

# City of Somerset

## Zoning

## Ordinance a



**SOMERSET ZONING REGULATIONS  
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**ZONING REGULATIONS  
OF  
SOMERSET, KENTUCKY**

**ARTICLE 1: TITLE, INTERPRETATION AND ENACTMENT**

**1.1 TITLE**

This document shall be known and may be cited to as the "Zoning Ordinance".

**1.2 PROVISIONS OF ORDINANCE DECLARED TO BE MINIMUM REQUIREMENTS**

In their interpretation and application, the provisions of these regulations shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and general welfare. Whenever the requirements of these regulations are at variance with the requirements of other lawfully adopted rules, regulations, ordinance or resolutions, the most restrictive, or that imposing higher standards shall govern.

**1.3 SEVERABILITY CLAUSE**

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

**1.4 REPEAL OF CONFLICTING ORDINANCES AND REGULATIONS, EFFECTIVE DATE**

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or parts thereof in conflict with this zoning regulation or inconsistent with the provisions herein are hereby repealed to the extent necessary to give this regulation full force and effect.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

**1.5 PLANS AND CONSTRUCTION IN PROGRESS**

To avoid any undue hardship, nothing in this zoning ordinance shall be deemed to require changes in the plans, construction, or designated use of any building or premises on which an application for a permit was filed with the City of Somerset prior to the date of adoption of this zoning ordinance or amendment thereto, providing that the application meets all zoning and other requirements in effect on the date of said application. The issuance of said permit shall be valid only if it is exercised within one hundred and eighty (180) days from the date of issuance of said permit.

**1.6 DEFINITIONS**

For the purpose of regulations, certain terms or words used herein shall be interpreted as follows:

- A. The word "person" includes a firm, association, organization, partnership, trust, company, or corporation, as well as an individual.

- B. The present tense includes the future tense, the single number includes the plural, and the plural number includes the singular.
- C. The word "shall" is a mandatory requirement, the word "may" is a permissive requirement, and the word "should" is a preferred requirement.
- D. The words "used" or "occupied" include the words "intended", "designed", or "arranged" to be used or occupied.
- E. The word "lot" includes the words "plot" or "parcel".

**Accessory Use or Structure** - A use or structure on the same lot with, and of a nature customarily incidental and subordinate to the principal use of a structure.

**Access, Primary** - The vehicular way leading from a major street to the front of a shopping center, commercial enterprise or manufacturing facility, or to the primary entrance point.

**Access, Secondary** - The vehicular way leading from a minor street to the primary access route, or from the main entrance point to other entrances.

**Agriculture** - The use of land for farming, dairying, pasturage, agriculture, aqua culture, horticulture, floriculture, viticulture, and animal and poultry husbandry and the necessary accessory uses which are secondary to other agricultural activities such as packing, treating, or storing the produce. Agriculture does not include the feeding of garbage to animals or the operation or maintenance of a commercial stockyard or feed yard.

**Alteration, Structural** - Any change in the supporting members of the building, such as bearing walls, columns, beams, or girders.

**Amusement** - A means of amusing or entertaining; recreation; diversion; games.

**Bed And Breakfast Inn** - A small inn consisting of sleeping rooms with either shared or individual bathroom and kitchen facilities used by house guests for short durations and not intended for permanent residence except for owner/operators.

**Building** - Any structure designed or intended for the support, enclosure, shelter, or protection of persons, animals, or personal property.

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

**Building, Height** - The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs, and the mean height between eaves and ridge for gable, hip, and gambrel roofs.

**Building Permit** - A document issued by the administrative official authorizing the construction of structures, uses of land and structures, and the characteristics of the use.

**Cemetery** - Land used or intended to be used for the burial of the animal or human dead and dedicated for cemetery purposes, including crematories, mausoleums, and mortuaries if operated in connection with and within the boundaries of such cemetery.

**Clinic** - A place used for care, diagnosis and treatment of sick, ailing, infirm, or injured persons, and those who are in need of medical and surgical attention, but who are not provided with board or room or kept overnight on the premises.

**Comprehensive Plan** - A plan, or any portion thereof, adopted by the planning commission and/or the legislative authority of the City of Somerset, Kentucky, showing the general location and extent of present and proposed physical facilities including housing, industrial and commercial uses, major streets, parks, schools, and other facilities. This plan establishes the goals, objectives, and policies of the community.

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

**Conditional Use Permit** - A document issued by the Administrative Official upon approval of the Board of Adjustment to allow a use other than a principally permitted use to be established within the district.

**Corner Lot** - A lot located at the intersection of two or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines of the foremost points of the side lot lines to the foremost point of the lot meet at one interior angle of less than 135.

**Density** - A unit of measurement; the number of dwelling units per acre of land.

1. Gross Density - The number of dwelling units per acre of land to be developed.
2. Net Density - The number of dwelling units per acre of land when the acreage involved includes only the land devoted to residential uses.

***\*Dormitory** – “a space in a building where group sleeping accommodation are provided in one room, or in a series of closely associated rooms, for person not members of the same family group, under joint occupancy and single management, as in college dormitories or fraternity houses.” (ORDINANCE NO. 19-03 ADMENDMENT)*

**Dwelling** - Any building or structure which is wholly or partly used or intended to be used for living or sleeping by one or more human occupants.

**Dwelling, Single Family** - A building occupied exclusively for residential purposes by one family or one housekeeping unit.

**\*ADMENDMENT - ORDINANCE NO. 19-03**

**Dwelling, Duplex** - A dwelling consisting of two dwelling units intended for the use of two separate families, which may be either attached side by side, or one above the other, and each unit having a separate or combined entrance or entrances.

**Dwelling, Multi - Family** - A family dwelling consisting of three or more dwelling units including condominiums with varying arrangements of entrances and party walls.

**Dwelling Unit** - A single unit providing complete independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation.

**Elderly Housing** - Multiple family structures containing at least eight (8) units and solely devoted to housing families consisting of two (2) or more persons, of which the head (or his spouse) is sixty-two (62) years of age or over or is handicapped, and single persons who are sixty-two (62) years of age or over or are handicapped.

**Entertainment, Live** - Any performance at a restaurant, lounge, or night club or social organization by any person, including but not limited to a patron of such establishment if such performance is part of a regularly occurring event. Live entertainment includes, but is not limited to, singing, dancing, musical performance, comedy acts, magic acts, variety acts, or performance contests engaged in by patrons.

**Family** - One or more persons occupying a single dwelling unit, provided that unless all members are related by blood, adoption, or marriage, no such family shall contain over five (5) persons.

**Floodplain** - The 100 year floodplain as shown on National Flood Insurance program maps or as determined by hydrologic calculations.

**Floodway** - The channel of a water course and that portion of adjacent land needed for the passage of a 100-year flood. If no maps or hydrologic calculations are available, floodplain soils as designated in the Soil Survey for Pulaski County, Kentucky (April 1964) shall be presumed to be within the floodway. These soils are designated by the following map symbols: Br, Du, Hf, Hg, Hu, Ls, Me, Ng, Nk, Sg, Sm and St.

**Floor Area** - The sum of the gross areas of the several floors of a building or buildings measured from the exterior faces of exterior walls or from *the* center lines of walls separating two buildings. In particular, floor area includes:

- a. basement space at least seven and one-half (7½) feet in height,
- b. elevator shafts or stairwells at each floor,
- c. penthouses,
- d. attic space (whether or not a floor has been laid) providing structural headroom of seven and one-half (7½) feet or more, interior balconies, mezzanines, hallways, lobbies,
- e. floor space in accessory buildings not used for off street parking,
- f. and any other floor space not specifically excluded.



However, the floor area of a building shall not include:

- a. non-habitable basement space which is less than seven and one-half (7½) feet in height,
- b. elevator or stair bulkheads,
- c. accessory water tanks, or cooling towers,
- d. outside steps that are uncovered,
- e. attic space (whether or not a floor has been laid) providing structural headroom of less than seven and one-half (7½) feet in height,
- f. mechanical equipment space,
- g. interior space used exclusively as parking space for motor vehicles,
- h. and laundry rooms, game rooms, or other spaces designed for the common use of the occupants.

**Floor Area Ratio** - Floor area of buildings on a lot divided by ground area of the lot on which it is located.

**Garages, Private** - A detached accessory building or portion of a principal building for the parking or temporary storage of automobiles, travel trailers, and/or boats of the occupants of the premises.

**Garages, Public** - A principal or accessory building other than a private garage, used for parking or temporary storage of passenger automobiles, and in which no service shall be provided for remuneration.

**Garden Center** - Establishments used primarily for the sale of live plants, including greenhouses and plant nurseries. When accessory to the sale of plants, the sale of the following items shall be allowed: Cut plants, cut trees, and wreaths, bulbs and seeds which may have been transported to the premises for the purpose of resale; ground covers; fungicides, insecticides, chemicals, peat moss, humus, mulches and fertilizers; lawn statuary, furniture, bird baths, bird feeders, birdhouses and pottery; pots and containers for plants; artificial flowers; home lawn and garden equipment including manual and automatic grass cutting devices, grass seeding devices, mulchers, thatchers, tillers, but not including farm tractors and machinery; garden landscape devices including railroad ties, stepping stones, fencing, edging, trellises, plastic and burlap; hand tools such as sprayers, shovels, dusters, rakes, hues, and watering devices; firewood; landscape planning and contracting services incidental to the garden center to include contractual services for lawn and garden sprigging, maintenance, fertilizing, spraying and mowing.

**Hazardous Materials** - Any chemical, biological or radiological compound, gas, oil, gasoline, lubricant or other petroleum products, substances, solution or mixture which because of its quality, quantity, concentration, physical or infectious characteristics, or any combination thereof, when released into the environment, presents or may present harmful or potentially harmful effects to human health or welfare or the environment.

**Height of Building** - The vertical distance from the established grade in front of the lot or from

the average natural grade at the building line, if higher, to the average height of the top of the cornice of flat roofs, or roofline or to the deck line of a mansard roof, or to the middle height of the highest gable or dormer in a pitched or kipped roof, or if there are no gables or dormers, to the middle height of such pitched or kipped roof

**Height to Yard Ratio** - Height of building as related to minimum rear and each side yard permitted; i.e., for 2: 1 ratio, a forty (40) foot building must have a minimum rear and each side yard of twenty (20) feet.

**Heliport** - A facility used exclusively for helicopter operations including landing, takeoff, loading, discharging, fueling, maintenance, and/or transient storage of helicopters.

**Home Occupation** - A gainful occupation or profession carried on in a residence such as the studio of an artist or sculptor, dressmaking and tailoring, upholstery, handicrafts, tutoring, individual musical instruction (provided no instrument is amplified) and professional services, provided such home occupation is performed under the following conditions:

1. The use is clearly incidental and secondary to use for dwelling purposes and occupies no more than twenty-five percent (25%) or three hundred (300) square feet of the dwelling, whichever is less;
2. The use is conducted entirely within a dwelling and not in any accessory building;
3. The use is carried on only by residents of the dwelling;
4. No commodities are sold or stored except as are produced by the residents on the premises;
5. The use does not require external alteration of the dwelling;
6. The use does not adversely affect the uses permitted in the immediate neighborhood by excessive traffic generation or noise.
7. No outside signage shall be permitted on the premises;
8. No additional blacktop, concrete or gravel parking shall be permitted beyond that normally provided in comparable neighborhood homes.

Home occupation shall not include barber shops, beauty or massage parlors, automobile and small engine repair, medical or dental office, photo studios, palm reading or fortune telling, home cooking and catering, and uses other than upholstery which are first permitted in the B-2, I-1 or I-2 zone.

**Home Office** - An office for record keeping and administration of work which is conducted elsewhere than on the premises. Such office shall be subject to the following conditions:

1. The office shall be clearly incidental and secondary to the use for dwelling purposes with no more than twenty-five (25%) percent nor more than five hundred (500 sf) square feet in any case of the dwelling devoted to the office use.
2. The office shall be located in the dwelling unit and not in any accessory building.
3. The office shall be operated by and shall employ only, residents of the dwelling unit.

4. No sale of merchandise shall be conducted on the property.
5. No commodities or merchandise shall be stored on the property and no storage, as defined herein shall be permitted.
6. No signs of any kind shall be displayed on the property which identifies the home office use.
7. The residence shall maintain its residential character and shall not be altered or remodeled so as to change residential appearance of the building.

**Hotel or Motel and Apartment Hotel** - A building in which lodging or boarding and lodging are provided and offered to the public for compensation. As such it is open to the public in contradistinction to a boarding house, rooming house, lodging house, or dormitory which is herein separately defined.

**Junk Yard** - A place where waste or discarded or salvaged materials are bought, sold, exchanged, stored, baled, cleaned, packed, disassembled, handled, including auto wrecking yards, used lumber yards and places or yards for use of salvaged house wrecking and structural steel materials and equipment, but excluding such uses when conducted entirely within a completely enclosed building and excluding pawn shops and establishments for the sale, purchase or storage of used cars in operable condition, salvaged machinery, used furniture and household equipment, and the processing of used, discarded or salvaged materials as part of manufacturing operations, and vehicle storage yards.

**Kennel** - Commercial business for the sale or temporary boarding of more than three (3) dogs, but not including the ownership and occasional sale of dogs at, in, or adjoining a private residence.

**Kitchen Facilities** - Equipment arranged in a room or some other space in a structure which facilitates the preparation food including, but not limited to, a combination of two or more of the following--a range, microwave oven, dishwasher, kitchen sink, or refrigerator.

**Loading Space, off Street** - Space logically and conveniently located totally outside any street or alley right-of-way for bulk pickups and deliveries, scaled to delivery vehicles expected to be used and accessible to such vehicles when required off-street parking spaces are filled. Required off-street loading space is not included as off-street parking space in computation of required off-street parking space.

**Lodging House** - A building or part thereof, including a boarding house, with sleeping rooms available for hire with or without meals to five (5) or more persons primarily not transients. Where kitchen facilities or provisions for the same are included in a sleeping room, such room shall be deemed a dwelling unit.

**Lot** - For the purpose of these regulations, a lot is a parcel of land of sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an existing public street. Street right-of-way's shall not be included in the calculation of Lot area.

**Lot Coverage** - The ratio of enclosed ground floor area of all buildings on a lot to the

horizontally projected area of the lot, expressed as percentage.

**Lot Frontage** - The front of a lot shall be constructed to be the portion nearest the street. For the purpose of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as indicated under Yards in this section.

**Lot Measurements** - A lot shall be measured as follows:

A Depth of a lot shall be considered to be the distance between the mid-points of straight lines connecting the foremost points of the side lot lines in front and the rear most points of the side lot lines in the rear.

B. Width of a lot shall be considered to be the distance between straight lines connecting front and rear lot lines at each side of the lot, measured at the building setback line, provided however, that the width between side lot lines at their foremost points (where they intersect with the street line) shall be less than eighty (80) percent of the required lot width.

**Lot of Record** - A lot which is part of a subdivision recorded in the office of the county recorder, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

**Manufacturing (Industry), Heavy** - Manufacturing, processing, assembling, storing, testing, and similar industrial uses which are generally major operations and extensive in character; require large sites, open storage and service areas, extensive services and facilities, ready access to regional transportation, and normally generate some nuisances such as smoke, noise, vibration, dust, glare, air pollution, and water pollution, but not beyond the district boundary.

**Manufactured Home** - A dwelling unit that: (i) is not constructed in accordance with the standards set forth in the Kentucky Building Code, and (ii) is composed of one or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported to the home site on its own chassis, and (iii) has a minimum living space of at least 400 square feet.

**Manufactured Home, Class A** - A manufactured home constructed after July 1, 1976, that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction and that satisfies each of the following additional criteria:

- a. The minimum width of the main body of the home, as assembled in the site is not less than twenty four (24) feet as measured across sixty-five (65) percent of the total length.
- b. Has a minimum area of at least eight hundred sixteen (816) square feet.
- c. The pitch of the home's roof has a minimum vertical rise of one foot for each five feet of horizontal run, and the roof is finished with a type of shingle that is commonly used in standard residential construction;

- d. The exterior siding consists of wood, hardboard, or aluminum (vinyl covered or painted, but in no case exceeding the reflectivity of gloss white paint) comparable in composition, appearance, and durability to the exterior siding commonly used in standard residential construction;
- e. A continuous permanent masonry foundation, unpierced except for required ventilation and access, is installed under the home even if said wall is not structurally required by the manufacturer's installation specifications; and
- f. The tongue, axles, transporting lights, and removable towing apparatus are removed after placement on the lot and before occupancy.

**Manufactured Home, Class B** - A mobile home constructed after July 1, 1976, that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction but that does not satisfy the criteria necessary to qualify the house as Class A manufactured home.

**Mobile Home Class C**- Any manufactured home that does not meet the definitional criteria of a Class A or Class B manufactured home.

**Modular Home** - A dwelling unit constructed in accordance with the standards set forth in the Kentucky Building Code and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation. Among other possibilities, a modular home may consist of two sections transported to the site in a manner similar to a mobile home (except that the modular home meets the Kentucky Building Code) or a series of panels or room sections transported on a truck and erected or joined together on the site.

**Mobile Home Park** - Any site or tract of land at least one acre in size, upon which three (3) or more manufactured homes used for habitation are parked, either free of charge or for revenue purposes; including any roadway, building, structure, vehicle, or enclosure used or intended for use as a part of the facilities for such park.

**Non-conforming Use or Structure** - A building, structure, or use of land existing at the time of enactment of this regulation and which does not conform to the regulations of the district or zone in which it is situated.

**Open Space** - Outdoor area of a lot or tract which is designated and used for outdoor living, recreation, pedestrian access or planting. Such areas may be ground or roof space seventy-five percent (75%) open to the sky, balconies a minimum of five (5) feet wide, an enclosed deck, porch, or ground floor portions of a building constructed on columns. Off-street parking and loading areas, driveways, vehicular use area perimeter landscaping and interior landscaping, unenclosed fire escapes, or required front and side street side yard areas do not qualify as usable open space, provided however that those portions of the required side street side yard may qualify as usable open space provided that such open space is separated from the street right-of-way by a fence or solid screen planting.

**Parking Space, Off-Street-** For the purpose of this regulation, off-street parking space shall consist of an area adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room, but shall be located totally outside of any street or alley right-of-way.

**Pawnshop** - Any establishment which loans money on deposit of personal property, or which deals in the purchase of personal property on condition of selling the property back again at a stipulated price, or which makes a public display at its place of business of the sign generally used by pawnbrokers to denote their business, or which publicly exhibits a sign advertising money to loan on personal property for deposit.

**Plant Nursery** - An establishment engaged in the outdoor cultivation of only trees and shrubs for transplanting. A greenhouse may be an accessory structure when used to propagate and prepare the trees or plants for planting on the premises.

**Principal Structure** - A building in which is conducted a principal or conditional use. In any residential zone, any structure containing a dwelling unit shall be deemed a principal structure on the lot on which the same is located. Where a non-conforming use is the primary use on the property, the building in which it is located shall be deemed a principal structure.

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

**Semi-Public Use-** Churches, Sunday schools, parochial schools, colleges, hospitals, and other facilities of an educational, religious, charitable, philanthropic, or non-profit nature.

**Recreation Facilities-** Public or private facilities that may be classified as either "extensive" or "intensive" depending upon the scope of services offered and the extent of use. Extensive facilities generally require and utilize considerable areas of land and include, but need not be limited to hunting, fishing, and riding clubs and parks. Intensive facilities generally require less land (used more intensively) and include, but need not be limited to, miniature golf courses, amusement parks, stadiums, and bowling alleys.

