

## **ORDINANCE 6-2019**

### **AN ORDINANCE APPROVING AND ADOPTING TEXT AMENDMENTS TO APPENDIX F, ARTICLES 3, 8, 14, 20, AND 22 OF THE OWENSBORO METROPOLITAN ZONING ORDINANCE FOR THE CITIES OF OWENSBORO AND WHITESVILLE, AND DAVIESS COUNTY.**

**WHEREAS**, the Owensboro Metropolitan Planning Commission met in regular session on April 11, 2019 and proposed an amendment to the text of the Zoning Ordinance for the Cities of Owensboro and Whitesville, and Daviess County regarding revisions to Articles 3, 8, 14, 20, and 22; and

**WHEREAS**, by a vote of 8-0, the Owensboro Metropolitan Planning Commission has recommended that the proposed text amendments to the Owensboro Metropolitan Zoning Ordinance be approved as being in compliance with the goals and objectives of the adopted Comprehensive Plan and be submitted to the Owensboro City Commission, Whitesville City Commission, and Daviess County Fiscal Court for approval and adoption by the legislative bodies. Findings of fact in support of adoption of the proposed revisions to the Owensboro Metropolitan Zoning Ordinance are as follows:

1. These amendments to Article 3 will help allocate wisely the use of land for various activities by encouraging sound land development policies and are an example of creating flexible zoning regulations for existing redeveloping neighborhoods.

2. These amendments to Articles 8, 14, 20, and 22 will help maintain Daviess County as a viable economic unit.

3. These amendments to Articles 8 and 14 will promote regional development to enhance economic benefits for citizens of Daviess County.

4. These amendments to Article 8 will promote a diversity of desirable industrial activities for a broad and stable economic base and accommodate all intensities of land use activity.

5. These amendments to Article 8 and 14 will encourage development of existing brownfields for new uses.

6. These amendments to Article 8 will: (a) allow agriculture and other natural resource uses wider reign to apply traditional production techniques; (b) avoid the introduction of urban activities that would have a detrimental effect on residential activity, but allow some mixture of appropriate nonresidential uses; (c) assure that nonresidential uses in the neighborhood – professional, business, industrial – have adequate space for future expansion and are designed so that their traffic, parking noise, odors, etc. do no conflict with residential uses; (d) will reserve the land in the Rural Service Area primarily for agricultural uses, other natural resource activities, and support uses that need to be near such activities; and (e) will encourage the application of increased buffers where heavy industrial and coal mining uses may be located in close proximity to existing rural residences.

7. These amendments to Article 8 and 14 encourage the use of alternative energy sources where economically and environmentally feasible.

8. These amendments to Article 14 will: (a) endeavor to create policies for regulating land use activities that are not overly burdensome while still protecting the public health, safety and welfare of the community; (b) will encourage the grouping of

activities so that uses of greater intensity (industrial or commercial) do not harm weaker types (residential and agricultural).

9. These amendments to Article 20 will: (a) assist in promoting access to new technologies as an aid to economic development; (b) assist to maintain, preserve and extend the high level of service to each of our public service agencies; (c) provide our citizens with access to efficient and affordable telecommunications systems; (d) accommodate both wired and wireless communications; (e) encourage co-location of cellular and other telecommunications facilities to minimize the number of telecommunications towers; and (f) ensure local telecommunications regulations are easily adaptable to accommodate the rapidly changing technology of the telecommunication industry.

10. These amendments to Article 22 will: (a) assist in using the fixed amount of land in Daviess County as wisely and sparingly as possible; (b) assist in accommodating all intensities of land use activity; (c) help to maintain and improve the quality of existing urban neighborhoods through building maintenance, rehabilitation; and compatible replacement, and through improvement of community facilities and services; (d) encourage in-fill development that maximizes the efficiency of existing infrastructure and is designed to be compatible with adjoining land uses; (e) assure that a wide variety of types of housing suitable to a wide range of people; (f) encourage single-family, duplex and apartment buildings in the same neighborhood as long as the designs for the different housing types blend well within the neighborhood; (g) assist to stimulate rehabilitation of existing housing; (h) assist to increase the inner-city housing density; (i) assist to preserve existing housing and neighborhoods; and (j) provide an

example of flexible zoning criteria for existing redeveloping neighborhoods as encouraged by the Comprehensive Plan.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF OWENSBORO, AS FOLLOWS:**

**Section 1.** That the statements recited in the preamble hereinabove, upon which the adoption of this ordinance is predicated, are hereby adopted and incorporated by reference, as if fully set forth herein.

**Section 2.** That text amendments to Appendix F of the Owensboro Municipal Code pertaining to Article 3 - General Zone & District Regulations of the Owensboro Metropolitan Zoning Ordinance for the Cities of Owensboro and Whitesville, and Daviess County shall be the same and are hereby approved and adopted, as more particularly set out in the attached Exhibit A, which is incorporated by reference as if fully set forth herein.

**Section 3.** That text amendments to Appendix F of the Owensboro Municipal Code pertaining to Article 8 – Schedule of Zones of the Owensboro Metropolitan Zoning Ordinance for the Cities of Owensboro and Whitesville, and Daviess County, as more particularly set out in the attached Exhibit B, which is incorporated by reference as if fully set forth herein.

**Section 4.** That text amendments to Appendix F of the Owensboro Municipal Code pertaining to Article 14 – Definitions of the Owensboro Metropolitan Zoning Ordinance for the Cities of Owensboro and Whitesville, and Daviess County, as more particularly set out in the attached Exhibit C, which is incorporated by reference as if fully set forth herein.

**Section 5.** That text amendments to Appendix F of the Owensboro Municipal Code pertaining to Article 20 – Cellular Antenna Tower Regulations of the Owensboro Metropolitan Zoning Ordinance for the Cities of Owensboro and Whitesville, and Daviess County, as more particularly set out in the attached Exhibit D, which is incorporated by reference as if fully set forth herein.

**Section 6.** That text amendments to Appendix F of the Owensboro Municipal Code pertaining to Article 22 – Arena Overlay District of the Owensboro Metropolitan Zoning Ordinance for the Cities of Owensboro and Whitesville, and Daviess County, as more particularly set out in the attached Exhibit E, which is incorporated by reference as if fully set forth herein.

**Section 7.** That the attached amendments to the Zoning Ordinance shall be kept on file and available for public inspection in the office of the Owensboro Metropolitan Planning Commission.

**Section 8.** All prior ordinances or parts thereof, in conflict with the provision of this ordinance, are to the extent of any such conflict, hereby repealed.

**Section 9.** This ordinance shall become effective upon its adoption and publication according to law.

**INTRODUCED AND PUBLICLY READ ON FIRST READING,** this the 24th day of April, 2019.

**PUBLICLY READ AND FINALLY APPROVED ON SECOND READING,** this the 7th day of May, 2019.

---

Thomas H. Watson, Mayor

ATTEST:

---

Beth Cecil, City Clerk

<b>Consent</b>

**CITY OF OWENSBORO  
AGENDA REQUEST AND SUMMARY  
COVER SHEET**

<b>Item No.</b>

<b>TITLE</b>
<b>Amendments to the text of Article 3 of the Zoning Ordinance</b>

<b>MEETING OF CITY COMMISSION ON:</b>
<b>BUDGET</b> <i>(State any budget consequences):</i> <b>N/A</b>

<b>SUMMARY AND BACKGROUND</b> <i>(Continue on additional sheet, if necessary):</i>
The Owensboro Metropolitan Planning Commission met in regular session on April 11, 2019, to consider amendments to the text of the Zoning Ordinance for Owensboro, Whitesville and Daviess County, Kentucky, regarding revisions to Article 3 related to fence heights. By a vote of 8-0 the Owensboro Metropolitan Planning Commission has recommended that the proposed text amendments be approved in that the proposal is in compliance with the adopted Comprehensive Plan (see attached Findings of Facts and staff report).
Check if continued on next page <input type="checkbox"/>

<b>RECOMMENDATION OR ACTION REQUESTED</b> <i>(State the action requested or recommended):</i>
Approve text amendments to Article 3 of the Zoning Ordinance.

<b>ATTACHMENTS</b> <i>(10 copies for agenda packets)</i>	Check if no attachments <input type="checkbox"/>
OMPC Recommendation and Staff Report Transcript of OMPC proceedings will be forwarded upon receipt	

**Note:** All City Commission Agenda items submitted by staff, including appropriate backup materials, must be approved and submitted to the City Clerk not later than noon Thursdays preceding Tuesday, 6:30 p.m. meetings.

<b>Submitted by</b>	<b>Dept. Head Approval</b>	<b>City Attorney Approval</b>	<b>City Manager Approval</b>
umms	Put		



**ZONING TEXT AMENDMENT**

**Subject: Amendments to the text of Article 3 of the Zoning Ordinance**

**RECOMMENDATION of the Owensboro Metropolitan Planning Commission, Owensboro, Kentucky**

Having considered the above matter at a Public Hearing on **April 11, 2019**

and having voted **8 to 0**

to submit this Recommendation to the **Owensboro City Commission,**

the Owensboro Metropolitan Planning Commission hereby recommends **APPROVAL**

of this proposal, based on the following Purposes and Findings of Fact.

**FINDINGS OF FACT**

1. This amendment to Article 3 will help allocate wisely the use of land for various activities by encouraging sound land development policies; and,
2. This amendment to Article 3 is an example of creating flexible zoning regulations for existing redeveloping neighborhoods.

**ATTEST: April 12, 2019**

Executive Director, Brian R. Howard, AICP

**ENCLOSURES**

Staff Report, Proposed Text Amendments, Meeting Transcript to be forwarded at a later date





## Background

The proposed revisions to Articles 3 increase the maximum fence height in a street side and rear yard where corner residential lots are back to back and oriented so that rear and side yards abut. This increase is a frequent variance request to the Board of Adjustment which is typically approved.

## Proposed Text Amendments

See the attached draft of the proposed Article 3

## Conclusions

The purpose of revising Article 3 is to be more flexible on the allowed fence height in a side street or rear yard where corner residential lots are back to back and oriented so that rear and side yards abut.

The proposed text amendments are supported by the following goals and objectives of the Comprehensive Plan:

- Land Use, Goal 4.1 – Allocate wisely the use of land for various activities by encouraging sound land development policies.

- Land Use, Objective 4.12.3 – Encourage flexible zoning criteria for existing redeveloping neighborhoods.

## Findings of Fact

The staff recommends approval of the proposed text amendments to Article 3 because the proposal is in compliance with the community's Comprehensive Plan. The findings supporting this recommendation follow:

1. This amendment to Article 3 will help allocate wisely the use of land for various activities by encouraging sound land development policies; and,
2. This amendment to Article 3 is an example of creating flexible zoning regulations for existing redeveloping neighborhoods.

Article amendments approved unless noted:	OMPC	Owensboro	Daviess Co.	Whitesville
Revised zoning ordinance	08-Sep-1979	14-Mar-1980	27-Dec-1979	07-Apr-1980
Public utility facilities	12-Jan-1984	06-Mar-1984	22-Feb-1984	?
General zone & district regulations revised with setback adjustments and detailed provisions for accessory buildings	14-May-1987	16-Jun-1987	24-Jun-1987	24-Aug-1987
Excavation in flood plains, amended {3-2(c)(5)}	21-Apr-1994	07-Jun-1994	01-Jun-1994	not applic.
Vehicular access to lots, relocated to Article 13 {3-8}	18-Apr-1996	21-May-1996	22-May-1996	?
2003 Review Committee: Only one principal structure per lot in single-family zones unless a Planned Residential Development {3-2(c)(1)}; excavation permit requirement made same countywide {3-2(c)(5)}; 15' side yard setback min. for single-family uses extended to R-4DT zone {3-5(a)(3)}; public utility may authorize building in easement subject to criteria {3-5(c)(1)}; cellular antenna towers exempted from height limitations except for KY Airport Zoning or as otherwise specified {3-6(b)(1)}; accessory buildings to not exceed the area of the ground floor of the principal structure on lots under ½ acre, renumbered subsequent subsections {3-6(c)}; sight triangle dimensions on one-way streets adopted as regulation {3-6(f)(1)}; unenclosed covered porches allowed to project into prescribed front yard setback a distance of 8 feet except in planned residential developments {3-7(c)(5)}; Ky. Building Code applied to swimming pool enclosures {3-7(f)}; measurement policies for the height of fences and walls adopted as regulation, height of walls and fences outside of industrial zones in side yards restricted to 6' and in residential zone front yards to 3' except as required by Art. 17 {3-7(g)(1)(2)}; electric fences prohibited in residential or MHP zones {3-7(g)(3)(b)}; restricted construction of private walled structures in yards adjoining arterial, expressway, or major collector streets {3-7(g)(4)}; chimneys allowed to project into required setback a max. of 2' if structure is a min. of 3' from property line, renumbered subsequent subsection {3-7(k)}.	11-Dec-2003	02-Mar-2004	05-Feb-2004	06-Apr-2004
Revision to Section 3-7(g) Walls and Fences relative to heights in residential side and rear street yards	10-July-2008	19-Aug-2008	07-Aug-2008	?
Revisions to reference new regulations contained in Article 21 relative to properties within Downtown Overlay Districts	10-Sep-2009	20-Oct-2009		
Revisions to Section 3-2(c)5 Cut and Fill Permits	14-Feb-2013		21-Mar-2013	n/a
Revisions to various sections related to encroachments within public utility easements	11-May-2017	01-Aug-2017	01-Jun-2017	14-Jun-2017
<a href="#">Revision to Section 3-7(g)3 Walls and Fences relative to heights in residential rear and side street yards</a>		<a href="#">11-April-2019</a>		

**3-1 INTENT AND PURPOSE.** The purpose of this Article is to establish and describe the following items: general regulations applicable to zones and districts; exceptions and adjustments to site requirements as prescribed for principal buildings in Article 8 of this Zoning Ordinance; regulations for accessory buildings, structures and features in required yards; and general limitations for vehicular access to lots.

**3-2 APPLICATION OF ZONE AND DISTRICT REGULATIONS.** The regulations set by this Zoning Ordinance within each zone and district shall be minimum or maximum limitations, as appropriate to the case, and shall apply uniformly to each class or kind of structure or land, except as hereinafter provided.

**3-2(a) Agricultural Land Use Exemptions.**

Notwithstanding any other provision of this Zoning Ordinance, land which is used solely for agricultural use as defined in this Zoning Ordinance shall have no regulations imposed as to building permits, certificates of occupancy, height, yard, or location requirements for agricultural buildings, except that setback lines may be required for the protection of existing and proposed streets and highways and that buildings or structures in a designated floodway or floodplain or which tend to

increase flood heights or obstruct the flow of flood waters may be fully regulated.

**3-2(b) Public Utility Facilities Excepted; Acquisitions, Disposals and Changes, Referral to Commission; Effect - KRS 100.324.** Public utilities operating under the jurisdiction of the energy regulatory commission and utility regulatory commission or the bureau of vehicle regulation or federal power commission and common carriers by rail shall not be required to receive the approval of the OMPC for the location or relocation of any of their service facilities. Service facilities include all facilities of such utilities and common carriers by rail other than office space, garage space, and warehouse space when such space is incidental to a service facility. The energy regulatory commission and utility regulatory commission and the bureau of vehicle regulation shall give notice to the OMPC of any hearing which effects locations or relocations of service facilities within the planning area of Daviess County.

**(1) Nonservice Facilities Must Comply with Zoning Ordinance.** The nonservice facilities excluded in this section must be in accordance with the regulations of this Zoning Ordinance.

**(2) Service Facility Information Requested by OMPC.** Upon request of the OMPC, the public utilities referred to in this section shall provide the OMPC with information concerning service facilities which have been located on and/or relocated on private property.

**(3) Agreement of Public Facility Proposals with Comprehensive Plan.** All proposals for acquisitions or disposition of land for public facilities, or changes in the character, location, or extent of structures or land for public facilities, excluding state and federal highways and public utilities and common carriers by rail mentioned in this section, shall be referred to the OMPC to review in the light of its agreement with the Comprehensive Plan and the OMPC shall within sixty (60) days from the date of its receipt review the project and advise the referring body whether the project is in accordance with the Comprehensive Plan, whether it approves or disapproves of the project, and it shall state the reasons for disapproval in writing and make suggestions for change which will in the OMPC's opinion better accomplish the objectives of the Comprehensive Plan. A majority of the entire membership of the legislative body may override the disapproval of the OMPC.

**3-2(c) Buildings, Structures and Land Use Must Conform to Zoning Regulations.** No building, structure, or land shall hereinafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered except in conformity with all of the regulations specified in this Zoning Ordinance for the zone and district in which it is located unless otherwise specifically permitted in this Zoning Ordinance.

**(1) No More than One Principal Structure Per Lot.** There shall be no more than one principal structure and its accessory structures on any lot or parcel of land unless otherwise specifically permitted in this Zoning Ordinance or unless a development plan is approved by the OMPC as provided by Article 16 of this Zoning Ordinance. In R-1A, R-1B, R-1C, and R-1T zones, there shall be only one principal structure and its accessory structures on any lot or parcel of land, unless a Planned Residential Development is approved by the OMPC as provided by Article 10 of this Zoning Ordinance.

**(2) Site Requirements.** No building or other structure shall hereafter be erected or altered (a) to exceed the

height, bulk or floor area ratio; (b) to accommodate or house a greater number of families; (c) to occupy a greater percentage of lot area; (d) to have narrower or smaller rear yards, front yards, side yards, or other open spaces; or (e) to have less perimeter and interior lot landscaping for vehicular use area and noncompatible land uses than required by the provisions of this Zoning Ordinance. Site requirements within the Downtown Overlay Districts shall comply with Article 21 of this ordinance.

**(3) Site Requirements Must Be Met for Each Building or Land Use.** No part of a yard, open space, off-street parking, loading space or other special use area required about or in connection with any building or land for the purpose of complying with this Zoning Ordinance, shall be included as part of a yard, open space, off-street parking, loading space or other special use area similarly required for any other building or land unless otherwise specifically permitted in this Zoning Ordinance. Site requirements within the Downtown Overlay Districts shall comply with Article 21 of this ordinance.

**(4) Permitted and Prohibited Uses.** Only those uses specifically named as principal, accessory or conditional uses or those uses substantially similar to principal, accessory or conditional uses are permitted in each zone or district. All uses specifically named as prohibited and all uses not specifically named which lack substantial similarity to permitted uses are prohibited. See Article 21 for prohibited uses within Downtown Overlay Districts.

**(5) No Excavation, Cut or Fill Without Permit.** No excavation, cut or fill of earth or debris shall hereafter be undertaken unless a permit is issued by the Zoning Administrator for such excavation, cut, or fill. (*City of Owensboro*) No excavation, cut or fill of earth or debris shall hereafter be undertaken unless a permit is issued by the local government engineer for such excavation, cut, or fill. (*Unincorporated Daviess County*) As an exception to the foregoing, excavation, cut or fill related to agricultural uses, for public utilities, and in approved subdivisions and developments may be undertaken without such permits, if it occurs entirely outside of areas of special flood hazard and if it would not affect any stream where base flood data has not been provided. Areas subject to potential flooding shall require development permits as specified in Article 18 of this Zoning Ordinance.

**3-3 CONVERSION OF BUILDINGS.** The conversion of any building or buildings, either residential or nonresidential, so as to accommodate an increased number of dwelling units or families or to accommodate another permitted use shall be permitted only within a zone in which a new building for similar occupancy would be permitted under this Zoning Ordinance. The resulting occupancy shall comply with the requirements governing new construction in such zone with respect to building codes, parking supply, and landscape buffers. If the conversion involves no expansion of principal building volume or no conversion of an accessory building into a principal building, the resulting occupancy shall be exempt from the following requirements: minimum lot size, maximum floor area, lot coverage, dimensions of yards, and minimum open space. Any conversion that involves changes other than those stated above shall be subject to all site requirements stated above, and such further requirements as may be specified hereinafter applying to such zone.

**3-4 SUBDIVISION COORDINATION REQUIRED.** In all cases where the ownership of land is divided for the purpose of eventual development of lots, the provisions of the Subdivision Regulations shall apply in addition to the provisions of this Zoning Ordinance.

**3-4(a) No New Nonconforming Yards or Lots.** No yard or lot existing at the time of adoption of this Zoning Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein, unless approved as a special exception by the OMPC. Yards or lots created after the adoption of this Zoning Ordinance shall meet at least the minimum requirements established by this Zoning Ordinance.

**3-4(b) Water Supply and Sewage Disposal Requirements.** It shall be unlawful to construct any building unless the associated water supply and sewage disposal facilities meet the requirements of the health department. Wherever water and sewer mains are accessible, buildings shall be connected to such mains. The health department's certificate approving proposed or completed water and sewage facilities must accompany application for building permits and certificates of occupancy.

**3-5 ADJUSTMENTS TO PRINCIPAL BUILDING YARD REQUIREMENTS PRESCRIBED IN ARTICLE 8.** Yard requirements for principal buildings shall conform to the dimensions prescribed in Article 8 of

this Zoning Ordinance unless adjusted by the provisions of the following subsections.

**3-5(a) Adjustments to Yards Adjoining Streets.**

**(1) Yard Adjoins Freeway or Expressway.** For any yard that adjoins a freeway or expressway, the minimum setback requirement for principal buildings shall be twenty feet (20') from the edge of the freeway or expressway right-of-way.

**(2) Yard Adjoins Alley.** For any yard that adjoins an alley, setback requirements shall apply as if the alley did not exist and the property lines on either side of the alley were a common line between two adjoining properties. Setbacks in yards adjoining alleys within the Downtown Overlay Districts shall comply with the requirements contained in Article 21 of this ordinance.

**(3) Yard Adjoins Street Other Than Freeway, Expressway or Alley.** For any side or rear yard that adjoins a street other than a freeway, expressway or alley, the minimum setback requirement for principal buildings shall equal the front yard setback requirement for a street of such classification and zone; except that in single-family residential and townhouse zones and single-family residential uses within R-4DT zones; side yards along local streets may be reduced to fifteen feet (15') where lots are back-to-back. Setbacks in yards adjoining streets within the Downtown Overlay Districts shall comply with the requirements contained in Article 21 of this ordinance.

**3-5(b) Adjustments to Yards Adjoining More Restrictive Zones.**

**(1) Side Yard Adjoins More Restrictive Zone.** When the side yard of a subject lot in any zone adjoins the side or rear yard of a lot in a more restrictive zone, the side yard requirement for the subject lot shall equal the more restrictive side yard requirement of the adjoining zone. Setbacks within the Downtown Overlay Districts shall comply with the requirements contained in Article 21 of this ordinance.

**(2) Rear Yard Adjoining More Restrictive Zone.** When the rear yard of a subject lot in any zone adjoins the side or rear yard of a lot in a more restrictive zone, the rear yard requirement for the subject lot shall equal the more restrictive rear yard requirement of the adjoining zone. Setbacks within the Downtown Overlay Districts shall comply with the requirements contained in Article 21 of this ordinance.

**3-5(c) Adjustments to Yards Designated On Plats of Record.**

(1) **Public Utility Easements.** Principal buildings, accessory buildings and signs shall not be erected in public utility easements, unless otherwise specifically permitted pursuant to Article 5 of this Zoning Ordinance.

(2) **Building Setback Lines.** When the building setback lines designated on a plat of record conflict with the requirements of this Zoning Ordinance, principal buildings shall conform to the more-restrictive setback requirements, or to the more restrictive build to lines in the case of properties regulated by Article 21. When the building setback lines designated in private restrictions conflict with the requirements within the Downtown Overlay District, private restrictions are encouraged to be released so that the principal building may comply with the requirements contained in Article 21 of this ordinance, or a variance must be sought.

**3-5(d) Adjustments to Yards for Existing Alignment of Buildings Along a Street.** For any yard that adjoins a street other than a freeway, expressway or alley, the required setback for a new, separate principal building may be reduced to

(1) the average of the actual setbacks of the existing principal buildings that are located nearest both sides of the proposed building site, and in the same block front; or

(2) the average of the prescribed minimum requirement and the actual setback of the existing principal building that is located nearest one side of the proposed building site, and in the same block front.

(3) In any case not excepted herein below, the proposed building setback shall be at least ten feet (10') from the edge of the street right-of-way, and shall not violate the setback line designated on a record plat. The ten-foot limitation does not apply in the B-2 Central Business Zone or to planned residential development projects as permitted by Article 10 of this Zoning Ordinance.

(4) Any intersecting street other than an alley shall constitute the end of the block front.

(5) For buildings within the Downtown Overlay Districts, adjustments for yards for a separate principal building shall comply with the regulations contained within Article 21 of this ordinance.

**3-5(e) Adjustments to Yards for Additions to Legally Nonconforming Buildings.** When an existing principal building adjoins any legally nonconforming yard, additions may be made to the building in such yard, subject to the following limitations.

(1) Such addition shall be located no closer to the lot line than the part of the original principal building foundation that is closest to the lot line.

(2) Such addition shall be located at least ten feet (10') from the edge of any street right-of-way, including alleys, and at least three feet (3') from any lot line adjoining property in a residential zone, and shall not violate the setback line designated on a record plat.

(3) For additions to legally nonconforming buildings within the Downtown Overlay District, adjustments to yards shall comply with the requirements contained within Article 21 of this ordinance.

**3-6 GENERAL PROVISIONS FOR ACCESSORY BUILDINGS, STRUCTURES AND FEATURES.** The provisions of this section shall regulate the location, height and size of all buildings, structures and features that are accessory to principal buildings or land uses.

**3-6(a) Use Limitations.** Unless provision is specifically made elsewhere in this Zoning Ordinance, the following use limitations shall apply.

(1) In residential and manufactured housing park zones, accessory buildings shall not be used for or involved with the conduct of any business, trade or industry.

(2) In any zone, no accessory structure or building shall be used in whole or in part for human occupancy.

(3) In any zone, temporary structures and accessory buildings may be allowed for the storage of equipment during construction.

**3-6(b) Height.** Accessory buildings, structures and features shall not exceed the height limitations for principal buildings for the zones in which they are located.



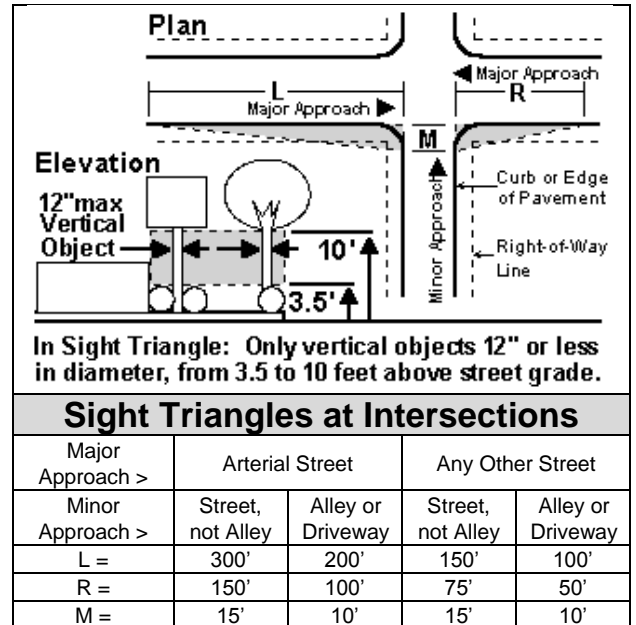
**(1) Exceptions to Height Limitations.** The height limitations of this Zoning Ordinance shall not apply to church spires, belfries, cupolas and domes not intended for human occupancy; monuments, water towers, observation towers, transmission towers, windmills, chimneys, smoke stacks, derricks, conveyors, flag poles, light poles, masts, aerials and cellular antenna towers except as restricted by Kentucky Airport Zoning Commission regulations or other Articles of this Zoning Ordinance.

**3-6(c) Size Limitations.** On lots less than one-half (1/2) acre in size, accessory structures shall not exceed the square footage of the ground floor of the principal building located on the lot, unless a variance is granted by the Owensboro Metropolitan Board of Adjustment. In all cases, maximum lot coverage shall not be exceeded.

**3-6(d) Lot Coverage.** Accessory buildings, structures and features, together with principal buildings, shall not exceed maximum lot coverage for the zones in which they are located. Lot coverage within the Downtown Overlay Districts shall comply with the regulations contained within Article 21.

**3-6(e) Encroachments.** Accessory buildings, structures, walls, fences, swimming pools, sports courts, and features shall not encroach upon or be located within public rights-of-way, public utility easements, or adjoining lots, unless specifically permitted pursuant to Article 5 of this Zoning Ordinance..

**3-6(f) Sight Triangles for Traffic Visibility.** Notwithstanding any other provisions of this Zoning Ordinance, in any zone, at any street intersection or any driveway intersection, accessory buildings, structures and features erected or installed shall conform with the limitations of the applicable sight distance triangles as shown in the following illustration and table, unless specifically excepted below.



**(1) One-Way Street Exception.** Sight triangles shall not apply on one-way streets at corners where traffic does not approach the intersection. On one way streets, if the major approach traffic comes from the RIGHT, then the LEFT sight triangle dimensions shall be applied to the RIGHT corner.

**(2) Principal Building Exception.** Sight triangles shall not apply to principal buildings located in conformance with building setback requirements of Article 8 and Article 21 or setback adjustments of this article.

**(3) Utility Device Exception.** Authorized utility devices, such as poles, control boxes, traffic signs and signals, etc. are excepted from strict conformance with sight triangles. However, the location of these devices should adhere as closely as possible to such limitations.

**3-7 SPECIFIC PROVISIONS FOR ACCESSORY BUILDINGS, STRUCTURES AND FEATURES.** In addition to the general provisions of Section 3-6, the provisions of this section shall regulate the location, height and size of accessory buildings, structures and features.

**3-7(a) Minor Projections Permitted.** For the purposes of these provisions, a minor projection shall be any part of a structure that does not touch the ground but projects out from the part of the structure that is attached to the ground. A minor projection shall extend no more than two feet (2') over any setback line required for the structure of which it is a part.

