

## **ORDINANCE 19-2023**

### **AN ORDINANCE APPROVING AND ADOPTING TEXT AMENDMENTS TO APPENDIX F, ARTICLES 3, 8, 10 AND 17 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 July 13, 2023 and proposed amendments to the text of the Zoning Ordinance for the Cities of Owensboro and Whitesville, and Daviess County regarding revisions to Articles 3, 8, 10 and 17; and

**WHEREAS**, by vote of 6-0 in favor of the amendments of Articles 3, 8, 10 and 17, 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 Board of Commissioners, 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 Articles 3, 10, and 17 will help allocate wisely the use of land for various activities by encouraging sound land development policies.
2. These amendments to Articles 3 and 10 are examples of creating flexible zoning regulations for existing redeveloping neighborhoods.
3. These amendments to Articles 3 and 17 will ensure appropriate safety measures are provided when upgrading or expanding our various transportation systems.

4. These amendments to Articles 3 and 17 will ensure currently accepted design standards are used when evaluating sight triangles.

5. These amendments to Article 8 will: (a) help maintain Daviess County as a viable economic unit; (b) accommodate all intensities of land use activity; (c) may increase the inner-city housing unit density; (d) continue development strategies for the orderly distribution of housing activities; (e) support affordable housing measures that maintain high-quality infrastructure and site development standards; (f) promote regional development to enhance economic benefits for citizens of Daviess County; (g) promote a diversity of desirable industrial activities for a broad and stable economic base; and (h) avoid the introduction of urban activities that would have a detrimental effect on residential activity, but allow some mixture of appropriate nonresidential uses.

6. These amendments to Articles 8 and 10 will: (a) create policies for regulating land use activities that are not overburdensome while still protecting the public health, safety and welfare of the community; (b) provide a wide variety of types of housing suitable to a wide range of people; and (c) identify the housing needs of the community.

7. These amendments to Article 10 will use the fixed amount of land in Daviess County as wisely as possible.

**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 shall be the same and are hereby approved and adopted, 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 10 – Planned Residential Development Project 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 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 17 – Landscape & Land Use Buffers 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 D, which is incorporated by reference as if fully set forth herein.

**Section 6.** 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 7.** All prior ordinances or parts thereof, in conflict with the provisions of this ordinance, are to the extent of any such conflict, hereby repealed.

**Section 8.** This ordinance shall become effective upon its adoption and publication according to law.

**INTRODUCED AND PUBLICLY READ ON FIRST READING**, this the 1st day of August, 2023.

**PUBLICLY READ AND FINALLY APPROVED ON SECOND READING**, this the 15th day of August, 2023.

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Thomas H. Watson, Mayor

ATTEST:

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Beth Davis, City Clerk

## EXHIBIT A

Consent

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

Item No.

<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> (State any budget consequences): <b>N/A</b>

<b>SUMMARY AND BACKGROUND</b> (Continue on additional sheet, if necessary):	
<p>The Owensboro Metropolitan Planning Commission met in regular session on July 13, 2023, to consider amendments to the text of the Zoning Ordinance for Owensboro, Whitesville and Daviess County, Kentucky, regarding revisions to Article 3 related to sight triangles, setbacks of residential swimming pools and the height of rear and side yard fences when adjoining arterial, collector or local streets. By a vote of 6-0 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	

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

<b>ATTACHMENTS</b> (10 copies for agenda packets)	<b>Check if no attachments</b>
OMPC Recommendation and Staff Report Video of the OMPC proceedings are available upon request	

**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>
Melissa Evans	Ben R. H.		



**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 **July 13, 2023**

and having voted **6 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 3 will help allocate wisely the use of land for various activities by encouraging sound land development policies;
2. These amendments to Article 3 are an example of creating flexible zoning regulations for existing redeveloping neighborhoods;
3. These amendments to Article 3 will insure appropriate safety measures are provided when upgrading or expanding our various transportation systems; and,
4. These amendments to Article 3 will insure currently accepted design standards are used when evaluating sight triangles.

**ATTEST: July 14, 2023**

Executive Director, Brian R. Howard, AICP

**ENCLOSURES**

Staff Report, Proposed Text Amendments, meeting video available upon request.



## Background

The proposed revisions to Article 3 of the Owensboro Metropolitan Zoning Ordinance are related to revisions regarding sight triangles, setbacks of residential swimming pools and the height of rear and side yard fences when adjoining arterial, collector or local streets. Recent discussions amongst staff and the City and County Engineers triggered the need to change the language of the ordinance to reference the current design standards instead of specific dimensions as cited in the ordinance, to further clarify the setbacks for swimming pools and to increase fence heights to mimic other changes which were made in the past.

The proposed text amendments include:

1. Amending the Zoning Ordinance text to reference the current edition of the ASSHTO – A Policy on Geometric Design of Highways and Streets when related to sight triangle requirements.
2. Amending the Zoning Ordinance text to clarify the setback requirements for pools from the interior side and rear property lines and setbacks from property lines which adjoin any street.
3. Amending the Zoning Ordinance to allow a six foot (6') tall fence in a rear or side yard adjoining an arterial, collector or local street.

## Proposed Text Amendments

See the attached draft of the proposed Article 3

## Conclusions

The purpose of revising Article 3 is to clarify the text of the Zoning Ordinance to reference current design standards of sight triangles, avoid any future conflicts regarding the setback requirements for residential swimming pools and to allow an increase in fence height along streets.

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.
- Transportation, Objective 5.1.4 – Insure that adequate and appropriate safety measures are provided when upgrading or expanding our various transportation systems.

## 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 adopted Comprehensive Plan. The findings supporting this recommendation follow:

1. These amendments to Article 3 will help allocate wisely the use of land for various activities by encouraging sound land development policies;
2. These amendments to Article 3 are an example of creating flexible zoning regulations for existing redeveloping neighborhoods;
3. These amendments to Article 3 will insure appropriate safety measures are provided when upgrading or expanding our various transportation systems; and,
4. These amendments to Article 3 will insure currently accepted design standards are used when evaluating sight triangles.



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
Revision to Section 3-7(g)3 Walls and Fences relative to heights in residential rear and side street yards	11-April-2019	07-May-2019	02-May-2019	28-May-2019
Revisions to Section 3-7(c) Unenclosed Accessory Buildings and Section 3-7(f) Swimming Pools and Sports Courts	10-Feb-2022	15-Mar-2022	08-Mar-2022	01-Mar-2022
<a href="#">Revisions to Section 3-6-f regarding sight triangles, Section 3-7(g)3 Walls and Fences relative to heights in residential rear and side street yards, and Section 3-7(f) Swimming Pools and Sports Courts</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.

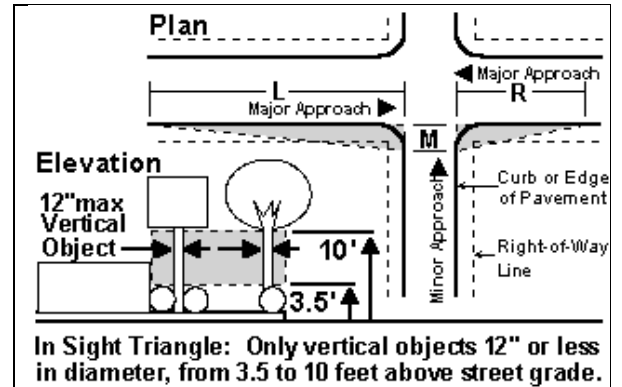
**(1) Exceptions to Height Limitations.** The height limitations of this Zoning Ordinance shall not apply to church spires, belfries, cupolas and domes not intended for human occupancy; monuments, water towers, observation towers, transmission towers, windmills, chimneys, smoke stacks, derricks, conveyors, 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 according to the current edition of the AASHTO – A Policy on Geometric Design of Highways and Streets and be approved by the City and/or County Engineer. ~~shown in the following illustration and table, unless specifically excepted below.~~



<b>Sight Triangles at Intersections</b>				
Major Approach >	Arterial Street		Any Other Street	
Minor Approach >	Street, not Alley	Alley or Driveway	Street, not Alley	Alley or Driveway
L =	300'	200'	150'	100'
R =	150'	100'	75'	50'
M =	15'	10'	15'	10'

~~(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. When freestanding, attached to enclosed accessory buildings or

connecting separate enclosed accessory buildings they shall be located no closer than three feet (3') to lot lines adjoining freeways, expressways, alleys, or other lots; and conform to setback requirements for principal buildings from lot lines adjoining arterial, collector or local streets, unless excepted below. When unenclosed accessory buildings are attached to principal buildings they shall meet setback requirements for principal buildings.

**(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 shall be located six feet (6') from all interior side and interior rear property lines as per the Kentucky Building Codes and shall conform to setback requirements for principal buildings from lot lines adjoining any street as per Article 8 of this Zoning Ordinance. 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-six~~ four feet (46') 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 six foot (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.

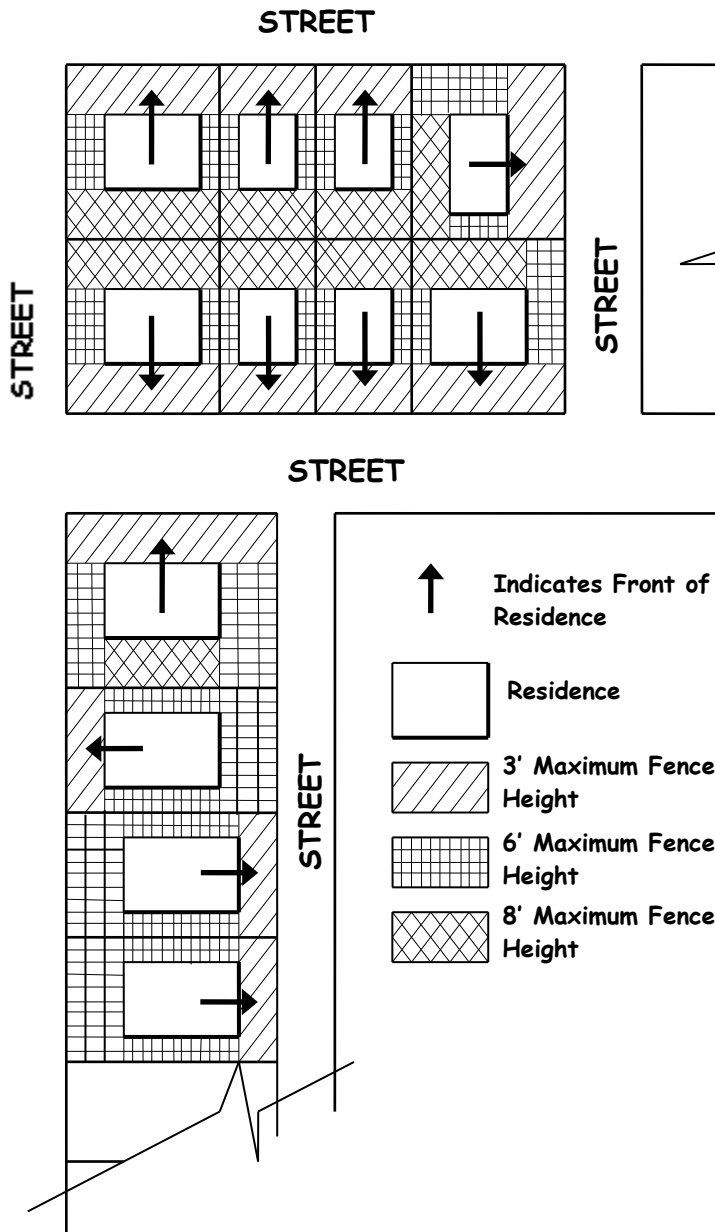
**(4) Prohibited in Residential and MHP zones.**