**Recycling Drop-off Center** - A facility for the collection of waste paper, rags, scrap metal, or other discarded material not to include used furniture and household equipment, used cars or used lumber.

**Rehabilitation Home** - A building or group of buildings providing a supervised residence for persons recovering from the effects of drug or alcohol abuse, psychiatric disorders or as a condition of their parole or probation. Such home may provide counseling in educational, vocational, or other areas by a paid or volunteer staff and generally have twenty-four (24) hour-a-day supervision.

**Restaurant** - An eating establishment where food is served and/or consumed primarily within the building and where consumption of food in motor vehicles on the premises is not encouraged. : A restaurant may only include drive-through facilities (where food is served to patrons while in their motor vehicles through a window or other facilities and consumption on the premises in motor vehicles is not encouraged) as permitted and regulated in the zone in which the restaurant is located.

**Restaurant, Drive-in** - An eating establishment where food is served by employees or by self-service outside the building and consumed on the premises principally in a motor vehicle.

**Right-of-way**- A strip of land taken or dedicated for use as a public way. In addition to the roadway, it normally incorporates the curbs, lawn strips, sidewalks, lighting, an drainage facilities, and may include special features, required by the topography or treatment, such as grade separation, landscape areas, viaducts, and bridges.

**Roadside Stand** - A temporary structure designed or used for the display or sale of agricultural products grown on the premises upon which such a stand is located.

**Rooming and Boarding House** - A building designed or used to provide living accommodations for not more than six occupants in which there are no cooking facilities for each occupant, or in which all occupants share common cooking facilities.

**Satellite Dish Antenna** - A parabolic-shaped antenna structure used to receive television signals from satellites or other objects in terrestrial orbit.

**Satellite Dish Antenna, Ground-Mounted** - A satellite dish antenna mounted and anchored at grade so that the distance from the highest edge of the dish to the existing grade does not exceed twelve (12) feet.

**Satellite Dish Antenna, Pole-mounted** - A satellite dish antenna mounted and anchored to the ground by a pole so that the distance from the highest edge of the dish to the existing grade exceeds twelve (12) feet.

**Satellite Dish Antenna, Roof-Mounted** - A satellite dish antenna mounted directly upon the roof of a structure and not attached to any appurtenance such as a chimney, tower, or spire.

**Seat** - For the purposes of determining the number of off-street parking spaces for certain uses, the number of seats is the number of seating units installed or indicated, or each twenty-four (24) lineal inches of benches, pews, or space for loose chairs.

**Service Station** - Buildings and premises where gasoline, oil, grease, batteries, tires, and motor vehicles accessories may be supplied and dispensed at retail, and where in addition motor vehicle services may be rendered secondary to retail sales.

**Setback Line-** A line established by the subdivision regulations and/or zoning ordinance, generally parallel with and measured from the lot line, defining the limits of a yard in which no building, other than accessory building, or structure may be located above ground, except as may be provided in said codes. (see yards.)

**Sidewalk** -That portion of the road right-of-way outside the roadway, which is improved for the use of pedestrian traffic.

**Sign** - Any device designated to inform or attract the attention of persons not on the premises on which the sign is located.

**Storage** - The keeping, either indoors or outdoors, of equipment, vehicles, or supplies used in the conduct of a trade, business, or profession. Storage does not include the overnight parking in residential zones of a single vehicle weighing no more than two and one-half (2½) tons gross vehicle weight which, although used primarily for business, trade or professional purposes, also provides daily transportation to and from work.

**Structure** - Anything constructed or erected, the use of which requires location on the ground, or attachment to something having a fixed location on the ground. Among other things, structures include buildings, mobile homes, walls, fences, and billboards.

**Shopping Center** - A group of commercial establishments planned, developed, owned and managed as a unit, with off-street parking provided on the property and related in its location, size, and type of shops to the trade area which the unit serves.

**Thoroughfare, Street, or Road** - The full width between property lines bounding every public way of whatever nature, with a part thereof to be used for vehicular traffic and designed as follows:

- A. Arterial Street: A general term denoting a highway primarily for through traffic, carrying heavy loads and large volumes of traffic, usually on a continuous route.
- B. Collector Street: A thoroughfare, whether within a residential, industrial, commercial, or other type of development, which primarily carries traffic from local streets to arterial streets, including the principal entrance and circulation routes within residential subdivisions.
- C. Local Street: A street primarily for providing access to residential, commercial, or other abutting property.

**Townhouse** - A group of three or more single - family dwelling units constructed in a row of attached units separated by a common vertical wall and each having a separate lot and entrance at street level and capable of being subdivided into separate lots.

**Use** - The specific purpose for which land or building is designated, arranged, intended, or for which it is or may be occupied or maintained.



**Variance** - A variance is a modification of the strict terms of the relevant regulations where such modification will not be contrary to the public interest and where owing to conditions peculiar to the property and not the result of the regulations would result in unnecessary and undue hardship.

**Vehicle Storage Yard** - A place where vehicles, regardless of their condition, and not used in the conduct of a trade, business, or profession are kept. A vehicle storage yard does not include a yard for storage of dismantled or partially dismantled automobiles, automobile wrecking, or junk yards.

**Veterinary Animal Hospital or Clinic** - A place used for the care, grooming, diagnosis, and treatment of sick, ailing, infirm, or injured animals, and those who are in need of medical or surgical attention, and may include over-night accommodations on the premises for the treatment, observation and/or recuperation.

**Wood Lot, Commercial** - Premises, or portions thereof, used for seasoning and storage of firewood and for cutting and splitting of timber to produce firewood for later resale (excluding sawmills, planning mills).

**Yard** - A required open space other than a court unoccupied and unobstructed by any structure or portion of a structure from three (3) feet above the general ground level of the graded lot upward; provided accessories, ornaments, and furniture may be permitted in any yard, subject to height limitations and requirements limiting obstruction of visibility.

A. **Yard, Front:** A yard extending between side lot lines across the front of a lot and from the front lot line to the front of the principal building.

B. **Yard, Rear:** A yard extending between side lots across the rear of the principal building.

C. **Yard Side:** A yard extending from the principal building to the side lot line on both sides of the principal building between the lines establishing the front and rear yards.

## **ARTICLE 2 - GENERAL ZONING REGULATIONS**

### **2.1 APPLICATION OF REGULATIONS**

All existing and future structures and uses of premises within the City of Somerset shall conform with all applicable provisions of this regulation. Each zoning district is established to permit *only* those uses specifically listed as permitted, except as hereinafter provided under the non-conforming provisions, and is intended for the protection of those uses. No other uses are permitted.

### **2.2 GENERAL DEVELOPMENT REGULATIONS**

#### **2.21 COORDINATION WITH SUBDIVISION REGULATIONS**

In all cases where the ownership of land is divided for the purpose of eventual development of lots of any kind - residential, commercial, or industrial - the provisions of the Somerset Subdivision Regulations, including any and all amendments thereto, shall apply in addition to the provisions of the Zoning Ordinance.

#### **2.22 COORDINATION WITH BUILDING CODES**

In all cases involving the construction of a building - whether for residential, commercial, or industrial purposes and without regard to densities therein, the builder shall be required to furnish a signed and duly notarized statement from a certified electrician that state electrical codes have been fully complied with. In addition, all building construction projects governed under the State building Codes Program must have a certificate of occupancy issued by a State building inspector prior to occupancy.

#### **2.23 CONDITIONAL USE REGULATIONS**

Conditional uses may be permitted in districts as designated under the zoning district regulations, but only when specifically approved by the Board of Adjustment in accordance with KRS 100. Subdivisions, when permitted, shall be subject to the respective regulations governing their approval. All other conditional uses shall be subject to the following regulations:

A. All Districts: The following conditional uses only may be approved in **all** zoning districts:

1. Non-local public utility and private transmission lines and pipes
2. Radio, TV, and telephone transmission structures
3. Satellite dish antennas
4. Large utility structures and public service buildings
5. Government buildings and uses including Libraries

6. Residential Care facilities in accordance with KRS 100.982 and 100.984
  7. Cellular towers subject to all procedures as required by KRS 100 with an emphasis on co-location of facilities.
- B. Specified Districts: Other conditional uses may be approved only in those zoning districts where they are designated as conditional uses after the zoning district regulations schedule.
- C. Procedure: An applicant shall submit an application for a conditional use permit to the Administrative Official, and the applicant shall follow all procedures set forth in this regulation and KRS 100. The Administrative Official shall refer the application to the Board of Adjustment. The Board of Adjustment is authorized by **KRS 100** to grant, modify, or deny a conditional use permit. Other regulations for conditional use permits are as follows:
1. The Board of Adjustment 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 reference to the specific section in the zoning regulation listing the conditional use under consideration. The Board of Adjustment shall have the power to revoke conditional use permits or variances for non-compliance with conditions thereof.
- Furthermore, the Board shall have the right of action to compel offending structures or uses removed at the cost of the violator and may have judgment in person for such cost.
2. Granting of a conditional use permit does not exempt the applicant from complying with all of the requirements of this regulation and any other regulations and ordinances of the City of Somerset that may relate to the specified use.
  3. A conditional use permit shall be exercised within one (1) year from the date of issuance within the meaning of KRS 100.
  4. The Administrative Official shall review all conditional use permits, except for those for which all conditions have been permanently satisfied, at least once annually and shall have the power to inspect the land or structure where the conditional use is located in order to ascertain that the landowner is complying with all of the conditions which are listed on the conditional use permit. If the landowner is not complying with all conditions listed on the permit the Administrative Official shall report the fact in writing to the Chairman of the Board of Adjustment. The report shall state specifically the manner in which the landowner is not complying with the conditions on the conditional use permit, and a copy of the report shall be furnished to the Chairman of the Board of Adjustment. If upon hearing the report as required by KRS 100., the Board of Adjustment finds the facts alleged to be 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 Administrative Official to revoke the conditional use permit and to 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 of Adjustment has completed a conditional use permit and all conditions required are of such type that they can be completely and permanently satisfied, the Administrative Official, upon the request of the applicant, may if the facts warrant, make a determination that the conditions have been satisfied and note the conclusion in the margin of the copy of the conditional use permit which is on file with the Pulaski County Court Clerk, as required by KRS I 00. Therefore, said use, if it continues to meet the other requirements of the regulations, will be treated as a permitted use.
6. All final plats approved by the Planning Commission and 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. A copy of all regulations and the official maps of the planning unit shall be filed in the office of the City Clerk.

## **2.3 APPROVED WATER SUPPLY AND SEWAGE DISPOSAL FOR BUILDINGS**

All primary structures located within 200 feet of the City's public water lines shall be connected to the public water system. All commercial and industrial facilities shall be connected to the public sewage system and residential structures located within 200 feet of the City's sewage collection lines shall be connected to the public sewage treatment system unless a written exemption is obtained from the manager of the Somerset Utility Department. Such exemption shall only be granted if physical obstructions, surface elevations or other factors prohibit providing service.

In every other case, individual water supply and sewage disposal must meet the requirements set by the state regulations. The County Health Department's certificate approving proposed and completed water and sewerage facilities must accompany applications for building permits and certificates of occupancy.

## **2.35 REGULATION OF PRINCIPAL BUILDING**

One (I) principal residential building and its permitted accessory structures may be erected on any lot of record. Temporary structures are permitted during construction only.

## **2.4 SPECIAL REGULATIONS**

### **2.41 MOBILE HOME PARKS**

- A. Intent: It is the intent of this section to regulate the location of and to "encourage, stabilize, and protect the development of well-planned mobile home parks.
- B. Approval procedures: Mobile home parks shall contain no lots smaller than five thousand (5,000) square feet and shall be located only in an R-3 district and shall be developed according to the general standards and regulations stated in Item C, below. A development plan approved in accordance with Section 8.4 is required prior to the construction or occupation of any mobile home park. All homes placed for occupation in a mobile home park are required to have a building permit. Only Class A and Class B manufactured homes are permitted in mobile home parks. Class C manufactured homes are considered non-conforming structures.

C. General standards for mobile home parks: The Planning Commission, shall review the particular facts and circumstances of each proposed mobile home park in terms of the following standards and shall find adequate evidence, as a condition of approval, showing that the mobile home park development:

1. Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the character of the general vicinity.
2. Will not be hazardous or detrimental to existing or future neighborhood uses.
3. Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, fire hydrants, street lights, drainage, refuse disposal, and schools or that the persons or the agencies responsible for the establishment of the proposed park shall be able to provide adequately any such services.
4. Will be consistent with the intent and purpose of this regulation and the Comprehensive Plan.
5. Will have vehicular approaches to the property which shall be so designed as not to create an interference or safety hazard with traffic on surrounding public streets or roads.
6. Will not result in the destruction, loss, or damage of natural scenic, or historic features of major importance.

D. Mobile Home Parks Locational and Design Standards: A minimum of 10 acres with a minimum of 200' of frontage on an arterial or collector street as determined by the Commission. Principal access shall be at a location where traffic congestion does not exist at the present and such future congestion will be minimized. No vehicular entrance or exit will be within 200 feet of the property line on any lot containing a school, public playground, church, hospital, library, nursing or rest home except where that building or property is in another block or fronts a street on which the mobile home park has no access.

## **2.42 MANUFACTURED HOMES**

- A. Type A manufactured homes on concrete foundations are permitted in the R-3 district. They must meet all other zoning requirements.
- B. Type B manufactured homes are permitted only in mobile home parks with R-3 district.
- C. Type C manufactured homes are non-conforming structures in all districts.
- D. No manufactured homes shall be erected or placed for occupation within the city unless a building permit has been issued by the administrative official.
- E. Manufactured homes shall be oriented on lots in a manner similar to most surrounding homes unless otherwise approved by the administrative official as part of the building permit. For example, the narrow side of the house shall not be facing the street when surrounding homes have the long side of the house facing the street.

## 2.43 SHOPPING CENTERS

Shopping centers are permitted only in the B-1, B-2, and B-3 business districts. A development plan must be approved in accordance with Section 8.4 prior to the issuance of a building permit for any shopping center.

A Intent: It is the intent of this section to regulate the location of, and to encourage the development of, well-planned shopping centers; and to fully integrate the development of shopping centers with the community's overall land-use, transportation, and utility potentials and goals. These intents provide for the specific purposes of:

1. Minimizing any adverse effects of a shopping center on adjacent property values while providing for safe and efficient use of the shopping center itself
2. Providing for a functionally-efficient and aesthetically pleasing area in which to shop.
3. Assuring that the area is designed and located so as to minimize traffic congestion on public highways and streets in the vicinity and to best fit the general land use patterns of the area to be served.
4. Assuring that adequate street and utility access is available.

### C. Dimensional and Design Standards for Shopping Centers:

1. No permanent building or structure shall be located within thirty feet of the right-of-way line of any public road, street or highway containing a right-of-way width of fifty feet or less. No permanent building or structure shall be located within twenty feet of the right-of-way line of any public road, street, or highway with a right-of-way width of between fifty-one (51) and seventy-five (75) feet. No permanent building or structure shall be located within fifteen (15) feet of the right-of-way line of any public road, street, or highway containing a right-of-way width of seventy-six (76) or more feet.
2. The above requirement may be waived by the planning commission if it finds that said street is unlikely to be widened past current right-of-way limits within the next twenty years, and that the literal enforcement of the above provision would result in an unnecessary and undue hardship to the applicant.
3. No primary access route from any arterial public road, street, or highway to any shopping center shall be located closer than one hundred linear feet from the nearest intersection or within 100 feet of another primary access drive along the same arterial.
4. Marginal access streets (frontage roads) may be required parallel to and adjacent to any public road, street, or highway if deemed necessary by the planning commission to avoid traffic problems and congestion along adjacent arterial streets. When required, such frontage roads shall be not less than twenty-six (26) feet wide, which shall be improved and paved in accordance with accepted standards.

5. Parking spaces shall be required at the ratio of eight (8) spaces for the first one thousand (1,000) square feet gross floor area for all shopping centers, in addition to parking required by the appropriate schedule of district regulations.
6. Each shop or business shall be provided with a rear or side entrance that is accessible to a service drive. The service drive shall be in addition to and shall not be a part of the drive or circulation system used by the vehicles of customers or shoppers. The arrangement of truck loading and unloading facilities for each shop or business shall be such that in the process of loading and unloading no truck will block the passage of any other vehicles using the service drive or extend into any other private drive, street, avenue, or vehicular circulation system.
7. All shopping centers shall be permanently screened in accordance with the landscaping requirements in Article 6 of this Ordinance. Additional landscaping may be required at the discretion of the Planning Commission. Within six months of the opening of the first established business, screening as required must be completed.

#### **2.44 MULTI-FAMILY DWELLING UNITS & TOWNHOUSES DEVELOPMENT PLAN REQUIRED**

For all multi-family dwelling units (4 or more units) and townhouses, a development plan approved in accordance with Section 8.4 is required prior to issuance of a building permit.

Before approving the development plan, the planning commission may impose additional requirements pertaining to landscaping, screening, road requirements, open space and similar requirements. These additional requirements are to insure that the proposed development does not pose a safety hazard, will not adversely affect surrounding properties and will be aesthetically pleasing.

Townhouses will be a conditional use in R-2, R-3 and R-1A zones. The following standards will apply.

Minimum lot size	1,500 sf
Lot frontage	16'
Front yard	10'
Side yard	*
Rear yard	10'
Building height	35'
Lot coverage	none

- \* No more than 3 contiguous townhouses at the same setback. Buildings may penetrate up to 18" in front yard but average must meet required front yard. Required side yard is 6' for each yard of townhouses when no units or only one-unit fronts a side yard and a side yard of 20' when more than one-unit fronts on that side yard. Not less than 10% of the total lot area for any town-home shall be devoted to private usable open space. This space will be physically separated from other private space with a least dimension of 8'.

## **2.45 HOME OCCUPATION**

- A No person other than members of the family residing on the premises shall be engaged in such occupation and shall be owner occupied and be the principal residence.
- B. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than 25 percent of the floor area of the dwelling unit shall be used in the conduct of the home occupation.
- C. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such more occupation other than one sign, not exceeding four (4) square feet in area, non-illuminated, and mounted flat against the wall of the principal building.
- D. No home occupation shall be conducted in any accessory building.
- E. No traffic shall be generated by such home occupation in greater volume than would normally be expected in a residential neighborhood and any need for parking generated by the conduct of such home occupation shall meet the off-street parking requirements as specified in this regulation, and shall not be located in a required front yard.
- F. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.
- G. A home occupation permit shall be issued by the Board of Adjustment as a conditional use only in accordance to Section 2.32 of this regulation.

## **2.46 CHILD CARE FACILITIES**

- A Definitions - Child day care means the provisions of supplemental parental care and supervision:
  - a. for a non-related child or children;
  - b. on a regular basis;
  - c. for less than 24 hours a day; and
  - d. under license or certification by the Kentucky Department of Human Resources.

As used in this ordinance, the term is not intended to include babysitting services of a casual, nonrecurring nature or in the child's own home. Likewise, the term is not intended to include cooperative, reciprocative child care by a group of parents in their respective domiciles.



Child day care facility means a building or structure wherein an agency, person, or persons regularly provides care for a group of children for periods of less than 24 hours a day. Child day care facilities include family day care homes, Type I day care facilities, and Type II day care facilities. They do not include preschools or nursery schools.