**3-7(b) Enclosed Accessory Buildings.** For the purposes of these provisions, an enclosed accessory building shall be any accessory structure or part thereof that is covered by a roof, rigid canopy, rigid awning, or similar watertight, solid element, and that contains walls, doors, windows, screens, or other elements that generally obstruct access from the adjoining yard. Enclosed accessory buildings shall conform to the setback requirements listed below.

**(1) Permitted As For Principal Buildings.** Enclosed accessory buildings may be located anywhere on a lot where principal buildings are permitted.

**(2) Permitted in Rear Yards.** Enclosed accessory buildings may be located in required rear yards. They shall be located no closer than three feet (3') to lot lines adjoining freeways, expressways, alleys, or other lots. They shall conform to setback requirements for principal buildings from lot lines adjoining arterial, collector or local streets.

**(3) Separation from Other Enclosed Buildings.** Each enclosed accessory building shall be located no closer than six feet (6') to a principal building or any other enclosed accessory building on the same lot.

**3-7(c) Unenclosed Accessory Buildings.** For the purposes of these provisions, an unenclosed accessory building shall be any accessory structure or part thereof that is covered by a roof, rigid canopy, rigid awning, or similar watertight, solid element, and, except for buildings from which it may project, is supported only by columns, posts, piers, or similar elements. Unenclosed accessory buildings shall provide free access from the adjoining yard into the covered space at all times. Unenclosed accessory buildings may be freestanding, may be attached to enclosed accessory buildings, may be attached to principal buildings, or may connect separate enclosed buildings to each other. Unenclosed accessory buildings shall conform to the setback requirements listed below.

**(1) Permitted As For Principal Buildings.** Unenclosed accessory buildings may be located anywhere on a lot where principal buildings are permitted.

**(2) Permitted in Rear Yards.** Unenclosed accessory buildings may be located in required rear yards. They shall be located no closer than three feet (3') to lot lines adjoining freeways, expressways, alleys, or other lots.

They shall conform to setback requirements for principal buildings from lot lines adjoining arterial, collector or local streets, unless excepted below.

**(3) Permitted in Business and Industrial Zones in Vehicular Use Areas Adjoining Streets.** In business or industrial zones, unenclosed accessory buildings that shelter vehicular use areas may be located in required yards adjoining streets. No column, post or pier supporting such structure may exceed two feet (2') in diameter or width. No portion of such structure shall be located closer than twenty-five feet (25') to an adjoining lot in any residential zone. All unenclosed accessory buildings within the Downtown Overlay District shall meet the standards of Article 21 with respect to location of any vehicular areas adjoining streets.

**(4) Permitted to Project Over Public Rights-of-Way.** In business and industrial zones, where principal buildings are located three feet (3') or less from lot lines that adjoin street rights-of-way, unenclosed accessory awnings, canopies or marquees may project from such principal buildings over public rights-of-way, subject to provisions of the local building code and Article 9 and Article 21 of this Zoning Ordinance.

**(5) Permitted to Project into Required Front Yards.** Unenclosed covered porches, which are attached to a principal structure, may project into a prescribed front yard setback a distance of not more than eight feet (8'), where the floor level of the unenclosed covered porch is not over three feet (3') above the average finished grade and the floor level does not extend above the level of the first floor of the principal building. In all cases, a minimum of 10 feet from the street right-of-way line shall be maintained. Unenclosed covered attached porches that project into required front yards shall remain open and shall not be enclosed with screening, windows, glass or other building material. Guardrails shall be permitted. The building inspector may require evidence that private deed restrictions are not violated. No unenclosed covered porches may encroach upon or be located within public right-of-way or public utility easements, unless specifically permitted elsewhere in this article. This provision is not applicable to Planned Residential Development projects as provided for in Article 10 of this zoning ordinance, or to Downtown Overlay Districts as provided for in Article 21 of this zoning ordinance.

**3-7(d) Lightweight Covered Structures.** For the purposes of these provisions, a lightweight covered structure shall be any accessory structure that is supported by buildings or by lightweight poles or posts, and is covered by a flexible fabric or latticework. Lightweight covered structures shall conform to the setback requirements listed below.

**(1) Permitted As For Principal Buildings.** Lightweight covered structures may be located anywhere on a lot where principal buildings are permitted.

**(2) Permitted in Rear Yards.** Lightweight covered structures may be located in required rear yards. They shall be located no closer than three feet (3') to lot lines adjoining freeways, expressways, alleys, or other lots. They shall conform to setback requirements for principal buildings from lot lines adjoining arterial, collector or local streets, unless excepted below.

**(3) Permitted in Business and Industrial Zones in Yards Adjoining Streets.** In business or industrial zones, lightweight covered structures may be located in required yards adjoining streets. They shall conform to setback requirements for principal buildings from lot lines adjoining other lots.

**(4) Permitted to Project Over Public Rights-of-Way.** In business and industrial zones, where principal buildings are located three feet (3') or less from lot lines that adjoin street rights-of-way, lightweight covered awnings or canopies may project from such principal buildings over public rights-of-way, subject to provisions of the local building code and Article 9 and Article 21 of this Zoning Ordinance.

**(5) Permitted in Other Zones in Yards Adjoining Streets.** In zones other than business or industrial, lightweight covered structures may be located in required yards adjoining streets. They shall project no more than eight feet (8') from the principal building wall and no closer than ten feet (10') to the edge of the street right-of-way. They shall conform to setback requirements for principal buildings from lot lines adjoining other lots. This provision is not applicable to Downtown Overlay Districts as provided for in Article 21 of this ordinance.

**3-7(e) Outdoor Floors and Stairs.** For the purpose of these provisions, an outdoor floor shall be any pedestrian, ground pavement or floor structure that is not enclosed

within principal or accessory buildings. Outdoor stairs shall be any paved or structural steps that are not enclosed within principal or accessory buildings.

**(1) Up to Three Feet (3') Above Grade.** Where the floor level of outdoor floors or the step level of outdoor stairs is no more than three feet (3') above the adjoining finished grade, such feature may be located in any required yard.

**(2) More Than Three Feet (3') Above Grade, At or Below First Floor Level.** Where the floor level of outdoor floors or the step level of outdoor stairs is more than three feet (3') above the adjoining finished grade, and is at or below the first floor level of the principal building, such feature shall be located no closer than ten feet (10') to the edge of any street right-of-way or closer than three feet (3') to any other lot line. This provision is not applicable in the Downtown Overlay District as provided for in Article 21 of this ordinance.

**(3) More Than Three Feet (3') Above Grade, Above First Floor Level.** Where the floor level of outdoor floors or the step level of outdoor stairs is more than three feet (3') above the adjoining grade, and is above the first floor level of the principal building, such feature shall conform to the setback requirements for principal buildings when attached to principal buildings, and shall conform to the setback requirements for enclosed accessory buildings in all other cases. This provision is not applicable in the Downtown Overlay District as provided for in Article 21 of this ordinance.

**3-7(f) Swimming Pools and Sports Courts.** Swimming pools and sports courts shall conform to the setback requirements applicable to enclosed accessory buildings. Swimming pools and sports courts shall not encroach upon or be located within a public utility easement, unless otherwise specifically permitted pursuant to Article 5 of this Zoning Ordinance. Walls and fences around such features shall conform to the requirements in this Zoning Ordinance and the Kentucky Building Codes.

**3-7(g) Walls and Fences.** Walls and fences may be located in required yards subject to the following limitations. Support posts may exceed the fence height by a maximum dimension of one foot (1') inclusive of any terminating ornamentation or finial. Walls and fences within Downtown Overlay District shall comply with the requirements of Article 21 of this ordinance.



(1) **Height in Industrial Zones.** In industrial zones, a wall or fence in any yard may be of any height, subject to sight triangle visibility requirements. In yards whose grade is higher than the adjoining street grade, fence or wall height may be measured from the main grade of the yard.

(2) **Height Outside of Industrial and Residential Zones.** Outside of industrial and residential zones, a wall or fence of not more than six feet (6') in height may be erected or maintained within any rear or side yard adjoining an arterial, collector or local street, subject to sight triangle visibility requirements. In non-industrial zones other than residential, a wall or fence of not more than six feet (6') feet in height may be erected in any front yard, subject to sight triangle visibility requirements. A wall or fence of not more than eight feet (8') in height may be erected in any other rear yard. A wall or fence of not more than six feet (6') in height may be erected in any non-street side yard. Where walls and fences are located in conformance with setback requirements for principal buildings, they shall conform to the height limitations for principal buildings for the zone in which they are located.

(3) **Height in Residential zones** In residential zones, a wall or fence of not more than three feet (3') in height may be erected in any front yard, except as otherwise required by Article 17 or Article 21 of these regulations. A wall or fence of not more than six feet (6') in height may be erected within any interior side yard. A wall or fence of not more than eight feet (8') in height may be erected or maintained within any interior rear yard or rear yard adjoining an alley. A wall or fence of not more than four feet (4') in height may be erected or maintained in any rear or side yard adjoining an arterial, collector or local street, unless a variance is granted by the Owensboro Metropolitan Board of Adjustment. On lots with more than one street frontage, the front yard shall be determined as along the street designated by the property address. Where corner residential lots are back to back and oriented so that rear yards abut, fences and walls within street side yards may be increased to a maximum of six feet (6') and fences and walls within street rear yards may be increased to eight feet (8'). Where corner residential lots are back to back and oriented so that rear and side yards abut, the ~~four-six~~ foot (4~~6~~') maximum fence height in street side and rear yards shall apply. The City or County Engineer shall review such instances on a case-by-case basis for compliance with the sight

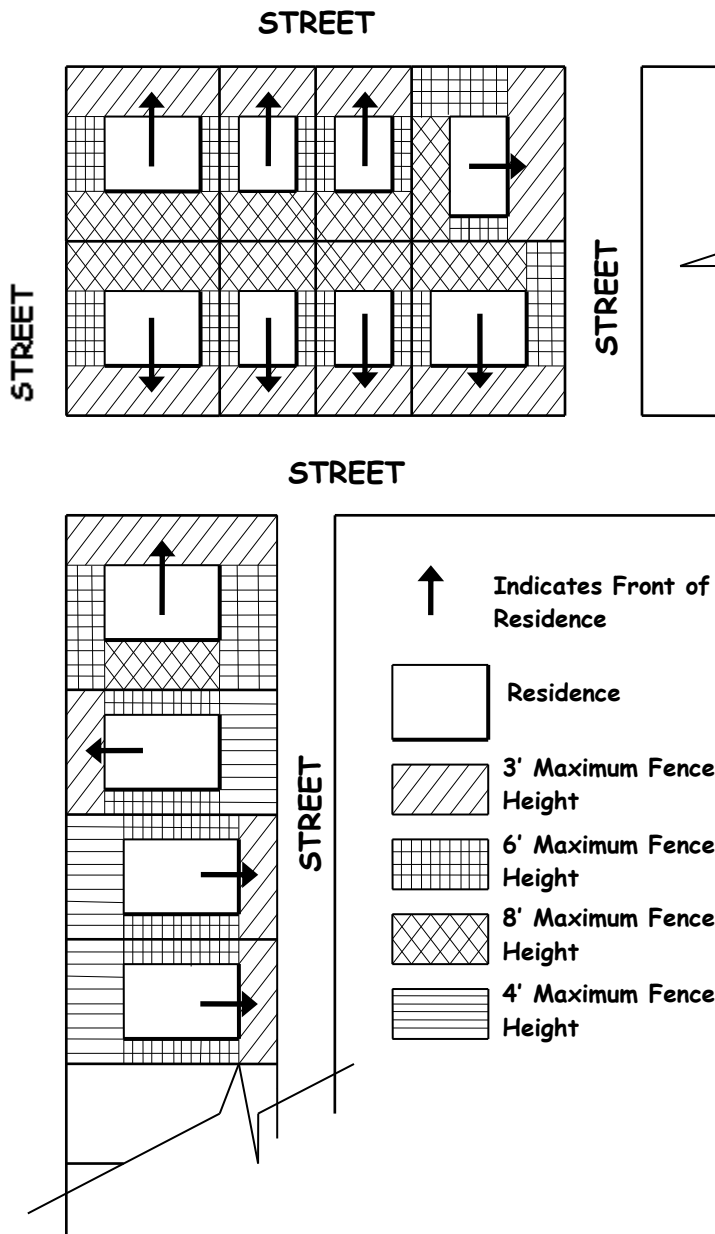
triangle. Where walls and fences are located in conformance with setback requirements for principal buildings, they shall conform to the height limitations for principal buildings for the zone in which they are located. In yards whose grade is higher than the adjoining street grade, fence or wall height may be measured from the main grade of the yard.

**(4) Prohibited in Residential and MHP zones.**

- (a) **Barbed Wire.** Barbed wire on walls and fences shall be prohibited in residential or MHP zones, but shall be permitted in all other zones. Barbed wire may be installed upon walls or fences that are accessory to legally nonconforming commercial or industrial uses in any zone. Barbed wire along any boundary adjoining residential or MHP zones shall be at least six feet (6') above ground level. Fences in the Downtown Overlay District shall conform to provisions in Article 21.
- (b) **Electrical Fences.** Electrical fences shall be prohibited in residential or MHP zones. Electrical fences shall also be prohibited in the Downtown Overlay district.

**(5) Required Landscape Buffers.** Article 17 of this Zoning Ordinance may impose additional requirements or limitations on walls and fences erected to satisfy perimeter landscaping requirements. In yards adjoining arterial, expressway, or major collector streets, private walled structures shall not be erected within parking and landscaping setbacks (roadway buffers) required by Section 13.622.

**3-7g (3) ILLUSTRATED- Walls and Fence Heights in Residential Zones**



and fences shall not obstruct the natural flow of surface storm water through yards, even if no formal easements exist for storm water runoff.

**3-7(h) Satellite Dish Antennas.** Satellite dish antennas that are accessory to principal buildings or land uses on a lot shall conform to the setback and height requirements applicable to enclosed accessory buildings; except that in business and industrial zones, satellite dish antennas may also be located in required yards adjoining streets, where no portion of such antenna shall be located closer than twenty-five feet (25') to an adjoining lot in any residential zone. In any zone, accessory satellite dish antennas may be ground- or roof-mounted and shall comply with applicable structural requirements of the local building code. Satellite dish antennas that are mounted on towers and/or are owned by public utilities shall comply with provisions of this Zoning Ordinance regulating communication towers.

**3-7(i) Signs.** Signs shall comply with the provisions of Articles 8 , 9 , and 21 of this Zoning Ordinance.

**3-7(j) Vehicular Use Areas.** Parking areas and other vehicular use areas and their accessory features shall comply with the provisions of Articles 8, 13 , 17, and 21 of this Zoning Ordinance.

**3-7(k) Permitted into any Required Yard.** Chimneys may extend a maximum of twenty-four inches (24") into any required yard, provided they are located a minimum of three feet (3') from all lot lines.

**3-7(l) Other Accessory Structures and Features.** Accessory structures or features not specifically named above in this section may be required to comply with the stated requirements for similar, specifically named accessory structures or features.

**3-8 VEHICULAR ACCESS TO LOTS.** Refer to Article 13 of this Zoning Ordinance.

**6) Public Utility Easements.** Walls and fences shall not be erected within or encroach upon a public utility easement, unless otherwise specifically permitted pursuant to Article 5 of this Zoning Ordinance. Walls

<b>Consent</b>	<b>CITY OF OWENSBORO AGENDA REQUEST AND SUMMARY COVER SHEET</b>	<b>Item No.</b>

<b>TITLE</b>
<b>Amendments to the text of Article 8 of the Zoning Ordinance</b>

<b>MEETING OF CITY COMMISSION ON:</b>
<b>BUDGET</b> ( <i>State any budget consequences</i> ): <b>N/A</b>

<b>SUMMARY AND BACKGROUND</b> ( <i>Continue on additional sheet, if necessary</i> ):
<p>The Owensboro Metropolitan Planning Commission met in regular session on April 11, 2019, to consider amendments to the text of the Zoning Ordinance for Owensboro, Whitesville and Daviess County, Kentucky, regarding revisions to Article 8 related to amended and new land use listings: home occupation-accessory use, home occupation-conditionally permitted use, distillery/brewery, agriculture, horticulture or silviculture industries, solar energy systems, indoor individual storage and storage of distilled spirits. By a vote of 8-0 the Owensboro Metropolitan Planning Commission has recommended that the proposed text amendments be approved in that the proposal is in compliance with the adopted Comprehensive Plan (see attached Findings of Facts and staff report).</p>
Check if continued on next page <input type="checkbox"/>

<b>RECOMMENDATION OR ACTION REQUESTED</b> ( <i>State the action requested or recommended</i> ):
Approve text amendments to Article 8 of the Zoning Ordinance.

<b>ATTACHMENTS</b> ( <i>10 copies for agenda packets</i> )	Check if no attachments <input type="checkbox"/>
OMPC Recommendation and Staff Report Transcript of OMPC proceedings will be forwarded upon receipt	

**Note:** All City Commission Agenda items submitted by staff, including appropriate backup materials, must be approved and submitted to the City Clerk not later than noon Thursdays preceding Tuesday, 6:30 p.m. meetings.

<b>Submitted by</b>	<b>Dept. Head Approval</b>	<b>City Attorney Approval</b>	<b>City Manager Approval</b>
			

**ZONING TEXT AMENDMENT**

**Subject: Amendments to the text of Article 8 of the Zoning Ordinance**

**RECOMMENDATION of the Owensboro Metropolitan Planning Commission, Owensboro, Kentucky**

Having considered the above matter at a Public Hearing on **April 11, 2019**

and having voted **8 to 0**

to submit this Recommendation to the **Owensboro City Commission,**

the Owensboro Metropolitan Planning Commission hereby recommends **APPROVAL**

of this proposal, based on the following Purposes and Findings of Fact.

**FINDINGS OF FACT**

1. These amendments to Article 8 will help maintain Daviess County as a viable economic unit;
2. These amendments to Article 8 will promote regional development to enhance economic benefits for citizens of Daviess County;
3. These amendments to Article 8 will promote a diversity of desirable industrial activities for a broad and stable economic base;
4. These amendments to Article 8 will accommodate all intensities of land use activity;
5. These amendments to Article 8 will encourage development of existing brownfields for new uses;
6. These amendments to Article 8 allow agriculture and other natural resource uses wider reign to apply traditional production techniques;
7. These amendments to Article 8 will avoid the introduction of urban activities that would have a detrimental effect on residential activity, but allow some mixture of appropriate nonresidential uses;
8. These amendments to Article 8 will assure that nonresidential uses in the neighborhood – professional, business, industrial – have adequate space for future expansion and are designed so that their traffic, parking, noise, odors, etc. do not conflict with residential uses;
9. These amendments to Article 8 will reserve the land in the Rural Service Area primarily for agricultural uses, other natural resource activities, and support uses that need to be near such activities;
10. These amendments to Article 8 will encourage the application of increased buffers where heavy industrial and coal mining uses may be located in close proximity to existing rural residences; and,
11. These amendments to Article 8 will encourage the use of alternative energy sources where economically and environmentally feasible.

**ATTEST: April 12, 2019**



Executive Director, Brian R. Howard, AICP

**ENCLOSURES**

Staff Report, Proposed Text Amendments, Meeting Transcript to be forwarded at a later date



## Background

These proposed revisions to Article 8 of the Owensboro Metropolitan Zoning Ordinance are related to the addition of the following land use categories to the Schedule of Zones: home occupation – accessory use, home occupation – conditionally permitted use, distillery/brewery, agriculture, horticulture or silviculture industries, solar energy systems, indoor individual storage and storage of distilled spirits.

The proposed text amendments include:

1. Separating home occupations into accessory and conditionally permitted uses in agriculture and residential zones as defined by the proposed definitions in Article 14.
  2. Adding a note to the category of distillery/brewery to clarify when a conditional use permit is needed based on the classification of a hazardous use.
  3. A new classification for agriculture, horticulture or silviculture industries to be conditionally permitted in A-R and A-U zones and the related criteria for a conditional use permit.
  4. A new classification of Level 1, 2, and 3 Solar Energy Systems as related to the proposed amendments to Article 20 and the related criteria for a conditional use permit.
  5. A new classification for indoor individual storage conditionally permitted in B-3 and B-4 zones and principally permitted in B-5, I-1 and I-2 zones and the related criteria for a conditional use permit.
  6. A new classification for storage of distilled spirits conditionally permitted in A-R and A-U zones and the related criteria for a conditional use permit.
- Economy and Employment, Objective 3.1.3 – Promote regional development to enhance economic benefits for citizens of Daviess County.
  - Economy and Employment, Objective 3.1.4 – Promote a diversity of desirable industrial activities for a broad and stable economic base.
  - Land Use, Objective 4.1.2 – Accommodate all intensities of land use activity.
  - Land Use, Objective 4.1.5 – Encourage development of existing brownfields for new uses.
  - Land Use, Objective 4.3.2 – Allow agriculture and other natural resource uses wider reign to apply traditional production techniques.
  - Land Use, Goal 4.7 – Avoid the introduction of urban activities that would have a detrimental effect on residential activity, but allow some mixture of appropriate nonresidential uses.
  - Land Use, Objective 4.7.3 – Assure that nonresidential uses in the neighborhood – professional, business, industrial – have adequate space for future expansion and are designed so that their traffic, parking, noise, odors, etc. do not conflict with residential uses.
  - Land Use, Goal 4.15 – Reserve the land in the Rural Service Area primarily for agricultural uses, other natural resource activities, and support uses that need to be near such activities.
  - Land Use, Objective 4.15.3 – Encourage the application of increased buffers where heavy industrial and coal mining uses may be located in close proximity to existing rural residences.
  - Environment, Objective 7.1.14 – Encourage the use of alternative energy sources where economically and environmentally feasible.

## Proposed Text Amendments

See the attached draft of the proposed Article 8 revisions.

## Conclusions

The purpose of revising Article 8 is to be better equipped to address any existing or future needs of the community.

The proposed text amendments are supported by the following goals and objectives of the Comprehensive Plan:

- Economy and Employment, Goal 3.1 – Maintain Daviess County as a viable economic unit.

## Findings of Fact

The staff recommends approval of the proposed text amendments to Article 8 because the proposal is in compliance with the community's Comprehensive Plan. The findings supporting this recommendation follow:

1. These amendments to Article 8 will help maintain Daviess County as a viable economic unit;
2. These amendments to Article 8 will promote regional development to enhance economic benefits for citizens of Daviess County;



Article amendments approved unless noted:	OMPC	Owensboro	Daviess Co.	Whitesville
Revised zoning ordinance	08-Sep-1979	14-Mar-1980	27-Dec-1979	07-Apr-1980
Surgical centers, medical clinics, amendments	08-Mar-1980	22-Feb-1980	08-Apr-1980	07-Apr-1980
Mobile homes prohibited in City of Owensboro residential zones	12-Apr-1980	23-May-1980	not applic.	not applic.
Day care, A-R conditional uses, business & industrial yards, residential zero setback, duplex splitting, major street map	17-Apr-1981	22-May-1981	26-Apr-1981	06-Jul-1981
Manufactured housing classifications	11-Sep-1982	09-Nov-1982	19-Oct-1982	16-Nov-1982
Public utility facilities, extraction of petroleum, hazardous waste disposal	12-Jan-1984	06-Mar-1984	22-Feb-1984	?
Automobile body shops	15-Nov-1990	not adopted	26-Dec-1990	not adopted
Adult entertainment establishments	10-Feb-1994	15-Mar-1994	30-Mar-1994	?
Bed and breakfast homes	09-Feb-1995	21-Mar-1995	15-Nov-1995	?
Comprehensive Plan standards for building setbacks & reformat of site development requirements tables {8.5}; major streets map with updated functional classifications {8.6}	18-Apr-1996	21-May-1996	22-May-1996	?
New land use category: "individual storage" (mini-warehouses, proposed by Co.): principal use in I-1/I-2 zones, conditional use in B-4 zones; restrictions for B-4 zones. {8.2-L7, 8.4-48}	14-Nov-1996 denied	not applic.	12-Feb-1997 approved	not applic.
Replace use "horticultural services" with use "landscaping services"; principal use in A-R, I-1, I-2 zones, conditional use in A-U zone, accessory to retail sale of plant, nursery, greenhouse products in B-3, B-4 zones. {8.2-H8, 8.4-18, 8.4-33a}	13-Nov-1997	06-Jan-98	23-Dec-1997	?
2003 Review Committee: Created B-5 Business/Industrial zone for application in areas identified as Business/Industrial Plan Areas in the Land Use Element of the Comprehensive Plan, renumbered subsection {8.165, 8.166}; added new B-5 zone to table and denoted its principal, conditional, and accessory uses; increased number of access dwelling units allowed in P-1, B-1, B-2, B-3, and B-4 zones from 1 to 2 units to be located to the rear or above the principally permitted business uses; deleted differences between uses located in Owensboro, Whitesville and unincorporated Daviess County with the exception of individual storage units and automobile body shops that are conditionally permitted in B-4 and B-5 zones in unincorporated Daviess County only; added "Residential Care Facilities" as a permitted use in all residential zones as required by KRS 100.982-100.984; changed Manufactured Home classes from A, B, C, D to 1, 2, 3 to match new definitions proposed in Article 14 {8.2 table}; added use listings or special conditions for adult day care centers, drive thru windows, private elementary and secondary schools, public auction houses, assisted living facilities, video arcades, bingo halls, movie theaters, indoor play places, gaming places, health spas, fitness centers, martial arts facilities, gymnastics and cheerleading instructional facilities, aerobics; weight training facilities, tanning salons, computer repair, quick copy services, convenience stores, home improvement centers, taxi cab or limousine service, automobile auction facilities, sand or gravel quarry, furniture repair and upholstery, furniture restoration and refinishing, animal race track, pet grooming, pet training, taxidermy, dry cleaning or laundry drop-off/pick-up stations, bus terminals, amusement parks, water parks, driving range, batting cages {8.2 table, 8.4}; clarified exemption from local land use regulations for municipal, county, state, federal and public school board uses KRS 100.361 and requirement for public facilities review by OMPC {8.4 (39), (40)}; changed definition of lot coverage to include total coverage of principal and accessory buildings, increased minimum lot size to 0.75 acres in all zones where sanitary sewer is not available (A-R zone retained 1 acre minimum), increased maximum lot coverage to 50% in A-U, A-R, R-1A, R-1B, R-1C, R-1T, R-2MF, R-3MF, and R-4DT zones and in B-4 and zones where they adjoin Res., MHP or P-I zones {8.5}.	11-Dec-2003	02-Mar-2004	05-Feb-2004	06-Apr-2004
Revisions associated with adoption of Article 21 Central Business Overlay Districts to 8.2 Zones and Uses table	13-Jan-2005	15-Feb-2005	3-May-2005	?
Revisions associated with adoption of Group Housing Criteria to 8.2 Zones and Uses Table and 8.4 Detailed Uses and Special Conditions	10-Mar-2005	17-May-2005	5-May-2005	?
Landscaping Services conditionally permitted in B-3 and B-4 zones	08-Mar-2007	17-April-2007	03-May-2007	03-April-2007
Limited retail uses conditionally permitted in A-U zones	10-July-2008	19-Aug-2008	07-Aug-2008	?
Revisions to reference new regulations contained in Article 21 relative to properties within Downtown Overlay Districts	10-Sep-2009	20-Oct-2009		
Revisions to include additional uses and to revise light and heavy industrial permitted uses	08-July-2010	3-Aug-2010	19-Aug-2010	
Revisions related to distilleries, breweries, as well as hotels, restaurants and cocktail lounges when associated with a statewide or nationally accredited distillery or brewery	11-May-2017	15-Aug-2017	1-Jun-2017	14-Jun-2017
<a href="#">Revisions related to Home Occupations, Distillery/Brewery, Agriculture, Horticulture or Silviculture Industries, Solar Energy Systems, Indoor Individual Storage, and Storage of Distilled Spirits</a>	11-Apr-2019			

**8.1 DEVELOPMENT AND INTENT OF ZONES.**

**8.11 AGRICULTURE ZONES.** The two Agriculture Zones are created from the original A-1 Agriculture Zone. The A-U Urban Agriculture Zone is established to

provide for agricultural and related open space uses for portions of the Owensboro Urban Service Area projected for urban development. The **A-U** Zone is also intended to designate potential development areas surrounding particular rural communities of Daviess County and the area surrounding Whitesville. A zone change from **A-U** to a more urban classification should be encouraged for projects that promote the objectives of the Comprehensive Plan Land Use Element.

The **A-R** Rural Agriculture Zone is established to preserve the rural character of the Daviess County Rural Service Area by promoting agriculture and agricultural-related uses, and by discouraging all forms of urban development except for rural residential and limited conditional uses. A zone change from **A-R** to a more urban classification would deprecate the objectives of the Comprehensive Plan and should be discouraged unless the request involves incidental land uses for which provision is not made or which ordinarily do not occur in urban areas (i.e., land and resource dependent uses - mining, agriculture, forestry, etc.). A zone change from **A-R** to **A-U** would normally occur subsequent to projections that the need exists for additional potential urban development area.

The phasing from **A-R** to **A-U**, to an urban classification is intended to inform all public and private concerns where coordinated development should occur.

**8.12 SINGLE-FAMILY DETACHED RESIDENTIAL ZONES.** The single-family residential zones are established to provide primarily for single-family detached residences and supporting uses for urban areas of Daviess County. They include the following zones: **R-1A** Residential, the new designation for the original **R-1** Zone, **R-1B** Residential, the new designation for the original **R-2** Zone, **R-1C** Residential, new zone derived from the single-family requirements of the original **R-3** Zone. These zones provide for a range of lot sizes to meet the needs of single-family development.