- (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

## **EXHIBIT B**

<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 8 of the Zoning Ordinance</b>

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

<b>SUMMARY AND BACKGROUND</b> (Continue on additional sheet, if necessary):			
<p>The Owensboro Metropolitan Planning Commission met in regular session on July 13, 2023, to consider amendments to the text of the Zoning Ordinance for Owensboro, Whitesville and Daviess County, Kentucky, regarding revisions to Article 8 related to accessory dwelling. By a vote of 6-0 the Owensboro Metropolitan Planning Commission has recommended that the proposed text amendment be approved in that the proposal is in compliance with the adopted Comprehensive Plan (see attached Findings of Facts and staff report).</p>			
<table border="1"> <tr> <td><b>Check if continued on next page</b></td> <td> </td> </tr> </table>		<b>Check if continued on next page</b>	
<b>Check if continued on next page</b>			

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

<b>ATTACHMENTS</b> (10 copies for agenda packets)	<b>Check if no attachments</b>	
OMPC Recommendation and Staff Report Video of the OMPC proceedings are available upon request		

**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>
<i>Melissa Evans</i>	<i>Bill R. H.</i>		

**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 **July 13, 2023**and having voted **6 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. The amendment to Article 8 will help maintain Daviess County as a viable economic unit;
2. The amendment to Article 8 will create policies for regulating land use activities that are not overburdensome while still protecting the public health, safety and welfare of the community;
3. The amendment to Article 8 will accommodate all intensities of land use activity;
4. The amendment to Article 8 will provide a wide variety of types of housing suitable to a wide range of people;
5. The amendment to Article 8 may increase the inner-city housing unit density;
6. The amendment to Article 8 will identify the housing needs of the community;
7. The amendment to Article 8 will continue development strategies for the orderly distribution of housing activities; and,
8. The amendment to Article 8 will support affordable housing measures that maintain high-quality infrastructure and site development standards.

**ATTEST: July 14, 2023**

Executive Director, Brian R. Howard, AICP

**ENCLOSURES**

Staff Report, Proposed Text Amendments, meeting video available upon request.



## Background

The proposed revision to Article 8 of the Owensboro Metropolitan Zoning Ordinance is related to accessory dwellings. The amendment is a result of staff discussions to promote mixed use developments outside of the downtown overlay districts.

The proposed text amendment includes:

- Increasing the number of accessory dwelling units permitted, from two (2) to four (4), when the dwelling units are located above or to the rear of the principally permitted use and allowing an unlimited number of dwelling units if the entire first floor is occupied by a principally permitted use, the first floor is at least five thousand (5,000) square feet in size and sanitary sewer service is available to the property.

## 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 future needs of the community.

The proposed text amendment is 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 3.1.11 - Endeavor to create policies for regulating land use activities that are not overburdensome while still protecting the public health, safety and welfare of the community.
- Land Use, Objective 4.1.2 – Accommodate all intensities of land use activity.

- Land Use, Goal 4.5 – Provide a wide variety of types of housing suitable to a wide range of people.
- Land Use, Objective 4.8.2 – Increase the inner-city housing unit density.
- Land Use, Goal 4.10 – Identify the housing needs of the community.
- Land Use, Objective 4.10.2 – Continue development of strategies for the orderly distribution of housing activities.
- Land Use, Objective 4.11.1 – Support affordable housing measures that maintain high-quality infrastructure and site development standards.

## Findings of Fact

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

- The amendment to Article 8 will help maintain Daviess County as a viable economic unit;
- The amendment to Article 8 will create policies for regulating land use activities that are not overburdensome while still protecting the public health, safety and welfare of the community;
- The amendment to Article 8 will accommodate all intensities of land use activity;
- The amendment to Article 8 will provide a wide variety of types of housing suitable to a wide range of people;
- The amendment to Article 8 may increase the inner-city housing unit density;
- The amendment to Article 8 will identify the housing needs of the community;
- The amendment to Article 8 will continue development strategies for the orderly distribution of housing activities; and,
- The amendment to Article 8 will support affordable housing measures that maintain high-quality infrastructure and site development standards.

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; delete differences between uses located in Owensboro, Whitesville and unincorporated Daviess County with the exception of individual storage units & 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 through window private elementary and secondary schools, public auction houses, assisted living facilities, video arcades, bingo halls, movie theaters, indoor parking places, gaming places, health spas, fitness centers, martial arts facilities, gymnastics and cheerleading instructional facilities, aerobics and 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 tracks, pet grooming, pet training, taxidermy, dry cleaning or laundry drop-off/pick-up stations, bus terminals, amusement parks, water parks, driving ranges, batting cages {8.2 table, 8.4}; clarified exemption from local land use regulations for municipal, county, state, federal and public school board uses per KRS 100.1 and requirement for public facilities review by OMPC {8.4 (39), (40)}; changed definition of lot coverage to include total coverage of all principal & accessory buildings, increased minimum lot size to 0.75 acres in all zones where sanitary sewer is not available (A-R zone retained 1.00 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 B-5 zones when 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
Revisions related to Home Occupations, Distillery/Brewery, Agriculture, Horticulture or Silviculture Industries, Solar Energy Systems, Indoor Individual Storage, and Storage of Distilled Spirits	11-Arp-2019	07-May-2019	02-May-2019	28-May-2019
Revisions related to Solar Energy Systems	10-Feb-2022	15-Mar-2022	08-Mar-2022	01-Mar-2022
<a href="#">Revisions related to Dwelling: Accessory /2A, Agriculture, Horticulture or Silviculture Industries, and Storage of Distilled Spirits</a>				



## 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

<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).  <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.</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>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~~<sup>four</sup>[24]) 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. An unlimited number of dwelling units may be located within the principal building when the dwelling units are located above the principally permitted use(s) provided the principally permitted use(s) occupies the entire first floor of the building, the first floor shall be at least five thousand (5,000) square feet in size and sanitary sewer service shall be available to the property.

**/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.

**/17.** 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 – Accessory Use
C	C	C	C	C	C									5a Home occupation – Conditionally Permitted Use
						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				<b>F VEHICLE AND TRUCK RELATED</b>	
									P/22	P/22				<b>1</b> Vehicle boat rental	
C/23														<b>2</b> Vehicle sales lot, establishment	
														<b>3</b> Vehicle race tracks	
							P/21	P/21	P/21	P/21				<b>4</b> Vehicle service/fuel stations, with or without convenience stores	
									A/24	P	P	P		<b>5</b> Vehicle repair, major	
									C/24A	P	P	P		<b>5A</b> Vehicle body shop	
							P	P	P	P	P	P		<b>6</b> Vehicle repair, minor	
							P	P	P	P	P	P		<b>6A</b> Vehicle detail shop	
							A/25	A/25	P/25	P/25	P/25	P/25		<b>7</b> Car-wash; self-serve or automatic	
A				A	A	A	A	A	A	A	A	A		<b>8</b> Loading and unloading facilities	
A	A	A	A	A	A	A	A	P	A	A	A	A		<b>9</b> Parking areas, private garages	
	A	A	A	A	A	A	A	P	A	A	A	A		<b>10</b> Parking areas or structures	
					C	C	P	P	P	P	P	P		<b>11</b> Parking lots or structures	
										P	P	P		<b>12</b> Tire re-treading and recapping	
												C/27		<b>12A</b> Tire recycling collection center	
									A	A	A	A		<b>13</b> Truck rental	
										P	P	P		<b>14</b> Truck terminals and freight yards	
									P	P				<b>15</b> Taxi cab or limousine service	
										P	P			<b>16</b> Vehicle auction facilities	
												C/27		<b>17</b> Vehicle impound yards or vehicle salvage yards	
														<b>G INDUSTRIAL</b>	
										P/26	P/26	P/26		<b>1</b> Contractor equipment dealer	
											P	P		<b>1A</b> Lumber and construction material yards	
											P	P		<b>2</b> Dairy or other food product bottling plants	
P											C	C		<b>3</b> Extraction of crude petroleum, natural gas	
C											C	C		<b>3A</b> Quarrying of sand, gravel, etc.	
												C/27		<b>4</b> Heavy industrial uses, conditional	
												C/27		<b>4A</b> Salvage yards	
												C/27		<b>4B</b> Refuse yards or landfills	
												P/28		<b>5</b> Heavy industrial uses, principal	
P/54										P	P	P		<b>5A</b> Processing timber for firewood	
										P	P	P		<b>6</b> Ice plant	
										P	P	P		<b>7</b> Machine, welding and other metal work shops	
										P	P	P		<b>8</b> Manufacturing, compounding, processing, packaging and assembling, light	
						A		A	A	P	P	P		<b>9</b> Medical waste disposal	
A/30							A/30	A/30	A/30	A/30				<b>10</b> Making of articles to be sold at retail on the premises	
						A	A	P	P	P	P	P		<b>11</b> Printing, publishing, lithographing, blueprinting	
										A	A	A		<b>12</b> Sale of manufactured goods	
										P/31	P/31	P/31		<b>13</b> Shops of special trade and general contractors	
							A/49	A/49	A/49	P	P	P		<b>14</b> Furniture repair and upholstery	
C/46										P	P	P		<b>15</b> Furniture restoration and refinishing	
										P	P	P		<b>16</b> Recycling Collection centers	
											P/27	P/27		<b>17</b> 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 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/32	P/32	P/32	4 Farm equipment dealer
P										C/33	C/33	C/33	5 Forestry
													6 Grain drying
C													7 Livestock sales and auction
C/33a									C/33a	P	P	P	8 Landscaping services
C													9 Agri-tourism
C/58													10 Agriculture, Horticulture or Silviculture Industries
													<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				P/35	P/35	P/35	P/35	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
P/59	P/59	P/59	P/59	P/59	P/59	P/59	P/59	P/59	P/59	P/59	P/59	P/59	7 Level 1 Solar Energy System (SES)
P/59	P/59	P/59	P/59	P/59	P/59	C/59	C/59	C/59	C/59	C/59	C/59	C/59	7a Level 2 Solar Energy System (SES)
C/59											C/59	C/59	7b Level 3 Solar Energy System (SES)
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	8 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	9 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

<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. <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.
<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>5</sup>	B-3 B-4	B-5	I-1	I-2	
													<b>L Storage:</b>
									A/44	A/44	A/44	A/44	1 Storage, outdoor
							A	A	A	A			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
									C/56	P/56	P/56	P/56	9 Indoor Individual Storage
CP/5 7													10 Storage of Distilled Spirits, <u>principal</u>
C/57													10a Storage of Distilled Spirits, <u>conditional</u>

<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 permitted in the A-R and A-U zones only on tracts of at least one hundred (100) acres in size.

Storage of distilled spirits shall be conditionally permitted in the A-R and A-U zones only on tracts of at least one hundred-twenty (10020) 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 and A-U zones, permitted and** 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.

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.~~

**hg.** 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~~ 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~~ twenty thousand (~~40,000~~ 20,000) square feet in size and all structures associated with the use shall not exceed fifty thousand (50,000) square feet in total.
- b. The operation must not employ more than ~~5~~ thirty (30) persons unless it is located on a road that is classified as a State Primary or State Secondary route or has any section classified as such, no operation shall employ more than one hundred (100) 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 contiguous properties, and; (3) All equipment shall be located at least one hundred (100) feet from any residential structure.

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.

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 and one quarter (1.25) 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.

### 8.3 GENERAL INDEX.

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**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.		