1. Family day care home means a family abode of a person or persons who regularly provides direct care during part of the 24-hour day to three or fewer children, under 12 years of age who are not related to the operator by blood, marriage or adoption.
2. Type II day care center means a licensed or certified home or dwelling unit that regularly provides for the care of four through 12 children.
3. Type I day care centers means a licensed or certified facility other than a dwelling unit that regularly receives 4 or more children for day care, or any facility, including a dwelling unit, which regularly provides day care for 13 or more children.

B. **Intent:** The City Council finds that affordable, good-quality, and licensed child day care within the City of Somerset is critical to the well-being of parents and children in the community. Furthermore, it is the purpose of this ordinance to make it easier to set up and operate licensed or certified child day care facilities by simplifying the review and approval process. At the same time, these standards are intended to preserve the residential character of neighborhoods.

C. **Family Day Care Home:** A family day care home shall be permitted by right in all zoning districts permitting residences, provided that:

1. State regulations are met, including those pertaining to building, fire safety, and health codes.
2. Lot size, building size, setbacks, and lot coverage conform to those applicable to the zoning district.
3. One off-street parking space is provided for each nonresident or non family member employee in addition to the two spaces per single-family or duplex unit required. The residential driveway is acceptable for this purpose.
4. If located on a major arterial street, an off-street drop-off/pick-up area must be provided.
5. Signage, if any, conforms to the requirements for the zoning district.
6. A Child Care Registration form is filed with the city.
7. No structural or decorative alternation that will alter the single-family character of an existing residential structure or be incompatible with surrounding residences is permitted.

D. Type II Day Care Centers: A state licensed or certified Type II day care center is allowed in the designated zoning districts as follows:

1. Residential Zoning Districts (R-1, R-1A, R-2 and R-3). A Type II day care center may be allowed only upon issuance of a conditional use permit.
2. All Other Zoning Districts A Type II day care center is permitted by right in all other zoning districts except 1-2 unless it is intended to serve only employees of an industry located in that zone and provided the conditions set forth in Section 2.46(C) of this ordinance are met.

E. Type I Day Care Centers: A state certified or licensed Type I child day care center may be allowed in the designated zoning districts as follows:

1. Limitation in Use of Family Residence. No Type I day care center shall be located in a private family residence unless the portion of the residence where the children have access is used exclusively for children during the hours the center is in operation or is separate from the usual living quarters of the family.
2. All Residential Zones. A Type I day care center may be allowed in residential zoning districts only upon issuance of a conditional use permit and subject to the following conditions:
  - a. State licensing or certification requirements are met, including those pertaining to building, fire safety, and health codes.
  - b. Lot size, building size, setbacks, and lot coverage conform to those applicable to the zoning district.
  - c. Signage, if any, will conform to the requirements of the zoning district.
  - d. Filing of Child Care Registration form with the city.
  - e. At least one on-site parking space must be provided for each on-duty staff person.
  - f. An on-site vehicle turnaround, or separate entrance and exit points, and passenger loading area must be provided.
  - g. A solid fence at least six feet high must be installed along each side - and rear-yard lot line.
  - h. No structured area for active play or play structures may be located in a front yard or within 10 feet of a side or rear lot line.
  - i. The site must be landscaped in a manner compatible with adjacent residences.

- J. No structural or decorative alteration that will alter the residential character of an existing residential structure used for a child mini-day care or child day care center is permitted. Any new or remodeled structure must be designed to be compatible with the residential character of the surrounding neighborhood.
  - k. A Type I child day care center shall not be located within 300 feet of another child Type I or Type II day care center, excluding any day care center that is an accessory use in a community service facility.
3. All Other Zoning Districts. A child day care center is permitted by right in all other zoning districts subject to the following conditions:
- a. State licensing and certification standards and requirements are met.
  - b. Setbacks, screening, and landscaping shall conform to the pertinent portions of the zoning code.
  - c. Structure shall meet building, sanitation, health, traffic safety, and fire safety code requirements.
  - d. A minimum of one off-street parking space shall be provided for each employee, plus an off-street drop-off/pick-up area.
  - e. Filing of a child care registration form with the city.
  - f. Only allowed in the 1-2 if it is intended to serve only employees of an industry located in the zone.

## **2.47 PLANNED UNIT DEVELOPMENTS**

### **A. Objectives for Planned Unit Developments.**

- 1. A maximum choice of living environments by allowing a variety of housing and building types and permitting an increased density per acre and a reduction in lot dimension, yards, building setbacks, and area requirements;
- 2. A more useful pattern of open space and recreation areas and, if permitted as part of the project, more convenience in the location of accessory commercial uses and services;
- 3. A development pattern which preserves and utilizes natural topography and geologic features, scenic vistas, trees and other vegetation, and prevents the disruption of natural drainage patterns;
- 4. A more efficient use of land than is generally achieved through conventional development resulting in substantial savings through shorter utilities and streets;

5. A development pattern in harmony with land use density, transportation facilities, and community facilities objectives of the Comprehensive Plan.

The City is also prepared to accept a greater population density in undeveloped areas than that reflected by present zoning, provided the developer can demonstrate that any increment of public cost clearly attributable to increased densities will be compensated for by the private amenities and public benefits to be achieved by the plan of development.

**B. Provisions Governing Planned Unit Developments.**

Because of the special characteristics of planned unit developments, special provisions governing the development of land for this purpose are required. Whenever there is a conflict or difference between the provisions of this Article and those of the other Articles of this Ordinance, the provisions of this Article shall prevail for the development of land for planned unit developments. Subjects not covered by this Article shall be governed by the respective provisions found elsewhere in this Ordinance.

**C. Uses Permitted.**

Compatible residential, commercial, industrial, public, and quasi-public uses may be combined in PUD districts provided that the proposed location of the commercial or industrial uses will not adversely affect adjacent property, and/or the public health, safety, and general welfare. Lot areas and other yard requirements of the residential districts established shall apply.

**D. Project Ownership.**

The project land may be owned, leased, or controlled either by a single person or corporation, or by a group of individuals or corporations. Such ownership may be by a public or private corporation.

**E. Common Open Space and Disposition Thereof.**

A minimum of twenty (20%) percent of the land developed in any planned unit development project shall be reserved for common open space and recreational facilities for the residents or users of the area being developed. The required amount of open space land reserved under a planned unit development shall either be held in corporate ownership by owners of the project area for the use of each owner who buys property within the development or be dedicated to the City and retained as common open space for parks, recreation, and related uses. All land dedicated to the City must meet the Planning Commission's requirements as to size, shape and location. Public utility and similar easements and rights-of-way for water courses and other similar channels are not acceptable for common open space dedication to the City unless such land or right-of-way is usable as a trail or other similar purpose and approved by the Planning Commission. The responsibility for the maintenance of all open spaces shall be specified by the developer before approval of the final development plan.

F. Utility Requirements.

Underground utilities, including telephone and electrical systems, are required within the limits of all planned unit developments. Appurtenances to these systems which can be effectively screened may be exempted from this requirement if the Planning Commission finds that such exemption will not violate the intent or character of the proposed planned unit development. A variance may be granted by the Planning Commission and Board of Adjustments.

G. Minimum Project Area.

The gross area of a tract of land to be developed in a planned unit development district shall be a minimum of twenty (20) acres. However, smaller parcels of 10-20 acres shall be considered if no non-residential uses are included.

When the planned unit development proposes a mixture of residential uses with commercial and/or industrial uses, the Planning Commission may limit the development of not more than ten (10%) percent of the tract to commercial uses and not more than eight (8%) percent of the tract to industrial uses.

1. Minimum Lot Sizes.

Lot area per dwelling *unit* may be reduced by not more than twenty (20%) percent of the minimum lot area required *in* the Official Schedule of District Regulations. A diversity of lot sizes is encouraged.

2. Height Requirements.

For each foot of building height over the maximum height regulations specified, the distance between such buildings and side and rear property lines of the planned unit development project area shall be increased by one (1) foot addition to the side and rear yard required in the district.

3. Parking.

Off-street parking, loading, and service areas shall be provided in accordance with this Ordinance. However, off-street parking and loading areas shall not be permitted within fifteen (15) feet of any residential use.

4. Perimeter Yards.

Notwithstanding the provisions of this Article, every lot abutting the perimeter of the planned unit development district shall maintain all yard requirements specified for the applicable conventional zoning district.

5. Lots to Abut upon Common Open Space.

Every property developed under the planned unit development approach should be designed to abut upon common open space or similar areas. A clustering of dwellings is encouraged. In areas where town houses are used, there shall be no more than twelve (12) town house units in any contiguous group.

H. Procedure for Application and Approval of Planned Unit Development.

All proposed planned unit developments shall follow the procedure for plat preparation and subdivision approval as set forth in the Somerset Subdivision Regulations. In addition, the Planning Commission shall hold a public hearing on the preliminary plat of the proposed planned unit development to aid them in deciding the merits of the proposed project. (Nothing herein should be construed to mean that the land owner has the inherent right to develop a planned unit development. The Planning Commission has the power to decide whether or not to allow the planned unit development based on their experience, knowledge, public hearing, and the standards set forth herein. Accompanying all preliminary plats shall be calculations for overall density, parking requirements, and other material the Commission may reasonably require. If the Planning Commission approves the preliminary plat, the developer may proceed with activities leading to final plat approval (providing that the project shall be developed in conformance with the approved preliminary plat).

Upon approval by the Planning Commission and the Somerset City Council, a planned unit development district may be applied to any existing residential district. Upon approval of a final development plan, the Official Zoning Map shall be annotated for the land area involved so that the district name includes the notation "PUD".

A building permit and certificate of occupancy shall be required for each building in accordance with this Ordinance. Approval of a planned unit development shall expire if no substantial work on the site has begun within one (1) year of original approval and if the project is abandoned for more than twenty-four (24) consecutive months. (Abandonment shall be deemed to have occurred when no improvements have been made pursuant to the approved planned unit development plat.) All approved planned unit development plats shall be recorded in the County Clerk's Office.

**2.48 SPECIAL DISTRICTS**

A. Agricultural District

The purpose of the A-1 District is to preserve and protect the decreases supply of prime agricultural land. This district also is established to control the indiscriminate infiltration of urban development in agricultural areas which adversely affects agricultural operators and/or particularly to minimize urban-type development in rural areas until urban-type services and utilities can be efficiently provided.

B. Flood Plain District

Established by federal flood plain map. Buildings to be approved by the Planning and Zoning Commission.

C. Conservation District

The purpose of the C-1 District is to provide areas for public and quasi-public uses, areas for recreation and conservation purposes, and areas suitable for non-commercial recreation.

## **2.49 HISTORICAL DISTRICT OVERLAY**

A Intent

The purpose of this ordinance is to protect, perpetuate, and encourage the nondestructive use of structures and districts designated as having substantial historical, cultural, or architectural importance within the City of Somerset; to increase community pride and to enhance the identity of the City by protecting the City's heritage and prohibiting the avoidable destruction or defacement of its cultural assets; to strengthen the City's economic base by encouraging the preservation of its viable and distinctive neighborhoods; to prevent creation of environmental influences adverse to such purposes and to assure that new structures and uses within Historic Districts will be in keeping with the character to be preserved and enhanced.

B. Application of Historic District Regulations

The Historic District classification and regulations thereunder shall be established in addition to existing zoning classification and regulations. Where there are conflicts between the procedures and regulations herein established for Historic Districts and other procedures and regulations, it is intended that the more stringent shall apply.

C. Definitions

"Alteration": Any construction, addition, modification, moving, or destruction which would affect the exterior appearance of a structure which is located in a Historic District.

"Applicant": The recorded owner of the site and/or buildings located thereon, the lessee thereof, or a person holding a bona fide contract to purchase or lease same.

"Board": The Board of Architectural Review established herein.

"Certificate of Appropriateness": A document evidencing approval of the Board of Architectural Review, or by the Planning Commission in situations established herein, for work proposed by an applicant

"Commission": The Somerset Zoning Commission.

"Construction": The erection of any on-site improvements on any parcel of ground located within a Historic District, whether the site is presently improved, unimproved, or hereafter becomes unimproved by demolition, demolition by neglect, destruction of the improvements located thereon by fire, windstorm, or other casualty, or otherwise.

"Demolition": The complete or partial removal of a structure located within a Historic District, except partial destruction which does not affect exterior appearance.

"Demolition by Neglect": Neglect in the maintenance of any building resulting in deterioration to the extent that the building is structurally or visually damaged or threatened with damage, or that creates or permits a hazardous or unsafe condition as determined by the City Building Inspector.

"Exterior": All outside surfaces of any building, including the kind and texture of the building material, the type and style of all roofs, windows, doors, signs, light fixtures, steps, or appurtenant elements.

"Historic District": Any area designated according to the procedures established herein, including both single and multiple-property areas.

"Structure": Anything constructed or erected above ground level which requires location on the ground or attached to something having a location on the ground but not including a tent, vehicle, vegetation, or public utility pole or line.

#### D. Procedure for Establishment of Historic Districts

The procedure for establishment of additional Historic Districts shall be as follows:

##### 1. Application.

An application for the establishment of a Historic District may be filed only by the Board of Architectural Review, the Planning Commission, the Somerset City Council, the owner of the subject property, or by a person with written authorization of the owner. Said application shall be filed with the Board of Architectural Review in such form and accompanied by such information as required by the Board of Architectural Review. Upon the filing of an application by a governmental body, the Board of Architectural Review shall promptly notify the owner(s) by certified mail.

##### 2. Recommendation by Board of Architectural Review

Upon the filing of an application for the establishment of a Historic District, the Board of Architectural Review shall study and review the application. Before voting upon the application, the Board shall give notice of the time, place, and reason for holding a public hearing thereon in the same manner as for zoning map amendments. After notice of the public hearing and within sixty (60) days after the filing date, the Board shall hold a public hearing on the proposed application and recommend to the Planning Commission that the application be approved or disapproved.



After voting to recommend that an application for the establishment of an Historic Zone be approved or disapproved, the Board shall forward its recommendation, with its reasons therefore, in writing to the Planning Commission.

3. Recommendation by Planning Commission

The procedures for notice and public hearing before the Planning Commission and the Somerset City Council upon the recommendation regarding the establishment of a Historic District shall be the same as for zoning map amendments. After voting to recommend that an application for the establishment of an Historic District be approved or disapproved, the Commission shall forward its recommendation, with its reasons in writing to the Somerset City Council.

4. Action of Somerset City Council

The Somerset City Council shall act upon a proposed application for the establishment of a Historic District within sixty (60) days after receiving the Planning Commission recommendation. It shall take a majority of the entire City Council to override the recommendation of the Commission.

E. Board of Architectural Review

For the purposes of making effective the provisions of this ordinance, there is hereby created a board to be known as the Board of Architectural Review.

F. Membership

The Board of Architectural Review shall consist of five members to be appointed by the Mayor of Somerset. Two of the initial members shall be appointed for three years, two for two years, and one for one year, and, subsequently, members shall be appointed (1) for terms of three years as vacancies occur, (2) to fill the remaining term of any membership vacancy occurring during said term. A member may be reappointed at the conclusion of their term. The membership shall include at least one member of the architectural profession, the real estate profession, a resident or business occupant of a Historic District in Somerset, and a person who has displayed an active involvement in historic preservation. Members shall serve without pay.

G. Powers and Duties

The Board of Architectural Review shall exercise only those powers and duties granted by this ordinance and those powers and duties which may be assigned to it at a later time by the City Council or by further ordinances. The Board shall not consider interior arrangement or use but shall consider the historical and architectural qualities of the exterior of the buildings concerned and the relationship of the buildings concerned with all others in the District so as to avoid incongruity and promote harmony therewith. In all instances the Board shall regulate those outside surfaces of a building that can be viewed from a public right of way or street. Nothing in this ordinance shall be construed to prevent ordinary maintenance or repairs which do not involve a change of design, material, or of the outward appearance of a building. The authority of the Board shall apply in such cases of material change as painting previously unpainted masonry, sandblasting wood or masonry, or repainting of masonry walls.

## H. Organization and Meetings

The Board of Architectural Review shall elect from its membership a Chairperson, a Vice-Chairperson, and a Secretary, who shall serve for terms of one year and who shall be eligible for re-election. The Chairperson shall preside over the Board and shall have the same right to vote and speak as other members. In the absence or disability of the Chairperson, the Vice-Chairperson shall perform the duties of the Chairperson. If a vacancy shall occur in the office of Chairperson, the Vice-Chairperson shall become Chairperson for the unexpired portion of the term of the Chairperson. In the absence of both the Chairperson and Vice-Chairperson, the Board shall by a majority vote of those present choose one of their members to perform the duties of Chairperson. The Planning Commission may provide a secretarial staff for the Board of Architectural Review. Meetings shall be held at regularly scheduled times, or at the call of the Chairperson, or in his absence at the call of the Vice-Chairperson. A quorum shall consist of three members, but a lesser number may conduct public hearings or meetings at which the principal purpose is collection of information, provided that no action binding on the Board shall be taken at such hearings or meetings. All meetings and records of the Board of Architectural Review shall be public. Decisions by the Board shall be made by a majority vote of those members at any meeting where a quorum of members is present.

## I. Certificate of Appropriateness

A Certificate of Appropriateness shall be required before a person may undertake any exterior changes on a property or structure within a zone protected by an H-1 overlay. Ordinary maintenance may be undertaken without a Certificate of Appropriateness provided that the work involves repairs to existing features of a building or the replacement of elements of a building with identical pieces and provided that the work does not change the exterior appearance of the building. The Board of Adjustment shall by administrative regulation define the meaning of the terminology "exterior changes" and "ordinary maintenance".

### 1. Where Required

A Certificate of Appropriateness shall be required prior to the initiation of any new construction on, any exterior change to, or the demolition of all, or any part of, any building, structure or sign on any premises in a zone protected by an H-1 overlay.

### 2. Procedures for Issuance of a Certificate of Appropriateness for Exterior Changes and New Construction

Certificate of Appropriateness may be issued by Board of Architectural Review or by the Historic Preservation Office in accordance with provisions contained herein.

The Board may delegate actions to the Historic Preservation Officer, who may review applications without public hearing and action of the Board.

3. Certificate of Appropriateness Issued by the Board of Architectural Review

All applications for Certificate of Appropriateness shall be reviewed by the Board at a public hearing, except those applications for work which have been specifically delegated to the Historic Preservation Officer. In addition, the Board shall review all applications for Certificates referred by the Historic Preservation Officer or those requested for public hearing by the applicant.

4. Filing

The Board of Architectural Review, where it deems necessary in order to review a particular application, may require the submission of any or all of the following items: architectural plans, plot plans, landscaping plans, plans for off-street parking, plans for proposed signs, elevations of all portions of proposed additions to structures, photographs, elevations, or perspective drawings showing the proposed structure and existing structures that are within one hundred (100) feet or are substantially related to it visually or by reason of function, traffic generation or other characteristics.

Should the Board of Architectural Review find that the material submitted is not adequate for the proper review of the proposal, the Board of Architectural Review shall promptly notify the applicant and state the specific information that will be required. In such cases, the applicant shall not be deemed to have made a bona fide application to the Board of Architectural Review until the specific information is submitted.

S. Notice

Notice of the time, place and reason for holding a public hearing shall be given by first class letter at least fourteen (14) days in advance of the public hearing.

Further, the Board shall give notice of the time, place and reason for holding a public hearing by publication in the newspaper of highest circulation in Somerset, Kentucky, not earlier than twenty-one (21) days or later than seven (7) days before the public hearing.

