

MUNICIPAL

ZONING

ORDINANCE

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MUNICIPAL ZONING ORDINANCE

BY

UNION COUNTY PLANNING COMMISSION

DATE

SECTION 100 -- TITLE AND INTENT

SECTION 101 TITLE

This Ordinance shall be known as the "Union County Municipal Zoning Ordinance," and shall be the Zoning Ordinance for the incorporated cities of the County of Union, Commonwealth of Kentucky, and may be cited as such.

SECTION 102 PURPOSE AND INTENT

102.1 -- The purpose of this Ordinance is to encourage appropriate and orderly physical development; promote public health, safety, convenience, and general welfare; classify, designate, and regulate the location and use of buildings, structures, and land for residential, commercial, industrial, or other uses in appropriate places, and for said purpose to divide the municipalities within Union County into districts of such number, shape, and area as may be deemed necessary to carry out these regulations and provide for their enforcement.

102.2 -- For the purpose of this Ordinance, all words used in the present tense include the future tense, all words in the plural number include the singular number, and all words in the singular number include the plural number, unless the natural construction of the word indicates otherwise. The word "person" includes a firm, association, organization, partnership, trust, company, or individual. The word "shall" is mandatory and directory. The word "may" is permissive. The word "used" includes "designed, intended, or arranged to be used."

SECTION 103 ENACTMENT CLAUSE

103.1 -- WHEREAS, by provisions of the laws of the Commonwealth of Kentucky, including among others the provisions of KRS 100, the County of Union and local municipal governments are empowered to create a Planning Commission with authority to provide for the preparation, adoption, amendment, extension, and carrying out of a Comprehensive Plan in whole or in part for the purpose of bringing about coordinated physical development of the cities of Morganfield, Sturgis, and Waverly;

WHEREAS, the local bodies of government have adopted after study, review, and deliberation, a Comprehensive Plan prepared by the duly constituted Planning Commission, and;

WHEREAS, The Union County Planning Commission has prepared a Comprehensive Zoning Ordinance based on the Comprehensive Plan, and;

WHEREAS, The Union County Planning Commission finds those regulations to be in the best interest of the public in the promotion of health, safety, morals, and general welfare;

NOW, THEREFORE, BE IT ORDAINED THAT THE CITY OF MORGANFIELD, THE CITY OF STURGIS, AND THE CITY OF WAVERLY HEREBY ADOPT THE UNION COUNTY MUNICIPAL ZONING ORDINANCE AS FOLLOWS:

Mayor, City of Morganfield Date

Mayor, City of Waverly Date

Attested by:

Attested by:

Mayor, City of Sturgis Date

Union County Clerk Date

Attested by:

Attested by:

103.2 -- Authority to Assess Necessary Fees. The Cities of Morganfield, Sturgis, and Waverly do establish by the adoption of this Ordinance the authority to assess necessary fees, as judged adequate and reasonable, to help provide financial support for the administration of the provisions of this Ordinance. Said fees shall be collected and accounted for by that agency or Administrative Official authorized and empowered with the administration of these regulations.

A schedule of fees shall be established and located in the office of the Administrative Official. Fees shall be assessed for the following:

- A. Building Permit
- B. Certificate of Zoning Compliance
- C. Zoning Map Amendment
- D. Appeal of Administrative Decision
- E. Conditional Use Permit Request
- F. Dimensional Variance Request
- G. Recording Fee.

SECTION 104 OFFICIAL ZONING MAP

104.1 -- No changes of any nature shall be made in the Official Zoning Map or matter shown thereon, except in conformity with the procedures set forth in this Ordinance. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this Ordinance and punishable as provided under Section 217.

Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map shall be located in the office of the Administrative Official and shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the incorporated cities of Union County.

104.2 -- Replacement of Official Zoning Map. In the Event that the Official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the Planning Commission may, by resolution, adopt a new Official

Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the Planning Commission Chairman, attested by the County Clerk, and bearing the seal of Union County under the following words: "This is to certify that this is the Official Zoning Map for (the respective unit of government will be named on the Zoning Map) as part of the Municipal Zoning Ordinance."

Unless the prior Official Zoning Map has been lost or totally destroyed, the prior map or any significant parts thereof remaining, shall be preserved, together with all available records pertaining to its adoption or amendment.

104.3 -- Rules for Interpretation of District Boundaries. Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

- A. Boundaries indicated as approximately following the centerlines of streets, highways, alleys, or railroad tracks shall be construed to follow such centerlines of streets, highways, or alleys, or the centerlines of main railroad tracks or rights-of-way.
- B. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- C. Boundaries indicated as approximately following city limits shall be construed as following such city limits.
- D. Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in the event of change in the shore line shall be construed as moving with the actual shore line; boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such centerlines. All construction and development extending outward from the shore line shall be considered as a change to the shore line and must conform to the regulations of the district.
- E. Boundaries indicated as parallel to or extensions of features indicated in subsections A through E above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.
- F. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by subsections A through F above, the Board of Adjustment shall interpret the district boundaries.
- G. Where a district boundary line divides a lot which was in single ownership at the time of passage of this Ordinance, the Board of Adjustment may permit, as a special exemption, the extension of the regulations for either portion of the lot not to exceed fifty (50) feet beyond the district line into the remaining portion of the lot.

SECTION 105 CONFLICT WITH OTHER LAWS

Whenever the requirements of this Ordinance are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive of those imposing the higher standards shall govern.

SECTION 106 VALIDITY AND SEVERABILITY

In case any section or provision of this Ordinance shall be held invalid in any court, the same shall not affect any other section or provision of this Ordinance, except so far as the section or portion so declared invalid shall be inseparable from the remainder of any portion thereof.

SECTION 107 REPEAL OF PRIOR ORDINANCE

All prior Zoning Ordinances and Zoning Maps for Morganfield, Sturgis, and Waverly regulating or restricting buildings, the use of lands, or setbacks are hereby repealed and rescinded.

SECTION 108 TEXT AND MAP AMENDMENTS

Refer to K.R.S. 100.211, 100.2111, 100.212, and 100.213.

SECTION 109 EFFECTIVE DATE

This Ordinance shall take effect and be in force immediately after its legal adoption, the public welfare demanding it.

Recording Date

Attested by: County Clerk of Union County

SECTION 110 DEFINITIONS

Accessory Structure: A subordinate building or other structure located on the same lot with the main building, occupied by or devoted to an accessory use. Where an accessory building is attached to the main building in a substantial manner, as by a wall or roof, such accessory building shall be considered part of the main building.

Accessory Use: A use customarily incidental and subordinate to the main use or building located on the same lot therewith. In no case shall such accessory use dominate in area, extent, or purpose, the principal lawful use of the premises or building.

Administrative Official: Any department, employee, or advisory, elected, or appointed body which is authorized to administer any provision of the zoning regulation, subdivision regulations, and if delegated, any provision of any housing or building regulation, or any other land use control regulation.

Adult Cabaret: A building or portion of a building regularly featuring dancing or other live entertainment if the dancing or entertainment that constitutes the primary live entertainment is distinguished or characterized by an emphasis on the exhibiting of specific sexual activities or specified anatomical areas for observation by patrons therein.

Adult Media: Magazines, books, videotapes, movies, slides, cd-roms, or other devices used to record computer images, or other media that are distinguished or characterized by their emphasis on matter depicting, describing, or relating to hard-core material.

Adult Media Store: An establishment that rents and/or sells media, and that meets any of the following three tests:

- A. 10 percent or more of the gross public floor area is devoted to adult media.
- B. 10 percent or more of the stock-in-trade consists of adult media.
- C. It advertises or hold itself out in any forum as “XXX,” “adult,” “sex,” or otherwise as a sexually oriented business other than an adult media store, adult motion picture theater, or adult cabaret.

Adult Motel: Means a hotel, motel, or similar commercial establishment which:

- A. Offers accommodations to the public for any form of consideration; provides a patron with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas”; and has a sign visible from the public right-of-way advertising the availability of such adult-type photographic reproductions; or
- B. Offers sleeping rooms for rent for a period of less than ten (10) hours; or
- C. Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of less than ten (10) hours.

Adult Motion Picture Theater: An establishment emphasizing or predominantly showing sexually oriented movies, and contains more than 600 square feet in gross floor area.

Agricultural Use: The use of a tract of at least five (5) contiguous acres for the production of agricultural or horticultural crops, including but not limited to livestock, livestock products, poultry, poultry products, grain, hay, pastures, soybeans, tobacco, timber, orchard fruits, vegetables, flowers, or ornamental plants, including provision for dwelling for persons and their families who are engaged in the above agricultural use on a tract, but not including residential building development for sale or lease to the public.

Alley: A public or privately-owned service way less than twenty-four (24) feet in width providing a secondary means of access to abutting properties.

Alterations: As applies to a building, structure, or premises, constitutes a change or rearrangement in the structural parts, or in the relocation of points of access, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.

Animal Clinic: A building or portion thereof designed or used for the diagnosis, treatment, or other care of ailments, and boarding of all types of animals.

Antenna/Transmitting Tower: An apparatus, detached or attached to the exterior of a building, together with any supporting structure, for transmitting or receiving electromagnetic waves. Antennas may be principal or accessory structures which may or may not be fixed to the ground.

Apartment: A dwelling unit operated as an accessory use.

Board: The board of adjustment unless the content indicates otherwise.

Boarding House: A building other than a hotel or motel where between four (4) and a maximum of nine (9) unrelated persons are housed for a fee, with common living areas provided.

Buffer Area: An area which acts as a separation area between two or more non-compatible districts.

Building, Principal: A building, including covered porches, carports, and attached garages, in which is conducted the principal use of the property on which it is situated. In any residential district any dwelling shall be deemed to be the principal building on the property on which it is located.

Building, Accessory: A detached building the use of which is subordinate in size and use to the use of the principal building on the property on which it is located.

Building Area: The aggregate of the areas of all enclosed and roofed spaces of the principal building and all accessory buildings. Such area shall be computed by using outside building dimensions measured on a horizontal plane at ground level.

Building Height: The vertical dimension measured from the average elevation of the finished lot grade at the front of the building to the highest point of the roof for flat roofs, to the deckline of a mansard roof and to the average height between the plate and ridge of a gable, hip, or gambrel roof.

Building Line: A line formed by the intersection of a horizontal plane at average grade level and a vertical plane that coincides with the exterior surface of the building on any side. In case of a cantilevered section of a building or projected roof or porch, the vertical plane will coincide with the most projected surface. All yard requirements are measured to the building line.

Building Site: A single parcel of land occupied or intended to be occupied by a building or structure, and appropriate accessory buildings or uses.

Camp: Any area of land on which are located three (3) or more cabins, tents, travel trailers, or other accommodations, with the exception of mobile homes, designed for seasonal or temporary living purposes.

Camping Ground: A parcel of land used or intended to be used, let, or rented for occupancy by campers utilizing tents, campers, camping coaches, or other such forms of recreation dwelling.

Carport: A canopy or shed, either attached to the main building or detached, open on two (2) or more sides, for the purpose of providing shelter for one or more vehicles.

Club, Private: A non-profit social organization whose premises are restricted to its members and their guests.

Community Residential Facility, Class 1: A facility providing full or part-time residential and/or rehabilitative services for the developmentally disabled, retired, or children, that includes group homes, foster homes, family-based day-care homes, retirement homes, and convalescent homes, which may be licensed by the State of Kentucky. Community Residential Facilities, Class 1 are sub-classified as follows:

C.R.F., Class 1-A: A maximum of three (3) residents and one (1) resident staff.

C.R.F., Class 1-B: A maximum of eight (8) residents and two (2) resident staff.

C.R.F., Class 1-C: A maximum of sixteen (16) residents and four (4) resident staff.

Community Residential Facility, Class 2: A facility providing full or part-time residential, counseling, and other rehabilitative services for juvenile offenders, adult offenders in lieu of institutional sentencing, chemical or alcohol dependents not requiring detoxification, spouse abuse victims, and family and school adjustment problems all of which do not require medical or nursing treatment that includes halfway houses, spouse abuse centers, rehabilitation centers, and counseling centers, and are licensed by the State of Kentucky. Community Residential Facilities, Class 2 are sub-classified as follows:

C.R.F., Class 2-A: A maximum of eight (8) residents and two (2) resident staff.

C.R.F., Class 2-B: A maximum of sixteen (16) residents and four (4) resident staff.

C.R.F., Class 2-C: More than sixteen (16) residents or clients and required staff (public institutional facility).

Compatibility Standards: Means standards that have been enacted by a local government under the authority of this section for the purpose of protecting and preserving the monetary value of real property located within the local government's jurisdiction.

Conditional Use: A use which is essential to or would promote the public health, safety, or welfare in one (1) or more zones, but which would impair the integrity and character of the zone in which it is located, or in adjoining zones, unless restrictions on location, size, extent, and character of performance are imposed in addition to those imposed in the zoning regulation.

Conditional Use Permit: Legal authorization to undertake a conditional use, issued by the administrative official pursuant to authorization by the board of adjustment, consisting of two (2) parts:

- A. A statement of the factual determination by the board of adjustment which justifies the issuance of the permit; and
- B. A statement of the specific conditions which must be met in order for the use to be permitted.

Conforming Use: Any lawful use of a building, structure, or lot which complies with the provisions of this Ordinance.

Convalescent Home: A home for the care of the elderly or infirm, or a place of rest for those suffering bodily disorders wherein two (2) or more persons are cared for. Said home shall conform and qualify for licensing by the State of Kentucky.

Coverage: The percentage of the lot area covered by the building area.

Development Plan: Written and graphic material for the provision of a development, including any or all of the following: Location and bulk of buildings and other structures, intensity of use, density of development, streets, ways, parking facilities, signs, drainage of surface water, access points, a plan for screening or buffering, utilities, existing manmade and natural conditions, and all other conditions agreed to by the applicant.

Dimensional Variance: A departure from the terms of this Ordinance pertaining to height or width of structures and size of yards and open spaces, where such departure will not be contrary to the public interest, and where, owing to conditions peculiar to the property because of its size, shape or topography, and not the result of the actions of the applicant, the literal enforcement of this Ordinance would result in unnecessary and undue hardship. Such variances can only be granted upon review by the Board of Adjustments. The establishment or expansion of a use of any land, building, or structure prohibited by this Ordinance shall not be allowed by variance; nor shall a variance be granted because of the presence of non-conformities in the zoning district or uses in an adjoining district.

Display Publicly: The act of exposing, placing, posting, exhibiting, or in any fashion displaying in any location, whether public or private, an item in such a manner that it may be readily seen and its content or character distinguished by normal unaided vision viewing it from a street, highway, or public sidewalk, or from the property of others, or from any portion of the premises where items and material other than adult media are on display to the public.

District: Any zoning district established by this Ordinance.

Dwelling: A building or portion thereof, used exclusively as the residence or sleeping place of one or more persons.

Dwelling Unit: One (1) or more rooms providing living facilities for one (1) family including equipment for cooking, living, and sleeping purposes and provisions for the same.

Dwelling, One-Family: A building or dwelling unit designed for or occupied exclusively by one (1) or more persons living as a single, non-profit housekeeping unit.

Dwelling, Two-Family: A building containing two (2) dwelling units and used exclusively for occupancy by two (2) families living independently of each other, or two (2) one-family dwellings have a party wall in common.

Dwelling, Multi-Family: A building or portion thereof containing three (3) or more dwelling units and used for occupancy by three (3) or more families living independently of each other.

Easement: A grant by the property owner to the public, a corporation, or persons, of the use of a strip of land for specific purposes.

Escort Agency: A person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

Establishment: Any business regulated by this Article.

Explicit Sexual Material: Any hard-core material.

Factory-Built Housing: A factory-built structure designed for long-term residential use. For purposes of this Ordinance, factory-built housing shall consist of three (3) types: Modular homes, mobile homes, and manufactured homes.