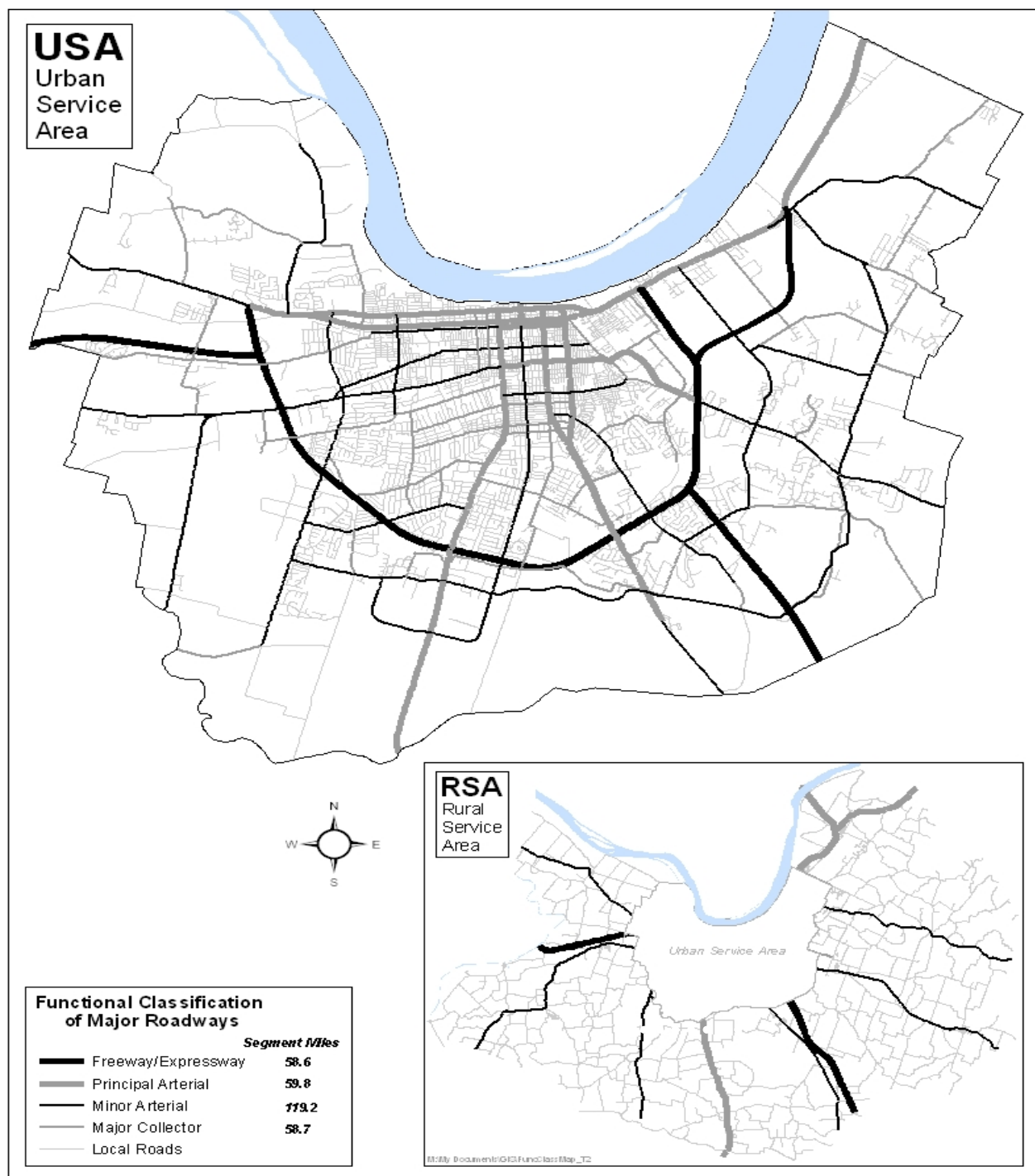
## 8.5 SITE DEVELOPMENT REQUIREMENTS (continued)

<b>8.5.12 P-1 Professional/Service Zone</b>		
<b>8.5.13 B-2 Central Business Zone</b>		
<b>(a) 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) Minimum Lot Frontage</b>		
P-1 Zone	60'	(For Professional Office Projects, see [i] below)
B-2 Zone	No limit	
<b>(c) 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]		
(New buildings, ground floor) ) [see (k) below]	0'	
(Floors above/below ground) ) [see (k) below]	3'	"
(Along any alley) ) [see (k) below]	0'	"
(See interior side yard, interior rear yard)		
<b>(d) 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) 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) Maximum Building Height</b>		
P-1 Zone[see note (k) below]	3:1	
B-2 Zone[see note (k) below]	No limit	
<b>(g) Minimum Useable Open Space</b>		
P-1 Zone	No limit	
B-2 Zone	No limit	
<b>(h) 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) 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-1 Neighborhood Business Center Zone</b>		
<b>8.5.15 B-3 Highway Business Center Zone</b>		
<b>8.5.16 B-4 General Business Zone</b>		
<b>8.5.17 B-5 Business/Industrial Zone</b>		
<b>(a) 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) Minimum Lot Frontage</b>	No limit	
<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 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) 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) 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) Maximum Building Height[see note (k) below]</b>	No limit	except for Kentucky Airport Zoning restrictions
<b>(g) Minimum Useable Open Space</b>	No limit	
<b>(h) 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) 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) 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.	



<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 8 of the Zoning Ordinance</b>

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

<b>SUMMARY AND BACKGROUND</b> (Continue on additional sheet, if necessary):
<p>The Owensboro Metropolitan Planning Commission met in regular session on July 13, 2023, to consider amendments to the text of the Zoning Ordinance for Owensboro, Whitesville and Daviess County, Kentucky, regarding revisions to Article 8 related to Agriculture, Horticulture or Silviculture Industries and Storage of Distilled Spirits. By a vote of 6-0 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> (State the action requested or recommended):
Approve text amendments to Article 8 of the Zoning Ordinance.

<b>ATTACHMENTS</b> (10 copies for agenda packets)	<b>Check if no attachments</b>	<input type="checkbox"/>
OMPC Recommendation and Staff Report Video of the OMPC proceedings are available upon request		

**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>
<i>Melissa Evans</i>	<i>Ben R. W.</i>		



**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 **July 13, 2023**

and having voted **6 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 create policies for regulating land use activities that are not overburdensome while still protecting the public health, safety and welfare of the community;
5. These amendments to Article 8 will accommodate all intensities of land use activity; and,
6. 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.

**ATTEST: July 14, 2023**

Executive Director, Brian R. Howard, AICP

**ENCLOSURES**

Staff Report, Proposed Text Amendments, meeting video available upon request.



## Background

These proposed revisions to Article 8 of the Owensboro Metropolitan Zoning Ordinance are related to Agriculture, Horticulture or Silviculture Industries and Storage of Distilled Spirits. The amendments to the storage of distilled spirits and agriculture, horticulture and silviculture industries are a result of Daviess County Fiscal Court's desire to promote and attract industrial development.

The proposed text amendments include:

1. Allowing the storage of distilled spirits as a Principally Permitted use in A-R and A-U zones on tracts of at least one hundred (100) acres in size, reducing the tract size for Conditionally Permitted storage of distilled spirits to twenty (20) acres in size and eliminating the perimeter screening requirement.
  2. Amending the criteria for Agriculture, Horticulture and Silviculture industries to eliminate the maximum size of the parcel, increase the maximum square footage of each building to twenty thousand (20,000) square feet in size, but limit the total square footage of all buildings to fifty thousand (50,000) square feet total and increase the number of employees allowed to thirty (30) unless the operation is located on a State Primary or State Secondary route or has any section classified as such then the operation shall employ no more than one hundred (100) persons.
- Economy and Employment, Objective 3.1.4 – Promote a diversity of desirable industrial activities for a broad and stable economic base.
  - Economy and Employment, Objective 3.1.11 - Endeavor to create policies for regulating land use activities that are not overburdensome while still protecting the public health, safety and welfare of the community.
  - Land Use, Objective 4.1.2 – Accommodate all intensities of land use activity.
  - 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, Goal 4.14 – Promote adequate, attractive, and accessible industrial facilities.
  - Land Use, Objective 4.14.2 – Disperse industrial activities to better utilize transportation systems.
  - 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.

## 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 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.
- Economy and Employment, Objective 3.1.3 – Promote regional development to enhance economic benefits for citizens of Daviess County.

## 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 adopted 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;
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 create policies for regulating land use activities that are not overburdensome while still protecting the public health, safety and welfare of the community;
5. These amendments to Article 8 will accommodate all intensities of land use activity; and,
6. 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.



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; delete differences between uses located in Owensboro, Whitesville and unincorporated Daviess County with the exception of individual storage units & 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 through window private elementary and secondary schools, public auction houses, assisted living facilities, video arcades, bingo halls, movie theaters, indoor parking places, gaming places, health spas, fitness centers, martial arts facilities, gymnastics and cheerleading instructional facilities, aerobics and 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 tracks, pet grooming, pet training, taxidermy, dry cleaning or laundry drop-off/pick-up stations, bus terminals, amusement parks, water parks, driving ranges, batting cages {8.2 table, 8.4}; clarified exemption from local land use regulations for municipal, county, state, federal and public school board uses per KRS 100.1 and requirement for public facilities review by OMPC {8.4 (39), (40)}; changed definition of lot coverage to include total coverage of all principal & accessory buildings, increased minimum lot size to 0.75 acres in all zones where sanitary sewer is not available (A-R zone retained 1.00 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 B-5 zones when 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
Revisions related to Home Occupations, Distillery/Brewery, Agriculture, Horticulture or Silviculture Industries, Solar Energy Systems, Indoor Individual Storage, and Storage of Distilled Spirits	11-Arp-2019	07-May-2019	02-May-2019	28-May-2019
Revisions related to Solar Energy Systems	10-Feb-2022	15-Mar-2022	08-Mar-2022	01-Mar-2022
<a href="#">Revisions related to Dwelling: Accessory /2A, Agriculture, Horticulture or Silviculture Industries, and Storage of Distilled Spirits</a>				



## 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>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.													<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.
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~~<sup>four</sup>[24]) 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. An unlimited number of dwelling units may be located within the principal building when the dwelling units are located above the principally permitted use(s) provided the principally permitted use(s) occupies the entire first floor of the building, the first floor shall be at least five thousand (5,000) square feet in size and sanitary sewer service shall be available to the property.