6. Board of Architectural Review Public Hearing

After notice, the Board shall consider the request for a Certificate of Appropriateness at a public hearing. At the hearing, the Board shall receive the report of the staff, orally and/or in writing, and shall allow the applicant, protestors and other interested citizens to testify and rebut evidence presented by others, provided the Chairman shall have the power to limit repetitive testimony and exclude irrelevant testimony and evidence.

In its review of material submitted, the Board of Architectural Review shall examine the architectural design and the exterior surface treatment of the proposed construction on the site in question and its relationship to other structures within the area, the relationship of the proposed construction to the design of the building, and other pertinent factors affecting the appearance and efficient functioning of the historic district or the landmark.

The Board of Architectural Review shall not consider any interior arrangement and shall make no requirements except for the purpose of preventing development incongruous in scale, design or materials to the historic or architectural aspects of the district or landmark.

In reviewing proposals, the Board of Architectural Review shall refer to the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings and comply with the design guidelines and criteria adopted by the Historic Preservation Commission.

The Board of Architectural Review shall vote to approve all or part of the application or disapprove all or part of the application within ninety (90) days after the completed application is filed.

7. Certificate of Appropriateness Issuance

The Historic Preservation Officer shall promptly issue the Certificate of Appropriateness in accordance with the action of the Board of Architectural Review. Copies of the Certificate and the application materials shall be forwarded to the Building Inspector.

8. Certificates Issued by the Historic Preservation Officer

A Certificate issued by the Historic Preservation Officer is intended to expedite approval of routine applications for exterior changes without full hearing and action by the Board.

The Board may review and delegate items to the responsibility of the Historic Preservation Officer for review and issuance of Certificate of Appropriateness. The delegation of these items shall be reviewed by the Board at a public hearing and recorded in the minutes of the Board.

9. Procedures for Issuance of a Certificate by the Historic Preservation Officer

a. Filing

The applicant shall file sufficient information as to accurately depict the location, design and scope of the work to be done. The staff shall review the information and promptly notify the applicant if the material is not adequate for review and advise the applicant what specific information will be required.

b. Review

The staff shall review the application for compliance with the adopted guidelines and consult with other Divisions as appropriate to ensure proper review. Upon determination that all requirements of the guidelines have been met, and that the application complies with the requirements of the Board, the Historic Preservation Officer shall approve the application and issue the Certificate of Appropriateness. If any question arises as to compliance or if the Historic Preservation Officer or applicant feels that the application raises issues deserving review by the full Board, the request shall be referred to the Board for action.

10. Certificate of Appropriateness Issuance

Upon approval by the Historic Preservation Officer, the staff shall issue the Certificate of Appropriateness and notify the applicant. In addition, the staff shall forward a copy of the Certificate and application materials to the Building Inspector.

# 11. Certificate of Appropriateness for Demolition

The Building Inspector shall issue no permit which would result in the demolition of all or any part of a structure within a zone protected by an H-1 overlay unless and until a Certificate of Appropriateness has been approved by the Board of Architectural **Review**.

## a. Procedures

The procedure for review of a Certificate of Appropriateness for demolition shall be as set forth as above. The Board shall hear evidence concerning the application at its public hearing and may approve a Certificate only if one of the following conditions is determined to exist:

- The application is for demolition of an addition, for a portion of a building or for an accessory structure which is not significant to the principal structure, site, landmark or district and the approval of the application would not adversely affect those parts of a building, site, landmark or the historic district which are significant.
- The application is for the demolition or moving of a building, or portion of a building, which does not contribute to the character of and will not adversely affect the character of the property in a zone protected by an H-1 overlay.
- No reasonable economic return can be realized from the property and the denial of the application would result in the taking of the property without just compensation.

If the owner wishes to make a claim that the denial of the permit would amount to a taking of the property without just compensation, the owner shall submit to the Board of Architectural Review, not less than twenty (20) days prior to the public hearing, the following information:

## b. For all property:

- ▶ The amount paid for the property, the date of purchase and the party from whom purchased including a description of the relationship, if any, between the owner and the person from whom the property was purchased.
- ▶ The assessed value of the land and improvements thereon according to the two (2) most recent assessments recorded in the office of the Property Valuation Administrator.
- ▶ The two most recent real estate tax bills.
- ▶ Annual debt service for the previous two (2) years recorded by the lending agency.
- ▶ Appraisals obtained within the previous two (2) years by the owner in connection with his purchases, financing or ownership of the property.

- ▶ Listings of the property for sale or rent, price asked and offers received, if any.
  - ▶ Any consideration by the owner as to profitable adaptive uses for the property.
- c. For income-producing property:
- ▶ Annual gross income from the property for the previous two (2) years.
  - ▶ Itemized operating and maintenance expenses for the previous two (2) years.
  - ▶ Annual cash flow for the previous two (2) years.

The Board of Architectural Review may require that the property owner furnish such additional information as the Board of Architectural Review believes is relevant to its determination of taking without just compensation and may provide in appropriate instances that such additional information be furnished under seal. In the event that any of the required information is not reasonably available to the applicant and cannot be obtained by the applicant, the applicant shall file with his affidavit a statement of the information which cannot be obtained, and shall describe the reasons why such information cannot be obtained.

Should the Board of Architectural Review find that the material submitted is not adequate for the proper review of the proposal, the Board of Architectural Review shall promptly notify the applicant and state specifically the information that the Board requires.

Notwithstanding any other provision of this Article, the Board of Architectural Review, after hearing evidence at its public hearing, may vote to postpone action to approve or deny an appeal for a reasonable period of time not to exceed one ( 1) year from the filing date of application in order to conduct studies, surveys and/or gather information concerning the following:

- ▶ Alternatives which may be or may become available including restoration, rehabilitation, adaptive re-use, or other alternatives to demolition; and
- ▶ Study the question of economic hardship for the applicant including whether the landmark or the property can be put to reasonable beneficial use without the approval of the demolition; and whether the applicant can obtain a reasonable return from the existing building. If economic hardship or the lack of a reasonable return is not proved, the Board of Architectural Review shall deny the demolition application, giving the facts and reasons for its decision.

#### J. Approval by Board of Architectural Review

If the Board of Architectural Review recommends approval of the application for a building permit in a Historic District, it shall forward immediately its recommendation in writing stating the reasons for such approval to the Planning Commission. The Commission shall promptly cause a Certificate of Appropriateness to be issued to the applicant, shall at the

same time transmit a copy of said certificate to the Building Inspector. Upon receipt of the Certificate of Appropriateness, the Building Inspector shall issue the building permit if it meets all other zoning and legal requirements. The Building Inspector shall inspect the construction or alteration approved by such certificate from time to time and report to the Board of Architectural Review and the Zoning Commission any work not in accordance with such certificate.

K. Disapproval by Board of Architectural Review

If the Board of Architectural Review disapproves the application for a building permit in a Historic District, it shall promptly transmit a written report stating the reasons for such disapproval to the applicant and the Zoning Commission. In said written report the Board shall make recommendations in regard to an appropriate architectural design, exterior surface treatment, or other appropriate matters to make the application conform to the intent of the Historic District regulations. The applicant may then submit an amended proposal for further consideration by the Board of Architectural Review. The Board may work with the applicant for the year following a refusal to issue a Certificate of Appropriateness pursuant to an application that will conform to the intent of the Historic District regulations, or to seek alternative economic uses for the property.

L. Appeal

In the event the Board of Architectural Review disapproves an application for a building permit in a Historic District, the applicant for said permit may appeal to the Planning Commission which shall hold a public hearing thereon and shall vote on said appeal within ninety (90) days after the notice of appeal is filed with the Commission. The Commission shall give notice of the time, place, and reason for holding a public hearing thereon by publication in a newspaper of general circulation in Somerset not earlier than twenty-one (21) days or later than seven (7) days before the public hearing. If the Commission finds that the application for a building permit conforms to the intent of the Historic District regulations and it votes to approve the application, the Commission shall issue a Certificate of Appropriateness to the applicant and transmit a copy to the Building Inspector. If the Commission votes to disapprove the application for a building permit, it shall transmit its decision to the Building Inspector. In such cases, no building permit or certificate of occupancy shall be issued by the Building Inspector on said application for a period of one (1) year from the date of the decision of the Commission. After one (1) year from the date of the decision of the Commission, the Building Inspector shall issue the building permit provided that the application meets all other requirements of law.

Any person or persons aggrieved by any decision of the Planning Commission affecting a Historic District shall have the right to file a civil suit within thirty (30) days from the date of the decision in a court of competent jurisdiction under the usual rules of procedure governing orders and injunctive relief provided the situation warrants it.

M. Failure of Board of Architectural Review to Act

Upon failure of the Board of Architectural Review to take final action upon any case written ninety (90) days after the application for a building permit has been filed with the Building Inspector, and unless a mutual agreement between the Board of Architectural Review and the applicant has been made for extension of said time, the application shall be deemed to be approved and the Planning Commission shall promptly issue a Certificate of Appropriateness provided that the application meets all other requirements of law.

N. Demolition by Neglect

In the event the Board of Architectural Review determines that a Landmark or a building in a Historic District is being "demolished by neglect" they shall notify the property owner of this preliminary finding, stating the reasons therefor, and shall give the property owner thirty (30) days from the date of the notice in which to commence work rectifying the specific problems detailed by the Board. Such notice shall be accomplished in the following manner:

1. by certified mailing to the last known address of the property owner or
2. in the event the procedure outlined in (1) above is not successful, then such notice shall be attached to the building twice within a week.

Upon the property owner's failing to commence work, the Board of Architectural Review shall notify the property owner in the manner provided above to appear at the next public hearing of the Board. A representative of the board or the Planning Commission staff shall present to the Board at said public hearing the reasons for the notice, and the property owner shall have the right to present any rebuttal thereto. If thereafter, the Board shall determine that the building is being "demolished by neglect", and no efforts made to preserve it, the City may, through the Building Inspector or other appropriate officer of said department, bring charges against the applicant for the violation of this ordinance; and the City may cause such property to be repaired at its expense at such time as funds are appropriated; and in which event the City may file an affidavit to this effect in the office of the City Tax Assessor, which said notice shall constitute a lien and privilege against the property.

O. Penalties

Any person, firm, or corporation who violates any of the provisions of this ordinance shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to the same penalties that apply to other violations of the Somerset Zoning Ordinance, as set out in section 8 of said Ordinance.

P. Administration of Scenic Easements

The Board of Architectural Review may administer scenic easements on historic properties when such powers are delegated to the Board by the City.



## **2.5 GENERAL REGULATIONS FOR LOTS AND YARDS**

### **2.51 OBSTRUCTION TO VISION AT STREET INTERSECTIONS**

The following shall apply in all but the central business district. Within the area defined by the intersection of any two right-of-way lines of streets, or of streets and railroads, and a straight line intersecting those two right-of-way lines at points forty (40) feet from their intersection, no obstruction to vision between a height of two and one-half (1 1/2) feet, and ten (10) feet above the imaginary plane defined by those three points of intersection are permitted. This regulation shall not, however, be deemed to prohibit any necessary retaining walls.

### **2.52 VARIABLE SETBACKS FOR FRONT YARDS IN RESIDENTIAL ZONES**

The Board of Adjustment may allow variations in required front yard setbacks in all residential zones in order to encourage design innovation and avoid monotony in subdivisions. These variations should complement other innovative design efforts where practical.

### **2.53 FRONT YARD REGULATIONS FOR DOUBLE-FRONTAGE LOTS**

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

### **2.54 SIDE YARD REGULATIONS FOR CORNER LOTS**

The side yard requirements for all principal buildings on corner lots shall be such that no corner building extends toward the side street more than five (5) feet beyond the setback line set for buildings along the street to the corner lot. Accessory buildings shall conform to setback lines established on both streets and conform to the requirements of Section 2.61 of this regulation.

### **2.55 APPLICATION OF YARDS TO YARDS TO ONE BUILDING ONLY**

No part of a yard required for any building may be included as fulfilling the yard requirements for an adjacent building.

### **2.56 USE OF YARDS FOR ACCESSORY BUILDING**

No accessory buildings are permitted in front yards and within five (5) feet of other buildings. Accessory buildings are permitted in rear or side yards but must comply with dimensional and area regulations.

### **2.57 FENCES, WALLS, HEDGES**

Notwithstanding other provisions of this ordinance, fences, walls, and hedges may be permitted in any required yard, or along the edge of any yard as long as they do not obstruct the visibility at intersections as required in Section 2.61.

## **2.6 USE EXCEPTIONS**

Several types of structures and uses which may or may not be listed as permitted uses in any district are nevertheless not prohibited from any district. These structures and uses, with required permits, are:

Q. No building permit or certificate of occupancy required:

1. Local public utility distribution and collection structures such as pipes and transmission lines, transformers, meters, etc. Large utility structures such as substations are permitted only as special use.
2. Public streets and all appurtenances necessary for traffic direction and safety.
3. Private drives, private parking areas, and the parking of vehicles incidental to the principal use on the same premises.
4. Real estate signs located on the premises being advertised for sale or for rent, not to exceed a total of ten (10) square feet in the sign area.
5. Signs not over six (6) square feet in the area identifying permitted home occupations on the same premises.
6. Horticulture and landscaping of any premises.
7. Agriculture, but not including agricultural structures.

B. Churches are conditional uses in all residential zones, and must comply with overall yard, access and landscaping requirements for the neighborhood as a whole and for the zone in question.

## **2.7 REGULATION OF PRINCIPAL BUILDING.**

Only one (1) principal building and permitted accessory structures may be erected on any lot or parcel of land, unless a development plan has been approved by the Commission pursuant to Article 7 allowing multiple principal structures. Temporary structures are permitted during construction only, and Class A, B, or C mobile homes may be utilized as temporary structures. Temporary occupancy shall not exceed one year during construction of a residence nor two years during construction of other projects, provided, however, that the enforcement officer may grant an extension of time for good cause shown.

## **2.8 EXCEPTIONS TO HEIGHT REGULATIONS**

The height regulations contained in the schedule of district regulations do not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.

## **2.9 STRUCTURES TO HAVE ACCESS**

Every building hereafter erected or moved shall either be on a lot adjacent to a public street, or with access to an approved private street or drive, and all structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection and required off-street parking.

## **2.10 SAFETY**

All lots and subdivisions shall be so laid out, and all structures shall be constructed so as to provide for the maximum in visibility during accessing and parking vehicular movements. Driveways shall be so constructed as to prevent children-vehicular conflict to the maximum degree possible.

## **2.11 SATELLITE DISH ANTENNAS**

Satellite dish antennas shall be permitted in all zones and shall be subject to the following provisions regulating location, height and size:

- A. When located in any residential zone, satellite dish antennas shall be limited and regulated as follows:
  - 1. Satellite dish antennas shall be prohibited in any required front yard.
  - 2. For single-family, duplex and townhouse dwellings, one (1) per dwelling unit.
  - 3. For multi-family dwellings, one (1) per multi-family building.
  - 4. For all other uses permitted in the residential zones not specifically provided for otherwise (e.g., schools, churches, etc.), one (1) per building.
  - 5. The maximum diameter of any satellite dish antenna shall be twelve (12) feet.
  - 6. The maximum height of any portion of the satellite dish antenna shall be four (4) feet above the highest point of the principal building on the lot, regardless of the height of the structure or the maximum height restriction in the zone.
  - 7. All satellite dish antennas shall be for private non-commercial use only and shall be accessory to a principal use on the property.
  - 8. Satellite dish antennas with a diameter of greater than six (6) feet shall be of the mesh type only and shall be painted a solid dark color.
- B. When located in a business, office or industrial zone, satellite dish antennas shall have no restriction as to location, height, size or number per lot.

## ARTICLE 3: NON-CONFORMING SITUATIONS

### 3.1 INTENT

Within the districts established by this regulation or amendments that may later be adopted there exists lots, structures, and uses of land, and structures which were lawful before this regulation was passed originally or amended but which would be prohibited, regulated, or restricted under the terms of this regulation or future amendment. It is the intent of this regulation to permit these non-conformities to continue until they are removed, but not to encourage their survival. It is further the intent of this regulation that non-conformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

- A. Incompatibility of non-conforming uses: Non-conforming uses are declared by this regulation to be incompatible with permitted uses in districts in which the use is located. A non-conforming use of a structure and land in combination shall not be extended or enlarged after passage of this regulation by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which would be generally prohibited in the district in which such use is located.
- B. Avoidance of undue hardship: To avoid undue hardship, nothing this regulation shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this regulation and upon which actual building construction has been carried on diligently. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun prior to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

### 3.2 NON-CONFORMING LOTS OF RECORD

- A. In any residential district a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this regulation notwithstanding limitations imposed by other provisions of this regulation, so long as at least 20 feet of open space is left between the primary residential or accessory structure and the nearest existing building or residential structure located on adjacent property. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided also that the yard dimensions and requirements other than those applying to area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. Variance of yard requirements shall be obtained only through action of the Board of Adjustment.
- B. If two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this regulation and if all or part of the lots do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this

regulation and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this regulation nor shall any division or any parcel be made which creates a lot with width or area below the requirements stated in this regulation.

- C. The Board of Adjustment may amend the requirements for a landscaped separation strip where such a strip is required by the "Schedule of District Regulations", and where the lot in question does not conform to the width and general yard or lot requirements of the schedule, or where the restriction is unnecessary due either to a vacancy of the adjoining residential lot or its large size combined with relatively distant structural spacing. In no case, however, shall the width of the separation strip be reduced by more than 50 percent.

### **3.3 CONTINUATION OF NON-CONFORMING STRUCTURES**

- A Alterations: A non-conforming structure shall not be enlarged, replaced or structurally altered except as provided for in this ordinance. Minor repairs to and routine maintenance of property where nonconforming situations exist are permitted and encouraged. Major renovation, i.e., work estimated to cost more than 25 percent of the appraised valuation of the structure to be renovated may be done only in accordance with a building permit issued pursuant to this ordinance.
- B. Restoration: If a structure located on a lot where a nonconforming situation exists is damaged to an extent that the costs of repair or replacement would exceed 25 percent of the appraised valuation of the damaged structure, then the damaged structure may be repaired or replaced only in accordance with a building permit. This section does not apply to structures used for single-family residential purposes, which structures may be reconstructed pursuant to a building permit just as they may be enlarged or replaced in section 2.42(E).
- C. For purposes of Section 2.42 (A) and (B):
  - I. The "cost" of renovation or repair or replacement shall mean the fair market value of the materials and services necessary to accomplish such renovation, repair or replacement.
  - 2. The "cost" of renovation or repair or replacement shall mean the total cost of all such intended work, and no person may seek to avoid the intent of Subsections (A) or (B) by doing such work incrementally.
  - 3. The "appraised valuation" shall mean either the appraised valuation for property tax purposes, or the valuation determined by a licensed property appraiser.
- D. The administrator shall issue a building permit authorized by this section if they find that, in completing the renovation, repair or replacement work:
  - 1. No violation of Section 2.41 will occur, and
  - 2. The permittee will comply to the extent reasonably possible with all provisions of this ordinance applicable to the existing use (except that the permittee shall not lose their right to continue a nonconforming use).

Compliance with a requirement of this chapter is not reasonably possible if compliance cannot be achieved without adding additional land to the lot where the nonconforming situation is maintained or moving a substantial structure that is on a permanent foundation. Mere financial hardship caused by the cost of meeting such requirements as paved parking does not constitute grounds for finding that compliance is not reasonably possible.