**8.13 TOWNHOUSE ZONE.** The **R-1T** Townhouse Zone is a single-family zone which is established to provide development potential in older sections of Owensboro where existing lots of record are inadequate in size to meet the requirements of other residential zones.

**8.14 MULTI-FAMILY RESIDENTIAL ZONES.** The multi-family residential zones are established to provide for multi-family residential urban development.

**8.141.** The **R-2MF** Low Density Multi-Family Residential Zone is for low-density apartments and two-family dwellings (duplexes).

**8.142.** The **R-3MF** Medium Density Multi-Family Residential zone is for medium-density apartments and duplexes; it replaces the multi-family requirements of the original **R-3** Zone.

**8.143.** Both the **R-2MF** and the **R-3MF** Zones are intended for use in urban areas outside of redeveloping inner-city neighborhoods of Owensboro.

**8.144.** Within the Downtown Frame boundary and other inner-city neighborhoods, the **R-4DT** Inner-city Residential Zone is established. The most flexible residential zone, **R-4DT** is intended for use in redeveloping older neighborhoods of Owensboro; **R-4DT** provides a broad range of dwelling-type and density options: from single-family to high rise multi-family structures. It is very similar to the original **R-3** Zone.

**8.15 PROFESSIONAL/SERVICE ZONE.** The **P-1** Professional/Service Zone is established to provide for professional offices, limited personal service businesses, and for community-oriented public and private facilities in urban areas. (See Article 15 for Business and Professional/Service Areas.)

**8.16 BUSINESS ZONES.** The Business Zones are established to provide for community shopping centers and general business services.

**8.161.** The **B-1** Neighborhood Business Center Zone is a new zone established to promote sound, consolidated neighborhood-oriented shopping facilities in newly developing urban areas.

**8.162.** The **B-2** Central Business Zone is a generalized zone, which is intended to accommodate the existing and near-future development of the Central Business District. Article 21 establishes the Downtown Overlay District with specific Character Districts that establish use and development standards for each character district.

**8.163.** The **B-3** Highway Business Center Zone is established for the development of new business centers which require a high volume of vehicular traffic because of the community-wide or regional market from which they draw. All uses in this zone

must have controlled access to a designated arterial street or highway.

**8.164.** The **B-4** General Business Zone is derived from the original B-1 Zone and is intended to maintain the existing developed business areas as well as provide for the logical expansion of such areas.

**8.165.** The **B-5** Business/Industrial Zone is a new zoning classification intended to provide for the flexibility of general business or light industrial uses only within the Business/Industrial Land Use Plan Area as designated in the Comprehensive Plan.

**8.166.** For detailed location, development and expansion standards for the **B-1**, **B-3**, **B-4** and **B-5** Zones see Article 15 - Business and Professional/Service Areas.

#### 8.17 INDUSTRIAL ZONES.

**8.171.** The **I-1** Light Industrial Zone is intended for light manufacturing, warehouses, shops of special trade, heavy equipment dealers, and related uses.

**8.172.** The **I-2** Heavy Industrial Zone is intended for manufacturing, industrial and related uses, which involve potential nuisance factors.

**8.18 SPECIAL ZONES.** The following zones and their specific regulations are included as separate articles in this Zoning Ordinance:

**8.181.** Article 11, the **MHP** Planned Mobile Home Park Residential Zone is the new name for the "old" R-4 Zone.

**8.182.** Article 12, the **EX-1** Coal Mining Zone is an appendix of the Exclusive Use Zone Article.

**8.183.** Article 18, the **GFP** General Flood Plain Overlay District qualifies the potential development permitted in any regular zone upon which it is overlaid.

**8.184.** Article 19, is reserved for the **AZ** Airport Zone, which describes the Kentucky Airport Zoning Regulations as well as the development standards for areas surrounding the Owensboro-Daviess County Airport. *Note: Article 19 has not been adopted, and the proposed text is not included in this document at this time.*

**8.19 OTHER REGULATIONS AFFECTING SITE DEVELOPMENT.** The following articles and their regulations should be consulted to determine their effects upon the aforementioned zoning regulations:

Article	
<b>3</b>	General Zone and District Regulations
<b>10</b>	Planned Residential Development Project
<b>13</b>	Off-Street Parking, Loading and Unloading Areas
<b>14</b>	Definitions
<b>15</b>	Business and Professional/Service Areas
<b>16</b>	Development Plans
<b>17</b>	Landscape and Land-Use Buffers



## 8.2 ZONES AND USES TABLE

<b>P = PRINCIPALLY PERMITTED USES:</b> Uses listed and other uses (not otherwise listed in table) substantially similar to those listed are deemed permitted.													<b>NOTE:</b> Only those uses specifically permitted or substantially similar to permitted uses are permitted in each zone; all uses which lack substantial similarity to permitted uses in each zone are deemed <b>prohibited</b> (as per Article 3 of this Zoning Ordinance). <b>Numbers</b> following the "P", "C" or "A" in the table refer to special conditions, additional information, or detailed use listings, which follow in numerical order in Section 8.4. Note: For all properties zoned B-2 within the Downtown Overlay District boundary, please refer to the Schedule of Uses in Article 21 of the Zoning Ordinance. Special requirements are also applicable to properties located within Downtown Overlay District relative to use, site development, and design standards. See Article 21 for specific requirements and Downtown Overlay District Regulating Plan.	
<b>C = CONDITIONALLY PERMITTED USES:</b> Uses which are permitted only with Board of Adjustment approval.														
<b>A = ACCESSORY USES:</b> Uses and structures permitted which are customarily accessory, clearly incidental and subordinate to permitted uses.														
ZONES													USES	
A-R A-U	R-1A R-1B R-1C	R-1T	R-2MF	R-3MF	R-4DT	P-1	B-1	B-2 <sup>1</sup>	B-3 B-4	B-5	I-1	I-2		
<b>A RESIDENTIAL</b>														
C/1	C/1	C/1			C/1									1A Bed and breakfast home
				C/6a	C/6a									1B Boarding or lodging house
						A/2A	A/2A	A/2A, P/3	A/2A	A/2B	A/2B	A/2B		2 Dwelling: Accessory
			P	P	P									3 Dwelling: Multi-family
P	P	P			P									4 Dwelling: Single-family detached
		P/4												5 Dwelling: Townhouse
			P	P	P									6 Dwelling: Two-family
	P	P	P	P	P									6A Residential Care Facilities
				C/6a	C/6a			C/ 6a	C/6a	C/6a				7 Fraternity or sorority house, dormitory, other group housing such as rehabilitation and transitional homes
C/6b				C/6a	C/6a									7A Seasonal farm worker housing
	A/5	A/5	A/5	A/5	A/5			A/5						8 Guest quarters
A	A/6	A/6	A/6	A/6	A/6			A/6						9 Keeping of roomers or boarders by a resident family
P/7	P/7	P/7			P/7									10A Manufactured Home, Class 1 (see Section 14)
P/7	C/7	C/7			C/7									10B Manufactured Home, Class 2 (see Section 14)
P/7														10C Manufactured Home, Class 3 (see Section 14)
								P	P	P	C/55	C/55		11 Motel or hotel
	P/8		P/8	P/8	P/8									12 Planned residential development project
<b>B ASSEMBLY</b>														
								P/9	P/9	P/9	C/9			1 Amusements, indoor
									P/10	P/10				2 Amusements, outdoor
C	C	C	C	C	C	C	C	C	C	A	A	A		3 Child day-care centers, child nurseries, adult day care centers
C	C	C	C	C	C	P	C	P	P	P				4 Churches, Sunday schools, parish houses
A/11	A/11	A/11	A/11	A/11	A/11	A/11	A/11	A/11	A/11	A/11	A/11	A/11		5 Circuses and carnivals, temporary
								P						6 Civic center, auditorium, exhibition halls, amphitheater
C	C	C	C	C	C	P	C	P	P	P				7 Community centers, public
C	C	C	C	C	C	P	C	P	P	P				8 Libraries, museums, art galleries, reading rooms
							C	P	P	P				9 Passenger transportation terminals
C/12				C/12	C/12	P/12	C	P	P	P				10 Philanthropic institutions and clubs
C/13	C/13	C/13	C/13	C/13	C/13	C/13	C	C/13	P/13	P/13	C/13	C/13		11 Recreational activities, indoor
							C/14	P/14	P/14	P/14	C/55	C/55		12 Cocktail lounges, night clubs
							P/15	P/15	P/15	P/15	C/55	C/55		13 Restaurants, including drive-in, drive through windows
C	C	C	C	C	C	P		P	P	P				14 Schools, colleges, academic, technical, vocational or professional, private elementary and secondary schools
C	C	C	C	C	C	P	P	P	P	P				14A Photography, art, and music studios
								A						15 Sidewalk cafe
								P/47	P/47	P/47				16 Any ASSEMBLY USES above deemed to be adult entertainment establishments ( <i>only Owensboro, Unincorporated Daviess County</i> )
									P/52	P	P			17 Public auction houses
									P	P	C	C		18 Banquet Halls

<sup>1</sup> Shall only apply to B-2 Zones outside the boundaries of the Downtown Overlay District.

## 8.4 DETAILED USES AND SPECIAL CONDITIONS of Zones and Uses Table.

**/1.** A bed and breakfast home, in addition to the limitations defined in Article 14, is limited to the rental of not more than two (2) rooms per property in R-1A, R-1B, R-1C, and R-1T zones, and not more than five (5) rooms per property in A-R, A-U, and R-4DT zones. The Board of Adjustment, in considering approval of a conditional use permit, shall consider and make a finding that the number of rooms granted shall not have an adverse effect on surrounding properties; and the Board shall take into consideration the number of bed and breakfast homes, if any, within the general neighborhood of the property under consideration.

**/2A.** Dwelling units (not more than two [2]) provided that the dwelling unit(s) shall be a part of the principal building and located above or to the rear of the principally permitted use.

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

**/3.** Provided that residential units are not mixed with non-residential permitted uses on the same floor.

**/4.** For townhouses, adjacent units with no side yards (zero (0) setback) shall be structurally independent.

**/5.** Without cooking facilities and not rented, for guests and employees of the premises.

**/6.** Limited to no more than three (3) roomers or boarders; except where the principal use is a bed and breakfast home, then no roomers or boarders shall be permitted.

**/6a** The following criteria shall apply for an application for a Conditional Use Permit for a boarding house, sorority house, fraternity house, dormitory, or seasonal farm worker housing when not allowed as an accessory use to a principally permitted use:

- 1) Any person residing in any of the above listed group housing situations shall be subject to all state, federal or local jurisdiction laws.
- 2) The facility shall be located within ½ mile of public transit
- 3) The facility shall not be located within an identified historic district recognized by the legislative body.
- 4) The facility shall employ an on-site administrator, who is directly responsible for the supervision of the residents and the implementation of house rules.
- 5) The applicant shall provide to the Board of Adjustment, the Zoning Administrator, the public and the residents, a phone number and address of the responsible person or agency managing the facility.
- 6) A fire exit plan shall be submitted with the conditional use application showing the layout of the premises, escape routes, location, operation of each means of egress, location of portable fire extinguishers, and location of electric main. The fire exit plan shall be prominently displayed within a common area within the facility.
- 7) Hallways, stairs and other means of egress shall be kept clear of obstructions.
- 8) The facility shall comply will all applicable building and electrical codes.
- 9) A list of house rules shall be submitted to the Board of Adjustment with the application for a conditional use permit and shall be prominently displayed in a common area within the facility. The rules should be adequate to address the following:
  - a. Noise Control
  - b. Disorderly Behavior
  - c. Proper Garbage Disposal
  - d. Cleanliness of sleeping areas and common areas
- 10) The Owensboro Board of Adjustment may impose additional conditions as may be necessary for the proper integration of the use into the planning area.

**/6b** Criteria listed in 6a shall apply, except Item 6a (2) may be waived by the Board Of Adjustment under the following conditions:

- 1) The housing for seasonal farm workers is located on the premises where the work is being conducted or is located on the same premises as the home of the provider of the seasonal farm worker housing; and,
- 2) Sufficient evidence is presented to demonstrate that transportation is being provided or is available to permit residents to adequately access necessary community services.

**/7.** Conditionally permitted Class 2 Manufactured Homes must meet **all** Class 1 Acceptable Installation Standards of Section 14 and must meet, at a minimum, the Class 1 Similarity Appearance Standard of Section 14(2). Manufactured Homes of Classes 1, 2, and 3 are also permitted in Planned Manufactured Housing Park MHP Zones (see Article 11).

**/8.** See Article 10.

**/9.** Indoor amusements include such uses as theaters; billiard, pool or pinball halls/ video arcades; bowling alleys; dance halls; bingo halls; movie theaters, indoor play places not accessory to a principal use, gaming places or skating rinks.

**/10.** Outdoor amusements include such uses as drive-in theaters, go-cart facilities, and miniature golf courses.

**/11.** Circuses and carnivals on a temporary basis, and upon issuance of a permit by the Zoning Administrator, who may restrict the permit in terms of time, parking, access or in other ways to protect the public health, safety, or welfare; or deny such if public health, safety or welfare are adversely affected.

**/12.** Philanthropic institution or club cannot conduct a business as part of the use.

**/13.** Public or private indoor recreational activities include indoor basketball, racquetball and handball courts, running tracks, ping pong and other table games, indoor swimming pools, health spas, fitness centers, martial arts facilities, gymnastics and cheer leading instructional facilities, aerobics and weight training facilities.

Commercial indoor recreational activities are prohibited in all Residential Zones. Indoor recreational activities which require buildings of a size and design not compatible with Residential and Business Zones are permitted only in Agricultural or Industrial Zones (such as several tennis courts housed in a pre-fabricated industrial-type building). Parking for indoor recreational activities must consist of the following: one (1) space for each employee, plus one (1) space for every two (2) participants, and one (1) space for every three (3) spectator seats.

**/14.** A building or structure containing a restaurant or night club with live or recorded entertainment and dancing shall be at least one hundred ( 100) feet from any Residential Zone and shall require a conditional use permit in the B-1 Zone.

**/15.** For drive-in restaurants, all outside food service areas or drive through windows shall be at least one hundred (100) feet from any Residential Zone.

**/47.** See under *BUSINESS USES (D) table*.

**/52.** Except for live animal auctions or vehicle auctions.

**/55.** In conjunction with a distillery or brewery that has obtained, or intends to obtain, a statewide or national accreditation within the distilling or brewing industries.

<b>P = PRINCIPALLY PERMITTED USES:</b> Uses listed and other uses (not otherwise listed in table) substantially similar to those listed are deemed permitted.							<b>NOTE:</b> Only those uses specifically permitted or substantially similar to permitted uses are permitted in each zone; all uses which lack substantial similarity to permitted uses in each zone are deemed <b>prohibited</b> (as per Article 3 of this Zoning Ordinance). <b>Numbers</b> following the "P", "C" or "A" in the table refer to special conditions, additional information, or detailed use listings which follow in numerical order in Section 8.4. Note: For all properties zoned B-2 within the downtown overlay district boundary, please refer to the schedule of uses in Article 21 of the zoning ordinance. Special requirements are also applicable to properties located within Downtown Overlay District relative to use, site development, and design standards. See Article 21 for specific requirements and Downtown Overlay District Regulating Plan						
<b>C = CONDITIONALLY PERMITTED USES:</b> Uses which are permitted only with Board of Adjustment approval.													
<b>A = ACCESSORY USES:</b> Uses and structures permitted which are customarily accessory, clearly incidental and subordinate to permitted uses.													
ZONES													USES
A-R A-U	R-1A R-1B R-1C	R-1T	R-2MF	R-3MF	R-4DT	P-1	B-1	B-2 <sup>2</sup>	B-3 B-4	B-5	I-1	I-2	
													<b>C INSTITUTIONAL</b>
C				C	C	C		C	C	C			1 Hospitals; surgical centers; convalescent and rest homes; orphanages, rehabilitation facilities, assisted living facilities
C										C	C	C	2 Penal or correctional institution
													<b>D BUSINESS</b>
						P	P	P	P	P			1 Banks, credit agencies, security and commodity and loan companies and holding and investment companies; with or without drive-in facilities
						P		P	P	P	P	P	2 Computer ,data and business processing centers, and call centers
C/46						P	P	P	P	P			3 Hair styling, beauty and barber shops, tanning salons, nail salons, piercing or tattoo parlors
C/46							P	P	P	P	P	P	4 Home appliance and computer repair
A	A	A	A	A	A								5 Home occupation – <a href="#">Accessory Use</a>
<a href="#">C</a>	<a href="#">C</a>	<a href="#">C</a>	<a href="#">C</a>	<a href="#">C</a>	<a href="#">C</a>								<a href="#">5a Home occupation – Conditionally Permitted Use</a>
						P		P	P	P			6 Medical and dental offices, clinics and laboratories
A						P		P	P	P	A	A	7 Offices for business, professional, governmental, civic, social, fraternal, political, religious and charitable organizations
						P		P	P	P			8 Office projects, professional
								P	P	P			9 Pawnshops
						P		P	P	P			10 Research, development and testing laboratories or centers
							P	P	P	P			11 Shoe repair
						P		P	P	P			12 Telephone exchanges, radio and television studios
						P		P	P	P			13 Ticket and travel agencies
						P	P	P	P	P			14 Quick copy services, not utilizing offset printing methods
								P/47	P/47	P/47			15Any BUSINESS USES above deemed to be adult entertainment establishments ( <i>only Owensboro, Unincorporated Daviess County</i> )
													<b>E MERCANTILE</b>
C							P	P	P	P			1 Farmers market
							P/16	P/16	P/16	P/16	A/55	A/55	2 Retail sale of food products
C/45							P/17	P/17	P/17	P/17	A/55	A/55	3 Retail sale of merchandise
							P	P	P	P			3A Vendor stands
A							P/18	P/18	P/18	P/18			4 Retail sale of plant, nursery or greenhouse products
A/19													5 Produce stands
C/53										P/53	P/53	P/53	6 Sale of feed, grain or other agricultural supplies
									P/20	P/20	P/20	P/20	7 Wholesale supply establishment
							P/21	P/21	P/21	P/21			8 Convenience stores with or without fuel stations
									P	P	P		9 Big box home improvement retailer
								P/47	P/47	P/47			10Any MERCANTILE USES above deemed to be adult entertainment establishments ( <i>only Owensboro, Unincorporated Daviess County</i> )

<sup>2</sup> Shall only apply to B-2 Zones outside the boundaries of the Downtown Overlay District.

#### 8.4 DETAILED USES AND SPECIAL CONDITIONS of Zones and Uses Table.

**/16.** Establishments for the retail sale of food products such as supermarkets; bakery, meat, beer, liquor and wine, and other food product stores; and provided that production of food products is permitted only for retail sale on the premises.

**/17.** Establishments for the retail sale of merchandise including: clothing, shoes, fabrics, yard goods; fixtures, furnishings and appliances such as floor covering, radios, TV, phonograph products and other visual and sound reproduction or transmitting equipment; furniture; kitchen and laundry equipment; glassware and china; and other establishments for the retail sale of hardware and wallpaper; lawn care products; paint and other interior or exterior care products; hobby items, toys, gifts, antiques; newspapers and magazines, stationery and books; flowers; music; cameras, jewelry and luggage; business supplies and machines; drugstores; variety stores.

**/18.** Commercial greenhouses are prohibited in the B-1 and B-2 Zones. In the B-3, B-4, and B-5 zones, landscaping services may be conducted as an accessory use by establishments primarily engaged in the retail sale of plant, nursery or greenhouse products.

**/19** Sale of agricultural products grown by the owner of the premises.

**/20.** A wholesale supply establishment shall be permitted in the B-3 or B-4 Zone only if indoor or outdoor storage areas of such use contain supplies, parts or other stocks primarily for sale on the premises to the general public. If stored commodities are for sale primarily to purchasing agents and not to the general public, the storage area shall be considered a warehouse or storage yard permitted only in an I-1 or I-2 Zone. Permitted outdoor storage areas must be enclosed on all sides as per #44 of this list.

**/21.** Provided such use conforms to the requirements of Article 17.

**/45.** Limited sale of hobby items, toys, gifts; antiques; newspaper, magazines, stationery, books, flowers; "flea-market" items; other similar retail sales activities which would not infringe upon the rural nature of the surrounding vicinity by excessive traffic generation, noise or other nuisances. This provision shall not be interpreted to provide for the establishment of general, neighborhood or highway business centers which would typically require business zone classification; the intent of this provision is to permit limited sales uses in rural areas which would not noticeably affect the vicinity, in order to maintain the integrity of business zone intent in rural areas while simultaneously minimizing hardship to limited and geographically scattered community businesses. An applicant for such conditional use should be made aware of the maximum scope of business which the Board of Adjustment and vicinity residents would tolerate to assure the use does not inadvertently become undesirable in intensity.

**/46.** Conditionally permitted only in the A-R Rural Agriculture Zone; prohibited in the A-U Urban Agriculture Zone.

**/47.** Particular uses that are classified under the assembly, business, or mercantile use groups in the Zones and Uses Table (Section 8.2 of this Zoning Ordinance) also may be deemed adult entertainment establishments, based on definitions outside of this Zoning Ordinance, but within the code of ordinances of the governmental body of jurisdiction. In addition to any requirements or regulations imposed by other ordinances or by other sections of this Zoning Ordinance, such adult entertainment establishments shall be subject to the following requirements:

**a.** No adult entertainment establishment shall be located in any zone other than B-2, B-3, B-4, or B-5; and, an adult entertainment establishment shall be permitted in a B-2, B-3, B-4, or B-5 zone, respectively, only if the particular use of the establishment is specifically permitted within a B-2, B-3, B-4, or B-5 zone, respectively, as classified under the assembly, business or mercantile use groups in the Zones and Uses Table.

**b.** No adult entertainment establishment shall be located within five hundred (500) feet of another adult entertainment establishment or within five hundred (500) feet of any residential zone, any school where persons under eighteen (18) years of age are enrolled, any child daycare center, any church facility, or any public park or recreation facility. Distance shall be measured in a straight line, without regard to intervening structures or objects. Distance between any two (2) adult entertainment establishments shall be measured from the nearest entrance door of the first adult entertainment establishment to the nearest entrance door of the second adult entertainment establishment. Distance between any adult entertainment establishment and any residential zone shall be measured from the nearest entrance door of the adult entertainment establishment to the nearest property line of the residential zone. Distance between any adult entertainment establishment and any school where persons under eighteen (18) years of age are enrolled, or any child daycare center, or any church facility, or any public park or recreation facility, shall be measured from the nearest entrance door of the adult entertainment establishment to the nearest property line of the respective school, daycare center, church facility, or park or recreation facility, unless such use occupies only a portion of a property also containing unspecified use(s). In such case, distance shall be measured from the nearest entrance door of the adult entertainment establishment to the nearest boundary of the immediate premises occupied by the school, daycare center, church facility, or park or recreation facility.

**c.** Off-street parking requirements for an adult entertainment establishment shall be as required for the applicable zone and particular use of the establishment, as classified under the assembly, business or mercantile use groups in the Zones and Uses Table.

**/53.** Storage of hazardous materials as determined by the Kentucky Building Code are allowed in conjunction with the sale of feed, grain or other agricultural supplies provided that the material is located a minimum distance of 100 feet from any commercial zone and a minimum of 300 feet from any residential zone or agricultural zone.

**/55.** See ASSEMBLY USES (B) table.

## 8.2 ZONES AND USES TABLE

<p><b>P = PRINCIPALLY PERMITTED USES:</b> Uses listed and other uses (not otherwise listed in table) substantially similar to those listed are deemed permitted.</p> <p><b>C = CONDITIONALLY PERMITTED USES:</b> Uses which are permitted only with Board of Adjustment approval.</p> <p><b>A = ACCESSORY USES:</b> Uses and structures permitted which are customarily accessory, clearly incidental and subordinate to permitted uses.</p>														<p><b>NOTE:</b> Only those uses specifically permitted or substantially similar to permitted uses are permitted in each zone; all uses which lack substantial similarity to permitted uses in each zone are deemed <b>prohibited</b> (as per Article 3 of this Zoning Ordinance).</p> <p><b>Numbers</b> following the "P", "C" or "A" in the table refer to special conditions, additional information, or detailed use listings which follow in numerical order in Section 8.4.</p> <p>Note: For all properties zoned B-2 within the downtown overlay district boundary, please refer to the schedule of uses in Article 21 of the zoning ordinance. Special requirements are also applicable to properties located within downtown overlay districts relative to use, site development, and design standards. See Article 21 for specific requirements and Downtown Overlay District Regulating Plan.</p>
ZONES														USES
A-R	R-1A		R-	R-	R-				B-3					
A-U	R-1B	R-1T	2MF	3MF	4DT	P-1	B-1	B-2 <sup>3</sup>	B-4	B-5	I-1	I-2		
								P/21	P	P				F VEHICLE AND TRUCK RELATED
									P/22	P/22				1 Vehicle boat rental
C/23														2 Vehicle sales lot, establishment
														3 Vehicle race tracks
							P/21	P/21	P/21	P/21				4 Vehicle service/fuel stations, with or without convenience stores
									A/24	P	P	P		5 Vehicle repair, major
									C/24A	P	P	P		5A Vehicle body shop
							P	P	P	P	P	P		6 Vehicle repair, minor
							P	P	P	P	P	P		6A Vehicle detail shop
							A/25	A/25	P/25	P/25	P/25	P/25		7 Car-wash; self-serve or automatic
A				A	A	A	A	A	A	A	A	A		8 Loading and unloading facilities
A	A	A	A	A	A	A	A	P	A	A	A	A		9 Parking areas, private garages
	A	A	A	A	A	A	A	P	A	A	A	A		10 Parking areas or structures
					C	C	P	P	P	P	P	P		11 Parking lots or structures
										P	P	P		12 Tire re-treading and recapping
												C/27		12A Tire recycling collection center
									A	A	A	A		13 Truck rental
										P	P	P		14 Truck terminals and freight yards
									P	P				15 Taxi cab or limousine service
										P	P			16 Vehicle auction facilities
												C/27		17 Vehicle impound yards or vehicle salvage yards
G INDUSTRIAL														
										P/26	P/26	P/26		1 Contractor equipment dealer
											P	P		1A Lumber and construction material yards
											P	P		2 Dairy or other food product bottling plants
P											C	C	P	3 Extraction of crude petroleum, natural gas
C											C	C	C	3A Quarrying of sand, gravel, etc.
												C/27		4 Heavy industrial uses, conditional
												C/27		4A Salvage yards
												C/27		4B Refuse yards or landfills
												P/28		5 Heavy industrial uses, principal
P/54										P	P	P		5A Processing timber for firewood
										P	P	P		6 Ice plant
										P	P	P		7 Machine, welding and other metal work shops
										P	P	P		8 Manufacturing, compounding, processing, packaging and assembling, light
						A		A	A	P	P	P		9 Medical waste disposal
A/30							A/30	A/30	A/30	A/30				10 Making of articles to be sold at retail on the premises
						A	A	P	P	P	P	P		11 Printing, publishing, lithographing, blueprinting
										A	A	A		12 Sale of manufactured goods
										P/31	P/31	P/31		13 Shops of special trade and general contractors
							A/49	A/49	A/49	P	P	P		14 Furniture repair and upholstery
C/46										P	P	P		15 Furniture restoration and refinishing
										P	P	P		16 Recycling Collection centers
											P/27	P/27		17 Distillery/Brewery

<sup>3</sup> Shall only apply to B-2 Zones outside the boundaries of the Downtown Overlay District.



#### 8.4 DETAILED USES AND SPECIAL CONDITIONS of Zones and Uses Table.

/21. Provided such use conforms to the requirements of Article 17.

/22. Establishments and lots for the display, rental, sale, service and minor repair of vehicles ; boats; recreational vehicles; mobile or modular homes; or supplies for such items.

/23. Vehicle racetracks are prohibited in the A-U Zone.

/24. When accessory to an establishment primarily engaged in the sale of vehicles.

**/24A. (Only Unincorporated Daviess County)** This provision shall apply only in B-4 General Business zones. Vehicles body shops involve industrial-type activities, which are more intense than the activities usually permitted in business zones. Therefore, when conditionally permitted in B-4 , vehicle body shops shall conform with the following requirements:

a. All work to be performed on vehicles, including removal of parts, shall occur entirely within an enclosed building.

b. Any outdoor storage area shall be completely screened with a six (6) foot high solid fence or wall from adjoining uses and streets, and shall be landscaped and paved. Such outdoor storage areas shall not be used as vehicle impound yards or junk yards, as defined in this or other local ordinances. Storage of vehicles shall be limited to those vehicles to be repaired on the premises. The Board of Adjustment may establish additional conditions, which it believes are necessary to assure compatibility with neighboring uses. These conditions may include but are not limited to the following:

c. Limits on the size and location of buildings or land to be used as part of the use.

d. Limits on the number of vehicles located on the premises at one time.

e. Limits on operating hours.

/25. Provided that surface water from such use shall not drain onto adjacent property or over a public sidewalk, and that adequate on-site storage lanes and parking facilities shall be provided so that no public way shall be used for such purposes. Drainage shall be approved by the city/county engineer's office. In B-1 and B-2 zones, car washes are permitted as accessory uses only to service stations and convenience stores.

26. Establishments and lots for the display, rental, sale and repair of contractor equipment.

**/27. (I-2 conditional uses)** Any hazardous uses or occupancies as determined by the Kentucky Building Code , and any vehicle impound yards , salvage or refuse yards , landfills, or tire recycling/recycling collection center shall apply for **conditional use** to the Owensboro Metropolitan Board of Adjustment; provided that any building or outside storage, loading or working areas except for accessory parking areas or structure shall be located at least three hundred (300) feet from any Residential Zone and one hundred ( 100) feet from any other zone except an I-1 or A-R Zone, with the exception of hazardous materials stored in conjunction with the sale of feed, fertilizer or other agricultural products which shall be allowed as accessory use to the business provided buffer distances as described in note 53 are met.