**/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.

**/17.** 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 – Accessory Use
C	C	C	C	C	C									5a Home occupation – Conditionally Permitted Use
						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

<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 districts 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- 2MF	R- 3MF	R- 4DT	P-1	B-1	B-2 <sup>3</sup>	B-3 B-4	B-5	I-1	I-2													
								P/21	P	P			<b>F VEHICLE AND TRUCK RELATED</b>												
									P/22	P/22			<b>1</b> Vehicle boat rental												
C/23													<b>2</b> Vehicle sales lot, establishment												
							P/21	P/21	P/21	P/21			<b>3</b> Vehicle race tracks												
													<b>4</b> Vehicle service/fuel stations, with or without convenience stores												
									A/24	P	P	P	<b>5</b> Vehicle repair, major												
									C/24A	P	P	P	<b>5A</b> Vehicle body shop												
							P	P	P	P	P	P	<b>6</b> Vehicle repair, minor												
							P	P	P	P	P	P	<b>6A</b> Vehicle detail shop												
A				A	A	A	A/25	A/25	P/25	P/25	P/25	P/25	<b>7</b> Car-wash; self-serve or automatic												
A	A	A	A	A	A		A	A	A	A	A	A	<b>8</b> Loading and unloading facilities												
	A	A	A	A	A	A	A	P	A	A	A	A	<b>9</b> Parking areas, private garages												
					C	C	P	P	P	P	P	P	<b>10</b> Parking areas or structures												
										P	P	P	<b>11</b> Parking lots or structures												
													<b>12</b> Tire re-treading and recapping												
												C/27	<b>12A</b> Tire recycling collection center												
									A	A	A	A	<b>13</b> Truck rental												
										P	P	P	<b>14</b> Truck terminals and freight yards												
									P	P			<b>15</b> Taxi cab or limousine service												
										P	P		<b>16</b> Vehicle auction facilities												
												C/27	<b>17</b> Vehicle impound yards or vehicle salvage yards												
													<b>G INDUSTRIAL</b>												
										P/26	P/26	P/26	<b>1</b> Contractor equipment dealer												
											P	P	<b>1A</b> Lumber and construction material yards												
P										P	P	P	<b>2</b> Dairy or other food product bottling plants												
C										C	C	P	<b>3</b> Extraction of crude petroleum, natural gas												
										C	C	C	<b>3A</b> Quarrying of sand, gravel, etc.												
												C/27	<b>4</b> Heavy industrial uses, conditional												
												C/27	<b>4A</b> Salvage yards												
												C/27	<b>4B</b> Refuse yards or landfills												
P/54											P	P	<b>5</b> Heavy industrial uses, principal												
										P	P	P	<b>5A</b> Processing timber for firewood												
										P	P	P	<b>6</b> Ice plant												
										P	P	P	<b>7</b> Machine, welding and other metal work shops												
										P	P	P	<b>8</b> Manufacturing, compounding, processing, packaging and assembling, light												
A/30						A		A	A	P	P	P	<b>9</b> Medical waste disposal												
							A/30	A/30	A/30	A/30			<b>10</b> Making of articles to be sold at retail on the premises												
						A	A	P	P	P	P	P	<b>11</b> Printing, publishing, lithographing, blueprinting												
										A	A	A	<b>12</b> Sale of manufactured goods												
										P/31	P/31	P/31	<b>13</b> Shops of special trade and general contractors												
							A/49	A/49	A/49	P	P	P	<b>14</b> Furniture repair and upholstery												
C/46										P	P	P	<b>15</b> Furniture restoration and refinishing												
										P	P	P	<b>16</b> Recycling Collection centers												
											P/27	P/27	<b>17</b> 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 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/32	P/32	P/32	4 Farm equipment dealer
P										C/33	C/33	C/33	5 Forestry
													6 Grain drying
C													7 Livestock sales and auction
C/33a									C/33a	P	P	P	8 Landscaping services
C													9 Agri-tourism
C/58													10 Agriculture, Horticulture or Silviculture Industries
													<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				P/35	P/35	P/35	P/35	5 Kennel, non-commercial
													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
P/59	P/59	P/59	P/59	P/59	P/59	P/59	P/59	P/59	P/59	P/59	P/59	P/59	7 Level 1 Solar Energy System (SES)
P/59	P/59	P/59	P/59	P/59	P/59	C/59	C/59	C/59	C/59	C/59	C/59	C/59	7a Level 2 Solar Energy System (SES)
C/59											C/59	C/59	7b Level 3 Solar Energy System (SES)
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	8 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	9 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
									C/56	P/56	P/56	P/56	9 Indoor Individual Storage
CP/5 7													10 Storage of Distilled Spirits, <u>principal</u>
C/57													10a Storage of Distilled Spirits, <u>conditional</u>

<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 permitted in the A-R and A-U zones only on tracts of at least one hundred (100) acres in size.

Storage of distilled spirits shall be conditionally permitted in the A-R and A-U zones only on tracts of at least one hundred-twenty (10020) 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 and A-U zones, permitted and** 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.

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.~~

**hg.** 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~~ 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~~ twenty thousand (~~40,000~~ 20,000) square feet in size and all structures associated with the use shall not exceed fifty thousand (50,000) square feet in total.
- b. The operation must not employ more than ~~5~~ thirty (30) persons unless it is located on a road that is classified as a State Primary or State Secondary route or has any section classified as such, no operation shall employ more than one hundred (100) 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 contiguous properties, and; (3) All equipment shall be located at least one hundred (100) feet from any residential structure.



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.

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 and one quarter (1.25) 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.

### 8.3 GENERAL INDEX.

USE GROUPS in "Zones and Uses Table"		Page
<b>A</b>	RESIDENTIAL	8-3
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<b>L</b>	STORAGE	8-10

**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.		

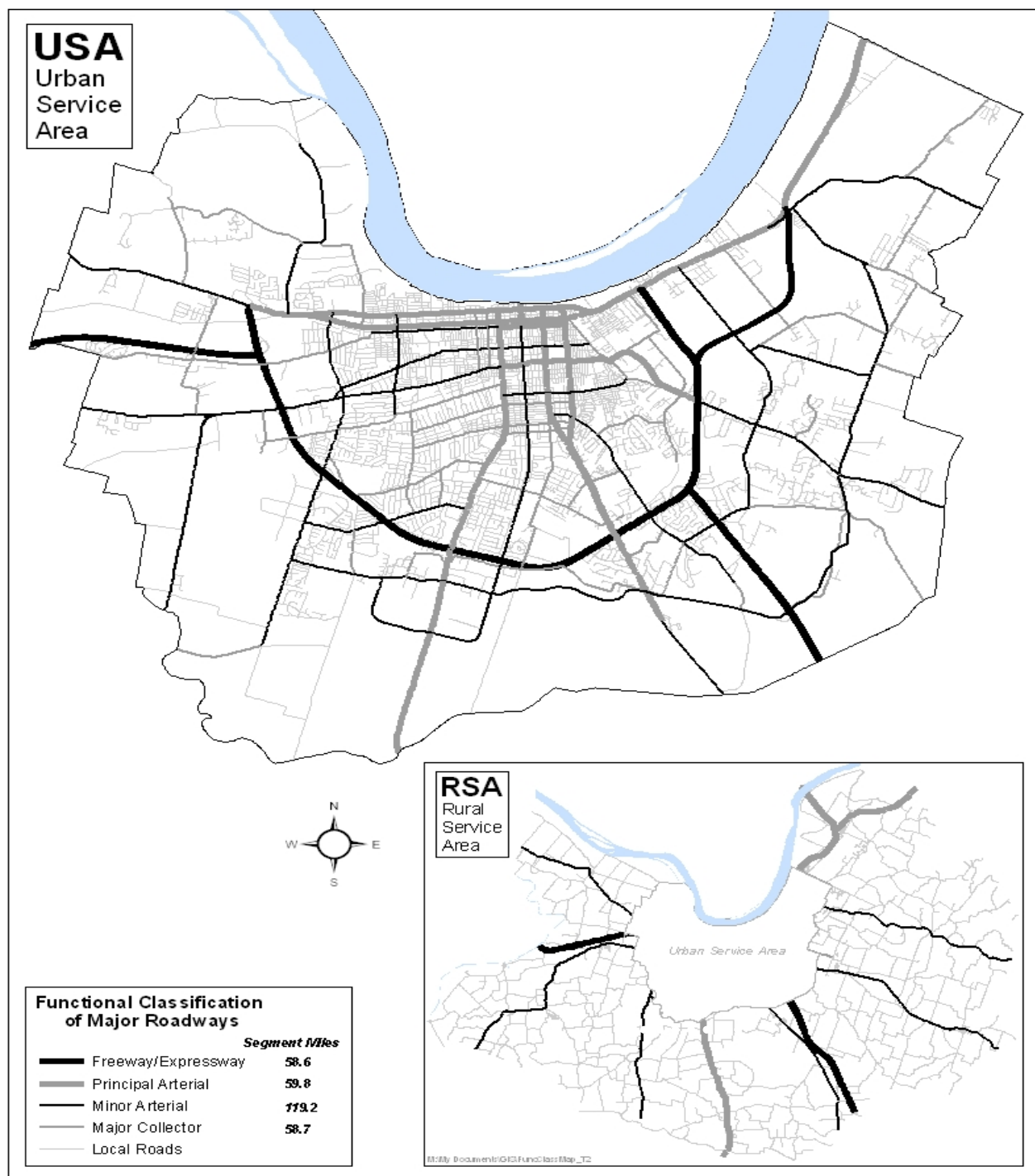
**8.5 SITE DEVELOPMENT REQUIREMENTS (continued)**

<b>8.5.12 P-1 Professional/Service Zone</b>		
<b>8.5.13 B-2 Central Business Zone</b>		
<b>(a) 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) Minimum Lot Frontage</b>		
P-1 Zone	60'	(For Professional Office Projects, see [i] below)
B-2 Zone	No limit	
<b>(c) 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) 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) 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) Maximum Building Height</b>		
P-1 Zone[see note (k) below]	3:1	
B-2 Zone[see note (k) below]	No limit	
<b>(g) Minimum Useable Open Space</b>		
P-1 Zone	No limit	
B-2 Zone	No limit	
<b>(h) 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) 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-1 Neighborhood Business Center Zone</b>		
<b>8.5.15 B-3 Highway Business Center Zone</b>		
<b>8.5.16 B-4 General Business Zone</b>		
<b>8.5.17 B-5 Business/Industrial Zone</b>		
<b>(a) 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) Minimum Lot Frontage</b>	No limit	
<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 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) 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) 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) Maximum Building Height[see note (k) below]</b>	No limit	except for Kentucky Airport Zoning restrictions
<b>(g) Minimum Useable Open Space</b>	No limit	
<b>(h) 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) 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) 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.	



## EXHIBIT C

<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 10 of the Zoning Ordinance</b>

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

<b>SUMMARY AND BACKGROUND</b> (Continue on additional sheet, if necessary):	
<p>The Owensboro Metropolitan Planning Commission met in regular session on July 13, 2023, to consider amendments to the text of the Zoning Ordinance for Owensboro, Whitesville and Daviess County, Kentucky, regarding revisions to Article 10 related to required spillover parking for townhouses or multi-family units. By a vote of 6-0 the Owensboro Metropolitan Planning Commission has recommended that the proposed text amendment 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	

<b>RECOMMENDATION OR ACTION REQUESTED</b> (State the action requested or recommended):
Approve text amendment to Article 10 of the Zoning Ordinance.

<b>ATTACHMENTS</b> (10 copies for agenda packets)	<b>Check if no attachments</b>
OMPC Recommendation and Staff Report Video of the OMPC proceedings are available upon request	

**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>
Melissa Evans	BRIC		



**ZONING TEXT AMENDMENT**

**Subject: Amendments to the text of Article 10 of the Zoning Ordinance**

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

Having considered the above matter at a Public Hearing on **July 13, 2023**

and having voted **6 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 10 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;
2. This amendment to Article 10 will help allocate wisely the use of land for various activities by encouraging sound land development policies;
3. This amendment to Article 10 will use the fixed amount of land in Daviess County as wisely as possible;
4. This amendment to Article 10 will provide a wide variety of types of housing suitable to a wide range of people;
5. This amendment to Article 10 identifies the housing needs of the community; and,
6. This amendment to Article 10 is an example of creating flexible zoning regulations for existing redeveloping neighborhoods.

**ATTEST: July 14, 2023**

Executive Director, Brian R. Howard, AICP

**ENCLOSURES**

Staff Report, Proposed Text Amendments, meeting video available upon request.



## Background

The proposed revisions to Article 10 reduce the required spillover parking for townhouses or multi-family units. Based on the approval of five variance request to reduce the required spillover parking for multi-family developments; it is believed the current ordinance requirement is too restrictive.

## Proposed Text Amendments

Reduce the required spillover parking for townhouses and multi-family units to ten percent (10%) of the total required parking (minimum 4).

## Conclusions

The purpose of revising Article 10 will reduce spillover parking for townhouse and multi-family developments.

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

- 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, Goal 4.1 – Allocate wisely the use of land for various activities by encouraging sound land development policies.
- Land Use, Objective 4.1.1 – Use the fixed amount of land in Daviess County as wisely as possible.
- Land Use, Goal 4.5 – Provide a wide variety of types of housing suitable to a wide range of people.
- Land Use, Goal 4.10 – Identify the housing needs of the community.