- E. Notwithstanding Section 2.41 (A), any structure used for single-family residential purposes including existing manufactured homes and maintained as a nonconforming use may be enlarged or replaced with a similar structure of a larger size, so long as the enlargement or replacement does not create new non-conformities or increase the extent of existing nonconformities with respect to such matters as setback and parking requirements. This paragraph is subject to the limitations stated in Section 2.43(8) (abandonment and discontinuance of nonconforming situations).

### **3.4 CONTINUATION OF NON-CONFORMING USES/SITUATIONS**

The lawful use of a building or premise existing at the time of adoption of any zoning regulation affecting it may be continued, although such use does not conform to the provisions of such regulations, except as otherwise provided herein:

- A. Extension: A non-conforming use shall not be extended, enlarged, or moved to occupy any portion of the premises, either land or structure, which was not originally occupied by the non-conforming use.
- B. Discontinuance: Whenever a non-conforming use of any premises or use of a non-conforming structure has been abandoned or discontinued for a period of three-hundred sixty (360) days, no non-conforming use may be reestablished on those premises. A use shall be considered discontinued when city utilities have been disconnected for a period of 360 days.
- C. Changes: The Board of Adjustment shall not permit a change from one non-conforming use to another unless the new non-conforming use is in the same or a more restrictive classification.

## **ARTICLE 4: ZONING DISTRICTS AND ZONING MAP**

### **4.1 ZONING DISTRICTS**

In order to classify, regulate, and restrict the use and location of buildings designed for specified uses, to regulate and determine the area of yards, courts, and other open spaces surrounding buildings, and to realize the general purposes set forth in the Preamble of this Regulation, the City is divided into zoning districts. The specific purpose of each zoning district is set forth in Sections 4.2 through 4.12.

The City is divided into the following zoning districts. The schedule of District Regulations which follows this list sets forth the purpose and requirements for each zoning district.

#### **Schedule of Zones**

R-1	Single Family Residential
R-1A	Single Family Residential - Small Lot
R-2	Single Family Residential/Duplex Low Moderate
R-3	Medium-High Density Residential
B-1	Central Business District
B-2	Highway Oriented Commercial
B-3	Neighborhood Commercial
I-1	Light Industrial
I-2	Heavy Industrial
P	Public and Semi-Public

#### **Special Zones**

Agriculture  
Conservation  
Flood Plain District  
Historic Overlay  
Planned Unit Development

### **4.2 LOW DENSITY RESIDENTIAL (R-1)**

- A. **Intent:** The intent of this district is to provide for low density single family detached homes and supporting uses. This district should be the City's largest residential area. Lots should be large enough to accommodate septic systems in areas of the city not served by the wastewater collection system.
- B. **Principal Uses:** (Other uses substantially similar to those listed herein shall also be deemed permitted).
1. Single family residences.
  2. Parks and playgrounds operated by government.

C. Accessory Uses: (Uses and structures which are customarily accessory and clearly incidental and subordinate to permitted uses).

1. Private garages, storage sheds and parking areas.
2. Private swimming pools, tennis courts, and swing sets.
3. Home office
4. Living quarters without cooking facilities and not rented for guests and employees of the premises.
5. Satellite dish antennas as regulated in Section 2.11.
6. Family day care homes as regulated in Section 2.46.

D. Conditional Uses: (Permitted only with Board of Adjustment approval).

1. Type II day care centers.
2. Home occupations.
3. Churches, Sunday schools and parish houses.
4. Utility facilities.
5. Cemeteries, columbariums, and mausoleums.
6. Schools for academic instruction.
7. A roof or pole mounted satellite dish as further regulated under this ordinance.
8. Outdoor commercial and noncommercial recreational facilities such as golf courses, zoological gardens, sportsmen's farms, riding stables, fishing lakes, and non-commercial swimming pools, tennis courts, campgrounds and private clubs.

Accessory uses shall only be located within the backyard, at least five feet from an adjoining side or back lot boundary and at least 20 feet from principal structure.

E. Prohibited Uses (All uses other than those listed as principal, accessory, or conditional uses or substantially similar to principal, accessory, or conditional uses shall be prohibited. The uses below are provided for illustration purposes and for the purpose of limiting permitted uses, and are not intended to be a total listing of all the uses that are prohibited.)

1. Manufactured homes as defined in this Ordinance.
2. Establishments for the processing of crude petroleum, natural gas, or oil shale.
3. Disposal of garbage and refuse.
4. Multi-family, two-family or townhouse dwelling units.
5. Retail sales or services wholesale, or warehouse uses except as provided herein.
6. Offices and institutional uses.
7. Commercial recreational facilities such as amusement parks, bowling alleys, skating rinks, pool or billiard halls or outdoor theaters.



8. Hotels, motels, boarding or lodging houses.
9. Manufacturing, compounding, assembling, processing and packaging and other industrial uses.
10. Automobile race tracks.
11. Garden centers, except those activities specifically allowed under the definition of commercial greenhouses and plant nurseries.
12. Major or minor automobile and truck repair.
13. Automobile service station.
14. Storage, except as permitted herein.
15. Junk yards.
16. Sale of new or used merchandise, except as provided herein.
17. Pool or billiard halls, and establishments with coin-operated pool or billiard tables.
18. Stockyards and slaughtering of animals.
19. Penal or correctional institution.
20. Sawmills.
21. Commercial kennels.
22. Hospitals, nursing homes, rest homes, orphanages, community residences.
23. Sewage disposal plants.
24. Fraternity and sorority houses.
25. Private clubs including accessory restaurants and/or the serving of alcoholic beverages, except as permitted herein.

### Lot, Yard and Height Requirements

- Minimum lot size - 12,500 square feet without sanitary sewer
- Minimum lot size - 8,000 square feet with sanitary sewer
- Minimum lot frontage - 60 feet
- Minimum front yard depth - 30 feet
- Minimum side yard depth - 8 feet
- Minimum rear yard - 10 feet
- Maximum lot coverage - no limitation
- Maximum height of building - 35 feet

### F. Off-Street Parking

1. Dwelling Units-one space per dwelling unit.
2. Churches, Sunday Schools and Parish Houses-one space per five seats in the main auditorium with a minimum of five spaces.
3. Schools-one space for every 15 seats or one space for every classroom, plus one space for each employee which ever is greater.
4. Golf Courses-three spaces per hole on main course.
5. Childcare Facilities with seven or more children-Three spaces.
6. Private Clubs-one space for every four members.

7. Non commercial outdoor Recreational Facilities-One space for every four members with a minimum of five spaces.
8. Combinations-Combined uses shall provide parking equal to the sum of the individual requirements.
9. Conditional Uses-parking requirements stated herein for conditional uses are minimum requirements. The Board of Adjustment may establish additional requirements as needed. Where no requirement is stated herein the Board shall determine the required parking for the conditional use.

#### **4.3 SINGLE FAMILY RESIDENTIAL (R-1A) - SMALL LOT**

- A. Intent: Same as for R-1 except this zone is intended to encourage more compact dense single family development.
- B. Principal Uses: (Other uses substantially similar to those listed herein shall also be deemed permitted).
  - I. The principal uses permitted in the R-1 Zone.
- C. Accessory Uses: (Uses and structures which are customarily accessory and clearly incidental and subordinate to permitted uses).
  - I. The accessory uses permitted in the R-1 Zone.
- D. Conditional Uses: Same as for R-1.
- E. Prohibited Uses - Same as for R-1. (All uses other than those listed as principal, accessory, or conditional uses or substantially similar to principal, accessory, or conditional uses shall be prohibited. The uses below are provided for illustration purposes and for the purpose of limiting permitted uses, and are not intended to be a total listing of all the uses that are prohibited.)

#### **Lot, Yard and Height Requirements**

- Minimum lot size - 4,000 square feet
  - Maximum lot size - 6,500 square feet
  - Minimum lot frontage - 40 feet
  - Minimum front yard depth - 20 feet
  - Minimum side yard depth - 6 feet\*
  - Minimum rear yard - 10 feet
  - Maximum lot coverage - no limitation
  - Maximum height of building - 35 feet
  - Not less than 6 feet at any point between single family residences. Zero lot line allowed with 6 feet required on opposite side. Wall maintenance easement of 3 feet required.
  - Accessory uses shall only be located within the backyard, at least five feet from an adjoining side or back lot boundary and at least 20 feet from principal structure.
- F. Off-street parking - same as R-1.

#### 4.4 LOW-MODERATE DENSITY RESIDENTIAL (R-2)

- A. **Intent**: This district *is* intended to encourage low to moderate density residential development, including a compatible mixture of duplexes and triplexes with single-family residences. It is also the intent of this zone to allow the conversion of large, older homes in well established neighborhoods to two and three family apartment units.
- B. **Principal Uses**: (Other uses substantially similar to those listed herein shall also be deemed permitted).
1. The principal uses permitted in the R-1 Zone.
  2. Duplexes and triplexes.
  3. Modular Homes as defined in this Ordinance.
  4. Type II day care centers.
- C. **Accessory Uses**: (Uses and structures which are customarily accessory and clearly incidental and subordinate to permitted uses).
1. Private garages, storage sheds and parking areas.
  2. Private swimming pools, tennis courts, and swing sets.
  3. Private, non-commercial parks and open space.
  4. Satellite dish antennas as regulated in Section 2.11.
  5. Family day care homes as regulated in Section 2.46.
- D. **Conditional Uses**: (Permitted only with Board of Adjustment approval).
1. The conditional uses permitted in the R-1 Zone.
  2. Townhouses.
  3. Bed and Breakfast Inn.
  4. Type I day care centers.
  5. Apartments.
- E. **Prohibited Uses**.
- Same as R-1.

#### **Lot, Yard and Height Requirements**

- Minimum lot size - 10,000 square feet without sewer (8,000 sq. feet for triplexes).
  - Minimum lot size with sewer - 6,500 square feet.
  - Minimum lot frontage - 60 feet.
  - Minimum front yard depth - 25 feet.
  - Minimum side yard depth - 6 feet.
  - Minimum rear yard - 10 feet.
  - Maximum lot coverage - none.
  - Maximum height of building - 35 feet.
  - Accessory uses shall only be located within the backyard, at least five feet from an adjoining side or back lot boundary and at least 10 feet from principal structure.
  - Apartments - two spaces for every three units.
- F. Off-street parking - Same as for R-1.

#### 4.5 MEDIUM DENSITY RESIDENTIAL (R-3)

- A. Intent: This district is intended for multi-family residential uses. This district is also intended for mobile home parks.
- B. Principal Uses: (Other uses substantially similar to those listed herein shall also be deemed permitted).
1. The principal uses permitted in the R-2 zone.
  2. Multi-family dwellings
  3. Boarding houses for up to 8 persons.
  4. Community residences.
  5. Group residential projects as specified in Article 2.44
  6. Townhouses except that no more than twelve units may be attached.
- C. Accessory Uses: (Uses and structures which are customarily accessory and clearly incidental and subordinate to permitted uses).
1. The accessory uses permitted in the R-2 Zone.
  2. Athletic Club facilities for the use of occupants of residential units on same property.
- D. Conditional Uses: (Permitted only with Board of Adjustment approval).
1. The conditional uses permitted in the R-1 Zone.
  2. Mobile home parks (development plan required).
  3. Bed & Breakfast Inn.
  4. Type I day care centers.
  5. Townhouses
  6. Community Centers such as a YMCA.
  7. Boarding house for more than 8 persons.
  8. Rehabilitation homes.
  9. Bed and Breakfast facilities limited to not more than the rental of five rooms.
  10. Hospitals, rest homes, nursing homes and assisted living facilities.
  11. *\* Dormitory (if tract if greater than or equal to one acre) (ADMENDMENT-ORDINANCE 19-03)*
- E. Prohibited Uses: As for R-2. (All uses other than those listed as principal, accessory, or conditional uses or substantially similar to principal, accessory, or conditional uses shall be prohibited. The uses below are provided for illustration purposes and for the purpose of limiting permitted uses and are not intended to be a total listing of all the uses that are prohibited.)

#### Lot, Yard and Height Requirements

- Minimum lot size - 6,700 square feet for single family; 7,200 sq. ft. for duplexes and triplexes; 9,000 sq. ft. for two story fourplex, 10,800 for one story fourplex.
- Minimum lot frontage - 80 feet.
- Minimum front yard depth - 25 feet.
- Minimum side yard depth - 10 feet.

*\*ADMENDMENT - ORDINANCE NO. 19-03*

- Minimum back yard depth - 30 feet.
  - Maximum lot coverage - 27% for single family; 33% for duplexes and triplexes.
  - Minimum living area - 960 square feet (this is also the minimum size of the base floor).
  - Maximum height of building - 50 feet, 30 feet if lot adjoins R-1, R1-A or R-3 district.
  - Accessory uses shall only be located within the backyard, at least five feet from an adjoining side or back lot boundary and at least 20 feet from principal structure.
  - Multiple Family Dwellings-Three spaces for every two dwelling units except elderly or assisted living housing: three spaces for every four dwelling units.
  - Townhouses: as for R-1A.
  - Hospitals, nursing homes, rehabilitation homes-one space for every four beds, plus one for every employee on the maximum shift with a minimum of five.
  - Bed and Breakfast -one space per room rented.
  - Community Centers-Five spaces plus one per employee.
  - *\*Dormitory Parking same as required for B2 zoning (ADMENDMENT-ORDINANCE 19-03)*
- F. Off-street parking - Same as for R-1

#### 4.6 CENTRAL BUSINESS DISTRICT (B-1)

A. Intent' The intent of this zone is to encourage the sound expansion of the central business district and recognize the special relationship of the downtown and the surrounding neighborhoods. This zone will allow mixed uses while recognizing the general business character of the downtown and the residential character of the surrounding neighborhoods.

B. Principal Uses: (Other uses substantially similar to those listed herein shall also be deemed permitted).

- I. Retail businesses and retail services.
2. Places of amusement and assembly.
3. Manufacturing or processing establishments that do not create dust, smoke, noise, odor or other pollution outside the lot on which it is located and not employing more than 10 persons.
4. Personal service establishments.
5. Restaurants.
6. Professional offices.
7. Governmental offices, laboratories and facilities.
8. Public/semi-public uses such as libraries, vocational or technical schools, churches, nursing homes, funeral homes, medical offices.
9. Public utility installations, offices, storage and maintenance facilities.
10. Wholesaler retail outlets.
11. Family day care homes, Type I and Type II day care centers as regulated in Section 2.46.
12. Hotels, motels.
13. Minor automobile and truck repair.

• **ADMENDMENT – ORDINANCE 19-03**

14. Cable television studio and signal distribution center.
15. Passenger transportation terminals.
16. Pawnshops.
17. Establishments engaged primarily in the sale of supplies and parts for vehicles and farm equipment.
18. Athletic club facilities.
19. Animal Clinic providing alt exterior walls are soundproofed and all animal pens are completely within the building and sued only for the medical treatment of small animals.
20. Any type of residential use provided those residential units are not mixed with non-residential uses on the same floor unless separate entrances are provided for the residential and non-residential uses.
21. Automobile service station provided it conforms to all general parking and landscaping requirements.
22. Grocery stores and convenience stores whose primary function is the retail of food and sundry products.

C. Accessory Uses: (Uses and structures which are customarily accessory and clearly incidental and subordinate to permitted uses).

1. Wholesale, warehouse and storage facilities.
2. Garages and salvage yards for vehicles of a permitted use.
3. Parks and open space.
4. Satellite dish antennas as regulated in Section 2.11.
5. Dwelling units occupying the same building as the principal business that are located behind or above the business.

D. Conditional Uses. (Permitted only with Board of Adjustment approval).

1. Drive-through facilities for sale of goods or products or provision of services otherwise permitted.
2. Private clubs, lodges, social centers, athletic clubs.
3. Self-service car washes provided surface water does not drain onto adjoining property and adequate on-site storage lanes and parking facilities are provided.
4. Rental of trucks (single rear axle-28'- maximum overall length), trailers and related items in conjunction with the operation of a service station provided the service station abuts a federal or state highway when abutting a residential zone. No more than five trucks may be stored for longer than forty-eight hours. A site plan shall be submitted to the Board of Adjustment for approval.

E. Prohibited Uses. (All uses other than those listed as principal, accessory, or conditional uses or substantially similar to principal, accessory, or conditional uses shall be prohibited. The uses below are provided for illustration purposes and for the purpose of limiting permitted uses, and are not intended to be a total listing of all the uses that are prohibited.)

1. Warehouses and storage uses except as accessory uses herein.
2. Truck terminals and freight yards.

3. Manufacturing except as approved herein.
  4. Amusement enterprises such as outdoor theaters, auto racing and similar activities.
  5. Kennels, outdoor runways or pens for animals.
  6. Wholesale establishments.
  7. Greenhouses, nurseries, hatcheries.
  8. Above or below ground storage of flammable material in a gaseous form including compressed natural gas.
  9. Establishments engaged in the display, rental or repair of farm equipment, trucks exceeding 1 & 1/2 tons and contractors equipment.
- IO. Establishments engaged primarily in agricultural sales and services.

### **Lot, Yard and Height Requirements**

- Minimum lot size - No limitation.
  - Minimum lot frontage - No limitation.
  - Minimum front yard depth - No limitation except 20' for residential uses.
  - Minimum side yard depth - No limitation except 10' side street yard for residential uses.
  - Minimum back yard depth - No limitation.
  - Maximum lot coverage - No limitation except residential units shall provide useable open space not less than 10% of residential floor area.
  - Maximum height of building - No limitation except 35' if lot adjoins a residential district with no intervening street.
- F. **Off-street parking.** A paved parking area with one (1) space per 1,200 sq. ft. for dwelling units, restaurants, one (1) per 100 sq. ft. of floor area; other commercial uses, one (1) per 100 sq. ft. of floor area, off street commercial uses, parking shall be located within 500 feet of establishment served. Hotels or motels; one (1) space per suite. Off street parking requirements may be waived by Planning Commission for existing structures if warranted by general parking demand and availability.
- G. **Special Provisions.** For those floors of buildings containing dwelling units with windows for habitable rooms there shall be provided a height to yard ratio of 3: 1 for light and air. Public street right of way may be used as part of this requirement. The Board of Adjustment may waive this provision if site conditions warrant and other provisions are made to provide light and air for those dwelling units.

## **--) 4.8 HIGHWAY ORIENTED COMMERCIAL (B-2)**

- A. **Intent:** It is the intent of this district to provide areas for commercial development outside of the central business district. This development should be located along major highways and should be clustered with common highway access points wherever possible. Strip development with numerous highway access points should be discouraged.

B. Principal Uses: (Other uses substantially similar to those listed herein shall also be deemed permitted).

1. Retail businesses or services, unless prohibited herein.
2. Personal services, unless prohibited herein.
3. Offices, clerical or research facilities.
4. Motor vehicle sales and services.
5. Hotels and motels.
6. Car washes.
7. Veterinarians or kennels, providing such structure is 100' from any residential zone.
8. Restaurants, convenience stores or fast food establishments.
9. Type I or Type II child care centers.
10. Places of amusement, assembly or commercial recreational facilities.
11. Public buildings, churches, trade or vocational schools.
12. Wholesale or retail outlet stores.
13. Manufacturing or processing establishments incidental to retail functions only with no more than 10 employees which are non-hazardous and non-polluting and conducted fully within an enclosed building.
14. Medical offices, clinics and hospitals.
15. Athletic club facilities.
16. Schools for academic instruction.
17. Pawnshops.
18. Taxidermy establishments.
19. Garden centers.
20. Banks, credit agencies, security and commodity brokers, credit institutions, savings and loans, holding and investment companies.
21. Barber and beauty shops.
22. Business colleges, technical or trade schools and institutions.
23. Establishments for the display, sale, rental, service and repair of agricultural machinery, contractor equipment, trucks, automobiles, travel trailers, boats, motorcycles, mobile homes and the supplies for such items.
24. Automobile service stations subject to all parking and landscaping requirements of this ordinance.
25. Laundromats.
26. Indoor amusement establishments and arcades.
27. Shops of special trade and general contractors such as plumbing, heating, carpentry, masonry, painting, metal work, printing, electrical, sign painting, tile, electroplating, terrazzo, drilling, excavating, wrecking, construction and paving.
28. Churches.
29. \* *Dormitories – Non-contiguous (ADMENDMENT – ORDINANCE 19-03)*



C. Accessory Uses: (Uses and structures which are customarily accessory and dearly incidental and subordinate to permitted uses).