Factory-Built Structure: Any structure that is wholly, or in substantial part, made, fabricated, formed, or assembled in manufacturing facilities for installation or assembly and location on a building site.

Family: One (1) or more persons living together as a single housekeeping unit. For the purposes of this Ordinance such persons may include gratuitous guests and domestic servants employed on the same premises. Four (4) or fewer unrelated adults are considered a family.

Farm: More than five (5) acres of land used for the purposes of any cultivation of land, such as the raising of crops, the planting and cultivation of crops, the raising of livestock, and other similar farm-related activities.

Fence: A structure, whether man-made or natural, which may or may not define a property boundary including ornamental walls.

Garage: A secondary building used in conjunction with a primary building which provides for the storage of motor vehicles and in which no occupation, business, or services for profit are carried on.

Garage Apartment: A dwelling unit located above a private garage, and operated as an accessory use.

Garage, Public: Any garage, other than a private garage, available to the public, operated for gain, and which is used for storage, repair, rental, servicing, or equipping of automobiles or other motor vehicles.

Gross Public Floor Area: The total area of the building accessible or visible to the public, including showrooms, motion picture theaters, motion picture arcades, service areas, behind-counter areas, storage areas visible from such other areas, restrooms (whether or not labeled “public”), areas used for cabaret or similar shows (including stage areas), plus aisles, hallways, and entryways serving such areas.

Hard-Core Material: Media characterized by sexual activity that includes one or more of the following: erect male organ; contact of the mouth of one person with the genitals or another; penetration with a finger or male organ into any orifice in another person; open female labia; penetration of a sex toy into an orifice; male ejaculation; or the aftermath of male ejaculation.

Home Occupation: An occupation conducted in a dwelling unit, constituting an accessory use of a service character provided that:

- A. No person other than members of the family residing on the premises shall be engaged in such occupation;
- B. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than twenty-five percent (25%) of the floor area of the dwelling unit shall be used in the conduct of the home occupation;
- C. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one (1) sign, not exceeding one (1) square foot in area, non-illuminated, and mounted flat against the wall of the principal building;
- D. No home occupation shall be conducted in any accessory building;
- E. There shall be no sales in connection with such home occupation;
- F. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard.
- G. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot, if the occupation is conducted in a single-family residence, or outside the dwelling unit if conducted in other than a single-family residence. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.
- H. No sexually oriented business as defined in the Ordinance shall be conducted in any residential dwelling unit as a home occupation.

Home Occupation, R-2: An occupation in a single-family or two-family dwelling unit or an accessory structure on the same premises, constituting an accessory use of a service or retail character provided that:

- A. No persons other than members of the family residing on the premises shall be engaged in such occupation;
- B. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than twenty-five percent (25%) of the floor area of the dwelling unit shall be used in conduct of the home occupation;
- C. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one (1) sign, not exceeding one (1) square foot in area, non-illuminated, and mounted flat against the wall of the principal building;
- D. Sales of economic goods shall be permitted provided that they are not of a noxious or objectionable nature; pet shops or other non-retail commercial enterprises shall not be permitted. The manufacture of goods sold in the dwelling shall be conducted in accordance with Section 110 of the Ordinance, Light Manufacturing;

- E. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in residential neighborhoods, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in required front yard;
- F. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the premises. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises or causes fluctuation in line voltage off the premises.
- G. [No sexually oriented business as defined in this ordinance shall be conducted in any residential dwelling unit as a home occupation.](#)

Hospital: A building, or portion thereof, designed or used for the diagnosis, therapeutic treatment, or other care of ailments, of human patients who are mentally or physically ill.

Hotel: A building containing rooms intended or designed to be used or which are used, rented, or hired out to be occupied for sleeping purposes by transient guests and/or the general public, and where only a general kitchen and dining room are provided within the building or an accessory.

Institution: A building or group of buildings designed or used for non-profit, charitable, or public service purposes of providing board, lodging, or health care for persons aged, indigent, or infirm, for the purpose of performing educational, correctional, or religious services, and offering board and lodging to persons in residence.

Junk Yard: An area, lot, or unenclosed shed where junk, waste, discarded or salvaged materials are bought, sold, exchanged, sorted, baled, packed, disassembled, handled, or abandoned, including auto wrecking yards, used lumber yards, and places or yards for use of salvaged home-wrecking and structural steel materials and equipment, and places or yards where two (2) or more disabled, dismantled, or partly dismantled vehicles are situated unhooused; but not including pawn shops and establishments for the sale, purchase, or storage of used furniture, household equipment, and clothing, for the processing of used, discarded, or salvaged materials as part of manufacturing operations, or for the sale, purchase, or storage of used motor vehicles or salvaged machinery to be used for the purposes for which originally manufactured.

Kennel

- A. Non-commercial: A private residence where no more than four (4) hunting or other dogs are kept for the private use of the householder. The occasional sale of pups (1 litter per 12 month period) is permitted.
- B. Commercial: Any premises on which four (4) or more dogs over four (4) months of age are kept and/or which is operated primarily for the purpose of monetary gain.

Light Manufacturing: The manufacturing or processing of materials employing electricity or other unobjectionable motive power, utilizing hand labor or unobjectionable machinery or processes, and free from any objectionable odors, fumes, dirt, vibration, or noise.

[Lingerie Modeling Studio](#): An establishment or business that provides the services of live model modeling lingerie to individuals, couples, or small groups in a room smaller than 600 square feet.

Local Government: Means a city, county, urban-county government, charter county government, or consolidated local government that is engaged in planning and zoning under KRS Chapter 100.

Lot: A parcel of land considered as a unit, devoted to a certain use or occupied by a building or a group of buildings that are united by a common interest or use, and the customary accessories and open spaces belonging to the same. A lot within the meaning of this Ordinance may or may not be a lot as shown on a subdivision plat or assessment record.

Lot Area: An area of land which is determined by the limits of the lot lines bounding that area and expressed in terms of square feet or acres. Any portion of a lot included in a public street right-of-way shall not be included in calculating lot area.

Lot Depth: The horizontal distance between the front and rear lot lines, measured at right angles to the front lot lines.

Lot Lines: The property lines bounding the lot. In the case of a lot abutting more than one (1) street, the owner may elect any street lot line as the front lot line. The rear lot line shall be the lot line most distant from the front lot line.

Lot Record: A lot, the plat, or deed, or act of sale of which has been recorded in the Office of the County Clerk of Union County prior to the official adoption of this Zoning Ordinance.

Lot Width: The horizontal distance between the side lot lines measured at right angles to its depth at the building line.

Manufactured Home: A factory-built structure that is manufactured or constructed in compliance with Federal Manufactured Housing Construction and Safety Standards and is considered as a single-family detached dwelling, but which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than for the purpose of moving to a permanent site, and which does not have permanently attached to its body or frame any wheels or axles. For the purpose of this Ordinance a mobile home is not considered a manufactured home.

Marina: A boat basin, harbor, or dock with facilities for launching, berthing, and servicing boats.

Massage Studio: An establishment offering massage therapy and/or body work by a massage therapist licensed under [REFERENCE] or under the direct supervision of a licensed physician.

Media: Anything printed or written, or any picture, drawing, photograph, motion picture, film, videotape or videotape production, or pictorial representation, or any electrical or electronic reproduction of anything that is or may be used as a means of communication. Media includes but shall not necessarily be limited to books, newspapers, magazines, movies, videos, sound recordings, cd-roms, other magnetic media, and undeveloped pictures.

Media Shop: A general term, identifying a category of business that may include sexually oriented material but that is not subject to the special provisions applicable to adult media shops. In that context, media shop means a retail outlet offering media for sale or rent, for consumption

off the premises provided that any outlet meeting the definition of adult media shop shall be treated as an adult media outlet. See special conditions in [REFERENCE] for media shops in which adult media constitute more than 10 percent of the floor area.

Medical and Dental Facilities:

- A. Convalescent, Rest, or Nursing Home: A facility where persons are housed and furnished with medical and/or nursing care.
- B. Dental Office or Doctor's Office: A facility for the examination and treatment of human patients.
- C. Hospital: An institution providing comprehensive health services.
- D. Public Health Center: A facility primarily utilized by a health unit for provisions of public health services.
- E. Clinic: An establishment used by physicians, surgeons, dentists, physiotherapists, psychiatrists, or practitioners in related specialties, or a combination of persons in these professions where human patients who are not lodged overnight are admitted for examination and treatment.

Mobile Home: A movable or portable factory-built structure not less than thirty-two (32) feet in length and not less than eight (8) feet wide, constructed to be transported on its own chassis and designed without a permanent foundation, whether or not a permanent foundation is subsequently expanded for additional capacity, or two (2) or more units separately transportable but designed to be joined into one (1) integral unit (double-wide mobile home).

Mobile Home Lot: A parcel of land for the placement of a single mobile home and the exclusive use of its occupants

Mobile Home Park: A parcel of land where two (2) or more mobile homes are parked (except in the case of a farm), or which is planned and improved for the placement of mobile homes by the public.

Mobile Unit: A structure, used or designed to be used, for dwelling or other purposes or both, which is designed to be temporary, and equipped with wheels on a beam frame (i.e., originally equipped with axles) for the purposes of mobility in transporting said unit from place to place.

Modular Home: A factory-built structure constructed with one (1) or more modules which are prefabricated and hauled to the site that are capable of producing a dwelling which is indistinguishable from conventionally built homes and which meets the construction requirements of the Kentucky Building Code, as amended.

Motel: A building or group of buildings, whether detached or in connected units, for ten (10) or more persons, designed primarily for transient automobile travelers, providing for accessory off-street parking facilities and which may include one (1) dwelling unit for an operator.

Multi-Family Dwelling Complex: Two (2) or more buildings, each containing three (3) or more dwelling units, and each building used for occupancy by three (3) or more families living independently of each other.

Non-Conforming Use or Structure: An activity, or a building, sign, structure, or a portion thereof, which lawfully existed before the adoption or amendment of the zoning regulation, but which does not conform to all of the regulations contained in the zoning regulation which pertain to the zone in which it is located.

Off-Site Entertainment Establishment: A building or portion of a building where the material or service leased or purchased by the patron is used outside the building and off the business premises. Off-site entertainment businesses include adult media stores, escort agencies, and sex shops.

On-Site Entertainment Establishment: A building or portion of a building where the material or service leased or purchased by the patron is used inside the business building. On-site entertainment businesses include adult cabarets, adult motels, adult motion picture theaters, lingerie modeling studios, non-therapeutic massage parlors, private sexual encounter clubs, video view booths and arcade booths.

Planned Unit Development: An area with a specified minimum contiguous acreage of ten (10) acres or more to be developed as a single entity according to a plan, containing one (1) or more residential clusters or planned unit residential developments and one (1) or more public, quasi-public, commercial, or industrial areas in such ranges or ratios of non-residential uses as shall be specified in the Zoning Ordinance.

Primary Live Entertainment: On-site entertainment by live entertainers that characterizes the establishment, as determined (if necessary) from a pattern of advertising as well as actual performances.

Principal Use: The main use to which a building or lot is to be used.

Public Facility: Any use of land, whether publicly or privately owned, for transportation, utilities, or communications, or for the benefit of the general public, including, but not limited to libraries, streets, schools, fire or police stations, county buildings, municipal buildings, cemeteries, and recreational centers, including parks.

Qualified Manufactured Home: Means a manufactured home that meets all of the following criteria;

- A. Is manufactured on or after July 15, 2002;
- B. Is affixed to a permanent foundation and is connected to the appropriate facilities and is installed in compliance with K.R.S. 227.570;
- C. Has a width of at least twenty (20) feet at its smallest width measurement or is two (2) stories in height and oriented on the lot or parcel so that its main entrance door faces the street;
- D. Has a minimum total living area of twelve hundred (1,200) square feet; and
- E. Is not located in a manufactured home land-lease community; and

Permanent Foundation: Means a system of supports that is:

- A. Capable of transferring, without failure, into soil or bedrock, the maximum design load imposed by or upon the structure;

- B. Constructed of concrete; and
- C. Placed at a depth below grade adequate to prevent frost damage.

Rear Yard: An open space extending the full width of a lot between the rearmost main building and the rear lot line, unoccupied and unobstructed by buildings or structures from the ground upward except as hereinafter specified, the depth of which shall be the least distance between the rear lot line and the rear of such main building.

Restaurant: Any establishment, however designed, at which food is sold for consumption on the premises to patrons seated within an enclosed building, or elsewhere on the premises. However, a snack bar or refreshment stand at a public, semi-public, or community swimming pool, playground, playfield, or park, or an approved vendor operating the recreational facilities for the convenience of the patrons of the facility shall not be deemed to be a restaurant.

Retail Manufacturing: Baking, confectionery, dressmaking, dyeing, laundry, dry cleaning, printing, tailoring, upholstering, and similar establishments, and businesses of a similar and no more objectionable character subject to the following provisions:

- A. All goods or products manufactured or processed shall be sold at retail on the premises.
- B. All such manufacturing or processing shall be done on the premises.

Retirement Home: A multi-family residential complex with individual apartments, which offers both independent and assisted independent living quarters for the elderly. This classification differs from a nursing home in the fact that it has individual apartments, even though common kitchen, dining, and recreation areas may be available. Nursing care may be available under this classification, on a limited and emergency, rather than routine, basis.

Right-of-Way: The line determining the street or highway public limit or ownership.

Sadomasochistic Practices: Flagellation or torture by or upon a person clothed or naked, or the condition of being fettered, bound, or otherwise physically restrained on the part of one clothed or naked.

Sex Shop: An establishment offering goods for sale or rent and that meets any of the following tests.

- A. The establishment offers for sale items from any two of the following categories: (a) adult media, (b) lingerie, or (c) leather goods marketed or presented in a context to suggest their use for sadomasochistic practices; and the combination of such items constitutes more than 10 percent of its stock in trade or occupies more than 10 percent of its floor area.
- B. More than 5 percent of its stock in trade consists of sexually oriented toys or novelties.
- C. More than 5 percent of its gross pubic floor area is devoted to the display of sexually oriented toys or novelties.

Sexually Oriented Business: An inclusive term used to describe collectively: adult cabaret; adult motion picture theater; video arcade; bathhouse; massage shop; and/or sex shop.

Sexually Oriented Toys and Novelties: Instruments, devices, or paraphernalia either designed as representation of human genital organs or female breasts, or designed or marketed primarily for use to stimulate human genital organs.

Specified Anatomical Areas: (1) Less than completely and opaquely covered: human genitals, pubic region, buttock, and female breast below a point immediately above the top of the areola; and (2) human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified Sexual Activities: Human genitals in a state of sexual stimulation or arousal or acts of human masturbation, sexual intercourse, sodomy, or fondling or other erotic touching of human genitals, pubic region, buttock, or female breast.

Story: That portion of a building between the surface of any floor and the surface of the floor next above; also any portion of a building used for human occupancy between the topmost floor and the roof. For purposes of height measurement, in determining the permissible number of stories, a basement shall be counted but a cellar shall not be counted.

Street: A public or private thoroughfare which affords the principal means of access to abutting property.

Street Line: That line determining the limit of the highway right-of-way of the public, either existing or contemplated.

Structural Alterations: See alterations as applied to structures.

Structure: Anything constructed or made, the use of which requires permanent location in or on the ground or attachment to something having a permanent location in or on the ground, including buildings and signs.

Swimming Pool, Private: A structure operated as an accessory use to a residential dwelling unit or units located on an individual residential lot.

Swimming Pool, Public: Any structure, whether publicly or privately owned, and open to the general public or on a membership basis, and having appropriate dressing room facilities, recreation facilities, and off-street parking area.

Theater, Drive-In: An open lot or part thereof, with its appurtenant facilities devoted primarily to the showing of moving pictures or theatrical productions, on a paid admission basis, to patrons seated in automobiles or on outdoor seats.