**/28. (I-2 principal uses)** Heavy industrial and manufacturing uses are principally permitted except where requiring conditional use permits by this ordinance provided that any building or outside storage, loading or working areas, except for accessory parking areas shall be located at least three hundred (300) feet from any Residential Zone and one hundred (100) feet from any other zone except I-1 or A-R Zone.

/30. Provided that any manufacturing shall be restricted to light manufacturing incidental to a retail business or service where the products are sold on the premises by the producer

/31. Such as plumbing; heating and air conditioning; carpentry; masonry; painting; plastering; metal work; printing, publishing, lithographing, engraving; electrical; major vehicle repair; sign painting; upholstering; tile, mosaic and terrazzo work; electroplating; drilling; excavating; wrecking; construction; paving; industrial cleaning.

/47. See under *BUSINESS USES (D) table*.

/54 Permitted use in agricultural zones only for timber harvested on the premises.

## 8.2 ZONES AND USES TABLE

<p><b>P = PRINCIPALLY PERMITTED USES:</b> Uses listed and other uses (not otherwise listed in table) substantially similar to those listed are deemed permitted.</p> <p><b>C = CONDITIONALLY PERMITTED USES:</b> Uses which are permitted only with Board of Adjustment approval.</p> <p><b>A = ACCESSORY USES:</b> Uses and structures permitted which are customarily accessory, clearly incidental and subordinate to permitted uses.</p>													<p><b>NOTE:</b> Only those uses specifically permitted or substantially similar to permitted uses are permitted in each zone; all uses which lack substantial similarity to permitted uses in each zone are deemed <b>prohibited</b> (as per Article 3 of this Zoning Ordinance).</p> <p><b>Numbers</b> following the "P", "C" or "A" in the table refer to special conditions, additional information, or detailed use listings which follow in numerical order in Section 8.4.</p> <p><b>Note:</b> For all properties zoned B-2 within the Downtown Overlay District boundary, please refer to the Schedule of Uses in Article 21 of the Zoning Ordinance. Special requirements are also applicable to properties located within Downtown Overlay District relative to use, site development, and design standards. See Article 21 for specific requirements and Downtown Overlay District Regulating Plan.</p>
ZONES													USES
A-R A-U	R-1A R-1B R-1C	R-1T	R-2MF	R-3MF	R-4DT	P-1	B-1	B-2 <sup>4</sup>	B-3 B-4	B-5	I-1	I-2	
													<b>H Agriculture:</b>
A													1 Agricultural structures, stables
P													2 Dairying and stock-raising
P	P	P	P	P	P								3 Farming
P										P/32	P/32	P/32	4 Farm equipment dealer
										C/33	C/33	C/33	5 Forestry
C													6 Grain drying
C/33a									C/33a	P	P	P	7 Livestock sales and auction
C													8 Landscaping services
<a href="#">C/58</a>													9 Agri-tourism
													<b>I Animal related:</b>
C/34													1 Animal burial grounds
C/50													1A Animal race tracks
									P/35	P/35	P/35	P/35	2 Animal hospital or clinic
							P/51	P/51	P	P	A	A	2A Pet grooming
							P/51	P/51	P	P	A	A	2B Pet training
P													3 Hunting, fishing, trapping, game preserves
C							P	P	P	P			3A Taxidermy
P/35									P/35	P/35	P/35	P/35	4 Kennel, commercial
A	A	A	A	A	A								5 Kennel, non-commercial
									P/35	P/35	P/35	P/35	6 Veterinarian office
													<b>J Personal service:</b>
C				C					C	C	C	C	1 Cemetery, mausoleum, columbarium, crematory
C						C		P	P	P			2 Funeral home, with or without crematory
							P/36	P/36	P/36	P/36	P/36	P/36	3 Laundry, clothes cleaning
						P	P	P	P	P	P	P	3A Dry cleaning or laundry drop off and pick up stations with or without drive-through windows, where no cleaning of garments occurs on site
						A	P	P	P	P			4 Pharmaceuticals and medical supplies, sale of
						A/37	P	P	P	P	A/37	A/37	5 Retail sales or personal services
													<b>K Public and semi-public:</b>
C/38													1 Airport
C/39													2 Land fill
P/40	P/40	P/40	P/40	P/40	P/40	P/40	P/40	P/40	P/40	P/40	P/40	P/40	3 Municipal, county, state, public school or federal buildings and uses
C	C	C	C	C	C	C	C	C	C	C	C	C	4 Public utility facilities not otherwise permitted within this table and not excepted by Article 3 herein
								C	C	C			5 Bus terminals
C													6 Radio or TV transmitting or relay facilities including line of sight relays
<a href="#">P/59</a>	<a href="#">P/59</a>	<a href="#">P/59</a>	<a href="#">P/59</a>	<a href="#">P/59</a>	<a href="#">P/59</a>	<a href="#">P/59</a>	<a href="#">P/59</a>	<a href="#">P/59</a>	<a href="#">P/59</a>	<a href="#">P/59</a>	<a href="#">P/59</a>	<a href="#">P/59</a>	<a href="#">7 Level 1 Solar Energy System (SES)</a>
<a href="#">P/59</a>	<a href="#">C/59</a>	<a href="#">C/59</a>	<a href="#">C/59</a>	<a href="#">C/59</a>	<a href="#">C/59</a>	<a href="#">C/59</a>	<a href="#">C/59</a>	<a href="#">C/59</a>	<a href="#">C/59</a>	<a href="#">C/59</a>	<a href="#">C/59</a>	<a href="#">C/59</a>	<a href="#">7a Level 2 or Level 3 Solar Energy System (SES)</a>
C/42	C/42	C/42	C/42	C/42	C/42	C/42	C/42	C/42	C/42	C/42	C/42	C/42	7 Recreational uses, major outdoor
A/43	A/43	A/43	A/43	A/43	A/43	A/43	A/43	A/43	A/43	A/43	A/43	A/43	8 Recreational uses, accessory outdoor

<sup>4</sup> Shall only apply to B-2 Zones outside the boundaries of the Downtown Overlay District.

## 8.2 ZONES AND USES TABLE

<p><b>P = PRINCIPALLY PERMITTED USES:</b> Uses listed and other uses (not otherwise listed in table) substantially similar to those listed are deemed permitted.</p> <p><b>C = CONDITIONALLY PERMITTED USES:</b> Uses which are permitted only with Board of Adjustment approval.</p> <p><b>A = ACCESSORY USES:</b> Uses and structures permitted which are customarily accessory, clearly incidental and subordinate to permitted uses.</p>													<p><b>NOTE:</b> Only those uses specifically permitted or substantially similar to permitted uses are permitted in each zone; all uses which lack substantial similarity to permitted uses in each zone are deemed <b>prohibited</b> (as per Article 3 of this Zoning Ordinance).</p> <p><b>Numbers</b> following the "P", "C" or "A" in the table refer to special conditions, additional information, or detailed use listings which follow in numerical order in Section 8.4.</p> <p><b>Note:</b> For all properties zoned B-2 within the Downtown Overlay District boundary, please refer to the Schedule of Uses in Article 21 of the Zoning Ordinance. Special requirements are also applicable to properties located within Downtown Overlay District relative to use, site development, and design standards. See Article 21 for specific requirements and Downtown Overlay District Regulating Plan.</p>
ZONES													USES
A-R A-U	R-1A R-1B R-1C	R-1T	R-2MF	R-3MF	R-4DT	P-1	B-1	B-2 <sup>5</sup>	B-3 B-4	B-5	I-1	I-2	
									A/44	A/44	A/44	A/44	<b>L Storage:</b>
							A	A	A	A			1 Storage, outdoor
													2 Storage (incidental) for retail sales establishment
A	A	A	A	A	A								3 Storage sheds
									A/20	A/20	A/20	A/20	4 Storage for wholesale supply establishment
							A	A	A	A	A	A	5 Storage yards for delivery vehicles
									C/48	P/48	P/48	P/48	7 Individual Storage
										C	C	C	8 Storage facilities, including outdoor storage for merchandise or operable, licensed, vehicles
									<a href="#">C/56</a>	<a href="#">P/56</a>	<a href="#">P/56</a>	<a href="#">P/56</a>	<a href="#">9 Indoor Individual Storage</a>
<a href="#">C/57</a>													<a href="#">10 Storage of Distilled Spirits</a>

<sup>5</sup> Shall only apply to B-2 Zones outside the boundaries of the Downtown Overlay District.



#### 8.4 DETAILED USES AND SPECIAL CONDITIONS of Zones and Uses Table.

**/20.** A wholesale supply establishment shall be permitted in the B-3 or B-4 Zone only if indoor or outdoor storage areas of such use contain supplies, parts or other stocks primarily for sale on the premises to the general public. If stored commodities are for sale primarily to purchasing agents and not to the general public, the storage area shall be considered a warehouse or storage yard permitted only in an I-1 or I-2 Zone. Permitted outdoor storage areas must be enclosed on all sides as per #44 of this list.

**/32.** Establishments and lots for the display, rental, sale and repair of farm equipment.

**/33.** Grain drying when operated in a fully enclosed building at least three hundred (300) feet from the nearest Residential or Commercial Zone.

**/33a.** In the A-R, B-5, I-1 and I-2 zones, landscaping services shall be a principally permitted use. In the A-U, B-3 and B-4 zone, landscaping services shall be a conditionally permitted use. The Board of Adjustment, in considering approval of a conditional use permit, may require special conditions related to screening, outdoor storage, and other matters to assure neighborhood compatibility.

**/34.** Animal burial grounds are prohibited in the A-U Zone.

**/35.** Kennel, animal hospital, office of veterinarian providing that such structure or use, not including accessory parking areas, shall be at least one hundred (100) feet from any Residential Zone.

**/36.** Laundry, clothes cleaning or dyeing shop, self-service laundry or laundry pick-up station; in Business Zones clothes-cleaning establishments are limited to a forty (40)-pound capacity, closed-system process.

**/37.** Retail sales or personal services, including facilities for serving food, only for employees or visitors to any permitted use and having no display space or signs visible from the exterior of the building.

**/38.** Airports are prohibited in the A-U Zone.

**/39.** Landfills are prohibited in the A-U Zone. Landfills operated by municipal, county or state entities are permitted in any zone in accordance with KRS 100.361(2) exempting political subdivisions from local land use requirements. A public facility review by the OMPC is required for these facilities. Landfills are not exempt from the requirements of the subdivision regulations.

**/40.** Municipal, county, state, federal and public school boards are defined in Kentucky revised statutes as political subdivisions and are exempted from local land use requirements by KRS 100.361(2) if these uses and buildings are situated on land owned or leased by the political subdivision. A public facility review by the OMPC is required for these facilities. These facilities and uses are not exempt from subdivision regulations.

**/41.** (reserved)

**/42.** Major outdoor recreational uses include private parks, playgrounds, archery and shooting ranges, athletic fields, golf courses, skateboard parks, zoological gardens, country clubs, marinas, riding stables, campgrounds, boat ramps, fishing lakes, amusement parks, water parks, driving ranges, and batting cages

along with their accessory facilities. Commercial recreation areas are prohibited in all Residential zones.

**/43.** Accessory outdoor recreational uses include swimming pools, tennis courts, putting greens, and other similar recreational uses.

**/44.** Land-use buffers for outdoor storage areas or storage yards (except employee or customer parking areas) for manufactured products, materials to be used in manufacturing, wholesale commodities, or vehicles junk yards, salvage and scrap-iron yards shall be provided as per Article 17, Landscape and Land Use Buffers.

**/48.** Individual storage uses shall be prohibited in the B-3 zone. Individual storage uses may be conditionally permitted in B-4 zones in unincorporated Daviess County. Individual storage uses are principally permitted in B-5, I-1 and I-2 zones in Owensboro, Whitesville and unincorporated Daviess County.

The storage of items within any individual storage structure shall conform to the limitations contained in the definition of "individual storage" in Article 14 of this Zoning Ordinance.

**In the B-4 zone,** conditionally permitted individual storage uses also shall be subject to the following restrictions:

**a.** Structures to be used as individual storage units shall not be located closer than twenty five (25) feet to any residential zone.

**b.** An eight-foot (8') high solid wall or fence shall be installed and maintained on all sides that adjoin any other property, except those properties zoned B-1, B-2, B-3, B-4, B-5, I-1 or I-2. Tree plantings may also be required as per Article 17 of this Zoning Ordinance.

**c.** Building height shall not exceed fifteen (15) feet, measured from the finish grade at the loading door(s), to the top of the roof ridge or edge.

**d.** Outdoor storage shall be prohibited on the same property as the individual storage structure(s). This shall include vehicles, boats, personal items, etc.

**e.** All uses other than individual storage shall be prohibited within structures while those structures are being used for individual storage, except for one office or caretaker's residence, which, if present, shall be directly related to the management of the individual storage units.

**f.** The Owner of the individual storage structure(s) shall be responsible for policing the material and/or items being stored. The Owner shall notify the Zoning Administrator upon discovering any storage not meeting the requirements set forth herein, providing the name, address and phone number of the renter whose storage is in question

**/49.** Provided that any furniture repair shall be associated with a retail business or service where furniture or upholstery is sold on the premises.

**/50.** Animal racetracks shall be prohibited in A-U zones.

**/51.** Without boarding facilities.

/56. Indoor individual storage uses may be conditionally permitted in the B-3 and B-4 zones. Indoor individual storage uses are principally permitted in B-5, I-1 and I-2 zones.

The storage of items within any indoor individual storage structure shall conform to the limitations contained in the definition of "indoor individual storage" in Article 14 of this Zoning Ordinance.

In the B-3 and B-4 zones, conditionally permitted indoor individual storage uses also shall be subject to the following restrictions:

a. Indoor individual storage shall be limited to the adaptive reuse of an existing retail storefront of not less than 10,000 square feet in size.

b. Structures to be used as indoor individual storage units shall be fully conditioned and enclosed.

c. Screening and landscaping shall be required as per Article 17 of this Zoning Ordinance.

d. Outdoor storage shall be prohibited on the same property as the indoor individual storage structure(s). This shall include vehicles, boats, personal items, etc.

e. All uses other than indoor individual storage shall be prohibited within structures while those structures are being used for individual storage, except for those accessory uses that are clearly incidental to and would also be permitted in a B-4 zone.

f. The Owner of the indoor individual storage structure(s) shall be responsible for policing the material and/or items being stored. The Owner shall notify the Zoning Administrator upon discovering any storage not meeting the requirements set forth herein, providing the name, address and phone number of the renter whose storage is in question

/57. Storage of distilled spirits shall be conditionally permitted in the A-R zone only on tracts of at least one hundred (100) acres in size.

Prior to the approval of a conditional use permit hereunder, the OMBA must consider the impact of the proposed use upon surrounding properties and insure that the character of the area is protected. This type of establishment shall not be considered as altering the agricultural or residential character of its particular area and shall not be justification for zoning map amendments.

In the A-R zone, conditionally permitted storage of distilled spirits also shall be subject to the following restrictions:

a. The construction type shall be limited to rack supported structures or pallet storage structures constructed in accordance with the requirements of the current edition of the Kentucky Building Code.

b. The size, height and separation of any single structure shall be in accordance with the requirements of the current edition of the Kentucky Building Code.

c. The structures shall be used for the storage of distilled spirits only; any change in the product/material stored shall deem the conditional use permit null and void.

d. All structures shall be set back at least 200 feet from all property boundaries.

e. All structures shall be located at least 750 feet from any principal structure on an adjoining property; this may be waived if the applicant provides a sworn affidavit from the owner of said structure that he/she is agreeable to the waiver.

f. At least twenty five (25) percent of the property shall be dedicated to agricultural uses as defined in KRS 100 and/or left as open/natural space.

g. The perimeter of the subject property shall be screened with a single row of pine trees planted 20 feet on center unless a waiver is requested by the applicant and granted by the OMBA.

h. As part of the application process, the property owner shall agree that if the use ever exceeds the conditions of an approved permit, the property owner must take the necessary steps to come into compliance, cease operations, and/or relocate to an appropriately zoned location.

/58. Agriculture, Horticulture and Silviculture Industries shall be Conditionally Permitted in A-R and A-U zones located outside of the Urban Service area on parcels of at least twenty five (25) acres in size but not to exceed fifty (50) acres in size. This type of use shall not be considered as altering the agriculture or residential character of its particular area and shall not be justification for zoning map amendments. Conditionally permitted agriculture, horticulture and silviculture industries shall be subject to the following restrictions:

a. Any structure associated with the use shall not exceed ten thousand (10,000) square feet in size.

b. The operation must not employ more than 5 persons.

c. The operation shall be limited to agriculture, horticulture or silviculture activities and their related accessory uses.

d. The applicant must submit a full scope of work along with the conditional use permit application showing the operation is limited in size and scope as to not cause a negative impact or nuisance to neighboring properties. If at any time that scope of work changes or any conditions set forth with the approved conditional use permit are not met, the conditional use permit shall be revoked and the operation shall cease.

e. All applicable building codes for commercial/industrial structures shall be followed. The OMPC Building, Electrical, HVAC department shall be contacted regarding any required permits or inspections prior to any construction activity taking place.

/59. Solar Energy Systems (SES) shall comply with the following criteria:

a. The height of any ground mounted SES shall not exceed twenty (20) feet as measured from the highest natural grade below each solar panel (excludes utility poles and antennas constructed for the project)

b. Setback requirements for Level 1 and Level 2 SES shall be in compliance with the zoning classification for the parcel.

c. Setback requirements for Level 3 SES shall be as follows: (1) All equipment shall be at least fifty (50) feet from the perimeter property lines of the project area; (2) No interior property line setbacks shall be required if the project spans multiple properties, and; (3) All equipment shall be located at least one hundred (100) feet from any residential structure.

### 8.3 GENERAL INDEX.

d. All Level 3 SES shall be screened with an 8' tall fence and a double row of staggered pines planted 15' on center from any public right-of-way or adjacent residential use. The pine trees shall be located outside of the fence. The use of barbed wire or sharp pointed fences shall be prohibited in or along any boundary adjoining residential or MHP zones

e. There shall be no signs permitted except those displaying emergency information, owner contact information, warning or safety instructions or signs that are required by a federal, state or local agency. Such signs shall not exceed 5 square feet in area.

f. Lighting shall be prohibited except that required by federal or state regulations.

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

1. The developer shall post a Surety Bond for the abandonment of the site and in the event the Commission must remove the facility. Abandonment shall be when the SES ceases to transfer energy on a continuous basis for twelve (12) months. The surety bond shall be one half (1/2) percent of the total cost of the installed SES.

2. A decommissioning plan shall be submitted at the time of application by the party responsible for decommissioning and the land owner and must include the following: (1) Defined conditions upon which the decommissioning will be initiated. i.e. there has been no power production for 12 months, the land lease has ended, or succession of use of abandoned facility, etc.; (2) Removal of all non-utility owned equipment, conduit, structures, fencing, roads, and foundations; (3) Restoration of the property to its original condition prior to development of the SES; (4) The time frame for completion of decommissioning activities; (5) the party currently responsible for decommissioning, and; (6) Plans for updating the decommissioning plan.

(This blank column is reserved)

### 8.3 GENERAL INDEX.

<u>USE GROUPS in "Zones and Uses Table"</u>	<u>Page</u>
<u>A RESIDENTIAL</u>	<u>8-3</u>
<u>B ASSEMBLY</u>	<u>8-4</u>
<u>C INSTITUTIONAL</u>	<u>8-4</u>
<u>D BUSINESS</u>	<u>8-5</u>
<u>E MERCANTILE</u>	<u>8-6</u>
<u>F VEHICLE AND TRUCK RELATED</u>	<u>8-7</u>
<u>G INDUSTRIAL</u>	<u>8-8</u>
<u>OTHER:</u>	
<u>H AGRICULTURE</u>	<u>8-10</u>
<u>I ANIMAL RELATED</u>	<u>8-10</u>
<u>J PERSONAL SERVICES</u>	<u>8-10</u>
<u>K PUBLIC AND SEMI-PUBLIC</u>	<u>8-10</u>
<u>L STORAGE</u>	<u>8-10</u>

**8.5 SITE DEVELOPMENT REQUIREMENTS.** The following lot, yard, building height, useable open space and other requirements shall apply within each zone as specified in the respective subsection tables that follow, unless adjusted by provisions of articles 3 or 4 of this Zoning Ordinance. The short headings used in the tables are defined as follows:

- ◆ **Minimum Lot Size.** The minimum lot size that is specified by the Site Development Requirements contained in this article.
- ◆ **Minimum Lot Frontage.** The minimum width of a lot at the building setback line that is specified by the Site Development Requirements contained in this article.
- ◆ **Minimum Front Yard or Street Yard.** The minimum building setback that is required from any front lot line, side street lot line, or rear street lot line, or from the centerline of any public right-of-way that adjoins any front lot line, side street lot line, or rear street lot line; except that building setbacks for yards that adjoin alleys shall be the same as for interior side or rear yards, as required by the Site Development Requirements contained in this article.
- ◆ **Minimum Interior Side Yard.** The minimum building setback that is required from any side lot line that adjoins another lot or an alley.
- ◆ **Minimum Interior Rear Yard.** The minimum building setback that is required from any rear lot line that adjoins another lot or an alley.
- ◆ **Maximum Building Height.** The maximum height of a building that is permitted. *See "Building, Height of" in the Definitions article of this Zoning Ordinance.*
- ◆ **Minimum Useable Open Space.** The minimum "useable open space," as defined in this Zoning Ordinance.
- ◆ **Maximum Lot Coverage.** The maximum area of a lot that can be covered by all principal buildings and accessory structures occupying the lot.
- ◆ **Other Requirements.** Other regulations affecting site development as specified.

**8.5 SITE DEVELOPMENT REQUIREMENTS (continued)**

<b>8.5.1 A-R Rural Agriculture Zone</b>		
<b>8.5.2 A-U Urban Agriculture Zone</b>		
<b>(a) Minimum Lot Size</b>		
A-R Zone	1.0 acre	
A-U Zone	0.5 acre	Where sanitary sewers are not available, the minimum lot size shall be 0.75 acres
<b>(b) Minimum Lot Frontage</b>	100'	at building setback line
<b>(c) Minimum Front Yard or Street Yard</b>		(See Section 8.6 for map of Major Streets)
Freeway, Expressway	20'	from lot line
Arterial Street (two-way)	75'	from street centerline or 25' from lot line, whichever is greater
(Planned one-way)	60'	from street centerline or 25' from lot line, whichever is greater
Major Collector Street	60'	from street centerline or 25' from lot line, whichever is greater
Minor Collector or Local Street	60'	from street centerline or 25' from lot line, whichever is greater
Alley		(See interior side yard, interior rear yard)
<b>(d) Minimum Interior Side Yard</b>	10'	each side
<b>(e) Minimum Interior Rear Yard</b>	20'	
<b>(f) Maximum Building Height</b>	No limit	except for Kentucky Airport Zoning restrictions
<b>(g) Minimum Useable Open Space</b>	No limit	
<b>(h) Maximum Lot Coverage</b>	50%	
<b>(i) Manufactured homes</b> shall be connected to public water and sanitary sewer facilities when available. In the event public facilities are not available, the sanitary sewer facilities shall receive approval of the Daviess County Health Department.		
<b>(j) Manufactured homes</b> shall be underpinned with a solid form of permanent material placed between the ground and the bottom outside edge of the mobile home to shield against the element of weather and to conserve energy used for heating and cooling.		
<b>(k) Agricultural land</b> which has not been subdivided into customary lots shall not exceed a density of one (1) dwelling unit per ten (10) acre tract, including manufactured homes.		
<b>(l) Building permits for accessory buildings</b> to store farm products and machinery on tracts of land ten (10) acres or more in size shall not be required.		
<b>(m) Structures and/or buildings</b> shall not be placed in the designated flood plain area which tends to increase flood heights or obstruct the flow of floodwaters, and which could cause damage to other properties, as per Article 18 of this Zoning Ordinance.		
<b>8.5.3 I-1 Light Industrial Zone</b>		
<b>8.5.4 I-2 Heavy Industrial Zone</b>		
<b>(a) Minimum Lot Size</b>	No limit	Where sanitary sewers are not available, the minimum lot size shall be 0.75 acres
<b>(b) Minimum Lot Frontage</b>	No limit	
<b>(c) Minimum Front Yard or Street Yard</b> [see (k) below]		(See Section 8.6 for map of Major Streets)
Freeway, Expressway	20'	from lot line
Arterial Street (two-way)	75'	from street centerline or 25' from lot line, whichever is greater
(Planned one-way)	60'	from street centerline or 25' from lot line, whichever is greater
Major Collector Street	60'	from street centerline or 25' from lot line, whichever is greater
(Whitesville only)	75'	from street centerline or 25' from lot line, whichever is greater
Minor Collector or Local Street	25'	from lot line
Marginal Access Street	0'	from lot line
Alley		(See interior side yard, interior rear yard)
<b>(d) Minimum Interior Side Yard</b> [(see (k) below)]	20'	when adjoining any zone other than business or industrial
	No limit	when adjoining a business or industrial zone or a railroad siding
<b>(e) Minimum Interior Rear Yard</b> [see (k) below]	20'	when adjoining any zone other than business or industrial
	No limit	when adjoining a business or industrial zone or a railroad siding
<b>(f) Maximum Building Height</b> [see (k) below]	No limit	except for Kentucky Airport Zoning restrictions
<b>(g) Minimum Useable Open Space</b> [see (k) below]	No limit	
<b>(h) Maximum Lot Coverage</b> [see (k) below]	No limit	
<b>(i) Certain uses</b> may require greater setbacks from particular non-compatible zones. See Section 8.4, #27 and #28.		
<b>(j) All outdoor areas or yards</b> that are used for the storage of manufactured products, materials to be used in manufacturing, wholesale commodities, trucks or equipment, junk yards, and salvage and scrap-iron yards (not including areas for employee or customer parking, nor areas that are open to the public for the permitted display of operational vehicles or other finished products for retail) shall be enclosed on all sides by a solid wall or fence not less than six (6) feet in height, and not less than eight (8) feet in height for junk yards, salvage and scrap-iron yards. In particular situations, Article 17 of this Zoning Ordinance may require additional landscape easements and materials.		
<b>(k)</b> Special requirements are applicable to properties located within Downtown Overlay Districts relative to use, site development, and design standards. See Article 21 for specific requirements and Downtown Overlay District Regulating Plan.		

**8.5 SITE DEVELOPMENT REQUIREMENTS (continued)**

<b>8.5.5 R-1A Single-Family Residential Zone</b>		
<b>8.5.6 R-1B Single-Family Residential Zone</b>		
<b>8.5.7 R-1C Single-Family Residential Zone</b>		
<b>8.5.8 R-1T Townhouse Zone</b>		
<b>(a) Minimum Lot Size</b>		
R-1A Zone [see (j) below]	10,000sq'	except in a planned residential development project (see Art. 10)
R-1B Zone [see (j) below]	7,500sq'	"
R-1C Zone [(see (j) below]	5,000sq'	"
R-1T Zone [see (j) below]	2,000sq'	
<b>(b) Minimum Lot Frontage</b>		
R-1A Zone	75'	except in a planned residential development project (see Art. 10)
R-1B Zone	60'	"
R-1C Zone	50'	"
R-1T Zone [see (k) below]	18'	
<b>(c) Minimum Front Yard or Street Yard</b> (See Section 8.6 for map of Major Streets)		
Freeway, Expressway	20'	from lot line
Arterial Street (two-way)	75'	from street centerline or 25' from lot line, whichever is greater
(Planned one-way)	60'	from street centerline or 25' from lot line, whichever is greater
Major Collector Street	60'	from street centerline or 25' from lot line, whichever is greater
Minor Collector or Local Street		
R-1A, R-1B, R-1C zones	25'	from lot line
If corner lots are back to back	15'	from side street lot line only
R-1T Zone [see (k) below]	10'	from lot line
Alley[see note (k) below]		(See interior side yard, interior rear yard)
<b>(d) Minimum Interior Side Yard</b>		
Regular Building		
R-1A Zone	10'	each side
R-1B, R-1C, R-1T zones	5'	each side
Adjoins R-1A, P-1, Agri. zone	10'	that side
Zero Setback Option (see [i] below)		
R-1A Zone	0'	one side along "internal line", 20' other side
R-1B, R-1C zones	0'	one side along "internal line", 10' other side
R-1T Zone [see (k) below]	0'	along "internal lines", 5' along "boundary lines"
Adjoins R-1A, P-1, Agri. zone	10'	that side
<b>(e) Minimum Interior Rear Yard [see (k) below]</b>		
<b>(f) Maximum Building Height [see (k) below]</b>		
<b>(g) Minimum Useable Open Space [see (k) below]</b>		
<b>(h) Maximum Lot Coverage</b>		
R-1A, R-1B, R-1C zones	50%	of total lot area
R-1T Zone [see (k) below]	50%	of total lot area
<b>(i) Zero Setback Option.</b> Zero setback lines shall be permitted only along "internal lines", which are property lines between lots that are under single ownership at the time of building construction. Zero setback lines shall not be permitted along "boundary lines", which are property lines of lots that are owned by others. No two dwelling units shall be closer than twenty (20) feet to each other in R-1A zones, nor closer than ten (10) feet to each other in R-1B or R-1C zones. Zero setback walls shall be solid, containing no window or door openings, and may be required to satisfy special building code requirements, depending on the situation. Application of zero setback side yard provisions will require special covenants within the deeds of affected lots. These covenants must respond to issues unique to zero setback dwelling units, whether attached or detached. These issues, among others, will include the following: Exterior zero setback building elements will involve maintenance performed from an adjacent property, thereby necessitating maintenance easements. Common-wall dwelling units should generally correspond in architectural style, color, scheme, etc., which may necessitate a perpetual design control mechanism to define the individual rights and collective responsibilities of affected property owners.		
<b>(j)</b> Where sanitary sewers are not available, the minimum lot size shall be 0.75 acres.		
<b>(k)</b> Special requirements are applicable to properties located within Downtown Overlay District relative to use, site development, and design standards. See Article 21 for specific requirements and Downtown Overlay District Regulating Plan.		