1. Wholesale, warehouse and storage facilities.
2. Parking areas and structures.
3. Swimming pools.
4. Not more than one (I) dwelling unit for owners, operators or employees of a permitted use provided that such dwelling unit shall be a part of and located above or to the rear of such permitted use.
5. Drive through facilities.
6. Satellite dish antennas.
7. ***Dormitories – contiguous (on campus) (ADMENDMENT – ORDINANCE 19-03)***

D. Conditional USES. (Permitted only with Board of Adjustment approval)

1. Printing and typesetting operations that employ fewer than 25 persons.
2. Indoor and outdoor athletic facilities which may require buildings that because of their size are not compatible with residential or business zones such as football fields, gymnasium, field house, tennis court, soccer field, baseball field.
3. Amusement parks, fairgrounds, horse racing if all buildings are located not less than 200 feet from any residential zone.
4. Outdoor recreational facilities including go-car tracks, archery courts, skate board, and roller skate tracks, firearm ranges, swimming pools, water slides and other similar uses.
5. Passenger transportation terminals.
6. Automobile race tracks.
7. Mail order business.
8. Any professional, governmental, institutional or retail establishment that requires a building height greater than permitted herein. A development plan must be submitted to the Board of Adjustment. Parking and landscaping requirements may also be adjusted according to the Boards requirements based on the requested use.

E. Prohibited Uses. (All uses other than those listed as principal, accessory or conditional uses or substantially similar to principal, accessory or conditional uses shall be prohibited. The uses below are provided for illustration purposes and for the purpose of limiting permitted uses and are not intended to be a total listing of all the uses that are prohibited.)

1. The above or below ground storage of any flammable material in gaseous form including compressed natural gas.
2. Heavy manufacturing, assembling, compounding, packaging, bottling, processing and other industrial uses.
3. Storage of commodities whose storage is first permitted in the industrial zones.
4. Landfills, refuse dumps and incinerators.
5. Asphalt plants.

## Lot, Yard and Height Requirements

- Minimum lot size - No limitation.
- Minimum lot frontage - 40 feet.
- Minimum front yard depth - 20 feet.
- Minimum side yard depth - No limitation.
- Minimum back yard depth - No limitation.
- Maximum lot coverage - No limitation.
- Maximum building height - 75 feet, 35 feet if lot adjoins a residential district with no intervening street.
- Where side area yard adjoins a residential zone then a 3:1 height to yard ratio is required.

### F. Off-street parking spaces.

1. All amusement establishments as determined by the Board of Adjustment.
2. Restaurants - one (1) per 100 sq. ft. of floor area
3. Fast Food Establishments - one (1) per 30 sq. ft. of floor area
4. Professional Offices - one (1) per 300 sq. ft. of floor area
5. Motels & Hotels - one (1) per suite with a minimum of five
6. Other commercial uses - one (1) per 200 sq. ft. of floor area
7. Theaters - one space for every 5 seats
8. *Dormitories – non-contiguous – 80% of building capacity* (**ADMENDMENT – ORDINANCE 19-03**)

### G. Special provisions.

1. Landscape buffers are required as regulated in Section 5.4.

## 4.9 NEIGHBORHOOD COMMERCIAL (B-3)

- A. Intent. The intent for this district is to accommodate neighborhood shopping and service facilities to serve the needs of the surrounding residential area. This district should be oriented to the residential neighborhood and should have a roadway system which will be adequate to accommodate the anticipated vehicular traffic.
- B. Principal Uses. (Other uses substantially similar to those listed herein shall also be deemed permitted).
1. Professional offices such as real estate, insurance, financial services and others that have low traffic generation rates (does not include medical offices or government offices).
  2. Establishments for the retail sale of food such as grocery stores, bakeries, meat stores.
  3. Restaurants including small fast food restaurants, ice cream parlors, etc.
  4. Convenience stores.
  5. Personal service establishments such as beauty shops, barber shops, shoe repair, clothing repair, laundrymats and cleaners.

6. Other clearly retail uses which are considered to be compatible by the Planning Commission. Examples are stores selling clothing, shoes, fabric, electronics, hardware, hobby items, gifts and antiques, books, stationery and prescription drugs.
7. Quick copy services not utilizing offset printing methods.
8. Type I and Type II child care centers.
9. Repair of household appliances.
10. Retail sale of plant nursery or greenhouse products.
11. Miniature golf or putting courses.
12. Rental of equipment whose sale would be allowed in the B-3 zone.
13. Athletic club facilities.
14. Parking lots that conform to parking and landscaping requirements of this ordinance.
15. Automobile service stations that conform to all parking and landscaping provisions of this ordinance.
16. Circuses and carnivals on a temporary basis and upon issuance of a permit by the Building Inspector that may restrict the permit in terms of time, parking, access and other means of protecting the public health and welfare.
17. Arcades.
18. Churches.

C. Accessory Uses. (Uses and structures which are customarily accessory and clearly incidental and subordinate to permitted uses).

1. Parking areas or structures.
2. Warehousing, wholesaling and storage excluding outdoor storage.
3. Drive through facilities for the sale of permitted goods or services.
4. Satellite dish antennas.
5. Not more than one (1) dwelling unit for owners, operators or employees of a permitted use provided that such dwelling unit shall be a part of and located above or to the rear of such permitted use.

D. Conditional Uses. (Permitted only with Board of Adjustment approval).

1. Veterinarians, provided animal pens are completely within the principal building and the entire walls are sound proofed.
2. Self-service car washes, provided all surface water from such establishment does not drain on adjoining property and adequate parking and on-site storage lanes exists on the property.
3. Pawnshops.
4. Medical offices and governmental offices provided the street system can handle the proposed traffic generated by said uses.

E. Prohibited Uses. (All uses other than those listed as principal, accessory or conditional uses or substantially similar to principal, accessory or conditional uses shall be prohibited. The uses below are provided for illustration purposes and for the purpose of limiting permitted uses and are not intended to be a total listing of all the uses that are prohibited.)

1. Establishments engaged primarily in agricultural sales and service.
2. Warehouses and storage uses except as accessory uses herein.
3. Shops of special trade and general contractors such as plumbing, carpentry, heating, masonry. Plastering, painting, metal work, printing, electrical, tile, drilling, terrazzo work, excavating, wrecking, construction and paving. This is not intended to prohibit the administrative offices of such.
4. Manufacturing, compounding, bottling, assembling, processing and packaging and other industrial uses for sale or distribution other than retail.
5. Truck terminals and freight yards.
6. Amusement enterprises such as outdoor theaters, automobile racing and similar activities.
7. Kennels and outdoor pens for animals.
8. Establishments for the display, rental, sales, service or major repair of automobiles, motorcycles, trucks, farm equipment, contractor equipment, travel trailers and mobile homes and establishments engaged primarily in the sale of supplies or parts for above mentioned vehicles or equipment.
9. Establishments for dyeing, cleaning, laundering and the like except for self-service and pick-up stations except for clothes cleaning establishments of not more than forty pounds capacity and using a closed system.
10. Wholesale establishments.
11. Greenhouses, hatcheries and nurseries.
12. Hotel or motel, boardinghouse.
13. Above or underground storage of any flammable material in gaseous form including compressed natural gas.

### **Lot, Yard and Height Requirements**

- Minimum lot size - no limitation.
- Minimum lot frontage - no limitation.
- Minimum front yard depth - 20 feet.
- Minimum side yard depth - no limitation.
- Minimum back yard depth - no limitation.
- Maximum lot coverage - no limitation.
- Maximum building height - 35 feet, 20 feet if located within 40 feet of a residential structure.

F. Off-street parking spaces. (paved)

- Accessory dwelling and lodging units - one (1) space per unit
- Restaurants - one (1) per 200 sq. ft. of floor area or 1 per 4 seats, whichever is greater
- Professional Offices - one (1) per 300 sq. ft. of floor area
- Other Commercial Uses - one (1) per 400 sq. ft. of floor area for 1' 10,000 sq. ft. with a minimum of 3 spaces. Areas exceeding 10,000 sq. ft. - 1 space per 200 sq. ft.

G. Special provisions. Landscape buffers are required as regulated in Section 5.4.

#### 4.10 LIGHT INDUSTRIAL (1-1)

A. Intent. The intent of this district is to provide for the manufacturing and wholesale businesses and related uses not involving a potential nuisance in terms of smoke, noise, odor, dust, heat, light, vibration or industrial waste. They should operate mostly within enclosed structures and generate low to moderate amounts of traffic. Consideration should be given to the relationship of this zone to surrounding land uses.

B. Principal Uses. (Other uses substantially similar to those listed herein shall also be deemed permitted).

- I. Wholesale business, storage and warehousing.
2. Shops of special trade and general contractors such as plumbing, heating, electrical, carpentry, painting, metal work, printing, publishing, major automobile and truck repair, sign painting, tile, terrazzo work, excavating, construction and paving.
3. Commercial laundry, clothes cleaning or dyeing shops.
4. Ice plants.
5. Tire retreading and recapping.
6. Parking lots and structures.
7. Machine shops.
8. Kennels, animal hospitals or clinics providing that such structures or area used (not including parking areas) shall be at least 100 feet from any residential zone.
9. Sales, purchasing or feed, grain or other agricultural supplies or products.
10. Establishments for the sale, display, rental or repair of all types of motor vehicles, farm equipment or contractor equipment.
11. Establishments for the display and sale of precut, prefabricated or shell homes.
12. Retail sale of building materials, lumber, garden supplies, plant materials.
13. Light retail commercial including retail sale of commodities manufactured, fabricated or processed on the premises.
14. The manufacturing, assembling, processing, packaging or similar treatment of such products as bakery goods, candy, ceramics, clothing, cabinets, electrical parts, signs, electronic instruments, food products, pottery, china, shoes, television receivers, toys, watches, clocks, optical goods, and plastics.

15. Recycling, storing, baling and processing of glass, cardboard, non-tenuous, metals and plastics. Recycling, sorting, storage, baling and processing of paper scrap shall be permitted only when wholly conducted in an enclosed building. This does not include automobile wrecking yards or junk yards.
16. Transfer stations for handling of solid waste when conducted within an enclosed building and located more than 100 feet from any residential zone.
17. Automobile stations provided they meet all parking and landscaping requirements in this ordinance.
18. Truck terminals and freight yards.
19. Establishments and lots for the display, rental, sales and service of farm equipment, contractor equipment, automobiles, motorcycles, boats, trucks and supplies for such items.
20. Mail order business.
21. Sale of feed, grain or other agricultural supplies.
22. Major or minor automobile repair.
23. Circuses and carnivals on a temporary basis provided a permit has been issued by the Building inspector that may limit the times, parking, access and other ways to protect the public health and safety.

C. Accessory Uses. (Uses and structures which are customarily accessory and clearly incidental and subordinate to permitted uses).

1. Off-street parking areas, structures and loading zones.
2. Recreational facilities.
3. Offices.
4. Satellite dish antennas.
5. Type I and Type II child care centers for children of employees of the premises.

D. Conditional Uses. (Permitted only with Board of Adjustment approval).

1. Any manufacturing operation that will employ more than fifty (50) persons.
2. Concrete mixing and concrete products.
3. Cable television system facilities.
4. Any heavy industry producing moderate amounts of noise, odor, dust, smoke or other types of pollution.
5. Any indoor amusement or recreational activity which require buildings that as a result of their size would not be compatible with residential and business zones.
6. Churches, Sunday schools and church related schools for academic instruction.

E. Prohibited Uses. (All uses other than those listed as principal, accessory or conditional uses or substantially similar to principal, accessory or conditional uses shall be prohibited. The uses below are provided for illustration purposes and for the purpose of limiting permitted uses and are not intended to be a total listing of all the uses that are prohibited.)

1. Dwelling units.
2. Heavy Manufacturing except as permitted herein.
3. Retail sales and offices except as permitted herein.
4. Motels, Hotels and Boardinghouses.
5. Personal service establishments except as permitted herein.
6. Restaurants.
7. Schools and colleges for academic instruction except as permitted herein.
8. Refuse dumps, landfills and incinerators.
9. Amusement enterprises except as permitted herein. I
0. Car washing establishments.
11. Pawnshops.

### **Lot, Yard and Height Requirements**

- Minimum lot size - no limitation.
- Minimum lot frontage - no limitation.
- Minimum front yard depth - 20 feet.
- Minimum side yard depth - No limitation.
- Minimum back yard depth - No limitation.
- Maximum lot coverage - no limitation.
- Maximum height of building - 75 feet, except when abutting a residential or business zone and then a 3:1 height to yard ratio.

#### **F. Off-street parking spaces.**

1. Industrial Plants - Fifteen (15) spaces plus one (1) space for every two (2) employees on a single shift at maximum employment plus one space for every truck operated by the plant.
2. Other industrial or retail uses - one (1) for every 400 sq. ft. of floor area.
3. Vehicle repair or service shops shall have additional parking for estimated number of vehicles to be kept on site temporarily.
4. Self-service laundry-One space for every six machines.
5. Beauty shops, Barber Shops and Shoe Repair-One space per every 200 square feet with a minimum of three spaces.
6. Accessory Wholesale, Warehousing and Storage-one space per every six hundred square feet of floor area.
7. Combination uses-Equal to the total of the individual uses.

#### **G. Special provisions:**

1. All uses shall be conducted in a completely enclosed building, except for outdoor storage uses which shall be enclosed on all sides by a solid wall or fence not less than six feet in height.
2. Landscape buffers are required as regulated in Section 5.4.

#### 4.11 GENERAL INDUSTRIAL (1-2)

- A. Intent. This zone is intended for manufacturing, industrial and related uses that involve potential nuisance factors.
- B. Principal Uses. (Other uses substantially similar to those listed herein shall also be deemed permitted).
1. Any principal use permitted in the I-I zone provided that all provisions outlined therein shall apply.
  2. Manufacturing, fabrication, assembly of any commodity.
  3. Wholesaling or storage of any article manufactured on site.
- C. Accessory Uses. (Uses and structures which are customarily accessory and clearly incidental and subordinate to permitted uses).
1. The accessory uses permitted in the 1-1 Zone.
- D. Conditional Uses. (Permitted only with Board of Adjustment approval).
1. Boiler and tank works, mixing plants for the manufacture of cement, mortar, plaster, paving materials coke ovens plants for coal, wood, tar, foundries and metal fabrication plants.
  2. Rendering plants and establishments that cure, tan or store raw hides or skins.
  3. Soap and tar products.
  4. Slaughter houses and stockyards.
  5. Plants for the manufacture, processing or storage of acetylene, bleaches, ammonia, acid, disinfectants, dyes, turpentine, varnish and chemicals.
  6. Gasoline, oil or other petroleum products refining and storage.
  7. Manufacturing or storage facilities for explosives.
  8. Any planned industrial project which may employ more than 150 persons.
  9. Automobile wrecking, scrap iron storage or wrecking, junk yards.
  10. Solid waste transfer stations with facilities or operations not within an enclosed building.
  11. Fertilizer manufacturing.
  12. Junk yards.
  13. Landfills.



E. Prohibited Uses. (All uses other than those listed as principal, accessory or conditional uses or substantially similar to principal, accessory or conditional uses shall be prohibited. The uses below are provided for illustration purposes and for the purpose of limiting permitted uses and are not intended to be a total listing of all the uses that are prohibited.)

1. The Prohibited uses in the 1-1 Zone except as permitted herein.
2. Churches, Sunday Schools and church related schools for academic instruction.

#### **Lot, Yard and Height Requirements**

- Minimum lot size - no limitation.
- Minimum lot frontage - no limitation.
- Minimum front yard depth - 20 feet
- Minimum side yard depth - no limitation.
- Minimum back yard depth - no limitation.
- Maximum lot coverage - no limitation.
- Maximum height of building - 75 feet except when side or rear abuts a residential or business zone and then 3:1 height to yard ratio.

F. Off-street parking spaces.

1. Industrial Plants - Fifteen (15) spaces plus one (1) space for every two (2) employees on a single shift at maximum employment plus one space for every truck operated by the plant.
2. Other industrial or retail uses - one (1) for every 400 sq. ft. of floor area.
3. Vehicle repair or service shops shall have additional parking for estimated number of vehicles to be kept on site temporarily.

G. Special provisions.

1. All uses shall be conducted in a completely enclosed building, except for outdoor storage uses which shall be enclosed on all sides by a solid wall or fence not less than six (6) feet in height.
2. Landscape buffers are required as regulated in Section 5.4.

#### **4.12 PUBLIC AND SEMI-PUBLIC (P)**

A. Intent. This district is intended for large scale or complex public and semi-public uses.

B. Principal Uses. (Other uses substantially similar to those listed herein shall also be deemed permitted).

1. Public owned or non-commercial recreational facilities and conservation areas, fairgrounds, parks, play areas.
2. Schools, colleges or training schools.

3. Churches, cemeteries or places of worship.
4. Hospitals, clinics, nursing homes or medical buildings.
5. Type I or Type II day care centers.
6. Government buildings, offices or facilities.
7. Private clubs, lodges, social centers or community centers.
8. Private non-profit institutions.
9. Libraries, museums or art galleries.

C. Accessory uses.

1. Informational or admission booths.
2. Garages, storage buildings or maintenance buildings.
3. Dormitories.
4. Dwelling units exclusively for employees, owners or operators of the facility.
5. Parking areas and structures.
6. Satellite dish antennas.

D. Conditional Uses

- I. Type B manufactured homes for public park or facility care takers.

**Lot, Yard and Height Requirements**

- Minimum lot size - 6,500 square feet
- Minimum lot frontage - 50 feet
- Minimum front yard depth - 20 feet
- Minimum side yard depth - No limitation
- Minimum back yard depth - No limitation
- Maximum lot coverage - No limitation
- Maximum height of building - 75 feet unless it abuts to a residential zone and then a 3:1 height to yard ratio.

E. Off-street parking spaces.

1. Places of public assembly - 20% of capacity.
2. Public buildings - 2 times the number of employees.
3. Offices - 1 per 400 sq. ft. of floor area.
4. Hospitals, clinics, medical buildings - 3 times the number of employees.
5. Parks and playgrounds - ten spaces plus ten percent of capacity.

F. Special provisions.

1. Landscape buffers are required as regulated in Section 5.4.

#### 4.13 SPECIAL PROVISIONS FOR AGRICULTURAL AREAS

For the purposes of this regulation, 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 court requirements for agricultural buildings, except that: a) no structure for feeding or sheltering of animals or poultry shall be located within 100 feet of any dwelling or street; b) setback lines may be required for the protection of existing and proposed streets and highways, and no buildings or structures in a floodway; c) no building or structures shall be constructed in the 100 year floodplain which will increase flood heights or obstruct the flow of flood water; and d) agricultural uses shall be prohibited if they are in violation of the City's Nuisance Ordinance. All other uses shall be considered as conditional uses for the purposes of this Ordinance.