- 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 amendment to Article 10 because the proposal is in compliance with the community's Comprehensive Plan. The findings supporting this recommendation follow:

1. This amendment to Article 10 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;
2. This amendment to Article 10 will help allocate wisely the use of land for various activities by encouraging sound land development policies;
3. This amendment to Article 10 will use the fixed amount of land in Daviess County as wisely as possible;
4. This amendment to Article 10 will provide a wide variety of types of housing suitable to a wide range of people;
5. This amendment to Article 10 identifies the housing needs of the community; and,
6. This amendment to Article 10 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
Amendments to building setbacks, streets, parking {10.43, 10.45, 10.46}	08-Dec-1983	06-Mar-1984	22-Feb-1984	?
2003 Review Committee: Clarified how density is calculated based on underlying zone {10.421, 10.422}	11-Dec-2003	02-Mar-2004	05-Feb-2004	06-Apr-2004
<a href="#">Revised spillover parking requirements for townhouse or multi-family units {10.46}</a>				

**10.1 INTENT.** The complex land use of various detached dwelling structures and accessory uses may be placed on the same parcel of land or lot as provided herein. Such a development project may vary from the requirements of the zone in which it is located only as specifically provided herein.

**10.2 APPLICATION.** Application for a planned residential development project shall be made to the OMPC. The OMPC may require the applicant to dedicate land for street or park purposes, and by appropriate covenants, to restrict areas perpetually (or for the duration of the planned residential development project) as open spaces for common use. The OMPC may attach any other reasonable special conditions to its approval, and the Zoning Administrator shall not issue a building permit until he has received written authorization from the OMPC.

**10.21.** A planned development project shall be arranged and designed as a development involving related uses and permitted accessory uses. It shall be planned as an entity and, therefore, susceptible to development regulations as one complex land use unit.

**10.22.** At the time of application, the project must be under one ownership (the holder of a written option or contract to purchase land shall be deemed to be an owner). The application may include a proposed plat for the horizontal and vertical division of structures and land within the planned residential development project. Said plat shall be deemed a subdivision plat and susceptible to the requirements of KRS 100.273 and 100.277.

**10.3 PLAN CONTENT AND PROCEDURE FOR REVIEW.** A planned residential development project containing one (1) acre or more shall be presented to the OMPC for approval. The plan content required by the OMPC and its review procedure are specified by Article 16 (concerning development plans) of this Zoning Ordinance.

#### 10.4 MINIMUM DESIGN STANDARDS

**10.41 Zoning.** The proposed site shall be located in a residential zone which permits planned residential development projects and all dwellings types (single-family, two-family, or multi-family) shall be allowed regardless of the normal restrictions for the zone in which the project is located.

**10.42 Density Requirements.** Density and lot coverage shall not exceed that established for the zone in which the project is located.

**10.421.** In single-family zones, one dwelling unit per ten thousand (10,000) square feet, per seven thousand five hundred (7,500) square feet, per five thousand (5,000) square feet, of gross acreage of the development project etc. based on the normally allowed minimum lot size.

**10.422.** In multi-family zones, the floor area ratio as specified in Article 8 shall be met. This floor area ratio is calculated using the gross acreage of the site to achieve the maximum building floor area. Maximum lot coverage and minimum useable open space requirements as specified for multi-family zones in Article 8 shall be met. For example, in the R-3MF zone, thirty per cent (30%) of the gross acreage is required for the minimum open space. This minimum open space shall not be covered by streets, buildings, or parking areas. The gross acreage multiplied by the FAR of 0.40 calculates the maximum building floor area allowed on the site, which is distributed to individual lots in the development by design of the building envelopes. The maximum lot coverage is fifty per cent (50%) of the gross acreage. Lot coverage is the area on the lot covered by all buildings and accessory structures. The maximum number of dwelling units is calculated by dividing the maximum allowable building floor area by the square footage per dwelling unit.

**10.43 Building Setbacks.** Minimum setback for all buildings and structures shall be as follows:

**10.431 From Streets.** Setbacks shall be those specified in Section 8.5 of this Zoning Ordinance for existing or proposed public streets with origination and destination points beyond the project area boundaries; and shall be not less than ten (10) feet from the back of curbs for all public or private internal project streets. On lots with front loading garages, the minimum setback shall not be less than eighteen (18) feet measured perpendicular from the face of the garage to the back edge of the sidewalk for all public or private internal project streets.

**10.432 From Other Boundaries.** Setbacks shall be not less than twenty (20) feet from other project boundary lines.

**10.44 Spacing.** No residential structure shall be located closer than ten (10) feet to another residential structure.

**10.45 Streets.** The development project shall have access to an existing public street. Proposed streets with origination and destination points beyond the project area boundaries shall be public. Proposed internal streets may be public or private. All project streets (public or private) shall meet all design and construction requirements of the Public Improvement Specifications. The street system of the development project shall accommodate the needs of the neighboring area street classification system as described in Section 5.22 (and included subsections) of the Owensboro Metropolitan Subdivision Regulations.

**10.46 Parking.** All project dwelling units shall be provided with private off-street parking for residents, either on individual lots or in common areas; the number of spaces shall comply with Article 13 of this Zoning Ordinance. In addition, spillover parking for guests and deliveries shall be provided, either on streets of appropriate width or off-street. Off-street spillover parking spaces shall be located in common areas in developments with more than two dwelling units per acre; and may be located on individual lots in developments with two or less dwelling units per acre. The minimum number of spillover spaces per dwelling unit shall be as follows:

1.00 for single-family detached units;

10% of the total required parking for townhouse or multi-family units (minimum 4)~~0.75 for townhouse or multi-family units, over one thousand (1,000) square feet per unit;~~

~~0.50 for townhouse or multi-family units, below one thousand (1,000) square feet per unit;~~

The OMPC may require additional parking facilities for accessory uses or when necessitated by development design. In large common parking areas, the OMPC may require principal driveways, which are in essence private streets, to meet all design and construction requirements of the Public Improvement Specifications.

**10.461 Space Size.** Off-street parking spaces shall have minimum dimensions of nine (9) feet x eighteen (18) feet per space (the portion of driveways within the right-of-way of public streets shall not apply to the required parking space minimum area); on-street parking spaces shall be located parallel to the street with twenty (20) feet of driveway-free curb length per space, and/or located in specially-designed cul-de-sacs with minimum dimensions of nine (9) feet x eighteen (18) feet per space.

**10.462 Driveway Access to Streets.** The Access Management Manual shall govern driveway access to minor collector streets and local streets.

**10.47 Sidewalks.** Each residential unit within the project shall connect to a pedestrian way (sidewalk) which provides for internal and external pedestrian movement. Sidewalks shall meet all design and construction requirements of the Public Improvement Specifications. (For the purpose of this article, sidewalks are not limited in specific location as per Public Improvement Specifications.)

**10.48 Accessory Uses.** Management headquarters, recreational facilities, coin-operated laundry facilities, and other uses and structures customarily incidental to the operation of a planned development project are permitted as accessory uses. Convenience establishments shall be permitted as accessory uses subject to the following restrictions:

**10.481.** Such establishments shall be for the convenience of the occupants of the planned development project only.

**10.482.** Such establishments shall present no visible evidence of their commercial character which would attract customers other than occupants of the planned development project, except that each convenience establishment shall be permitted one identification sign attached in a flat manner to the building and shall

not extend outward from the building over twelve (12) inches.

## EXHIBIT D

<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 17 of the Zoning Ordinance</b>



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

<b>SUMMARY AND BACKGROUND</b> <i>(Continue on additional sheet, if necessary):</i>
The Owensboro Metropolitan Planning Commission met in regular session on July 13, 2023, to consider amendments to the text of the Zoning Ordinance for Owensboro, Whitesville and Daviess County, Kentucky, regarding revisions to Article 17 related to sight triangles. By a vote of 6-0 the Owensboro Metropolitan Planning Commission has recommended that the proposed text amendment 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 amendment to Article 17 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 Video of the OMPC proceedings are available upon request	<input type="checkbox"/>

**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 17 of the Zoning Ordinance**

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

Having considered the above matter at a Public Hearing on **July 13, 2023**

and having voted **6 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. The amendment to Article 17 will help allocate wisely the use of land for various activities by encouraging sound land development policies;
2. The amendment to Article 17 will insure appropriate safety measures are provided when upgrading or expanding our various transportation systems; and,
3. The amendment to Article 17 will ensure currently accepted design standards are used when evaluating sight triangles.

**ATTEST: July 14, 2023**

Executive Director, Brian R. Howard, AICP

**ENCLOSURES**

Staff Report, Proposed Text Amendments, meeting video available upon request.





## Background

The proposed revision to Article 17 of the Owensboro Metropolitan Zoning Ordinance is related to revisions regarding sight triangles. Recent discussions amongst staff and the City and County Engineers triggered the need to change the language of the ordinance to reference the current design standards instead of specific dimensions as cited in the ordinance.

The proposed text amendment includes:

Amending the Zoning Ordinance text to reference the current edition of the ASSHTO – A Policy on Geometric Design of Highways and Streets when related to sight triangle requirements.

## Proposed Text Amendments

See the attached draft of the proposed Article 17

## Conclusions

The purpose of revising Article 17 is to clarify the text of the Zoning Ordinance to reference current design standards of sight triangles

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.
- Transportation, Objective 5.1.4 – Insure that adequate and appropriate safety measures are provided when upgrading or expanding our various transportation systems.

## Findings of Fact

The staff recommends approval of the proposed text amendment to Article 17 because the proposal is in compliance with the community's adopted Comprehensive Plan. The findings supporting this recommendation follow:

1. The amendment to Article 17 will help allocate wisely the use of land for various activities by encouraging sound land development policies;
2. The amendment to Article 17 will insure appropriate safety measures are provided when upgrading or expanding our various transportation systems; and,
3. The amendment to Article 17 will ensure currently accepted design standards are used when evaluating sight triangles.

Article amendments approved unless noted:	OMPC	Owensboro	Daviess Co.	Whitesville
Revised zoning ordinance	08-Sep-79	14-Mar-80	27-Dec-79	07-Apr-80
Landscape buffers, interior landscaping, parking overhang {17.3111(b), (c), (d), (e), 17.3112, 17.3114, 17.3121 (a), (b), 17.3122, 17.313, 17.32, 17.323, 17.33}	17-Apr-81	22-May-81	26-Apr-81	06-Jul-81
12" diameter objects in sight triangle, qualifying perimeter area, particular tree species prohibited, landscape review board abolished {17.317, 17.321, 17.322, 17.432, 17.6}	11-Aug-83	19-Sep-83	20-Sep-83	?
Sight triangle dimensions superseded by amendments to Article 3 {17.317}	14-May-87	16-Jun-87	24-Jun-87	24-Aug-87
Daviess County proposal to drop all interior landscaping requirements, change sites affected, etc. {17.22, 17.3, 17.31, 17.3121(c), 17.313, 17.32 & subsections, 17.33, 17.41, 17.434, 17.435, 17.436, 17.44, 17.51}	12-May-94 denied	not applic.	13-Jul-94 approved	not applic.
Interior landscaping for vehicular use areas: Required minimum threshold amended from 6,000 SF to 30,000 SF (drafted by O'boro) {17.32}	12-Aug-99	07-Sep-99	not applic.	not applic.
2003 Review Committee: Made regulations consistent in all jurisdictions, except that interior landscaping requirements apply only to Owensboro Urban Service Area and Whitesville; required landscape easement where Business or Industrial zones adjoin lots of less than 10 acres with existing residence in Agricultural zones {17.3111(f)}; allowed staggered rows of pine trees to meet the continuous 6-foot high planting, hedge, wall or earth mound requirement {17.3114}; changed to require interior landscaping for vehicular use areas 30,000 SF or larger in Owensboro Urban Service Area and Whitesville, at a ratio of 3% of VUAs between 30,000 SF and 49,999 SF, and at a ratio of 5% for VUAs 50,000 SF and larger {17.32, 17.321}; added language to allow vinyl or other approved solid material for fencing in addition to wood and vinyl strips or other approved material in chain link fencing in addition to wood strips {17.41}.	11-Dec-2003	02-Mar-2004	05-Feb-2004	06-Apr-2004
Revisions to reference new regulations contained in Article 21 relative to properties within Downtown Overlay Districts	10-Sep-2009	20-Oct-2009		
<a href="#">Revisions to sight triangle requirements {17.317}</a>				

**17.1 INTENT.** The intent of this article is to improve the appearance of vehicular use areas and property abutting public rights-of-way; to require buffering between non-compatible land uses; and to protect, preserve, and promote the aesthetic appeal, character, and value of the surrounding neighborhoods; to promote public health and safety through the reduction of noise pollution and light glare.