**8.5 SITE DEVELOPMENT REQUIREMENTS (continued)**

<b>8.5.9 R-2MF Multi-Family Residential Zone</b>		
<b>8.5.10 R-3MF Multi-Family Residential Zone</b>		
<b>8.5.11 R-4DT Inner-City Residential Zone</b>		
<b>(a) Minimum Lot Size</b> (see note [j] below)		
Multi-Family (R-2MF Zone)	13,000sq'	except in a planned residential development project (see Art. 10)
(R-3MF, R-4DT zones)	6,500sq'	"
Two-Family (R-2MF Zone)	10,500sq'	"
(R-3MF, R-4DT zones)	6,000sq'	"
"Split Duplex" (R-2MF Zone)	5,250sq'	"
(R-3MF, R-4DT zones)	3,000sq'	"
Single-Family (only R-4DT Zone)	5,000sq'	"
<b>(b) Minimum Lot Frontage</b>		
Multi-Family (R-2MF Zone)	75'	except in a planned residential development project (see Art. 10)
(R-3MF, R-4DT zones)	70'	"
Two-Family (R-2MF Zone)	70'	"
(R-3MF, R-4DT zones)	60'	"
"Split Duplex" (R-2MF Zone)	35'	"
(R-3MF, R-4DT zones)	30'	"
Single-Family (only R-4DT Zone)	50'	"
<b>(c) Minimum Front Yard or Street Yard</b>		(See Section 8.6 for map of Major Streets)
Freeway, Expressway	20'	from lot line
Arterial Street (two-way) [see (k) below]	75'	from street centerline or 25' from lot line, whichever is greater
(Planned one-way)	60'	from street centerline or 25' from lot line, whichever is greater
Major Collector Street [see (k) below]	60'	from street centerline or 25' from lot line, whichever is greater
Minor Collector or Local Street [see (k) below]	25'	from lot line
Alley [see note (k) below]		(See interior side yard, interior rear yard)
<b>(d) Minimum Interior Side Yard</b>		
All Building Types	5'	each side
Adjoins R-1A, P-1, or Agri. zone	10'	that side
R-4DT Zone Zero Setback Option [see (k) below]		Same as for R-1C Zone (See Section 8.5.7) [see (k) below]
<b>(e) Minimum Interior Rear Yard</b>	20'	
<b>(f) Maximum Building Height</b>		
Multi-Family in R-4DT Zone [see (k) below]	36'	without increased minimum yard dimensions
Building taller than 36' [see (k) below]	3:1	height-to-yard ratio relative to all surrounding yards
All Other	36'	
<b>(g) Minimum Useable Open Space</b>		
Multi-Family [see (k) below]	30%	of lot area
All Other	No limit	
<b>(h) Maximum Lot Coverage</b>		
Multi-Family (R-2MF Zone)	50%	of total lot area with a floor area ratio of 0.25
(R-3MF Zone)	50%	of total lot area with a floor area ratio of 0.40
(R-4DT Zone) [see (k) below]	50%	of total lot area with a floor area ratio of 1.30
All Other	50%	of total lot area
<b>(i) "Split Duplex" Option.</b>	Each unit of a two-family building (duplex) may be located on a separate lot. Separate lots for each unit of duplex buildings erected previous to the enactment of this "Split Duplex" option may vary from the minimum lot width and side yard requirements as stated hereinabove if the following two requirements can be met: (a) The original lot width conforms with the minimum required for a two-family building in the zone in which it is located; and, (b) the parking area/driveway access characteristics can comply with the requirements of Article 13 of this Zoning Ordinance. Application of the "split duplex" option will require special covenants within the deeds of affected lots. These covenants must respond to issues unique to dwelling units sharing a common wall. These issues, among others, will include the following: Exterior building elements will involve maintenance performed from an adjacent property, thereby necessitating maintenance easements. Common-wall dwelling units should generally correspond in architectural style, color, scheme, etc., which may necessitate a perpetual design control mechanism to define the individual rights and collective responsibilities of affected property owners.	
<b>(j)</b>	Where sanitary sewers are not available, the minimum lot size shall be 0.75 acres.	
<b>(k)</b>	Special requirements are applicable to properties located within Downtown Overlay District relative to use, site development, and design standards. See Article 21 for specific requirements and Downtown Overlay District Regulating Plan.	

**8.5 SITE DEVELOPMENT REQUIREMENTS (continued)**

<b>8.5.12</b>	<b>P-1 Professional/Service Zone</b>
<b>8.5.13</b>	<b>B-2 Central Business Zone</b>
<b>(a)</b>	<b>Minimum Lot Size</b>
	P-1 Zone (see note [i] below) 7,500sq' (For Professional Office Projects, see [i] below)
	B-2 Zone (see note [i] below) No limit
<b>(b)</b>	<b>Minimum Lot Frontage</b>
	P-1 Zone 60' (For Professional Office Projects, see [i] below)
	B-2 Zone No limit
<b>(c)</b>	<b>Minimum Front Yard or Street Yard</b> (See Section 8.6 for map of Major Streets)
	P-1 Zone
	Freeway, Expressway 20' from lot line
	Arterial Street (two-way) ) [see (k) below] 75' from street centerline or 25' from lot line, whichever is greater
	(Planned one-way) 60' from street centerline or 25' from lot line, whichever is greater
	Major Collector Street [see (k) below] 60' from street centerline or 25' from lot line, whichever is greater
	Minor Collector or Local Street [see (k) below] 25' from lot line
	Marginal Access Street [see (k) below] 0' from lot line
	Alley (See interior side yard, interior rear yard)
	B-2 Zone (existing buildings) ) [see (k) below] 0'
	(New buildings, ground floor) ) [see (k) below] 3' "
	(Floors above/below ground) ) [see (k) below] 0' "
	(Along any alley) ) [see (k) below] (See interior side yard, interior rear yard)
<b>(d)</b>	<b>Minimum Interior Side Yard</b>
	P-1 Zone [see (k) below] 10' each side (For Professional Office Projects, see [i] below)
	B-2 Zone, when side yard adjoins...
	R-1A, P-1, or Agri. zone) [see (k) below] 10' that side
	Other Residential or MHP zone) [see (k) below] 5' that side
	Any other zone) [see (k) below] No limit
<b>(e)</b>	<b>Minimum Interior Rear Yard</b>
	P-1 Zone [see (k) below] 20' (For Professional Office Projects, see [i] below)
	B-2 Zone, when rear yard adjoins...
	Res., MHP, P-1, or Agri. zone) [see (k) below] 20'
	Any other zone) [see (k) below] No limit
<b>(f)</b>	<b>Maximum Building Height</b>
	P-1 Zone[see note (k) below] 3:1
	B-2 Zone[see note (k) below] No limit
<b>(g)</b>	<b>Minimum Useable Open Space</b>
	P-1 Zone No limit
	B-2 Zone No limit
<b>(h)</b>	<b>Maximum Lot Coverage</b>
	P-1 Zone [see (k) below] 35% of total lot area with a floor area ratio of 1.30 (See [i] below)
	B-2 Zone [see (k) below] No limit
<b>(i)</b>	<b>A Professional Office Project</b> may be permitted for a tract of land with a minimum of five (5) acres upon the approval of a preliminary development plan and a final development plan as provided in Article 16, and subject to the P-1 Zone regulations. Subdivision of a Professional Office Project is permitted subject to the following regulations: There shall be no minimum lot size, lot frontage, yard, nor maximum lot coverage or height requirements for each subdivided lot; however, all said requirements for the approved final development plan shall be applicable to the overall subdivision; each subdivided lot shall have access to adjacent streets or joint parking areas as provided by appropriate easement shown on the final development plan and subdivision plat.
<b>(j)</b>	Where sanitary sewers are not available, the minimum lot size shall be 0.75 acres.
<b>(k)</b>	Special requirements are applicable to properties located within Downtown Overlay District relative to use, site development, and design standards. See Article 21 for specific requirements and Downtown Overlay District Regulating Plan.

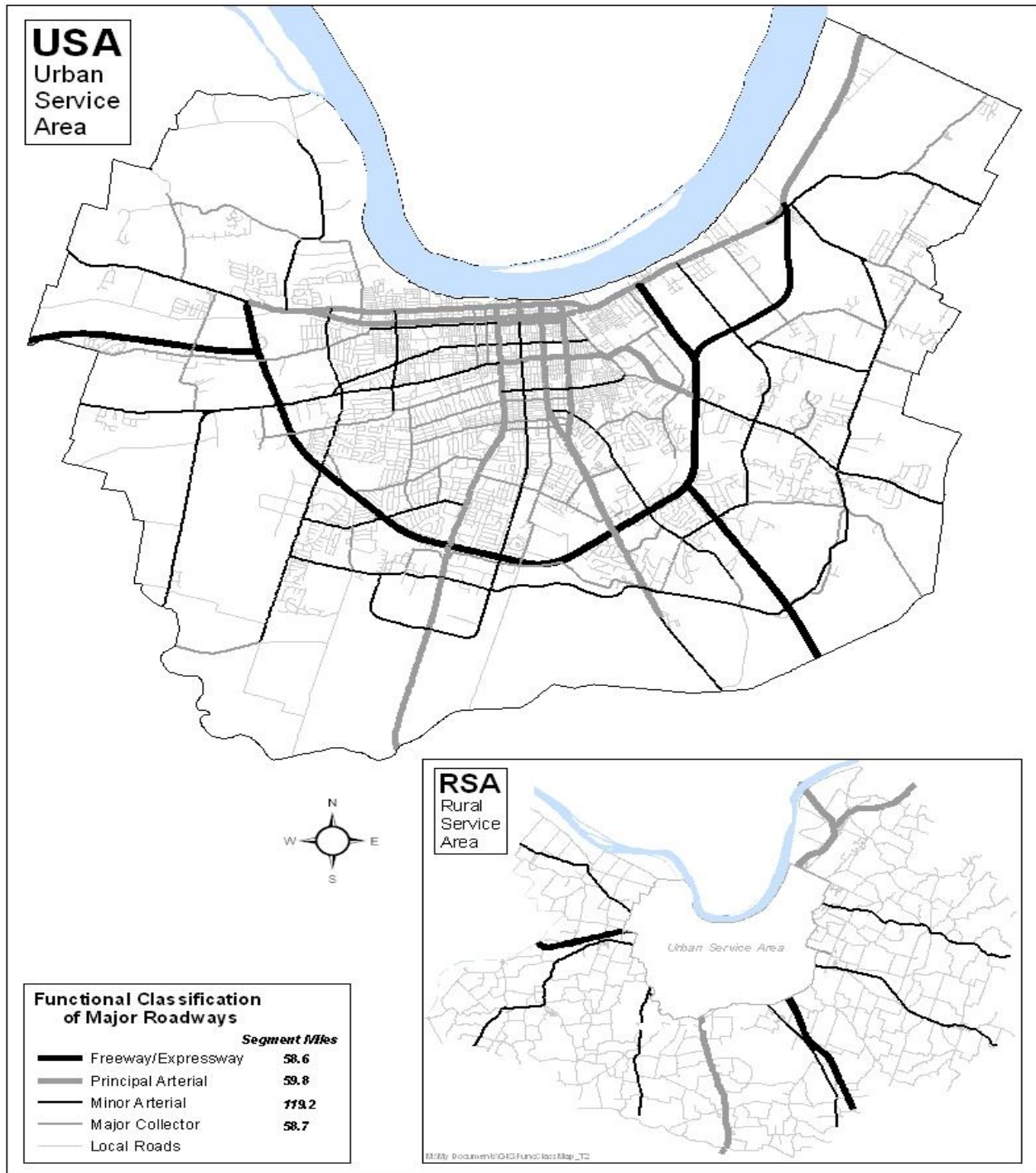


**8.5 SITE DEVELOPMENT REQUIREMENTS (continued)**

<b>8.5.14</b>	<b>B-1 Neighborhood Business Center Zone</b>		
<b>8.5.15</b>	<b>B-3 Highway Business Center Zone</b>		
<b>8.5.16</b>	<b>B-4 General Business Zone</b>		
<b>8.5.17</b>	<b>B-5 Business/Industrial Zone</b>		
<b>(a)</b>	<b>Minimum Lot Size</b>		
	B-1 Zone (see notem] below)	No limit	within a business center of 5 acres to 15 acres in size
	B-3 Zone (see notem] below)	No limit	within a business center of 15 acres or larger in size
	B-4, B-5 Zone (see notem] below)	No limit	
<b>(b)</b>	<b>Minimum Lot Frontage</b>		
<b>(c)</b>	<b>Minimum Front Yard or Street Yard</b>		
	Freeway, Expressway	20'	(See Section 8.6 for map of Major Streets) from lot line
	Arterial Street (two-way) [see note(k) below]	75'	from street centerline or 25' from lot line, whichever is greater
	(Planned one-way) [see note (k) below]	60'	from street centerline or 25' from lot line, whichever is greater
	Major Collector Street [see note (k) below]	60'	from street centerline or 25' from lot line, whichever is greater
	Minor Collector or Local Street [see note (k) below]	25'	from lot line
	Marginal Access Street [see note (k) below]	0'	from lot line
	Alley [see note (k) below]		(See interior side yard, interior rear yard)
<b>(d)</b>	<b>Minimum Interior Side Yard</b>		
	When side yard adjoins...		
	R-1A, P-1, or Agri. zone	10'	that side
	Other Residential or MHP zone	5'	that side
	Any other zone	No limit	
<b>(e)</b>	<b>Minimum Interior Rear Yard</b>		
	When rear yard adjoins...		
	Res., MHP, P-1, or Agri. zone [see note (k) below]	20'	
	Any other zone [see note (k) below]	No limit	
<b>(f)</b>	<b>Maximum Building Height [see note (k) below]</b>		
<b>(g)</b>	<b>Minimum Useable Open Space</b>		
<b>(h)</b>	<b>Maximum Lot Coverage</b>		
	B-1 Zone	35%	of total area of lot or tract in project development plan
	B-3 Zone	25%	of total area of lot or tract in project development plan
	B-4, B-5 Zone, when lot adjoins...		
	Residential, MHP, or P-1 zone	50%	of total area of lot or tract in project development plan
	Any other zone	No limit	
<b>(i)</b>	<b>Development plans</b> are required for the creation of, expansion of, or alteration of multi-business structures, whether on one or more parcels or lots as per Article 16 of this Zoning Ordinance. Also, development plans, or subdivision plats (if found to be an acceptable substitution by the OMPC), shall be required for zoning map amendments to a B-1 or B-3 zone, and for building development in those zones.		
<b>(j)</b>	<b>Zero Setback Walls.</b> In all business zones, where land subdivision is proposed, and zero yard setback is permitted, shared or common walls which would straddle a lot line are prohibited. There shall be two, structurally independent walls adjacent to each other along the property line.		
<b>(k)</b>	Special requirements are applicable to properties located within Downtown Overlay District relative to use, site development, and design standards. See Article 21 for specific requirements and Downtown Overlay District Regulating Plan.		
<b>(l)</b>	<b>All outdoor areas or yards</b> that are used for the storage of manufactured products, materials to be used in manufacturing, wholesale commodities, s, trucks or equipment, junk yards, and salvage and scrap-iron yards (not including areas for employee or customer parking, nor areas that are open to the public for the permitted display of operational vehicles or other finished products for retail) shall be enclosed on all sides by a solid wall or fence not less than six (6) feet in height, and not less than eight (8) feet in height for junk yards, salvage and scrap-iron yards. In particular situations, Article 17 of this Zoning Ordinance may require additional landscape easements and materials.		
<b>(m)</b>	Where sanitary sewers are not available, the minimum lot size shall be 0.75 acres.		

## 8.6 MAP OF MAJOR STREETS

*Major Street Setbacks and Buffers revised by TAC 04/07/2009*





- 
3. These amendments to Article 8 will promote a diversity of desirable industrial activities for a broad and stable economic base;
  4. These amendments to Article 8 will accommodate all intensities of land use activity;
  5. These amendments to Article 8 will encourage development of existing brownfields for new uses;
  6. These amendments to Article 8 allow agriculture and other natural resource uses wider reign to apply traditional production techniques;
  7. These amendments to Article 8 will avoid the introduction of urban activities that would have a detrimental effect on residential activity, but allow some mixture of appropriate nonresidential uses;
  8. These amendments to Article 8 will assure that nonresidential uses in the neighborhood – professional, business, industrial – have adequate space for future expansion and are designed so that their traffic, parking, noise, odors, etc. do not conflict with residential uses;
  9. These amendments to Article 8 will reserve the land in the Rural Service Area primarily for agricultural uses, other natural resource activities, and support uses that need to be near such activities;
  10. These amendments to Article 8 will encourage the application of increased buffers where heavy industrial and coal mining uses may be located in close proximity to existing rural residences; and,
  11. These amendments to Article 8 will encourage the use of alternative energy sources where economically and environmentally feasible.

<b>Consent</b>	<b>CITY OF OWENSBORO AGENDA REQUEST AND SUMMARY COVER SHEET</b>	<b>Item No.</b>

<b>TITLE</b>
<b>Amendments to the text of Article 14 of the Zoning Ordinance</b>

<b>MEETING OF CITY COMMISSION ON:</b>
<b>BUDGET</b> ( <i>State any budget consequences</i> ): <b>N/A</b>

<b>SUMMARY AND BACKGROUND</b> ( <i>Continue on additional sheet, if necessary</i> ):
<p>The Owensboro Metropolitan Planning Commission met in regular session on May 11, 2017, to consider amendments to the text of the Zoning Ordinance for Owensboro, Whitesville and Daviess County, Kentucky, regarding revisions to Article 14 related to definitions of distilled spirits, home occupation-accessory use, home occupation-conditionally permitted use, indoor individual storage and solar energy system. By a vote of 8-0 the Owensboro Metropolitan Planning Commission has recommended that the proposed text amendments be approved in that the proposal is in compliance with the adopted Comprehensive Plan (see attached Findings of Facts and staff report).</p>
Check if continued on next page <input type="checkbox"/>

<b>RECOMMENDATION OR ACTION REQUESTED</b> ( <i>State the action requested or recommended</i> ):
Approve text amendments to Article 14 of the Zoning Ordinance.

<b>ATTACHMENTS</b> ( <i>10 copies for agenda packets</i> )	Check if no attachments <input type="checkbox"/>
OMPC Recommendation and Staff Report Transcript of OMPC proceedings will be forwarded upon receipt	

**Note:** All City Commission Agenda items submitted by staff, including appropriate backup materials, must be approved and submitted to the City Clerk not later than noon Thursdays preceding Tuesday, 6:30 p.m. meetings.

<b>Submitted by</b>	<b>Dept. Head Approval</b>	<b>City Attorney Approval</b>	<b>City Manager Approval</b>
umme	But		



**ZONING TEXT AMENDMENT**

**Subject: Amendments to the text of Article 14 of the Zoning Ordinance**

**RECOMMENDATION of the Owensboro Metropolitan Planning Commission, Owensboro, Kentucky**

Having considered the above matter at a Public Hearing on **April 11, 2019**

and having voted **8 to 0**

to submit this Recommendation to the **Owensboro City Commission,**

the Owensboro Metropolitan Planning Commission hereby recommends **APPROVAL**

of this proposal, based on the following Purposes and Findings of Fact.

**FINDINGS OF FACT**

1. These amendments to Article 14 will help maintain Daviess County as a viable economic unit;
2. These amendments to Article 14 will promote regional development to enhance economic benefits for citizens of Daviess County;
3. These amendments to Article 14 will endeavor to create policies for regulating land use activities that are not over burdensome while still protecting the public health, safety and welfare of the community.
4. The amendments to Article 14 will encourage the grouping of activities so that uses of greater intensity (industrial or commercial) do not harm weaker types (residential and agricultural);
5. These amendments to Article 14 will encourage development of existing brownfields for new uses;
6. The amendments to Article 14 will encourage the use of alternative energy sources where economically and environmentally feasible.

**ATTEST: April 12, 2019**

Executive Director, Brian R. Howard, AICP

**ENCLOSURES**

Staff Report, Proposed Text Amendments, Meeting Transcript to be forwarded at a later date



## Background

These proposed revisions to Article 14 of the Owensboro Metropolitan Zoning Ordinance are related to the addition or revision of the following definitions: distilled spirits, home occupation-accessory use, home occupation-conditionally permitted use, indoor individual storage and solar energy system.

The proposed text amendments include:

1. New definition of "Distilled Spirits" as referred to in the proposed Article 8 text amendments.
2. Revised definition of "Home Occupation" to "Home Occupation-Accessory Use."
3. New definition of "Home Occupation-Conditionally Permitted Use" that will allow for limited occupations in the home with specific conditions as defined through a Conditional Use Permit.
4. New definition of "Indoor Individual Storage" as referred to in the proposed Article 8 text amendments.
5. New definition of "Solar Energy System" as referred to in the proposed Article 8 text amendments.

## Proposed Text Amendments

See the attached draft of the proposed Article 14 revisions.

## Conclusions

The purpose of revising Article 14 is to add new, or revise existing, definitions to improve the functionality of the zoning ordinance for all users.

The proposed text amendments are supported by the following goals and objectives of the Comprehensive Plan:

- Economy and Employment, Goal 3.1 – Maintain Daviess County as a viable economic unit.
- Economy and Employment, Objective 3.1.3 – Promote regional development to enhance economic benefits for citizens of Daviess County.
- Economy and Employment, Objective 3.1.11 – Endeavor to create policies for regulating land

use activities that are not over burdensome while still protecting the public health, safety and welfare of the community.

- Land Use, Objective 4.1.3 – Group activities so that uses of greater intensity (industrial or commercial) do not harm weaker types (residential and agricultural).
- Land Use, Objective 4.1.5 – Encourage development of existing brownfields for new uses.
- Environment, Objective 7.1.14 – Encourage the use of alternative energy sources where economically and environmentally feasible

## Findings of Fact

The staff recommends approval of the proposed text amendments to Article 14 because the proposal is in compliance with the community's Comprehensive Plan. The findings supporting this recommendation follow:

1. These amendments to Article 14 will help maintain Daviess County as a viable economic unit;
2. These amendments to Article 14 will promote regional development to enhance economic benefits for citizens of Daviess County;
3. These amendments to Article 14 will endeavor to create policies for regulating land use activities that are not over burdensome while still protecting the public health, safety and welfare of the community.
4. The amendments to Article 14 will encourage the grouping of activities so that uses of greater intensity (industrial or commercial) do not harm weaker types (residential and agricultural);
5. These amendments to Article 14 will encourage development of existing brownfields for new uses;
6. The amendments to Article 14 will encourage the use of alternative energy sources where economically and environmentally feasible.



Article amendments approved unless noted:	OMPC	Owensboro	Daviess Co.	Whitesville
Revised zoning ordinance	08-Sep-1979	14-Mar-1980	27-Dec-1979	07-Apr-1980
Surgical centers, medical clinics	08-Mar-1980	22-Feb-1980	08-Apr-1980	07-Apr-1980
Political signs, collector streets	17-Apr-1981	22-May-1981	26-Apr-1981	06-Jul-1981
Manufactured housing & housing park classifications	11-Sep-1982	09-Nov-1982	19-Oct-1982	16-Nov-1982
Sign definitions moved to Article 9	11-Feb-1988	15-Mar-1988	20-Jul-1988	11-Oct-1988
Automobile body shops	15-Nov-1990	not adopted	26-Dec-1990	not adopted
Parking floor area	09-May-1991	04-Jun-1991	25-Jun-1991	no action
Bed and breakfast homes	09-Feb-1995	21-Mar-1995	15-Nov-1995	?
Parking space, removed dimensions from definition {14.86}	18-Apr-1996	21-May-1996	22-May-1996	?
"Individual storage" defined (mini-warehouses, proposed by Daviess Co.) {14.21A, 14.47A, 14.77, 14.108A}	14-Nov-1996 denied	not applic.	12-Feb-1997 approved	not applic.
"Landscaping services" defined {14.54A}	13-Nov-1997	06-Jan-1998	23-Dec-1997	?
2003 Review Committee: Clarified definition of floor area to advise that floor area not used in calculating lot coverage {14.39}; revised manufactured home definitions to be in accordance with KRS 100.348 and KRS 227.550 and consistent with the Kentucky Manufactured Housing Institute definitions {14.752}; added definition of "Persons with Disabilities", "Residential Care Facility" and "Residential Care Services" as defined in KRS 100.982 {14.87A, 14.88A, 14.88B}.	11-Dec-2003	02-Mar-2004	05-Feb-2004	06-Apr-2004
Add definition of "dormitory", "rehabilitation home", "rehabilitation facility", "seasonal farm worker housing" and "transitional home"	10-Mar-2005	17-May-2005	5-May-2005	
Revised definitions, added new definitions, eliminated enumeration of definitions	8-July-2010	3-Aug-2010	19-Aug-10	
Updated agritourism; added brewery, distillery, micro-brewery, micro-distillery, outdoor display and outdoor storage	11-May-2017	15-Aug-2017	01-Jun-2017	14-Jun-2017
<a href="#">Updated home occupation, added distilled spirits, home occupation-conditionally permitted, indoor individual storage, and solar energy systems brewery, distillery, micro-brewery, micro-distillery, outdoor display and outdoor storage</a>	<a href="#">11-Apr-2019</a>			

**DEFINITIONS.** For the purpose of this Zoning Ordinance, certain terms are herewith defined. When not inconsistent with the context, words used in the present tense include the future, words in the singular number include the plural, words in the plural number include the singular; the word **person** includes association, firm, partnership, trust, governmental body, corporation, organization, as well as an individual; the word **structure** includes building, the word **occupied** includes arranged, designed, or intended to be occupied, the word **used** includes arranged, designed or intended to be used; the word **shall** is always mandatory and not merely directive; the word **may** is permissive; and the word **lot** includes plot or parcel. Words with self-evident meanings are not defined herein. Other words and terms shall have the following respective meanings:

**ACCESSORY USES OR STRUCTURE.** A use or structure subordinate to the principal use of a building or to the principal use of land and which is located on the same lot serving a purpose customarily incidental to the principal building or land use. No accessory structure or building shall be used as a dwelling.

**AGRICULTURE.** The use of land for farming, dairying, pasturage, animal and poultry husbandry and other similar uses; and the necessary accessory uses for packing, treating or storing the produce; providing, however, that

the operation of any such accessory uses shall be secondary to that of the principal agricultural activities and; provided, further, that the above uses shall not include the commercial feeding of garbage or offal to swine or other animals.

**AGRITOURISM.** Is any activity that is carried out on a farm, ranch, agricultural operation, horticultural operation, or agribusiness operation and allows or invites participants to view or participate in activities for recreational, entertainment, or educational purposes. Qualifying activities may include farming, ranching, historic, cultural, civic, or ceremonial activities, including but not limited to weddings and ancillary events; harvest-your-own operations; farmers' markets; or natural resource-based activities. The activities may qualify as agritourism activities whether or not a participant pays to view or to participate in the activity.

**ALTERATIONS.** Any change or addition to the supporting members or foundation of a structure.

**APARTMENT.** A room or suite of rooms in a multi-family building, consisting of at least one (1) habitable room, together with kitchen or kitchenette and sanitary facilities.

**BANQUET HALL.** Any structure maintained, in whole or part, for public rental for profit or non-profit for the purpose of private party events, whether family, group or corporate in nature, where access by the general public is restricted, and with or without the sale, serving or consumption of beverages, alcoholic beverages, and food.

**BASEMENT.** A story whose floor line is below grade at any entrance or exit and whose ceiling is not more than five (5) feet above grade at any such entrance or exit.

**BED AND BREAKFAST HOME.** A private, owner-occupied, single-family detached dwelling, where guest rooms are provided for rent to transients and in which the only meal served to guests is breakfast. A bed and breakfast home is further subject to the following conditions:

- (1) Bed and breakfast activities shall be clearly incidental and secondary to the use for single-family dwelling purposes, and there shall not be more than one (1) kitchen in the structure;
- (2) The use shall be carried on only by owners who reside on the premises and who have at least a fifty-one (51) percent ownership interest;
- (3) The use shall not require external alteration of the dwelling except as may be required to meet fire and building codes;
- (4) Each room to be rented shall accommodate no more than two (2) persons, except that when one (1) or two (2) adults occupy a room, up to two (2) children also may occupy the room;
- (5) Each room shall be rented for no longer than fourteen (14) consecutive days to the same person(s). Any facility which rents rooms for more than fourteen (14) consecutive days to the same person(s) shall be regulated as a boarding house;
- (6) The use shall not adversely affect the uses permitted in the immediate neighborhood by excessive traffic generation, noise and the like;
- (7) The owner-operator shall maintain a guest log and other records, which shall be subject to annual review and inspection;
- (8) The use shall not be conducted within any accessory building;

(9) The conditional use permit shall become null and void upon the sale or transfer of the property;

(10) The use shall be in compliance with all other applicable state and local laws, including health department rules and regulations.

**BIG BOX HOME IMPROVEMENT CENTER .** a large retail establishment, usually part of a chain, with a minimum of 75,000 square feet of conditioned space, offering home improvement products to the general public.

**BOARD.** The Owensboro Metropolitan Board of Adjustment.

**BOARDING HOUSE.** A building or part thereof, including a lodging house, with sleeping rooms available for hire with or without meals to four (4) or more persons primarily not transients. Where cooking equipment or provisions for the same are included in a sleeping room, such room shall be deemed a dwelling unit.

**BREEZEWAY.** Any open, unenclosed structure consisting of a roof and its support and used as a connecting wall between a main residence building and an accessory building.

**BREWERY.** Industrial facility that manufactures, blends, ferments, processes, packages and distributes alcoholic beverages.

**BUILDING.** Any structure for the shelter or enclosure of persons, animals or property.

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

**BUILDING LINE.** The line beyond which no building or part thereof shall project, except as otherwise provided by this Ordinance.

**BUILDING PERMIT.** A permit issued by the Zoning Administrator authorizing the construction or alteration of a specific building or parking on a specific lot.

**CERTIFICATE OF OCCUPANCY.** A certificate issued by the Zoning Administrator, after construction has taken place, which certifies that the building meets minimum standards for human occupancy.

**CLINIC OR MEDICAL OFFICE.** A facility for diagnosis and treatment of outpatients which would not fall under the definition of surgical center.

**COMMISSION, LEGISLATIVE.** Legislative Officials for the City of Owensboro, the City of Whitesville, or the Fiscal Court of Daviess County, Kentucky.

**COMMISSION, OWENSBORO METRO- POLITAN PLANNING.** Planning Commission of Owensboro, Whitesville and Daviess County, Kentucky.

**COMMODITY.** *(only Unincorporated Daviess County)*  
A product of agriculture or mining; an article of commerce.

**COMMUNITY CENTER.** Buildings and facilities for a social, educational or recreational purpose generally open to the public, but not primarily for profit or to render a service customarily carried on as a business.

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

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

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

**CONVALESCENT OR NURSING HOME.** An establishment which provides full-time convalescent or chronic care or both for three (3) or more individuals who are not related by blood or marriage to the operator and who by reason of chronic illness or deformity are unable to care for themselves.

**COURT.** An open unoccupied and unobstructed space, other than a yard on the same lot with a building or group of buildings.

**CLUB, PRIVATE.** Building and facilities for a social, educational or recreational purpose, generally open only to members, but not primarily for profit or to render a service which is customarily carried on as a business.

**DISTILLERY.** Industrial facility that manufactures, blends, ferments, processes, packages and distributes alcoholic beverages.

**DISTILLED SPIRITS.** An alcoholic beverage that is obtained by distillation from wine, fermented fruit or plant juice or from a starch material that has first been brewed, having an alcoholic content higher than that of beer or wine.

**DISTRICT.** A portion of the territory within Daviess County within which certain regulations and requirements apply under the provisions of this Zoning Ordinance in addition to other regulations and requirements for the property imposed by the zone in which said property is located.

**DORMITORY.** A building used to house a group of persons needing residential lodging for a specific and common purpose, but not including housing for seasonal farm workers. Dormitories do include rehabilitation homes and transitional homes as defined in this ordinance.

**DOWNTOWN CORE AND FRAME.** The Downtown Core is bounded as follows: Ohio River on the north; Crittenden Street on the east; Fifth Street on the south; Walnut Street on the west. The Downtown Frame surrounds the core and is bounded as follows: Ohio River and core on the north; Triplett Street on the east; Ninth Street on the south; Orchard Street on the west.

**DRIVEWAY.** A private vehicular access serving as required off-street parking area or extending on the shortest reasonable path through the front yard or side-street yard to the required off-street parking area. All other areas for vehicular use within any front yard or side-street yard shall be considered additional parking and be subject to the area limitations and landscaping requirements of this Zoning Ordinance.

**DWELLING.** A building or portion thereof designed or used exclusively as the residence or sleeping place of one or more persons, but not including a tent, cabin, mobile home, camping trailer, boarding or rooming house, hotel or motel.

**DWELLING, SINGLE-FAMILY.** A detached building for residential purposes by one (1) family and quarters for nurses, maids, and parental relatives.

**DWELLING, TWO-FAMILY.** A building designed for or occupied by two families living independently of each other, commonly known as a duplex.

**DWELLING, MULTI-FAMILY.** A building or portion thereof designed for or occupied by three (3) or more families living independently of each other.

**DWELLING UNIT.** One room or a suite of two or more rooms, designed for or used by one (1) family for living and sleeping purposes and having only one (1) kitchen or kitchenette.

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

**EASEMENT.** An acquired privilege or right to use or the enjoyment which a person or entity may have in or on the land of another.

**ENTERTAINMENT, LIVE.** Any performance at a restaurant, cocktail lounge, or night club 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.** A person living alone, or two or more persons customarily living together as a single housekeeping unit and using common cooking facilities, but not including a group occupying a hotel, club, boarding, lodging, fraternity or sorority house, institution for human care or other similar building.

**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 centerlines of walls separating two buildings.

**FLOOR AREA, PARKING.** The floor area of a structure as defined herein, excluding any covered, common pedestrian area in a mall and any storage, warehouse areas and mechanical areas used principally for non-public purposes of said structure.

**FLOOR AREA RATIO.** Floor area of buildings on a lot divided by ground area of the lot on which it is located.

**GARAGE, COMMERCIAL PARKING.** A building or structure used for the parking of vehicles on an intended profit basis.

**GARAGE, PRIVATE.** A detached accessory building or a portion of the principal building used by the occupants of the premises for the shelter or storage of vehicles owned or operated by the occupants of the principal building.

**GUEST QUARTERS.** A room or group of rooms without kitchen facilities located within a principal residence to provide quarters for guests to occupy and not rented, leased or sold independently from the principal residence. Guest quarters shall not have separate utility meters.

**HEIGHT-TO-YARD RATIO.** Height of building as related to minimum rear and each side yard permitted as used in the R-4DT zone; i.e., for 3:1 ratio a sixty (60) -foot building must have a minimum rear and each side yard of twenty (20) feet.

**HOME OCCUPATION – ACCESSORY USE.** Occupations of dressmaking, handicrafts, millinery, laundering, preserving and home cooking and professional services, but excluding barber shops and beauty parlors, but only when said permitted occupations are performed under the following conditions: (1) The use is clearly incidental and secondary to use for dwelling purposes; (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, with no non-resident employees or agents; (4) No commodities are sold except as are produced on the premises; (5) The use does not require external alteration of the dwelling; and (6) The use does not adversely affect the uses permitted in the immediate neighborhood by excessive traffic generation or noise.

**HOME OCCUPATION – CONDITIONALLY PERMITTED USE.** Occupations include but are not limited to barber shops and beauty parlors, boutiques, school tutors, musical instructors, small tradesman whom store limited supplies in a detached structure, but only when said conditionally permitted occupations are performed under the following conditions: (1) The use is clearly incidental and secondary to use for dwelling purposes; (2) An active business license is on file with the appropriate jurisdiction; (3) If operation from a detached structure, the floor area utilized from business related purposes shall not exceed four hundred (400) square feet. ;

(4) Up to one (1) non-resident employee may be allowed to report to the site; (5) Customers shall be allowed at the residence; (6) Parking requirements will be dependent on the specific use and in accordance with Article 13 of this ordinance, all parking shall be off-street; (7) The use does not require external alteration of the dwelling; (8) The use does not adversely affect the uses principally permitted in the immediate neighborhood by excessive traffic generation or noise; (9) A floor plan and site plan shall be submitted as part of the conditional use permit application demonstrating compliance with these requirements, and; (10) The OMBA may waive any of the requirements listed herein or revoke the conditional use permit if any conditions set forth are violated.

**HOSPITAL OR SANITARIUM.** An establishment which provides accommodations, facilities, and services over a continuous period of twenty-four (24) hours or more for observation, diagnosis, and care for two (2) or more individual suffering from illness, injury, deformity, or abnormally from any condition requiring obstetrical, medical, or surgical services.

**HOTEL.** A building or group of buildings containing individual sleeping or living units designed for the temporary occupancy of transient guests and including hotels, tourist courts, motor lodges, motor hotels or auto courts, but not including boarding or lodging houses.

**INDIVIDUAL STORAGE.** A structure consisting of one or more units, to be used only for the storage of items that are not classified as merchandise or commodities, as defined in this Article, and that are not considered hazardous in nature, such as items that are corrosive, highly toxic, oxidizing, pyrophoric, water reactive, highly combustible, flammable or explosive materials that constitute a high fire, explosion or health hazard, as set forth in the applicable section of the Kentucky Building Code, current edition..

**INDOOR INDIVIDUAL STORAGE.** A fully enclosed and conditioned structure consisting of one or more units, to be used only for the storage of items that are not classified as merchandise or commodities, as defined in this Article, and that are not considered hazardous in nature, such as items that are corrosive, highly toxic, oxidizing, pyrophoric, water reactive, highly combustible, flammable or explosive materials that constitute a high fire, explosion or health hazard, as set forth in the applicable section of the Kentucky Building Code, current edition.

**INDUSTRY, HEAVY.** Those industries whose manufacturing of products result in the emission of dust, smoke, noxious fumes or other pollutants altering the atmospheric condition, light, flashing glare, odor, noise or vibration which may be heard or felt off the premises and those industries which constitute a fire or explosion hazard.

**INDUSTRY, LIGHT.** Those industries whose manufacturing of products results in none of the conditions described for heavy industry, including such uses as fabricating, warehousing and wholesale distribution..

**INSTITUTION FOR HUMAN CARE.** Building or group of buildings providing health, medical or rehabilitation services to individuals such as hospitals, convalescent, nursing and rest homes, orphanages, rehabilitation centers.

**JUNK YARD.** A place where waste of 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 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.

**KENNEL, COMMERCIAL.** Business for the sale or temporary boarding of dogs, but not including the ownership and occasional sale of dogs at, in, or adjoining a private residence.

**KENNEL, NON-COMMERCIAL.** Compound in or adjoining a private residence where hunting or other dogs are kept for the hobby of the householder in using them for hunting or practice tracking trails or for exhibiting them in dog shows or field or obedience trials, or for the guarding or protecting the householder's property. The occasional sale of pups by the keeper of a non-commercial kennel does not change the character of the residential property.

**LAND USE PLAN.** Proposals for the most appropriate, economic, desirable and feasible patterns for the general location, character, extent and interrelationship of the manner of which the community should use its public and private land.



**LANDSCAPING SERVICES.** Commercial businesses providing services for lawns, gardens, ornamental shrubs, or trees, including fertilizing, maintenance, mowing, mulching, planting, removal, seeding, sodding, sprigging, spraying, trimming, or similar services. This use shall not be deemed to include individuals who provide limited lawn and garden services when conducted in a manner that is consistent with the provisions herein for home occupations.

**LIGHT, DIRECT.** Light which travels directly from its source to the viewer's eye.

**LIGHT, INDIRECT.** Light which travels from its source to an intermediate object such as a sign surface before being seen by the viewer.

**LEGISLATIVE BODY.** Legislative officials for the City of Owensboro, the City of Whitesville, or the Fiscal Court of Daviess County, Kentucky.

**LOADING OR UNLOADING SPACE.** An off-street berth on the same lot with a building or contiguous to a group of buildings for the temporary parking of a commercial vehicle while loading or unloading merchandise or material.

**LODGING HOUSE.** A building or part thereof, including a boarding house, with sleeping rooms available for hire with or without meals to four (4) or more persons primarily not transients. Where cooking equipment or provisions for the same are included in a sleeping room, such room shall be deemed a dwelling unit.

**LOT.** A piece or parcel of land occupied or intended to be occupied by a principal building or a group of such buildings and accessory buildings, or utilized for a principal use and uses accessory thereto, fronting onto a public right-of-way, and of at least sufficient size to meet the minimum zone requirements for use, coverage and area, and to provide such yards and open spaces as required under the terms of this Zoning Ordinance.

**LOT AREA.** The computed area contained within the lot lines.

**LOT, CORNER.** A lot abutting and situated at the intersection of two streets.

**LOT COVERAGE.** The computed ground area occupied by all buildings within a lot.

**LOT DEPTH.** The mean horizontal distance between the frontage and rear lot lines.

**LOT FRONTAGE.** The distance between the side lot lines measured along the front building line of the lot as determined by the prescribed front yard requirement.

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

**LOT LINES.** The property lines bounding a lot.

**LOT LINE, FRONT.** Property line separating the lot from the street.

**LOT LINE, REAR.** The lot line opposite and most distant from the front.

**LOT LINE, SIDE.** Any lot line other than a front or rear lot line. A side lot line separating a lot from a street is called a side street lot line. A side lot line separating a lot from another lot or lots is called an interior side lot line.

**LOT LINE, STREET OR ALLEY.** A lot line separating the lot from the street or alley.

**LOT OF RECORD.** Recorded lot on file in the County Court Clerk's office.

**LOT, THROUGH (DOUBLE FRONTAGE LOTS).** A lot having frontage on two parallel or approximately parallel streets.

**LOT WIDTH.** The mean width of the lot measured at right angles to its depth.

**MANUFACTURED BUILDING** has the following features or characteristics; it is:

- (1) Mass-produced in a factory;
- (2) Designed and constructed for transportation to a site for installation and use when connected to required utilities;
- (3) Either an independent, individual building or a module for combination with other elements to form a building on the site.

(a) The term "manufactured building" is not intended to apply to use of prefabricated panels, trusses, plumbing subsystems, or other prefabricated subelements incorporated in the course of construction of buildings on the site, but only to major elements requiring minor and incidental on-site combination or installation.



**(b) Manufactured Home.** A manufactured building or portion of a building built on a chassis designed for long-term single-family residential use with or without a permanent foundation when connected to the required utilities, and which includes the plumbing, heating, air conditioning, and electrical systems contained therein. All manufactured homes shall contain an intact “**HUD seal**” issued by the United States Department of Housing and Urban Development, or a “**B1 seal**” issued by the Kentucky Department of Housing, Buildings and Construction, Office of the State Fire Marshall, before an application will be processed for placement. KRS 227.550 defines Class B inspection seals for manufactured homes as follows:

- (1) “**B1 seal**” means the unit has been inspected and found to be in compliance with applicable standards for human habitation.
- (2) “**B2 seal**” means the unit has been inspected and found not to be in compliance with applicable codes and is unfit for human habitation. Units receiving a “**B2 seal**” are prohibited in all zones.

For the purposes of these zoning regulations, manufactured homes are divided into three (3) classes.

**(a) Class 1 Manufactured Home.** A manufactured home constructed after June 15, 1976, in accordance with the National Manufactured Home Construction and Safety Standards Act of 1974, 42 U.S.C. Section 5401, et seq., as amended, and designed to be used as a single family residential dwelling. This definition includes “qualified manufactured homes” as defined by KRS 100.348(d). The manufactured home shall be approved by the Zoning Administrator as meeting all of the “Acceptable Installation Standards” and all of the “Acceptable Similarity Appearance Standards” herein below.

**(1) Acceptable Installation Standards.** Class 1 Manufactured Homes must meet all of the following standards to achieve acceptable installation in Owensboro-Daviess County:

- (a) They shall be permanently installed on a permanent foundation in accordance with KRS 227.550 and KAR 25:090 or American national Standards Institute (ANSI) A.225.1 (the manufacturer’s installation specifications as approved by the U.S. Department of Housing and Urban Development). Permanent foundation means a system of supports that is capable of transferring, without failure, into soil or bedrock, the maximum

design load imposed by or upon the structure, constructed of concrete, and placed at a depth below grade adequate of prevent frost damage.

- (b) All wheel, trailer-tongue and hitch assemblies shall be removed upon installation.

- (c) They shall be permanently connected to an approved water and sewer system when available, and shall comply with all public health requirements governing plumbing installation.

**(2) Acceptable Similarity Appearance Standards.**

Class 1 Manufactured Homes must meet all of the following standards to achieve acceptable similarity in appearance between the manufactured home and site-built housing in Owensboro-Daviess County:

- (a) A poured concrete or masonry block skirting wall shall be constructed beneath and along the entire perimeter of the manufactured home, compatible in appearance with community site built housing foundations, even if the wall is not structurally required by the manufacturer's installation specifications.

- (b) Minimum width of main body of the manufactured home as assembled on the site shall not be less than twenty (20) feet at its smallest width measurement unless it is two (2) stories in height and oriented on the lot or parcel so that its main entrance door faces the street.

- (c) The pitch of the main roof shall be not less than two and one-half (2 1/2) feet of rise for each twelve (12) feet of horizontal run. In general, any roofing material may be used that is generally acceptable for housing built on the site, if applied in such a manner as to be similar in appearance.

- (d) Any materials that are generally acceptable for housing built on the site may be used for exterior finish if applied in such a manner as to be similar in appearance, provided, however, that reflections from such exterior shall not be greater than from siding coated with clean, white, gloss, exterior enamel.

- (e) The manufactured home shall have a minimum total living area of nine hundred (900) square feet.

**(b) Class 2 Manufactured Home.** A manufactured home constructed after June 15, 1976, in accordance with the National Manufactured Home Construction

and Safety Standards Act of 1974, and which **does not meet** all of the "Acceptable Installation Standards" and "Acceptable Similarity Appearance Standards" hereinabove. Class 2 Manufactured Homes may include manufactured homes that have received a "B1 seal" provided the date of manufacture is June 15, 1976 or later. All Class 2 Manufactured Homes must meet installation standards described in 14.75211 (a) and (c).

(c) **Class 3 Manufactured Home.** A manufactured home constructed prior to June 15, 1976 and commonly referred to as a "mobile home", and which **does not meet** all "Acceptable Installation Standards" or "Acceptable Similarity Appearance Standards", but is found upon inspection to be safe and fit for residential occupancy. Class 3 manufactured homes shall include manufactured homes that have received a "B1 seal", but does not include those units inspected and receiving a "B2 seal". All Class 3 Manufactured Homes must meet installation standards described in 14.75211 (a) and (c).

**MANUFACTURED HOUSING PARK.** A planned development in an MHP Zone of ten (10) acres or more in area, designed for the siting of ten (10) or more manufactured homes.

(1) **Manufactured Housing Park Complex.** A manufactured housing park held under single ownership or control.

(2) **Manufactured Housing Park Subdivision.** A manufactured housing park in which individuals may own their own lots and share in the use and maintenance of common areas and facilities.

**MERCHANDISE.** (*only Unincorporated Daviess County*) The commodities or goods that are sold in a business.

**MICRO-BREWER/MICRO-DISTILLERY.** A limited production facility that manufactures and produces alcoholic beverages in conjunction with a restaurant, bar, or retail sales. The alcohol production portion of the facility shall be limited to a maximum of 5,000 square feet. Similar to a Cocktail Lounge/Night Club.

**MOTEL.** A building or group of buildings containing individual sleeping or living units designed for temporary occupancy of transient guests and including hotels, tourist courts, motor lodges, motor hotels or auto courts, but not including boarding or lodging houses.

**MULTI-BUSINESS STRUCTURE.** Any structure that is originally constructed, converted, altered, or added-to that would create three (3) or more connected business shops of separate use, whether on one or more parcels or lots, connected in any configuration including common walls on property lot lines.

**NONCONFORMING USE.** A dwelling, building or structure or any land or premises legally existing and/or used at the time of adoption of this Zoning Ordinance and/or any amendment thereto, which does not conform with the use of regulations of the district in which it is located. Any such building, structure or premises conforming in respect to use but not in respect to height, area, yards or courts, or distance requirements from more restricted districts or uses, shall not be considered a nonconforming use.

**OMBA.** Owensboro Metropolitan Board of Adjustment.

**OMPC.** Owensboro Metropolitan Planning Commission.

**OUTDOOR ADVERTISING DISPLAYS.** Any name, identification, display, illustration or device portable or affixed, which directs attention to a product, place, activity, person, institution, or business. (See SIGN for various types of outdoor advertising displays.) *Sign definitions now located in Article 9.*

**OUTDOOR DISPLAY.** Placement of any items outside a building on concrete or asphalt surfaces in a commercial or industrial zone for the purpose of sales or rental, including but not limited to: vehicles, garden supplies, tires, boats, farm equipment, motor homes, playground equipment, storage sheds and carports. All vehicular use areas shall be paved and vehicular use area screening shall be installed along all public right-of-way and where adjoining residential property in accordance with all applicable provisions of the Zoning Ordinance.

**OUTDOOR STORAGE.** The keeping or stockpiling of any goods, equipment, merchandise, commodities, or any other item outside of a completely enclosed building in a commercial or industrial zone for any length of time. Outdoor storage areas shall be enclosed on all sides (including gates) by a continuous solid wall or fence not less than six (6) feet in height. Paving is not required within an outdoor storage area, but a durable surface such as gravel must be in place.

**PARKING AREA OR STRUCTURE.** An off-street area or structure for required parking or loading spaces

including driveways, access ways, aisles, parking and maneuvering space, but excluding required front yard, or public right-of-way.

**PARKING LOT OR STRUCTURE.** An off-street area or structure, other than the parking or loading spaces or areas required or permitted under this Zoning Ordinance, for the parking of automobiles, and available to the public free or for a fee.

**PARKING SPACE.** A permanent area of a lot, either when in an enclosure or in the open, exclusively for the parking of a motor vehicle.

**PERSONAL SERVICES OR PERSONAL SERVICE ESTABLISHMENTS.** Commercial business providing services to individuals such as beauty and barber shops, shoe repair, dressmaking and tailoring.

**PERSONS WITH DISABILITIES.** A person with a physical, emotional, or mental disability including but not limited to mental retardation, cerebral palsy, epilepsy, autism, deafness or hard of hearing, sight impairments, and orthopedic impairments, but not including convicted felons or misdemeanants on probation or parole or receiving supervision or rehabilitation services as a result of their prior conviction, or mentally ill persons who have pled guilty but mentally ill to a crime or not guilty by reason of insanity to a crime. "Person with Disability" does not include persons with current, illegal use of or addition to alcohol or any controlled substance as regulated under KRS Chapter 218A.

**PLANNED DEVELOPMENT PROJECT.** A use of land which is arranged, designed or intended as a development, located on a single tract of land, planned as an entity and susceptible to development and regulation as one complex land use unit.

**PRODUCE STAND.** A temporary structure designed or used for the display or sale of agricultural or other products grown or produced by the owner of the premises upon which such a stand is located.

**RECYCLING COLLECTION CENTERS.** A facility for the collection and temporary storage of segregated, non-hazardous, non-special,, homogenous, non-putrescible household materials such as aluminum cans, steel cans, glass, dry paper, plastics for subsequent use in the secondary materials market, which are to be transported to another location for processing..

**REHABILITATION HOMES.** A residence operated and maintained by a sponsoring private or governmental agency to provide rehabilitation services to the residents, excluding residences classified as residential care facilities.

**REHABILITATION FACILITIES.** An institution operated and maintained by a sponsoring private or governmental agency to provide rehabilitation services in an institutional setting.

**RESIDENTIAL CARE FACILITY.** A residence operated and maintained by a sponsoring private or governmental agency to provide services in a homelike setting for persons with disabilities.

**RESIDENTIAL CARE SERVICES.** Services means, but is not limited to, supervision, shelter, protection, rehabilitation, personal development and attendant care.

**RESTAURANT.** A place of business that prepares and serves food or beverage to seated customers. A restaurant is designed to operate so that its customers consume the food or beverages while seated at table or counters on the premises. A restaurant may provide carryout service as an accessory use without being deemed a fast food restaurant only if it's carryout facilities are clearly subordinate to its primary use as a restaurant.

**RESTAURANT, FAST FOOD,** A place of business that prepares and sells quickly prepared food or beverages food for consumption on or off the premises. A business may be classified as a fast food restaurant with or without a drive through window. Drive-in restaurants shall be classified as fast food restaurants for the purposes of this ordinance.

**RESTAURANT, DRIVE-IN.** A place of business that prepares and sells ready to consume or quickly prepared food or beverages for consumption in an automobile parked on the premises. For the purposes of this ordinance, drive-in restaurants are classified as fast food restaurants.

**SEASONAL FARM WORKER HOUSING.** A residence operated and maintained by a sponsoring private agency or individual or governmental agency to provide safe and sanitary housing on a seasonal basis for farm workers.

**SHOPPING CENTER, PLANNED.** A retail business development, planned as a unit, and characterized by groups of retail uses having the common use of

specifically designated off-street areas for access, parking and service.

(Sign definitions, see Article 9)

**SOLAR ENERGY SYSTEM (SES).** The components and subsystems required to convert solar energy into electric energy suitable for use. The area of the system includes all the land inside the perimeter of the system, which extends to any fencing.

For the purposes of these zoning regulations, solar energy systems are divided into three (3) classes.

**(a) Level 1 Solar Energy System.** A roof mounted system on any code compliant structure or any ground mounted system on an area of up to fifty (50) percent of the footprint of the primary structure on the parcel but not more than one (1) acre and not more than twenty (20) feet tall or any building integrated system (i.e. shingle, hanging solar, canopy, etc.)

**(b) Level 2 Solar Energy System.** Any ground mounted system not included in a Level 1 SES and meets the following area restrictions:

- (1) In an agricultural zone the area of the SES shall not exceed one half (1/2) acre in size**
- (2) In a residential zone the area of the SES shall not exceed one half (1/2) acre in size**
- (3) In a professional/service or business zone the SES shall not exceed ten (10) acres in size and shall require a conditional use permit**
- (4) In an industrial zone an SES of any size shall require a conditional use permit**

**(c) Level 3 Solar Energy System.** Any system that does not satisfy the parameters for a Level 1 or Level 2 SES.

**STORY.** That portion of a building, other than a cellar or mezzanine, including between the surface of any floor and the surface of the floor next above it, or, if there is no floor above it, then the space between the floor and ceiling next above it.

**STREET.** Any vehicular way -- a general term used to describe right-of-way which provides a channel for vehicular and pedestrian movement between certain points in the community which may provide for vehicular and pedestrian access to properties adjacent to it, and which may also provide space for the location of under or above

ground utilities. Streets are classified by function as follows:

**(1) Freeways.** Hold the first rank in the classification of streets, and are used only for movement of vehicles, providing for no vehicular or pedestrian access to adjoining properties; interchange of traffic between a freeway and any other streets is accomplished by grade separated interchanges with merging deceleration and acceleration lanes, and no at-grade intersections are permitted. Freeways generally carry higher volumes, require greater right-of-way width, and permit higher speed limits than any other class of street, and should be depressed in urban and urbanizing areas. Arterials are the only class of street which generally should be connected with expressways at interchange points.

**(2) Expressways/Arterials.** Hold the second rank in the classification, and should be used primarily for the movement of vehicles. Expressways should not provide for vehicular access to adjacent properties. Arterials should provide controlled vehicular access to adjacent properties. Interruption of traffic flow should be permitted only at street intersections which should contain medians, deceleration lanes, and left turn storage lanes. Expressways and arterials are the link between freeways and collectors, and rank next to freeways in traffic volumes, speed limit, and right-of-way width.

**(3) Collectors.** Hold the third rank in the classification of street, and are used more for movement of vehicles than for providing access to adjacent properties. Access to adjoining properties should be planned and controlled so that minimum disturbance is made to the traffic moving efficiency of the collector street. Intersections should contain medians, deceleration lanes, and left turn storage lanes. Collectors are the link between arterials and local streets, and generally rank next to arterials in traffic volumes, speed limit, and right-of-way width.

**(a) Major Collectors.** Those collector streets which continue through neighborhoods for **distance greater than one (1) mile**, serving vehicular destinations both within and beyond the neighborhoods through which they pass. Access to major collectors shall be controlled for all adjacent land uses.

**(b) 14.10232 Minor Collectors.** Those collector streets which do not continue through neighborhoods and are generally **less than one (1) mile** in length. They serve vehicular destinations within particular neighborhoods, and access to them is generally

controlled only for certain land uses where higher levels of vehicular turn movement typically occur.

**(4) Locals.** Hold the fourth rank in the classification of streets, and are used primarily for providing access to adjacent properties. Vehicles moving on these streets should have an origin or destination in the immediate vicinity, and all types of through traffic should be eliminated through initial design of its connections with other streets. Local streets are the primary link between trip generation points (homes, offices, stores, work) and collector streets. Locals have the least right-of-way, the lowest speed limit, and the least amount of vehicular traffic. Local streets can be subdivided further into the following six sub-classes:

**(1) Continuing Streets.** Are local streets having two open ends: each end generally connects with different streets; one or more other streets may intersect it between its two open ends; and property fronts on both sides of the streets.

**(2) Marginal Access Streets.** Are local streets (or service roads) generally having two (2) or more open ends which are sometimes referred to as access point, but herein are considered to be a full part of the marginal access street; the ends generally connect with the same street, other streets may intersect between the ends and property fronts on only one side of the street (the other street side is parallel, and adjacent, to a higher classification street such as a collector or arterial).

**(3) Loop Streets.** Are local streets having two (2) open ends; each end generally connects with the **same** street; other streets generally intersect between its two ends, and property fronts on both sides of the street.

**(4) Cul-De-Sac Streets.** Are local streets having only one (1) end and providing access to another street; the closed end provides a turnaround circle for vehicles; no other street generally intersects between the two ends, and property fronts on both sides of the streets.

**(5) Dead-End Streets.** Are similar to cul-de-sacs except that they provide no turnaround circle at their closed end, and are not permitted as streets, in any proposed subdivision. Stub streets, planned for future continuation are not considered to be dead-end streets.

**(6) Alleys.** Alleys generally have two (2) open ends, each end connects with different streets, and property generally **backs** onto both sides of the alley. Special

permission from the Commission is required whenever alleys are used.

**(7) Private Street.** A means of access within a Planned Development Project which gives access to a public street being owned and maintained by the project owner.

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

**STUDIO.** A workplace for the teaching or the practice of an art.

**SURGICAL CENTER.** An intermediate health care facility for persons in need of medical attention which is specially designed, organized and equipped with one or more operating and recovery rooms so as to **substantially involve and provide surgery** on an outpatient basis. Such facilities involve special pre-operative and post-operative equipment and bed rest for patients. These facilities may incorporate the use of general and/or regional anesthesia but do not involve overnight stay.

**THOROUGHFARE PLAN.** Proposal for the most desirable, appropriate, economic and feasible pattern for the general location, character and extent of the channels, routes and terminals for transportation facilities for the circulation of persons and goods for specified times as far into the future as is reasonable to foresee.

**TOWNHOUSE.** A single-family dwelling, each dwelling designed and erected as a structurally independent unit on a separate lot and separate lot and separated from one another by a yard or by sidewalls of zero-setback from an intervening side lot line.

**TIRE RECYCLING CENTER.** A facility for the collection and temporary storage of vehicle tires which are to be transported to another location for processing..

**TRAILER.** Any portable structure having no foundation other than wheels, jacks, or skirtings, or vehicle so designed or constructed as to permit, (1) temporary occupancy for dwelling or sleeping purposes (2) the conduct of any business, trade, occupation, profession, or use as a selling or advertising device, or (3) the transportation of personal property; and including automobile trailers, campers, and tourist trailers but not including a mobile home.



**TRANSITIONAL HOMES.** A residence operated and maintained by a sponsoring private or governmental agency to provide transitional housing for persons. Transitional homes include but are not limited to homeless shelters, half-way houses, and spouse abuse centers, but do not include those residences classified as residential care facilities.

**USABLE OPEN SPACE.** Outdoor area of a lot or tract which is designed and used for outdoor living, recreation, pedestrian access, or landscaping. Such areas may be ground or roof spaces seventy-five (75) percent open to the sky, balconies a minimum of five (5) feet wide, an enclosed deck, port, or ground floor portions of a building constructed on columns. Off-street parking and loading areas, driveways, or unenclosed fire escapes do not qualify as usable open space.

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

**VEHICLE BODY SHOP.** (*Unincorporated Daviess County only*) Collision or reconditioning services for passenger vehicles, including body or fender straightening, painting, upholstering, auto glass work, and the like.

**VEHICLE DETAIL SHOP.** Restoration, reconditioning, and maintenance services for appearance of a vehicle including buffing, polishing, waxing, extensive interior and exterior cleaning.

**VEHICLE REPAIR, MAJOR.** Repair of motor vehicles or trailers, including rebuilding or reconditioning of engines and/or transmissions; collision services including body, frame, or fender straightening or repair, overall painting or paint shop, vehicle steam cleaning.

**VEHICLE REPAIR, MINOR.** Incidental minor repair, upholstering, replacement of parts and motor service to passenger cars and trucks not exceeding one and one-half (1½) tons capacity but not including any operation named under "Automobile and Truck Repair, Major" or any other similar operation thereto. Cars or trucks being repaired or under repair shall not be stored outside the building for more than ninety six (96) hours.

**VEHICLE SERVICE STATION.** A building or structure used for the retail sale and dispensing of fuel, lubricants, tires, batteries, accessories, and supplies, including installation and minor services customarily incidental thereto; facilities for washing and for chassis and gear lubrication of not more than five (5) vehicles are permitted if enclosed in a building.

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

**VEHICULAR USE AREA.** A vehicular use area (VUA) is any open or enclosed area used by vehicles of any type, whether moving or at rest, including but not limited to parking lots or areas, loading and unloading areas, mobile home yards, sales and service areas, and driveways.

**VENDOR STAND.** Seasonal, temporary, portable, transient or mobile building, stands, tents or premises occupied for the purpose of exhibiting and selling merchandise, food products or beverages to the public.

**WAREHOUSE.** (*only Unincorporated Daviess County*) A structure primarily used for the storage of merchandise or commodities, as defined in this Article.

**YARD.** The space or grounds surrounding or surrounded by a building or group of buildings.

**YARD, FRONT.** That portion of the yard extending the full width of the lot and extending between the front lot line and the nearest point of the foundation of the principal building wall, excluding overhangs of thirty (30) inches or less, stoops, patios, and landings at or below the first floor level.

**YARD, REAR.** That portion of the yard extending the full width of the lot and extending between the rear lot lines and nearest part of the foundation of the principal building wall, excluding overhangs of thirty (30) inches or less, stoops, patios and landings at or below the first floor level.

**YARD, SIDE.** Those portions of the yard extending from the nearest part of the foundation of the principal building to the side lot lines, excluding overhangs of thirty (30) inches or less, stoops, patios, and landings at or below the first level.

**ZONE.** A portion of the territory within Daviess County within which certain regulations and requirements apply under the provisions of this Zoning Ordinance.



**ZONE, AGRICULTURAL.** An A-R or A-U zone.

**ZONE, BUSINESS.** A B-1, B-2, B-3 or B-4 zone.

**ZONE, INDUSTRIAL.** An I-1 or I-2 zone.

**ZONE, PROFESSIONAL OR PROFESSION- AL/  
SERVICE.** The P-1 Zone.

**ZONE, RESIDENTIAL.** An R-1A, R-1B, R-1C, R-1T,  
R-2MF, R-3MF, or R-4DT zone.

<b>Consent</b>	<b>CITY OF OWENSBORO AGENDA REQUEST AND SUMMARY COVER SHEET</b>	<b>Item No.</b>

<b>TITLE</b>
<b>Amendments to the text of Article 20 of the Zoning Ordinance</b>

<b>MEETING OF CITY COMMISSION ON:</b>
<b>BUDGET</b> ( <i>State any budget consequences</i> ): <b>N/A</b>

<b>SUMMARY AND BACKGROUND</b> ( <i>Continue on additional sheet, if necessary</i> ):
<p>The Owensboro Metropolitan Planning Commission met in regular session on April 11, 2019, to consider amendments to the text of the Zoning Ordinance for Owensboro, Whitesville and Daviess County, Kentucky, regarding revisions to Article 20 related to small cellular systems and towers. By a vote of 8-0 the Owensboro Metropolitan Planning Commission has recommended that the proposed text amendments be approved in that the proposal is in compliance with the adopted Comprehensive Plan (see attached Findings of Facts and staff report).</p>
<div style="display: flex; justify-content: flex-end;"> <div style="border: 1px solid black; padding: 2px 10px;">Check if continued on next page</div> <div style="width: 20px; height: 20px; border: 1px solid black; margin-left: 5px;"></div> <div style="width: 20px; height: 20px; border: 1px solid black; margin-left: 5px;"></div> </div>

<b>RECOMMENDATION OR ACTION REQUESTED</b> ( <i>State the action requested or recommended</i> ):
Approve text amendments to Article 20 of the Zoning Ordinance.

<b>ATTACHMENTS</b> ( <i>10 copies for agenda packets</i> )	<b>Check if no attachments</b>		
OMPC Recommendation and Staff Report Transcript of OMPC proceedings will be forwarded upon receipt			

**Note:** All City Commission Agenda items submitted by staff, including appropriate backup materials, must be approved and submitted to the City Clerk not later than noon Thursdays preceding Tuesday, 6:30 p.m. meetings.

<b>Submitted by</b>	<b>Dept. Head Approval</b>	<b>City Attorney Approval</b>	<b>City Manager Approval</b>
			



**ZONING TEXT AMENDMENT**

**Subject: Adoption of proposed text amendments to Article 20 of the Zoning Ordinance**

**RECOMMENDATION of the Owensboro Metropolitan Planning Commission, Owensboro, Kentucky**

Having considered the above matter at a Public Hearing on **April 11, 2019**

and having voted **8 to 0**

to submit this Recommendation to the **City of Owensboro,**

the Owensboro Metropolitan Planning Commission hereby recommends **APPROVAL**

of this proposal, based on the following Purposes and Findings of Fact.

**FINDINGS OF FACT**

1. These additions to Article 20 help Maintain Daviess County as a viable economic unit;
2. These additions to Article 20 assist in promoting access to new technologies as an aid to economic development;
3. These additions to Article 20 assist to maintain, preserve and extend the high level of service to each of our public service agencies;
4. These additions to Article 20 provide our citizens with access to efficient and affordable telecommunications systems;
5. These additions to Article 20 accommodate both wired and wireless communications;
6. These additions to Article 20 encourage co-location of cellular and other telecommunications facilities to minimize the number of telecommunications towers; and,
7. These additions to Article 20 ensure local telecommunications regulations are easily adaptable to accommodate the rapidly changing technology of the telecommunication industry.

**ATTEST: April 12, 2019**

Executive Director, Brian R. Howard, AICP

**ENCLOSURES**

Staff Report, Proposed Text Amendments, Meeting Transcript to follow at a later date.



## Background

The proposed additions to Article 20 establish regulations for small cellular systems and towers consistent with FCC rulings and guidelines.

## Proposed Text Amendments

See the attached draft of the proposed Article 20 text.

## Conclusions

The purpose of these regulations are to provide for the safest and most efficient integration of small cellular systems and towers for cellular telecommunications services or personal communications services within the community; to provide for such facilities in coordination with the recommendations of the comprehensive plan; and to allow for such facilities with the intention of furthering the public health, safety, and general welfare.

The proposed text amendments are supported by the following goals and objectives of the Comprehensive Plan:

- Economy and Employment, Goal 3.1 – Maintain Daviess County as a viable economic unit.
- Economy and Employment, Objective 3.1.8 – Promote access to new technologies as an aid to economic development.
- Community Facilities and Services, Goal 6.1 – Maintain, preserve and extend the high level of service of each of our public service agencies.
- Community Facilities and Services, Goal 6.6 – Provide our citizens with access to efficient and affordable telecommunications systems.
- Community Facilities and Services, Objective 6.6.1 – Accommodate both wired and wireless communications.
- Community Facilities and Services, Objective 6.6.5 – Encourage co-location of cellular and other telecommunications facilities to minimize the number of telecommunications towers.
- Community Facilities and Services, Objective 6.6.6 – Ensure local telecommunications regulations are easily adaptable to accommodate the rapidly changing technology of the telecommunication industry.

## Findings of Fact

The staff recommends approval of the proposed text amendments to Article 20 because the proposal is in compliance with the community's Comprehensive Plan. The findings supporting this recommendation follow:

1. These additions to Article 20 help Maintain Daviess County as a viable economic unit;
2. These additions to Article 20 assist in promoting access to new technologies as an aid to economic development;
3. These additions to Article 20 assist to maintain, preserve and extend the high level of service to each of our public service agencies;
4. These additions to Article 20 provide our citizens with access to efficient and affordable telecommunications systems;
5. These additions to Article 20 accommodate both wired and wireless communications;
6. These additions to Article 20 encourage co-location of cellular and other telecommunications facilities to minimize the number of telecommunications towers; and,
7. These additions to Article 20 ensure local telecommunications regulations are easily adaptable to accommodate the rapidly changing technology of the telecommunication industry.

Article amendments approved unless noted:	OMPC	Owensboro	Daviess Co.	Whitesville
Original Adoption of Article 20	12-Sep-2002	19-Nov-2002	21-Nov-2002	not adopted
2003 Review Committee: Corrected reference to Sec. 20-4(b) {20-7}	11-Dec-2003	02-Mar-2004	05-Feb-2004	06-Apr-2004
<u>Added Small Cellular Systems and Towers</u>	<u>11-Apr-2019</u>			

**20-1 PURPOSE.** The purposes of these regulations are: to provide for the safest and most efficient integration of cellular antenna towers and small cellular systems and towers for cellular telecommunications services or personal communications services within the community; to provide for such facilities in coordination with the recommendations of the comprehensive plan; and to allow for such facilities with the intention of furthering the public health, safety, and general welfare.

**20-2 PRE-APPLICATION CONFERENCE.** Applicants are encouraged to notify the planning commission to discuss proposals, to allow for early coordination, and to identify those items that are in conformance/nonconformance with the comprehensive plan, zoning ordinance, and the provisions of these regulations. In the case of Small Cellular Systems or Towers the applicant is encouraged to request a meeting, in which staff will set up to include Staff, the Applicant, any applicable Utility providers, the local jurisdiction, and the owner of the right of way or property on which the Small Cellular System or Tower is proposed to be installed. Coordination with utilities for possible use of pre-existing structures will be required. Applicants should supply the Provider's preferred locations, structure design style and structure height one week prior to the pre-application meeting or upon request for such meeting.

**20-3 DEFINITIONS.** For the purposes of these regulations, the following definitions shall apply:

**"Alternative Cellular Antenna Tower"** means man-made trees, clock towers, bell towers, steeples, light poles and similar alternative-design mounting structures that accommodate, camouflage, minimize or conceal the presence of cellular antennas or cellular antenna towers and that are constructed primarily for the purpose of

accommodating cellular antennas or cellular antenna towers or are reconstructed for the purpose of accommodating cellular antennas or cellular antenna towers. This does not include existing structures erected for another primary purpose, but which subsequently have cellular antennas attached to or located within them, without any reconstruction of the original structure. For the provisions of these regulations, an alternative cellular antenna tower is considered a cellular antenna tower.

**"Antennas or Related Equipment"** means transmitting, receiving, or other equipment used to support cellular telecommunications service or personal communications service. This definition does not include towers.

**"Cellular Antenna Tower"** means any -tower over fifty (50) feet in height constructed for, or an existing facility that has been adapted for, the location of transmission or related equipment to be used in the provision of cellular telecommunications services or personal communications services.

**"Cellular Telecommunications Service"** means a retail telecommunications service that uses radio signals transmitted through cell sites and mobile switching stations.

**"Co-location"** means locating two (2) or more transmission antennas or related equipment on the same cellular antenna tower.

**"Guyed Cellular Antenna Tower"** means a type of wireless transmission tower that is supported by thin guy wires.

**"Lattice Cellular Antenna Tower"** means a self-supporting tower with multiple legs and cross bracing of structural steel.

**"Monopole Cellular Antenna Tower"** means a slender self-supporting tower on which wireless antenna can be placed.

**"Personal Communication Service"** has the meaning as defined in 47 U.S.C. sec. 332(c).

**"Planning Commission"** means the Owensboro Metropolitan Planning Commission established by a joint agreement of the City of Owensboro, the City of Whitesville, and Daviess County, Kentucky, pursuant to KRS Chapter 100.

**"Small Cellular Antenna System"** means a network of remote antenna nodes that distributes radio frequency signals from a central hub through a high capacity signal transport medium to a specific area. The term includes mini commercial towers, small cells, distributed antenna systems, mini cell, or similar systems.

**"Small Cellular Antenna Tower"** means any structure under fifty (50) feet in height with an antenna or transmitter that is constructed for the sole or primary purpose of supporting any Federal Communications Commission-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site. A pole originally installed for the primary purpose of supporting wireless telecommunications equipment, regardless of the timeframe between pole installation and connection/implementation of Transmission Equipment, is considered a Small Cell Tower, and is not a Utility Pole. The term Small Cell Tower includes mini cell towers, distributed antenna system towers, micro cell towers, mini cell, Wi-Fi antennas, or similar systems.

**"Staff"** Those employees of the Owensboro Metropolitan Planning Commission assigned to support and/or administer the powers and duties proscribed to the Owensboro Metropolitan Planning Commission.

**"Uniform Application"** means an application to construct a cellular antenna tower submitted to a planning commission in conformity with KRS 100.985 through KRS 100.987.

**"Utility"** has the meaning as defined in KRS 278.010(3).

#### **20-4 CELLULAR ANTENNA TOWERS GENERAL.**

Cellular antenna towers over fifty (50) feet tall -for cellular telecommunications services or personal communications services may be allowed in any zone after a planning commission review in accordance with the following procedures to ascertain agreement with the adopted comprehensive plan and the regulations contained within the zoning ordinance.

**20-4(a) Applicability.** Every utility, or a company that is engaged in the business of providing the required infrastructure to a utility, that proposes to construct a cellular antenna tower shall submit a completed uniform application to the planning commission. Where the planning commission finds that circumstances or conditions relating to the application of an alternative cellular antenna tower are such that one or more of the requirements of the uniform application listed below are not necessary or desirable for the protection of surrounding property or the public health, safety, and general welfare, and that such special conditions or circumstances make one or more said requirements unreasonable, the planning commission, or its duly authorized representative, may modify or waive such requirement of the uniform application, either permanently or on a temporary basis. Any such modification or waiver shall be requested by the applicant, and the applicant shall submit a written justification for each requested modification or waiver. The planning commission shall not regulate the placement of antennas or related equipment on an existing structure.

**20-4(b) Application Requirements.** Applications for the construction of cellular antenna towers for cellular telecommunications services or personal communications services shall include the following:

- (1) The full name and address of the applicant.
- (2) The applicant's articles of incorporation, if applicable.
- (3) A geotechnical investigation ~~report~~report signed and sealed by a professional engineer registered in Kentucky that includes boring logs and foundation design recommendations.



(4) A written report, prepared by a professional engineer or land surveyor, of findings as to the proximity of the proposed site to flood hazard areas.

(5) Clear directions from the City of Owensboro to the proposed site, including highway numbers and street names, if applicable, with the telephone number of the person who prepared the directions.

(6) The lease or sale agreement for the property on which the tower is proposed to be located, except that, if the agreement has been filed in abbreviated form with the county clerk, an applicant may file a copy of the agreement as recorded by the county clerk and, if applicable, the portion of the agreement that specifies, in the case of abandonment, a method that the utility will follow in dismantling and removing the proposed cellular antenna tower including a timetable for removal.

(7) The identity and qualifications of each person directly responsible for the design and construction of the proposed tower.

(8) A site development plan or survey, signed and sealed by a professional engineer registered in Kentucky, that shows the proposed location of the tower and all easements and existing structures within five hundred (500) feet of the proposed site on the property on which the tower will be located, and all easements and existing structures within two hundred (200) feet of the access drive, including the intersection with the public street system.

(9) A vertical profile sketch of the tower, signed and sealed by a professional engineer registered in Kentucky, indicating the height of the tower and the placement of all antennas.

(10) The tower and foundation design plans and a description of the standard according to which the tower was designed, signed, and sealed by a professional engineer registered in Kentucky.

(11) A map, drawn to a scale no less than one (1) inch equals two hundred (200) feet, that identifies every structure and every owner of real estate within five hundred (500) feet of the proposed tower.

(12) A statement that every person who, according to the records of the property valuation administrator, owns property within five hundred (500) feet of the proposed tower or property contiguous to the site upon

which the tower is proposed to be constructed, has been:

(a) Notified by certified mail, return receipt requested, of the proposed construction which notice shall include a map of the location of the proposed construction.

(b) Given the telephone number and address of the local planning commission; and

(c) Informed of his or her right to participate in the planning commission's proceedings on the application.

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

(14) A statement that the chief executive officer of the affected local government and the legislative body (i.e., City Manager, Board of Commissioners of the City of Owensboro; County Judge-Executive, Daviess County Fiscal Court; Mayor of Whitesville, Whitesville City Commission) have been notified, in writing, of the proposed construction.

(15) A copy of the notice sent to the chief executive officer of the affected local government and the legislative body (i.e., City Manager, Board of Commissioners of the City of Owensboro; County Judge-Executive, Daviess County Fiscal Court; Mayor of Whitesville, Whitesville City Commission).

(16) A statement that the Owensboro-Daviess County Regional Airport has been notified, in writing, of the proposed construction and a copy of the notification.

(17) A statement that:

(a) A written notice, of durable material at least two (2) feet by four (4) feet in size, stating that "[Name of applicant] proposes to construct a telecommunications tower on this site" and including the addresses and telephone numbers of the applicant and the planning commission, has been posted in a visible location on the proposed site; and

(b) A written notice, at least two (2) feet by four (4) feet in size, stating that "[Name of applicant] proposes to construct a telecommunications tower

near this site" and including the addresses and telephone numbers of the applicant and the planning commission, has been posted on the public road nearest the site.

(18) A statement that notice of the location of the proposed construction has been published in the Messenger-Inquirer of Daviess County, Kentucky.

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

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

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

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

(a) All of the planning unit's jurisdiction (Daviess County, Kentucky); and

(b) A one-half (1/2) mile area outside of the boundaries of the planning unit's jurisdiction, if that area contains either existing or proposed construction sites for cellular antenna towers.

**20-4(c) Confidentiality of Application.** All information contained in the application and any updates, except for any map or other information that specifically identifies the proposed location of the cellular antenna tower then being reviewed, shall be deemed confidential and proprietary within the meaning of KRS 61.878. The planning commission shall deny any public request for the inspection of this information, whether submitted under Kentucky's Open Records Act or otherwise, except when ordered to release the information by a court of competent jurisdiction. Any person violating this subsection shall be guilty of official misconduct in the second degree as provided under KRS 522.030. The confidentiality of the applications and any updates of the application can be waived by the written authorization of the applicant.

**20-4(d) Application Fee.** An applicant for the construction of cellular antenna towers for cellular telecommunications services or personal communications services shall pay an application fee in the amount set by the planning commission upon submission of a uniform application.

**20-4(e) Processing of Application.** Applications for the construction of cellular antenna towers for cellular telecommunications services or personal communications services shall be processed as follows:

(1) At least one (1) public hearing on the proposal shall be held, at which hearing interested parties and citizens shall have the opportunity to be heard. Notice of the time and place of such hearing shall be published at least once, in the Messenger-Inquirer of Daviess County, Kentucky, provided that one (1) publication occurs not less than seven (7) calendar days nor more than twenty-one (21) calendar days before the occurrence of such hearing.

(2) Notice of the proposal shall be posted on the site at least fourteen (14) days in advance of the hearing. The notice shall consist of a written notice, of durable material at least two (2) feet by four (4) feet in size, stating that "[Name of applicant] proposes to construct a telecommunications tower on this site" and including the addresses and telephone numbers of the applicant and the planning commission. Notice of the proposal shall also be posted on the public

road nearest the site. This notice shall consist of a written notice, of durable material at least two (2) feet by four (4) feet in size, stating that "[Name of applicant] proposes to construct a telecommunications tower near this site" and including the addresses and telephone numbers of the applicant and the planning commission.

(3) Notice of the hearing shall be given at least fourteen (14) days in advance of the hearing, by certified mail, return receipt requested, to the owner of every parcel of property within five hundred (500) feet of the proposed tower or property contiguous to the site upon which the tower is proposed to be constructed. The notice shall include a map of the location of the proposed construction, the telephone number and address of the planning commission and shall inform the addressee of his or her right to participate in the planning commission's proceedings on the application. Records maintained by the property valuation administrator may be relied upon conclusively to determine the identity and address of said owner. In the event a property is in condominium or cooperative forms of ownership, then the person notified by mail shall be the president or chairperson of the owner group that administers property commonly owned by the condominium or cooperative owners. A joint notice may be mailed to two or more co-owners of an adjoining property who are listed in the property valuation administrator's records as having the same address.

(4) Upon holding the hearing, the planning commission shall, within sixty (60) days commencing from the date that the application is received by the planning commission, or within a date specified in a written agreement between the planning commission and the applicant, make its final decision to approve or disapprove the uniform application. If the planning commission fails to issue a final decision within sixty (60) days, and if there is no written agreement between the planning commission and the utility to a specific date for the planning commission to issue a decision, it shall be presumed that the planning commission has approved the utility's uniform application.

from most-preferred to least-preferred) include street right-of-way, existing utility towers, industrial zones, commercial zones, and government buildings. Where the planning commission finds that circumstances or conditions relating to the particular application are such that one or more of the requirements listed below are not necessary or desirable for the protection of surrounding property or the public health, safety, and general welfare, and that such special conditions or circumstances make one or more said requirements unreasonable, the planning commission, or its duly authorized representative, may modify or waive such requirement, either permanently or on a temporary basis. Any such modification or waiver shall be requested by the applicant, and the applicant shall submit a written justification for each requested modification or waiver.

**20-5(a) Monopole Cellular Antenna Towers** shall be permitted in any zone. Lattice and guyed cellular antenna towers shall be permitted in any zone except for residential zones.

**20-5(b) Lattice and Guyed Cellular Antenna Towers** constructed in an agricultural zone shall be located a minimum distance of not less than 250 feet from all existing residential structures. Distance shall be measured from the base of the tower to the nearest wall of the residential structure.

**20-5(c) Setbacks** for all structures constructed in connection with guyed or lattice cellular antenna towers, except fences and/or guy wires, shall be a minimum distance from the property line or lease line equal to at least one-half (1/2) the height of the tower, but not less than fifty (50) feet. All structures constructed in connection with monopole or alternative cellular antenna tower shall comply with the applicable setback requirements established for other structures within the applicable zoning district. Alternative cellular antenna towers that are to be located as part of a utility service facility (e.g. power pole or telephone pole) shall comply with setback requirements applicable to such utility service facilities, if any.

**20-5(d) Height.** A cellular antenna tower, or alternative antenna tower structure, may be constructed to a maximum height of two hundred (200) feet regardless of the maximum height requirements listed in the specific zoning district. This also applies to any tower taller than fifteen (15) feet constructed on the top of another building or structure, with the height being the overall height of building/structure and tower together, measured from the grade to the highest point.

**20-5 CELLULAR ANTENNA TOWER DESIGN STANDARDS.** The applicant shall provide information demonstrating compliance with the requirements contained herein. Potential sites that should be considered (in order

The planning commission may allow antennas greater than two hundred (200) feet in height upon review of the applicant's justification that the additional height meets the criteria identified in Subsection 20-6.

**20-5(e) The Cellular Antenna Tower shall be Constructed** in compliance with the current ANSI/EIA/TIA 222-F standards and other applicable state standards.

**20-5(f) Illumination.** Cellular antenna towers shall not be illuminated, except in accordance with other state or federal regulations.

**20-5(g) The Site shall be Unstaffed.** Personnel may periodically visit the site for maintenance, equipment modification, or repairs. To accommodate such visits, ingress/egress shall be only from approved access points.

**20-5(h) Woven Wire or Chain Link** (eighty (80) percent open) or solid fences made from wood or other materials (less than fifty (50) percent open) shall be used to enclose the site. Such fences shall not be more than eight (8) feet in height, and may be located within the front, side, or rear yard. The use of barbed wire or sharp pointed fences shall be prohibited in or along any boundary adjoining residential or MHP zones.

**20-5(i) Screening** shall be provided by evergreen trees, with a minimum height of six (6) feet, planted in a staggered pattern at a maximum distance of fifteen (15) feet on center. The screening shall be placed in an area between the property line, or lease line, and a ten (10) foot setback.

**20-5(j) Surfacing of All Driveways and Off-street Parking Areas** shall comply with the requirements of the applicable local zoning ordinance.

**20-5(k) Signs.** There shall be no signs permitted, except those displaying emergency information, owner contact information, warning or safety instructions, or signs that are required by a federal, state, or local agency. Such signs shall not exceed five (5) square feet in area.

**20-5(l) Number of Service Providers.** All new cellular antenna towers shall be designed and constructed to accommodate a minimum of three (3) service providers.

**20-5(m) Lease Agreements.** All option and site lease agreements shall not prohibit the possibility of co-location, and in the case of abandonment, shall include a method that the utility will follow in dismantling and removing the proposed cellular antenna tower including a timetable for removal.

**20-5(n) Approval of the Federal Aviation Administration (FAA) and the Kentucky Airport Zoning Commission (KAZC) or documentation where approval is not required** shall be submitted prior to the issuance of a building permit for the construction of the cellular antenna tower.

## 20-6 CELLULAR ANTENNA TOWER CRITERIA

**20-6(a) Approval or Disapproval** of the proposal shall be based upon an evaluation of the proposal's agreement with the comprehensive plan and zoning regulations.

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

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

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

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

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

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

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

#### **20-7 — CELLULAR ANTENNA TOWER**

**AMENDMENTS.** Any amendments to plans, except for minor adjustments as determined by the planning commission, or its duly authorized representative, shall be made in accordance with the procedure required by Subsection 20-4(b), subject to the same limitations and requirements as those under which such plans were originally approved.

**20-8 SMALL CELLULAR SYSTEMS AND TOWERS GENERAL.** Small Cellular Towers under fifty (50) feet tall for cellular telecommunications services or personal communications services may be allowed in any zone after a planning commission staff review in accordance with the following procedures to ascertain agreement with the adopted comprehensive plan and the regulations contained within the zoning ordinance.

**20-8(a) Applicability.** Every utility, or a company that is engaged in the business of providing the required infrastructure to a utility, that proposes to construct a small cellular system or tower shall submit a completed uniform application to the planning commission staff. Where the planning commission staff finds that circumstances or conditions relating to the application of an alternative small cellular tower are such that one or more of the requirements of the uniform application listed below are not necessary or desirable for the protection of surrounding property or the public health, safety, and general welfare, and that such special conditions or circumstances make one or more said requirements unreasonable, the planning commission staff may modify or waive such requirement of the uniform application, either permanently or on a temporary basis. Any such modification or waiver shall be requested by the applicant, and the applicant shall submit a written justification for each requested

modification or waiver. The staff shall not regulate the placement of antennas or related equipment on an existing structure. All proposed Small Cell Systems, except those exempted shall be subject to approval by the Staff. The factual determination approving or rejecting such plans shall be made in accordance with requirements of this and other applicable sections of these regulations and the Comprehensive Plan. One Application for multiple proposed towers within the same Small Cell System is encouraged whenever possible.

**20-8(b) Application.** Applications for the construction of Small Cellular Systems or Towers for cellular telecommunications services or personal communications services may choose to provide either the Uniform Application per KRS.100.9865 or in lieu of the Uniform Application, the following information should be submitted:

- (1) A written description and map showing the coverage area of the provider's existing facilities in the general and site-specific areas that are the subject of the Application
- (2) A statement of the telecommunications objectives for the proposed location, whether the proposed facility is necessary to prevent or fill a gap, capacity shortfall, expand or provide new coverage, or to deploy new technology in the Applicant or provider's service area, whether it is the least obtrusive means of doing so, and whether there are any alternative sites that would have fewer aesthetic impacts while providing comparable service.
- (3) A statement by an authorized representative that the Applicant or provider holds all applicable licenses or other approvals required by the Federal Communications Commission, the Kentucky Public Service Commission, and any other agency of state or federal government with authority to regulate telecommunications facilities that are required in order for the Applicant to construct the proposed facility.
- (4) A statement by an authorized representative that the Applicant or provider is in compliance with all conditions required for such license and approvals.



- (5) A full description of the number and dimensions of all Small Cell Towers proposed to be installed.
- (6) A site development plan, signed and sealed by a professional engineer registered in Kentucky, showing the proposed location of the tower and existing structures within five hundred (500) feet of the proposed site. For Applications in which multiple towers are proposed, an overall site development plan showing all proposed locations within a single city or unincorporated area must be provided.
- (7) A vertical profile sketch or drawing of the towers, signed and sealed by a professional engineer registered in Kentucky, indicating the height of the tower and the placement of all antennas and equipment enclosures.
- (8) Written approval from the property owner stating the Applicant or provider has permission to construct a facility on their property. In the case of public Right-of-Way or public property, written approval must be submitted from the duly authorized representative of the governing body holding ownership.
- (9) Photographs of view shed from each proposed tower location, taken in at least four directions.
- (10) Description of whether other Overhead Utilities exist within five hundred (500) feet of the proposed antenna location.

**20-8(c) Confidentiality of Application.** All information contained in the application and any updates, except for any map or other information that specifically identifies the proposed location of the cellular antenna tower then being reviewed, shall be deemed confidential and proprietary within the meaning of KRS 61.878. The planning commission shall deny any public request for the inspection of this information, whether submitted under Kentucky's Open Records Act or otherwise, except when ordered to release the information by a court of competent jurisdiction. Any person violating this subsection shall be guilty of official misconduct in the second degree as provided under KRS 522.030. The confidentiality of the applications and any updates of the application can be waived by the written authorization of the applicant.

**20-8(d) Application Fee.** An applicant for the construction of small cellular systems or towers for cellular telecommunications services or personal communications services shall pay an application fee in the amount set by the planning commission upon submission of an application. Applications are limited to ten (10) towers per application. Multiple towers may only be included on a single application if they are located within the same jurisdiction.

**20-4(e) Processing of Application.** Applications for the construction of small cellular systems or towers for cellular telecommunications services or personal communications services shall be processed as follows:

- (1) Applications will be reviewed for substance only when they meet all submittal requirements. If applications are not complete, staff must notify the applicant within ten (10) days from the submission of the application stating the application is incomplete and identifying the missing materials, which must be submitted in order to complete the application. No further review of the application will take place until the application is complete. If the resubmitted materials are not complete, staff must notify the applicant within ten (10) days from the submission of the application stating the application is incomplete and identifying the missing materials, which must be submitted in order to complete the application. No further review of the application will take place until the application is complete.
- (2) Staff shall review and take final action on Applications for new Small Cell Systems within sixty (60) days of a completed Application. This time period will not begin until [the filing fee is submitted and the application is deemed complete by Staff. Staff shall notify the applicant once the application is deemed complete and provide the deadline for the Staff review period. Staff shall either approve, approve with conditions, or deny the Application. If Staff does not make a final decision within the required sixty (60) days, the Application shall be deemed to be approved as submitted.
- (3) An applicant claiming to be injuriously affected or aggrieved by an official action, order, requirement, interpretation, grant, refusal, or decision of Staff in the administration of these regulations may appeal the action to the Planning



Commission. Such appeal must be taken within thirty (30) consecutive calendar days of the final action by Staff. The appeal shall be filed with Staff along with an appeal fee of five hundred dollars (\$500). Staff will fix a reasonable time for hearing the appeal and give public notice in accordance with KRS Chapter 424, as well as written notice to the appellant, the jurisdiction where the proposed Small Cell System is located, and the owner of Right-of-Way or property (if different from the jurisdiction) at least one (1) calendar week prior to the Kenton County Planning Commission 17 Regulations for Cellular Antenna Towers and Small Cell Towers In Kenton County October 6, 2016 hearing. An applicant claiming to be injured or aggrieved by any final action of the Planning Commission shall appeal from the final action to the circuit court of the county in which the property is located. Such appeal shall be taken within thirty (30) days after such action.

(4) WAIVERS TO THESE REGULATIONS: This section sets forth a procedure by which the Planning Commission may allow for waivers of these regulations. The purpose is to allow some flexibility in dealing with unique issues that are outlined in Section 20-9.

- a. An application requesting a waiver, a \$500 fee, and any additional documentation necessary to meet the requirements of this section shall be submitted for review.
- b. The Planning Commission shall hold at least one public hearing after giving notice as according to KRS 424 for the purposes of reviewing the requested waiver.
- c. After the public hearing, the Planning Commission may approve, approve with conditions, or disapprove the requested waiver.
- d. The Planning Commission may grant a waiver to these regulations balanced against the public interest, providing the Planning Commission finds that the waiver will not be detrimental to the

public interest and that the jurisdiction where the proposed small cell tower is to be located approves the waiver, and at least one of the following criteria apply:

- i. That strict compliance with these regulations will create a hardship or unsafe situation in the face of unusual conditions.
- ii. That granting the waiver creates a situation more in keeping with unique character within the general vicinity.
- iii. That the requested waiver better meets the objectives of these regulations.
- iv. That granting the waiver creates a safer situation than strict compliance with these regulations.

(5) After a Small Cell System is approved, separate applicable building, zoning, and electrical permits, and permission from the local jurisdiction, Right-of-Way or property owner are required prior to the beginning of construction.

**20-9 SMALL CELLULAR SYSTEM AND TOWER LOCATION AND DESIGN STANDARDS.** A new Small Cell System is subject to design review and approval by Staff. The design criteria required for the new Small Cell Systems is determined by the type of location or zoning district in which the facility is to be located.

**20-9(a) NON-TOWER SMALL CELL SYSTEM LOCATIONS:** No administrative review by Staff is required for antennas locating on existing telecommunications structures, water towers, buildings, Utility Poles (as defined by this regulation) or other existing structures. These non-tower locations must adhere to all other applicable federal, state, and local zoning codes, building codes or permits.

**20-9(b) NEW SMALL CELL SYSTEM TOWER LOCATIONS IN ALL ZONING DISTRICTS:** The regulations in this subsection apply to all new Small Cell System and Towers.

- (1) Temporary, mobile or wheeled cellular antenna towers shall not be permitted.
- (2) New Small Cell Towers shall not exceed the maximum building height for the zoning district within which they are located. A height that is in excess of what is permitted within the zoning district may be approved by staff if it integrates stealth technology that better meets the objectives of these regulations.
- (3) New Small Cell Towers shall be designed and constructed to accommodate a minimum of two (2) service providers.
- (4) New Small Cell Towers may be located on public or private nonresidential land or within a public Right-of-Way provided it does not interfere with other utilities, functionality of sidewalks, visibility, or other matters of public safety.
- (5) New Small Cell Towers shall not be illuminated, except in accord with state or federal regulations, or unless illumination is integral to the Stealth Technology, such as a design intended to look like a street light pole.
- (6) New Small Cell Towers shall not include advertisements and may only display information required by a federal, state, or local agency. Such display shall not exceed one (1) square foot in area, unless required by state or federal regulations, or unless a larger display is integral to the Stealth Technology. Such display shall not exceed the width of the pole, unless a wider sign is integral to the Stealth Technology such as a design which integrates a decorative banner.
- (7) If a new Small Cell Tower is located in an area with primarily Underground Utilities, or where no adjacent Overhead Utility lines exist, it shall not utilize Overhead Utility lines.
- (8) In instances where an antenna is proposed to be constructed within the Downtown Overlay District efforts shall be made to adhere to any established design control measures or existing furnishing or fixture styles within the district. Where additional local design review processes exist, such as Certificates of Appropriateness or Historic Preservation Board, such approvals may be required.

20-9(c) NEW SMALL CELL SYSTEM TOWER LOCATIONS IN RESIDENTIAL ZONES: The regulations in this subsection apply to Small Cell Towers to be located within, or immediately adjacent to, residential zoning districts.

- (1) Facilities in residential areas are strongly encouraged to be Non-Tower Wireless Communication Facilities, which are exempt from these regulations.
- (2) New Small Cell Towers and Antenna or Related Equipment shall be camouflaged by Stealth Technology. Examples of appropriate Stealth Technology for residential areas includes, at a minimum, towers with all cables, wires, Transmission Equipment, electric meters, power equipment, etc. installed inside the Small Cell Tower. Other types of stealth technology or other methods which will reduce the visual impact may be approved by Staff.
- (3) All poles and antennas shall be uniform grey or black in color, unless another color is integral to the Stealth Technology as approved by Staff.
- (4) The use of cooling fans is discouraged. When needed, fans with lower noise profiles must be used.
- (5) New Small Cell Towers should avoid areas without Overhead Utilities. If a Small Cell Tower is located in an area with primarily Underground Utilities it must adhere to Stealth Technology that incorporates the telecommunications equipment into a streetscape amenity such as a decorative lamp post, street light or other approved design. In areas with Overhead Utilities, cylindrical antennas are required.
- (6) In residential areas, a Small Cell Tower shall not be located closer than the height of the proposed tower to an existing or proposed residential structure, or no closer than thirty (30) feet, whichever is greater.
- (7) Efforts should be made to locate new Small Cell Towers in the yard location where other Overhead Utilities are located.

- (8) New Small Cell Towers within residential areas should be located to avoid obstructing the view of building facades by placing the tower at a corner, intersection or along a lot line.
- (9) New Small Cell Tower shall not be located within five hundred (500) feet of an existing Small Cell System Tower. Multiple carriers are permitted and encouraged to locate on one tower, where possible.
- (10) Reasonable efforts shall be made to locate new Small Cell Towers in the order of hierarchy below, based on the following functional roadway classification from the most to least preferred:
  - a. Interstate
  - b. Arterial
  - c. Collector
  - d. Local

20-9(d) NEW SMALL CELL SYSTEM TOWER LOCATIONS IN NON-RESIDENTIAL ZONES: The regulations in this subsection apply to towers to be located within non-residential zoning districts.

- (1) In instances where a facility is proposed to be constructed in the right of way within one hundred (100) feet of a residential zone or use, even if the antenna's physical location is within a non-residential zone, regulations in above subsection shall be followed.
- (2) Antennas in or park areas are encouraged to be installed as Non-Tower Wireless Communication Facilities, which are exempt from this regulation.
- (3) Reasonable effort shall be given to locate new equipment based upon the following hierarchy of zones and land uses from the most to least preferred:
  - a. Co-locate on an existing structure whenever possible, which is exempt from these regulations, per Section 20-9(a)
  - b. Institutional.
  - c. Industrial.
  - d. Commercial.
  - e. Public parks.
  - f. Agricultural.
- (4) Equipment enclosures, including electric meters, should be nearly the same width as the pole or as

small as possible. Ground mounted equipment boxes should be screened from view with shrubs or other appropriate screening as approved by Staff.

- (5) Shrouds, risers, and conduits shall be used to reduce the appearance of external cabling.
- (6) All poles, antennas, brackets, cabling, risers, shrouds, and conduits shall be uniform grey or black in color, or other color as approved by Staff.
- (7) Cylindrical antennas shall be required, unless another antenna style is integral to the Stealth Technology as approved by Staff.
- (8) There shall be no more than a four (4) inch offset between the pole and pole mounted equipment enclosures.

#### 20-10 SMALL CELLULAR SYSTEM OR TOWER CRITERIA

20-10(a) Approval or Disapproval of the proposal shall be based upon an evaluation of the proposal's agreement with the comprehensive plan, zoning regulations and following criteria:

- (1) The extent to which the proposal is consistent with the purposes of these regulations.
- (2) The extent to which the proposal minimizes the impact on adjacent land uses, especially in terms of visual impact.
- (3) The extent to which the proposed facility is camouflaged (i.e., use of Stealth Technology).
- (4) The extent to which the proposed facility conforms to the character of the surrounding area (i.e., buildings, street lighting, signs).

20-11 SMALL CELLULAR SYSTEM AND TOWER AMENDMENTS. Any amendments to plans, except for minor adjustments as outlined below, shall be made in accordance with the procedure required by Subsection 20-8(b), subject to the same limitations and requirements as those under which such plans were originally approved. The following activities shall be considered minor adjustments from the original approval of an Application

for towers located in public rights of way. Changes are measured cumulatively from the original approval of the tower or Base Station.

- (1) Tower height increases by less than ten (10) percent or ten (10) feet, whichever is greater.
- (2) Change in the tower width of less than ten (10) percent or six (6) feet, whichever is greater.

—  
—  
—

<b>Consent</b>	<b>CITY OF OWENSBORO</b> <b>AGENDA REQUEST AND SUMMARY</b> <b>COVER SHEET</b>	<b>Item No.</b>

<b>TITLE</b>
<b>Amendments to the text of Article 22 of the Zoning Ordinance</b>

<b>MEETING OF CITY COMMISSION ON:</b>
<b>BUDGET</b> ( <i>State any budget consequences</i> ): <b>N/A</b>

<b>SUMMARY AND BACKGROUND</b> ( <i>Continue on additional sheet, if necessary</i> ):
<p>The Owensboro Metropolitan Planning Commission met in regular session on April 11, 2019, to consider amendments to the text of the Zoning Ordinance for Owensboro, Whitesville and Daviess County, Kentucky, regarding revisions to Article 22 related to the addition of the Near Downtown Parking Overlay District. By a vote of 8-0 the Owensboro Metropolitan Planning Commission has recommended that the proposed text amendments be approved in that the proposal is in compliance with the adopted Comprehensive Plan (see attached Findings of Facts and staff report).</p>
<div style="display: flex; justify-content: flex-end;"> <div style="border: 1px solid black; padding: 2px 10px;">Check if continued on next page</div> <div style="width: 20px; height: 20px; border: 1px solid black; margin-left: 5px;"></div> <div style="width: 20px; height: 20px; border: 1px solid black; margin-left: 5px;"></div> </div>

<b>RECOMMENDATION OR ACTION REQUESTED</b> ( <i>State the action requested or recommended</i> ):
Approve text amendments to Article 22 of the Zoning Ordinance.

<b>ATTACHMENTS</b> ( <i>10 copies for agenda packets</i> )	<b>Check if no attachments</b>		
OMPC Recommendation and Staff Report Transcript of OMPC proceedings will be forwarded upon receipt			

**Note:** All City Commission Agenda items submitted by staff, including appropriate backup materials, must be approved and submitted to the City Clerk not later than noon Thursdays preceding Tuesday, 6:30 p.m. meetings.

<b>Submitted by</b>	<b>Dept. Head Approval</b>	<b>City Attorney Approval</b>	<b>City Manager Approval</b>

**ZONING TEXT AMENDMENT****Subject: Adoption of proposed text amendments to Article 22 of the Zoning Ordinance****RECOMMENDATION of the Owensboro Metropolitan Planning Commission, Owensboro, Kentucky**Having considered the above matter at a Public Hearing on **April 11, 2019**and having voted **8 to 0**to submit this Recommendation to the **Owensboro City Commission,**the Owensboro Metropolitan Planning Commission hereby recommends **APPROVAL**

of this proposal, based on the following Purposes and Findings of Fact.

**FINDINGS OF FACT**

1. These additions to Article 22 help Maintain Daviess County as a viable economic unit;
2. These additions to Article 22 assist in using the fixed amount of land in Daviess County as wisely and sparingly as possible;
3. These additions to Article 22 assist in accommodating all intensities of land use activity;
4. These additions to Article 22 help to maintain and improve the quality of existing urban neighborhoods through building maintenance, rehabilitation, and compatible replacement, and through improvement of community facilities and services;
5. These additions to Article 22 encourage in-fill development that maximizes the efficiency of existing infrastructure and is designed to be compatible with adjoining land uses;
6. These additions to Article 22 assure that a wide variety of types of housing suitable to a wide range of people;
7. These additions to Article 22 encourage single-family, duplex and apartment buildings in the same neighborhood as long as the designs for the different housing types blend well within the neighborhood;
8. These additions to Article 22 assist to stimulate rehabilitation of existing housing;
9. These additions to Article 22 assist to increase the inner-city housing density;
10. These additions to Article 22 assist to preserve existing housing and neighborhoods.
11. These additions to Article 22 are an example of flexible zoning criteria for existing redeveloping neighborhoods as encouraged by the Comprehensive Plan;

**ATTEST: April 12, 2019**

Executive Director, Brian R. Howard, AICP

**ENCLOSURES**

Staff Report, Proposed Text Amendments, Meeting Transcript to follow at a later date.





## Background

The proposed additions to Article 22 create a Near Downtown Parking Overlay District in which on street parking may be allowed by a conditional use permit for the conversion of single family residential structures to multi-family residential structures or construction of new multi-family residential structures on vacant lots within the district. The boundary of the proposed Near Downtown Parking Overlay District consists of the area surrounding the Downtown Overlay District including adjacent public street rights-of-way, bound by Orchard Street, Parrish Avenue, and Center Street.

## Proposed Text Amendments

See the attached draft of the proposed Article 22 text.

## Conclusions

The purpose of creating the Near Downtown Parking Overlay District (Section 22.2) is to encourage the densification of residential uses located near the downtown area when off-street parking may not be available as a result of the conversion of single family residential structures to multi-family residential structures or construction of new multi-family residential structures on vacant lots within the City of Owensboro and Daviess County.

The proposed text amendments are supported by the following goals and objectives of the Comprehensive Plan:

- Economy and Employment, Goal 3.1 – Maintain Daviess County as a viable economic unit.
- Land Use, Objective 4.1.1 – Use the fixed amount of land in Daviess County as wisely and sparingly as possible.
- Land Use, Objective 4.1.2 – Accommodate all intensities of land use activity.
- Land Use, Objective 4.4.4 – Maintain and improve the quality of existing urban neighborhoods through building maintenance, rehabilitation, and compatible replacement, and through improvement of community facilities and services.
- Land Use, Objective 4.4.5 – Encourage in-fill development that maximizes the efficiency of existing infrastructure and is designed to be compatible with adjoining land uses.
- Land Use, Goal 4.5 – Provide a wide variety of types of housing suitable to a wide range of people.
- Land Use, Objective 4.5.1 – Include single-family, duplex and apartment buildings in the same

neighborhood as long as the designs for the different housing types blend well within the neighborhood.

- Land Use, Objective 4.8.1 – Stimulate rehabilitation of existing housing and construction of new housing
- Land Use, Objective 4.8.2 – Increase the inner-city housing density.
- Land Use, Goal 4.9 – Preserve existing housing and neighborhoods.
- Land Use, Objective 4.12.3 – Encourage flexible zoning criteria for existing redeveloping neighborhoods.

## Findings of Fact

The staff recommends approval of the proposed text amendments to Article 22 because the proposal is in compliance with the community's Comprehensive Plan. The findings supporting this recommendation follow:

1. These additions to Article 22 help Maintain Daviess County as a viable economic unit;
2. These additions to Article 22 assist in using the fixed amount of land in Daviess County as wisely and sparingly as possible;
3. These additions to Article 22 assist in accommodating all intensities of land use activity;
4. These additions to Article 22 help to maintain and improve the quality of existing urban neighborhoods through building maintenance, rehabilitation, and compatible replacement, and through improvement of community facilities and services;
5. These additions to Article 22 encourage in-fill development that maximizes the efficiency of existing infrastructure and is designed to be compatible with adjoining land uses;
6. These additions to Article 22 assure that a wide variety of types of housing suitable to a wide range of people;
7. These additions to Article 22 encourage single-family, duplex and apartment buildings in the same neighborhood as long as the designs for the different housing types blend well within the neighborhood;
8. These additions to Article 22 assist to stimulate rehabilitation of existing housing;
9. These additions to Article 22 assist to increase the inner-city housing density;
10. These additions to Article 22 assist to preserve existing housing and neighborhoods.
11. These additions to Article 22 are an example of flexible zoning criteria for existing redeveloping neighborhoods as encouraged by the Comprehensive Plan;



Article amendments approved unless noted:	OMPC	Owensboro	Daviess Co.	Whitesville
New Article 22 Adopted	10-Mar-2016	3-May-2016		
<a href="#">Added near downtown parking overlay district</a>	<a href="#">11-Apr-2019</a>			

## 22.1 ARENA OVERLAY DISTRICT.

**22.1.1 PURPOSE.** The purpose of the Arena Overlay District is to encourage the concentration of recreational, entertainment and cultural uses to compliment the Owensboro Sportscenter and to provide additional recreational, entertainment and cultural activities within the City of Owensboro and Daviess County for the use and benefit of the citizens of the City, County and region.

**22.1.2 ARENA OVERLAY DISTRICT BOUNDARY.** The area designated as the Arena Overlay District consists of the city block, including adjacent public street rights-of-way, bounded by West Parrish Avenue, Hickman Avenue, West 12<sup>th</sup> Street and Parkview Drive. See Arena Overlay District Map in Section 22.1.10.

**22.1.3 PERMITTED USES.** All land in this overlay district shall retain its underlying zoning district designation as well as all characteristics (land uses, building setbacks, etc.) of the underlying zoning district designation as outlined in applicable sections of the Owensboro Metropolitan Zoning Ordinance. Additionally, the following land uses shall be allowed within this overlay district as principally permitted uses:

Arenas

Indoor Recreational Activities

Public Facilities

Restaurants

Retail Sale of Merchandise

Any other uses deemed to be clearly incidental to the operation/function of principally permitted uses within the Arena Overlay District

**22.1.4 BUILDING HEIGHT.** Buildings within this overlay district shall not exceed a maximum height of 85’.

**22.1.5 PARKING REQUIREMENTS.** Parking requirements within this overlay district are as follows:

- a. The minimum number of required off-street parking spaces for properties within this overlay district shall be as follows:
  - i. Arenas: 1 space per 4 seats.
  - ii. For all other land uses not listed in Section 22.1.3 see Article 13 Off-Street Parking, Loading & Unloading Areas.
- b. A Parking Master Plan is required to demonstrate how required parking will be accomplished by showing available on-site parking and other satellite parking locations. Off-site parking is acceptable to

meet the overall parking requirements within this overlay district.

**22.1.6 LANDSCAPING REQUIREMENTS.** Landscaping requirements within this overlay district are as follows:

- a. Property Perimeter Landscaping: The property perimeter landscaping requirements from Table 17.311 of this zoning ordinance are applicable to all properties within this overlay district.
- b. Vehicular Use Area Perimeter Landscaping: The vehicular use area perimeter landscaping requirements from Table 17.312 of this zoning ordinance are applicable to all properties within this overlay district.
- c. Vehicular Use Area Interior Landscaping: There are no vehicular use area interior landscaping requirements for properties within this overlay district.
- d. Requirements listed in Article 17 Landscape & Land Use Buffers including, but not limited to, those related to plant size, spacing, maintenance and sight triangle requirements also apply to properties within this overlay district.

**22.1.7 SIGN REQUIREMENTS.** Signage requirements within this overlay district are as follows:

- a. One multi-tenant free-standing sign within the overlay district is allowed.
  - i. Multi-tenant free-standing sign height shall not exceed 32’.
  - ii. Multi-tenant free-standing sign area shall not exceed 600 square feet.
- b. Building Sign area shall not exceed 600 square feet per building sign.
- c. Free-standing signs must be shown on the final development plan.
- d. See Article 9 Sign Regulations for other applicable signage requirements.

## 22.1.8 FINAL DEVELOPMENT PLAN REQUIRED.

Development or redevelopment of any property located within the Arena Overlay District requires the submittal and approval of a final development plan before any building permits are issued. Final development plans within the Arena Overlay District shall be approved by the full Planning Commission. Minor modifications of previously approved final development plans within the Arena Overlay District may be approved by the Planning Director. Minor modifications may not increase building

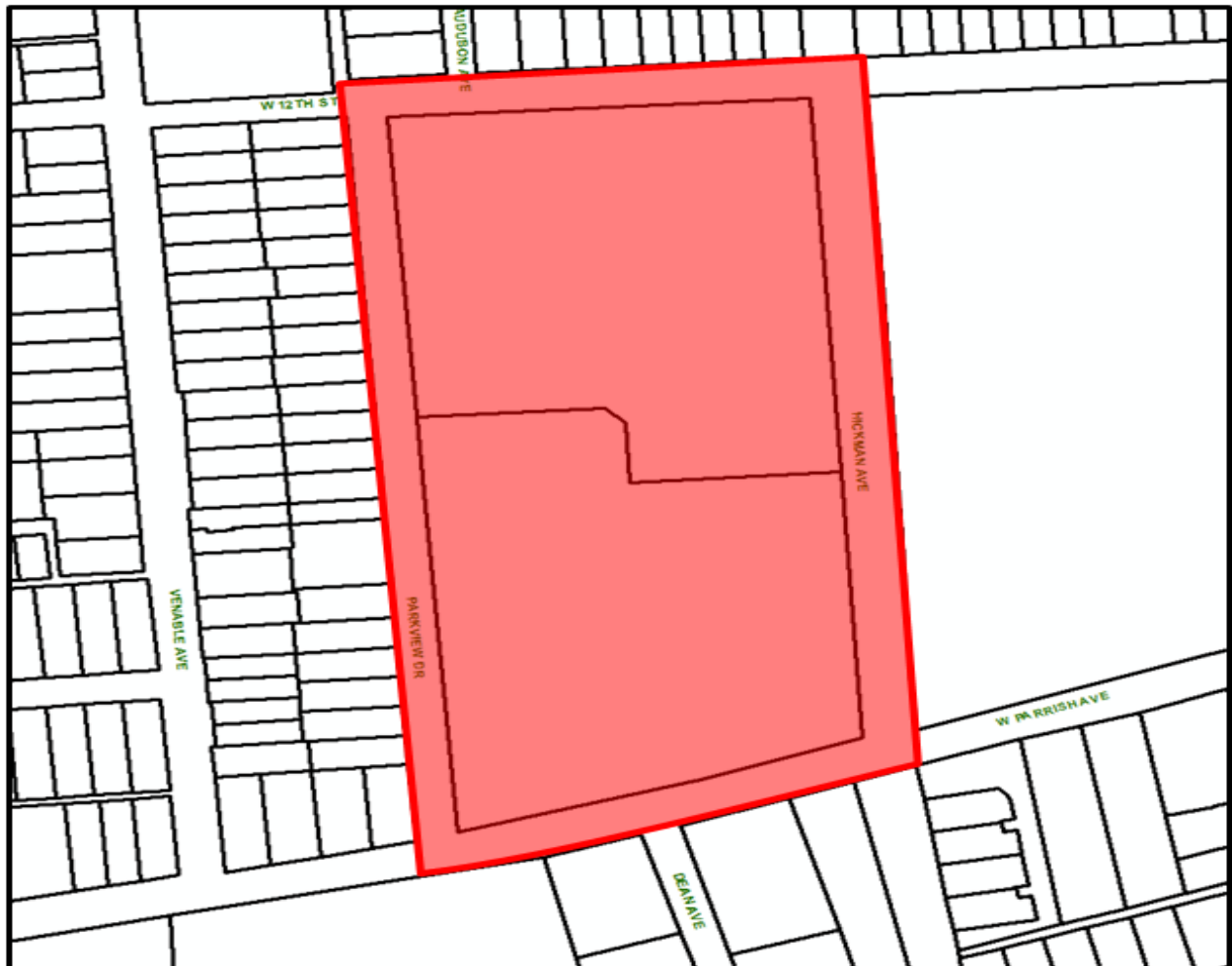
square footage or alter the number of parking spaces. See Article 16 Development Plans for more information regarding the development plan review process. The following items shall be included with any final development plan submitted within this overlay district:

- a. Completed final development plan application.
- b. Final development plan fee.
- c. Copies of the proposed final development plan, contents of which are outlined in the zoning ordinance and listed on the final development plan application form.
- d. A Parking Master Plan to be reviewed by OMPC staff, City Engineer staff and other applicable agencies must be submitted demonstrating compliance with parking requirements.
- e. A Lighting Plan must be submitted demonstrating how proposed lighting fixtures will be installed so as to reflect light away from adjoining properties.
- f. Other items, documents or materials deemed necessary by OMPC staff.

#### 22.1.9 MISCELLANEOUS REQUIREMENTS.

- a. Issues not addressed by regulations contained within Section 22.1 Arena Overlay District that are addressed elsewhere within the zoning ordinance may apply to properties within this overlay district.
- b. All development within the Arena Overlay District is subject to the applicable requirements of the most recent version of the Kentucky Building Code.

#### 22.1.10 ARENA OVERLAY DISTRICT MAP



## 22.2 NEAR DOWNTOWN PARKING OVERLAY DISTRICT

**22.2.1 PURPOSE.** The purpose of the Near Downtown Parking Overlay District is to encourage the densification of residential uses located near the downtown area when off-street parking may not be available as a result of the conversion of single family residential structures to multi-family residential structures or construction of ~~new~~ multi-family residential structures on vacant lots. Parking may be permitted on-street through a Conditional Use Permit by the Owensboro Metropolitan Board of Adjustment.

**22.2.2 NEAR DOWNTOWN PARKING OVERLAY DISTRICT BOUNDARY.** The area designated as the Near Downtown Parking Overlay District consists of the area surrounding the Downtown Overlay District boundary including adjacent public street rights-of-way, bounded by Orchard Street, Parrish Avenue, and Center Street. See Near Downtown Parking Overlay District Map in Section 22.2.

**22.2.3 CONDITIONALLY PERMITTED ON-STREET PARKING** shall be subject to the following:

- a. The subject property shall be located within the Near Downtown Parking Overlay District.

### 22.2.5 Near Downtown Parking Overlay District Map

- b. The subject property shall be zoned R-4DT Inner City Residential.

- c. The applicant shall provide a parking analysis prepared by a Professional Engineer to include the following:

- (1) On-street parking is available within the area to meet the minimum parking requirements of Article 13.
- (2) The parking analysis shall be performed on four typical non-holiday work days, Tuesday through Thursday.
- (3) The parking analysis shall be performed at 7:00AM, 12:30PM and 7:00PM to demonstrate on-street parking is available during peak times.

- d. On-street parking shall only be permitted on local streets as determined by their functional classification as listed on the current Major Street Setbacks and Buffers form T2

**22.2.4 MISCELLANEOUS REQUIREMENTS.** All development within the Near Downtown Parking Overlay District is subject to the applicable requirements of the most recent edition of the Kentucky Building Code and the OMPC Building, Electrical, HAVC department shall be contacted prior to any construction activity taking place.