Tourist Home: A dwelling in which overnight accommodations are provided or offered for transient guests for compensation.

Town House: A single-family dwelling forming one (1) of a group or series of two (2) or more attached single-family dwellings separated from one another by party walls without doors, windows, or other provisions for human passage or visibility through such walls from basement

or cellar to roof, and having roofs which may extend from one (1) of the dwelling units to another.

Travel Trailer: A vehicular portable structure designed as a temporary dwelling for travel, recreational, and vacation uses, and not for year-round living.

University or College: Any institute of higher learning, publicly or privately owned, for the education of students in grades above the twelfth. The term does not include business or trade schools.

Unobstructed Open Space: An area of land upon which no structure may be erected.

Use: The specific purposes for which land or a building is designed, arranged, intended, or for which it is or may be occupied or maintained.

Video-Viewing Booth or Arcade Booth: Any booth, cubicle, stall, or compartment that is designed, constructed, or used to hold or seat patrons and is used for presenting motion pictures or viewing publications by any photographic, electronic, magnetic, digital, or other means or media (including, but not limited to, film, video or magnetic tape, laser disc, cd-rom, books, magazines, or periodicals) for observation by patrons therein. A video-viewing booth shall not mean a theater, movie house, playhouse, or a room or enclosure or portion thereof that contains more than 600 square feet.

All definitions in the Licensing Ordinance and the Zoning Ordinance are cross-referenced and mutually applicable.

Yard Setback: A required distance between the building lines and the lot lines defining an area at grade to be kept as open space (except for specified exceptions), established in order to maintain adequate light, ventilation, and sound volumes.

SECTION 200 -- ENFORCEMENT

SECTION 201 ENFORCEMENT

All provisions of this Ordinance shall be enforced by the Planning Commission of Union County, or by such Administrative Official as may be hereafter appointed by said Commission for the purpose of such enforcement. It shall be the duty of such Administrative Official, if appointed, and in the absence of such appointment, it shall be the duty of the City Clerks, and the County Clerks to keep a record of all applications for permits and a record of all permits issued with a notification of all special conditions related thereto. He/she shall file copies submitted, of which all records shall be available for use by the Board of Adjustments of each city or county. There shall be no building permit issued for the use of any property not in conformity with the requirements of this Ordinance and all other involving said property.

SECTION 202 DUTIES OF THE ADMINISTRATIVE OFFICIAL

202.1 -- It shall be the duty of the Administrative Official or the duly authorized persons, to cause any plans, buildings, or premises to be examined or inspected to determine that they are not in violation of the provisions of this Ordinance.

202.2 -- Where the Administrative Official in the course of his/her duties, determines that any plans, buildings, or premises are in violation of the provisions of this Ordinance, he/she shall order the responsible party in writing to remedy such conditions. Said written order shall specify the nature of the violation found to exist, the remedy ordered, and the time permitted for such action, the penalties and remedies which may be invoked by the County and the violator's rights of appeal, all as provided for by this Ordinance.

202.3 -- On the serving of notice by the Administrative Official to the property owner of any violation of any of the provisions of this Ordinance, a Certificate of Zoning Compliance for such building permit shall be required. A new building permit shall be required for any alterations of the original site plan if approved by the Administrative Official. Any proposed change in the use of a building or premises shall require a Certificate of Zoning Compliance prior to occupancy.

202.4 -- The Administrative Official shall maintain a permanent record of all matters considered and all action taken by him/her. Such records shall form a part of the records of his/her office and shall be available for the use of the Planning Commission and other officials of the city and county and available for inspection by the public.

SECTION 203 BUILDING PERMITS

203.1 -- Required Prior to Construction, Moving, or Alterations. No building or other structure shall be constructed, moved, added to, or structurally altered without a permit thereof, issued by the Administrative Official to the owner of record. Among other things, structures requiring a building permit shall include buildings, mobile homes, billboards, and signs, built-in and above-ground swimming pools, antennas and transmitting towers detached from the principal building, and fences and ornamental walls. No building permit shall be issued by the Administrative

Official except in conformity with the provisions of this Ordinance, unless he/she receives a written order from the Board of Adjustments in the form of Administrative Review, Conditional Use Permits, or Dimensional Variance as provided by the Ordinance.

203.2 -- Exceptions: No building permit or Certificate of Zoning Compliance shall be required in the following cases:

- A. Antennas and transmitting towers proposed to be located on property within the City of Sturgis do not require a building permit.
- B. Recurring maintenance work, provided that no alterations are made.
- C. Installation of required improvements according to an approved subdivision plat.
- D. Farm operation structures and related buildings.

203.3 -- Procedure

- A. Application: In applying to the Administrative Official for a building permit, the applicant shall submit a site plan along with the application, showing the dimensions of the lot to be built upon, the outside dimensions of all structures to be constructed or altered, and all existing structures, the use of structures, yard depths, and any other information necessary for determining the conformity with this order. In all cases the applicant for a building permit shall be the owner. Where required the city (county) health officer's certificate approving proposed water and sewerage facilities must accompany applications in accordance with the requirements of this Zoning Ordinance.
- B. Issuance: If the proposed construction or alteration conforms with all applicable ordinances, regulations and codes, the Administrative Official shall issue a building permit authorizing such construction or alteration. If proposed construction or alteration fails to conform, the Administrative Official shall refuse to issue a building permit and shall cause delivery of written notice to the applicant stating the reasons for refusal. The Administrative Official shall act upon application for building permits within two (2) weeks from the date of their submission.
- C. Restraint of Construction Without Permit: If no building permit has been issued and a builder begins or continues to build, a restraining order may be obtained upon application to the proper court of record and evidence of the lack of a building permit shall establish a prima facie case for the issuance of the restraining order.
- D. Validity: The issuance of a building permit shall not waive any provisions of this regulation.
- E. Duration: A building permit shall become void one (1) year from the date of issuance unless construction has been initiated by that date as authorized therein. A building permit may be renewed upon review by the Administrative Official before it becomes void.

SECTION 203A COMPATIBILITY STANDARDS FOR QUALIFIED MANUFACTURED HOMES

- A. PURPOSE: The purpose of compatibility standards for Qualified Manufactured Housing is:
 - 1. To permit local governments to adopt and enforce, as a part of its zoning regulations, compatibility standards governing the placement of qualified manufactured home in a residential zoning classification, within the local government's jurisdiction, designed to ensure that when a qualified manufactured home is placed in a residential zone, it is compatible, in terms of assessed value, with existing housing located immediately

adjacent to (a) either side of the proposed site; (b) adjacent to the front and rear, or (c) within a one-eighth (1/8) mile radius or less from the proposed location of the qualified manufactured homes.

- B. APPLICATION: An application, provided for by the administrative Official, submitted to the Administrative Official, demonstrating that the compatibility standards set forth in Subsection C of this section, as well as all other regulations for the particular zoning classification the qualified manufactured home is proposed to construct, move, installed, or relocated has met the requirements of all provision of this Ordinance.
- C. REQUIREMENTS: The requirements for qualified manufactured home to be placed as a permitted use in any residential zone are as follows:
1. The roof pitch shall be the same or greater than more than fifty (50) percent of any structure adjoining the property location. In the absence of such a structure, the roof pitch shall be the same or greater than fifty (50) percent of the total number of structures within one-eighth (1/8) mile radius from the center of the proposed location. Under no circumstance shall the qualified manufactured home have a roof pitch of less than 4:12. Roof material shall be of wood, tile or composition shingles and must have an eave projection of not less than six (6) inches.
 2. The square footage shall be the same or greater than more than fifty (50) percent of any structure adjoining the property location. In the absence of such a structure, the square footage shall be the same or greater than fifty (50) percent of those structures within one-eighth (1/8) mile radius from the center of the proposed location. Under no circumstance shall the qualified manufactured home have a square footage of less than twelve hundred (1,200) square feet.
 3. The exterior of the qualified manufactured home shall be the same or of higher quality than more than fifty (50) percent of any structure adjoining the property location. In the absence of such structure, the exterior shall be the same or of greater quality than fifty (50) percent of those structures within one-eighth (1/8) mile radius from the center of the proposed location.
 4. A qualified manufactured home shall be placed on a permanent foundation, as defined in the Ordinance.
 5. HVAC units shall not be located between the front façade and the street.
 6. The main entrance of the manufactured home must face the street.
- D. PROCEDURE: The procedure for the application for a qualified manufactured home shall be in the same manner as Building Permits as required by Section 203 of this Ordinance. The procedure for the placement of a qualified manufactured home shall also include:
1. The application shall be reviewed for compatibility with architectural appearance and similarity with:
 - a. Adjacent development or surrounding developments;
 - b. Developments within the same zoning classification or general area;
 - c. Any proposed development permitted in the same zoning classification or general area.
 2. The application shall provide information on compatibility with architectural appearance of property located immediately adjacent to (a) either side of the proposed side; (b) adjacent to the front and rear, or (c) within a one-eighth (1/8) mile radius or less from the proposed location of the qualified manufacture homes base on the following criteria:
 - a. Square footage of living space;
 - b. Siding or exterior;
 - c. Roof pitch; and

- d. Setbacks.
- 3. The application shall provide information on compatibility with architectural appearance of properties located immediately adjacent to (a) either side of the proposed site; (b) adjacent to the front and rear, or (c) within one-eighth (1/8) mile radius or less from the proposed location of the qualified manufactured homes based on the following criteria:
 - a. Building height;
 - b. Building width; and
 - c. Building depth
- E. **DENIAL**: If any application for the placement of a qualified manufactured home is denied, notice of such denial, and the reason for denial, will be given to the applicant in writing within thirty (30) days from the date of application. All appeals of the Administrative Official shall be done in accordance with Section 206 of this Ordinance.
- F. Nothing in this section shall be construed to affect, modify, or abolish restrictions contained in previous deeds, covenants or a developer's subdivision restriction recorded in the Office of the Union County Clerk.

The procedure for text amendment is the same for the adoption of the ordinance requiring a public hearing.

SECTION 204 CERTIFICATE OF ZONING COMPLIANCE

No change in the use of a building, or premises, or part thereof, hereafter shall be authorized until the Administrative Official shall have issued a Certificate of Zoning Compliance stating that such land, building, or part thereof, and the proposed use thereof, are found to be in conformity with the provisions of this Ordinance. Within three (3) days after notification that a building or premises, or part thereof, is ready for occupancy or use, it shall be the duty of the Administrative Official to make a final inspection thereof, and to issue a Certificate of Zoning Compliance if the land, building, or part thereof, and the proposed use thereof, are found to conform with the provisions of this regulation. If such certification is refused, the Administrative Official shall state and immediately thereupon to mail notice of such refusal to the applicant at the address indicated in the application.

SECTION 205 POWERS AND DUTIES OF BOARD OF ADJUSTMENTS

Refer to K.R.S. 100.221, 100.223, 100.227, 100.231, 100.233, 100.237, 100.241, 100.243, and 100.257.

SECTION 206 ADMINISTRATIVE REVIEW

Refer to K.R.S. 100.257.

SECTION 207 CONDITIONAL USE PERMITS

Refer to K.R.S. 100.237.

SECTION 208 DIMENSIONAL VARIANCE

Refer to K.R.S. 100.241.

SECTION 209 FINDINGS NECESSARY FOR GRANTING VARIANCES

Refer to K.R.S. 100.243.

SECTION 210 VARIANCE CANNOT CONTRADICT ZONING ORDINANCE

Refer to K.R.S. 100.247.

SECTION 211 VARIANCE RUNS WITH THE LAND

Refer to K.R.S. 100.251.

SECTION 212 RECORDING OF LAND USE RESTRICTIONS

Refer to K.R.S. 100.3681, 100.3682, and 100.3683.

SECTION 213 PROCEDURE FOR ALL APPEALS TO BOARD

Refer to K.R.S. 100.261.

SECTION 214 PUBLIC NOTICE OF APPEAL HEARING

Refer to K.R.S. 100.263.

SECTION 215 APPEALS FROM COMMISSION OR BOARD OF ADJUSTMENTS

Refer to K.R.S. 100.347.

SECTION 216 ENFORCEMENT

It shall be the duty of the Union County Planning Commission, or such officials authorized by it, to enforce the provisions of this Ordinance, or any determination of the Board of Adjustments, City Administration, or Planning Commission. Any party alleged to be in violation of any of the provisions of this Ordinance shall be notified of the alleged violation by the Administrative Official by certified letter. The party alleged to be in violation of the Ordinance shall respond either in person or by letter to the Administrative Official within ten (10) calendar days of the receipt of the notice of violation.

SECTION 217 PENALTIES

The violation of any of the provisions of this Ordinance is a misdemeanor and shall subject the person violating the same to a fine not exceeding fifty (50) dollars, or to imprisonment not exceeding six (6) months, or both.

SECTION 218 CONTINUED VIOLATION

Each day's continued violation shall be considered a separate and distinct offense.

SECTION 300 -- NON-CONFORMITIES

SECTION 301 INTENT

Within the districts established by this Ordinance, or amendments that may later be adopted, there exist lots, structures, and uses of land and structures, which were lawful before this Ordinance was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this Ordinance or future amendment. It is the intent of this Ordinance to permit these non-conformities to continue until they are removed, but not to encourage their survival.

It is further the intent of this Ordinance that non-conformities shall not be enlarged upon, expanded, or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

Non-conforming uses are declared by this Ordinance to be incompatible with permitted uses in the districts involved. A non-conforming use of a structure, a non-conforming use of land, or a non-conforming use of structure and land in combination shall not be extended or enlarged after passage of this Ordinance by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses, of a nature which would be prohibited generally in the district involved.

To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun pursuant to a valid building permit and upon which actual building construction has been diligently pursued within ninety (90) days of the expiration date of said permit. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

SECTION 302 NON-CONFORMING LOTS OF RECORD

302.1 -- Substandard Lots of Record, Separate Ownership. Where a lot has less area than the minimum requirements for the district within which the lot is located, and was a lot of record in separate ownership from adjacent property at the time of passage of the Ordinance, that lot may be used only for single-family dwelling purposes or for any non-dwelling purpose permitted in the district within which such lot is located.

302.2 -- Substandard Lots of Record, Single Ownership with Adjacent Property. Where a lot has less than the minimum requirements for the district within which the lot is located and was a lot of record in single ownership with adjacent property at the time of passage of this Ordinance, that lot may not be used for any purpose unless re-subdivided so-as-to conform to the minimum lot area requirements of the district.

SECTION 303 NON-CONFORMING USES OF LAND

Where at the time of passage of this Ordinance a lawful use of land exists which would not be permitted by the regulations imposed by this Ordinance, the use may be continued so long as it remains otherwise lawful, provided:

- A. No such non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance;
- B. No such non-conforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this Ordinance;
- C. If any such non-conforming use of land ceases for any reason for a period of more than ninety (90) days, any subsequent use of such land shall conform to the regulations specified by this Ordinance for the district in which such land is located;
- D. No additional structure not conforming to the requirements of this Ordinance shall be erected in connection with such non-conforming use of land.

SECTION 304 NON-CONFORMING STRUCTURES

Where a lawful structure exists as of the effective date of adoption or amendment of this Ordinance that could not be built under the terms of this Ordinance by reason of restrictions on area, lot coverage, height, yards, its location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. No such non-conforming structure may be enlarged or altered in a way which increases its non-conformity, but any structure or portion thereof may be altered to decrease its non-conformity;
- B. Should such non-conforming structure or non-conforming portion of the structure be destroyed by any means (other than acts of nature) of an extent of more than seventy-five (75) percent of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this Ordinance;
- C. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is moved.

