on all adult oriented uses.  
(Ord. 2014-4, passed 7-14-14)

**§ 3.17 ACCESS CONTROL.**

1. There shall be no more than two points of access to anyone public street on a lot of less than 100 feet. Lots in excess of 100 feet may have two points of access to anyone public street for each additional 100 feet of frontage.
2. No point of access shall be -allowed within ten feet of the intersection of the right-of-way lines of intersecting streets.
3. No curb on city streets or rights-of-way shall be cut or altered without written approval of the Street Superintendent.
4. A point of access shall not exceed 20 feet in width for one-way or one-lane ingress or egress. Two-way ingress or egress shall not exceed 35 feet in width.  
(Ord. 2014-4, passed 7-14-14)

**§ 3.18 ACCESSORY BUILDINGS/STRUCTURES.**

1. Accessory buildings shall be permitted in rear yards only and must be at least eight feet from the principal structure, and four feet from an adjoining lot boundary. Overhangs shall not exceed 12 inches and shall not be counted as a part of the yard requirements. Exception: A detached garage or a garage connected to the principal structure by a breezeway shall be permitted in the side yard and shall meet the minimum side yard required by the principal structure.
2. An accessory building shall not be used for or involved with the conduct of any business, trade, or industry.
3. On any corner lot adjoining in the rear another lot which is in a residential zone, accessory buildings shall conform to the side yard requirements for corner lots.
4. Accessory structures shall include, but not be limited to, the following examples: swimming pools, dog pens, dog houses, portable carports, fences, gazebos, and the like. Accessory structures shall require a building permit and shall be subject to the following regulations, in addition to others in these regulations, unless otherwise noted:
  - a. No accessory structure shall extend beyond the front of the principal structure, excluding fences three feet or less in height.
  - b. When a corner lot adjoins another lot in the rear which is used for residential purposes, no accessory structure shall extend beyond the front of the principal structure or be nearer to the side street than the depth of any required front yard for a dwelling along such side street, excluding fences three feet or less in height.
  - c. An accessory structure may not exceed the height of the principal structure.
  - d. The total area of all accessory buildings and structures shall not exceed 50% of the lot size.
  - e. No detached accessory structure shall be located closer than eight feet to any principal building or no closer than four feet from the property line, except for portable carports having a minimum of five feet of open sides and ends, which may be located next to a principal structure and no closer than four feet from the property line.
  - f. Swimming pools.

g. All swimming pools with a water depth of over three feet shall require a building permit.

h. A swimming pool as an accessory use to a residential structure shall be located no closer than four feet from the property line. On a corner lot, the side yard setback shall be 25 feet. The setback shall be measured from the wall of the swimming pool to the nearest property line.

i. Dog pens and dog houses are limited to the back yard and must adhere to the four feet distance set aside from the property line.

j. Fences. No fence, hedge or wall that obstructs sight shall be erected, altered or placed in any front yard to exceed a height of three feet above street grade and in any rear or side yard to exceed a height of eight feet. Residential fences must be constructed of materials originally made for fences, including treated wood, vinyl, wrought iron, brick, etc. The flat side of any new fence must face outward. Fences, excluding dog pens, may be placed up to the applicant's side of the property line. (Ord. 2014-4, passed 7-14-14; Am. Ord. 2015-10, passed 12-14-15; Am. Ord. 2017-11, passed 7-20-17; Am. Ord. 2018-12, passed 8-13-18)

### **§ 3.19 ANNEXED LANDS.**

In every case where land becomes a part of the city through annexation it shall be the duty of the Planning Commission to hold at least one public hearing after notice as required by KRS Chapter 424 and make recommendations to the City Council for a zoning amendment. Before any map amendment is



granted, the Planning Commission or the City Council must find that the map amendment is in agreement with the community's comprehensive plan, or in the absence of such a finding, 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 area. Such findings shall be recorded in the minutes and records of the Planning Commission or the City Council.

(Ord. 2014-4, passed 7-14-14)

### **§ 3.20 BOUNDARY LINES; INTERPRETATION.**

1. The boundary lines of districts are lot lines, the center line of creeks or such lines extended, the center lines of streets or alleys or such lines extended, and corporate limit lines as existing at the time of enactment of this chapter.

2. Where a district boundary line, established on the zoning map, divides a lot of single ownership which was recorded at the time of enactment of this chapter, then the least restricted district requirements under which the lot has been divided shall be applied to the entire lot.

3. Whenever any street, alley, or other public way is vacated through legal action, the zoning districts shall be extended, depending on the side or sides to which such lands revert.

4. Questions concerning the exact location of district boundary lines shall be determined by the Board of Adjustment.

(Ord. 2014-4, passed 7-14-14)

### **§ 3.21 HEIGHT LIMITATIONS; EXCEPTIONS.**

The height limitations of this chapter shall not apply to church spires, belfries, cupolas, domes, monuments, water towers, observation towers, transmission towers, windmills, chimneys, smokestacks, derricks, conveyors, flag poles, masts, and antennas.

(Ord. 2014-4, passed 7-14-14)

### **§ 3.22 LOT OF RECORD.**

The owner of a lot of official record, which lot at the time of the adoption of this chapter does not include sufficient land to conform to the yard or other requirements of this chapter, may submit an application to the Board of Adjustment for a variance from the terms of this chapter. Such a 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 the district are complied with as closely as is possible in the opinion of the Board.

(Ord. 2014-4, passed 7-14-14)

### **§ 3.23 ACTIVITIES AFFECTED; CONFORMANCE REQUIRED.**

1. The requirements of this chapter shall apply to every building and use. No building or land shall hereafter be used and no building or part thereof shall be erected, moved, or altered, unless for a use expressly permitted by and in conformity with the regulations herein specified for the district in which it is located.

2. Land which is used solely for agricultural, farming, dairying, stock-raising, or similar purposes shall have no regulations imposed as to building permits, certificates of occupancy, height, yard, location or courts' requirements for agricultural buildings, including and limited to one manufactured home used as a dwelling.

(Ord. 2014-4, passed 7-14-14)

#### ***ARTICLE IV: DEVELOPMENT PLANS***

##### **§ 4.10 DEVELOPMENT PLAN REVIEW.**

A development plan review is required for all proposed commercial, church, PUD's, industrial and multi-family developments. The purpose of this article is to establish and define what is required as part of a planning review procedure. The criteria for the element that must be a part of the development plan, and the plan review and approval process, is outlined in an addendum to the zoning ordinance entitled *Development Plan Approval and Landscaping Guidelines Content and Format Standards, Zoning Ordinance Addendum, City of Elkton, Kentucky.*

(Ord. 2014-4, passed 7-14-14; Am. Ord. 2020-10, passed 10-15-20)

#### ***ARTICLE V: LANDSCAPING AND LAND USE BUFFERS***

##### **§ 5.10 LANDSCAPING PLAN REVIEW.**

A landscape plan review is required for all proposed commercial, church, PUD and multi-family developments. The purpose of this article is to establish and define what is required as part of a landscaping review procedure. All landscape plans must be approved by the Planning Commission. The criteria for the element that must be a part of the landscape plan, and the plan review process, is outlined in an addendum to the zoning ordinance entitled *Development Plan Approval and Landscaping Guidelines Content and Format Standards, Zoning Ordinance Addendum, City of Elkton, Kentucky.*

(Ord. 2014-4, passed 7-14-14)

#### ***ARTICLE VI: PLANNED UNIT DEVELOPMENT (PUD)***

##### **§ 6.10 STATEMENT OF PURPOSE.**

The intent of Planned Unit Development (PUD) is to permit greater flexibility and consequently, more creative and imaginative design for developments than generally is possible under the conventional zoning regulations. It is further intended to promote more economical and efficient use of the land while providing a harmonious variety of housing choices, a higher level of urban amenities and preservation of natural qualities of open space.

(Ord. 2014-4, passed 7-14-14)

**§ 6.11 PERMITTED DISTRICTS.**

1. A residential PUD is permitted in all residential zoning districts upon approval of the Planning Commission.
2. Commercial planned unit developments are allowed in all business and industrial districts, in accordance with the provisions of this chapter.
3. Condos or multi-family developments are only allowed in R-3 residential districts, in accordance with the provisions of this chapter.  
(Ord. 2014-4, passed 7-14-14)

**§ 6.12 STANDARDS.**

1. *Area size.* There is no minimum acreage requirement for a PUD.
2. *Building site coverage.* The total lot coverage permitted for all buildings on the site shall not exceed 60% of the lot area.
3. *Building height limit.* The maximum building height limit of any building shall not exceed 70 feet in height.
4. *Setback requirements.* Setback requirements shall be as follows:
  - a. *Front yard:* any building facing a local street, minor or major artery, as defined in the subdivision regulations, shall be one-half of the right-of-way or not less than 25 feet and not to exceed 40 feet;
  - b. *Side yard* (from adjoining property line): 20 feet; and
  - c. *Rear yard* (from adjoining property line): 20 feet.  
(Ord. 2014-4, passed 7-14-14; Am. Ord. 2020-10, passed 10-15-20)

**§ 6.13 GENERAL REQUIREMENTS.**

1. *Platting requirements.* Each PUD shall be platted. The plat shall contain information as required in the Elkton Development Plan and Landscape Regulations. The plat shall also conform to the requirements set forth in this section. In the event that conflicts occur, this section shall prevail.
2. *Density.* The density for all approved PUD plans shall not exceed the density requirements found in the underlying zoning district.
3. *Open space.* At least 20% of the total gross area shall be devoted to the properly planned, permanent, usable open space. The common open space shall be used for recreational, park or environmental amenity for common enjoyment by occupants of the development, but shall not include public or private streets, driveways or utility easements.
4. *Maintenance of common open space.* Planned unit developments shall be approved subject to the submission of a legal instrument or instruments setting forth a plan or manner of permanent care and

maintenance of the open spaces, recreational areas and community owned facilities. No such instruments shall be accepted until approval by the City Attorney as to legal form and effect, and the Planning Commission as to suitability for the proposed use of the open space.

5. *Landscaping.*

a. A landscaping plan shall be required at a time of initial submission, showing the spacing, sizes and specific types of landscaping material.

b. Existing trees shall be preserved whenever possible. The location of trees should be considered when planning the common open space, location of buildings, underground structures, walks, paved area, playgrounds, parking areas and finished grade levels.

c. A grading plan which will confine excavation, earth-moving procedures and other changes to the landscape in order to ensure preservation and prevent despoliation of the area to be retained as common open space will be required.

6. *Traffic circulation.* Principal vehicular access points shall be designed to permit smooth traffic flow with controlled turning movements and minimum hazards to vehicular and pedestrian traffic.

7. *Street construction.*

a. Standards of design and construction for both public and private streets, within planned residential development, shall comply with the standards of design set forth in the subdivision regulations of the Planning Commission.

b. Streets in a PUD may be dedicated to public use or may be retained under private ownership. Standards for construction shall be the same for both public and private streets.

8. *Parking.*

a. For each dwelling unit, there shall be off-street parking spaces consisting of not less than two off-street parking spaces that does not include garage parking. Variances from this requirement can be obtained from the Board of Zoning Adjustment.

b. Parking areas shall be arranged so as to prevent through traffic to other parking areas.

c. Parking areas shall be screened from adjacent structures, roads, and traffic arteries with hedges, dense planting, earth berms, changes in grade or walls.

d. No more than 15 parking spaces shall be permitted in a continuous row without being interrupted by landscaping.

e. No more than 60 parking spaces shall be accommodated in any single parking area.

f. All streets and any off-street loading area shall be paved. All areas shall be marked so as to provide for orderly and safe loading, parking, and storage.

g. Parking for nonresidential purposes shall be provided appropriate to the type of nonresidential use, as set forth in the Elkton Development Plan and Landscape Regulations.

h. All common parking areas shall be adequately lighted. All such lighting shall be so arranged as to direct the light away from adjoining residences.

i. All parking areas and off-street loading areas shall be graded and drained so as to dispose of all surface water without erosion, flooding and other inconveniences. All off-street parking spaces are required to have an asphalt or concrete surface.

9. *Buffers.* Where a PUD abuts another district of lower intensity, a permanent open space at least 25 feet wide shall be provided along the property line and shall be maintained with landscaping. No driveway or off-street parking shall be permitted in this area.

10. *Nonresidential development.*

a. Nonresidential uses, limited to those specifically recommended for approval by the Planning Commission, are permitted in a planned unit development provided that such uses primarily are for the service and convenience of the residents of the development.

b. Layout of parking areas, service areas, entrances, exits, yards, courts, landscaping and control of signs, lighting, noise or other potentially adverse influences shall be such as to protect residential character within the PUD District and desirable character in any adjoining residence district.

c. No building permit for any nonresidential use in a mixed PUD, (i.e., residential/commercial or professional) shall be issued prior to having at least 50% of the residential dwellings under construction.

11. *Development plan review.* A development plan review is required as per the design guidelines listed in the Elkton Development Plan and Landscape Regulations.

12. *Approval process.* The following requirements must be fulfilled prior to approval of a PUD application.

a. Upon receipt of an application and site plan for the proposed development, the Planning Commission shall hold a public hearing. The Planning Commission may approve, in concept, the preliminary development plans and shall have the authority to attach conditions to the plan. However, no grading or other construction may start on the parcel without a final development plan approved by the Planning Commission using the same design requirements that are listed in the Elkton Development Plan and Landscape Regulations.

b. If the PUD is developed in stages, the total area shall be reviewed as a master preliminary development plan at the public hearing and each successive stage or phase can be approved under a final development plan without a public hearing providing the Planning Commission feels the phase requesting final development plan approval has no significant changes from the preliminary plan.

c. *Planning Commission action.* The Planning Commission will either:

(a) Grant approval, which means the developer may proceed with the project; postpone action, which means action is delayed for reasons which shall be noted by the Commission; or

(b) Deny approval, which means denial of approval for the submitted PUD. Before any further action is taken, the developer must review his plan to conform to the Commission's recommendations.

(Ord. 2014-4, passed 7-14-14)

**ARTICLE VII: ZONING DISTRICT REGULATIONS****§ 7.10 ZONING DISTRICTS AND THE ADOPTION OF OFFICIAL ZONING MAP.**

The following zoning districts are delineated on the Official Zoning Map dated January, 2014 and filed with the City and County Clerks. The map is made a part of this chapter and identifies the locations of the following zoning districts:

1. Agricultural (A-1);
2. Single-Family Residential (R-1);
3. Medium Density Residential (R-2);
4. Multi-Family Residential (R-3);
5. Suburban Residential District (SR);
6. Manufactured Home Residential District (MHR);
7. Central Business District (B-1);
8. Neighborhood Commercial District (B-2);
9. Highway/General Commercial District (B-3);
10. Light Industry District (I-1);
11. General Industry District (I-2); and
12. Conservation District (CD).

(Ord. 2014-4, passed 7-14-14)

**§ 7.11 SINGLE-FAMILY RESIDENTIAL (R-1).**

1. *Permitted and accessory uses.* Permitted and accessory uses are listed in the Zones and Use Tables herein. The R-1 District is a low density residential zoning district designed for single-family homes and those uses compatible with single-family residential development.

2. *Minimum lot size requirements.* For single-family there shall be a minimum of 14,000 square feet of lot area. The minimum lot width at the building line shall be not less than 100 feet.

3. *Building setbacks.* Buildings facing streets shall be set back 50 feet from the right-of-way of the street or road on which the building abuts. Side yard setbacks shall be 15 feet and rear yard setbacks shall be 25 feet except that garages may extend up to five feet from the rear property line. On corner lots contiguous with two streets/roads, the side yard setback shall be 50 feet from the right-of-ways of both streets.

4. *Building height.* No building shall exceed two and one-half stories or 35 feet in height.

5. *Utility connections.* Use of city water and sanitary sewer is mandatory. (Ord. 2014-4, passed 7-14-14)

### § 7.12 MEDIUM DENSITY RESIDENTIAL (R-2).

1. *Permitted and accessory uses.* Permitted and accessory uses are listed in the Zones and Use Tables herein. The R-2 District is a medium density residential zoning district designed for single-family homes, duplexes, triplexes and those uses compatible with medium density residential development.

2. *Minimum lot size requirements.*

a. For single-family there shall be a minimum of 10,000 square feet of lot area with the minimum lot width at the building line of not less than 80 feet.

b. Every two-family (duplex) and three-family (triplex) shall be located on a lot of not less than 7,000 square feet for the first dwelling unit plus 1,500 square feet for each additional unit up to three (3) units. The minimum required lot width at the building line for two-family homes is 90 feet and three-family homes is 100 feet.

3. *Building setbacks.* Buildings facing streets shall be set back 40 feet from the right-of-way of the street or road on which the building abuts. Side yard setbacks shall be 12 feet and rear yard setbacks shall be 25 feet except that garages may extend up to five feet from the rear property line. On corner lots contiguous with two streets/roads, the side yard setback shall be 40 feet from the right-of-ways of both streets.

4. *Building height.* No building shall exceed two and one-half stories or 35 feet in height.

5. *Utility connections.* Use of city water and sanitary sewer is mandatory. (Ord. 2014-4, passed 7-14-14; Am. Ord. 2017-15, passed 10-16-17)

### § 7.13 MULTI-FAMILY RESIDENTIAL (R-3).

1. *Permitted and accessory uses.* Permitted and accessory uses are listed in the Zones and Use Tables herein. The R-3 District is a high density residential zoning district designed for multi-family apartment complexes, as well as single-family, duplexes, triplexes and those uses compatible with high density residential development.

2. *Minimum lot size requirements.*

a. For single-family there shall be a minimum of 5,000 square feet of lot area with the minimum lot width at the building line of not less than 50 feet.

b. Every two-family (duplex) and three-family (triplex) shall be located on a lot of not less than 7,000 square feet for the first dwelling unit plus 1,500 square feet for each additional unit. The minimum required lot width at the building line for two-family homes is 50 feet and three-family and multi-family apartment homes is 60 feet. Multi-family dwellings (four units or greater) shall have a maximum of six dwelling units per building and 12 units per net acre. All proposed multi-family dwellings require approval of a Development Plan and Landscape Plan by the Planning Commission to ensure adequate parking, setbacks and address other development issues specific to each individual development. See Development Plan Guidelines and Landscape and Land Use Buffering standards in the Zoning Ordinance Addendums.

3. *Building setbacks.* Buildings facing streets shall be set back 40 feet from the right-of-way of the street or road on which the building abuts, unless said building provides off-street parking space of no less than 765 square feet of dedicated off-street parking area, including garage, in such case the building facing the street may be set back 25 feet from the right-of-way. Side yard setbacks shall be eight feet and rear yard setbacks shall be 20 feet. On corner lots contiguous with two streets/roads, the side yard setback shall be the same as applicable front yard setback as stated above from the right-of-ways of both streets.

4. *Building height.* No building shall exceed three stories or 45 feet in height.

5. *Utility connections.* Use of city water and sanitary sewer is mandatory.  
(Ord. 2014-4, passed 7-14-14; Am. Ord. 2017-15, passed 10-16-17; Am. Ord. 2018-12, passed 8-13-18)

### § 7.14 SUBURBAN RESIDENTIAL DISTRICT (SR).

1. *Permitted and accessory uses.* Permitted and accessory uses are listed in the Zones and Use Tables herein. The SR District is a suburban residential zoning district designed for single-family dwellings and those uses compatible with low density residential development that does not have access to city sanitary sewer and must be on septic systems.

2. *Minimum lot size requirements.* For single-family there shall be a minimum of ½ acre (21,780 square feet) of lot area.

3. *Building setbacks.* Buildings facing streets shall be set back 50 feet from the right-of-way of the street or road on which the building abuts. Side yard setbacks shall be 15 feet and rear yard setbacks shall be 25 feet. On corner lots contiguous with two streets/roads, the side yard setback shall be 50 feet from the right-of-ways of both streets.

4. *Building height.* No building shall exceed two and one-half stories or 35 feet in height.

5. *Utility connections.* On lot septic systems are allowed. City water is required.  
(Ord. 2014-4, passed 7-14-14)

### § 7.15 MANUFACTURED HOME RESIDENTIAL DISTRICT (MHR).

1. *Permitted and accessory uses.*

a. Permitted and accessory uses are listed in the Zones and Use Tables herein. The MHR District is a manufactured home park zoning district designed for single-family manufactured homes and those uses compatible with manufactured home park developments.

b. All proposed new manufactured home parks require approval of a development plan by the Planning Commission to ensure adequate parking, setbacks and address other development issues specific to each individual development. See Development Plan Guidelines and Landscape and Land Use Buffering standards in the Zoning Ordinance Addendums.

2. *Minimum lot size requirements.* A MHR District is designed to facilitate the use of a manufactured home park development which must have a minimum of five acres for the proposed park. Each lot side will be addressed in the site plan review by the Planning Commission.

3. *Building setbacks.* Buildings facing streets shall be set back 50 feet from the right-of-way of the street or road on which the building abuts. Side yard setbacks shall be 15 feet and rear yard setbacks shall be 25 feet. On corner lots contiguous with two streets/roads, the side yard setback shall be 50 feet from the right-of-ways of both streets.

4. *Building height.* No building shall exceed two and one-half stories or 35 feet in height.

5. *Utility connections.* Use of city water and sanitary sewer is mandatory.  
(Ord. 2014-4, passed 7-14-14)

### § 7.16 CENTRAL BUSINESS DISTRICTS (B-1).

1. *Permitted and accessory uses.*

a. Permitted and accessory uses are listed in the Zones and Use Tables herein. The B-1 District is a commercial zoning district designed for retail, entertainment, government and service uses, as well as those uses compatible with downtown business development. Uses deemed incompatible are any uses with outside storage, or outside display or products, to include used car lots and auto dealerships.

b. All proposed new buildings or additions require approval of a development plan and landscape plan by the Planning Commission to ensure adequate parking, setbacks and address other development issues specific to each individual development. See Development Plan Guidelines and Landscape and Land Use Buffering standards in the Zoning Ordinance Addendums.

2. *Minimum lot size requirements.* There is no minimum lot size requirement in a B-1 District. However, all proposed new buildings or additions require approval of a development plan by the Planning Commission to ensure adequate lot size for the proposed development and other development issues specific to each individual request.

3. *Building setbacks.* All proposed new buildings or additions require approval of a development plan by the Planning Commission to ensure adequate parking, setbacks and address other development issues specific to each individual development. Setbacks will be based on averaging adjoining property setbacks and site plan considerations.

4. *Building height.* No building shall exceed three stories or 45 feet in height.

5. *Utility connections.* Use of city water and sanitary sewer is mandatory.

6. *Conditional uses.*

a. Conditionally permitted uses are permitted as listed in the Zones and Use Tables herein and with other requisite regulations as set forth below.

b. *Residential use in the Central Business District.*

1) Residential use is permitted on all levels above the ground floor.

2) Residential use on the ground floor may be permitted, provided it is located behind a commercial use and may not occupy the first 25 feet of the storefront.

3) The storefront appearance shall not indicate a residential use occupies the building and there shall be no display of personal property or ornamentation outside the structure or in windows or doors which is not business related.

4) Off street parking must be provided in accordance with this chapter.  
(Ord. 2014-4, passed 7-14-14; Am. Ord. 2015-10, passed 12-14-15)

**§ 7.17 NEIGHBORHOOD COMMERCIAL DISTRICT (B-2).**1. *Permitted and accessory uses.*

a. Permitted and accessory uses are listed in the Zones and Use Tables herein. The B-2 District is a commercial zoning district designed for business that requires good road access or high traffic counts to market their services or products. This district is designed to handle commercial uses that may not be appropriate in a B-1 Central Business District. All uses allowed in a B-1 District are allowed in a B-2 District. The intent of this district is for standard entertainment, service, retail and professional uses that normally serve residential neighborhoods.

b. All proposed new buildings or additions require approval of a development plan and landscape plan by the Planning Commission to ensure adequate parking, setbacks and address other development issues specific to each individual development. See Development Plan Guidelines and Landscape and Land Use Buffering standards in the Zoning Ordinance Addendums.

2. *Minimum lot size requirements.* The minimum lot size requirements shall be 25,000 square feet with a lot width of not less than 120 feet at the proposed building location.

3. *Building setbacks.*

a. Buildings facing streets shall be set back 50 feet from the right-of-way of the street or road on which the building abuts. Side yard setbacks shall be 15 feet and rear yard setbacks shall be 25 feet. On corner lots contiguous with two streets/roads, the side yard setback shall be 50 feet from the right-of-ways of both streets.

b. All proposed new buildings or additions require approval of a development plan by the Planning Commission to ensure adequate parking, setbacks and address other development issues specific to each individual development. See Development Plan Guidelines and Landscape and Land Use Buffering standards in the Zoning Ordinance Addendums.

4. *Building height.* No building shall exceed three stories or 45 feet in height.

5. *Utility connections.* Use of city water and sanitary sewer is mandatory.

6. *Parking and loading.* Parking and loading areas shall be required within the individual property as stated by the parking and loading requirement chapters herein.  
(Ord. 2014-4, passed 7-14-14)

[Text continues on page 36I]

**§ 7.18 HIGHWAY/GENERAL COMMERCIAL DISTRICT (B-3).**1. *Permitted and accessory uses.*

a. Permitted and accessory uses are listed in the Zones and Use Tables herein. The B-3 District is a commercial zoning district designed for business that requires good road access or high traffic counts to market their services or products. This district is designed to handle heavier commercial uses that may not be appropriate in a B-2 District. It is intended for heavy commercial uses like welding and auto body shops, as well as uses that require moderate to heavy truck traffic or outside storage like propane wholesalers and farm equipment dealers, and the like.

b. All proposed new buildings or additions require approval of a development plan and landscape plan by the Planning Commission to ensure adequate parking, setbacks and address other development issues specific to each individual development. See Development Plan Guidelines and Landscape and Land Use Buffering standards in the Zoning Ordinance Addendums.

2. *Minimum lot size requirements.* The minimum lot size requirements shall be 35,000 square feet with a lot width of not less than 120 feet at the proposed building location.

3. *Building setbacks.*

a. Buildings facing streets shall be set back 60 feet from the right-of-way of the street or road on which the building abuts. Side yard setbacks shall be 15 feet and rear yard setbacks shall be 25 feet. On corner lots contiguous with two streets/roads, the side yard setback shall be 60 feet from the right-of-ways of both streets.

b. All proposed new buildings or additions require approval of a development plan by the Planning Commission to ensure adequate parking, setbacks and address other development issues specific to each individual development. See Development Plan Guidelines and Landscape and Land Use Buffering standards in the Zoning Ordinance Addendums.

4. *Building height.* No building shall exceed three stories or 45 feet in height.
5. *Utility connections.* Use of city water and sanitary sewer is mandatory.
6. *Parking and loading.* Parking and loading areas shall be required within the individual property as stated by the parking and loading requirement chapters herein.  
(Ord. 2014-4, passed 7-14-14)

**§ 7.19 LIGHT INDUSTRY (I-1).**1. *Permitted and accessory uses.*

a. Permitted and accessory uses are listed in the Zones and Use Tables herein. Any manufacturing or processing use which would not be deteriorating to neighboring properties because of the emission of smoke, noise, odor, dust, vibrations, or hazardous of fire or explosion.

b. All proposed new buildings or additions require approval of a development plan by the Planning Commission to ensure adequate parking, setbacks and address other development issues specific to each individual development. See Development Plan Guidelines in the Zoning Ordinance Addendums.

2. *Minimum lot size requirements.* The minimum lot size requirement for any lot or parcel is one acre in any I-1 Districts.

3. *Building setbacks.* Buildings facing streets shall be set back 60 feet from the right-of-way of the street or road on which the building abuts. Side yard setbacks shall be 20 feet and rear yard setbacks shall be 25 feet. On corner lots contiguous with two streets/roads, the side yard setback shall be 60 feet from the right-of-ways of both streets.

4. *Building height.* There are no maximum building height requirements in this district.

5. *Parking and loading.* Parking and loading areas shall be required within the individual property as stated by the parking and loading requirement chapters herein.

6. *Utility connections.* Use of city water and sanitary sewer is mandatory.  
(Ord. 2014-4, passed 7-14-14)

**§ 7.20 GENERAL INDUSTRY (I-2).**1. *Permitted and accessory uses.*

a. Permitted and accessory uses are listed in the Zones and Use Tables herein.

b. Any manufacturing or process, which is not specifically listed in the Zones and Use Tables herein, and may be deteriorating to neighboring properties because of the emission of smoke, noise, odor, dust, vibrations, or hazardous because of the dangers of fire or explosion, are to be considered uses that are relevant to an I-2 District. Any type of manufacturing plant, process or quarry that is deemed to have said emissions or hazards by the Planning Commission must be considered, and approved or disapproved, as a conditional use in an I-2 District.

c. All proposed new buildings or additions require approval of a development plan by the Planning Commission to ensure adequate parking, setbacks and address other development issues specific to each individual development. See Development Plan Guidelines and Landscape and Land Use Buffering standards in the Zoning Ordinance Addendums.

2. *Minimum lot size requirements.* The minimum lot size requirement for any lot or parcel is five acres in any I-2 Districts.

3. *Building setbacks.* Buildings facing streets shall be set back 60 feet from the right-of-way of the street or road on which the building abuts. Side yard setbacks shall be 20 feet and rear yard setbacks shall be 25 feet. On corner lots contiguous with two streets/roads, the side yard setback shall be 60 feet from the right-of-ways of both streets.

4. *Building height.* There are no minimum building height requirements in this district.

5. *Parking and loading.* Parking and loading areas shall be required within the individual property as stated by the parking and loading requirement chapters herein.

6. *Utility connections.* Use of city water and sanitary sewer is mandatory.  
(Ord. 2014-4, passed 7-14-14)

#### **§ 7.21 AGRICULTURAL DISTRICTS (A-1).**

1. *Permitted and accessory uses.* Permitted and accessory uses are listed in the Zones and Use Tables herein. The A-1 District inside the city limits is designed to allow agricultural crops, dairying and the raising of farm animals. However, the district prohibits commercial confined feeding operations for livestock that meets the commercial confined feeding operation definition herein.

2. *Minimum lot size requirements.* The minimum lot size requirement for any lot or parcel is one acre in any A-1 Districts.

3. *Building setbacks.* Buildings facing streets shall be set back 50 feet from the right-of-way of the street or road on which the building abuts. Side yard setbacks shall be 15 feet and Rear yard setbacks shall be 25 feet. On corner lots contiguous with two streets/roads, the side yard setback shall be 50 feet from the right-of-ways of both streets.

4. *Building height.* There are no minimum building height requirements in this district.  
(Ord. 2014-4, passed 7-14-14)

#### **§ 7.22 CONSERVATION DISTRICT (CD).**

*Permitted and accessory uses.* Permitted and accessory uses are listed in the Zones and Use Tables herein. The Conservation District has been created for areas which are subject to periodic flooding as indicated by the FEMA flood plain maps, designated recreational areas, parks, and cemeteries.  
(Ord. 2014-4, passed 7-14-14)

**ARTICLE VIII: SIGN REGULATIONS****§ 8.10 REGULATIONS OF SIGNS.**

1. The purpose of this section is to permit such signs that will not, by reason of their location, type, size, construction or manner of display, endanger life or limb, confuse or mislead, obstruct vision, interfere with traffic safety, or otherwise endanger the public health, safety and welfare and further to regulate such permitted signs in a manner which will prevent annoyance, disturbance or nuisance to the citizens.

2. *Permitted signs in all zones.*

a. Any sign or sign structure established, installed, maintained or authorized by a governmental agency.

b. Flags, emblems and other identification insignia of any institution, not to exceed 24 square feet.

c. Nameplates identifying buildings, addresses, building numbers and similar identifying markers.

d. On-premise real estate signs announcing property for sale or lease providing the size of such signs does not exceed six square feet or six feet in height. These signs do not require a permit.

e. Temporary signs shall not exceed an area of 20 square feet. These temporary signs may be placed in the city without a permit for a period not to exceed 60 days from its erection. After the 60 days has expired, the city may remove the sign after a 14 day grace period. These temporary signs must also meet the following requirements:

1) Shall not obstruct vision or cause a traffic hazard. No signs shall be placed in the 30 foot "sight triangle" of an intersection.

2) No signs shall be placed in the right-of-way or on utility poles.

f. Directional and traffic signs and devices located on the premises.

3. *On-premises signs permitted in the following zones and under the following conditions.*

a. *All residential zones.* Ground pole and wall signs are permitted, subject to the following:

1) Name plate signs shall not exceed an area of two square feet.

2) Identification signs for institutional use shall not exceed an area of 24 square feet.

3) Properly permitted home occupations and conditionally permitted bed and breakfasts may have one identification sign that must be on the same lot/parcel as the building and not exceeding an area of six square feet in area.

4) Subdivision identification signs, limited to one sign per major entrance, with a maximum area of 32 square feet and a maximum height of seven feet.

b. *Central business district (B-1) zones.*

1) Wall signs are permitted as follows: wall signs are not to exceed a maximum area of one square foot per linear foot of the wall which the sign is attached. They may not be attached to the roof or extend more than eight inches from the wall. There shall be no more than one wall sign per business, except businesses that are within a 200-foot radius of the center of any intersection, which may have no more than two wall signs, one per building frontage facing each street.

2) Wall signs and free standing signs are permitted as follows: in B-1 zones there may be no more than two major identification signs per place of business. These may be either wall sign or free standing or one of each. However, businesses that are on a corner lot may have one additional wall sign as described in division 1) above. Free standing signs may not exceed a maximum area of 100 square feet and maximum height of the main building.

3) Projecting signs are permitted as follows: one projecting sign per building facade, per business occupying the building, shall be permitted on street frontage provided that such sign may project from a building no more than four feet horizontally, the bottom of the sign shall be no less than eight feet from the ground, and have a maximum area of eight square feet.

c. *Neighborhood commercial district (B-2) zones.* Wall signs and free standing signs are permitted as follows.

1) Wall signs are permitted as follows: wall signs may not exceed a maximum area of two square feet per linear foot of building frontage. In no event shall the area exceed a total of 100 square feet. They may not be attached to the roof or extend more than eight inches from the wall. There shall be no more than one wall sign per business, except businesses that are within a 200-foot radius of the center of any intersection, which may have no more than two wall signs, one per building frontage facing each street.

2) In B-2 zones, there may be no more than two major identification signs per place of business. These may be either wall sign or free standing or one of each. However, businesses that are on a corner lot may have one additional wall sign as described in division 1) above. Free standing signs may not exceed a maximum area of 100 square feet and maximum height of 15 feet. Free standing signs must set back at least 10 feet from right-of-ways and may be used for identification only. The minimum setback from side and rear lot lines is ten feet for property lines that are not contiguous to right-of-way lines.

d. *Highway commercial district (B-3) zones.* Wall signs and free standing signs are permitted as follows:

1) Wall signs are permitted as follows: wall signs may not exceed a maximum area of two square feet per linear foot of building frontage. In no event shall the area exceed a total of 100 square feet. They may not be attached to the roof or extend more than eight inches from the wall. There shall be no more than one wall sign per business, except businesses that are within a 200-foot radius of the center of any intersection, which may have no more than two wall signs, one per building frontage facing each street.

2) In B-3 zones, there may be no more than two major identification signs per place of business. These may be either wall sign or free standing or one of each. However, businesses that are on a corner lot may have one additional wall sign as described in division 1) above. Free standing signs may not exceed a maximum area of 100 square feet and maximum height of 25 feet. Free standing signs must set back at least 10 feet from right-of-ways and may be used for identification only. The minimum setback from side and rear lot lines is ten feet for property lines that are not contiguous to right-of-ways lines.

e. *Industrial zones.* In Industrial I-1 and I-2 zones, both wall and free standing signs may be utilized subject to the same requirements as those applicable in a B-2 district.

4. *Off-premises signs are permitted only in the following zone under the following restrictions.*

a. In B-3 districts, free standing bill board signs are allowed provided they are within 1,500 feet of the centerline of the US 68/80 (4-lane), the maximum area is 300 feet per sign face and there must be 500 feet separation distance between bill boards. The height of the bill board shall be no greater than 65 feet.

b. If the applicant can demonstrate a need for additional height for a bill board sign in order that the proposed sign may be seen by motorist for 30 seconds prior to exiting the US 68/80 (4-lane), the 65 foot height maximum may be increased upon application to the Board of Adjustments. This 30 second limit is based upon the need for a minimum of 30 seconds to make safe lane changes at the 65 mph US 68/80 speed limits. The inability of an applicant to achieve 30 seconds of visibility from either direction is ground for denial of an application for a bill board height variance.

5. *Integrated development signs.* For integrated developments under single ownership or under unified control, including shopping centers, manufacturing districts, apartment developments, additional illuminated signs may be erected providing they do not exceed 100 square feet in gross surface area, and contain only name and location of the development, and the name or type of business of the occupants of the development. Signs in a residential area shall not be illuminated. Signs shall be set back at least 10 feet from each street right-of-way and the bottom edge of such sign shall be at least eight feet above ground level where it will not block the vision of traffic otherwise at ground level or higher. The overall height of the sign shall not exceed 25 feet above ground level.

6. *Signs prohibited in all zones.*

a. Signs that incorporate lights that flash or interfere with a drivers night vision.

b. Banners, pennants, spinners, streamers, except when used in the promotion of public non-commercial events.

c. String lights or any unshielded lights that are visible by the public from a street and are used for commercial purposes, excluding the use of such lights for holiday decoration and low intensity fluorescent lights incorporated into architectural design for the highlighting of architectural features.

d. Signs with visible moving or revolving parts, whether by means of mechanical, electrical or wind driven force.

e. Signs which obscure the visibility of any traffic sign or control device on public streets or roads, whether the obscuring is due to color, size, location or illumination.

f. Any sign or sign structure which is structurally unsafe as a result of poor construction, inadequate maintenance, dilapidation or obsolescence.

g. Signs which utilize such words as Stop, Danger or Yield or other similar words, phrases or symbols in such manner as to be deceptively similar to official signage, implying the need or requirement to stop or the existence of a dangerous condition.

h. Portable or folding signs, "A" frame signs, "T" shaped signs or any other similar free standing signs.

- i. Free standing or projecting signs placed on or over public property or right-of-ways, except for in the Central Business District (B-1) Zone, where they may project over the sidewalk.
- j. Window feature signs which cover in excess of 20% of business's windows area. Window feature signs include a sign which is painted on, applied or attached to the interior of a window or located within three feet of the interior of a window and which can be seen through the window from the exterior of the structure. Merchandise which is included in a window display shall not be included as part of a window sign.
- k. Any sign attached to or painted on trees, rocks or other natural features.
- l. Any sign other than traffic control signs or devices located in or above public streets or roads.
- m. Illuminated signs located within 100 feet of residential uses unless such sign is designed so that it does not shine on that use.
- n. Signs mounted on the roof of any building.
- o. A business sign, including post, frame and other attachments, which has not advertised an actual bona fide business conducted or product sold on the premises for a period of one year. If such sign does not comply with current regulations, the sign, post and attachments must be removed within 30 days of close of business and may not be reused at existing location.

7. *Sign permits and fees.* No sign, except as specifically exempted herein, shall be displayed, or erected, relocated or altered until a permit has been issued by the Zoning Administrator. Application materials shall include, but shall not be limited to the following:

- a. A complete application form.
- b. A site plan showing the location of the proposed sign with setback from the right-of-way and property lines.
- c. A scale drawing of the sign showing the dimensions of the sign and total height. This should include a description of the type and method of illumination, type of construction and other relevant information.
- d. Development plans and building permits for new sites and building construction that have signs as a part of the development plans do not have to pay an additional fee for each sign. These signs are covered under the cost of the building permit fee or development plan fee providing they are submitted with the other required information for the building permit or development plan and are reviewed at the same time.  
(Ord. 2014-4, passed 7-14-14; Am. Ord. 2015-10, passed 12-14-15; Am. Ord. 2016-12, passed 9-12-16; Am. Ord. 2017-11, passed 7-20-17; Am. Ord. 2018-16, passed 11-12-18)

### ***ARTICLE IX: CELL TOWER 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 the zoning ordinance.

**§ 9.10 APPLICABILITY.**

Every utility, or a company that is engaged in the business of providing the required infrastructure to a utility, that proposes to construct a cellular antenna tower shall submit a completed uniform application to the Planning Commission. Where the Planning Commission finds that circumstances or conditions relating to the application of an alternative cellular antenna tower are such that one or more of the requirements of the uniform application listed 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 of the requirements unreasonable, the Planning Commission, or its duly authorized representative, may modify or waive such requirement of the uniform application, either permanently or on a temporary basis. Any such modification or waiver shall be requested by the applicant, and the applicant shall submit a written justification for each requested modification or waiver. The Planning Commission shall not regulate the placement of antennas or related equipment on an existing structure. However, every utility/entity choosing to locate an antenna or related equipment on an existing structure, shall file with the City of Elkton Planning Commission the name and address of the entity/utility, the structure(s) upon which the utility/entity plans to place antennas or related equipment and the information set forth in chapter.

(Ord. 2014-4, passed 7-14-14)

**§ 9.11 APPLICATION REQUIREMENTS.**

Applications for the construction of personal communications services shall comply with KRS 100.9865 and 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, of findings as to the proximity of the proposed site to flood hazard areas;
5. Latitude/longitude coordinates with associated reference datum, clear directions to the proposed site, including highway number and street names, if applicable, with the telephone number of the person who prepared the directions;
6. 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;
7. The identity and qualifications of each person directly responsible for the design and construction of the proposed tower;
8. A site development plan, signed and sealed by a professional engineer or surveyor licensed in Kentucky, that shows the proposed location of the tower and all easements and existing structures within 500 feet of the proposed site on the property on which the tower will be located, and all easements and existing structures within 200 feet of the access drive, including the intersection with the public street

system. Additionally the development plan shall show the following: A survey, prepared by a surveyor licensed in Kentucky. The survey shall be in accordance with all of the requirements of Code of Ordinances § 151.25 and KRS Chapter 100, that shows lease lines or property line, which upon approval, shall be recorded;

9. 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;

10. 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;

11. 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;

12. 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 city of Elkton Planning Commission;  
and

c. Informed of his or her right to participate in the Planning Commission's proceedings of the application;

13. A list of the property owners who received the notice, together with copies of the certified letters sent to the listed property owners;

14. A statement that the Mayor has been notified, in writing, of the proposed construction and a copy of the notification;

15. A statement that the Todd County Airport Board has been notified, in writing, of the proposed construction and a copy of the notification;

16. A statement that:

a. A written notice of durable material at least two feet by four feet in size, stating that "[name of applicant] proposes to construct a telecommunications tower on this site" and including the addresses and telephone numbers of the applicant and the Planning Commission, has been posted in a visible location on the proposed site; and

b. A written notice, at least two feet by four feet in size, stating that "[Name of applicant] proposes to construct a telecommunications tower near this site" and including the addresses and telephone numbers of the applicant and the Planning Commission, has been posted on the property nearest to the public road;

17. A statement that notice of the location of the proposed construction has been published in the local newspaper;

18. A brief description of the character of the general area in which the tower is proposed to be constructed, which includes the existing land use for the specific: property involved;

19. A statement that the applicant has considered the likely effects of the installation on nearby land uses and values and has concluded that there is no more suitable location reasonably available from which adequate service to the area can be provided, and that there is no reasonably available opportunity to locate its antennas and related facilities on an existing structure, including documentation of attempts to locate its antennas and related facilities on an existing structure, if any, with supporting radio frequency analysis, where applicable, and a statement indicating that the applicant attempted to locate its antennas and related facilities on a tower designed to host multiple wireless service providers I 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;

20. A map of the area in which the tower is proposed to be located, that is drawn to scale, and that clearly depicts the necessary search area within which an antenna tower should, pursuant to radio frequency requirements, be located; and

21. A grid map that shows the location of all existing cellular antenna towers and that indicates the general position of proposed construction sites for new cellular antenna towers within an area that includes:

a. All of the area within the City of Elkton Planning Commission's jurisdiction; and

b. A one-half mile area outside the boundaries of the City of Elkton Planning Commission's jurisdiction, if that area contains either existing or proposed construction sites for cellular antenna towers.

(Ord. 2014-4, passed 7-14-14)

### **§ 9.12 CONFIDENTIALITY OF APPLICATION.**

All information contained in the application and any updates, except for any map or other information that specifically identifies the proposed location of the cellular tower then being reviewed, shall be deemed confidential and proprietary within the meaning of KRS 61.878. The Planning Commission shall deny any public request for the inspection of this information, whether submitted under Kentucky's Open Records Act or otherwise, except when ordered to release the information by a court of competent jurisdiction. Any person violating this subsection shall be guilty of official misconduct in the second degree as provided under KRS 522.030. The confidentiality of the applications and any updates of the application can be waived by the written authorization of the applicant.

(Ord. 2014-4, passed 7-14-14)

### **§ 9.13 APPLICATION FEE AND PROCESSING.**

An applicant for the construction of cellular antenna towers for cellular telecommunications services or personal communications services shall pay an application fee of \$2,500.

1. *Processing of application.* Applications for the construction of cellular antenna towers for cellular telecommunications services or personal communications services shall be processed as follows:

2. The Planning Commission shall review the uniform application to determine whether it is in agreement with the Comprehensive Plan and locally adopted zoning regulations;

3. At least one public hearing on the proposal shall be held, at which hearing interested parties and citizens shall have the opportunity to be heard. Notice of the time and place of such hearing shall be published at least once, in the local newspaper, provided that one publication occurs not less than seven calendar days nor more than 21 calendar days before the occurrence of such hearing;

4. Notice of the hearing shall be posted on the site at least 14 days in advance of the hearing. The notice shall consist of a written notice, of durable material at least two feet by four feet in size, stating that “[name of applicant] “proposes to construct a telecommunications tower on this site” and including the addresses and telephone numbers of the applicant and the Planning Commission. Notice of the proposal shall also be posted on the property nearest to the public road. This notice shall consist of a written notice, of durable material at least two feet by four feet in size, stating that “[name of applicant] proposes to construct a telecommunications tower near this site” and including the addresses and telephone numbers of the applicant and the Planning Commission;

5. Notice of the hearing shall be given at least 14 days in advance of the hearing, by certified mail, return receipt requested, to the owner of every parcel of property within 500 feet of the proposed tower or property contiguous to the site upon which the tower is proposed to be constructed. The notice shall include a map of the location of the proposed construction, the telephone number and address of the Planning Commission and shall inform the addressee of his or her right to participate in the Planning Commissioner’s proceedings on the application. Records maintained by the Property Valuation Administrator may be relied upon conclusively to determine the identity and address of said owner. In the event a property is in condominium 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;

6. Upon holding the hearing, the Planning Commission shall, within 60 days commencing from the date that the application is received by the Planning Commission, or within a date specified in a written agreement between the Planning Commission and the applicant, make its final decision to approve or disapprove the uniform application. If the Planning Commission fails to issue a final decision within 60 days, and if there is no written agreement between the Planning Commission and the utility to a specific date of the Planning Commission to issue a decision, it shall be presumed that the Planning Commission has approved the utility’s uniform application;

7. If the Planning Commission disapproves of the proposed construction, it shall state the reasons for disapproval in its written decision and may make suggestions which, in its opinion, better accomplish the objectives of the comprehensive plan and the locally adopted zoning regulations. No permit for construction of a cellular or personal communications’ services antenna tower shall be issued until the Planning Commission approves the uniform application or the GO-day time period has expired, whichever occurs first;

8. Upon approval of an application for the construction of a cellular antenna tower by a Planning Commission, the applicant shall notify the Public Service Commission within ten working days of the approval. The notice to the Public Service Commission shall include a map showing the location of the construction site. If an applicant fails to file notice of an approved uniform application with the Public Service Commission, the applicant shall be prohibited from beginning construction on the cellular antenna tower until such notice has been made.  
(Ord. 2014-4, passed 7-14-14)

#### **§ 9.14 DESIGN STANDARDS.**

The applicant shall provide information demonstrating compliance with the requirements contained herein. Potential sites that should be considered (in order from most-preferred to least-preferred) include existing utility towers, industrial zones, commercial zones, and government buildings and properties. Where the Planning Commission finds that circumstances or conditions relating to the particular application are such that one or more of the requirements listed below are not necessary or desirable for

the protection of the surrounding property or the public health, safety, and general welfare, and that such special conditions or circumstances make one or more of the requirements unreasonable, the Planning Commission, or its duly authorized representative, may modify or waive such requirement, either permanently or on a temporary basis. Any such modification or waiver shall be requested by the applicant, and the applicant shall submit a written justification for each requested modification or waiver.

1. *Monopoles.* Monopole cellular antenna towers shall be permitted in any zone. Lattice and guyed cellular antenna towers shall be permitted in any zone except for residential zones.
2. *Minimum lot size.* Regardless of the minimum lot sizes listed in the specific zoning districts, or Code of Ordinances § 151.25, the lot size may be the minimum necessary to comply with the objectives and standards of this section.
3. *Setbacks.* Setbacks for all structures constructed in connection with guyed or lattice cellular antenna towers, except fences and/or guy wires, shall be a minimum distance from the property line or least line equal to at least the height of the tower, but not less than 50 feet. All structures constructed in connection with monopole or alternative cellular antenna tower shall comply with the applicable setback requirements established for other structures within the applicable zoning district. Alternative cellular antenna towers that are to be located as part of a utility service facility (e.g. power pole or telephone pole) shall comply with setback requirements applicable to such utility service facilities, if any.
4. *Height.* A cellular antenna tower, or alternative antenna tower structure, may be constructed to a maximum height of 200 feet regardless of the maximum height requirements listed in the specific zoning district. This also applies to any tower taller than 15 feet constructed on the top of another building or structure, with the height being the overall height of building/structure and tower together, measured from the grade to the highest point. The Planning Commission may allow antennas greater than 200 feet in height upon review of the applicant's justification that the additional height meets the criteria identified in § 151.80 of this chapter.
5. *Construction standards.* The cellular antenna tower shall be constructed in compliance with the current ANSI/EIA/TIA 222-F standard and other applicable state standards.
6. *Illumination.* Cellular antenna towers shall not be illuminated, except in accordance with other state or federal regulations.
7. *Staffing.* The site shall be un-staffed. Personnel may periodically visit the site for maintenance, equipment modification, or repairs. To accommodate such visits, ingress/egress shall be only from approved access points.
8. *Fencing.* Woven wire or chain link (80% open) or solid fences made from wood or other materials (less than 50% open) shall be used to enclose the site. Such fences shall not be less than four feet and no more than eight feet in height, and may be located within the front, side, or rear yard.
9. *Screening.* Screening shall be provided by evergreen trees, with a minimum height of six feet, planted in a staggered pattern at a maximum distance of 15 feet on center. The screening shall be placed in an area between the property line, or lease line, and a ten foot setback. Screening shall be required when located in or adjacent to a residential zone.
10. *Surfacing.* All driveways and off-street parking areas shall be paved with a durable surface such as asphalt or concrete.
11. *Signs.* There shall be no signs permitted, except those displaying emergency information, owner contact information, warning or safety instructions or signs that are required by a federal, state or local agency. Such signs shall not exceed six square feet in area.

12. *Number of service providers.* All new cellular antenna towers shall be designed and constructed to accommodate a minimum of three service providers.

13. *Lease agreements.* All option and site lease agreements shall not prohibit the possibility of co-location, and in the case of abandonment, shall include a method that the utility will follow in dismantling and removing the proposed cellular antenna tower including a timetable for removal.

14. *Other approvals required.* Approval of the Federal Aviation Administration (FAA) and the Kentucky Airport Zoning Commission (KAZC) or documentation where approval is not required shall be submitted prior to the issuance of a building permit for the construction of the cellular antenna tower. (Ord. 2014-4, passed 7-14-14)

### **§ 9.15 APPROVAL CRITERIA.**

1. Approval or disapproval of the proposal shall be based upon an evaluation of the proposal's agreement with the comprehensive plan and zoning regulations.

2. The Planning Commission may require the applicant to make a reasonable attempt to co-locate additional transmitting or related equipment. The Planning Commission may provide the location of existing cellular antenna towers on which the commission deems the applicant can successfully co-locate its transmitting and related equipment. If the Planning Commission requires the applicant to attempt co-location, the applicant shall provide the Planning Commission with a statement indicating that the applicant has:

a. Successfully attempted to co-locate on towers designed to host multiple wireless service providers' facilities or existing structures such as a telecommunications tower or another suitable structure capable of supporting the applicant's facilities, and that identifies the location of the tower or suitable structure on which the applicant will co-locate its transmission and related facilities; or

b. Unsuccessfully attempted to co-locate on towers designed to host multiple wireless service provider's facilities or existing structure such as a telecommunications' tower or another suitable structure capable of supporting the applicant's facilities and that:

1) Identifies the location of the towers or other structures on which the applicant attempted to co-located; and

2) Lists the reasons why the co-location was unsuccessful in each instance.

3. The Planning Commission may deny a uniform application to construct a cellular antenna tower based on an applicant's unwillingness to attempt to co-locate additional transmitting or related equipment on any new or existing towers or other structures.

4. The Planning Commission shall not regulate the placement of a cellular antenna tower on the basis of the environmental effects of radio frequency emissions to the extent that the proposed facility complies with the regulations of the Federal Communications Commission concerning radio frequency emissions.

(Ord. 2014-4, passed 7-14-14)

**§ 9.16 ABANDONMENT AND DISMANTLING.**

Any cellular antenna tower including but not limited to guyed, lattice and monopole cellular antenna towers, alternative cellular antenna towers, antennas and related equipment, (hereinafter referred to as “structure”) shall be deemed abandoned when such structure is removed from or no longer in service for a period in excess of 30 days. At the point in time any structure is considered to be abandoned within the meaning of this section, the structure shall be disassembled and removed from the property upon which is located within 60 days thereafter.

(Ord. 2014-4, passed 7-14-14)

**§ 9.17 AMENDMENTS.**

Any amendments to plans, except for minor adjustments as determined by the Planning Commission, or its duly authorized representative, shall be made in accordance with the procedure required by herein, subject to the same limitations and requirements as those under which such plans were originally approved.

(Ord. 2014-4, passed 7-14-14)

***ARTICLE X: ADMINISTRATION AND ENFORCEMENT*****§ 10.10 ADMINISTRATION BY ZONING ADMINISTRATOR.**

This chapter shall be enforced by the Elkton Zoning Administrator appointed by the City Council. No land or structure shall be changed in use and no structure shall be erected, enlarged, or moved until the Zoning Administrator has issued a building permit certifying that the plans and intended use of land, buildings, and structures are in conformity with the Zoning Ordinance codified herein. No land or structures hereafter erected, moved, or altered in its use shall be used until the Building Inspector or Zoning Administrator shall have issued a certificate of occupancy stating that such land or structure is found to be in conformity with the provisions of this chapter.

(Ord. 2014-4, passed 7-14-14)

**§ 10.11 BOARD OF ZONING ADJUSTMENT; APPEALS.**

There shall be a Board of Zoning Adjustment appointed in pursuance of KRS 100.217 through 100.251. After public hearing duly advertised, the Board of Adjustment shall, decide appeals from alleged error by the Zoning Administrator or Building Inspector’s decisions, appeals for variance in yard sizes, lot size or height, where exceptional and peculiar hardship would be caused by enforcement of the regulations in this chapter and where such variance would not substantially derogate from the intent of this chapter. The Board of Zoning Adjustment does not possess the power to permit a use prohibited by this chapter. The Board of Zoning Adjustment shall always act with due consideration to promoting the public health, safety, convenience and welfare encouraging the most appropriate use of land and conserving property value, shall permit no building or use detrimental to a neighborhood, and shall prescribe appropriate conditions and safeguards in each case.

(Ord. 2014-4, passed 7-14-14)

**§ 10.12 AMENDMENTS TO THE ZONING TEXT OR MAPS.**

1. A proposed amendment to the zoning regulations may originate with the Planning Commission, legislative body (City Council), or with the owner of the property. The proposed amendment shall be referred to the Planning Commission which shall hold a public hearing on the request. The Planning Commission shall review the proposal, and shall, within 60 days from the date of receipt, advise the City Council as to whether it recommends the approval or disapproval of the proposed change. In zoning map amendment requests, the Planning Commission shall state the reason for recommending approval/disapproval with findings of facts. Before the Planning Commission makes its recommendation to the City Council, the Planning Commission shall hold at least one public hearing after notice as required by KRS Chapter 424.

2. A tie vote of the Planning Commission shall be subject to further consideration by the Planning Commission for a period, not to exceed 30 days, at the end of which, if the tie has not been broken, the application shall be forwarded to the City Council without a recommendation of approval or disapproval. It shall take a majority of the entire legislative body (City Council) to override the recommendation of the Planning Commission, and it shall take a majority of the entire legislative body (City Council) to adopt a zoning map amendment whenever the Planning Commission forwards an application to the Council without a recommendation due to a tie vote. Unless a majority of the entire legislative body votes to override the Planning Commission's recommendation, such recommendation shall become final and effective and if a recommendation of approval was made by the Planning Commission, the ordinance of the City Council adopting the zoning map amendment shall be deemed to have passed by operation of law (KRS 100.211).  
(Ord. 2014-4, passed 7-14-14)

**§ 10.13 REPEAL OF CONFLICTING REGULATIONS.**

Any zoning regulations interim or otherwise now in effect in the city, and in conflict with these zoning regulations as they are established in this chapter, are repealed. However, all suits at law or in equity and/or all prosecutions resulting from violation of any zoning regulations heretofore in effect, which are now pending in any of the courts of the state or of the United States, shall not be abated or abandoned by reason of adoption of these zoning regulations, but shall be prosecuted to their finality the same as if these zoning regulations had not been adopted, and any and all violations of existing interim zoning regulations, prosecutions for which have not yet been instituted, may be hereafter filed and prosecuted. Nothing in these zoning regulations shall be so construed as to abandon, abate, or dismiss any litigation or prosecution now pending, and/or which may have heretofore been instituted or prosecuted.  
(Ord. 2014-4, passed 7-14-14)

**§ 10.14 PENALTY AND ENFORCEMENT.**

(A) Any person or entity who violates any of the provisions of this chapter for which no other penalty is provided, shall upon conviction be fined not less than \$100 but no more than \$500 for each conviction. Each day of violation shall constitute a separate offense.

(B) Any person, owner, or agent who violates this chapter shall, upon conviction, be fined not less than \$100 nor more than \$500 for each lot or parcel which was the subject of sale or transfer or a contract for sale or transfer.

(C) Violation of the provisions of this chapter is hereby also declared to be a civil offense and may be enforced by the Code Enforcement Board established in §§ 35.095 *et seq.*, or in the alternative, the Todd District Court. The decision of where the chapter will be enforced shall be at the city's discretion.

(D) Any person violating any of the provisions of this chapter, if charged and enforced through the Code Enforcement Board, created in §§ 35.095 *et seq.*, the offense being a civil offense, may be fined in accordance with the Ordinance Fine Schedule, as set forth in § 35.106. (Ord. 2014-4, passed 7-14-14; Am. Ord. 2017-11, passed 7-20-17)

### § 10.15 APPLICATION FEES.

The following are building permit and application fees for the Planning Commission:

1.	Building permit accessory buildings	
	Residential	\$35
	Commercial/industrial	\$100
2.	Building permit – single family home	\$0.10 per sq. ft.
3.	Building permit – duplex home	\$0.10 per sq. ft.
4.	Building permit – multi-family	\$0.10 per sq. ft.
5.	Building permit – modular home	\$0.10 per sq. ft.
6.	Building permit – manufactured home	\$0.10 per sq. ft.
7.	Building permit – commercial	\$100
8.	Building permit – industrial	\$100
9.	Conditional use application fee	\$100
10.	Variance application fee	\$75
11.	Zoning map amendment application fee	\$150
12.	Zoning text amendment application fee	\$100
13.	Cell tower application fee	\$2,500
14.	Development plan application fee*	\$300 base fee, plus \$100 per acre
15.	Building permit late fee*	\$100
16.	Sign permit fee	\$35

**\*NOTE:**

The building permit late fee is in addition to the normal building permit fee. This fee is charged when any construction has begun on any structure without an approved building permit.

The development plan application fee is in addition to any commercial or industrial building permit fee. Commercial and industrial building permits cannot be issued before the development plan has been approved by the Planning Commission.

Permit and application fees shall be waived for any addition to a residential property for the purpose of handicap accessibility.  
 (Ord. 2014-4, passed 7-14-14; Am. Ord. 2017-15, passed 10-16-17)

**TABLE 1: ZONES AND USE TABLE**

P = <i>Principally permitted uses:</i> Uses listed and other uses (not otherwise listed in table) substantially similar to those listed are deemed permitted.												NOTE:
C = <i>Conditionally permitted uses:</i> Uses which are permitted only with Board of Adjustment approval.												
A = <i>Accessory uses:</i> Uses and structures permitted which are customarily accessory, clearly incidental and subordinate to permitted uses.												
ZONES												USES
R-1	R-2	R-3	SR	B-1	B-2	B-3	I-1	I-2	A1	CD	MHR	
												<b>A RESIDENTIAL</b>
	C	P	C	C					C			1 Bed and breakfast home
		C		C								2 Boarding or lodging house
A	A	A	A						A			3 Dwelling: accessory
		P										4 Dwelling: multi-family
P	P	P	P						P			5 Dwelling: single family detached
		P										6 Dwelling: townhouses and condos
	P	P							C			7 Dwelling: two-family & three-family
P	P	P	P	C					P			8 Dwelling unit rentals
		C			C	C						9 Residential care facilities
		C			C							10 Fraternity or sorority house, dormitory
									P			11 Seasonal farm worker housing
A	A	A	A						A			12 Guest quarters
												13 Mobile home (see Definitions)
											P	14 Manufactured home (see Definitions & Article III)
C	C	C	C						C		P	15 Qualified manufactured home (see Article III)
P	P	P	P						P			16 Modular home (see Definitions & Article III)
											C	17 Manufactured home park (see Article III)
				C	P	P						18 Motel or hotel
		C	C									19 Group household

**TABLE 1: ZONES AND USE TABLE (Cont'd)**

P = <i>Principally permitted uses:</i> Uses listed and other uses (not otherwise listed in table) substantially similar to those listed are deemed permitted.												NOTE:
C = <i>Conditionally permitted uses:</i> Uses which are permitted only with Board of Adjustment approval.												
A = <i>Accessory uses:</i> Uses and structures permitted which are customarily accessory, clearly incidental and subordinate to permitted uses.												
ZONES												USES
R-1	R-2	R-3	SR	B-1	B-2	B-3	I-1	I-2	A1	CD	MHR	
												<b>B COMMUNITY AND OTHER PUBLIC USES</b>
				C	C	P						1 Amusements, indoor
				C	C	C			C	C		2 Amusements, outdoor
	C	C		C	P	P						3 Child day-care centers, child nurseries, adult day care centers
C	C	C	C	C	P	P			C			4 Churches, Sunday schools, parish houses
				C	C	C	C	C	C	C		5 Circuses and carnivals, temporary
				C	C	C			C	C		6 Civic center, auditorium, exhibition halls, amphitheater, drive-in theater
									C			7 Commercial camp grounds
				P	P	P						8 Community centers, public
				P	P	P						9 Libraries, museums, art galleries
					P	P						10 Passenger transportation terminals
				P	P	P						11 Philanthropic institutions and clubs
				C	P	P						12 Recreational activities, indoor
									P	C		13
									C	C		14 RV parks
C	C	C		C	C	C						15 Private schools, colleges, studios; academic, technical, vocational or professional, private elementary and secondary schools
P	P	P	P						P	P		16 Public parks, including concessions or restaurant vendor operating concessions during park hours

**TABLE 2: ZONES AND USE TABLE**

P = <i>Principally permitted uses:</i> Uses listed and other uses (not otherwise listed in table) substantially similar to those listed are deemed permitted.											NOTE:
C = <i>Conditionally permitted uses:</i> Uses which are permitted only with Board of Adjustment approval.											
A = <i>Accessory uses:</i> Uses and structures permitted which are customarily accessory, clearly incidental and subordinate to permitted uses.											
ZONES											USES
R-1	R-2	R-3	SR	B-1	B-2	B-3	I-1	I-2	A1	CD	
											<b>C INSTITUTIONAL</b>
					P	P					1 Hospitals; surgical centers; convalescent and rest homes; orphanages, rehabilitation facilities, assisted living facilities.
							C	C			2 Penal or correctional institution
											<b>D BUSINESS</b>
				P	P	P					1 Banks, finance companies and credit unions
				P	P	P					2 Restaurants
				P	P	P					3 Hair styling, beauty and barber shops, tanning salons
				P	P	P					4 Home appliance and computer repair and services
P	P	P	P						P		5 Home occupation
				P	P	P					6 Medical and dental offices, clinics and laboratories
				P	P	P					7 Offices for business, professional, governmental, civic, social, fraternal, political, religious and charitable organizations
				P	P	P					8 Retail stores
				C	P	P					9 Pawnshops
				C	P	P	P				10 Research, development and testing laboratories or centers
						C					11 Maintenance and repair facilities for boats
				P	P	P			C		12 Radio and television studios
				P	P	P					13 Ticket and travel agencies
				P	P	P					14 Copy and printing services
							C				15 Adult entertainment establishments and adult hotels (See Adult Placement Guidelines Article III)
				C	P	P					16 Check cashing facility
											<b>E MERCANTILE</b>
				C	P	P			C	C	1 Farmers market
				P	P	P					2 Retail sale of food products
				P	P	P					3 Retail sale of merchandise
					C	P			C		4 Retail sale of plant, nursery or greenhouse products

**TABLE 2: ZONES AND USE TABLE (Cont'd)**

P = <i>Principally permitted uses:</i> Uses listed and other uses (not otherwise listed in table) substantially similar to those listed are deemed permitted.											NOTE:
C = <i>Conditionally permitted uses:</i> Uses which are permitted only with Board of Adjustment approval.											
A = <i>Accessory uses:</i> Uses and structures permitted which are customarily accessory, clearly incidental and subordinate to permitted uses.											
ZONES											USES
R-1	R-2	R-3	SR	B-1	B-2	B-3	I-1	I-2	A1	CD	
											<b>E MERCANTILE (Cont'd)</b>
					C	P			C		5 Produce stands
						P		C	C		6 Sale of feed, grain or other agricultural supplies
					P	P					7 Wholesale supply establishment
				C	P	P					8 Convenience stores with or without fuel stations
				C	P	P					9 Home improvement centers with no outdoor storage
				C	C	P					10 Home improvement centers with outdoor storage
				P	P	P					11 Groceries
				C	P	P					12 Auction houses, except animals and tobacco (permanent structure)

**TABLE 3: ZONES AND USE TABLE**

P = <i>Principally permitted uses:</i> Uses listed and other uses (not otherwise listed in table) substantially similar to those listed are deemed permitted											NOTES:
C = <i>Conditionally permitted uses:</i> Uses which are permitted only with Board of Adjustment approval.											
A = <i>Accessory uses:</i> Uses and structures permitted which are customarily accessory, clearly incidental and subordinate to permitted uses.											
ZONES											USES
R-1	R-2	R-3	SR	B-1	B-2	B-3	I-1	I-2	A1	CD	
											<b>F AUTOMOBILE AND TRUCK RELATED</b>
					P	P					1 Automobile rental
					P	P					2 Automobile or other vehicle sales lot, establishment
									C		3 Automobile, motorcycle or other vehicle race tracks
				C	P	P					4 Automobile service/fuel stations, with or without convenience stores
						P	C				5 Automobile, truck boat repair, major
						P	C				6 Automobile body shop
					P	P	C				7 Automobile, truck and boat repair, minor
					P	P					8 Car-wash; self-serve or automatic
							P				9 Loading and unloading facilities
				C	C	C					10 Parking areas, private garages
				A	A	A					11 Parking areas or structures
	A	A		A	A	A	A	A			12 Parking lots
							P				13 Tire re-treading and recapping
						P					14 Truck rental
							P	P			15 Truck terminals
					P	P					16 Taxi cab or limousine service
					C	P	P				17 Automobile auction facilities
											<b>G INDUSTRIAL</b>
					P	P					1 Contractor equipment dealer, sales and rentals
							P	P			2 Dairy or other food product bottling plants
									P		3 Extraction of crude petroleum, natural gas
								C	C		4 Quarrying of sand, gravel, etc.
								P			5 Heavy industrial uses (see Definitions)
							P	P			6 Light industrial uses (see Definitions)
							C	C			7 Scrap metal recycling

**TABLE 3: ZONES AND USE TABLE**

P = <i>Principally permitted uses:</i> Uses listed and other uses (not otherwise listed in table) substantially similar to those listed are deemed permitted											NOTES:
C = <i>Conditionally permitted uses:</i> Uses which are permitted only with Board of Adjustment approval.											
A = <i>Accessory uses:</i> Uses and structures permitted which are customarily accessory, clearly incidental and subordinate to permitted uses.											
ZONES											USES
R-1	R-2	R-3	SR	B-1	B-2	B-3	I-1	I-2	A1	CD	
											<b>G INDUSTRIAL (Cont'd)</b>
						P	P				8 Machine, welding and other metal work shops
							P	P			9 Manufacturing and assembling, light
							P	P			10 Manufacturing, compounding, assembling, processing, packaging and certain other industrial uses
				P	P	P					11 Making of articles to be sold at retail on the premises
				P	P	P					12 Printing
							P	P			13 Boat manufacturing
					C	P	P				14 Shops of special trade and general contractors
				C	P	P					15 Furniture repair and upholstery
				C	P	P					16 Furniture restoration and refinishing
								C			17 Auto and boat Salvage
							C	P			18 Concrete and asphalt plant

**TABLE 4: ZONES AND USE TABLE**

P = <i>Principally permitted uses:</i> Uses listed and other uses (not otherwise listed in table) substantially similar to those listed are deemed permitted											NOTES:		
C = <i>Conditionally permitted uses:</i> Uses which are permitted only with Board of Adjustment approval.													
A = <i>Accessory uses:</i> Uses and structures permitted which are customarily accessory, clearly incidental and subordinate to permitted uses.													
ZONES											USES		
R-1	R-2	R-3	SR	B-1	B-2	B-3		I-1	I-2	A1		CD	
											<b>H AGRICULTURE</b>		
											P	1 Agricultural structures, stables	
											P	2 Dairying and stock-raising	
											P	3 Farming	
						P		P			C	4 Farm equipment dealer	
											P	5 Forestry	
								P	P		P	6 Grain drying	
											P	7 Horse sales establishment	
					C	P					P	8 Landscaping services	
											<b>I ANIMAL RELATED</b>		
											P	1 Animal burial grounds	
											C	2 Commercial confined feeding of livestock	
					C	P						3 Animal hospital or clinic	
				C	P	P						4 Pet grooming	
					C	P					C	5 Pet training	
											C	C	6 Hunting game preserves
				C	P	P					C		7 Taxidermy
					C	C					C		8 Kennel, commercial
			C								C		9 Kennel, non-commercial
				C	P	P					C		10 Veterinarian office
											<b>J PERSONAL SERVICE</b>		
											C	C	1 Cemetery, mausoleum, columbarium, crematory
				P	P	P							2 Funeral home
				C	P	P							3 Laundry, clothes cleaning
				P	P	P							4 Dry cleaning or laundry drop off and pick up stations with or without drive-through windows, where no cleaning of garments occurs on site
				P	P	P							5 Pharmaceuticals and medical supplies, sale of
				P	P	P	C						6 Retail sales or personal services

**TABLE 4: ZONES AND USE TABLE (Cont'd)**

P = <i>Principally permitted uses:</i> Uses listed and other uses (not otherwise listed in table) substantially similar to those listed are deemed permitted												NOTES:	
C = <i>Conditionally permitted uses:</i> Uses which are permitted only with Board of Adjustment approval.													
A = <i>Accessory uses:</i> Uses and structures permitted which are customarily accessory, clearly incidental and subordinate to permitted uses.													
ZONES												USES	
R-1	R-2	R-3	SR	B-1	B-2	B-3		I-1	I-2	A1	CD		
												<b>K PUBLIC AND SEMI-PUBLIC</b>	
											C		1 Airport
											C		2 Land fill
				P	P	P							3 Municipal, county, state, or federal buildings and uses
P	P	P	P	P	P	P	P	P	P	P	P	P	4 Public utility facilities
					C	C							5 Bus terminals
					C	C		C			C		6 Radio or TV transmitting or relay facilities including line of sight relays
											C	C	7 Recreational uses, private outdoor
P	P	P	P	P	P	P	P				P	C	8 Recreational facilities, public and parks
P	P	P	P		P	P							9 Public Schools
												<b>L STORAGE</b>	
						C		C	P				1 Storage, outdoor
				C	P	P							2 Storage (incidental) for retail sales establishment
				C	P	P		C					3 Storage Rental facilities
					C	C		P					4 Storage for wholesale supply establishment
						P		P					5 Storage yards for delivery vehicles
						P		P					6 Warehouse
A	A	A	A	A	A	A		A	A	A			7 Individual Storage

(Ord. 2014-4, passed 7-14-14; Am. Ord. 2015-10, passed 12-14-15; Am. Ord. 2016-12, passed 9-12-16; Am. Ord. 2017-11, passed 7-20-17)



CHAPTER 152: PLANNING

Section

- 152.01 Comprehensive Plan adopted
- 152.02 Planning Commission
- 152.03 Board of Adjustment

Recreation Commission

- 152.15 Establishment
- 152.16 Rules and regulations
- 152.17 Election of committee chairs; annual report; bond required
- 152.18 Members sworn by County Judge or City Clerk
- 152.19 Authority of City Mayor and County Judge

§ 152.01 COMPREHENSIVE PLAN ADOPTED.

The Comprehensive Plan for Elkton, Kentucky, dated February 28, 2013, together with any amendments thereto, is hereby adopted by reference as if fully set forth in this code of ordinances. Copies of the above plan and any amendments thereto shall be placed on file in the office of the City Clerk/Treasurer/Tax Collector where they shall be available for public inspection during normal business hours.  
(Am. Ord. 2015-2, passed 5-21-15)

§ 152.02 PLANNING COMMISSION.

(A) Establishment. The city does hereby establish an independent planning operation in compliance with KRS 100.117.

(B) Name. This Commission shall be known as "The Elkton Planning Commission." Upon the appointment and subsequent approval of members, election of officers, and adoption of its bylaws, its existence shall begin subject to the provisions of KRS Chapter 100. The Commission may engage in planning operations within its jurisdiction which shall be coterminous with its political boundary except where otherwise provided for by KRS 100.131 and an area, as approved by Todd County Fiscal in Subdivision Regulations for Todd County, Kentucky, of extraterritorial jurisdiction for subdivision regulations.

(C) Membership.

(1) The Planning Commission shall consist of eight members. The Mayor, with approval of the City Council, shall appoint the members of the Planning Commission. At least six members of the Planning Commission shall be citizen members. A noncitizen member may be any elected official, appointed official, or public employee of the city. The Todd County Judge Executive may appoint one additional member to the Planning Commission in addition to the eight members already specified, because of the extraterritorial jurisdiction exercised by the city in division (B) above.

(2) A citizen member may be any citizen who is not an elected or appointed official, or public employee of the city. The citizen members shall reside within the corporate limits.

(3) The term of office of all elected public officials shall be the same as their official tenure in office. For other members, the term shall be four years, ending on December 31 of the designated year. The terms of those first appointed shall be staggered so that a proportionate number serve one, two, three, and four years respectively, with later appointments or reappointments continuing the staggered pattern. All vacancies whether by resignation, dismissal, or expiration of the term of office shall be filled within 60 days by the appropriate appointing authority or as otherwise provided for in KRS Chapter 100.

(4) The oath of office shall be administered to all members of the Commission before entering upon their duties. The oath shall be administered as provided by law. Any member may be removed by the appropriate appointing authority for inefficiency, neglect of duty, malfeasance, or conflict of interest. The removed member shall have the right of appeal in the manner prescribed by KRS Chapter 100.

(5) Reimbursement for expenses or compensation or both may be authorized by the City Council for citizen members of the Planning Commission.

(D) Officers and staff. The Commission shall elect a Chairman and any other officers which it deems necessary from among its citizen members. The term of office shall be one year with eligibility for re-election. The Commission may employ staff as it may deem necessary for its work and may contract with professional planners and other parties for such services as it may require.

(E) Meetings. The Commission shall conduct each year at least six regular meetings for the transaction of its business. The bylaws adopted by the Commission shall reflect the schedule of regular meetings; the manner in which notice shall be given; date; time; place; and the subject or subjects to be discussed; as well as the method of calling and conducting special meetings. A simple majority of the total membership shall constitute a quorum. After a quorum has been established, a simple majority of that quorum can transact any official business except in those instances where there is to be an adoption or amendment of the Commission's bylaws or elements of the comprehensive plan or regulations, then a vote of the simple majority of the total membership shall be necessary.

(F) Bylaws. The Commission shall adopt and approve its bylaws before it may properly transact any business. The bylaws shall set forth the procedures, rules, and regulations necessary for the Commission to conduct its business.

(G) Powers and duties. The Commission shall have general powers necessary to carry out its functions in accordance with this section

and KRS Chapter 100. The Commission may be assigned any powers, duties, and functions related to urban renewal or public housing by the Mayor or City Council.

(Ord. 1985-5, passed 11-11-85; Am. Ord. 2009-7, passed 4-13-09; Am. Ord. 2015-2, passed 5-21-15; Am. Ord. 2020-01, passed 1-13-20)

§ 152.03 BOARD OF ADJUSTMENT.

A Board of Adjustment is hereby created for the Planning Commission.

(A) Membership.

(1) A Board of Adjustment shall be established before the zoning regulations shall be legally enforced.

(2) The Board shall consist of five members all of whom must be citizen members, and not more than two of whom may be citizen members of the Planning Commission. A "CITIZEN MEMBER" is any member of the Planning Commission or Board of Adjustment who is not an elected or appointed official or employee of the city.

(3) The term of office for the Board of Adjustment members shall be four years, but the term of office of members first appointed shall be staggered so that a proportionate number serve one, two, three, and four years respectively.

(4) The Mayor shall be the appointing authority, subject to the approval of the legislative body.

(5) Vacancies on the Board shall be filled within 60 days by the Mayor. If the Mayor fails to act within that time, the Planning Commission shall fill the vacancy.

(6) When a vacancy occurs other than through expiration of the term of office, it shall be filled for the remainder of that term.

(7) All members of the Board shall, before entering upon their duties, qualify by taking the oath of office prescribed by Section 228 of the Constitution of the Commonwealth of Kentucky before a judge, notary public, Clerk of a court, or justice of the peace.

(8) Reimbursement for expenses or compensation or both may be authorized for members of the Board.

(9) Any member of the Board may be removed by the appointing authority for inefficiency, neglect of duty, malfeasance, or conflict of interest. The appointing authority who exercises the power to remove a Board member shall submit a written statement to the Planning Commission setting forth the reasons for removal and the statement shall be read at the next meeting of the Board of Adjustment.

(10) The member so removed shall have the right of appeal to the Circuit Court.

(11) The Board shall annually elect a Chairman, Vice-Chairman, and a Secretary and any other officer it deems necessary. Any officer shall be eligible for reelection at the expiration of his term.

(B) Meetings of Board; quorum, minutes and bylaws.

(1) The Board shall conduct meetings at the call of the Chairman who shall give written or oral notice to all members of the Board at least seven days prior to the meeting, which shall contain the date, time, and place for the meeting, and the subject or subjects which will be discussed.

(2) A simple majority of the total membership, as established by regulation or agreement, shall constitute a quorum. Any member of the Board who has any direct or indirect financial interest in the outcome of any question before the body shall disclose the nature of the interest and shall disqualify himself from voting on the question.

(3) The Board shall adopt bylaws for the transaction of business and shall keep minutes and records of all proceedings, including regulations, transaction, findings, and determinations and the number of votes for and against each question, and if any member is absent or abstains from voting, indicating the fact, all of which shall, immediately after adoption, be filed in the office of the Board. If the Board has no office, such records may be kept in custody of an officer of the Board and shall be available to the public. A transcript of the minutes of the Board shall be provided if requested by a party at the expense of the requesting party, and the transcript shall constitute the record. The Board shall submit a copy of its minutes to the Planning Commission and Zoning Administrator after each meeting.

(C) Employing planners or other persons. The Board of Adjustment may employ or contract with planners or other persons as it deems necessary to accomplish its assigned duties.

(D) Finances. The Board shall have the right to receive, hold, and spend funds which it may legally receive from any and every source in and out of the Commonwealth of Kentucky, including the United States Government, for the purpose of carrying out its duties.

(E) Subpoena power. The Board shall have the power to issue subpoenas to compel witnesses to attend its meetings and give evidence bearing upon the questions before it. The Police Department or the County Sheriff shall serve such subpoenas. The Circuit Court may, upon application by the Board, compel obedience to such court or such subpoena by proceedings of contempt.

(F) Administration of oaths. The Chairman of the Board shall have the power to administer an oath to witnesses prior to their testifying before the Board on any issue.

(G) Conditional use permits.

(1) The Board shall have the power to hear and decide applications for conditional use permits to allow the proper integration into the community of uses which are specifically named in the zoning regulations which may be suitable only in specific locations in the zone only if certain conditions are met. The Board may approve, modify, or deny any application for a conditional use permit. If it approves such permit it may attach necessary conditions such as time limitations, requirements that one or more things be done before the request can be initiated, or conditions of a continuing nature. Any such conditions shall be recorded in the Board's minutes and on the conditional use permit, along with a reference to the specific section in the zoning regulations listing the conditional use under consideration. The Board shall have power to revoke conditional use permits, or variances for noncompliance with the condition thereof. Furthermore, the Board shall have a right of action to compel offending structures or uses removed at the cost of the violator and may have judgment in personam for such cost.

(2) Granting of a conditional use permit does not exempt the applicant from complying with all of the requirements of building, housing, and other regulations.

(3) In any case where a conditional use permit has been exercised within the time limit set by the Board or within one year, if no specific time limit has been set, such conditional use permit shall not revert to its original designation unless there has been a public hearing. "EXERCISED", as set forth in this section, shall mean that binding contracts for the construction to a substantial degree, or that prerequisite conditions involving substantial investment shall be under contract, in development, or completed. When construction is not a part of the use, "EXERCISED" shall mean that the use is in operation in compliance with the conditions as set forth in the permit.

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

(5) Once the Board has completed a conditional use permit and all the conditions required are of such type that they can be completely and permanently satisfied, the Zoning Administrator upon request of the applicant may, if the facts warrant, make a determination that the conditions have been satisfied, and enter the facts which indicate that the conditions have been satisfied and the conclusion in the margin of the copy of conditional use permit which is on file with the County Clerk, as required in KRS 100.329. Thereafter said use, if it continues to meet the other requirements of the regulations, will be treated as a permitted use.

(H) Dimensional variance.

(1) The Board shall have the power to hear and decide on applications for dimensional variances where, by reason of the exceptional narrowness, shallowness, or unusual shape of a site on the effective date of the zoning regulations or by reason of exceptional topographic conditions, or some other extraordinary situation of the dimensional requirements (height or width of building or size of yards, but no population density) of the zoning regulations would deprive the applicant of reasonable capacity to make use of the land in a manner equivalent to the use permitted other landowners in the same zone. The Board may impose any reasonable conditions or restrictions on any variance it decides to grant.

(2) Before any variance is granted, the Board must find all of the following, 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 which do not exist on other land in the same zone.

(b) The manner in which the strict application of the provisions of the zoning regulations would deprive the applicant of a 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 regulations.

(d) Reasons that the variance will preserve, not harm, the public safety and welfare and will not alter the essential character of the neighborhood.

(3) The Board shall not possess the power to grant a variance to permit a use of any land, building, or structure which is not permitted by the zoning regulation in the zone in question, or to alter density requirements in the zone in question.

(4) A dimensional variance applies to the property for which it is granted, and not to the individual who applied for it. A variance also runs with the land and is transferable to any future owner of the land, but it cannot be transferred by the applicant to a different site.

(I) Recording of variances and conditional use permits. All variances and conditional use permits approved by the Board of Adjustment shall be recorded at the expense of the applicant in the office of the County Court Clerk.

(J) Existing nonconforming use. The Board of Adjustment shall not allow the enlargement or extension of a nonconforming use beyond the scope and area of its operation at the time the regulation which makes its use nonconforming was adopted, nor shall the Board permit a change from one nonconforming use to another unless the new nonconforming use is in the same or a more restrictive classification.

(K) Administrative review. The Board shall have the power to hear and decide cases where it is alleged by an applicant that there is error in any order, requirement, decision, grant, or refusal made by the Zoning Administrator in the enforcement of the zoning regulations. Such appeal shall be taken within 60 days.

(L) Procedure for all appeals to Board. Appeals to the Board may be taken by any person or entity claiming to be injuriously affected or aggrieved by an official action or decision of the Zoning Administrator. Such appeal shall be taken within 30 days after the appellant or his agent received notice of the action appealed from, by filing with the Administrator and with the Board a notice of appeal specifying the grounds thereof and giving notice of such appeal to any and all parties of record. The Administrator shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken and shall be treated as and be the respondent in such further proceedings. At any hearing by the Board, any interested person may appear and enter his appearance, and all shall be given an opportunity to be heard.

(M) Public notice of appeal hearings.

(1) The Board shall fix a reasonable time for hearing the appeal and give public notice in accordance with KRS Chapter 424, as well as written notice to the appellant and the Zoning Administrator at least one week prior to the hearing, and shall decide it within 60 days. The affected party may appear at the hearing in person or by attorney.

(2) Any person or entity claiming to be injured or aggrieved by any final action of the Planning Commission or Board of Adjustment may appeal from the action to the Circuit Court of the county. All appeals shall be taken in the Circuit Court within 30 days after the action or decision of the Planning Commission or Board of Adjustment and all decisions which have not been appealed within 30 days shall

become final. After the appeal is taken the procedure shall be governed by the rules of civil procedure. When an appeal has been filed, the Clerk of the Circuit Court shall issue a summons to all parties, including the Planning Commission in all cases, and shall cause it to be delivered for service as in any other law action.

(N) Procedure.

(1) In applying to the Zoning Administrator for a building permit, the applicant shall submit a plan along with the application, drawn to scale, showing the dimensions of the lot to be built upon, the outside dimensions of all structures, yard depths and any other information for determining conformance with this chapter.

(2) If the proposed construction or alteration conforms with all applicable ordinances, regulations, and codes, the Zoning Administrator shall issue a building permit authorizing such construction or alteration. If proposed construction or alteration fails to conform, the Zoning Administrator shall refuse to issue a building permit and shall cause delivery of written notice to the applicant stating the reasons for refusal. The Zoning Administrator shall act upon applications for building permits within two weeks from the date of their submission.

(3) If no building permit has been issued and a builder begins or conditions to build, a restraining order may be obtained upon application to the proper court of record and evidence of the lack of a building permit shall establish a prima facie case for the issuance of the restraining order.

(4) The issuance of a building permit shall not waive any provisions of this regulation.

(5) A building permit shall become void one year from the date of issuance unless substantial progress has been made by that date on the construction or alteration authorized therein. A building permit may be renewed without fee upon review by the Zoning Administrator before it becomes void.

(Ord. 1985-5, passed 11-11-85; Am. Ord. 2015-2, passed 5-21-15)

RECREATION COMMISSION

§ 152.15 ESTABLISHMENT.

In order to accomplish the maximum economic, physical, social and coordinated development of land, buildings, and recreational facilities, the Elkton-Todd County Recreational Commission is hereby created and established to take charge of the recreational program of the city and the county, all as authorized by Chapter 97 of the Kentucky Revised Statutes, and the same shall be organized and empowered as follows:

(A) The Commission shall consist of 9 voting members.

(1) Three members shall be appointed by the Mayor for a four-year term, provided that in making the initial appointments, pursuant to this section, the mayor shall appoint one member for a four-year term, one for a three-year term, and one for a two-year term. None of whom shall serve more than two consecutive four-year terms.

(2) Three members shall be appointed by the County Judge/Executive, with the approval of the Fiscal Court, each for a four-year term, provided that in making the initial appointments, pursuant to this section, the County Judge/Executive shall appoint one member for a four-year term, one for a three-year term, and one for a two-year term. None of whom shall serve more than two consecutive four-year terms.

(3) One member of the City Council shall be appointed by the Mayor with the approval of the City Council. This appointment shall be made annually at a meeting in January.

(4) One Magistrate shall be appointed by the County Judge/Executive with the approval of the Fiscal Court. This appointment shall be made annually at a meeting in January.

(5) One member may be appointed by the Superintendent of the Todd County Board of Education. The appointee shall not be an elected school board member, but shall be an employee of the school district. If a vacancy occurs and an appointment is not made within 30 days, the Mayor or County Judge/Executive, with approval of the respective legislative body, shall make the appointment.

(6) All appointees shall serve at the pleasure of the appointing authority. Vacancies shall be fulfilled for unexpired terms by appointment of the authority appointing the member whose office is vacant.

(B) The members shall serve without compensation, but shall be reimbursed for necessary expenses incurred in the performance of their duties. They shall be legal voters of the city or county, respectively, in relation to their appointing authority.

(Ord. 1999-17, passed 8-26-99; Am. Ord. 2007-7, passed 8-28-07; Am. Ord. 2009-5, passed 3-9-09; Am. Ord. 2011-2, passed 4-11-11; Am. Ord. 2018-18, passed 12-10-18)

#### § 152.16 RULES AND REGULATIONS.

The Recreation Commission shall make such rules and regulations as to the conduct of the recreational facilities and areas as they may see fit, not in conflict with the Kentucky Statutes, but can make no appropriations or contracts until they are duly authorized after an annual budget has been duly submitted to the respective legislative bodies and approved.

(Ord. 1999-17, passed 8-26-99; Am. Ord. 2011-2, passed 4-11-11)

§ 152.17 ELECTION OF COMMITTEE CHAIRS; ANNUAL REPORT; BOND REQUIRED.

(A) The Recreation Commission shall be a body corporate for all purposes, and shall elect from its membership a chairperson of a Budget and Finance Committee, Park Records Committee, and other committees established in the bylaws of the Commission. One voting member of the Commission shall be appointed Chair of a Budget and Finance Committee, and shall execute a bond conditioned on the faithful performance of his or her duties sufficient in amount to cover funds coming into his or her hands. The premium shall be paid from commissioned funds.

(B) The Chair of the Budget and Finance Committee shall keep an accurate account of all funds coming to his or her hands, and have all disbursements with vouchers to same made by him or her, and shall make a full itemized statement of his accounts annually to the respective legislative bodies no later than 60 days after the end of each calendar year.

(Ord. 1999-17, passed 8-26-99; Am. Ord. 2007-7, passed 8-28-07)

§ 152.18 MEMBERS SWORN BY COUNTY JUDGE OR CITY CLERK.

Each person appointed to the Recreation Commission shall appear before the County Judge/Executive or City Clerk and take the oath that he or she will faithfully, diligently, and to the best of his or her ability, perform all duties of the members of the Commission, and that he or she will not, in any manner, directly or indirectly, be concerned in any contract, purchase, sale or employment of any kind in connection with or growing out of any business of the Commission, and the approving, purchasing, managing or improving of any recreational areas. (Ord. 1999-17, passed 8-26-99)

§ 152.19 AUTHORITY OF CITY MAYOR AND COUNTY JUDGE.

The Mayor and County Judge/Executive, by mutual agreement, shall have the following authority:

(A) To hire a Parks and Recreation Director after establishing a position description and responsibilities. The Parks and Recreation Director shall work directly with the Recreation Commission and when necessary, the Mayor and County Judge/Executive;

(B) To give concurrence or non-concurrence of bylaws and bylaw amendments of the City-County Recreation Commission;

(C) To determine the government entity that shall have oversight of the financial accounts for the Recreation Committee;

(D) To fill the appointment of the Todd County School District Superintendent, after approval of the respective legislative body, to the City-County Recreation Commission, if the appointment is not made within 30 days of any vacancy;

(E) To adopt procedures for the transaction of business of the City-County Recreation Commission;

(F) To annually elect a chairperson; and

(G) Other items designated by agreement of the Mayor and County Judge/Executive.  
(Ord. 2011-2, passed 4-11-11)



CHAPTER 153: FLOOD DAMAGE PREVENTION

Section

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STATUTORY AUTHORIZATION; FINDINGS OF FACT; PURPOSE; OBJECTIVE AND  
DEFINITIONS§ 153.01 STATUTORY AUTHORIZATION.

The Legislature of the Commonwealth of Kentucky has in KRS 82.082 delegated to local government units the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City Council of City of Elkton, Kentucky, hereby adopts the following floodplain management chapter.  
(Ord. 2010-3, passed 5-10-10)

§ 153.02 FINDINGS OF FACT.

(A) The flood hazard areas of City of Elkton are subject to periodic inundation which result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all which adversely affects the public health, safety and general welfare.

(B) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increased flood height and velocity, and by the location in flood hazard areas of uses vulnerable to floods or hazardous to other lands which are inadequately elevated, flood-proofed, or otherwise protected from flood damage.  
(Ord. 2010-3, passed 5-10-10)

§ 153.03 STATEMENT OF PURPOSE.

It is the purpose of this chapter to promote the public health, safety, and general welfare and to minimize public and private loss due to flooding by provisions designed to:

(A) Restrict or prohibit uses which are dangerous to health, safety, and property due to water erosion hazards, or which result in damaging increases in erosion or in flood height or velocity;

(B) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

(C) Control the alteration of natural floodplains, stream channels, and natural protective barriers which accommodate or channel flood waters;

(D) Control filling, grading, dredging, and other development which may increase erosion or flood damage; and

(E) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other areas.  
(Ord. 2010-3, passed 5-10-10)

§ 153.04 OBJECTIVES.

The objectives of this chapter are to:

- (A) Protect human life and health;
- (B) Minimize expenditure of public money for costly flood control projects;
- (C) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (D) Minimize prolonged business interruptions;
- (E) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines; streets and bridges located in areas of special flood hazard;
- (F) Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard or other flood-prone areas in such a manner as to minimize future flood blighted areas caused by flooding;
- (G) Ensure that potential homebuyers are on notice that property is in a special flood hazard area;
- (H) Ensure that those who occupy a Special Flood Hazard Area assume responsibility for their actions.  
(Ord. 2010-3, passed 5-10-10)

§ 153.05 DEFINITIONS.

Unless specifically defined below, words or phrases used in this chapter shall be interpreted to give them the meaning they have in common usage and to give this chapter its most reasonable application.

"A ZONE." Portions of the Special Flood Hazard Area (SFHA) in which the principle source of flooding is runoff from rainfall, snowmelt, or a combination of both. In A zones, floodwaters may move slowly or rapidly, but waves are usually not a significant threat to structures. Areas of 100-year flood, base flood elevations and flood hazard factors are not determined.

"ACCESSORY STRUCTURE (APPURTENANT STRUCTURE)." A structure located on the same parcel of property as the principle structure, the use of which is incidental to the use of the principle structure. "ACCESSORY STRUCTURES" should constitute a minimal initial investment, may not be used for human habitation, and should be designed to have minimal flood damage potential. Examples of "ACCESSORY STRUCTURES" are detached garages, carports, storage sheds, pole barns, and hay sheds.

"ACCESSORY USE." A use which is incidental and subordinate to the principal use of the parcel of land on which it is located.

"ADDITION (TO AN EXISTING STRUCTURE)." Any walled and roofed expansion to the perimeter of a structure in which the addition is connected by a common load-bearing wall other than a firewall. Any walled and roofed addition, which is connected by a firewall or is separated by independent perimeter load-bearing walls, is new construction.

"AL-30 AND AE ZONES." Special Flood Hazard Areas inundated by the 1% annual chance flood (100-year flood). Base Flood Elevations (BFEs) are determined.

"AH ZONE." An area of 100-year shallow flooding where depths are between one and three feet (usually shallow ponding). Base Flood Elevations are shown.

"AO ZONE." An area of 100-year shallow flooding where water depth is between one and three feet (usually sheet flow on sloping terrain). Flood depths are shown.

"APPEAL." A request for a review of the Floodplain Administrator's interpretation of any provision of this chapter or from the Floodplain Administrator's ruling on a request for a variance.

"AR/A1 - A30, AR/AE, AR/AH, AR/AO, AND AR/A ZONES." Special Flood Hazard Areas (SFHAs) that result from the de-certification of a previously accredited flood protection system that is in the process of being restored to provide a 100-year or greater level of flood protection. After restoration is complete these areas will still experience residual flooding from other flooding sources.

"A99 ZONE." That part of the SFHA inundated by the 100-year flood which is to be protected from the 100-year flood by a Federal flood protection system under construction. No Base Flood Elevations are determined.

"AREA OF SHALLOW FLOODING." A designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM) where the base flood depths range from one to three feet, there is no clearly defined channel, the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

"B AND X ZONES (SHADED)." Areas of the 0.2% annual chance (500-year) flood, areas subject to the 100-year flood with average depths of less than one foot or with contributing drainage area less than one square mile, and areas protected by levees from the base flood.

"BASE FLOOD." A flood which has a 1% chance of being equaled or exceeded in any given year (also called the "100-year flood"). "BASE FLOOD" is the term used throughout this chapter.

"BASE FLOOD ELEVATION (BFE)." The elevation shown on the Flood Insurance Rate Map (FIRM) for Zones AE, AH, A1-30, AR, AR/A, AR/AE, AR/A1-A30, AR/AH, and AR/AO that indicates the water surface elevation

resulting from a flood that has a 1% or greater chance of being equaled or exceeded in any given year.

"BASEMENT." That portion of a structure having its floor subgrade (below ground level) on all four sides.

"BUILDING." - A walled and roofed structure that is principally aboveground; including a manufactured home, gas or liquid storage tank, or other man-made facility or infrastructure. See definition for "STRUCTURE."

"C AND X (UNSHADED) ZONES." Areas determined to be outside the 500-year floodplain.

"COMMUNITY." A political entity having the authority to adopt and enforce floodplain ordinances for the area under its jurisdiction.

"COMMUNITY RATING SYSTEM (CRS)." A program developed by the Federal Insurance Administration to provide incentives to those communities in the Regular Program to go beyond the minimum floodplain management requirements to develop extra measures for protection from flooding.

"COMMUNITY FLOOD HAZARD AREA (CFHA)." An area that has been determined by the Floodplain Administrator (or other delegated, designated, or qualified community official) from available technical studies, historical information, and other available and reliable sources, which may be subject to periodic inundation by floodwaters that can adversely affect the public health, safety and general welfare. Included are areas downstream from dams.

"CRITICAL FACILITY." Any property that, if flooded, would result in severe consequences to public health and safety or a facility which, if unusable or unreachable because of flooding, would seriously and adversely affect the health and safety of the public. "CRITICAL FACILITIES" include, but are not limited to: housing likely to contain occupants not sufficiently mobile to avoid injury or death unaided during a flood; schools, nursing homes, hospitals, police, fire and emergency response installations, vehicle and equipment storage facilities, emergency operations centers likely to be called upon before, during and after a flood, public and private utility facilities important to maintaining or restoring normal services before, during and after a flood, and those facilities or installations which produce, use or store volatile, flammable, explosive, toxic and/or water-reactive materials, hazardous materials or hazardous waste.

"D ZONE." An area in which the flood hazard is undetermined.

"DEVELOPMENT." Any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or storage of equipment or materials.

"ELEVATED STRUCTURE." A non-basement structure built to have the lowest floor elevated above ground level by means of fill, solid foundation perimeter walls, piling, columns (post and piers), shear walls, or breakaway walls. (See freeboard requirements for residential and non-residential structures.)

"ELEVATION CERTIFICATE." A statement certified by a registered professional engineer or surveyor on the FEMA-approved form in effect at the time of certification that verifies a structure's elevation and other related information to verify compliance with this chapter.

"EMERGENCY PROGRAM." The initial phase under which a community participates in the NFIP, intended to provide a first layer amount of insurance at subsidized rates on all insurable structures in that community before the effective date of the initial FIRM.

"ENCLOSURE." That portion of a structure below the Base Flood Elevation (BFE) used solely for parking of vehicles, limited storage, or access to the structure.

"ENCROACHMENT." The physical advance or infringement of uses, plant growth, fill, excavation, structures, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

"EXISTING CONSTRUCTION." Any structure for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "EXISTING CONSTRUCTION" may also be referred to as "EXISTING STRUCTURES".

"EXISTING MANUFACTURED HOME PARK OR SUBDIVISION." A-manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management ordinance adopted by City of Elkton based on specific technical base flood elevation data which established the area of special flood hazards.

"EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION." The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

"FIVE-HUNDRED YEAR FLOOD." The flood that has a 0.2% chance of being equaled or exceeded in any year. Areas subject to the 500-year flood have a moderate to low risk of flooding.

"FLOOD, FLOODING, OR FLOOD WATER."

(1) A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or

tidal waters; the unusual and rapid accumulation or runoff of surface waters from any source; and/or mudslides (i.e. mudflows). See "MUDSLIDES."

(2) The condition resulting from flood-related erosion. See "FLOOD-RELATED EROSION."

"FLOOD BOUNDARY AND FLOODWAY MAP (FBFM)." A map on which the Federal Emergency Management Agency (FEMA) or Federal Insurance Administration (FIA) has delineated the areas of flood hazards and the regulatory floodway.

"FLOOD HAZARD BOUNDARY MAP (FHBM)." A map on which the boundaries of the flood, mudslide (i.e. mudflow), and flood-related erosion areas having special hazards have been designated as Zones A, M, and/or E by the Federal Emergency Management Agency (FEMA) or Federal Insurance Administration (FIA).

"FLOOD INSURANCE RATE MAP (FIRM)." A map on which the Federal Emergency Management Agency (FEMA) or Federal Insurance Administration (FIA) has delineated special flood hazard areas and risk premium zones.

"FLOOD INSURANCE STUDY." The report provided by the Federal Emergency Management Agency (FEMA) or Federal Insurance Administration (FIA) containing flood profiles, the Flood Insurance Rate Map (FIRM), and/or the Flood Boundary Floodway Map (FBFM), and the water surface elevation of the base flood.

"FLOODPLAIN OR FLOOD-PRONE AREA." Any land area susceptible to being inundated by flood waters from any source.

"FLOODPLAIN ADMINISTRATOR." The individual appointed by a NFIP participating community to administer and enforce the floodplain management ordinances.

"FLOODPLAIN MANAGEMENT." The operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management ordinances, and open space plans.

"FLOODPLAIN MANAGEMENT REGULATIONS." This chapter and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as grading and erosion control), and other applications of police power, which control development in flood-prone areas. This term describes federal, state and/or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

"FLOODPROOFING." Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures, and their contents.

"FLOOD PROOFING CERTIFICATE." A certification by a registered professional engineer or architect, on a FEMA-approved form in effect at the time of certification stating that a non-residential structure, together with attendant utilities and sanitary facilities is watertight to a specified design elevation with walls that are substantially impermeable to the passage of water and all structural components are capable of resisting hydrostatic and hydrodynamic flood forces, including the effects of buoyancy and anticipated debris impact forces.

"FLOODWAY." The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. Also referred to as the "REGULATORY FLOODWAY".

"FLOODWAY FRINGE." That area of the floodplain on either side of the regulatory floodway where encroachment may be permitted without additional hydraulic and/or hydrologic analysis.

"FREEBOARD." A factor of safety, usually expressed in feet above the BFE, which is applied for the purposes of floodplain management. It is used to compensate for the many unknown factors that could contribute to flood heights greater than those calculated for the base flood. "FREEBOARD" must be applied not just to the elevation of the lowest floor or floodproofing level, but also to the level of protection provided to all components of the structure, such as building utilities, HVAC components, etc.

"FRAUD AND VICTIMIZATION." As related in § 153.45, Appeals and Variance Procedures, of this chapter, means that the variance granted must not cause fraud on or victimization of the public. In examining this requirement, the City Council will consider the fact that every newly constructed structure adds to government responsibilities and remains a part of the community for 50 to 100 years. Structures that are permitted to be constructed below the base flood elevation are subject during all those years to increased risk of damage from floods, while future owners of the property and the community as a whole are subject to all the costs, inconvenience, danger, and suffering that those increased flood damages may incur. In addition, future owners may purchase the property, unaware that it is subject to potential flood damage, and can be insured only at very high flood insurance rates.

"FUNCTIONALLY DEPENDENT USE FACILITY." A facility, structure, or other development, which cannot be used for its intended purpose unless it is located or carried out in close proximity to water. The term includes only a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, ship repair, or seafood processing facilities. The term does not include long-term storage, manufacture, sales, or service facilities.

"GOVERNING BODY." The local governing unit, i.e. county or municipality that is empowered to adopt and implement ordinances to provide for the public health, safety and general welfare of its citizenry.

"HAZARD POTENTIAL." The possible adverse incremental consequences that result from the release of water or stored contents due to failure of a dam or misoperation of a dam or appurtenances. The hazard potential classification of a dam does not reflect in any way the current condition of a dam and its appurtenant structures (e.g., safety, structural integrity, flood routing capacity).

"HIGHEST ADJACENT GRADE." The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

"HISTORIC STRUCTURE." Any structure that is:

(1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district.

(3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

(a) By an approved state program as determined by the Secretary of the Interior; or

(b) Directly by the Secretary of the Interior in states without approved programs.

"INCREASED COST OF COMPLIANCE (ICC)."

(1) Increased cost of compliance coverage provides for the payment of a claim for the cost to comply with state or community floodplain management laws or ordinances after a direct physical loss by flood. When a building covered by a Standard Flood Insurance Policy under the NFIP sustains a loss and the state or community declares the building to be substantially or repetitively damaged, ICC will help pay up to \$30,000 for the cost to elevate, floodproof, demolish, or remove the building.

(2) ICC coverage is available on residential and non-residential buildings (this category includes public or government buildings, such as schools, libraries, and municipal buildings) insured under the NFIP.

"KENTUCKY REVISED STATUTE 151.250 - PLANS FOR DAMS LEVEES, ETC. TO BE APPROVED AND PERMIT ISSUED BY CABINET (ENVIRONMENTAL AND PUBLIC PROTECTION CABINET)."

(1) Notwithstanding any other provision of law, no person and no city, county or other political subdivision of the state, including levee districts, drainage districts, flood control districts or systems, or similar bodies, shall commence the construction, reconstruction, relocation or improvement of any dam, embankment, levee, dike, bridge, fill or other obstruction (except those constructed by the Department of Highways) across or along any stream, or in the floodway of any stream, unless the plans and specifications for such work have been submitted by the person or political subdivision responsible for the construction, reconstruction or improvement and such plans and specifications have been approved in writing by the cabinet and a permit issued. However, the cabinet by regulation may exempt those dams, embankments or other obstructions, which are not of such size or type as to require approval by the cabinet in the interest of safety or retention of water supply.

(2) No person, city, county, or other political subdivision of the state shall commence the filing of any area with earth, debris, or any other material, or raise the level of any area in any manner, or place a building, barrier or obstruction of any sort on any area located adjacent to a river or stream or in the floodway of the stream so that such filling, raising, or obstruction will in any way affect the flow of water in the channel or in the floodway of the stream unless plans and specifications for such work have been submitted to and approved by the cabinet and a permit issued as required in subsection (1) above.

(3) Nothing in this section is intended to give the cabinet any jurisdiction or control over the construction, reconstruction, improvement, enlargement, maintenance or operation of any drainage district, ditch or system established for agricultural purposes, or to require approval of the same except where such obstruction of the stream or floodway is determined by the cabinet to be a detriment or hindrance to the beneficial use of water resources in the area, and the person or political subdivision in control thereof so notified. The Department for Natural Resources through KRS Ch. 350 shall have exclusive jurisdiction over KRS Ch. 151 concerning the regulation of dams, levees, embankments, dikes, bridges, fills, or other obstructions across or along any stream or in the floodway of any stream which structures are permitted under KRS Ch. 350 for surface coal mining operations.

"LETTER OF MAP CHANGE (LOMC)." Is an official FEMA determination, by letter, to amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, and Flood Insurance Studies. "LOMC's" include the following categories:

(1) "LETTER OF MAP AMENDMENT (LOMA)." A revision based on technical data showing that a property was incorrectly included in a designated SFHA. A "LOMA" amends the current effective FIRM and establishes that a specific property is not located in a SFHA.

(2) "LETTER OF MAP REVISION (LOMR)." A revision based on technical data that, usually due to manmade changes, shows changes to flood zones, flood elevations, floodplain and floodway delineations; and planimetric features.

(3) "LETTER OF MAP REVISION-FILL (LOMR F)." A determination that a structure or parcel has been elevated by properly placed engineered fill above the BFE and is, therefore, excluded from the SHFA.

"LEVEE." A man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

"LEVEE SYSTEM."

(1) A flood protection system that consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

(2) For a levee system to be recognized, the following criteria must be met:

(a) All closure devices or mechanical systems for internal drainage, whether manual or automatic, must be operated in accordance with an officially adopted operation manual (a copy of which must be provided to FEMA by the operator when levee or drainage system recognition is being sought or revised).

(b) All operations must be under the jurisdiction of a federal or state agency, an agency created by federal or state law, or an agency of a community participating in the NFIP.

"LIMITED STORAGE." An area used for storage and intended to be limited to incidental items which can withstand exposure to the elements and have low flood damage potential. Such an area must be of flood resistant material, void of utilities except for essential lighting, and cannot be temperature controlled.

"LOWEST ADJACENT GRADE." The elevation of the sidewalk, patio, deck support, or basement entryway immediately next to the structure and after the completion of construction. It does not include earth that is emplaced for aesthetic or landscape reasons around a foundation wall. It does include natural ground or properly compacted fill that comprises a component of a structure's foundation system.

"LOWEST FLOOR." The lowest floor of the lowest enclosed area including basement. An unfinished or flood resistant enclosure, usable solely for parking of vehicles, structure access, or storage in an area other than a basement area is not considered a structure's "LOWEST FLOOR", provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter.

"MANUFACTURED HOME." A structure, transportable in one or more sections, which is built on a permanent chassis and is designed to be used with or without a permanent foundation when connected or attached to the required utilities. The term also includes park trailers, travel trailers, and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property. The term "MANUFACTURED HOME" does not include a "RECREATIONAL VEHICLE" (see "RECREATIONAL VEHICLE").

"MANUFACTURED HOME PARK OR SUBDIVISION." A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"MAP." The Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by the Federal Emergency Management Agency (FEMA).

"MAP PANEL NUMBER." The four-digit number on a flood map, followed by a letter suffix, assigned by FEMA. The first four digits represent the map panel. The letter suffix represents the number of times the map panel has been revised. (The letter "A" is not used by FEMA, the letter "B" is the first revision.)

"MARKET VALUE." The structure value, excluding the land (as agreed between a willing buyer and seller), as established by what the local real estate market will bear. "MARKET VALUE" can be established by independent certified appraisal, replacement cost depreciated by age of structure (Actual Cash Value) or adjusted assessed values.

"MEAN SEA LEVEL (MSL)." The average height of the sea for all stages of the tide. For the purposes of the National Flood Insurance Program, the MSL is used as a reference for establishing various elevations within the floodplains as shown on a community's FIRM. For purposes of this chapter, the term is synonymous with either National Geodetic Vertical Datum (NGVD) 1929 or North American Vertical Datum (NAVD) 1988.

"MITIGATION." Sustained actions taken to reduce or eliminate long-term risk to people and property from hazards and their effects. The purpose of mitigation is twofold: to protect people and structures, and to minimize the costs of disaster response and recovery.

"MUDSLIDE (i.e. MUDFLOW)." Describes a condition where there is a river, flow, or inundation of liquid mud down a hillside, usually as a result of a dual condition of loss of brush cover and the subsequent accumulation of water on the ground, preceded by a period of unusually heavy or sustained rain. A "MUDSLIDE (i.e. MUDFLOW)" may occur as a distinct phenomenon while a landslide is in progress, and will be recognized as such by the Floodplain Administrator only if the mudflow, and not the landslide, is the proximate cause of damage that occurs.

"MUDSLIDE (i.e. MUDFLOW) AREA MANAGEMENT." The operation of and overall program of corrective and preventative measures for reducing mudslide (i.e. mudflow) damage, including but not limited to emergency

preparedness plans, mudslide control works, and floodplain management regulations.

"MUDSLIDE (i.e. MUDFLOW) PRONE AREA." An area with land surfaces and slopes of unconsolidated material where the history, geology, and climate indicate a potential for mudflow.

"NATIONAL FLOOD INSURANCE PROGRAM (NFIP)." The federal program that makes flood insurance available to owners of property in participating communities nationwide through the cooperative efforts of the federal government and the private insurance industry.

"NATIONAL GEODETIC VERTICAL DATUM (NGVD)." As corrected in 1929, a vertical control used as a reference for establishing varying elevations within the floodplain. (Generally used as the vertical datum on the older FIRM's. Refer to FIRM legend panel for correct datum.)

"NEW CONSTRUCTION." Structures for which the start of construction commenced on or after the effective date of City of Elkton's floodplain management regulations and includes any subsequent improvements to such structures.

"NEW MANUFACTURED HOME PARK OR SUBDIVISION." A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of City of Elkton's adopted floodplain management ordinances.

"NON-RESIDENTIAL." Structures that are not designed for human habitation, including but is not limited to: small business concerns, churches, schools, farm structures (including grain bins and silos), pool houses, clubhouses, recreational structures, mercantile structures, agricultural and industrial structures, warehouses, and hotels or motels with normal room rentals for less than six months duration.

"NORTH AMERICAN VERTICAL DATUM (NAVP)." As corrected in 1988, a vertical control used as a reference for establishing varying elevations within the floodplain. (Generally used on the newer FIRM's and Digitally Referenced FIRM's (DFIRM's). (Refer to FIRM or DFIRM legend panel for correct datum.)

"OBSTRUCTION." Includes but is not limited to any dam, wall, embankment, levee, dike, pile, abutment, protection, excavation, channelization, bridge, conduit, culvert, structure, wire, fence, rock, gravel, refuse, fill, structure, vegetation or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water, due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

"ONE-HUNDRED YEAR FLOOD (100-YEAR FLOOD) (SEE BASE FLOOD)." The flood that has a 1% or greater 1 chance of being equaled or exceeded in any given year. any flood zone that begins with the letter "A" is subject to the 100-year flood. Over the life of a 30-year loan, there is a 26% chance of experiencing such a flood with the SFHA.

"PARTICIPATING COMMUNITY." A community that voluntarily elects to participate in the NFIP by adopting and enforcing floodplain management regulations that are consistent with the standards of the NFIP.

"PRE-FIRM CONSTRUCTION." Construction or substantial improvement, which started on or before December 31,1974, or before the effective date of the initial FIRM of the community, whichever is later.

"POST-FIRM CONSTRUCTION." Construction or substantial improvement that started on or after the effective date of the initial FIRM of the community or after December 31,1974, whichever is later.

"PROBATION." A means of formally notifying participating NFIP communities of violations and deficiencies in the administration and enforcement of the local floodplain management regulations. During periods of probation, each insurance policy is subject to a \$50 surcharge.

"PROGRAM DEFICIENCY." A defect in a community's floodplain management regulations or administrative procedures that impairs effective implementation of those floodplain management standards or of the standards of 44 CFR 60.3, 60.4, 60.5, and/or 60.6.

"PUBLIC SAFETY AND NUISANCE." Anything which is injurious to safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

"RECREATIONAL VEHICLE." A vehicle that is:

- (1) Built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable to a light duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

"REGULAR PROGRAM." The phase of a community's participation in the NFIP where more comprehensive floodplain management requirements are imposed and higher amounts of insurance are available based upon risk zones and elevations determined in a FIS.

"REGULATORY FLOODWAY." The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. See "BASE FLOOD."

"REMEDY A VIOLATION." The process by which a community brings a structure or other development into compliance with State or local floodplain management regulations, or, if this is not possible, to reduce the impact of non-compliance. Reduced impact may include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of this chapter or otherwise deterring future similar violations, or reducing state or federal financing exposure with regard to the structure or other development.

"REPAIR." The reconstruction or renewal of any part of an existing structure.

"REPETITIVE LOSS." Flood-related damages sustained by a structure on two or more separate occasions during a ten-year period where the value of damages equals or exceeds an average of 50% of the current value of the structure, beginning on the date when the damage first occurred, or, four or more flood losses of \$1,000 or more over the life of the structure, or, three or more flood losses over the life of the structure that are equal to or greater than the current value of the structure.

"RIVERINE." Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

"SECTION 1316." That section of the National Flood insurance Act of 1968, as amended, which states that no new or renewal flood insurance coverage shall be provided for any property that the Administrator finds has been declared by a duly constituted state or local zoning authority or other authorized public body to be in violation of state or local laws, regulations, or ordinances that are intended to discourage or otherwise restrict land development or occupancy in flood-prone areas.

"SHEET FLOW AREA." See "AREA OF SHALLOW FLOODING."

"SPECIAL FLOOD HAZARD AREA (SFHA)." That portion of the floodplain subject to inundation by the base flood and/or flood-related erosion hazards as shown on a FHBM or FIRM as Zone A, AE, A1 - A30, AH, AO, or AR.

"START OF CONSTRUCTION." (Includes substantial improvement and other proposed new development). The date a building permit is issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement or other improvement is within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure (including manufactured home) on a site, such as the pouring of slabs or footings, the installation of piles, construction of columns, or any work beyond the stage of

excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; the installation on the property of accessory structures, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the structure.

"STRUCTURE." A walled and roofed building that is principally above ground; including manufactured homes, gas or liquid storage tanks, or other man-made facilities or infrastructures. See "BUILDING."

"SUBDIVISION." Any division, for the purposes of sale, lease, or development, either on the installment plan or upon any and all other plans, terms and conditions, of any tract or parcel of land into two or more lots or parcels.

"SUBROGATION." An action brought by FEMA to recover insurance money paid out where all or part of the damage can be attributed to acts or omissions by a community or other third party.

"SUBSTANTIAL DAMAGE." Means any damage to a building for which the cost of repairs equals or exceeds 50% of the market value of the building prior to the damage occurring. This term includes structures that are categorized as repetitive loss. For the purposes of this definition, "REPAIR" is considered to occur when the first repair or reconstruction of any wall, ceiling, floor, or other structural part of the building commences. The term does not apply to:

(1) Any project for improvement of a building required to comply with existing health, sanitary, or safety code specifications which have been identified by the Code Enforcement Official and which are solely necessary to assure safe living conditions; or

(2) Any alteration of a "historic structure" provided that the alteration will not preclude the structure's continued designation as a "historic structure".

"SUBSTANTIAL IMPROVEMENT." Any combination of reconstruction, alteration, or improvement to a building, taking place during a one-year period in which the cumulative percentage of improvement equals or exceeds 50% of the current market value of the building. For the purposes of this definition, an improvement occurs when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. The term does not apply to:

(1) Any project for improvement of a building required to comply with existing health, sanitary, or safety code specifications which have been identified by the Code Enforcement Official and which are solely necessary to assure safe living conditions; or

(2) Any alteration of a "historic structure" provided that the alteration will not preclude the structure's continued designation as a "historic structure;" or

(3) Any building that has been damaged from any source or is categorized as repetitive loss.

"SUBSTANTIALLY IMPROVED EXISTING MANUFACTURED HOME PARKS OR SUBDIVISIONS." Repair, reconstruction, rehabilitation, or improvement of the streets, utilities, and pads equaling or exceeding 50% of the value of the streets, utilities, and pads before the repair, reconstruction, or improvement commenced.

"SUSPENSION." Removal of a participating community from the NFIP for failure to enact and/or enforce floodplain management regulations required for participation in the NFIP. New or renewal flood insurance policies are no longer available in suspended communities.

"UTILITIES." Includes electrical, heating, ventilation, plumbing, and air conditioning equipment.

"VARIANCE." Relief from some or all of the requirements of this chapter.

"VIOLATION." Failure of a structure or other development to fully comply with this chapter. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this chapter is presumed to be in violation until such time as that documentation is provided.

"WATERCOURSE." A lake, river, creek, stream, wash, channel or other topographic feature on or over which water flows at least periodically.

"WATER SURFACE ELEVATION." The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

"WATERSHED." All the area within a geographic boundary from which water, sediments, dissolved materials, and other transportable materials drain or are carried by water to a common outlet, such as a point on a larger stream, lake, or underlying aquifer.

"X ZONE." The area where the flood hazard is less than that in the SFHA. Shaded X zones shown on recent FIRMS (B zones on older FIRMS) designate areas subject to inundation by the flood with a 0.2% probability of being equaled or exceeded (the 500-year flood) in any year. Unshaded X zones (C zones on older FIRMS) designate areas where the annual exceedance probability of flooding is less than 0.2%.

"ZONE." A geographical area shown on a Flood Hazard Boundary Map or a Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

(Ord. 2010-3, passed 5-10-10)

## GENERAL PROVISIONS

§ 153.15 LANDS TO WHICH THIS CHAPTER APPLIES.

(A) This chapter shall apply to all Special Flood Hazard Areas (SFHA), areas applicable to KRS 151.250 and, as determined by the Floodplain Administrator or other delegated, designated, or qualified community official as determined by the City Council of City of Elkton from available technical studies, historical information, and other available and reliable sources, areas within the jurisdiction of the City Council of City of Elkton which may be subject to periodic inundation by floodwaters that can adversely affect the public health, safety, and general welfare of the citizens of City of Elkton.  
(Ord. 2010-3, passed 5-10-10)

§ 153.16 BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS.

The areas of Special Flood Hazard identified by the Federal Emergency Management Agency (FEMA) in the Flood Insurance Study (FIS) for Todd County, dated July 22, 2010, with the accompanying Flood Insurance Rate Maps (FIRMS), other supporting data and any subsequent amendments thereto, are hereby adopted by reference and declared to be a part of these regulations by City of Elkton, and for those land areas acquired by City of Elkton through annexation. This FIS and attendant mapping is the minimum area of applicability of this chapter and may be supplemented by studies for other areas which allow implementation of this chapter and which are recommended to the City Council by the Floodplain Administrator and are enacted by City Council pursuant to statutes governing land use management regulations. The FIS and/or FIRM are permanent records of City of Elkton and are on file and available for review by the public during regular business hours at City of Elkton City Hall.  
(Ord. 2010-3, passed 5-10-10)

§ 153.17 ESTABLISHMENT OF DEVELOPMENT PERMIT.

(A) A development permit shall be required in conformance with the provision of this chapter prior to the commencement of any development activities in the special flood hazard areas (SFHA). See § 153.26 for instructions and explanation.

(B) Application for a development permit shall be made on forms furnished by the Floodplain Administrator.  
(Ord. 2010-3, passed 5-10-10)

§ 153.18 COMPLIANCE.

No structure or land shall hereafter be constructed, located, extended, converted or structurally altered without full compliance with the terms of this chapter and other applicable state regulations. Violation of the requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute

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

(Ord. 2010-3, passed 5-10-10) Penalty, see § 153.99

§ 153.19 ABROGATION AND GREATER RESTRICTIONS.

This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another ordinance, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(Ord. 2010-3, passed 5-10-10)

§ 153.20 INTERPRETATION.

In the interpretation and application of this chapter, all provisions shall be:

(A) Considered minimum requirements;

(B) Liberally construed in favor of the governing body; and

(C) Deemed neither to limit nor repeal any other powers granted under state statutes.

(Ord. 2010-3, passed 5-10-10)

§ 153.21 WARNING AND DISCLAIMER OF LIABILITY.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damage. This chapter shall not create liability on the part of the City Council of City of Elkton, any officer or employee, the Commonwealth of Kentucky, the Federal Insurance Administration, or the Federal Emergency Management Agency, thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

(Ord. 2010-3, passed 5-10-10)

ADMINISTRATION

§ 153.25 DESIGNATION OF LOCAL ADMINISTRATOR.

The City Council of City of Elkton hereby appoints the Mayor or designee to administer, implement, and enforce the provisions of this chapter by granting or denying development permits in accordance with its provisions, and is herein referred to as the Floodplain Administrator.

(Ord. 2010-3, passed 5-10-10)

§ 153.26 ESTABLISHMENT OF DEVELOPMENT PERMIT.

A development permit shall be obtained before any construction or other development begins within any special flood hazard area established in § 153.16. Application for a development permit shall be made on forms furnished by Floodplain Administrator prior to any development activities, and may include, but not be limited to, the following: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question, existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Endorsement of local administrator is required before a state floodplain construction permit can be processed. Specifically, the following information is required.

(A) Application stage.

(1) Proposed elevation in relation to Mean Sea Level (MSL) of the proposed lowest floor (including basement) of all structures in Zone A and elevation of highest adjacent grade;

(2) Proposed elevation in relation to Mean Sea Level to which any non-residential structure will be flood-proofed;

(3) All appropriate certifications from a registered professional engineer or architect that the non-residential flood-proofed structure will meet the flood-proofing criteria in §§ 153.36(B) and 153.38(B);

(4) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

(B) Construction stage.

(1) Upon placement of the lowest floor, and before construction continues, or flood proofing by whatever construction means, it shall be the duty of the permit holder to submit to the Floodplain Administrator and to the state a certification of the elevation of the lowest floor or flood-proofed elevation, as built, in relation to Mean Sea Level. In AE, A1-30, AH, and A zones where the Community has adopted a regulatory Base Flood Elevation, said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same.

(2) When flood proofing is utilized for a particular structure, said certification shall be prepared by or under the direct supervision of a certified professional engineer or architect. Any continued work undertaken prior to the submission of the certification shall be at the permit holder's risk. The Floodplain Administrator shall review the lowest floor and flood proofing elevation survey data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the survey or failure to

make said corrections required hereby, shall be cause to issue a stop-work order for the project.

(Ord. 2010-3, passed 5-10-10) Penalty, see § 153.99

§ 153.27 DUTIES AND RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR.

(A) The Floodplain Administrator and/or staff is hereby appointed, authorized and directed to administer, implement and enforce the provisions of this chapter. The Floodplain Administrator is further authorized to render interpretations of this chapter, which are consistent with its spirit and purpose by granting or denying development permits in accordance with its provisions.

(B) The duties and responsibilities of the Floodplain Administrator shall include, but not be limited to the following:

(1) Permit review: review all development permits to ensure that:

(a) Permit requirements of this chapter have been satisfied;

(b) All other required state and federal permits have been obtained: review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C 1334;

(c) Flood damages will be reduced in the best possible manner;

(d) The proposed development does not adversely affect the carrying capacity of affected watercourses. For purposes of this chapter, "adversely affects" means that the cumulative effect of the proposed development when combined with all other existing and anticipated development will increase the water surface elevation of the base flood more than one foot at any point.

(2) Review and use of any other base flood data. When base flood elevation data has not been provided in accordance with § 153.16, the Floodplain Administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal or state agency, or other source, in order to administer §§ 153.35 through 153.41. Any such information shall be submitted to the City Council for adoption.

(3) Notification of other agencies.

(a) Notify adjacent communities, the Kentucky Division of Water, and any other federal and/or state agencies with statutory or regulatory authority prior to any alteration or relocation of the watercourse;

(b) Submit evidence of such notification to the Federal Insurance Administration, Federal Emergency Management Agency (FEMA); and

(c) Assure that the flood carrying capacity within the altered or relocated portion of said watercourse is maintained.

(4) Documentation of Floodplain Development Obtain and maintain for public inspection and make available as needed the following:

(a) Certification required by § 153.36(A) (lowest floor elevations) as shown on a completed and certified elevation certificate. Verify and record the actual elevation (in relation to Mean Sea Level) of the lowest floor (including basement) of all new or substantially improved structures, in accordance with § 153.26(B);

(b) Certification required by § 153.36(B) (elevation or floodproofing of nonresidential structures) as shown on a completed and certified floodproofing certificate. Verify and record the actual elevation (in relation to Mean Sea Level) to which the new or substantially improved structures have been flood-proofed, in accordance with § 153.26(B);

(c) Certification required by § 153.36(C) (elevated structures);

(d) Certification of elevation required by § 153.39(A) (subdivision standards);

(e) Certification required by § 153.36(E) (floodway encroachments);

(f) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished;

(g) Review certified plans and specifications for compliance;

(h) Remedial action. Take action to remedy violations of this chapter as specified in §§ 153.55 and 153.56.

(5) Map determinations. Make interpretations where needed, as to the exact location of the boundaries of the special flood hazard areas, for example, where there appears to be a conflict between a mapped boundary and actual field conditions.

(a) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in § 153.45(C) (2);

(b) When base flood elevation data or floodway data have not been provided in accordance with § 153.16, then the Floodplain Administrator shall obtain, review, and reasonable utilize any base flood elevation and floodway data available from a federal, state, or other source, in order to administer the provisions of §§ 153.35 through 153.41;

(c) When flood-proofing is utilized for a particular structure, the Floodplain Administrator shall obtain certification from a registered professional engineer or architect, in accordance with § 153.36(B) a floodproofing certificate;

(d) All records pertaining to the provisions of this chapter shall be maintained in the office of the Floodplain Administrator and shall be open for public inspection.

(6) Right of entry.

(a) Whenever necessary to make an inspection to enforce any of the provisions of this chapter, or whenever the administrator has reasonable cause to believe that there exists in any structure or upon any premises any condition or ordinance violation which makes such building, structure or premises unsafe, dangerous or hazardous, the administrator may enter such building, structure or premises at all reasonable times to inspect the same or perform any duty imposed upon the administrator by this chapter.

(b) If such structure or premises are occupied, he/she shall first present proper credentials and request entry. If such building, structure, or premises are unoccupied, he shall first make a reasonable effort to locate the owner or other persons having charge or control of such request entry.

(c) If entry is refused, the Administrator shall have recourse to every remedy provided by law to secure entry.

(d) When the Administrator shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner or occupant or any other persons having charge, care or control of any building, structure, or premises shall fail or neglect, after proper request is made as herein provided, to promptly permit entry therein by the Administrator for the purpose of inspection and examination pursuant to this chapter.

(7) Stop work orders. Upon notice from the Administrator, work on any building, structure or premises that is being done contrary to the provisions of this chapter shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to his agent, or to the person doing the work, and shall state the conditions under which work may be resumed.

(8) Revocation of permits.

(a) The Administrator may revoke a permit or approval, issued under the provisions of this chapter, in case there has been any false statement or misrepresentation as to the material fact in the application or plans on which the permit or approval was based;

(b) The Administrator may revoke a permit upon determination by the Administrator that the construction, erection, alteration, repair, moving, demolition, installation, or replacement of the structure for which the permit was issued is in violation of, or not in conformity with, the provisions of this chapter.

(9) Liability. Any officer, employee, or member of the Floodplain Administrator's staff, charged with the enforcement of this chapter, acting for the applicable governing authority in the discharge of his or her duties, shall not thereby render himself or herself personally liable, and is hereby relieved from all personal liability, for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his or her duties. Any suit brought against any officer, employee, or member because of such act performed by him or her in the enforcement of any provision of this chapter shall be defended by the department of law until the final termination of the proceedings.

(10) Expiration of floodplain construction permit. A floodplain construction permit, and all provisions contained therein, shall expire if the holder of a floodplain construction permit has not commenced construction within 180 calendar days from the date of its issuance by the Floodplain Administrator.  
(Ord. 2010-3, passed 5-10-10)

#### PROVISIONS FOR FLOOD HAZARD REDUCTION

#### § 153.35 GENERAL CONSTRUCTION STANDARDS.

In all Special Flood Hazard Areas the following provisions are required:

(A) All new construction and substantial improvements shall be adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

(B) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or fame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces;

(C) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;

(D) New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage;

(E) Electrical, heating, ventilation, plumbing, air condition equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding; and if

(F) Within Zones AH or AO, so that there are adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures;

(G) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(H) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;

(I) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding; and

(J) Any alteration, repair, reconstruction, or improvements to a structure, which is not in compliance with the provisions of this chapter shall meet the requirements of "new construction" as contained in this chapter;

(K) Any alteration, repair, reconstruction, or improvements to a structure, which is not in compliance with the provisions of this chapter, shall be undertaken only if said non-conformity is not furthered, extended, or replaced.

(Ord. 2010-3, passed 5-10-10) Penalty, see § 153.99

#### § 153.36 SPECIFIC STANDARDS.

In all Special Flood Hazard Areas where base flood elevation data have been provided, as set forth in § 153.16, the following provisions are required:

(A) Residential construction. New construction or substantial improvement of any residential structure (or manufactured home) shall have the lowest floor, including basement, mechanical equipment, and ductwork elevated no lower than at or above the Base Flood Elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with standards of § 153.36(C).

(1) In an AO zone, elevated above the highest adjacent grade to a height equal to or exceeding the depth number specified in feet on the FIRM, or elevated at least two feet above the highest adjacent grade if no depth number is specified.

(2) In an A zone, where no technical data has been produced by the Federal Emergency Management Agency, elevated at or above the base flood elevation, as determined by this community. The Floodplain Administrator will determine the method by which base flood elevations

are determined. Methods include but are not limited to detailed hydrologic and hydraulic analyses, use of existing data available from other sources, use of historical data, best supportable and reasonable judgement in the event no data can be produced. Title 401 KAR (Kentucky Administrative Regulations) Chapter 4, Regulation 060, states as a part of the technical requirements for a State Floodplain Permit; The applicant shall provide cross sections for determining floodway boundaries (and thereby Base Flood Elevations) at any proposed construction site where FEMA maps are not available. All cross sections shall be referenced to mean sea level and shall have vertical error tolerances of no more than plus 0.5-foot. Cross sections elevations shall be taken at those points which represent significant breaks in slope and at points where hydraulic characteristics of the base floodplain change. Each cross section shall extend across the entire base floodplain and shall be in the number and at the locations specified by the cabinet. If necessary to ensure that significant flood damage will not occur, the cabinet may require additional cross sections or specific site elevations which extend beyond those needed for making routine regulatory floodway boundary calculations.

(3) (a) In all other zones, elevated at or above the Base Flood Elevation.

(b) Upon the completion of the structure, the elevation of the lowest floor including basement shall be certified by a registered professional engineer or surveyor, and verified by the community building inspection department to be properly elevated. Such certification and verification shall be provided to the Floodplain Administrator.

(B) Non-residential construction. New construction or substantial improvement of any commercial, industrial, or non-residential structure (including manufactured homes used for non-residential purposes) shall be elevated to conform with § 153.36(A) or together with attendant utility and sanitary facilities:

(1) Be floodproofed below an elevation at or above the level of the base flood elevation so that the structure is watertight with walls substantially impermeable to the passage of water;

(2) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

(3) Have the lowest floor, including basement, mechanical equipment, and ductwork, elevated no lower than at or above the level of the base flood elevation; or

(4) A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the official as set forth in § 153.26(A) (3);

(5) Manufactured homes shall meet the standards in § 153.36(D).

(6) All new construction and substantial improvement with fully enclosed areas below the lowest floor (excluding basements) that are usable solely for parking of vehicles, building access or storage, and which are subject to flooding, shall be constructed of flood resistant materials below an elevation at or above the base flood elevation, and, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Opening sizes (FEMA Technical Bulletin 1-93) for meeting this requirement must meet or exceed the following minimum criteria:

(a) Be certified by a registered professional engineer or architect; or

(b) Have a minimum of two openings with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwater.

(C) Elevated structures. New construction or substantial improvements of elevated structures on columns, posts, or pilings (e.g.) that include fully enclosed areas formed by foundation and other exterior walls below the base flood elevation shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls.

(1) Opening sizes for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:

(a) Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;

(b) The bottom of all openings shall be no higher than one foot above foundation interior grade (which must be equal to in elevation or higher than the exterior foundation grade); and

(c) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.

(2) Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevation); and

(3) The interior portion of such enclosed areas shall not be partitioned or finished into separate rooms.

(D) Standards for manufactured homes and recreational vehicles.

(1) (a) All new or substantially improved manufactured homes placed on sites located within A, A1-30, AO, AH, and AE on the community's Flood Insurance Rate Map (FIRM) must meet all the requirements for new construction, including elevation and anchoring. Locations include:

1. On individual lots or parcels;
2. In expansions to existing manufactured home parks or subdivisions;
3. In new manufactured home parks or subdivisions; or
4. In substantially improved manufactured home parks or subdivisions; or
5. Outside of a manufactured home park or subdivision;
6. in an existing manufactured home park or subdivision on a site upon which a manufactured home has incurred "substantial damage" as the result of a flood.

(b) All manufactured homes must be:

1. Elevated on a permanent foundation; and
2. Have its lowest floor elevated no lower than at or above the level of the base flood elevation; and
3. Be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

(2) Except manufactured homes that have incurred substantial damage as a result of a flood, all manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that: the manufactured home is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement, so that either the:

(a) The lowest floor of the manufactured home is elevated no lower than at or above the level of the base flood elevation; or

(b) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least an equivalent strength, of no less than 36 inches in height above the highest adjacent grade.

(3) (a) All recreational vehicles placed on sites located within A, A1-30, AO, AH, and AE on the community's Flood Insurance Rate Map (FIRM) must either:

1. Be on the site for fewer than 180 consecutive days;
  2. Be fully licensed and ready for highway use;
- or
3. Meet the permit requirements for new construction of this chapter, including anchoring and elevation requirements for "manufactured homes".

(b) A recreational vehicle is ready for highway use if it is licensed and insured in accordance with the State of Kentucky Motor Vehicle Regulations, is on its' wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

(E) Flood ways. Located within areas of special flood hazard established in § 153.16, are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and has erosion potential, the following provisions shall apply: prohibit encroachments, including fill, new construction, substantial improvements, and other developments unless certification (with supporting technical data) by a registered professional engineer is provided demonstrating that encroachments shall not result in any increase in the base flood elevation levels during occurrence of base flood discharge.

If § 153.36(E) is satisfied, all new construction and substantial improvements and other proposed new development shall comply with all applicable flood hazard reduction provisions of §§ 153.35 through 153.41.

(Ord. 2010-3, passed 5-10-10) Penalty, see § 153.99

§ 153.37 STANDARDS FOR STREAMS WITHOUT ESTABLISHED BASE FLOOD ELEVATION (UNNUMBERED A ZONES) AND/OR FLOODWAYS.

Located within the special flood hazard areas established in § 153.16, where streams exist but where no base flood data has been provided or where base flood data has been provided without floodways, the following provisions apply:

(A) No encroachments, including fill material or structures shall be located within special flood hazard areas, unless certification by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

(B) New construction or substantial improvements of structures shall be elevated or flood proofed to elevations established in accordance with § 153.16.

(Ord. 2010-3, passed 5-10-10) Penalty, see § 153.99

§ 153.38 STANDARDS FOR SHALLOW FLOODING ZONES.

Located within the special flood hazard areas established in § 153.16, are areas designated as shallow flooding areas. These areas have flood hazards associated with base flood depths of one to three feet, where a clearly defined channel does not exist and the water path of flooding is unpredictable and indeterminate; therefore, the following provisions apply:

(A) All new construction and substantial improvements of residential structures shall: have the lowest floor, including basement, elevated to or above either the base flood elevation or in Zone AO the flood depth specified on the Flood Insurance Rate Map above the highest adjacent grade. In Zone AO, if no flood depth is specified, the lowest floor, including basement, shall be elevated no less than two feet above the highest adjacent grade.

(B) All new construction and substantial improvements of non-residential structures shall:

(1) Have the lowest floor, including basement, elevated to or above either the base flood elevation or in Zone AO the flood depth specified on the Flood Insurance Rate Map, above the highest adjacent grade. In Zone AO, if no flood depth is specified, the lowest floor, including basement, shall be elevated no less than two feet above the highest adjacent grade.

(2) Together with attendant utility and sanitary facilities be completely floodproofed either to the base flood elevation or above or, in Zone AO, to or above the specified flood depth plus a minimum of one foot so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required as stated in § 153.36(B).

(Ord. 2010-3, passed 5-10-10) Penalty, see § 153.99

§ 153.39 STANDARDS FOR SUBDIVISION PROPOSALS.

(A) All preliminary subdivision proposals shall identify the flood hazard area and the elevation of the base flood and be consistent with the need to minimize flood damage;

(B) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;

(C) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards;

(D) In areas where base flood elevation and floodway data is not available (Zone A or unmapped streams), base flood elevation and floodway data for subdivision proposals and other proposed development (including manufactured home parks and subdivisions) greater than 50 lots or five acres, whichever is the lesser, shall be provided;

(E) All subdivision plans will include the elevation of proposed structure(s) and lowest adjacent grade. If the site is filled above the base flood elevation, the lowest floor and lowest adjacent grade elevations shall be certified by a registered professional engineer or surveyor and provided to the Floodplain Administrator.  
(Ord. 2010-3, passed 5-10-10) Penalty, see § 153.99

§ 153.40 STANDARDS FOR ACCESSORY STRUCTURES IN ALL ZONES BEGINNING WITH THE LETTER "A".

For all accessory structures in special flood hazard areas designated "A" the following provisions shall apply:

(A) Structure must be non-habitable;

(B) Must be anchored to resist floatation forces;

(C) Will require flood openings/vents no more than one foot above grade, total openings are to be one square inch per one square foot of floor area, at least two openings required on opposite walls;

(D) Built of flood resistant materials below a level at or above the base flood elevation;

(E) Must elevate utilities above the base flood elevation;

(F) Can only be used for storage or parking;

(G) Cannot be modified for a different use after permitting.  
(Ord. 2010-3, passed 5-10-10) Penalty, see § 153.99

§ 153.41 CRITICAL FACILITIES.

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the SFHA (100-year floodplain). Construction of new critical facilities shall not be permissible within the floodway; however, they may be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated one foot or more above the level of the base flood elevation at the site. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible.

(Ord. 2010-3, passed 5-10-10) Penalty, see § 153.99

## APPEALS AND VARIANCE PROCEDURES

§ 153.45 APPEALS AND VARIANCES.

## (A) Nature of variances.

(1) The variance criteria set forth in this section of the chapter are based on the general principle of zoning law that variances pertain to a piece of property and are not personal in nature. A variance may be granted for a parcel of property with physical characteristics so unusual that complying with the requirements of this chapter would create an exceptional hardship to the applicant or the surrounding property owners. The characteristics must be unique to the property and not be shared by adjacent parcels. The unique characteristic must pertain to the land itself, not to the structure, its inhabitants, or the property owners.

(2) It is the duty of the City Council to help protect its citizens from flooding. This need is so compelling and the implications of the cost of insuring a structure built below flood level is so serious that variances from the flood elevation or from other requirements in the flood chapter are quite rare. The long-term goal of preventing and reducing flood loss and damage can only be met if variances are strictly limited. Therefore, the variance guidelines provided in this chapter are more detailed and contain multiple provisions that must be met before a variance can be properly granted. The criteria are designed to screen out those situations in which alternatives other than a variance are more appropriate.

(B) Designation of Variance and Appeal Board. The City Council of City of Elkton shall establish an Appeal Board consisting of members of the City Council.

## (C) Duties of Variance and Appeals Board.

(1) The Appeal Board shall hear and decide requests for variances from the requirements of this chapter and appeals of decisions or determinations made by the Floodplain Administrator in the enforcement or administration of this chapter.

(2) Any person aggrieved by the decision of the Appeal Board or any taxpayer may appeal such decision to the local District Court, as provided in Kentucky Revised Statutes.

(D) Appeals/variance procedures. In passing upon such applications, the Appeal Board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter, and the:

(1) Danger that materials may be swept onto other lands to the injury of others;

(2) Danger to life and property due to flooding or erosion damage;

(3) Susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the existing individual owner and future owners of the property;

(4) Importance to the community of the services provided by the proposed facility;

(5) Necessity that the facility be located on a waterfront, in the case of functionally dependent facility;

(6) Availability of alternative locations which are not subject to flooding or erosion damage;

(7) Compatibility of the proposed use with existing and anticipated development;

(8) Relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(9) Safety of access to the property in times of flood for ordinary and emergency vehicles;

(10) Expected height, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and

(11) Costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water systems, streets, and bridges.

(E) Conditions for variances. Upon consideration of the factors listed above and the purposes of this chapter, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

(1) Variances shall not be issued within any mapped regulatory floodway if any increase in flood levels during the base flood discharge would result.

(2) Variances shall only be issued upon a determination that the variance is the "minimum necessary" to afford relief considering the flood hazard. "Minimum necessary" means to afford relief with a minimum of deviation from the requirements of this chapter. For example, in the case of variances to an elevation requirement, this means the City Council need not grant permission for the applicant to build at grade, or even to whatever elevation the applicant proposes, but only to that elevation which the City Council believes will both provide relief and preserve the integrity of this chapter.

(3) Variances shall only be issued upon a determination that the variance is the "minimum necessary" to afford relief considering the flood hazard. In the instance of an historical structure, a

determination shall be made that the variance is the minimum necessary to afford relief and not destroy the historic character and design of the structure.

(4) Variances shall only be issued upon:

(a) A showing of good and sufficient cause;

(b) A determination that failure to grant the variance would result in exceptional hardship to the applicant (as defined in § 153.05); and

(c) A determination that the granting of a variance will not result in increased flood height, additional threats to public safety, cause extraordinary public expense, create nuisance (as defined in the definition section under "public safety and nuisance"), cause fraud or victimization of the public (as defined in the § 153.05) or conflict with existing local laws or ordinances.

(5) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the structure is to be built and stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(6) The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency (FEMA) and the Federal Insurance Administration (FIA) upon request.

(7) Variances may be issued for new construction, substantial improvement, and other proposed new development necessary for the conduct of a functionally dependent use provided that the provisions of division (D)(1) through (D)(11) are satisfied and that the structure or other development is protected by methods that minimize flood damages during the base flood and does not result in additional threats to public safety and does not create a public nuisance.

(F) Variance notification. Any applicant to whom a variance is granted shall be given written notice over the signature of a community official that:

(1) The issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$ 100 of insurance coverage;

(2) Such construction below the base flood level increases risks to life and property. A copy of the notice shall be recorded by the Floodplain Administrator in the Office of the City of Elkton Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land; and

(3) The Floodplain Administrator shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in the community's biennial report submission to the Federal Emergency Management Agency.

(G) Historic structures. Variances may be issued for the repair or rehabilitation of "historic structures" (see definition in § 153.05) upon determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

(H) No impact certification within the floodway. Variances shall not be issued within any mapped or designated floodway if any increase in flood levels during the base flood discharge would result.  
(Ord. 2010-3, passed 5-10-10)

#### ENFORCEMENT; VIOLATION NOTICE

#### § 153.55 CIVIL OFFENSE.

(A) Civil offense. If, at any time, development occurs which is not in accordance with the provisions of this chapter including obtaining or complying with the terms and conditions of a floodplain construction permit and any approved modifications, such development shall constitute a civil offense.

(Ord. 2010-3, passed 5-5-10)

#### § 153.56 NOTICE OF VIOLATION; CITATION.

(A) Notice of violation. If, at any time, a duly authorized employee or agent of the Floodplain Administrator has reasonable cause to believe that a person has caused development to occur which is not in accordance with the provisions of this chapter including obtaining or complying with the terms and conditions of a floodplain construction permit and any approved modifications thereof, a duly authorized employee of the Floodplain Administrator shall issue a notice to the person responsible for the violation and/or the property owner, stating the facts of the offense or violation, the section of this chapter and/or of the permit violated, when it occurred, how the violation is to be remedied to bring the development into conformity with this chapter or with the approved permit, and within what period of time the remedy is to occur, which period of time shall be reasonable and shall be determined by the nature of the violation and whether or not it creates a nuisance or hazard. The remedy may include an order to stop work on the development. The notice shall also state that a citation may be forthcoming in the event that the requested remedies and corrective actions are not taken, which citation will request a civil monetary fine and shall state the maximum fine which could be imposed. See § 153.99.

(B) Notice of citation. If, at any time, a duly authorized employee or agent of the Floodplain Administrator has reasonable cause to believe that a person has caused development to occur which is not

in accordance with the provisions of this chapter including obtaining or complying with the terms and conditions of a floodplain construction permit and any approved modifications thereof, a duly authorized employee of the Floodplain Administrator may issue a citation to the offender stating the violation, prior notices of violation issued, how the violation is to be remedied to bring the development into conformity with this chapter or with the approved permit, and within what period of time the remedy is to occur, and what penalty or penalties are recommended. When a citation is issued, the person to whom the citation is issued shall respond to the citation within seven days of the date the citation is issued by either carrying out the remedies and corrections set forth in the citation, paying the civil fine set forth in the citation or requesting a hearing before the governing body. If the person to whom the citation is issued does not respond to the citation within seven days, that person shall be deemed to have waived the right to a hearing and the determination that a violation occurred shall be considered final.

(Ord. 2010-3, passed 5-10-10)

§ 153.99 PENALTY.

Violation of the provisions of this chapter or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with granting of a variance or special exceptions, shall constitute a misdemeanor civil offense. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined no less than \$100 or imprisoned for not more than ten days, or both, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Floodplain Administrator from taking such other lawful action as is necessary to prevent or remedy any violation.

(Ord. 2010-3, passed 5-10-10)