## 17.2 SITES AFFECTED.

**17.21 New Sites.** No new site development, building, structure, or vehicular use area shall hereafter be created and used unless landscaping is provided as required by the provisions of this article.

**17.22 Existing Sites.** No building, structure, or vehicular use area may be altered or expanded unless the minimum landscaping required by the provision of this

article is provided for the property to the extent of its alteration or expansion and not for the entire property.

**17.23** Landscape and Land Use Buffers within the Downtown Overlay Districts shall comply with Article 21 of this ordinance.

**17.3 WHERE LANDSCAPE MATERIALS REQUIRED.** This section describes the minimum requirements that shall be met in regard to interior and perimeter landscaping for vehicular use areas and perimeter landscaping for non-compatible land use areas.

### 17.31 Perimeter Landscaping Requirements.

Unless otherwise provided landscape materials shall be installed to provide a minimum of fifty (50) percent winter opacity, between one (1) foot above finished grade level to the top of the required planting, hedge,

fence, wall, or earth mound within four (4) years after installation. The landscaping shall be provided either in easements in certain zones (Section 17.311) or adjacent to vehicular use areas (Section 17.312).

### 17.311 Property Perimeter Requirements.

**17.3111 Where Easement Required.** A landscape easement shall be required as a buffer between non-compatible zones and between particular non-compatible land uses. Such easement shall be located adjacent to all common boundaries except street frontage, unless otherwise specified. The following situations shall require landscape easements:

- (a) When any RESIDENTIAL zone ADJOINS any MHP zone. The landscape easement shall also be located along street frontage.
- (b) When any RESIDENTIAL or MHP zone ADJOINS a BUSINESS or INDUSTRIAL zone. This standard does not apply to any property within the Downtown Overlay District.
- (c) When any RESIDENTIAL or MHP zone ADJOINS a FREEWAY, EXPRESSWAY or RAILROAD.
- (d) When ANY PROPERTY BOUNDARY, including street rights-of-way, ADJOINS a UTILITY SUBSTATION, JUNK YARD, LAND FILL, SEWAGE PLANT, or similar use. For utility substations the landscape easement may be located adjacent to the enclosure.
- (e) When ANY STREET right-of-way ADJOINS any B-2 ZONE. The landscape easement shall be located along street frontage. This standard shall not apply to any property within the Downtown Overlay District.
- (f) When any BUSINESS or INDUSTRIAL zone ADJOINS lots less than ten (10) acres in size and containing an existing residence in an AGRICULTURAL zone.

**17.3112 Average Width of Easement.** The minimum average width of required landscape easements shall be ten (10) feet with three (3) feet as the least dimension for items 17.3111 (a), (b), (c), (d), except for utility substations the minimum width shall be five (5) feet. For item 17.3111 (e) the

minimum width shall be three (3) feet; up to twenty five percent (25%) of easement length may be paved for building entrance, sidewalk to door. In all cases to determine the required area of landscape easement, multiply required average width by length of common boundary.

**17.3113 Trees.** Required landscape easements of five (5) feet average width or greater shall contain a minimum of one (1) tree per forty (40) feet of linear boundary, or fraction thereof. Trees do not have to be equally spaced, but may be grouped.

**17.3114 Planting, Hedge, Fence, Wall or Earth Mound.** Required landscape easements (except for item 17.3111 (e) shall contain a continuous planting, hedge, fence, wall or earth mound six (6) feet in height. Two staggered rows of evergreen trees planted within a minimum ten (10)-foot landscape easement at a distance not to exceed twenty (20) feet between trees center to center and a minimum of five (5) feet high at planting may be substituted when a continuous six-foot (6') high planting, hedge, fence, wall or earth mound and one (1) tree for each forty (40) feet of linear boundary is required by this ordinance. Staggered evergreen trees may not replace a required continuous six-foot (6') high or eight-foot (8') high **solid** wall or fence. For item 17.3111 (b), outdoor storage areas or storage yards for manufactured products, materials to be used in manufacturing, wholesale commodities, automobiles and trucks shall require a solid wall or fence with a minimum height of six (6) feet within the landscape easement which shall also be located along common boundaries with any street frontage across from a residential, or mobile home park zone. For item 17.3111 (d), junk yards, salvage and scrap iron yards shall require a solid wall or fence with a minimum height of eight (8) feet.

**17.3115 Grass and Ground Cover.** Grass or ground cover shall be planted on all portions of the landscape easement not occupied by other landscape material. In the B-2 Zone the required landscape easement may contain sections reserved for seasonal flowers.

**17.312 Vehicular Use Area (VUA) Perimeter Requirements.** A vehicular use area (VUA) is any open or unenclosed area containing more than one thousand eight hundred (1,800) square feet of area and/or used by six (6) or more vehicles of any type, whether moving or at rest, including but not limited to

parking lots or areas, loading and unloading areas, mobile home parks, and sales and service areas. Driveways are considered to be vehicular use areas whenever they are adjacent to public streets or other vehicular use elements described previously in this paragraph and intervening curbs, sidewalks, landscape strips, etc. do not eliminate adjacency.

**17.3121 Where Easement Required.** A landscape easement shall be required as a buffer between non-compatible land uses. Standards for VUA landscaping for all properties within the Downtown Overlay District shall be established in Article 21. In any case where both a VUA landscape easement and a property perimeter landscape easement (Section 17.311) would be required by these regulations, only the property perimeter landscape easement shall be required. The following situations shall require landscape easements:

(a) When ANY PROPERTY in any RESIDENTIAL or MHP zone ADJOINS ANY VUA on any adjacent property. The landscape easement shall be located along portion of VUA that faces building on adjacent property. Standards in Article 21 shall apply to all properties within the Downtown Overlay District.

(b) When ANY PUBLIC OR PRIVATE STREET right-of-way or access road (except freeways) ADJOINS any VUA (except loading and unloading areas in the B-2 Zone). The landscape easement shall be located along portion of VUA facing a public or private street, unless otherwise excepted. Standards in Article 21 shall apply to all properties within the Downtown Overlay District.

VUAs on adjacent properties may be consolidated if not precluded by required property perimeter easements, and if both properties are owned and being processed by the same owner.

**17.3122 Width of Easement.** The minimum width of required landscape easements shall be three (3) feet where vehicles do not overhang. Where vehicles overhang, the easement shall provide for a minimum dimension of four (4) feet to all trees from VUA curbs or wheel stops. (see Section 17.33)

**17.3123 Trees.** All required landscape easements (except for street frontage easements in the B-2 Zone) shall contain a minimum of one (1) tree per

forty (40) feet of linear boundary, or fraction thereof. Trees do not have to be equally spaced, but may be grouped. Required planting for all properties within the Downtown Overlay District shall be established in Article 21.

**17.3124 Planting, Hedge, Fence, Wall or Earth Mound.** All required landscape easements (except for vehicular sales facilities and service stations) shall contain a continuous planting, hedge, fence, wall, or earth mound a minimum of three (3) feet in height. For vehicular sales facilities and service stations the required easement shall contain one (1) low shrub per ten (10) feet, or fraction thereof, along the landscape easement. Required planting for all properties within the Downtown Overlay District shall be established in Article 21.

**17.3125 Grass and Ground Cover.** Grass or ground cover shall be planted on all portions of the landscape easement not occupied by other landscape material. In the B-2 Zone, the landscape easement may contain sections reserved for seasonal flowers.

**17.313 Who Provides Easement.** The landscape easement and material required adjacent to any street under Section 17.312 shall be provided by the property owner adjoining street, unless the authority building the street has fully met all requirements on the street right-of-way. When adjacent to other common boundaries, the landscaping easement and materials (a) may be placed on either adjoining parcel or astride the boundary if both are owned and being processed by the same owner; or (b) generally shall be placed on the activity listed after the word "adjoins" in the relationships listed under sections 17.3111 and 17.3121; or (c) may be placed astride the boundary of adjoining parcels having different owners if a written agreement, signed by both owners, is filed with the Zoning Administrator as a public record; or (d) shall be placed on the activity or parcel being processed when adjoining property is already developed with the exception of 17.3111 (c). (see Section 17.33)

**17.314 Requirements Conflicts.** Whenever a parcel or activity falls under two or more of the categories listed in Section 17.3111 or 17.3121, only one category (that with the most stringent requirement) will be enforced.

**17.315 Easement Conflicts.** The required landscape easement may be combined with a utility or other easement as long as all of the landscape requirements

can be fully met, otherwise, the landscape easement shall be provided in addition to, and separate from, any other easement. Cars or other objects shall not overhang or otherwise intrude upon the required landscape easement more than two and one-half (2 ½) feet, and wheel stops or curbs will be required.

**17.316 Existing Landscape Material.** Existing landscape material shall be shown on the required plan, and any material in satisfactory condition may be used to satisfy these requirements in whole or in part when, in the opinion of the public approval authority, such material meets the requirements and achieves the objectives of this article.

**PROPERTY PERIMETER REQUIREMENTS (17.311 illustrated)**

	A	B	C	D
	WHEN...	ADJOINS...	LANDSCAPE EASEMENT of this average width required, with 3' min. width	CONTAINING this material, to achieve opacity required
1	MHP zoned property	Residential zoned property, including across intervening streets or alleys	10' adjacent to all common boundaries, including street or alley frontage	1 tree per 40' of linear boundary plus continuous 6' high planting, hedge, fence, wall, or earth mound
2	Residential or MHP zoned property	Freeway, expressway, or railroad	10' adjacent to freeway, expressway, or railroad right-of-way	Same as 1D above
3	Business or industrial zoned property, other than items 5, 5a or 6 below	Residential or MHP zoned property, except across intervening streets or alleys and lots in Agricultural zones containing less than 10 acres with an existing residential use	10' adjacent to all common boundaries, except street or alley frontage	Same as 1D above
4	Building in B-2 zone	Street right-of-way, except alleys	3' adjacent to all common boundaries of building and street frontage, except alleys	Any combination of decorative shrubs, trees, flowers; up to 25% of length may be paved for building entrance walks
5	Outdoor storage areas or yards	Residential or MHP zoned property, including across streets or alleys	10' adjacent to all common boundaries, including street or alley frontage	1 tree per 40' of linear boundary plus continuous 6' high solid wall or fence
5a	Outdoor storage areas or yards	Any zone	Not applicable	6' high continuous solid wall or fence
6	Utility substation, junk yard, landfill, sewage plant, or similar use	Any property boundary, including any street or alley right-of-way	10' adjacent to all common boundaries, except only 5' for utility substations measured adjacent to the enclosure	Same as 1D above, except that junk yards, salvage/ scrap iron yards shall require a continuous solid wall or fence 8' high

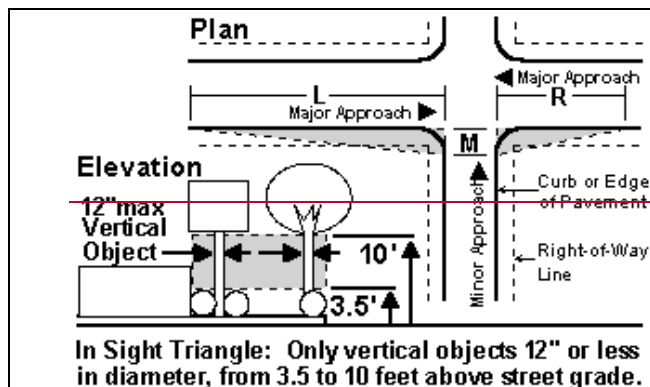
**VEHICULAR USE AREA PERIMETER REQUIREMENTS (17.312 illustrated)**

A **vehicular use area** (VUA) is any open or unenclosed area containing more than 1,800 SF of area or used by 6 or more vehicles of any type, whether moving or at rest.

	A	B	C	D
	WHEN...	ADJOINS...	LANDSCAPE EASEMENT of this average width required, with 3' min. width	CONTAINING this material, to achieve opacity required
7	Vehicular use area (VUA) on any property	Neighboring property in residential or MHP zone	3', where vehicles do not overhand, and 4' min. to all trees from VUA curbs or wheel stops, adjacent to buildings on neighboring property	1 tree per 40' of VUA boundary, plus continuous 3' high planting, hedge, fence or wall; or 3' high continuous earth mound in minimum 10' wide easement
8	Vehicular use area, except loading/ unloading areas in B-2 zone	Public or private street right-of-way	Same as 7C above	Same as 7D above, except for vehicular sales lots & service stations, continuous 3' high element may be replaced by 1 low shrub per 10' of boundary



**17.317 Landscaping at Driveways and Street Intersections.** To insure that landscape materials do not constitute a driving hazard, a sight triangle shall be observed at all street intersections or intersections of driveways or alleys with streets. The sight triangle shall comply with the current edition of the "AASHTO – A Policy on Geometric Design of Highways and Streets" and be approved by the City and/or County Engineer. ~~Within this sight triangle no landscape material nor other fixed object shall obstruct vision between a height of three and one half (3 1/2) feet and a height of ten (10) feet above the average elevation of the existing surfaces at the center line of each street, driveway or alley. Within the sight triangle trees shall be permitted as long as, except during early growth stages, only the tree trunk (no limbs, leaves, etc.) is visible between the three and one half (3 1/2) and ten (10) foot limitations mentioned above. Signs permitted by this Zoning Ordinance may be located within the site triangle provided that no part of such sign exceeds a horizontal dimension of twelve (12) inches between the three and one half (3 1/2) and ten (10) foot vertical limitations mentioned above. Authorized utility devices, such as poles, control boxes, traffic signs and lights, etc., are exempt from the strict application of the site triangle; however, their placement should comply as nearly as possible. The site triangle shall be established as shown by the accompanying illustrations.~~



**Sight Triangles at Intersections**

Major Approach	Arterial Street		Any Other Street	
Minor Approach	Street, not Alley	Alley or Driveway	Street, not Alley	Alley or Driveway
L=	300'	200'	150'	100'
R=	150'	100'	75'	50'
M=	15'	10'	15'	10'

The provisions of this section shall not be deemed to increase minimum building setback lines as per Article 8; prohibit any necessary retaining wall; nor reduce street intersection sight standards of the Public Improvement Specifications.

## VEHICULAR USE AREA INTERIOR REQUIREMENTS (17.32 illustrated)

(Owensboro & Whitesville, and Urban Service Area)

**Vehicular Use Areas** containing at least 30,000 SF but less than 50,000 SF shall provide interior landscaping, except in industrial zones. The minimum total area shall be 3% of the area bounded by the perimeter of the paved area, not including access drives from the street. **Vehicular use areas** containing 50,000 SF or greater shall provide interior landscaping, except in industrial zones. The minimum total area shall be 5% of the area bounded by the perimeter of the paved area, not including access drives from the street. The total may be divided among islands, peninsulas or medians within VUA boundaries, or may be achieved using the qualifying perimeter area (QPA) as defined below.

**Qualifying Perimeter Area (QPA)** outside of VUA boundaries may be used, but must be within 15' of the VUA boundary to satisfy distribution requirements below. QPA is counted at half value, therefore twice as much area is required to equal the value of islands, peninsulas or medians within the VUA boundary. Required VUA perimeter easements and materials cannot be counted as QPA.

**Minimum Size.** Each interior landscape area shall be a minimum of 64 SF with 4' minimum dimension to all trees from curbs or wheel stops where vehicle parking spaces overhang.

**Distribution Requirements.** Number, shape and maximum size of landscape areas is at owner's discretion, however, all portions of the VUA must be within at least 150' of a landscaped island, peninsula, median, or qualifying perimeter area.

**Trees and other plant materials.** One (1) tree is required for each 250 SF of total required interior landscape area. Remember that qualifying perimeter area has been doubled to equate with islands, peninsulas and medians. Required trees may be scattered among the landscape areas provided. The surface of these areas shall be landscaped with low shrubs, grass or other ground cover plants.

For additional details see text of Article 17.

### 17.32 Interior Landscaping For Vehicular Use Areas.

(Owensboro, Whitesville and Urban Service Area only)

Any open vehicular use area containing at least thirty thousand (30,000) square feet of area (except in industrial zones) shall provide "interior" landscaping in addition to the previously required "perimeter" landscaping.

**17.321 Landscape Area.** (Owensboro, Whitesville and Urban Service Area only) For vehicular use areas containing at least thirty thousand (30,000) square feet but less than fifty thousand (50,000) square feet a minimum of three (3) square feet of landscaped area shall be provided for each one hundred (100) square feet of vehicular use area; and may be located in

islands, peninsulas or medians within vehicular use area boundaries. For vehicular use areas containing fifty thousand (50,000) square feet or greater, a minimum of five (5) square feet of landscaped area shall be provided for each one hundred (100) square feet of vehicular use area; and may be located in islands, peninsulas or medians within vehicular use area boundaries.

**17.3211 Minimum Area.** (*Owensboro, Whitesville and Urban Service Area only*) The minimum landscape area permitted shall be sixty-four (64) square feet with a four (4) foot minimum dimension to all trees from curbs or wheel stops where vehicles overhang.

**17.3212 Distribution.** (*Owensboro, Whitesville and Urban Service Area only*) The number, shape and maximum size of landscape islands, peninsulas or medians shall be at the discretion of the owner; however, all portions of such vehicular use area shall be located no further than one hundred fifty (150) feet from a landscaped island, peninsula or median.

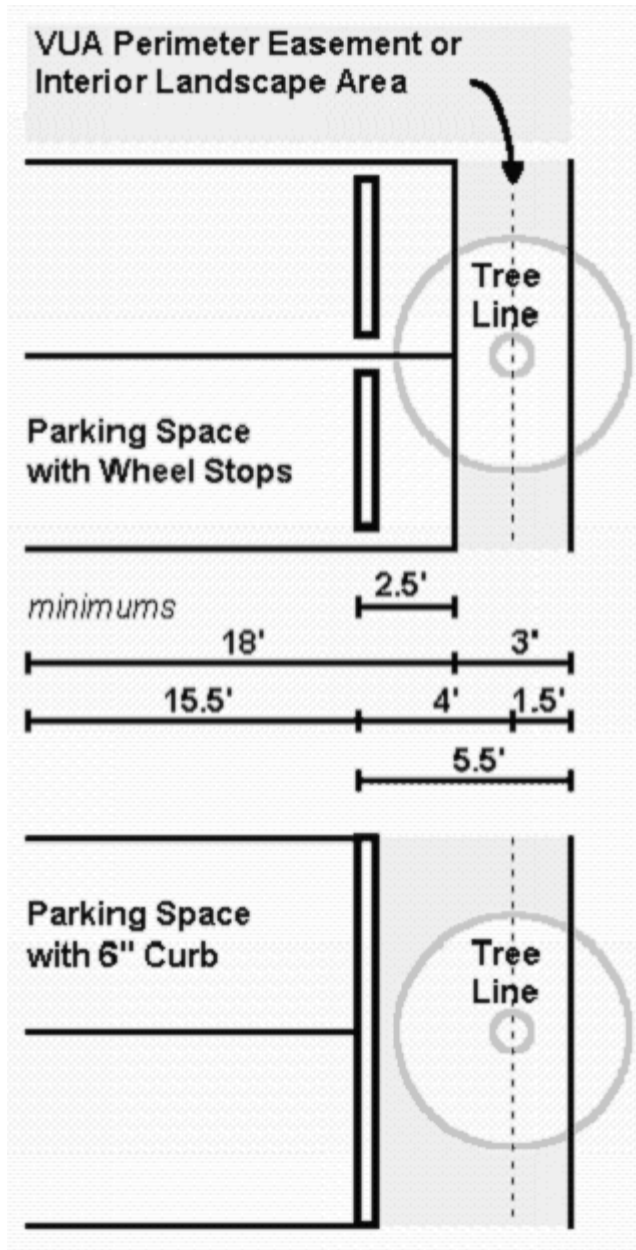
**17.3213 Perimeter Area/ Interior Area Trade-off.** (*Owensboro, Whitesville and Urban Service Area only*) "Qualifying perimeter landscape area" may be used instead of part or all of the required interior landscape area. Such trade-offs shall require the provision of two (2) square feet of qualifying perimeter landscape area for every one (1) square foot of required interior area eliminated. Qualifying perimeter landscape area shall be part of the subject property, with no portion of it being more than fifteen (15) feet from vehicular use area boundaries, and it shall include no area where materials are located that are used in meeting property perimeter requirements or vehicular use area perimeter requirements of this ordinance. All portions of the resulting vehicular use area shall be located no further than one hundred fifty (150) feet from a landscaped island, peninsula, median or qualifying perimeter area

**17.322 Minimum Trees and Other Plant Material.** (*Owensboro, Whitesville and Urban Service Area only*) A minimum of one (1) tree shall be required for each two hundred fifty (250) square feet or fraction thereof of total required landscape area located in islands, peninsulas, medians or qualifying perimeter area. Trees should have a clear trunk of at least five (5) feet above the ground, where visibility could be a

problem, and the remaining area shall be landscaped with shrubs, grass or ground cover.

**17.323 Vehicle Overhang.** (*Owensboro, Whitesville and Urban Service Area only*) Parked vehicles may hang over the interior landscaped area no more than two and a half (2 1/2) feet, as long as concrete or other wheel stops are provided to insure no greater overhang or penetration of the landscaped area. (see Section 17.33).

**17.33 Dimensional Standards Where Vehicles Overhang Landscape Areas.** The dimensional standards depicted in the following illustration shall be utilized for VUA Perimeter Landscape Easements and VUA Interior Landscape Areas where vehicles overhang.



**7.4 LANDSCAPE MATERIALS.** The landscaping materials shall consist of the following:

**17.41 Walls and Fences.** Walls shall be constructed of natural stone, brick, or artificial materials arranged in a linear, serpentine, or other alignment; while fences shall be constructed of wood, vinyl or other solid approved material. Chain link fencing will be permitted only if covered with wood strips, vinyl strips or other approved material or plant material. In industrial zones there shall be no height limitation on walls or fences. In all other zones, however, there shall be a six (6) foot height restriction for walls or fences in front yards, and an eight

(8) foot height restriction in all other required yards. All walls or fences shall have a minimum opacity of eighty percent (80%).

**17.42 Earth Mounds.** Earth mounds shall be constructed with proper slopes and adequate plant material to prevent erosion.

**17.43 Plants.** All plant materials shall be living plants (artificial plants are prohibited) and shall meet the following requirements:

**17.431 Quality.** Plant materials used in conformance with the provision of this Ordinance shall conform to the standards of the American Association of Nurserymen and shall have passed any inspections required under State regulations.

**17.432 Deciduous Trees.** Trees which normally shed their leaves in the fall should be species having an average mature crown spread of greater than fifteen (15) feet in Daviess County and having trunk(s) which can be maintained with over five (5) feet of clear wood in areas which have visibility requirements. At vehicular use area intersections a ten (10) foot clear wood requirement will control. Trees having an average mature spread of crown less than fifteen (15) feet may be substituted by grouping of the same so as to create the equivalent of fifteen (15) foot crown spread. A minimum of ten (10) feet overall height or a minimum caliber (trunk diameter, measured six (6) inches above ground for trees up to four (4) inches caliber) of at least 1 3/4 inches immediately after planting shall be required. Trees of species whose roots are known to cause damage to public roadways or other public works, such as willows, sycamores, box elders, or silver maples (water maples), shall not be planted closer than fifteen (15) feet to such public works, unless the tree root system is completely contained in a barrier, for which the minimum interior containing dimension shall be five (5) feet square and five (5) feet deep and for which the construction requirements shall be four (4) inches thick, reinforced concrete.

**17.433 Evergreen Trees.** Evergreen trees shall be a minimum of five (5) feet high with a minimum caliber of one and one-half (1 1/2) inches and a minimum spread of three (3) feet immediately after planting.

**17.434 Shrubs and Hedges.** Shall be at least two (2) feet for Section 17.312, and three (3) feet for Section 17.311, in average height or spread when planted and

shall conform to opacity and other requirements within four (4) years after planting.

**17.435 Vines.** Shall be at least twelve (12) to fifteen (15) inches high at planting and are generally used in conjunction with walls or fences.

**17.436 Grass or Ground Cover.** Grass (of common mixtures of Fescue, Bluegrass, and Rye) shall be planted in species normally grown as permanent lawns in Daviess County, and may be sodded, plugged, sprigged, or seeded; except in swales or other areas subject to erosion where solid sod, erosion-reducing net, or suitable mulch shall be used. When complete sodding or seeding is not used, nurse-grass seed shall be sown for immediate protection until complete coverage otherwise is achieved. Grass sod shall be clean and free of weeds and noxious pests or diseases. Ground cover such as organic material shall be planted in such a manner as to present a finished appearance and seventy-five percent (75%) of complete coverage after two (2) complete growing seasons, with a minimum of fifteen (15) inches on center. In certain cases ground cover also may consist of rocks, pebbles, mulch, sand, and similarly approved materials.

**17.44 Maintenance and Installation.** All landscaping materials shall be installed in a sound, workmanship-like manner, and according to accepted good construction and planting procedures. The owner of the property shall be responsible for the continued proper maintenance of all landscaping materials and shall keep them in a proper, neat, and orderly appearance free from refuse and debris at all times. All unhealthy or dead plant material shall be replaced within one (1) year or by the next planting period, whichever comes first; while other defective landscape material shall be replaced or repaired within three (3) months. Violation of these installation and maintenance provisions shall be grounds for the Zoning Administrator to refuse a building occupancy permit and/or will subject those in violation to established fines and penalties of the Zoning Ordinance.

#### 17.5 PLAN SUBMISSION AND APPROVAL.

Whenever any property is affected by these landscaping requirements, the property owner or developer shall prepare a landscape plan for submittal to, and approval by, the Zoning Administrator. The Zoning Administrator shall follow the requirements of this Article in approving or disapproving any landscape plan required by this Article. Landscape plans also may be submitted as part of any development plan required by the OMPC. Such "combination plans", however, shall first be submitted to

the Zoning Administration for its approval or disapproval of the landscape portion of the plan.

**17.51 Plan Content.** The contents of the plan shall include the following: (a) plot plan, drawn to an easily readable scale, showing and labeling by name and dimension all existing and proposed property lines, easements, buildings, and other structures, vehicular use areas (including parking stalls, driveways, service areas, square footage, etc.), water outlets, landscape material, (tree, wall, fence, hedge, or earth mound locations); (b) typical elevations and/or cross sections as may be required; (c) title box with the pertinent names and addresses (property owner, person drawing plan, and person installing landscape material), scale, date, north arrow (generally orient plan so that north is to top of plan), and zoning classification; and (d) a performance bond or certificate of deposit whenever required to insure proper installation of landscape materials with complete cost of all work certified by landscape contractor, with the bond amount to include the accurate cost plus no more than fifty percent (50%) and the bond to be released upon satisfactory completion of the work as determined by the public agency that holds the bond.

**17.52 Building Permit.** Where landscaping is required, no building permit shall be issued until the required landscaping plan has been submitted and approved; and no occupancy permit shall be issued until the landscaping is completed, as certified by an on-site inspection by the Zoning Administrator, unless a performance bond or certificate of deposit has been posted. It shall be unlawful to occupy any premises unless the required landscaping is installed or bond or certificate of deposit is posted in accordance with these requirements.

**17.6 VARIANCES.** Any landscape plan submitted to and disapproved by the Zoning Administrator because it does not meet the requirements of this article may be appealed within sixty (60) days of such action to the Board of Adjustment.

**17.61 Reviewing Variance Requests.** The Board of Adjustment in its review of variance requests, shall base its determinations on all of the following criteria:

1. The specific conditions in detail which are unique to the applicant's land and do not exist on other land within the same zone.
2. The manner in which the strict application of this article would deprive the applicant of a reasonable use

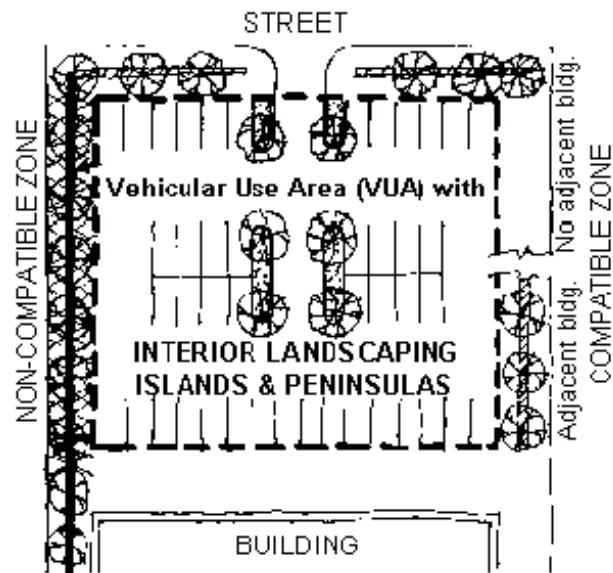
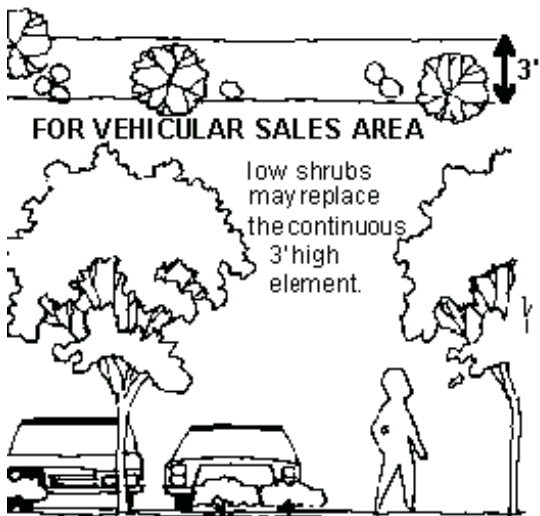
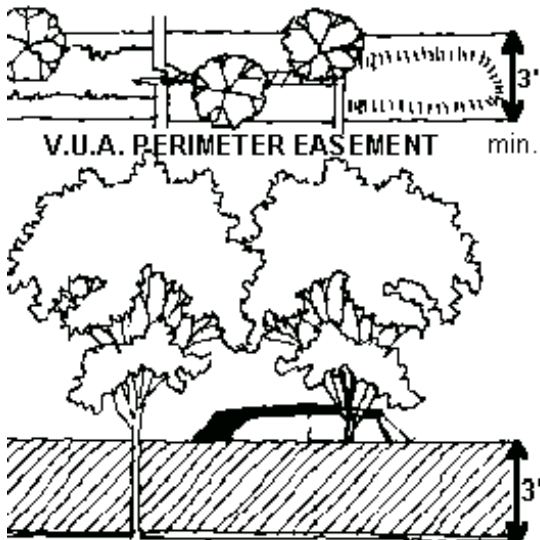
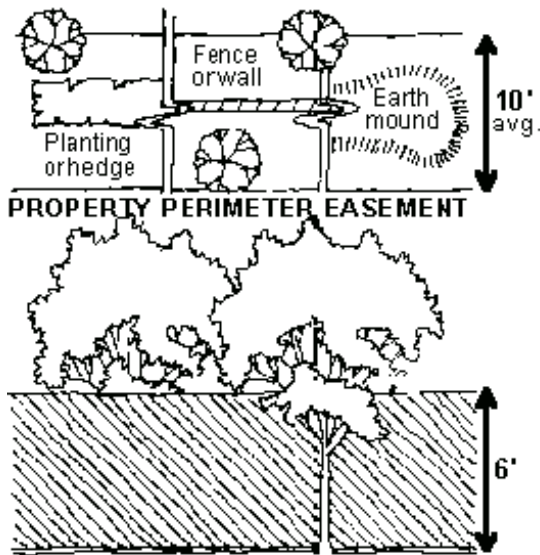
of the land in the manner equivalent to the use permitted other landowners in the same zone.

3. That unique conditions and circumstances are not the result of actions of the applicant subsequent to the adoption of this article.

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

**17.7 PENALTIES FOR VIOLATIONS.** Any person or entity who violates any of the provisions of this Zoning Ordinance adopted pursuant hereunder for which no other penalty is provided, shall, upon conviction, be fined no less than ten (10) but no more than five hundred (500) dollars for each conviction. Each day of violation shall constitute a separate offense. Any person, owner, or agent who violates the Ordinance shall, upon conviction, be fined not less than one hundred (100) nor more than five hundred (500) dollars for each lot or parcel which was the subject of sale or transfer, or a contract for sale or transfer.





Continuous element is 3' high



Continuous element is 6' high

Property perimeter easement  
No additional V.U.A. easement required



Vehicular Use Area (V.U.A.) Boundary  
for calculating interior landscaping

#### LANDSCAPE EASEMENTS

##### GRAPHIC EXAMPLES

These sketches are provided for visual reference to the general requirements of Article 17. Refer to specific regulations for items not covered on this page.

##### PROPERTY PERIMETER EASEMENTS

When required are an average of 10' in width with a 6' high planting, hedge, fence, wall or earth mound; including one tree per forty feet of easement length. In the B-2 zone, the required easement is 3' in width, with a 3' high planting, hedge, fence or wall only required adjacent to parking lots.

##### VEHICULAR USE AREA PERIMETER EASEMENTS

Are required along streets and sides of VUAs facing buildings on adjacent properties in particular zones. The easement is a minimum of 3' in width where vehicles do not overhang. Where they overhang, the easement must provide a minimum dimension of 4' to all trees from curbs or wheel stops. Easements include a 3' high continuous element and, in all zones except B-2, one tree per forty feet of easement length. VUA easements may be eliminated when a property perimeter easement is required.

**INTERIOR LANDSCAPING** is required for VUAs 30,000 SF in area and over (except in industrial zone). 3% of the VUA must be landscaped, 5% in VUAs over 50,000 SF.