SECTION 305 NON-CONFORMING USES OF STRUCTURES OR OF STRUCTURES AND PREMISES IN COMBINATION

- A. Any non-conforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time adoption or amendment of this Ordinance, but no such use shall be extended to occupy the land outside such building;
- B. If no structural alterations are made, any non-conforming use of a structure, or structure and premises, may as a special exception be changed to another non-conforming use provided that the Board of Adjustment, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing non-conforming use. In permitting such change, the Board of Adjustment may require appropriate conditions and safeguards in accordance with the provisions of this Ordinance;

- C. Any structure, or structure and land in combination, in or on which a non-conforming use is converted to a permitted use, shall thereafter conform to the regulations for the district, and the non-conforming use may not thereafter be resumed;
- D. The owner of a non-conforming mobile home in Morganfield and Sturgis may be permitted to replace that mobile home with a comparable unit if such relocation is completed within a ninety (90) day period; within Waverly said replacement period is thirty (30) days;
- E. Where non-conforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the non-conforming status of the land. Destruction for the purpose of this subsection is defined as damage to an extent of more than seventy-five (75) percent of the replacement cost at the time of destruction.

SECTION 306 REPAIRS AND MAINTENANCE

On any non-conforming structure or portion of a structure containing a non-conforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring, or plumbing, to an extent not exceeding ten (10) percent of the current replacement cost of the non-conforming structure or non-conforming portion of the structure as the case may be, provided that the cubic content existing when it became non-conforming shall not be increased.

If a non-conforming structure or portion of a structure containing a non-conforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance, and is declared by any duly authorized official to be unsafe or unlawful by reason of physical conditions, it shall not thereafter be restored, repaired, or rebuilt except in conformity with the regulations of the district in which it is located.

Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official

SECTION 307 USES UNDER SPECIAL EXCEPTION PROVISIONS NOT NON-CONFORMING USES

Any use which is permitted as a special exception in a district under the terms of this Ordinance (other than a change through Board of Adjustment action from a non-conforming use to another use not generally permitted in the district) shall not be deemed a non-conforming use in such district, but shall without further action be considered a conforming use.

SECTION 400 -- DISTRICT PROVISIONS

SECTION 401 A-1 -- LIMITED AGRICULTURAL DISTRICT

401.1 -- Intent: The intent of the A-1, Limited Agricultural District, is to provide a suitable environment to undertake an agricultural business, as defined in Section 110 of this Ordinance, within municipal boundaries. In order to accomplish this objective, it is necessary to limit uses within the district to those complying with the definitions of agriculture and farm, until the time when said areas become available for urban type development.

401.2 -- Uses Permitted:

- A. Single-family dwellings
- B. Single-family dwellings occupied by the owner or full-time operator of the farm and such additional dwellings as are required for occupancy by full-time employees of the farm operation.
- C. Mobile homes provided that such mobile homes are placed on farms and used as permanent dwellings by either the owner or full-time employees of the farm.
- D. Farming as defined under Section 110.
- E. Farm buildings and other accessory structures which are necessary to the conduct of agricultural and farming activities.

401.3 -- Conditional Uses:

- A. Two-family dwellings
- B. Public and private schools and educational facilities, but not to include business or trade colleges.
- C. Parks and playgrounds
- D. Churches
- E. Public facility
- F. Public and private golf courses, including club facilities, and related accessory uses; except, miniature golf courses and driving ranges operated for commercial purposes.
- G. Livestock feedlot (commercial)
- H. Radio and television transmission tower
- I. Sanitary landfill, but not to include the burning of trash.
- J. Riding academy or stable
- K. Mobile home parks provided that they conform to the requirements of Article VI, Amendment I, of the Land Subdivision Regulations for Union County.
- L. Fishing camp, circus, carnival, fair, or side show for temporary use only. Thirty day permits shall be granted on a renewable option available basis.
- M. Airport and landing field.

401.4 -- Building Restrictions and Regulations:

Land which is used solely for agricultural and farming purposes as defined in Section 110 shall have no regulations imposed as to building permits, certificates of occupancy, height, yard location, except that:

- A. A set-back line of twenty-five (25) feet or greater shall be required of all buildings for the protection of existing and proposed streets.
- B. That all buildings or structures in a designated flooding or floodplain may be fully regulated as set out in Section 410, Floodplain District.

All structures other than those used for agricultural and farming purposes shall conform to all zoning regulation requirements.

SECTION 402 R-1 -- LOW DENSITY RESIDENTIAL DISTRICT

402.1 -- Intent: This is the most restrictive residential district oriented toward low density development. The principal use of land is for single-family dwellings and related recreational, religious, and educational facilities normally required to provide the basic elements of a balanced and attractive residential area. These areas are intended to be defined and protected from encroachment. Internal stability, attractiveness, order, and efficiency are encouraged by providing for adequate light, ventilation, setbacks for dwellings and related facilities, and through consideration of the proper functional relationships of each element.

402.2 -- Uses Permitted:

- A. Single-family dwelling (exclusive of mobile homes)
- B. **Qualified** Manufactured homes (building plans required)
- C. Accessory structure

402.3 -- Conditional Uses:

- A. Community residential facility, Class 1-A Separation requirement: Six hundred (600) feet between property boundaries
- B. Community residential facility, Class 1-B Separation requirement: Same as C.R.F., Class 1-A
- C. Boarding house: Maximum of three (3) unrelated residents
- D. Tourist home
- E. Church
- F. Public facilities (Subject to the provisions of K.R.S. 100.324)
- G. Private or public golf course, including accessory uses, but not including commercial miniature courses or driving ranges.
- H. Telephone exchange, but not to include administrative office, shop, or garage.
- I. Kennel, non-commercial
- J. Home occupations
- K. Temporary buildings
- L. Other similar uses

402.4 -- Accessory Uses: Accessory buildings and uses shall be permitted only as customarily incidental to any of the permitted and conditionally permitted uses listed above. (Refer to Section 708).

402.5 -- Height Regulations: No principal structure shall exceed three (3) stories or thirty-five (35) feet in height.

402.6 -- Lot Area, Frontage, and Setback Requirements: Minimum required lot area within an R-1 District shall be eleven thousand (11,000) square feet.

Minimum required lot width at the building line shall be one hundred (100) feet.

All buildings, except unattached buildings or accessory uses, shall have the following minimum yard setback distance:

--Front: Thirty-five (35) feet

--Side: Ten (10) feet (each side). The minimum width of side yards along intersecting streets shall be the same as the front yard setback required for the residential zone on such side streets.

--Rear: Twenty-five (25) feet.

SECTION 403 R-2 -- MEDIUM DENSITY RESIDENTIAL DISTRICT

403.1 -- Intent: This is a residential district to provide medium population density. The principal use of land may range from single-family to two-family dwelling units. The intent of this district is the same as that of the R-1 Single Family Residential District except that two-family dwelling units are allowed.

403.2 -- Uses Permitted:

- A. Any Use Permitted in an R-1 Residential District
- B. Two-family dwelling
- C. Community residential facility, Class 1-A Separation requirement: Six hundred (600) feet between property boundaries
- D. Modular homes (building plans required)

403.3 -- Conditional Uses:

- A. Any Conditional Use permitted in the R-1 Residential District.
- B. Double-wide mobile homes, provided that they comply with the requirements of Section 701.
- C. Community residential facility, Class 1-B Separation requirement: Same as C.R.F., Class 1-A
- D. Community residential facility, Class 1-C Separation requirement: One thousand (1,000) feet between property boundaries
- E. Boarding house: Maximum of nine (9) unrelated residents
- F. Garage apartments
- G. Private nursery, day school, kindergarten, and child care center
- H. Funeral home, mortuary, or undertaking establishment
- I. Private club, such as a lodge, fraternity, or other similar uses
- J. Medical and dental facilities
- K. Multi-family dwelling or multi-family dwelling complex
- L. Mobile home parks provided that they comply with the requirements of Article VI, Amendment 1, of the Land Subdivision Regulations for Union County.
- M. R-2 Home occupations
- N. Other similar uses

403.4 -- Accessory Uses: Accessory buildings and uses shall be permitted only as customarily incidental to any of the permitted and conditionally permitted uses listed above. (Refer to Section 708).

403.5 -- Height Regulations: No principal structure shall exceed three (3) stories or thirty-five (35) feet in height.

403.6 -- Lot Area, Frontage, and Setback Requirements: Minimum required lot area for the following dwelling units within an R-2 District shall be:

Single-family: Ninety-four hundred (9,400) square feet

Two-family: Ten thousand (10,000) square feet.

Minimum required lot width at the front building setback line for the following dwelling units shall be:

Single-family: Seventy-five (75) feet

Two-family: One hundred (100) feet

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All buildings, except unattached buildings or accessory uses, shall have the following minimum yard setback distance:

--Front: Thirty (30) feet

--Side: Ten percent (10%) of lot width on each side but shall not be less than seven (7) feet; provided that the minimum width of side yards along intersecting streets in Sturgis shall be twenty percent (20%) of the lot width.

--Rear: Twenty (20) feet.

SECTION 404 R-3 -- HIGH DENSITY RESIDENTIAL DISTRICT

404.1 -- Intent: This is a residential district to provide for medium and high population density. The principal use of land may range from one-family dwelling units to multi-family and garage apartment uses. Certain uses which are more functionally compatible with intensive residential uses than with commercial are permitted.

404.2 -- Uses Permitted:

- A. Any Uses Permitted in the R-1 and R-2 Residential Districts.
- B. Mobile homes, provided that they comply with the requirements of Section 701.
- C. Multi-family dwellings, including town houses, rooming and boarding houses, tourist homes, and garage apartments.

404.3 -- Conditional Uses:

- A. Any Conditional Uses permitted in the R-1 and R-2 Residential Districts.
- B. Nursing homes and orphanages
- C. Community residential facility, Class 2-A Separation requirement: Fifteen hundred (1,500) feet between property boundaries
- D. Other similar uses

404.4 -- Accessory Uses: Accessory buildings and uses shall be permitted only as customarily incidental to any of the permitted and conditionally permitted uses listed above. (Refer to section 708).

404.5 -- Lot Area, Frontage, and Setback Requirements: Minimum required lot area for the following dwelling units within an R-3 District shall be:

Single-family: Seventy-five hundred (7,500) square feet

Two-family: Ten thousand (10,000) square feet

Multi-family: Ninety-five hundred (9,500) square feet for the first two (2) families, plus two thousand (2,000) square feet for each additional family unit up to three (3). Four (4) or more will require additional lot area in accordance with the following schedule:

<u>Dwelling Units</u>	<u>Area/Unit</u>
4-20	1,000 square feet
20+	500 square feet.

Minimum required lot width at the front building setback line for the following dwelling units within an R-3 District shall be:

Single-family: Fifty (50) feet

Two-family: Seventy (70) feet

Multi-family: Eighty (80) feet.

All buildings, except unattached buildings or accessory uses, shall have the following minimum yard setback distance:

--Front: Twenty-five (25) feet

--Side: Seven (7) feet; however, for a multi-family dwelling unit, an additional four (4) feet for each side yard shall be required for each story above the first story; provided that the minimum width of side yards along intersecting streets in Sturgis shall be twenty percent (20%) of lot width.

--Rear: Fifteen (15) feet

For lots not served by public sanitary sewer or central sewage disposal system, the minimum lot size shall be determined by the County Health Department. The builder shall furnish a certificate from the County Health Department which sets out the minimum size of each such residential lot.

404.6 -- Height Regulations: Single and two-family: No building shall exceed thirty-five (35) feet in height. Multi-family: Not regulated.

SECTION 405 B-1 -- CENTRAL BUSINESS DISTRICT

405.1 -- Intent: The nature of the B-1 District allows for compact and intense retail, wholesale, and office uses and for the conduct of personal and business services.

405.2 -- Permitted Uses and Structures: The following uses shall be permitted only within permanent, completely enclosed buildings, except as noted, and provided that no activity shall

create any objectionable or offensive noise, vibration, dust, heat, glare, gas, fumes, or odor perceptible outside of the building:

- Ambulance service
- Apartment*
- Auditorium
- Automobile car wash
- Automobile storage
- Automobile and truck sales and service
- Banks and other financial institutions
- Barber and beauty shops
- Bicycle and/or lawnmower sales and repair
- Blueprinting and Photostatting
- Bowling alley
- Business college
- Business machine store
- Clothing store
- Drug stores and flower shops
- Dry cleaning establishments
- Dry goods store
- Exterminators
- Funeral home, mortuary, or undertaking establishment
- Furniture store, retail
- Gift shops and variety stores
- Hardware stores
- Health centers
- Hotel
- Jewelry stores
- Laboratory, dental or medical
- Mail-order house
- Office buildings
- Other similar uses
- Poolrooms and bars
- Printing shops
- Radio and television studios
- Shoe repair shops
- Walk-in restaurants

*Shall not be operated as a principal use

405.3 -- Conditional Uses:

- A. Manufacture of goods for sale at retail on the premises, if such manufacture is clearly incidental to the principal activity of the establishment.
- B. Storage of materials used on the premises, if such storage is clearly incidental to the principal activity of the establishment.

- C. Storage of materials not used on the premises (except flammable, explosive and poisonous materials), on a floor other than the street level floor of a building.
- D. Other commercial uses related to those listed in Section 405.2.
- E. ~~Adult entertainment establishments (Nude dancing, X-rated movie theaters, etc.....)~~

405.4 – Prohibited Uses and Structures: Any use or structure not of a character indicated under permitted uses and structures, accessory uses and structures, conditional uses, or uses permitted as a special exception; storage or use of mobile home dwelling units except as a temporary structure as provided; outside storage of materials; signs not related to the identification of premises and occupants and to products sold or services rendered on the premises in conjunction with any business structure or use; repair garages; repair or testing of internal combustion engines; outdoor sales, service, or display of automobiles or trucks (other than the delivery of goods purchased to the automobile or trucks of customers); the storage of used automobile and truck bodies and parts and the operation of junkyards; manufacturing facilities, correctional facilities; sexually oriented businesses; tattoo parlors.

405.5 -- Minimum Lot Size: Area in square feet - none

405.6 -- Minimum Yard Requirements:

--Front: None

--Side: None, except when abutting a residential district in which case a minimum of forty (40) feet shall be provided.

--Rear: None, except when abutting a residential district in which case a minimum of thirty-five (35) feet shall be provided.

405.7 -- Maximum Height of Buildings: Maximum height of all structures shall be sixty (60) feet.

405.8 -- Maximum Lot Coverage: None

405.9 -- Maximum Off-Street Parking: A minimum of one space for each three hundred (300) square feet of retail floor area shall be provided.

SECTION 406 B-2 -- SECONDARY BUSINESS DISTRICT

406.1 -- Intent: The Secondary Business District is established to provide retail stores and personal services for the convenience of adjacent residential areas. These districts are closely associated with residential districts, consequently they must be made as compatible as possible.

406.2 -- Permitted Uses and Structures:

- A. All uses as permitted under Section 405.2.
- B. Accessory structures
 - Automobile car wash
 - Bakery
 - Catering shops
 - Club or lodge, private

- Community residential facilities, Class 2B
- Department store
- Farm implement sales and services
- Filling stations
- Garden supplies store, handling only packaged fertilizer
- Grocery store
- Commercial Kennel
- Landscape garden sales
- Library or reading room
- Motels
- Nursery, day care center, or kindergarten
- Other similar uses
- Package liquor store
- Places of amusement and assembly
- Restaurants or lounges
- Self-service laundries
- Studio for professional work or teaching of any form of fine arts, photography, music, drama, dance, but not including commercial gymnasium
- Telephone exchange, but not including administrative office, shops or garages.

406.3 -- Conditional Uses:

- A. All uses as permitted under Section 405.3.
- B. Storage of flammable, explosive, or poisonous materials. The Board shall grant approval if it determines that the proposed use will not unduly endanger life or property.
- C. Other commercial uses related to those listed under Section 406.2.
- D. Mobile home sales.

406.4 – Prohibited Uses and Structures: Any use or structure not of a character indicated under permitted uses and structures, conditional uses or uses permitted as a special exception; the outside storage of used automobile and truck bodies and parts and the operation of junkyards; manufacturing facilities not under special exception; correctional facilities; sexually oriented businesses; tattoo parlors.

406.5 -- Minimum Lot Size: Area in square feet - none.

406.6 -- Setback Requirements: All buildings shall have the following minimum yard setback distance:

--Front: Thirty-five (35) feet

--Side: None, except: when abutting a residential district, then the side yard setback shall be forty (40) feet.

--Rear: None

406.7 -- Maximum Height of Buildings: The maximum height of all structures shall be forty (40) feet.

406.8 -- Maximum Lot Coverage: In no event shall the principal building occupy more than fifty percent (50%) of the lot.

406.9 -- Minimum Off-Street Parking: A minimum of one (1) space for each three hundred (300) square feet of retail floor area shall be provided.

SECTION 407 -- R-PA RESIDENTIAL-PROFESSIONAL ADMINISTRATIVE OFFICE DISTRICT

407.1 -- Intent: The Residential-Professional Administrative Office District is established to reserve appropriately located areas for harmonious intermediate uses to serve as buffers between residential and business districts. This district would create a suitable environment for residential uses, office, and/or combined uses thereof, within a permanent, completely enclosed building, provided that when combined, the uses are clearly separated, and the structure is suitably designed for such purposes, and located on a site large enough to provide room for landscaping, open spaces, and off-street parking facilities. In addition, there shall be no storage of economic goods for the purpose of sale in connection with any permitted service.

407.2 -- Permitted Principal Uses and Structures:

1. Credit services (other than banks)
2. Security and commodity brokers, dealers, exchanges and services
3. Insurance carriers, agents, brokers, and services
4. Real estate and related services
5. Holding and investment services

A. Business Services

1. Advertising services (other than outdoor advertising)
2. Consumer and mercantile credit reporting services; adjustment and collection services
3. Duplicating, mailing, and stenographic services (other than printing services)
4. News syndicate services
5. Travel agencies
6. Employment services
7. Other business services (including research, development, and/or testing services, business and management consulting services, detective and protective services)

B. Professional Services

1. Legal services
2. Medical and other health services (other than hospital services, sanitariums, nursing, convalescent and rest homes, and animal clinics)
3. Other professional services (including engineering, architectural, educational and scientific research, accounting, auditing, bookkeeping, and urban planning services; studios)

C. Personal Services

1. Photographic services
2. Beauty and barber services
3. Funeral homes

D. Recreational Activities

1. Public recreational facilities (including parks and playgrounds, community center, museums, galleries, and libraries)

E. Miscellaneous Services

1. Religious activities
2. Welfare and charitable services
3. Other miscellaneous services (including business associations, professional membership organizations, labor unions and similar labor organizations, and civic, social, and fraternal associations)

F. Residential

1. Any uses permitted in Section 403.2.
2. Apartment

407.3 -- Accessory Uses: Accessory buildings and uses shall be permitted only as customarily incidental to any of the permitted and conditionally permitted uses listed above (refer to Section 708).

407.4 -- Lot Area, Frontage, and Setback Requirements: Minimum required lot area within an R-PA District shall be ten thousand (10,000) square feet.

Minimum required lot width at the building line shall be seventy-five (75) feet.

All buildings, except accessory structures, shall have the following minimum yard setback distances:

--Front: Thirty (30) feet

--Side: Ten percent (10%) of lot width on each side but shall not be less than eight (8) feet.

--Rear: Twenty (20) feet

407.5 -- Height Regulations: No principal structure shall exceed forty (40) feet in height.

407.6 -- Off-Street Parking Requirements: One (1) space for each two hundred (200) square feet of office space. One and one-half (1 1/2) spaces for each dwelling unit.

407.7 -- Sign Regulations: One (1) identifying sign not exceeding twelve (12) square feet in area for permitted office uses. Such sign shall be solely for the purpose of displaying the name of the business and its activities or services. It may not be illuminated. Refer to Section 601 for residential sign requirements.

SECTION 408 I-1-- LIGHT INDUSTRIAL DISTRICT

408.1 -- Intent: This industrial district is intended primarily for production and assembly plants that are conducted so the noise, odor, dust, and glare of each operation is properly controlled.

408.2 -- Permitted Uses and Structures

- Accessory use
- Airport and dusting service
- Armory

- Automobile and truck maintenance shops and garages
- Automobile and truck laundry, including steam cleaning
- Automobile and truck dealerships
- Automobile storage
- Automobile truck body repair
- Battery manufacture
- Beverage manufacture
- Billboard
- Carting, express, crating, hauling, and storage
- Clothing manufacture
- Cold storage plant
- Concrete and concrete products manufacture
- Contractors' storage yard for vehicles, equipment, materials and/or supplies
- Cosmetics (compounding only)
- Creamery
- Dog pound
- Drug manufacture
- Dry cleaning
- Electroplating
- Elevator maintenance and service
- Farming and truck gardening
- Farm supply center
- Feed store
- Food locker plant
- Food products manufacture
- Food products, wholesale storage and sale
- Foundry
- Freight depot, (railway and/or truck)
- Frozen food plant
- Fruit and produce, wholesale
- Hardware manufacture
- Hatchery
- Hosiery mill
- Ice cream manufacture
- Ice manufacture
- Laboratory
- Laundry
- Lumber yard and building materials
- Machine shop
- Machinery, tools, and construction equipment, sales and service
- Mattress manufacture and rebuilding
- Metal products fabrication
- Metal sharpening
- Millinery manufacture
- Millwork and similar wood products manufacture

- Novelty and souvenir manufacture
- Nursery and nursery products
- Office equipment and supplies manufacture
- Oil well supplies and machinery
- Other similar uses
- Packing and gasket manufacture
- Painting and decorating contractor
- Paper products manufacture
- Paper supplies, wholesale
- Passenger depot, (railway or bus)
- Pipe storage
- Plumbing shop
- Printing, publishing, and allied industries
- Railroad facilities
- Restaurant supplies sales
- Roofing and sheet metal shop
- Rug cleaning
- Sand and gravel storage yard
- Shoe manufacture
- Sign shop
- Sporting goods store, wholesale
- Taxidermist
- Telephone exchange, including Administrative Offices, shops and garages
- Toy manufacture
- Transit vehicle storage and servicing
- Trade school
- Venetian blind and metal awning fabricating and cleaning
- Water distillation
- Water storage
- Water or sewage pumping station
- Welding shop
- Well drilling company
- Wholesale and warehousing

408.3 -- Conditional Uses:

- A. Other light industrial uses related to those listed in Section 408.2.
- B. Correctional facilities
- C. Community residential facilities
- D. Institutions
- E. Off-Site entertainment establishments (sexually oriented businesses) and Tattoo parlors

408.4 -- Setback Requirements: All buildings shall have the following minimum yard setback distance:

--Front: A minimum of thirty (30) feet at the building setback line.

- Side: The side yard building setback line on each side of the lot shall be not less than twenty-five (25) feet as measured from the side lot line to the nearest building or structure except in instances where this district use abuts a residential district, in which case a minimum side yard setback of sixty (60) feet shall be provided on the side adjacent to the residential district. Such space shall be screened from the abutting residential district by walls or by fences or by other screening not less than six (6) feet in height, in a manner acceptable to the Planning Commission.
- Rear: The rear yard building setback line shall be not less than twenty-five (25) feet as measured from the rear lot line to the nearest building or structure. Where a building is to be serviced from the rear, or where this district abuts a residential district, there shall be provided an alleyway, service court, rear yard, or combination thereof not less than fifty (50) feet. In instances where this district use abuts a residential district, such space shall be screened from the abutting residential district by walls or by fences or by other screening not less than six (6) feet in height in a manner acceptable to the Planning Commission.

SECTION 409 I-2 -- HEAVY INDUSTRIAL DISTRICT

409.1 -- Intent: This industrial district is intended to provide for heavy industrial uses, which by reason of noise, odor, dust, or glare represent the most obnoxious industrial or commercial uses.

409.2 -- Uses Permitted: Any use permitted in the I-1 Light Industrial District

- Abrasive manufacture
- Accessory use
- Acetylene gas manufacture and/or storage
- Alcohol distillation and/or storage
- Ammonia, bleaching powder, and chlorine manufacture
- Asbestos products manufacture
- Asphalt products manufacture
- Automobile and truck body manufacture
- Billboard
- Boiler or tank works
- Brewery
- Caustic soda manufacture
- Celluloid manufacture
- Chemicals (heavy or industrial) manufacture and/or processing
- Cotton compress
- Cotton ginning and baling
- Dyestuff manufacture
- Electric power generating station
- Fungicides manufacture
- Glass manufacture
- Grain drying or feed manufacture from refuse, mash, or grain
- Grain milling, storage and elevators
- Graphite manufacture
- Hair products manufacture or processing

- Hardware manufacture
- Incinerator
- Insulation manufacture or fabrication
- Linoleum manufacture
- [Off-site entertainment establishment \(sexually oriented businesses\)](#)
- Oils and fats (animals and vegetable) manufacture
- [On-site entertainment establishment \(sexually oriented businesses\)](#)
- Paints, pigments, enamels, japans, lacquers, putty, varnishes, whiting, and wood filler, manufacture or fabrication
- Paper, pulp, cellulose, and rayon manufacture
- Plastics manufacture
- Prefabricated building manufacture
- Potash works
- Rock crusher
- Saw mill or planning mill
- Sewage disposal plant
- Soda and washing compound manufacture
- Stone cutting
- Sugars and starches manufacture
- Syrup manufacture
- Tar distillation or manufacture
- [Tattoo parlor](#)
- Wood preserving by creosote or other impregnation treatment

409.3 -- Conditional Uses:

- A. Other heavy industrial uses related to those listed in Section 409.2.
- B. Mining and quarrying.

409.4 – General Requirements of Sexually Oriented Businesses

- A. A sexually oriented business shall not be located within six hundred and fifty (650) feet of :
 1. A church, synagogue, mosque, temple, or building that is used primarily for religious worship and related religious activities;
 2. A public or private educational facility including, but not limited to child day care facilities, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, and universities. “School” includes the school grounds, but does not include facilities used primary for another purpose and only incidentally as a school;
 3. A boundary of a residential district (R-1, R-2, R-3, and R-PA) or any other residential district hereinafter established as defined in the Municipal Zoning Ordinance for the Cities of Morganfield, Sturgis, and Waverly;

4. A public park or recreation area which has been designed for park or recreational activities including, but not limited to, park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas, or other similar public land within the city which is under the control, operation, or management of the City of Morganfield, Sturgis, and Waverly;
 5. The property line of a lot devoted to a residential use, whether such use is conforming or non-conforming to the zoning district in which it is located;
 6. Any premises licensed pursuant to the alcoholic beverage control regulations of the state.
- B. A sexually oriented business shall not be located within five hundred (500) feet of another sexually oriented business.
 - C. Not more than one (1) sexually oriented business shall be located in the same building or structure containing another sexually oriented business.
 - D. For the purpose of subsection (A) of the section, measurement shall be made in a straight line, without regard to the intervening structures or objects, from the nearest portion of the building or structure used as the part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a use listed in subsection (A). The presence of a city, county, or other political subdivision boundary shall be irrelevant for the purposes of calculating and applying the distance requirements of this section.
 - E. For purposes of this subsection (B) of this section, the distance between any two (2) sexually oriented businesses shall be measured in a straight line, without regard to the intervening structures or objects or political boundaries, from the closest exterior wall of the structure in which each business is located.

A sexually oriented business lawfully operating as a conforming use is not rendered a non-conforming use by the location, subsequent to the grant or renewal of the sexually oriented business license, of a use listed in subsection (A) of this section within six hundred and fifty (650) feet of the sexually oriented business. The provision applies only to the renewal of a valid license, and does not apply when an application is made for a license after the applicant's previous license has expired or been revoked.

409.5 -- Setback Requirements: All buildings shall have the following minimum yard setback distance:

--Front: A minimum of sixty (60) feet at the building setback line.

--Side: The side yard building setback line on each side of the lot shall be not less than twenty-five (25) feet as measured from the side lot line to the nearest building or structure except in instances where this district use abuts a residential district, in which case a minimum side yard of one hundred (100) feet shall be provided on the side adjacent to the residential district. such space shall be screened from the abutting residential district by walls, or fences, or by other screening not less than six (6) feet in height in a manner acceptable to the Planning Commission.

--Rear: The rear yard building setback line shall be not less than fifty (50) feet except in instances where this district use abuts a residential district, in which case a rear yard of not less than one hundred (100) feet shall be provided as measured from the rear lot line to the nearest building or structure. Such space shall be screened from the abutting residential district by walls, or by fences, or by other screening not less than six (6) feet in height in a manner acceptable to the Planning Commission.

SECTION 410 F -- FLOODPLAIN DISTRICT AND PONDING EASEMENTS

410.1 -- Intent: The floodplain district is established to apply special regulations to the outlying floodway as shown on the Official Zoning Map in order to meet the needs of the Ohio River in carrying abnormal flows of water in times of flood; to prevent encroachment into the district which will increase flood heights and damage; to prevent the loss of life and excessive damage to property in the areas of greatest flood hazard; and to protect against the maximum probable flood and lesser floods occasioned by the unwise occupancy of such flood areas. Therefore, establishment of this district assures the Federal Insurance Administration that it will enact as necessary, and maintain in force for those areas having flood hazards, adequate land use and control measures with effective enforcement provisions consistent with the criteria set forth in Section 1910 of the National Flood Insurance Program regulations.

410.2 -- Uses Permitted: The following uses are permitted subject to approval by the Planning Commission and to such conditions as may be specified by the Commission to protect the public interest:

- A. Any agricultural use as long as these do not involve any commercial slaughtering of animals, or other operations resulting in the promulgation of noxious odors or excessive noise.
- B. Agricultural buildings and structures, nurseries, greenhouses, etc.
- C. Open type recreational facilities, such as any public or private recreational park, commercial recreation, sports arenas, riding stables, golf courses, rifle ranges, etc.
- D. Outdoor advertising subject to applicable regulations of these ordinances.
- E. Circuses, carnivals, or similar transient amusement enterprises.
- F. Storage yards of agricultural and/or industrial equipment and material not subject to major damage by flood waters.
- G. Any other uses customarily accessory or incidental to the above uses.
- H. Other similar uses.
- I. Single family dwelling, if it meets requirements of Section 410.4.

410.3 -- Restrictions and Limitations:

- A. No other structures shall be erected within the floodplain areas set forth and no permit for such erection shall hereafter be issued; no excavating of land within the area shall be permitted except upon issuance of a certificate by the city (county) engineer and approval by the Planning Commission that such excavating will not divert water from the natural channel, will not cause any erosion, and will not cause flooding of land outside the natural direction of drainage flow.
- B. There shall be no filling of land within the area except upon issuance of a certificate by the city (county) engineer upon approval of the Planning Commission that such filling will not obstruct the natural flow of water or otherwise reduce the water-conveying capacity. All of the foregoing limitations have been determined as necessary to preserve the location, character, and extent of natural drainage.

410.4 -- Standards: Prior to the construction of any building, structure, or any improvement within the floodplain district, plans for such construction shall be submitted to the Planning Commission for review and approval. In review of the plans submitted, the Commission shall be

guided by the following standards. The purpose of such regulations is to prevent encroachment of the floodplain which will unduly increase flood heights and damage to life and property.

- A. Any use permitted shall be of a type not subject to appreciable damage by flood waters.
- B. Any structure permitted shall be constructed and placed on the lot so as to offer the minimum obstruction to the flow of water, rather than at right angles to such flows.
- C. Any structure permitted should be designed to have minimum effect upon the flow of water. To illustrate, an enclosed stadium would not be permitted, but an open-end stadium may be permitted if flood heights are not increased appreciably by such structure.
- D. Any structure permitted shall be firmly anchored to prevent the structure from floating away and thus threatening to further restrict bridge opening and other restricted sections of the Ohio River.
- E. Where in the opinion of the Planning Commission, topographic data, engineering studies, or other studies are needed to determine the effects of flooding on a proposed structure and/or the effect of the structure on the floodway, the Planning Commission may require the applicant to submit such data and/or studies prepared by competent engineers or other agencies.
- F. The granting of such approval shall not constitute a representation, guarantee, or warranty of any kind or nature by the legislative body or the Planning Commission, or by an office or employee of either thereof, of the practicability or safety of any structure or other plan proposed, and shall create no liability upon, or cause of action against such public body, officer, or employee for any damage that may result pursuant thereto.

410.5 -- Special Permits Required:

Prior to construction of any structure or the use of any land for the purposes as herein specified, the applicant or applicants shall apply to the Board of Adjustment for a special permit. Before taking action on such request, the Board shall secure a written recommendation from the Planning Commission regarding advisability and approval of the request and setting the necessary standards and conditions for the proper operation of the proposed use. Such recommendation by the Planning Commission shall be based upon a review of the Standards set forth in Section 409.4

SECTION 500 -- OFF-STREET AUTOMOBILE AND VEHICLE PARKING AND LOADING

SECTION 501 GENERAL INTENT AND APPLICATION

It is the intent of these requirements that adequate off-street parking and loading facilities be provided for each use of land within the jurisdiction of this Ordinance. These requirements shall be applied in all districts.

SECTION 502 SIZE OF AUTOMOBILE PARKING AND STORAGE SPACE

In all zoning districts, a minimum area of two hundred fifty (250) square feet per automobile shall be used in the computing of the total area to be devoted to parking.

SECTION 503 ALL-WEATHER SURFACE REQUIRED

Parking facilities for residential, commercial, and industrial uses shall have an all-weather surface, consisting of bituminous concrete, layered on an adequate base course, be properly drained to prevent ponding, and shall be maintained free of trash and rubbish.

SECTION 504 OFF-STREET AUTOMOBILE PARKING AND STORAGE

Off-street automobile parking or storage space shall be provided on every lot on which any of the uses stated in this section are hereafter established. Where space is not available on the lot, space shall be provided within five hundred (500) feet of such uses and such space shall have vehicular access to a street or alley and shall be equal in area to at least the minimum requirements for the specific use or uses as set forth herein:

- A. Multi-family dwellings: One and one-half (1 1/2) spaces per dwelling unit.
- B. Mobile home parks: Two (2) spaces per mobile home lot.
- C. Hotels, motels, tourist homes, tourist courts, and rooming houses: One (1) space for each guest or sleeping room or suite.
- D. Private clubs, lodges, fraternities and sororities: One (1) space for each fifty (50) square feet of total floor area used for auditorium, assembly hall, or dining room in such building and one (1) space per sleeping room.
- E. Churches: One (1) space for each four (4) seats in the main auditorium.
- F. Theaters, auditoriums, stadiums, gymnasiums, convention halls and other places of public assembly: One (1) space for each four (4) seats in the building or structure, based on maximum seating capacity.
- G. Elementary schools: One and one-half (1 1/2) spaces per classroom.
- H. Secondary schools: Ten (10) spaces per classroom.
- I. Business colleges and trade schools: One (1) space per two (2) student seats at maximum enrollment.
- J. Hospitals, sanitariums or nursing homes: One (1) space for each two (2) beds intended for patients, excluding bassinets, and one (1) space for each four (4) employees.
- K. Medical and dental clinics: One (1) space per one hundred (100) square feet of gross floor area.
- L. Funeral homes: One (1) space for each three (3) seats in parlors and chapels.
- M. Retail sales stores: One (1) space for each three hundred (300) square feet of retail floor space.
- N. Drive-in retail business: Minimum of ten (10) spaces, plus one (1) space for each one hundred (100) square feet of retail floor area.
- O. Personal service establishments and repair shops: One (1) space for each one hundred (100) square feet of gross floor area.
- P. Wholesale, general business, and warehouses: One (1) space for each four (4) employees based on maximum employment and one (1) space for each vehicle to be stored or stopped simultaneously.
- Q. Industrial and manufacturing establishments: One (1) space per four hundred (400) square feet of gross floor area or one (1) space per employee, whichever is greatest, plus one (1) space for each vehicle to be stored or stopped simultaneously or as determined by the Planning Commission.

- R. Eating establishments and taverns: One and one-half (1 1/2) spaces for each one hundred (100) square feet of gross floor area.
- S. Drive-in eating establishments: Minimum of ten (10) spaces plus one (1) space for each four (4) seats of total capacity.
- T. Office and professional buildings: One (1) space for each two hundred (200) square feet of office space.
- U. Filling stations: Two (2) spaces for each grease rack or similar facility; one (1) space for each gas pump plus one (1) space for each employee on duty.
- V. Bus terminals: Five (5) spaces for each loading or unloading bay.
- W. Auto sales and repair: One (1) space for each employee at maximum employment on a single shift plus two (2) spaces for each three hundred (300) square feet of auto repair or sales space.
- X. Other uses: Parking requirements for uses other than those stated in this section shall be determined by the Planning Commission.

SECTION 505 COMBINED PARKING SPACES

The required parking space for any number of separate uses may be combined in one (1) lot but the required space assigned to one (1) use may not be assigned to another use at the same time except that one-half (1/2) of the parking space required for churches, theaters, or assembly halls whose peak attendance will be at night or on Sunday may be assigned to a use which will be closed at nights or on Sundays.

SECTION 506 OFF-STREET LOADING AND UNLOADING SPACE

Every building or structure used for business, trade, or industry shall provide space as indicated herein for the loading and unloading of vehicles. Such space shall have access to a public street or alley.

- A. Retail business: Minimum of one (1) space of five hundred (500) square feet per location and one (1) space of five hundred (500) square feet for each three thousand (3,000) square feet of floor area.
- B. Wholesaling and industry: Minimum of one (1) space of five hundred (500) square feet per location or one (1) space of five hundred (500) square feet for each ten thousand (10,000) square feet of floor area, whichever is the greater.
- C. Bus and truck terminals: Sufficient space to accommodate the maximum number of buses or trucks to be stored or to be loading or unloading at any one time.

SECTION 600 -- SIGNS AND OUTDOOR ADVERTISING

SECTION 601 REGULATION OF SIGNS

All signs hereafter erected on any lot in all districts except, official, traffic, and street signs shall conform to the provisions of this section unless otherwise provided.

SECTION 602 SIGNS IN THE R-1, R-2, AND R-3 RESIDENTIAL DISTRICTS

In the R-1, R-2, and R-3 districts no signs shall be permitted except the following:

- A. A permanent sign, not exceeding three (3) square feet in area, giving the name and/or address only of the land or building on which displayed, or the owner or lessee thereof.
- B. A temporary sign pertaining to the lease or sale of a building or property, provided such sign shall not exceed twelve (12) square feet in surface area and is unilluminated.
- C. Temporary signs, for one (1) year, advertising a new subdivision development of five (5) lots or more, provided such signs do not exceed sixty (60) square feet in surface area, are no more than fifteen (15) feet or no less than two (2) feet above ground, advertise on the development in which they are located, and are erected only at dedicated street entrances.
- D. One (1) unilluminated sign identifying an engineer, architect or contractor engaged in the construction of a building, provided such sign shall not exceed twelve (12) square feet in surface area, is no more than fifteen (15) feet or less than two (2) feet above ground, and is removed within thirty (30) days following occupancy of the building.
- E. One (1) identifying sign, not to exceed thirty (30) square feet in area, for the following uses: Church, school, hospital, library, farm, park, clinic, or similar uses. Such sign shall be solely for the purpose of displaying the name of the institution and its activities or services. It may be illuminated but not flashing.
- F. Directional signs not to exceed two (2) square feet in surface area for the following uses: Church, school, hospital, library, sanitarium, clinic, or similar uses provided that each shall be limited to one (1) such sign per major thoroughfare approach. No sign shall be permitted on minor residential streets.
- G. One (1) name plate sign not exceeding six (6) square feet in surface area for a dwelling group of three (3) or more attached units. Such signs may indicate the name and address of the building or it may be a directory for occupants.
- H. One (1) name plate sign, not exceeding six (6) square feet in surface area, per multi-family dwelling. A free-standing sign, not exceeding twenty-four (24) square feet in surface area, may be permitted for the entire development upon review by the Administrative Official.

SECTION 603 SIGNS IN THE B-1, CENTRAL BUSINESS DISTRICT

In the B-1 District signs are permitted subject to the following regulations:

- A. All signs permitted in the residential districts.
- B. The total surface area of a business sign or signs on a lot shall not exceed six (6) square feet for each lineal foot of lot frontage.
- C. Advertising sign structures shall be limited to not more than one (1) structure for a lot of fifty (50) feet frontage or less, and to one (1) additional structure for each fifty (50) feet of additional lot frontage. Such structure may contain no more than two (2) signs per facing not exceeding fifty-five (55) feet in length. No advertising sign may be erected within fifty (50) feet of an adjoining residential district if designed to face into such district.

SECTION 604 SIGNS IN THE B-2, SECONDARY BUSINESS DISTRICT

In the B-2 District signs are permitted subject to the following regulations:

- A. All signs permitted in the residential districts.
- B. The total area of all business signs on a building or lot shall not exceed three hundred (300) square feet or the sum of three (3) square feet for each lineal foot of lot frontage, whichever is the greater. No single business sign surface may exceed one hundred fifty (150) square feet in area, nor shall two (2) or more smaller signs be so arranged and integrated as to create a surface area in excess of three hundred (300) square feet.
- C. Planned Shopping Center. Each planned shopping center may have one (1) incidental or free-standing identification sign for each street frontage, setback at least twenty (20) feet from the front property line, and announcing only the name of the shopping center, businesses located therein, and the hours of business.

SECTION 605 SIGNS IN A-1, I-1, AND I-2 DISTRICTS

In the A-1, I-1, and I-2 Districts, signs are permitted subject to the following regulations:

- A. All signs permitted in the residential districts.
- B. The total surface area of a business sign or signs on a building lot shall not exceed ten (10) square feet for each lineal foot of lot frontage.
- C. Signs on each lot must coincide with the appropriate district under which the building would be classified.
- D. Signs advertising a sexually oriented business or tattoo parlor shall display the name of the business pertinent information, but not display any anatomical image in a sexually explicit manner.

SECTION 606 GENERAL RESTRICTIONS

Unless otherwise provided in this Ordinance, the following regulations shall apply to signs in all districts:

- A. No sign shall be erected as to prevent free ingress or egress from any door, window, or fire escape, and no sign of any kind shall be attached to a stand-pipe or fire escape.
- B. No sign shall be erected at the intersection of any street in such a manner as to obstruct free and clear vision, or at any location where, by reason of position, it may interfere with or obstruct the view of traffic sight lines or traffic control devices (if located within direct line of vision of a traffic control device). No flashing, or intermittent blue, red, green, or amber illumination shall be used.
- C. Any sign affixed flat against the wall of a building and not more than fifteen (15) inches in thickness shall not be deemed a projecting sign. Projecting signs may extend not more than forty-eight (48) inches beyond the building line or over public property, in no event closer than two (2) feet to the curb line, and shall be at least ten (10) feet above the finished grade of the sidewalk. Wall signs shall not extend more than fifteen (15) inches over public property; lighting devices, however, may extend not more than six (6) feet over public property provided the lowest part of such device is at least fifteen (15) feet above the finished grade.

- D. Business and advertising signs in the A-1 agricultural district shall be located a minimum of ten (10) feet from any street or highway right-of-way line. Business and advertising signs in all other districts may not be located nearer to the street or highway right-of-way line than one-third (1/3) the required setback distance or ten (10) feet whichever distance is greater.
- E. The illumination of any sign within fifty (50) feet of and facing a residential zone lot line shall be diffused or indirect, and designed to prevent direct rays of light from shining into adjoining residential districts; and in no event shall flashing or intermittent illumination be permitted where the sign faces directly into and/or is nearer than three hundred (300) feet to dwellings in a residential district.
- F. Directional or informational signs of a public or quasi-public nature not exceeding six (6) square feet in area may be permitted in any district on approval of the County inspecting officer. Any illumination shall be non-flashing, uncolored, and confined to the face of the sign. No advertising matter whatsoever shall be permitted on signs of this type.
- G. Whenever a sign becomes structurally unsafe or endangers the safety of a building, or premises, or endangers the public safety, the County inspecting officer shall give written notice to the owner of the sign, or the owner of the premises on which the sign is located, that such sign be made safe or removed within ten (10) days.
- H. Any business or outdoor advertising sign legally existing prior to the adoption of the Ordinance which does not conform to these provisions shall not be altered, or changed in overall dimensions, except to conform to the provisions of this Ordinance. If damaged to an extent in excess of one-half (1/2) of its current replacement value, it shall not be rebuilt, provided that nothing contained herein shall be construed to prevent normal maintenance and repairs, reprinting or posting of such signs or structures.
- I. A blanket-type permit will be sold to real estate and auction agents to cover all their sale signs for twelve (12) month periods.

SECTION 700 -- ADDITIONAL DISTRICT PROVISIONS

SECTION 701 MOBILE HOME CONSTRUCTION REQUIREMENTS IN ADDITION TO AN APPROVED BUILDING PERMIT

- A. A mobile home stand shall be provided for the placement and tie-down of the mobile home consisting of concrete pads or runners.
- B. The mobile home stand shall be provided with anchors and tie-downs, such as cast-in place concrete "dead men", eyelets embedded in concrete foundations or runways, screw augers, arrowhead anchors, or other devices securing the stability of the mobile home.
- C. Anchors and tie-downs shall be able to sustain a minimum tensile strength of twenty-eight hundred (2,800) pounds.
- D. Each mobile home shall have a porch of a minimum of twenty (20) square feet.
- E. The mobile home shall meet all setback regulations in accordance with the district in which it is placed.

SECTION 702 CONDITIONS OF A MORE RESTRICTED DISTRICT

Whenever the specific district regulations pertaining to one district, permit the uses of a more restrictive district, such uses shall be subject to the conditions set forth in the regulations of the more restrictive district, unless otherwise specified.

SECTION 703 OPEN SPACE

No open space or lot area required for a building or structure shall during its life be occupied by or counted as open space for any other building or structure.

- A. In any residential district, the front yard minimum setback of any lot unoccupied as of the effective date of this Ordinance shall be equal in depth to the average depth of the front yards of the nearest adjacent occupied lots.
- B. Where the dedicated street right-of-way is less than fifty (50) feet, or where the street right-of-way cannot be determined, the depth of the abutting yard setback shall be measured starting at a point twenty-five (25) feet from the centerline of the street right-of-way or apparent right-of-way.
- C. No dwelling unit shall be erected on a lot which does not abut or have access to at least one (1) street.

SECTION 704 HEIGHT

The regulations herein set forth qualify or supplement, as the case may be, the specified district regulations appearing in the different zoning districts.

- A. Chimneys, elevators, poles, spires, tanks, towers, barns, silos, and other projections not used for human occupancy may extend above the height limit.
- B. Churches, schools, hospitals, sanitariums, and other public and semi-public buildings may exceed the height limitation of the district if the minimum depth of rear yards and the minimum width of the side yards required in the district are increased one (1) foot for each two (2) feet by which the height of such public or semi-public structure exceeds the prescribed limit.

SECTION 705 TEMPORARY BUILDINGS

Temporary buildings which are used in conjunction with construction may be permitted in any district during the period that the construction is in progress, but such buildings must be temporary in nature and subject to removal upon completion of the construction work.

SECTION 706 REGULATION OF AREAS UNDER WATER

All areas which are under water and not shown as included within any district, shall be subject to all of the regulations of the district adjacent to the water area. If the water area adjoins two (2) or more districts, the boundaries of each district shall be construed to extend into the water area in a straight line until they intersect.

SECTION 707 PUBLIC UTILITY FACILITIES EXCEPTED; ACQUISITIONS, DISPOSALS, AND CHANGES, REFERRAL TO COMMISSION EFFECT

- A. All other provisions of this chapter to the contrary notwithstanding public utilities, operating under the jurisdiction of the Public Service Commission or the Department of Vehicle Regulation or Federal Power Commission, and municipally owned electric system, common carriers by rail shall not be required to receive the approval of the planning unit 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 and include office space, garage space, and warehouse space when such space is incidental to a service facility. The Public Service Commission and the Department of Vehicle Regulation shall give notice to the planning commission of any planning unit of any hearing which affects locations or relocations of service facilities within that planning unit's jurisdiction.

- B. The non-service facilities excluded in subsection (A) of this section must be in accordance with the zoning regulations.
- C. Upon the request of the Planning Commission, the public utilities referred to in this section shall provide the Planning Commission of the planning unit affected with information concerning service facilities which have been located on and relocated on private property.
- D. Any proposal for acquisition 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 Commission to review it in the light of its agreement with the comprehensive plan, and the Commission 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. If it disapproves of the project, it shall state the reasons for disapproval in writing and make suggestions for changes which will, in its opinion, better accomplish the objectives of the comprehensive plan. No permit required for construction or occupancy of such public facilities shall be issued until the expiration of the sixty (60) day period or until the planning commission issues its report, whichever occurs first.

SECTION 708 ACCESSORY USES

Accessory structures and/or uses shall not exceed thirty percent (30%) of a rear yard, and shall not be located within seven (7) feet of side or rear lot lines nor within the designed front yard setback. For the purposes of this Ordinance, all corner lots have two (2) front yards.

Exception: Antennas and transmitting towers proposed to be located within a designed front yard setback shall require Board of Adjustments review and approval and appropriate screening if deemed necessary.

SECTION 709 ACTIVITIES AFFECTED -- CONFORMANCE REQUIRED

- A. Zoning affects every structure, use, and alterations thereof, with the exception of agricultural related uses. No structure or premises shall hereafter be used, and no structure or part thereof shall be erected, moved or altered, unless for use expressly permitted by and in conformity with the regulations herein specified for the district in which it is located. No construction or alteration of access to any lot shall be allowed unless permitted in conformity with the provisions of this Ordinance.
- B. None of the above mentioned activities shall hereafter be undertaken, with the exception of routine maintenance (i.e., non-structural alteration), unless a permit is issued by the Administrative Official for such construction, alteration, or relocation.

SECTION 710 ACCESS CONTROL

- A. There shall be no more than two (2) points of access to one (1) public street on a lot of less than four hundred (400) feet, but more than one hundred (100) feet in width. Lots in excess of four hundred (400) feet may have two (2) points of access to any one (1) public street for each four hundred (400) feet of frontage. Lots less than one hundred (100) feet in width shall have no more than one (1) point of access to any one (1) public street.
- B. No point of access shall be allowed in an industrial or streets, or within twenty (20) feet of an abutting property line.
- C. No point of access shall be allowed for a residential use within twenty (20) feet of the right-of-way lines of intersecting streets.
- D. No curbs on City streets or rights-of-way shall be cut or altered without written approval of the Administrative Official.
- E. A point of access shall not exceed twenty (20) feet in width for one (1) way and /or one (1) lane ingress or egress. Two-way access points shall not exceed thirty-five (35) feet in width.

SECTION 711 SUBDIVISION COORDINATION REQUIRED

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

SECTION 712 TRAFFIC VISIBILITY ACROSS CORNER LOT

- A. On a corner lot, within the area formed by the centerline of intersecting streets and a line joining points on such centerlines at a distance of ninety (90) feet, there shall be no obstruction to vision between a height of three and one-half (3 1/2) feet and a height of ten (10) feet above the average elevation of the existing surfaces of each street at the center line thereof.
- B. Notwithstanding other provisions of this Ordinance, fences, walls, and hedges may be permitted in any required yard, however any fence, wall, or hedge located within the front yard or side yard along an intersecting street shall not be over three and one-half (3 1/2) feet in height. For the purposes of this Ordinance all corner lots have two (2) front yards.
- C. The provisions of this section do not apply to the Central Business District nor shall the requirements of this section be deemed to prohibit any necessary retaining wall.
- D. The Board of Adjustment may either reduce or increase the requirements of this section for the interest of safety where unusual or special conditions warrant consideration.

SECTION 713 WATER SUPPLY AND SEWAGE DISPOSAL APPROVED

It shall be unlawful to construct any building or dwelling without water supply and sewage disposal facilities which have been approved by the City (County) health officer. Whenever water and sewer mains are accessible, buildings shall be connected to such mains. In every case, individual water supply and sewage disposal must meet the requirements set by the City (County) health officer. A certificate approving proposed and/or completed water and sewerage facilities must accompany applications for building permits and certificates of occupancy.

SECTION 714 REDUCTIONS IN LOT AREA PROHIBITED

No lot, even though it may consist of one (1) or more adjacent lots of record, shall be reduced in area so that yards, lot area per family, lot width, building area, or other requirements of this Ordinance are not maintained. This section shall not apply when a portion of a lot is acquired for a public or semi-public use.

SECTION 715 VACATION OF PUBLIC EASEMENTS

Whenever any street, alley, or other public easement is vacated, the district classifications of the property to which the vacated portions of land accrue shall become the classification of the vacated land.

SECTION 716 ONE MAIN BUILDING TO A LOT

- A. Every residential building or structure hereinafter erected in Residential or R-PA district, shall be located on a lot of record, and in no case shall there be more than one (1) main building on one (1) lot, unless, provided in this Ordinance.
- B. More than one (1) main institutional building, public or semi-public, commercial, or industrial building may be located upon a lot or tract, provided no such building, or portion thereof, is located outside the buildable area of the lot.

SECTION 717 ANNEXED LANDS

In every case where land becomes a part of the city through annexation, the Planning Commission shall provide to the legislative body a recommendation regarding appropriate zones for such newly annexed land. All tracts within said newly annexed land not receiving a residential, business, or industrial classification shall be zoned A-1, Limited Agricultural.

SECTION 718 FENCE LOCATIONS

Fences may be constructed in any zoning district provided that they are in compliance with the following conditions:

- A. Placement of a fence on a common property line shall be permitted following the written mutual agreement of the adjoining property owner(s). Said agreement shall be attached to the building permit application.
- B. The connection of a proposed fence to a fence on adjoining property shall require the written mutual consent of the adjoining property owner(s). Said agreement shall be attached to the building permit application.
- C. A fence not located on a common property line or connected to a fence on adjoining property shall be located no closer than two (2) feet from the property line.
- D. A fence may be constructed on an easement area following the mutual written consent of the entity for whom the easement has been reserved. Said agreement shall be attached to the building permit application.
- E. Fences not exceeding six (6) feet in height may be constructed along any side yard or rear yard. Fences exceeding six (6) feet in height shall be constructed only upon review and

approval by the Board of Adjustments. A combination retaining wall/fence are subject to the same height restriction.

- F. Wire (except chain link), barbed wire, sharp-pointed, and electrical fences require Board of Adjustment review and approval, except in the A-1, Limited Agricultural, zone.

PLANNED UNIT DEVELOPMENT

ARTICLE I -- ENACTING CLAUSE AND INTENT

1.1 ENACTING CLAUSE:

WHEREAS, the Cities of Morganfield, Sturgis, and Waverly and Union County in an agreement dated August 20, 1973 and under the authority granted in Chapter 100 of the Kentucky Revised Status created a Union County Planning Commission; and,

WHEREAS, said Commission has adopted the Municipal Zoning Ordinance and Subdivision Regulations with all the authority pursuant thereto; and,

WHEREAS, Union County desiring to take full advantage of modern design, construction, technology and planning methods as will advance and promote the sound growth and general welfare of the county, strengthen and sustain its economic potentials, provide safe, efficient, economic county and municipal services, and establish appropriate patterns for the distribution of population, commerce and industry in a variety of accommodations which are free and compatible with a modern way of life, coordinated with the protection and enhancement of natural beauty and resources, and in harmony with their surroundings, both within and without the municipality, and in order to provide for a variety of service activities, school sites, parks, playgrounds, recreational areas, parking and other open space in orderly relationship to each other and in conformity to the development of the municipality as a whole; and,

WHEREAS, in order to effectuate the foregoing and to locate such planned unit development as and by a single entity upon the most suitable land in view of the rapidly expanding population of the community, and in order to insure that sound planning goals are met for the potential use of the land, and to prevent piecemeal and disorderly development of large tracts of grounds within the municipality, to protect existing uses and to insure provisions for light and air, the prevention of overcrowding of land or buildings, the creation of an adequate road network, to secure the health, morals, and general welfare and for the better securing of adequate utility and other necessary functions, the following criteria and procedures are established;

NOW, THEREFORE, BE IT ORDAINED by the Union County Planning Commission, Union County, Kentucky, as follows:

1.2 TITLE:

This regulation should be known as a section of the Municipal Zoning Ordinance, providing for the establishment of a "Planned Unit Development."

1.3 PURPOSE:

It shall be the purpose of this Ordinance to advocate that the public health, safety, morals, and general welfare be furthered in an era of increasing urbanization and of growing demand for housing of all types and design, to provide for necessary commercial and educational facilities conveniently located to such housing, to provide for well located, clean, safe, pleasant industrial sites involving a minimum of strain on transportation facilities, to encourage the planning of new towns; to encourage innovation in residential, commercial, and industrial development and renewal so that the growing demands of the population may be met by greater variety in type, design, and layout of buildings, and by the conservation and more efficient use of open space ancillary to said buildings, so that greater opportunities for better housing and recreation, shops, and industrial plants conveniently located to each other may extend to all citizens and residents of this municipality, and in order to encourage a more efficient use of land and of public services, or private services in lieu thereof, and to reflect changes in the technology of land development so that resulting economies may endure to the benefit of those who need homes, to lessen the burden of traffic on streets and highways, to encourage the building of new towns incorporating the best features of modern design, and, in aid of these purposes, to provide a procedure which can relate the type, design and layout of residential, commercial, and industrial development to the particular demand for housing and other facilities including the foregoing at the time of development, in a manner consistent with the preservation of the property values within established residential areas, and to insure that the increased flexibility of substantive regulations over land development authorized herein is subject to such administrative standards and procedures as shall encourage the disposition of proposals for land development without undue delay.

1.4 DESIGNATION:

1.41 The Union County Planning Commission designated to act under this Ordinance shall be the approving authority.

1.42 The Planning Administrator for the Union County Planning Commission designated to receive plans under this Ordinance shall be the Administrative Official.

1.43 This regulation hereby allows planned unit developments as permitted uses in A-1, R-1, R-2, R-3, R-PA, B-1, B-2, I-1, and I-2 Districts.

ARTICLE II -- GENERAL PROVISIONS

2.1 USES PERMITTED IN A PLANNED UNIT DEVELOPMENT MAY INCLUDE OR SHALL BE LIMITED TO:

2.11 All private institutional uses permitted by right or special permit in any district and the structures and accessory features appurtenant thereto.

2.12 All uses permitted in residential zones under the conditions of this Ordinance for such zoning.

2.13 Commercial uses as permitted in existing commercial zones.

2.14 Industrial uses subject to the controls herein governing industrial development under this Ordinance.

2.15 Open Spaces, (common or public) such as parks, recreation areas, golf courses, public institutional and public school sites, playgrounds, and drainage ways.

ARTICLE III -- STANDARDS AND CRITERIA FOR PLANNED UNIT DEVELOPMENT

Within any district permitting planned unit development such development shall be in accordance with the following minimum standards:

3.1 MINIMUM SIZE USAGE CATEGORIES:

3.11 All planned unit development shall have an initial size of not less than ten (10) adjacent and/or contiguous acres. Public roads shall not be deemed to divide acreage for this purpose. The following shall be permitted uses:

3.12 All private institutional uses shall not be included in open space requirements of Section 3.16.

3.13 Uses permitted in residential zones shall include, and be limited to detached, semi-detached, attached, multi-family, multi-story structures and uses. Not more than twenty percent (20%) of the dwelling units may be in garden apartments.

3.14 Commercial uses may occupy up to fifteen percent (15%) of the planned unit development provided that parking areas shall be provided at a minimum ratio of three (3) square feet of parking space for every one (1) square foot of net retail area. Further, it shall be the intent of this Ordinance that other commercial areas shall be provided within concentrations of dwelling facilities to be served thereby; such areas shall not be more than one (1) acre for every dwelling unit.

3.15 Industrial uses shall occupy not less than ten percent (10%) of the planned unit development. However, if upon submittal of evidence that less or no part of the minimum requirements of ten percent (10%) will be necessary to sustain or support economic balance, physical design, provision of utilities, required population densities, or such other requirements for public and private convenience, comfort, welfare, or mutual advantage, such minimum requirements may be waived by resolution of the Planning Commission.

3.16 Open spaces such as parks, recreation areas, golf courses, public institutional and public school sites, playgrounds, drainage or other ways shall be provided at a ratio of not less than .012 acres of open space for every dwelling unit. Not less than twenty-five percent (25%) of the total gross acreage in such open space shall be vacant ground and available to the City or County or other public ownership for school sites, parks, drainage ways or other purposes acceptable to the City or County.

3.2 POPULATION DENSITIES AND DISTRIBUTION:

3.21 The overall population density shall not exceed an average gross density of ten (10) dwelling units per acre.

3.3 SITE AND STRUCTURE REGULATIONS:

3.31 Plot and lot sizes, dimensions, and structure heights and locations thereon, may be freely disposed and arranged in conformity to the overall density standards herein, and to the conditions of comprehensive plans therefore, the general features and design of which shall be approved by the Planning Commission. Minimum lot size or frontage, minimum percentage of lot coverage are not specified herein although the Planning Commission may be guided by standards set elsewhere herein for comparable conditions and by common practice.

3.32 Except as follows, other provisions of this Ordinance governing side and rear yard size in residential areas shall not apply.

3.33 A minimum setback distance or front yard of thirty (30) feet shall be provided on County roads, or upon any main roads or thoroughfares so designated upon the comprehensive plan of the municipality.

3.34 Except for a townhouse or semi-detached dwelling which is a part thereof or connected thereto, no single-family detached dwelling and no structure exceeding thirty-five (35) feet in height shall be erected within a distance of less than forty-five (45) feet of any single-family dwelling.

3.35 Every single-family detached dwelling shall have access to a public street, court, walkway, or other area dedicated to public use or subject to an easement for access. The boundaries and extent of the lot or plot upon which any single-family detached dwelling is located shall be clearly defined and monumented.

3.36 All open spaces between structures shall be protected, where necessary, by fully recorded covenants running with the land, conveyances or dedications.

3.37 The right-of-way and pavement widths for internal ways, roads, and alleys serving garden apartments, multi-family dwellings, townhouse clusters, and commercial and industrial development shall be determined from sound planning and engineering standards in conformity to the estimated needs of the full development proposed and the traffic to be generated thereby, and shall be adequate and sufficient in size, location, and design to accommodate the maximum traffic, parking, and loading needs and the access of fire-fighting equipment and police vehicles. In such instance, other provisions of this Ordinance shall not apply but may serve as general guides to the planning board in approving the development plans. In any event, internal roads shall not be less than twenty-four (24) feet in width and pavement widths for internal ways and walks shall not be less than five (5) feet. Service ways for public service facilities (vehicular) shall be not less than twenty-eight (28) feet in width.

3.38 Dedicated streets or highways shall be subject to all other municipal ordinances and the laws of the Commonwealth of Kentucky.

3.39 However, PUD's location along boundary lines of a district except where they coincide with a right-of-way or public park, the zoning provisions shall prevail which provide regular side yards, rear yards, screen planting and such other protective or transitional features as governed by the adjoining district.

3.4 UTILITIES AND SERVICES:

3.41 The developer shall furnish public water and sewage facilities based on a written agreement, with appropriate municipal utility authority after a joint conference with the Union County Planning Commission. The developer shall provide all necessary storm drainage, highway access, paved service streets, parking facilities, and off-street lighting making reasonable provision for service to the connections with adjoining properties in other ownerships.

3.5 SPECIAL REQUIREMENTS:

3.51 Every structure or group of structures and uses, including those of an institutional, charitable or public nature, and every designed plot area or cluster unit having services, facilities, or utilities in common private usage, and in common ownership, or control by its occupants or which functions as an independent corporate property owner or agent of management, shall be located upon and within a lot or plot of land which shall be fully dimensioned and designated as representing the area of responsibility and extent of such individual or group ownership or management, as may be established by ownership in full or partial fee, or for lease under deed covenant, lease contract, or such other conditions of usage or occupancy legally established and recorded therefore, and a description or plan of each such lot or plot shall be filed separately or as part of the descriptive maps of a planned unit development with the municipal tax assessor.

3.52 The developer shall provide for and establish an organization for the ownership and maintenance of any open space for the benefit of residents of the development. Such organizations shall not be dissolved, and shall not dispose of any open space, by sale or otherwise, except to an organization conceived and established to own and maintain the open spaces for the benefit of such development, and thereafter such organization shall not be dissolved or dispose of its open space without first offering to dedicate the same to the municipality wherein the land is located.

3.53 In the event that the organization shall fail to maintain the open space in reasonable order and condition, the planning board may serve written notice upon such organization, or upon the residents and owner of the development, setting forth the manner in which the organization has failed to maintain the open space in reasonable condition, and said notice shall include a demand that such deficiencies of maintenance be cured within thirty (30) days thereof, and shall state the date and place of a hearing thereon which shall be held within fifteen (15) days of the notice. At such hearing, the planning board may modify the terms of the original notice as to deficiencies, and may give an extension of time within which they shall be cured. If the deficiencies set forth in the original notice, or in the modification thereof, shall not be cured within said thirty (30) days, or any extension thereof, the municipality, in order to preserve the open space and maintain the same for a period of one (1) year, may enter upon and maintain such land. Said entry and maintenance shall not vest in the public any rights to use the open space, except when the same is voluntarily dedicated to the public by the residents and owners. Before the expiration of said year, the Planning Commission shall, upon its initiative or upon the request of

the organization heretofore responsible for the maintenance of the open space, call a public hearing upon fifteen (15) days notice to such organization or to the residents and owners of the development, to be held by the Planning Commission, at which hearing such organization or the residents and owners of the development shall show cause why such maintenance by the municipality shall not, at the election of the municipality, continue for a succeeding year. If the Planning Commission shall determine that such organization is ready and able to maintain such open space in reasonable condition, the municipality shall cease to maintain said open space at the end of said year. If the Planning Commission shall determine such organization is not ready and able to maintain said open space in a reasonable condition, the municipality may, in its discretion, continue to maintain said open space during the next succeeding year, subject to a similar hearing and determination, in each year thereafter. The decision of the Planning Commission in any such case shall constitute a final administrative decision subject to judicial review.

3.54 The cost of such maintenance by the municipality shall be assessed rateably against the properties within the development that have a right of enjoyment of the open space, and shall become a tax lien on said properties. The municipality, at the time of entering upon said open space for the purpose of maintenance shall file a notice of such lien at the office of the County Clerk upon the properties affected by such lien within the development, and the same shall be discharged by the municipality upon payment as with other liens.

3.55 All deed restrictions and covenants for any land owned or sold by the developer to any organization or individual within the planned unit, the developer shall convey the right of enforcement to the organization created under Section 3.52. Said organization shall be responsible for the maintenance and enforcement of all deed restrictions and covenants.

3.56 In the event that said organization shall fail to maintain and enforce all restrictions and covenants, Section 3.53 and 3.54 shall apply.

3.57 Extension of a planned unit development: Any planned unit development, originally established under the requirements of this Ordinance and completed, may be extended within the same district or into adjoining districts which also permit PUD by later additions of contiguous lands in parcels or units of not less than ten (10) acres, each under the conditions established for development of the original project, provided that it shall be subject to the same procedure for approval and in conformity with the standards set forth.

3.58 All other Ordinances dealing with subdivision control shall not apply in planned unit development districts, or extension thereof. Except that all construction on streets, roads, thoroughfares, or service ways or sidewalks shall conform to the standards set by the Commonwealth of Kentucky.

ARTICLE IV -- APPLICATION FOR APPROVAL

The procedures and approvals provided herein for tentative and final approval of a plan for planned unit development and application for such tentative and final approval shall be in lieu of all procedures and approvals specified in the Municipal Zoning Ordinance and Land Subdivision Regulations of Union County.

4.1 PROCEDURE FOR PRELIMINARY APPROVAL:

4.11 Application for a planned unit development shall be made in duplicate on the form provided by the municipality which shall be considered as application for tentative approval. The fee for such application shall be twenty-five dollars (\$25.00) per residential unit and fifteen dollars (\$15.00) for each 1,000 square feet of gross industrial and commercial space. All fees shall be paid in the following manner:

- A. Before any single family residential units are sold or conveyed, said fee that being twenty-five dollars (\$25.00) per residential unit, shall be paid prior to the recording of the deed for said residential unit. Except that where ownership of any single-family dwelling shall remain with the developer for the purpose of rental or lease, said fee shall be paid prior to any construction or preparation for construction of any single-family unit.
- B. Before the construction or preparation for construction of any multi-family residential unit shall commence, said fees, that being twenty-five dollars (\$25.00) per residential unit, for all residential units within the complex shall be paid in advance of the construction.
- C. Before the construction or preparation for construction shall commence on any commercial or industrial space, said fee, that being fifteen dollars (\$15.00) per one thousand (1,000) square feet of commercial and industrial space, shall be paid in advance of any construction, excavation, or preparation for construction.
- D. Prior to the construction, excavation, or preparation for construction for any mobile home park, said fee, that being twenty-five dollars (\$25.00) per residential unit shall be paid in advance of any construction, excavation, or preparation of a mobile home park.

Such application shall set forth in narrative statement form: The name of the applicant, address of the applicant, the location of the land proposed to be developed, the nature of the applicant's interest in the land, the density of land use to be allocated to various parts of the site, the location and size of land of any common open space, the form of organization proposed to own and maintain common open space, the form of any proposed deed restrictions and covenants, to use, approximate height, bulk and location of buildings or other structures, the proposed provision for disposition of storm and sanitary water, the substance of any covenants, grants, easements or any other restriction proposed to be imposed upon the land or buildings including easements for public utilities, the proposed provisions for parking, locations and widths of proposed streets and ways, modifications from the existing Ordinances governing streets or ways or land use being requested, the projected schedule for development, and the approximate times when final approvals would be requested, a statement of why the public interest would be served by the proposed development. Application hereunder shall be considered as a request to permit planned unit development upon the lands so described.

4.12 As a condition to tentative approval of the planned unit development plan, the Planning Commission may permit the implementation of the plan in whole or in sections or stages consisting of one (1) or more sections or stages, under the sequence of actions determined as a part of the municipal master plan's guidelines for that district. Such sections or stages shall be:

1. Substantially and functionally self-contained and self-sustaining with regard to access, parking, utilities, open spaces, and similar physical features, and shall be capable of substantial occupancy, operation, and maintenance upon completion of construction and development;

2. Properly related to other services of the community, as a whole, and to those facilities and services yet to be provided in the full execution and implementation of the district in which planned unit development is permitted.
3. Provided with such temporary or permanent transitional features, buffers, or protective areas as the Planning Commission may require under conditions or ownership and maintenance, as will prevent damage or detriment to any completed section or stages and to adjoining properties not in the planned unit development. Plans and specifications of such sections or stages are to be filed with the Planning Commission and are to be of sufficient detail and at such scale as to fully demonstrate the following:
 - A. The arrangement and site locations of all structures, primary and accessory land uses, parking, landscaping, public and private utilities and service facilities, and land ownership conditions.
 - B. Estimates of the economic base of the section or stage and its one (1) or more sections or stages as supported by such evidence as the estimated cost and market values of structures and land improvements, increase of taxable values, costs of maintenance and services to be borne by public and private agencies, potential rental scales, cost of utility installations, etc.
 - C. Estimates of its social characteristics, such as the size and composition of future population, in terms of probable family size as occupants of the several dwelling unit types, their need for public services and protection, for recreational facilities and for commercial and professional services, anticipated rental scales, etc.
 - D. Such further evidence as shall demonstrate conformity to and support for the principles and objectives of the municipal comprehensive plan, and the enhancement of the living standards of the community with conformity to the balance of residential, commercial, industrial, and public land utilization and the economic base as established within the municipal comprehensive plan.

4.2 APPLICATION FOR FINAL APPROVAL:

If tentative approval is granted, with or without conditions, there shall be set forth in the minutes the time within which an application for final approval of the plan shall be filed, or in the case of a plan which provides for development over a period of years, the periods of time within which applications for final approval of each part thereof shall be filed. The time, so established between grant of tentative approval and an application for final approval, shall not be less than one (1) month and, in the case of developments over a period of years, the time between applications for final approval of each part of a plan shall be not more than six (6) months, provided nothing herein contained shall be construed to limit a landowner from the presentation of any application for final approval earlier than the time-period hereinabove set forth.

4.21 In the event that a plan is given tentative approval, with or without conditions, and thereafter, but prior to final approval, the landowner shall elect to abandon part or all of said plan and shall so notify the Planning Commission in writing, or in the event the landowner shall fail to file application or applications for final approval within the required period of time or times, as the case may be, the tentative approval shall be deemed to be revoked and all that portion of the area included in the plan for which final approval has not been given shall be subject to those local Ordinances applicable thereof, as they may be amended from time to time.

A. An application for final approval may be for all the land included in a plan or, to the extent set forth in the tentative approval, for a section thereof. Said applications shall be made to the Administrative Officer and within the time or times, specified by the Planning Commission when granting tentative approval. The application shall include such drawings, specifications, covenants, easements, conditions and form of performance bond as were recorded in the minutes at the time of tentative approval.

B. A plan submitted for final approval shall be deemed to be in substantial compliance with the plan previously given tentative approval provided any modification by the landowner of the plan as tentatively approved does not:

1. Vary the proposed gross residential density or intensity of use by more than ten percent (10%) or more than eleven (11) units per acre.
2. Involve a reduction of the acres set aside for common open space, not the substantial relocation of such area.
3. Increase by more than five percent (5%) the total ground area covered by buildings, nor involve a substantial change in the height of buildings.

4.22 Validity of final approval. A plan, or any part thereof, which has been given final approval by the Planning Commission, shall be so certified without delay by the Planning Administrator, and shall be filed of record forthwith in the Office of the County Clerk before any development shall take place in accordance therewith. Upon the filing of record of the plan, all other Ordinances and subdivision regulations otherwise applicable to the land included in the plan shall cease to apply there to. Pending completion within five (5) years of said planned unit development, or of that part thereof, as the case may be, that has been finally approved, no modification of the provisions of said plan, or part thereof, as finally approved, shall be made by the municipality, nor shall it be impaired except with the consent of the landowner.

ARTICLE V - VIOLATIONS AND PENALTIES

5.1 ALL PROVISIONS AS SET FORTH IN SECTION 216, 217, AND 218 IN THE MUNICIPAL ZONING ORDINANCE SHALL APPLY.

ARTICLE VI - DEFINITIONS

6.1 For the purposes of this act, unless the context clearly indicates a different meaning, the term "shall" indicates a mandatory requirement, and the term "may" indicates a permissive action, and, the term "submission" indicates a complete filing as prescribed by this act.

6.2 Administrative Official: Any department, employee, or advisory, elected, or appointed body which is authorized to administer any provision of the zoning regulation, subdivision regulations, and if delegated, any provision of any housing or building regulation, or any other land use control regulation.

6.3 Application for development: An application for approval of a planned unit development or planned unit residential development for which approval may be required under this act.

6.4 Approving authority: The Union County Planning Commission unless a different agency is specifically designated by Ordinance.

6.5 Common open space: An open space area within or related to a site designated as a development, and designed and intended for the use or enjoyment of residents and owners of the development. Common open space may contain such complementary structures and improvements as are necessary and appropriate for the use or enjoyment of residents and owners of the development.

6.6 Developer: The legal or beneficial owner or owners of all the land proposed to be included in a planned unit development, including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.

6.7 Filing: Recording with the County Court Clerk of Union County unless a different County Official is designated by Ordinance.

6.8 Final approval: The official action of the Planning Commission taken on a preliminary approved plan after all conditions, engineering plans, and other requirements have been completed or fulfilled, and the required improvements have been installed or guarantees properly posted for their completion, or approval conditioned upon the posting of such guarantee within ninety (90) days of final approval.

6.9 Governing body: The chief legislative body of the area of location of the PUD and Union County.

6.10 Mobile Home: A vehicle used or designed to be used for living or sleeping purposes or both, and which is designed to be equipped with wheels for the purpose of mobility in transporting said unit from place to place.

6.11 Municipality: Any city, borough, town, township, or village.

6.12 Municipal authority: The Union County Planning Commission.

6.13 Open space: Any parcel or area of land or water essentially unimproved and set aside, dedicated, designated, or reserved for public or private use or enjoyment of, or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space. Such areas may be improved with only those buildings, structures, streets, and off-street parking, and other improvements that are designed to be incidental to the natural openness of the land.

6.14 Plan: The provisions for development of a planned unit development, including a plat of subdivision, all covenants relating to use, location and bulk of buildings and other structures, intensity of use or density of development, private streets, ways, and parking facilities, common open space and public facilities. The phrase provisions of the plan when used in this act shall mean the written and graphic materials referred to in this definition.

6.15 Planned unit development (PUD): An area with a specified minimum contiguous acreage of ten (10) acres or more to be developed as a single entity according to a plan, containing one (1) or more residential clusters or planned unit residential developments and one (1) or more

public, quasi-public, commercial, or industrial areas in such ranges or ratios of non-residential uses to residential uses as shall be specified in the Municipal Zoning Ordinance.

6.16 Planned unit residential development: An area with specified minimum contiguous acreage of five (5) acres or more to be developed as a single entity according to a plan containing one (1) or more residential clusters, which may include appropriated commercial or public, or quasi-public uses primarily for the benefit of the residential development.

6.17 Planning Commission: The Union County Planning Commission established pursuant to Chapter 100 of the Kentucky Revised Statutes.

6.18 Plat: A map or maps of a subdivision.

6.19 Preliminary approval: The conferral of certain rights pursuant to this act, prior to final approval, after specific elements of a subdivision plan have been agreed upon by the Planning Commission.

6.20 Public open space: An open space area conveyed or otherwise dedicated to a municipality, municipal agency, board of education, state or county agency, or other public body for recreational or conversation uses.

6.21 Residential Cluster: An area to be developed as a single entity according to a plan containing residential housing units in which the individual lots have a common or public open space area as a appurtenance.

6.22 Residential unit: Any unit designed for use by one (1) family for living purposes, and being self-contained, and being either in a detached, semi-detached, attached, multi-family or multi-story structure.

6.23 Site Plan: A development plan of one (1) or more lots on which is shown the existing and proposed topography of the lots, the location of all existing and proposed buildings, drives, parking spaces, means of ingress and egress, drainage facilities, landscaping, screening, signs, lighting, and screening devices, and any other information that may be reasonable in order to make an informed determination pursuant to Article II.

6.24 Statement of objectives for planned unit development: A written statement of the goals of the municipality with respect to land use for various purposes, density of population, direction of growth, location and function of streets and other public facilities, and common open space for recreation or visual benefit, or both, and such other factors as the municipality may find relevant in determining whether a planned unit development, or planned unit residential development shall be authorized.