#### 4.14 OFFICIAL ZONING MAP

The boundaries of these zoning districts are hereby established as shown on the Zoning Map for the City of Somerset, Kentucky. Said zoning map and all notations and references and other matters shown thereon shall be and are hereby made a part of this regulation.

Any new official zoning map constructed from one or several amendments to the aforementioned map shall be identified by the signature of the Mayor, attested by the City Clerk, and bear the seal of the City under the following words: "This is to certify that this is the Official Zoning Map for the City, referred to in Section 4.14 of the Somerset Zoning Regulations, adopted by the Somerset City Council on \_\_\_\_\_, 20\_\_".

If, in accordance with the provisions of this regulation and the Kentucky Revised Statutes, changes are made in the zoning district boundaries or other matters portrayed on the official zoning map, such changes shall be made on the official zoning map promptly after the amendment has been approved by the legislative body, together with an entry on the aforementioned official zoning map as follows: "By official action of the Somerset City Council, this map was amended as authorized by Ordinance as listed below: (amendment, date, brief description of change)," which entry shall be signed by the Mayor and attested by the City Clerk. The amending ordinance shall provide that such changes or amendments shall not become effective until they have been duly entered upon the official zoning map. No amendment to this regulation which involves matter portrayed on the official zoning map, shall become effective until after such change and entry have been made on said map.

In addition, each amendment to the zoning district boundaries shall be individually noted on a copy of the City's lot line map and the boundaries of the change (only) circumscribed by an orange felt-tip pen. The words shall also be written: "Official Zoning Map, Amend number, of ( \_\_\_\_\_ \*date of final approval), and the amendment shall be filed in the City Clerk's Office. Clearly legible certified copies of the amendment shall be provided to the Mayor, Planning Commission Chairman, and Applicant(s).

No changes of any nature shall be made in the official zoning map or matter shown thereon except in conformity with the procedures set forth in this regulation. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this regulation and punishable as provided under Section 8.7.

Regardless of the existence of purported copies of the official zoning map which may from time to time be made or published, the official zoning map, which shall be located in the office of the City Clerk, shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the City.

#### **4.15 REPLACEMENT OF OFFICIAL ZONING MAP**

In the event that the official zoning, map becomes damaged, destroyed, or lost, the Somerset City Council may by resolution adopt a new official zoning map which shall replace and supersede the prior official zoning map. The new official zoning map may correct drafting or other errors or omissions in the prior zoning map, but no such correction shall have the effect of amending the original zoning boundaries and any subsequent amendments thereof. The new official zoning map shall be identified by the signature of the Mayor, attested by the City Clerk, and bear the seal of the City under the following words: "This is to certify that this official zoning map supersedes and replaces the official zoning map adopted (date of adoption of map being replaced) as part of the Official Zoning Regulation for Somerset, Kentucky." The "official map" appearing as part of this regulation shall be maintained, abridged, and corrected by notation and by coloration, which changes shall be made by the City Clerk. Said map shall be reprinted every three (3) years, if necessary.

#### **4.16 INTERPRETATION OF DISTRICT BOUNDARIES**

Where uncertainty exists with respect to the boundaries of any of the zoning districts as shown on the official zoning map, the following rules shall apply:

- A. Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines.
- B. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- C. Boundaries indicated as approximately following city limits shall be construed as following such city limits.
- D. Boundaries indicated as following electrical transmission lines shall be construed as following the easement boundary, or if unclear, the overhang of main supporting poles.
- E. 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 lines of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such center lines.
- F. Boundaries indicated as parallel to or extensions of features indicated in Subsections 4.16(A) through (E) above shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map.
- G. Where physical or cultural features existing on the ground are at variance with those shown on the official zoning map or in other circumstances not covered by Subsections 4.16(A) through (F) above, the Board of Adjustment shall interpret the district boundaries.

- H. Where a district boundary line divides a lot which was in single ownership at the time of passage of this regulation, the Board of Adjustment may permit, conditionally, the extension of the regulations for either portion of the lot beyond the district line into the remaining portion of the lot.

#### **4.17 ANNEXATIONS**

All territory which may be hereafter annexed by the City shall be considered in the R-1 Zone or District until otherwise changed as provided by Article I 0.

#### **4.18 COMPLIANCE WITH REGULATIONS**

The regulation for each district set forth by this General Regulation shall be minimum regulations and shall apply uniformly to each class or kind of structure of land, and particularly as hereinafter provided.

- A. No building, structure, or land shall be used or occupied and no buildings or structure or part thereof shall be erected, constructed, reconstructed, moved, or structurally altered except in conformity with all of the regulations herein specified for the district in which it is located.
- B. No building or other structure shall be erected or altered that would:
  - 1. Amount to greater height or bulk than provided for in the appropriate schedule of district regulations.
  - 2. Accommodate or house a greater number of families than that reasonably inferred by the zonal intent statement.
  - 3. Occupy a greater percentage of lot area than the maximum specified "Floor Area Ratio" for the respective district affected.
  - 4. Have a narrower or smaller rear yard, front yard, side yard, or other open spaces than that provided for in the appropriate schedule of district regulations.
- C. No yard or lot existing at the time of passage of this Regulation shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this regulation shall meet at least the minimum requirements set forth herein.

## ARTICLE 5: PARKING AND LOADING AREAS

### 5.1 OFF-STREET PARKING SPACE REGULATIONS FOR AUTOVIOBILES

- A. Existing Parking Space: Existing off-street parking space provided for any building or use at the time of adoption of the regulation shall not thereafter be reduced unless it exceeds the requirements of this regulation. Any existing building or use not provided with off-street parking space shall be provided with off-street parking space in conformance with this regulation at the time of any expansive structural alteration of the building or expansion of the use creating a need for additional parking, then that additional need will be provided.

Parking for commercial purposes must be provided in commercial zones.

- B. Required Off-Street Parking Space: When any building is built or any use of premises is initiated, they shall be provided with sufficient off-street parking space on the premises so that they will generate no automotive parking on any street as a result of their normal activity. The Board of Adjustment shall interpret the amount of parking space required for any building or use, assisted by the following standards (Item C) whenever the Administrative Official is unable to apply these standards literally or when he determines a parking space deficiency. In either case, he shall apply to the Board for an original interpretation. Off-street parking for a pre-existing structure in a central business district shall be approved by the Board of Adjustment.
- C. Off-Street Parking Standards: The minimum off-street parking requirements for the several common types of buildings and uses listed vary by zoning district. In general, requirements are lower in areas of town that presently have a number of parking facilities, and higher in the areas of town that are unlikely to be targeted for shopping center development or other commercial facilities with very high traffic generation potential. Refer to the appropriate Schedule of District Regulations for actual determination of minimum criteria. In addition to those standards, the applicant shall be required to demonstrate the following:
1. Safety Considerations: The applicant shall present to the planning commission a plat or development plan showing the overall design of any shopping centers, commercial or industrial structures as a condition precedent to the issuance of a building permit. All plats and development plans must show layout and arrangements for parking facilities and must provide for the maximum possible separation of pedestrian and vehicular traffic. The need for safe pedestrian access as well as vehicular access to the facility shall be incorporated in the overall design concepts. In addition, the points of access and egress for vehicular traffic shall be at those respective points on the property providing for the maximum possible visibility yet meeting the space-from-intersection requirements presented elsewhere in this regulation.

## 2. Parking Space Dimensions and Aisle Widths:

- a. Except for parallel parking, each parking space shall contain a rectangular area at least 19 feet long and 9 feet wide. Lines demarcating parking spaces may be drawn at various angles in relation to curb or aisles, so long as the parking spaces so created contain within them the rectangular area required by this section. Wherever parking areas consist of spaces set aside for parallel parking, the dimensions of such parking spaces shall be not less than 22 feet by 9.
- b. Parking spaces for the physically disabled shall be 12 feet in width or 9 feet in width with an adjacent access aisle a minimum of five feet in width. Two accessible parking spaces may share a common access aisle. Accessible parking spaces shall be designated as reserved for the disabled by a sign showing the symbol of accessibility. Such signs shall not be obscured by a vehicle parked in the space.
- c. Parking area aisle widths shall conform to the following table, which varies the width requirements according to the angle of parking.

<b>Parking Angle</b>					
Aisle Width	0°	30°	45°	60°	90°
One-Way Traffic	13	11	13	18	24
Two-Way Traffic	19	20	21	23	24

- d. Driveways shall be not less than 10 feet in width for one-way traffic and 24 feet in width for two-way traffic, except that 12 feet-wide driveways are permissible for two-way traffic when the driveway is not longer than 50 feet, it provides access to not more than 6 spaces, and sufficient turning space is provided so that vehicles need not back into a public street.

## 3. General Design Requirements:

- a. Unless no other practicable alternative is available, vehicle accommodation areas shall be designed so that, without resorting to extraordinary movements, vehicles may exit such areas without backing onto a public street. This requirement does not apply to parking areas consisting of driveways that serve one or two dwelling units, although backing onto arterial streets is discouraged.
- b. Vehicle accommodation areas of all developments shall be designed so that sanitation, emergency, and other public service vehicles can serve such developments without the necessity of backing unreasonable distances or making other dangerous or hazardous turning movements.
- c. Every vehicle accommodation area shall be designed so that vehicles cannot extend beyond the perimeter of such area onto adjacent properties or public rights-of-way. Such areas shall also be designed so that vehicles do not extend over sidewalks or tend to bump against or damage any wall, vegetation, or other obstruction.

- d. Circulation areas shall be designed so that vehicles can proceed safely without posing a danger to pedestrians or other vehicles and without interfering with parking areas.
4. **Marking:** Traffic flow patterns in parking lots shall be clearly marked at all times either by sign or by painted arrows. Painted arrows and letters on a parking lot surface must be repainted at least once annually. Directional signs and appropriate identification signs shall be maintained so as to ensure legibility of all lettering and illustrations at all times.
5. **Additional Parking Standards:** The Board of Adjustment or Planning Commission may raise the standards listed above when necessary to conform with Section 2.71 (B), above, and shall use similar criteria of floor area, employment, or capacity to interpret standards for buildings and uses not specifically listed above.

## **5.2 OFF-STREET LOADING AND UNLOADING SPACE REGULATIONS FOR TRUCKS**

All buildings and uses which generate regular trucking traffic shall be provided with sufficient off-street loading and unloading space on the premises so they will generate no loading or unloading activity on their required parking spaces or on any street. The Board of Adjustment shall interpret the amount of loading and unloading space required for any building or use whenever the Administrative Official is unable to apply this standard literally and applies to the Board for an original interpretation.

## **5.3 ADDITIONAL PARKING, LOADING AND UNLOADING REGULATIONS**

- A. **Arrangement of off-street parking space:** Off-street parking space required for any building or use may be located within walking distance of five hundred (500) feet from the premises it serves but detached therefrom or may be consolidated into a large parking area serving other buildings and uses, either of which arrangements must be approved by the Board of Adjustment. The Administrative Official shall apply to the Board for an original interpretation when zoning permits are requested in such cases. The Board may not authorize the total amount of parking space required for all buildings and uses to be diminished except as follows: if a consolidated parking area serves buildings or uses which do not generate automobile parking at the same times, i.e., churches and stores, total parking space may be diminished to the maximum required by those buildings and uses which do generate the parking of automobiles at the same time.
- B. **Proof of availability:** The Board of Adjustment shall require a plat, deed and any other proof necessary to show that there is permanent required parking space, if located off the premises it serves, and that it is controlled by and available to the applicant for a building permit.
- C. **Surfacing of parking, loading and unloading spaces:** Parking, loading, and unloading spaces and the access thereto shall be surfaced in a manner adequate to eliminate dust and mud.



## ARTICLE 6: LANDSCAPE REQUIREMENTS

### A General Requirements.

1. Existing landscape material which is proposed to be used to fulfill requirements for landscape screening shall be nursery stock and identified on the subdivision plat.
2. Cars or other objects shall not overhang or otherwise intrude into the required screening/landscaping easement more than two and one-half (2½) feet and wheel stops or curbs will be required. Owner of the property shall be responsible for the proper maintenance of the screening buffer. The required screening buffer may be combined with a utility easement or other easement if planting material is approved by the Utility and Planning Commission.
3. Plant material to be used in screening easements shall be identified on the final subdivision plat.
4. Grass or ground cover shall be planted on all sections of landscape buffers not occupied by other landscape materials.
5. Landscape materials shall be installed to provide a minimum offifty percent (50%) winter opacity and a seventy percent (70%) summer opacity, between one (1) foot above finished grade level to the top of the required planting, hedge, fence, wall or earth mound.
6. Landscape buffers may not be required along a common boundary if landscape requirements have been fully complied with on the adjoining property.
7. Required trees do not have to be planted a set interval, they may be grouped together.
8. Landscape materials shall not be planted within the "sight triangle" at all street intersections and driveway intersections within streets.
9. Landscape materials may include plantings such as trees, shrubs, ground covers, perennials, annuals, and other materials such as rocks, water, sculpture, walls, fences and street furniture.
10. Protection of existing plantings - Maximum effort should be made to save fine specimens. No material or temporary soil deposits shall be placed within four (4) feet of shrubs or ten (10) feet of trees designated on the plans to be retained. Protective barriers or tree walls shall be installed around each plant or group of plants that are to remain on site.
11. A planted screen determined by the Planning Commission to be of a height and density sufficient to adequately protect residences from higher density residential, industrial or commercial use shall be placed within such easement at the time of installation of other improvements prior to final plat approval. If not installed prior to final plat approval, the surety for the subdivision shall include sufficient amounts to assure planting of this screening.

B. Perimeter Requirements.

Landscape buffers may be used in conjunction with utility easements as long as the requirements can be met. Otherwise the buffer will be provided in addition to the required utility easement.

Any industrial or business zone when it adjoins a residential zone or agricultural zone shall provide a 15' buffer zone to all common boundaries located behind the building line except road frontage. One tree per 40 L.F. plus a 6' high hedge or a 6' fence, wall or earth mound.

Mobile home park when it adjoins any zones same as above.

R-3 zones except as single family when it adjoins the R-1, R-2, R-1A shall provide a 6' buffer with above requirements.

Any industrial zone that adjoins a business zone shall meet the same requirements as if adjoining a residential zone.

Utility substations, junkyards, landfills, sewage treatment plants or similar uses shall meet the requirements above except utility substations may provide a 5' buffer.

Service structures shall be fully screened except when located in SF residential zones, industrial zones, B-1 or B-2 zones or located 35' above the established grade. Service structures shall be screened in all business and industrial zones when located within 100' of any zone except business and industrial zones.

All outdoor storage areas in the I-1 and I-2 zones shall be screened by a solid wall or fence not less than 6' in height.

Any double frontage lot as defined in the subdivision regulation that abuts a state maintained freeway or arterial not providing direct access to the property. 20' for residential zones and 10' for all others.

When any residential zone adjoins a railroad, it shall provide a buffer the same as previously listed.

Any VUA that outside the B-1 or agricultural zones except vehicle sales and service stations that adjoins a public or private street, right-of-way, access road or service road shall provide a 5' buffer to edge of paving where vehicles overhang, 4' minimum from edge of paving and 3' for other areas adjacent to portion of VUA that faces adjacent property. One tree every 40' and 3' average height continuous planting, hedge, fence or earth mound.

Service stations and vehicle sales can provide one tree every 50' and an 18' continuous hedge, planting, fence or wall.

Street trees shall be provided in all new residential developments, PUD, business parks, shopping centers and industrial parks along any streets and/or right-of-ways at an average of 1 per 40' if selected from list A (large native deciduous trees). One per 20' for those smaller trees from list B (native or imported ornamental trees). Necessary square footage for healthy growth of the root system will be required. All trees must meet the AAN standards.

C. Vehicular Use Area Perimeter Requirements.

1. A vehicular use area (V.U.A.) is an open or unenclosed area containing more than 1,800 sq. ft. of area and/or used by five (5) or more of any type of vehicle, whether, moving or at rest, including, but not limited to, parking lots, loading and unloading areas, mobile home parks, and sales and service areas. Driveways are considered to be vehicular use areas whenever they are adjacent to public streets or other vehicular use elements described previously in this paragraph (and intervening curbs, sidewalks, landscape strips, etc., do not eliminate adjacency).
2. Vehicular use areas (V.U.A.) located in any commercial, industrial or public/semi-public zone except for the central business district shall have a landscape buffer area at least five (5) feet wide where vehicles overhang and three (3) feet wide (that prohibits any vehicular overhang) for other areas between the vehicular use area and adjacent properties or streets.
3. This landscape buffer shall consist of one (1) tree for each forty (40) feet of boundary of the V.U.A. or fraction thereof plus a three (3) foot average height continuous planting, hedge, fence, wall or earth mound or a three (3) foot decrease in elevation from the adjoining property to the V.U.A.
4. The height of the planting may be reduced to eighteen (18) inches average height along streets or right-of-ways for vehicle sales facilities, service stations or financial institutions with drive-in facilities or night deposits.
5. Interior Landscaping for Vehicular Use Areas. Any VUA (excluding loading, unloading, and storage areas) in I-1, I-2, B-2 or B-3 containing more than 6,000 sf or twenty or more parking spaces, shall provide interior landscaping of a peninsular or island type. For each 100 sf. of VUA, 5 sf. of landscape area will be provided. Minimum area permitted shall be 64 sf with a four foot minimum dimension to all trees from edge of pavement from where vehicles overhang. Maximum areas shall be no larger than 350 sf in VUA of 30,000 or less and 1500 sf. in VUA of over 30,000 sf. A minimum of 1 tree per 250 sf with the remaining area landscaped with shrubs or ground cover not to exceed 2' in height.

## **ARTICLE 7: DEVELOPMENT PLANS**

### **7.1 INTENT AND PURPOSE**

The purpose of this section is to establish and define development plans which may be utilized for a wide variety of planning related procedures. This section outlines the content and procedure for submission, review, and approval, of all development plans required by the Zoning Ordinance.

### **7.2 APPROVAL OF DEVELOPMENT PLAN BEFORE BUILDING PERMIT**

For any case where a development plan is required by this Zoning Ordinance, no building permits shall be issued until a final development plan is approved by the planning commission. The approval of a development plan shall limit and control the issuance of all building and occupancy permits, and restrict the construction, location and use of all land and structures to the conditions as set forth in the plan.

### **7.3 WHERE REQUIRED**

Development plans shall be required as follows:

A. Development Plans Required in Conjunction with Zone Map Amendment Requests:

Development plans shall be required to accompany any zoning map amendment request.

1. All applications for zoning map amendments shall require the submission and approval of both a preliminary development plan and a final development plan prior to development of the property. The preliminary development plan shall be required to be submitted in conjunction with the zoning map amendment request.
2. The commission in its discretion may waive the requirement for the submission and approval of a preliminary development plan, a final development plan or both, if the commission finds that there will be minimal impact on the neighborhood or the subject property.

B. Development Plans Required For Multiple Principle Structures As Permitted By Section

2.7. Development plans required by Section 2.7 to permit more than one principal structure and its accessory structures on a lot or a parcel of land shall be submitted to the commission, in accordance with the provisions of this article.

### **7.4 DEVELOPMENT PLAN PROCEDURES**

The following shall be the procedure for planning commission consideration of any development plan.

- A Filing: To formally request planning commission action on the development plan, the developer shall file three (3) completed copies of the plans required by the commission.

- B. Review - Upon finding the application complete, the Administrative Official shall review the development plan for completeness. The development plan must be complete before the planning commission is required to consider the application. An application is complete when it contains all the information necessary for the permit issuing authority to decide whether or not the development, if completed as proposed, will comply with all the requirements of this zoning ordinance. Applicants are encouraged to meet with the Administrative Official prior to., submission of the development plan. Upon finding the application complete, the Administrative Official shall review the development plan and make recommendations to the Commission.
- C. Commission Action: All development plans shall be approved or disapproved within sixty (60) days of the date they are formally filed for commission action. However, in case of a development plan filed in conjunction with a map amendment request, the planning commission may postpone action of the development plan until after the legislative body has made its decision on the map amendment request.

The commission will review the Administrative Official's recommendation and the development plan and then act for approval, conditional approval with conditions noted, postponement, or disapproval. The commission may modify or disapprove the development plan if it finds the plan does not comply with the requirements of the Zoning Ordinance, and when applicable, the land subdivision regulations or if it finds there are existing or potential substantial flood, drainage, traffic, topographic or other similar problems relating to the development of the subject property.

## **7.5 TYPES OF DEVELOPMENT PLANS**

There shall be a preliminary development plan and a final development plan, defined as follows:

A Preliminary Development Plans: A preliminary development plan is a site plan by which, at the early stages of development design, the commission may consider, approve and restrict many major aspects of the development without requiring an undue amount of final design work on the part of the developer. The preliminary development plan is less detailed and specific than a final development plan in terms of exact arrangement of buildings, parking areas, open spaces, access points and any other site design features. No building permits can be issued based upon a preliminary development plan.

1. Contents of Preliminary Development Plan - A preliminary development plan shall contain the following information at a minimum:
  - a. A title block containing the plan name, development plan type, name and address of developer and plan preparer; and written scale.
  - b. The boundary of the subject property and the record plan name or owner's name of all adjoining property.

- c. A vicinity sketch, oriented in the same direction as the design scheme.
- d. Topography with contour intervals as shown on the available USGS sheets.
- e. Location, arrangement, and approximate dimensions of existing and proposed driveways, walkways, parking areas and arrangement of spaces, points of ingress and egress, and other vehicular and pedestrian right-of-way.
- f. Location of any proposed or existing streets within or abutting the subject property.
- g. Screening, landscaping, buffering, recreational, and other open space areas.
- h. Approximate size, location, height, floor area, area arrangement and use of proposed existing building and signs.
- i. Storm drainage areas, floodplains, conceptual drainage controls and storm water retention and any other designated environmentally sensitive or geologic hazard area.
- J. Proposed and existing easements for utilities or other purposes.
- k. Areas of substantial existing trees including those located along fence rows and drainage areas along with a general description of the type and size of such trees.
- l. A statistical summary of all pertinent site data, including site area, zoning, building coverage and floor area, parking, open space, etc.
- m. An owner's certification, signed and witnessed as follows: "I (We) do hereby certify that I am (we are) the only owner(s) of the property shown hereon, and do adopt this as my (our) development plan for the property."
- n. A commission's certification to be signed by the commission's secretary if and when the plan is fully approved, as follows: "I do hereby certify that this development plan was approved by the planning commission."

B. Final Development Plan" A development plan from which a building permit will be sought. A final development plan is intended to deal with site design issues at a detailed level and to actually dictate the approved locations of building, parking areas, open spaces, access points and any other site design features, that vary from those requirements for the uses permitted and regulated by the dimension and area requirements for that zoning classification.

- 1. Contents of Final Development Plan: All information required for preliminary development plans as required under Section 7.S(A); and that the plan information shall be of an exact nature, rather than approximate or general.

## **7.6 AMENDMENTS TO DEVELOPMENT PLANS**

Amendments to approved development plans can be made only by official planning commission action. Content and format and procedures shall be as for the original submission. However, amendments which fully meet the requirements set forth hereinafter for minor amendments may be approved and certified by the Administrative Official without further action by the commission.

- A. Minor Amendments Defined: Minor amendments are intended to expedite approval in those situations where amendments are of minor significance and generally relate to the shifting of previously approved spaces. Such amendments (1) shall not decrease the overall land area in yards, or other open spaces; (2) shall not increase building ground area coverage, floor area, or height; or increase the number of dwelling units; (3) shall not increase the number or size of signs; (4) shall not change the location of any street and shall not increase the number, or change the location of street access points; except that shifts in the approved access location not exceeding twenty-five (25) feet may be approved as a minor amendment where the access point is not located on an arterial street.

## **7.7 DEVELOPMENT PLANS AND PRELIMINARY SUBDIVISION PLAN MAY BE COMBINED**

It is recognized that for certain development situations it can be advantageous to both the developer and the commission to combine the functions and requirements for development plans and preliminary subdivision plans in order to streamline the development approval process while not reducing the quality of the review.

## **7.8 PRELIMINARY OR FINAL SUBDIVISION PLAN MAY BE SUBSTITUTED FOR DEVELOPMENT PLANS REQUIRED IN CONJUNCTION WITH MAP AMENDMENT REQUEST**

It is recognized that in certain cases, a preliminary or final subdivision plan would be as appropriate or more appropriate to be considered in conjunction with a map amendment request than a development plan. Generally, such situations involve developments where placements of structures will be tightly controlled by the streets, lot pattern, and the requirements for placement of structures within the zone, and where the developer sees fit to have plans prepared at the required level of detail for subdivision plans prior to receiving a zone change approval.

## **7.9 REQUEST FOR VARIANCES OR CONDITIONAL USE PERMITS**

An applicant for a zoning change who is required to submit a development plan to the planning commission may elect to have the planning commission hear any requests for variances or conditional use permits proposed in the development plan. Such request shall be submitted at the time of filing of the application for the zone change. In such cases, the planning commission is hereby empowered to hear and finally decide applications for variances or conditional use permits pursuant to KRS 100. The planning commission shall assume all powers and duties otherwise exercised by the board of adjustment pursuant to KRS 100 in such circumstances. The application for variances or conditional use permits shall be considered at the same public hearing set for the zone change.

## ARTICLE 8: ADMINISTRATION AND ENFORCEMENT

### 8.1 ADMINISTRATIVE OFFICIAL

A fully qualified administrative official designated by the Somerset City Council shall administer and enforcement this zoning ordinance. The Administrative Official may be provided with the assistance of such other persons as the Somerset City Council and planning commission may direct.

- A. For the purposes of the zoning ordinance, the administrative official shall have the following duties:
1. Upon finding that any of the provisions of this Regulation are being violated, notify in writing the person responsible for such violation(s), ordering the action necessary to correct such violations.
  2. Order discontinuance of illegal uses of land, buildings or structures.
  3. Order removal of illegal buildings, structures, signs or illegal additions or structural alterations.
  4. Order discontinuance of any illegal work being done.
  5. Take any other action authorized by this zoning ordinance to ensure compliance with or to prevent violation(s) of this zoning ordinance. This may include the issuance of and action on building permits and certificate of occupancy permits and such similar administrative duties as are permissible under the law.
  6. Make records of all official actions of the office relating to the administration and enforcement of the provisions of this zoning ordinance including but not limited to written records of all complaints and actions taken with regard thereto, all violations discovered and actions taken thereto, and the final disposition of all such matters.
  7. **Make** an annual report to the Planning Commission and the City Council, listing the total number of buildings and structures constructed and/or demolished, the number of dwelling units added or subtracted from the city total, and the dollar value of all building activity occurring within the city during the preceding year. Said report shall also further break the value of building activity down by land use category in accordance with the number and type of Zoning Districts authorized by this regulation and any amendments thereto, and shall detail the full scope of enforcement activities including fines, injunctions and the like imposed upon any violators. The report shall be in writing.

### 8.2 PLANNING (ZONING) COMMISSION

Matters of the planning commission pertaining to membership, appointment, terms, vacancies, oath, compensation, removal and officers shall be in accordance with KRS 100. The Commission shall adopt rules necessary to the conduct of its affairs in keeping with the provisions of this zoning ordinance. Meetings shall be held at the call of the chairman and at



such other times as the Commission may determine. All meetings shall be open to the public. The Commission shall keep minutes of its proceedings, including regulations, transactions, findings, and determinations, and the number of votes for and against each question, and if any member is absent or disqualifies from voting, indicating the fact.

A. For the purpose of this zoning ordinance, the Commission shall have the following duties:

1. Administer and enforce this zoning ordinance as outlined herein.
2. Review all proposed amendments to this zoning ordinance and make recommendations to the City Council.
3. Review and act on all development plans.

### **8.3 BUILDING PERMITS REQUIRED**

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

If no building permit has been issued and a builder begins or continues to build, a restraining order may be obtained upon application to the 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.

#### **8.31 APPLICATION FOR BUILDING PERMIT**

All applications for building permits shall be drawn to a scale as may be required by the administrative official. One copy of the plans shall be returned to the applicant by the administrative official, after he shall have marked such copy either as approved or disapproved and attested to same by this signature on such copy. The original copy of the plans, similarly marked shall be retained by the administrative official.

#### **8.32 EXPIRATION OF THE BUILDING PERMIT**

If the work described in any building permit has not begun within six (6) months from the date of issuance thereof, said permit shall expire; it shall be revoked by the administrative official and written notice thereof shall be given to the persons affected. If the work described in any building permit has not been substantially completed within two (2) years of the date of issuance thereof, said permit shall expire and be revoked by the administrative official and written notice thereof shall be given to the persons affected, together with notice that further work as described in the canceled permit shall not proceed unless and until a new building permit has been obtained.

#### **8.4 CERTIFICATE OF OCCUPANCY FOR NEW, ALTERED, OR NON-FORMING USES**

It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a certificate of occupancy shall have been issued in accordance with Kentucky Building Code when such certificate of occupancy is required.

No non-conforming structure or use shall be renewed, changed, or extended until a building permit shall have been issued by the administrative official.

#### **8.5 CONSTRUCTION AND USE TO BE AS PROVIDED IN APPLICATIONS, PLANS, PERMITS, AND CERTIFICATES OF OCCUPANCY**

Building permits or certificates of occupancy issued on the basis of plans and applications approved by the administrative official authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no otherwise, arrangement or construction. Use, arrangement or construction at variance with that authorized shall be deemed violation of this Regulation and punishable as provided by Section 8.7 hereof.

#### **8.6 COMPLAINTS REGARDING VIOLATIONS**

Whenever a violation of this zoning ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint, stating fully the causes and basis thereof, shall be filed with the administrative official. The administrative official shall record properly such complaint, immediately investigate, and take action thereof as provided by this zoning ordinance.

#### **8.7 PENALTIES FOR VIOLATIONS**

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

Any person who so violates this zoning ordinance or fails to comply with any of its requirements except as provided in Section 8.71 hereinbelow shall upon conviction thereof be fined not less than ten dollars (\$10.00) but no more than five hundred dollars (\$500.00) for each conviction. Each day of violation shall constitute a separate offense.

#### **8.71 VIOLATIONS REGARDING LOTS OR PARCELS**

Any person shall upon conviction be fined not less than one hundred dollars (\$100.00) but no more than five hundred dollars (\$500.00) for each lot or parcel which was the subject of sale or transfer, or a contract for sale or transfer where such sale or transfer, or contract thereof, constitutes a violation of this zoning ordinance.

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

#### **8.8 SCHEDULE OF FEES, CHARGES, AND EXPENSES**

The planning commission shall enforce a schedule of fees, charges, and expenses established by City Council and shall develop a collection procedure for building permits, appeals, and other matters pertaining to this zoning ordinance. The Schedule of Fees shall be posted in the office of the administrative official and may be altered or amended only by the City Council. Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

## **ARTICLE 9: BOARD OF ADJUSTMENT**

### **9.1 APPOINTMENT AND PROCEEDINGS OF BOARD**

The Board of Adjustment as constituted at the time of the re-adoption of this zoning ordinance shall continue in power. Matters of the Board of Adjustment pertaining to membership, appointment, term, vacancies, oar compensation, removal and officers, shall be in accordance with KRS 100.217.

The Board of Adjustment shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this zoning ordinance. Meetings shall be held at the call of the chairman and at such other times as the Board shall determine. The chairman, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.

The Board of Adjustment shall keep minutes of its proceedings, showing the vote upon each question, or if absent or failing to vote indicating such fact, and shall keep records of its examinations and other official actions, al] of which shall be a public record and be immediately filed in the office of the Board (Note KRS 100.221).

- 9.11 An appeal stays all proceedings in furtherance of the action appealed from, unless the Administrative Official from whom the appeal is taken certifies to the board of Adjustment after the notice of appeal is filed, that by reason of facts stated in the certificate, a stay would, in their opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted on due cause shown by the Board of Adjustment. Notice shall be given to the Administrative Official from whom the appeal is taken and on due cause shown.

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

#### **9.21 ADMINISTRATIVE REVIEW**

To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by the Administrative Official. Such decision shall be made within sixty (60) days.

#### **9.22 CONDITIONAL USE PERMIT**

- A. The Board shall have the authority to approve or disapprove applications for conditional uses. 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. The granting of a conditional use permit does not exempt the applicant from complying with all the requirements of building, housing and other applicable regulations.

## **9.23 VARIANCES**

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 regulation or by reason of exceptional topographic conditions, or some other extraordinary situation or condition of that site, the literal enforcement of the dimensional requirements (height or width of building or size of yards, but no population density) of the zoning regulation 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.

- A. Before any dimensional 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.
1. The specific conditions in detail which are unique to the applicant's land and do not exist on other land in the same zone.
  2. The manner in which the strict application of the provisions of the regulation 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.
  3. That the unique conditions and circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation.
  4. Reasons that the variance will preserve, not harm the public safety and welfare, and will not alter the essential character of the neighborhood.

## **9.24 PROCEDURES**

An application to the Board for an original interpretation or decision or an appeal from a decision of the enforcement officer shall be made in writing on forms prescribed by the Board and which provide sufficient information for administrative purposes. Additional statements or information with respect to the case involved may also be submitted by the applicant for review by the Board. An appeal must be filed within sixty (60) days after the enforcement officer has refused a building permit or certificate of occupancy, or the right to appeal shall be waived. The Enforcement Officer shall transmit to the Board the complete record of the decision appealed.

The Board shall hold a hearing at which all pertinent evidence concerning the interpretation, decision, or appeal shall be examined, and the Board shall make their decision within 30 days after the hearing. The following rules shall govern all decisions made by the Board:

- A. Limits of Authority: The Board shall act only within the strict limits of its authority as defined in the zoning ordinance. The Board has no authority to vary the use regulations or other regulations not specifically delegated to it. The Board shall not hold hearings on applications or appeals seeking decisions that the Board is not authorized to make.
- B. Special Conditions: The Board may attach special conditions to any decision it is authorized to make in order to ensure that the intent of the Zoning Order will be carried out.
- C. Majority Vote Required: The concurring vote of a majority of the entire membership of the Board shall be necessary in making any decision.
- D. Additional Powers: In exercising the above powers, the Board shall have all the powers of the enforcement officer in addition to its other powers and duties.

## **ARTICLE 10: AMENDMENTS**

### **10.1 GENERAL**

Whenever the public necessity, convenience, general welfare, or good zoning practices require, the legislative body may by Ordinance, after receiving a recommendation thereon from the planning commission, and subject to procedures by law, amend, supplement, change or repeal the regulations, restrictions, and boundaries or classification of property.

### **10.2 APPLICATION FOR AMENDMENT**

A proposal for amendment to the Official Zoning Map may originate with the planning commission, the City Council, and other government body, the owner of the subject property, or by a person having written authorization from the owner of the subject property. A proposal for amendment to the text of this Regulation may originate with any person or governmental body. Regardless of the origin of the proposed amendment an application must be filed with the planning commission requesting the proposed amendment in such form and accompanied by such information as required by this Regulation and the planning commission. The planning commission may require the submission of further information subsequent to the filing of an application as provided by the Regulation and the planning commission. At the time of filing an application, a non-returnable filing fee shall be paid according to the schedule of fees; however, there shall be no filing fee for an amendment requested by the City Council, the planning commission, or any governmental agency. Upon the filing of an application for a map amendment by a governmental body, the planning commission shall promptly notify the owner of the subject property by registered mail or certified mail, receipt requested.

### **10.3 PLANNING COMMISSION PROCEDURE**

Upon filing of an application for an amendment to the Official Zoning Map or the text of this Regulation, the planning commission shall study and review the application as provided in this Regulation and the bylaws of the planning commission.

### **10.4 NOTICE OF PUBLIC HEARING**

Before voting upon any proposed amendment, notice of the time, place and reason for holding a public hearing shall be given by one publication in the newspaper of general circulation in the city, not earlier than twenty-one (21) days or later than seven (7) days before the public hearing.

### **10.5 PUBLIC HEARING ON APPLICATION**

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

## **10.6 RECOMMENDATION OF COMMISSION FOR ZONING MAP AMENDMENT**

Before recommending to the City Council that an application for amendment to the Zoning Map be granted, the planning commission, in the absence of such a finding that (1) the original zoning classification given to the property was inappropriate or improper, or (2) there have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in the Comprehensive Plan adopted by the planning commission and which have substantially altered the basic character of such area; the findings of fact made by the planning commission shall be recorded in the minutes and records of the Commission. After voting to recommend that an application for amendment to the Official Zoning Map be granted or denied, the planning commission shall forward its findings of fact and recommendations in writing to the City Council, if the subject property is within the territorial jurisdiction of the city at the time the planning commission's recommendation is made thereon.

## **10.7 ACTION BY CITY COUNCIL ON ZONING MAP AMENDMENTS**

The Somerset City Council shall not act upon a proposed amendment to the Zoning Map until it shall have received the written findings of fact and recommendations thereon from the planning commission. It shall take a majority of the entire City Council to override the recommendations of the planning commission.

## **10.8 RECOMMENDATION OF COMMISSION FOR TEXT AMENDMENT**

After voting to recommend that an application for amendment to the text of this zoning ordinance be granted or denied, the planning commission shall forward its recommendation in writing to the City Council.

## **10.9 ACTION BY CITY COUNCIL ON TEXT AMENDMENT**

The City Council shall not act upon a proposed amendment to the text of this zoning ordinance until it shall have received the written recommendation thereon from the planning commission. It shall take a majority of the entire City Council to override the recommendation of the planning commission.

## **10.10 SPECIAL CONDITIONS TO THE GRANTING OF ZONING CHANGES**

As a condition to the granting of any zoning change, the planning commission may require the submission of a development plan. As a further condition to the granting of a zoning change, the planning unit may require that substantial construction be initiated within two (2) years; provided that such zoning change shall not revert to its original designation unless there has been a public hearing.

## **10.11 CURRENCY OF ZONING MAP**

The planning commission and the Administrative Official shall ensure that amended zoning district boundaries are accurately placed on the certified copies of the Zoning Map and shall initial and date all such additions to the map.



Passed and recommended by resolution of the Somerset Planning Commission for enactment:

(Date)\_\_\_\_\_

CERTIFIED:

\_\_\_\_\_  
(Name/Title)

Enacted by Ordinance of Somerset City Council for enforcement by the Somerset Planning Commission.

Date of First Reading: \_\_\_\_\_

Date of Second Reading: \_\_\_\_\_

CERTIFIED AND APPROVED:

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk