

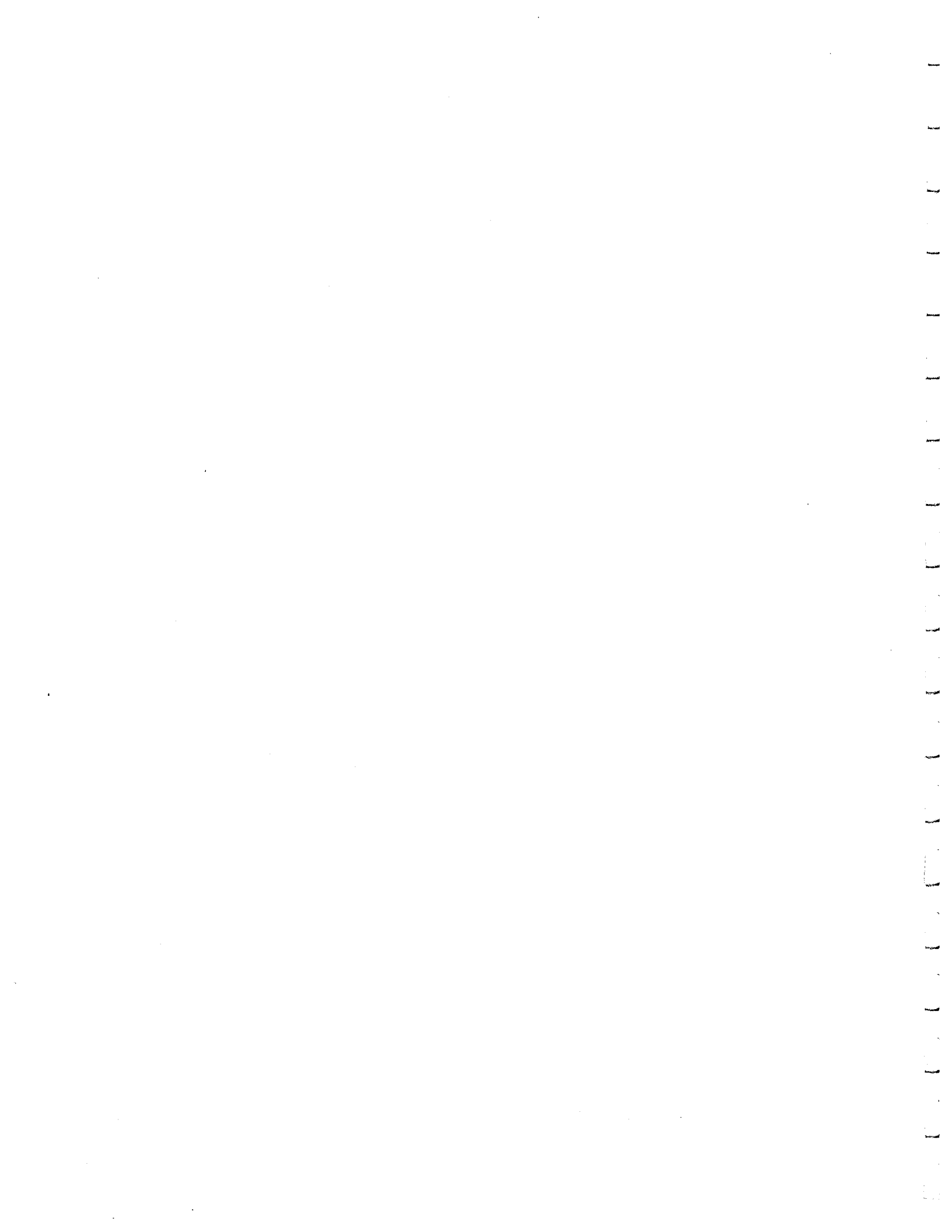
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**ZONING REGULATIONS**  
**CITY OF MARION, KENTUCKY**

**MARION PLANNING COMMISSION**

Effective January 1, 2002



# **ZONING REGULATIONS**

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**MARION PLANNING COMMISSION**

Effective January 1, 2002

Copies of the Marion Zoning Regulations may be purchased at Marion City Hall, 108 E. Bellville Street, Marion, Kentucky, during regular business hours.

A copy of the Marion Zoning Regulations may be inspected at the Marion City Hall, 108 E. Bellville Street, Marion, Kentucky, during regular business hours.

**ORDINANCE NO. 01- 23**  
**AN ORDINANCE ADOPTING ZONING REGULATIONS FOR**  
**THE CITY OF MARION, KENTUCKY**

NOW, THEREFORE, BE IT ORDAINED by the City Council of Marion, Kentucky that the Marion Code of Ordinances adopts as follows:

Section 1: The Zonings Regulations for the City of Marion, Kentucky as submitted by the Marion Planning Commission, a copy of which accompanies this Ordinance and is adopted as if set out in full and shall be made a part of the permanent records of the City.

Section 2: That all Ordinances in conflict herewith are, to the extent of the conflict, hereby repealed.

Section 3: That this Ordinance shall become effective January 1, 2002 by law pursuant to Kentucky Revised Statutes.

COUNCIL MEMBERS	YES	NO
Fred Brown	<u>  X  </u>	<u>          </u>
Allen Lynn	<u>  X  </u>	<u>          </u>
Dwight Sherer	<u>  X  </u>	<u>          </u>
Janet Pierce	<u>  X  </u>	<u>          </u>
Michael Byford	<u>  X  </u>	<u>          </u>
Ronnie Hughes	<u>  X  </u>	<u>          </u>

It appearing that   6   Council Members voted for the adoption of the ordinance, and   0   voted against with   0   abstaining, the Mayor declared the ordinance adopted.

INTRODUCED AND GIVEN 1<sup>ST</sup> READING: October 15, 2001

GIVEN 2<sup>ND</sup> READING AND PASSED:           NOVEMBER 19, 2001          

PUBLISHED IN THE CRITTENDEN PRESS:           NOVEMBER 22, 2001          

ATTEST:

  
PAM ENOCH, City Clerk

  
MICHAEL D. ALEXANDER, Mayor



# MARION ZONING REGULATIONS

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## ARTICLE 151.40-1 LEGISLATIVE PROVISIONS

### 151.40-1.1 TITLE, AUTHORITY, AND EFFECTIVE DATE

The Marion Zoning Regulations are comprised of the text, schedule and zoning map. The Marion Zoning Regulations, will be known as the "Zoning Regulations of the City of Marion, Kentucky." They may be cited as either "The Marion Zoning Regulations" or "these regulations." The zoning map referred to herein is entitled "Zoning Map of the City of Marion, Kentucky".

These regulations are adopted pursuant to the authority granted by Kentucky Revised Statutes (KRS) Chapter 100.201, which permits cities and counties to adopt land use regulations. The Marion Zoning Regulations will become effective on January 1, 2002. Copies of these regulations are on file with the Marion City Clerk's Office and copies of these regulations may be obtained at Marion City Hall during regular business hours.

### 151.40-1.2 GENERAL PURPOSES

- 151.40-1.2.1 These regulations, which have been formulated following *The 1998 Comprehensive Plan, Marion, Kentucky*, for the future of the City of Marion, and are adopted for the following purposes:
- A. Promote and protect the public health, safety, and general welfare of the present and future residents of the City of Marion, Kentucky;
  - B. Accomplishing the objectives of KRS Chapter 100;
  - C. Facilitate orderly and harmonious development and the visual character of The City of Marion;
  - D. Lessen congestion on public streets;
  - E. Protect against overcrowding of land and undue density of population in relationship to the community facilities existing or available;
  - F. Conserve the value of buildings, land, and protect, preserve and promote the aesthetic appeal, character and value of the surrounding neighborhoods;
  - G. Encourage economic development activities that provide desirable employment and enlarge the tax base;
  - H. Provide for the preservation of historic properties and districts, and environmentally sensitive lands;
  - I. Promote health and safety through the reduction of noise, air, and visual pollution, and artificial lights glare;
  - J. Prevent the loss of life and protect property from damage due to fire, flood, or other dangers and facilitate the provision of fire and police protection;
  - K. Facilitate the provision of adequate transportation facilities and services, water supply, drainage, sewage, parks, and other public facilities.
- 151.40-1.2.2 In pursuit of the above stated purposes, these regulations contain a set of rules and restrictions governing the erection, construction, alteration, repair or use of buildings, structures or land within the City of Marion. These regulations also provide a method of administration, enforcement and penalties for the violation of its provisions.

**151.40-1.3 JURISDICTION AND ZONING AFFECTS EVERY STRUCTURE, LOT OR USE**

The provision of these regulations will apply to all structures, uses of premises and property within the City of Marion, Kentucky.

**151.40-1.4 COORDINATION WITH DRAINAGE AND SUBDIVISION REGULATIONS**

It is the intention of the Marion City Council that these regulations shall be coordinated with the Marion subdivision and drainage regulations. The provisions of the subdivision regulations and drainage regulations will apply in addition to the provisions of these regulations.

**151.40-1.5 CONFLICT WITH OTHER ORDINANCES AND PRIVATE DEEDS**

Whenever these regulations conflict with another ordinance, regulation, or law of the City of Marion, the more restrictive will govern and will be enforced by the appropriate local agency. When a subdivision or development plan, approved by the Planning Commission, contains setback or other features in excess of the minimum of these regulations, such setbacks or other features will govern and will be enforced by the Administrative Official. Private deed restrictions or covenants for a subdivision, do not fall within the jurisdiction or enforcement responsibility of the Planning Commission and cannot be enforced by the Administrative Official.

**151.40-1.6 SEPARABILITY**

If any word, phrase, section, or portion of these regulations be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding will not effect any other section, clause, provision, or portion of these regulations which is not in itself invalid or unconstitutional.

**151.40-1.7 USE OR SALE OF LAND OR BUILDINGS IN CONFORMANCE WITH ZONING REGULATIONS**

151.40-1.7.1 No structure or land shall hereafter be used or occupied and no structure or part thereof will be erected, moved or altered, unless for a use expressly permitted by and in conformity with these regulations as specified for the district in which it is located. An exception to this section pertains to any structure damaged or destroyed by fire not the result of an action by the owner, tenant or their agent or natural cause. Such structure may be restored provided the structure is not expanded, and if such structure does not involve a non-conforming use.

151.40-1.7.2 For purposes of this section, the "use" or "occupancy" of a structure, building or land relates to anything and everything that is done to, on, or in that structure, building or land.

151.40-1.7.3 In their interpretation and application, the provisions of these regulations will be held to be minimum requirements.

151.40-1.7.4 No building or other structure will hereafter be erected or altered to exceed the height or bulk standards of these regulations; nor will they be permitted to accommodate or house a greater number of dwelling units or have narrower or smaller rear, front, side yards or other open spaces than herein required, except as herein authorized.

151.40-1.7.5 No part of a yard or other open space, or off street parking or loading space required about or in connection with any building for the purpose of complying with these

regulations, will be included as part of a yard, open space or off street parking or loading space similarly required for any other building.

151.40-1.7.6 No yard or lot existing at the time of passage of this ordinance will be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created will meet at least the minimum requirements established by these regulations.

151.40-1.7.7 Each zoning district is established to permit only those uses specifically listed as permitted, except as hereinafter provided under the non-conforming provisions, and is intended for the protection of those uses. No other uses are permitted. The Board of Adjustments will not grant a use variance.

#### 151.40-1.8 TRANSITIONAL PROVISIONS

- 151.40-1.8.1 The following transitional provisions will apply to various activities, actions and other matters pending or occurring on the original effective date of these regulations:
- A. A structure or use lawfully existing as of the effective date of these regulations, is deemed to continue to be lawful, provided it otherwise conforms with all of the other requirements of these regulations.
  - B. Any violation of these zoning regulations will continue to be a violation and will be subject to prosecution as such. Any such violation will also be a violation subject to abatement, removal or other equitable remedies hereunder unless the use, development, construction or other activity is clearly consistent with the express terms of these regulations.
  - C. Any legal nonconforming use, building or lot under a prior ordinance or regulation of the City of Marion will be a legal nonconforming use, building, or lot under these zoning regulations, subject to the provisions of Article I.
  - D. Any building for which a permit was issued prior to the effective date of these regulations, may be completed in conformance with the issued permit and other applicable permits and conditions, including the plans submitted for the approval of the permit. If such building does not fully conform to the provisions of these zoning regulations or if the use for which it was designed is not permitted under the district regulations applicable to where the property is located, such building may be occupied and used as a legal nonconforming building or use, subject to the provisions of Article I. If construction is not timely begun or completed, in accordance with the applicable permit terms, the Planning Commission may, for good cause shown, grant not more than one extension, of not more than six months, for completion of such construction. If the building is not timely completed within the time allowed under the original permit or any extension granted, then the building may be constructed, completed and/or occupied only in strict compliance with the requirements of these regulations.
  - E. Any subdivision for which a final plat was recorded in the office of the Crittenden County Clerk prior to the effective date of these regulations, may be completed in accordance with its terms. If such subdivision or development does not fully conform to the provisions of these zoning regulations, the subdivision or development (including any buildings for which plans were included in development approval) may be completed and used and will exist as a legal nonconforming lot or nonconforming building, subject to the provisions of Article 151.40-I .

**151.40-1.9 LOT OF RECORD**

The owner of a lot of record, which lot at the time of the adoption of these regulations, does not include sufficient land to conform to the minimum lot requirements or yard or other requirements of these regulations, may be granted a building permit for the minimum use permitted within the zoning district where the property is located. In the case where a residential use is allowed in the zoning district as a permitted use, the most restrictive residential use will be deemed the minimum use permitted. The owner of such lots may submit an application to the Board of Adjustments for a variance from yard and setback standards of these regulations in order to construct the residence. The owner will comply with all other provisions of these regulations.

**151.40-1.10 COMPUTATION OF TIME**

151.40-1.10.1 Unless otherwise specifically provided, the time within which an act is to be done will be computed by excluding the first and including the last day. If the last day is a Saturday, Sunday, or legal holiday, that day will be excluded. When the period of time prescribed is less than seven days, intermediate Saturdays, Sundays, and holidays will be excluded.

151.40-1.10.2 Unless otherwise specifically provided, whenever a person has the right or is required to do some act within a prescribed period after the serving of a notice, citation, or other paper upon him and the notice or paper is served by mail, three days will be added to the prescribed period.

**151.40-1.11 FEES**

151.40-1.11.1 Reasonable fees sufficient to cover the costs of administration, inspection, publication of notice and similar matters may be charged to applicants for zoning applications, sign permits, conditional use permit, subdivision plat approval, zoning amendments, variances, requests for interpretations, development plans, certificates of land restriction and appeals. The amount of the fees charged will be as set by the Planning Commission budget, or by resolution adopted by the Planning Commission.

151.40-1.11.2 Fees established in accordance with Subsection (a) will be paid upon submission of a signed application or notice of appeal.

**151.40-1.12 USE OF HEADINGS**

The headings of the parts, sections, subsections and clauses of these regulations, together with any schedules, illustrations, examples and explanatory notes appearing at various places throughout has been inserted as a matter of convenience and for reference only and in no way define, limit or enlarge the scope or meaning of these regulations, or any of its provisions.

## CHAPTER 151.40-2 DEFINITIONS

### 151.40-2.1 GENERAL CONSTRUCTION OF LANGUAGE

Unless the context otherwise requires, the following definitions and terms shall be used in the interpretation of these regulations. The words which are defined are those having special or limited meanings in these regulations. Words with self-evident meaning are not defined here.

Words used in the present tense include the future.

Words imposing the masculine gender include the feminine and neuter.

The singular number includes the plural, and the plural the singular.

The word "shall" is mandatory, not permissive or directory.

The word "may" is permissive, the word "should" is preferred.

The word "person" includes an individual, firm, partnership, corporation, trust, executor, other fiduciary, association, or other type of legal organization.

The word "lot" includes the word "plot" "parcel" or "site".

The word "building" includes the word "structure".

The word "use" or "occupied" as applied to any land or structure shall be construed to include the word "intended, arranged, or designed to be used or occupied."

The word "includes" shall not limit a term to a specified example, but is intended to extend its meaning to all other instances or circumstances of like kind or character.

### 151.40-2.2 DEFINED TERMS

- 2.2.1 **Accessory Apartment:** A dwelling unit that has been added onto, or created within a single-family house. The accessory apartment has separate kitchen, bathing and sleeping areas.
- 2.2.2 **Accessory Building:** A subordinate building, clearly incidental to that of the principal building on the same lot, which is permanently affixed to the ground and detached from the principal structure by a reasonable distance. An accessory building shall not include a mobile home, bus, travel trailer, recreational vehicle, cooler, vehicle or freight container.
- 2.2.3 **Accessory Use:** A use customarily found in connection with the principal use located on the same lot, appropriate and subordinate to the principle use of land or building, and devoted exclusively to the main use of the premises.
- 2.2.4 **Agriculture Use:** The use of a tract of land at least five (5) contiguous acres for the production of agricultural, or horticultural crops, including, but not limited to live stock, livestock products, poultry, poultry products, grain, hay, pastures, soybeans, tobacco, timber, orchard fruits, vegetables, flowers or ornamental plants, including provision for dwellings for persons and their families who are engaged in the above agricultural use on the tract, but not including residential building development for sale or lease to the public, or transfer of title of property to others. See also "Industrial Agricultural Operation.
- 2.2.5 **Alley:** A service roadway providing secondary access to abutting properties and not intended for general traffic circulation.
- 2.2.6 **Antique Store:** Any building used for the sale of any old and authentic objects of personal property which was made, fabricated or manufactured sixty or more years earlier and which has a unique appeal and enhanced value mainly because of its age, and in addition, may include the sale of any article of personal property which was made, fabricated or manufactured twenty or more years earlier and because of public

- demand has attained value in a recognized commercial market which is in excess of its original value.
- 2.2.6 **Bed and Breakfast:** An establishment in a private dwelling that supplies temporary accommodations to overnight guests.
- 2.2.7 **Board of Adjustments:** The Board of Zoning Adjustment of Marion, Kentucky unless the context indicates otherwise.
- 2.2.8 **Building:** A structure built for the support, shelter, or enclosure of persons, animals, chattels, or property of any kind and having a fixed base on, or fixed connection to the ground. A building shall not include a mobile home, recreational vehicle, or trailer.
- 2.2.9 **Building Line:** A setback line parallel to a property line beyond which no building or part thereof shall project, except as otherwise provided by these regulations. A building line may coincide with a property line.
- 2.2.10 **Building Permit:** A permit issued by the City of Marion, allowing a property owner or his agent to construct, alter, or remove a building, or engage in similar activity which would alter the character of the lot.
- 2.2.11 **Comprehensive Plan:** The long range plan adopted by the Marion Planning Commission and City Council in accordance with KRS Chapter 100, which is intended to guide the growth and development of the City of Marion.
- 2.2.12 **Conditional Use:** A use which would promote the public health, safety, or welfare of the community if permitted in a particular zoning district, but which may impair the integrity and character of the zoning district in which it is to be located, unless restrictions on location, size, extent and character of performance are not imposed in addition to those imposed in these zoning regulations.
- 2.2.13 **Condominium:** A building or group of buildings, in which each individual unit are held in separate private ownership and all floor space, facilities and outdoor areas used in common by all tenants are owned, administered and maintained by a corporation created pursuant to the provisions of KRS Chapter 381.805 et. seq.
- 2.2.13 **Craft/collectable Store:** (1) A building or part thereof in which a handicraft is conducted for gain or profit and made include sale of such handicraft. (2) Any building or part thereof used for the sale of handicraft items or collectable objects that have attained value in a recognized commercial market as such item
- 2.2.14 **Density:** A measure of the intensity of the use of a piece of land expressed in number of dwelling units, families, or housing structures allowed per acre.
- 2.2.15 **Development:** The division of a parcel of land into two or more parcels; the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; any use or change in use of any buildings or land; any extension, landfill, or land disturbance, clearing, or other man induced movements of land.
- 2.2.16 **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.
- 2.2.17 **Dwelling:** A building or portion thereof that is used or is designed for permanent human habitation. The term "dwelling" shall not include hotels, motels, boarding or rooming houses, trailers, recreational vehicle, trailer coaches, mobile homes, hospitals or other accommodations used for transient occupancy.
- 2.2.18 **Dwelling, Single Family:** A detached dwelling designed for or occupied exclusively by one family.
- 2.2.19 **Dwelling, Multi-family:** A building or portion thereof designed for or containing three or more dwelling units, on the same property.
- 2.2.20 **Dwelling Unit:** One or more rooms, designed, occupied, or intended for occupancy as a separate living



- quarter, with cooking sleeping, and sanitary facilities provided with the dwelling unit for owner occupancy, rental or lease on a weekly, monthly or longer basis.
- 2.2.21 **Family:** A person living alone, or two or more persons related by blood, marriage, adoption, guardianship or other duly authorized custodial relationship, or a group of two persons and any children related to either of them, or not more than eight people living in a residential care facility occupying the premises and living as a single nonprofit housekeeping unit and using common cooking facilities. Family does not include a group occupying a hotel, club, boarding, lodging, institution for human care, or other similar building.
- 2.2.22 **Final Action:** The last official action by the Planning Commission, Board of Adjustments, or City Commission as prescribed by KRS Chapter 100.347.
- 2.2.23 **Floor Area, Gross :** The sum of the gross horizontal areas of all floors of a structure, from the exterior face of the exterior walls, or from the centerline of a wall separating two buildings, including finished basement and covered porches, but excluding any space where the floor-to-ceiling height is less than six (6) feet. The floor area of a building shall include the floor area of accessory buildings on the same lot.
- 2.2.24 **Frontage:** All property on one side of a street between two intersecting streets measured along the line of the street, or if the street has a dead end, then all of the property abutting the dead end and turnaround of the street.
- 2.2.25 **Grade, Finished:** The completed surfaces of lawns, walks, and roads brought to grades as shown on plans or designed relating thereto.
- 2.2.26 **Height:** The vertical distance measured from the average finished grade abutting a building or structure to the highest point of the building or permanent part of a structure. See also building height.
- 2.2.27 **Historic District:** A geographically definable area designated by the City Council as possessing a concentration, lineage, or continuity of sites, structures, or objects of historic, archeological, architectural, social, or aesthetic value. A district may also be comprised of individual sites, buildings, structures, or objects linked by association or history.
- 2.2.28 **Home Occupation:** Professional offices and personal services maintained or conducted within a dwelling. Neither the selling of any merchandise nor processing of any product shall qualify as a home occupation.
- 2.2.29 **Industrial Agricultural Operation:** Any animal feeding lot and associated animal waste areas as defined by KRS Chapter 224 and Administrative regulations 401 KAR 5:072E.
- 2.2.30 **KRS:** Kentucky Revised Statutes.
- 2.2.31 **Landmark:** A site, building, structure, road, or natural or man-made object individually designated by the City Council because of its historic, archeological, social, or aesthetic significance.
- 2.2.32 **Loading and Unloading Area:** An off-street space, area or berth used for the loading or unloading of cargo, products, or materials from vehicles.
- 2.2.33 **Lot:** A parcel, tract or area of land established by a plat, subdivision or as otherwise permitted by law, to be used, developed or built upon, whether immediately or in the future and which may be transferred by ownership, possession, or lease.
- 2.2.34 **Lot Area:** The total area circumscribed by the boundaries of a lot, except that: (i) when the legal instrument creating a lot shows the boundary of the lot extending into a public street right-of-way, then the lot boundary for purposes of computing the lot area shall be the street right-of-way line, or (2) if the right-of way line cannot be determined, a line running parallel to and 25 feet from the center of the street.
- 2.2.35 **Lot, Corner:** A lot abutting upon two or more streets at their intersection.
- 2.2.36 **Lot Coverage:** That portion of the lot that may be covered by all buildings, structures, driveways and parking areas.
- 2.2.37 **Lot Lines:** A line of record, bounding a lot, that divides one lot from another lot, or from a street, or any other public space.

- 2.2.38 **Lot Line, Front:** Property line separating the lot from the street right-of-way.
- 2.2.39 **Lot Line, Rear:** The lot line opposite and most distant from the front lot line. In the case of triangular or otherwise irregularly shaped lots, a line ten feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line.
- 2.2.40 **Lot of Record:** A lot which exists as shown or described on a plat or deed, which has been placed on file in the Crittenden County Clerk's office and which complied with all local regulations at the time of its recondition.
- 2.2.41 **Manufactured Home Class A:** A single-family residential dwelling unit constructed in accordance with the Federal Manufactured Housing Construction and Safety Standards, after June 15, 1976, in an off site manufacturing facility. The manufactured home is intended for installation or assembly at the building site as a permanent structure with transport features removed, bearing a seal certifying that it is built in compliance with the Federal Manufactured Housing Construction and Safety Standards, and that satisfies each of the following additional criteria:
- A. The home has a length not exceeding five times its width;
  - B. The pitch of the home's roof has a minimum vertical rise of three inches for each foot of run (3:12). The run is equal to one half the span;
  - C. The roof is finished with a type of shingle that is commonly used on site-built residential construction, such as wood, tile, composition shingles or certain types of metal roofs with factory applied baked enamel finish. Metal roofs permitted are standing seam, steel shingles, or 5 V;
  - D. Exterior covering material extending to the ground or to the top of the foundation shall be used;
  - E. The exterior material shall be material customarily used for site-built dwellings, such as board siding, hardboard, or non-reflective aluminum, vinyl, stucco, brick, comparable in composition, appearance, and durability to the exterior siding commonly used in site-built residential construction;
  - F. A continuous, permanent masonry foundation system, not pierced except for required ventilation and access, is installed under the home;
  - G. The tongue, axles, transporting lights, and removable towing apparatus are removed after placement on the lot and before occupancy;
  - H. The structure is no more than three (3) feet off the ground at its highest point.
  - I. Structural additions or alterations which have been made to the dwelling unit were made in accordance with the residential building code adopted by the City of Marion.
  - J. Has a Class B seal, as provided for in KRS Chapter 227.600, affixed to the vehicle in a conspicuous place. This Class B seal must have an inspection dated no less than 8 years from the date the unit is set.

As used herein a Manufactured Home Class A does not include camping trailer, travel trailer, recreational vehicle, pick-up coach or auto camper.

- 2.2.42 **Manufactured Home Class B:** A single-family residential dwelling unit constructed in accordance with the Federal Manufactured Housing Construction and Safety Standards after June 15, 1976, in an off site manufacturing facility. The manufactured home is intended for installation or assembly at the building site as a permanent structure with transport features removed, bearing a seal certifying that it was built in compliance with the Federal Manufactured Housing Construction and Safety Standards but does not satisfy each of the criteria necessary to qualify the home as a class A manufactured home. All Manufactured Home Class B units must have a Class B seal, as provided for in KRS Chapter 227.600, affixed to the vehicle in a conspicuous place. This Class B seal must have an inspection dated no less than 8 years from the date the unit is set. Structural additions or alterations which have been made to the dwelling unit were made in accordance with the residential building code adopted by the City of Marion. As used herein a Manufactured Home Class B does not include camping trailer, travel trailer, recreational

- vehicle, pick-up coach or auto camper.
- 2.2.43 **Manufactured Home Park:** Any parcel of land developed, used or designed for the location, either temporary or permanent, of manufactured homes, on rental basis.
- 2.2.44 **Manufactured Home Space:** A plot of ground within a manufactured home park designed for the accommodation of one (1) manufactured home.
- 2.2.45 **Manufactured Home Subdivision:** A subdivision designed or intended for the sale, lease or rental of lots containing Class A manufactured or modular homes whether.
- 2.2.46 **Mobile Home:** A detached residential dwelling unit that was designed for transportation as one or more units, after fabrication, over streets or highways and arriving at the site ready for occupancy except for minor and incidental unpacking and assembly operations. Further, this detached residential dwelling unit was constructed prior to July 15, 1976, being the effective date of the Federal Manufactured Housing Construction and Safety Act Standards (Title 42 of the United States Code) and does not bear a seal certifying that it was built in compliance with the Federal Manufactured Housing Construction and Safety Standards.
- 2.2.47 **Modular Home:** A dwelling unit constructed in accordance with the standards set forth in the Kentucky Building Code as applicable to site-built homes and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly, on a permanent foundation. Among other possibilities, a modular home may consist of two sections transported to the site in a manner similar to a manufactured home (except that the modular home meets the Kentucky Building Code) or a series of panels or room sections transported on a truck, and erected or joined together on the site.
- 2.2.48 **Multiple Building Development:** Multi-building development is the construction of two or more principal buildings on a single plot of ground which is under single-ownership, and which will not be divided and sold into smaller parcels.
- 2.2.49 **Nonconforming Building:** A building which does not conform with all applicable provisions of these Regulations, but which existed at the time of its designation as nonconforming, by the adoption or amendment of these regulations.
- 2.2.50 **Nonconforming Lot:** A lot existing and recorded in the Crittenden County Clerk's office at the effective date of these regulations, that does not meet the area requirement of the zoning district in which the lot is located.
- 2.2.51 **Nonconforming Use:** A use or activity that was lawful prior to the adoption, revision, or amendment of these regulations, but that fails by reason of such adoption, revision or amendment, to conform to the present requirements of the zoning district.
- 2.2.52 **Parking Area:** An off-street public or private land area designed and used for parking motor vehicles. The term includes parking lots, structures, garages and driveways. The parking area shall consist of necessary access ways, aisles, parking and maneuvering space, but excludes public right-of-way and drive ways providing ingress and egress to the parking area.
- 2.2.53 **Parking Space:** A portion of the parking area set aside for the parking of one motor vehicle and the aisle immediately adjoining the space. As used in these regulations it is also the numerical designation used to determine the size of parking area.
- 2.2.54 **Planning Commission:** Marion Planning Commission.
- 2.2.55 **Plat:** (1) A map representing a tract of land showing the boundaries and location of individual properties, easements, streets, and other required information. (2) A map of a subdivision or plot plan.
- 2.2.56 **Premises:** A lot, parcel, tract or plot of land together with the buildings and structures thereon.
- 2.2.57 **Recreational Vehicle:** A vehicle type portable structure without permanent foundation, which can be towed, hauled, or driven and primarily designed as temporary living accommodation for recreational, camping and travel use and including but not limited to camping trailer, travel trailers, pick-up coach, auto camper, truck campers, or self-propelled motor homes.

- 2.2.58 **Salvage or Junk:** Any item made of glass, metal, paper, plastic, or other material which may be used again in another form. This definition shall apply to both assembled and disassembled items.
- 2.2.59 **Salvage or Junk Yard:** A place where salvage or junk is stored.
- 2.2.60 **Setback line:** That line that is the required minimum distance from the street right-of-way line or any other lot line that establishes the area within which the principal structure must be erected or placed.
- 2.2.61 **Sign:** Any device, building fixture, or placard using graphics, symbols, and written copy for the primary purpose of identifying, providing directions, or advertising any establishment, product, goods, or services.
- 2.2.62 **Sign, Abandoned:** A sign which no longer identifies or advertises a bona fide business, lessor, service, owner, product, or activity and for which no legal owner can be found.
- 2.2.63 **Sign, Low Profile:** A sign mounted directly to the ground with maximum height not to exceed three and one half (3.5) feet above the average grade where the sign is located. May be referred to as a monument sign.
- 2.2.64 **Sign, Monument:** See sign, low profile.
- 2.2.65 **Sign, Off-Premise:** A sign building advertising an establishment, merchandise, service, or entertainment, which is not sold, produced, manufactured, or furnished at the property on which said sign is located. An outdoor advertising device is considered an off-premise sign.
- 2.2.66 **Sign, On-Premise:** A sign building advertising an establishment, use, merchandise, service, entertainment, or activity that is conducted, sold, or offered at a location on which the sign is located.
- 2.2.67 **Street:** Any vehicular way that: (1) is an existing federal, state, county, or municipal roadway; (2) is shown upon a plat approved pursuant to law; (3) is approved by other official action; or (4) is shown on a plat duly filed and recorded in the County Court Clerk's Office, from and after the effective date of the Marion Subdivision Regulations.
- 2.2.68 **Structure:** Anything constructed, erected or attached, the use of which required location on the ground or in the ground, as may be required for the purposes of carrying out these regulations. This term shall not include poles and appurtenances thereto used for the provision of public utilities. Structure includes any building or accessory building, signs, towers, billboards, porches, swimming or other recreation or commercial pools, and retaining walls, gas or liquid storage tank, fences and other man-made facilities or infrastructures.
- 2.2.69 **Subdivision:** The division of a parcel of land into three or more lots or parcels for the purpose, whether immediate or future, of sale, lease, or building development, or if a new street is involved, any subdivision of a parcel of land; providing that a division of land for agricultural purposes into lots or parcels of five acres or more, and not involving a new, street shall not be deemed a subdivision. The term includes re-subdivision and when appropriate to the context, shall relate to the process of subdivision or to the land subdivided.
- 2.2.70 **Tract:** See definition of lot.
- 2.2.71 **Use:** The purpose or activity for which a land or building or structure or combination thereof is designed, arranged, or intended, or for which it is occupied or maintained.
- 2.2.72 **Use, Permitted:** Any use allowed in a zoning district and subject to the restrictions applicable to the zoning district.
- 2.2.73 **Variance, Dimensional:** A departure from the terms of the zoning regulations pertaining to height, width or location of structures, and the 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 as a result of the actions of the applicant, the literal enforcement of the zoning regulations would result in unnecessary and undue hardship.
- 2.2.74 **Yard:** An open space at grade between the principal building and the adjoining lot line, unoccupied and un-obstructed by any portion of a building from the ground upward except where otherwise specifically provided in these regulations. An accessory building may be located in a portion of a yard required for a

main building.

- 2.2.75 **Yard, Front:** That portion of the yard extending the full width of the lot and extending between the front lot line and the nearest point of the foundation of the principal building wall, excluding overhangs of 30 inches or less, stoops, patios, and landings at or below the first floor level.
- 2.2.76 **Yard, Rear:** That portion of the yard extending the full width of the lot and extending between the rear lot line and the nearest point of the foundation of the principal building wall, excluding overhangs of 30 inches or less, stoops, patios, and landings at or below the first floor level.
- 2.2.77 **Yard, Side:** Those portions of the yard extending from the nearest point of the foundation of the principal building to the side lot lines, excluding overhangs of 30 inches or less, stoops, patios, and landings at or below the first level.
- 2.2.78 **Zoning District:** A portion of the territory within the City of Marion within which uniform regulations and requirements govern the use, placement, spacing, and size of land and buildings.



## **ARTICLE 15.40-3 NONCONFORMING USES, STRUCTURES, PREMISES AND LOTS**

### **15.40-3.1 INTENT**

Within the zoning districts established by these regulations, or amendments that may later be adopted, there exist lots, structures, and uses of land and structures which were lawful before the effective date of these regulations or amendment, but which would be prohibited, regulated, or restricted under the terms of these regulations or future amendment. It is the intent of these regulations to permit these non-conformities to continue until they are removed, but not to encourage their survival. It is further the intent of these regulations that non-conformities shall not be enlarged upon, expanded or extended beyond the scope and area of their operation at the time of the adoption or amendment of these regulations, nor that they be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

- 15.40-3.1.1 To avoid undue hardship, nothing in these regulations shall be deemed to require a building permit or change in the plans, construction, or designated use of any structure or premises on which:
- A. Work has begun on the property prior to the date of adoption of these regulations or amendment thereto.
  - B. The owner of the property has a permit that had been issued by a public agency which has authority over the construction of the structure and the permit was issued prior to the effective date or amendment of these regulations. The issuance of said permit shall be valid only in the event that construction on said structure, is accomplished in accordance with the plans and specifications submitted with the application for the permit and that construction is completed in a timely manner.

- 15.40-3.1.2 The exemption from building permits and conformance with these regulations shall continue subject the following provisions: Work on the project began within sixty (60) days of the date the permit was issued; Work is diligently carried on; And work is completed within one (1) year from the date on which the permit was issued or that construction on the project commenced, whichever is later.

- 15.40-3.1.3 Actual construction is defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where grading or excavation, or demolition or removal of an existing structure has been begun preparatory to rebuilding or reusing the premises, such grading or excavation, or demolition or removal shall be deemed to be actual construction provided that work shall be carried on diligently.

### **15.40-3.2 NON-CONFORMING LOTS OF RECORD**

- 15.40-3.2.1 At the time of the adoption of these regulations, there may exist lots of record which do not include sufficient land to conform to the site development or other requirements of the district in which they are located. The Administrative Official may issue a building permit for such lot, if the proposed structures can comply with all other site development requirements of Article 15.40-8 for the applicable district with the exception of

minimum lot size and minimum lot frontage requirements. If proposed parking area/driveway access characteristics cannot comply with the minimum standards of these regulations, an application may be submitted to the Board of Adjustments for a dimensional variance from the terms of these regulations (see Article 15.40-12).

15.40-3.2.2 If two or more lots or combination of lots and portions of lots with contiguous frontage in single ownership are of record at the time of passage or amendment of these regulations, and if the individual lots or portions of lots do not meet the requirements established for lot area or width, but would conform to the requirements of these regulations, if all or parts of the lots were considered together, the lands involved shall be considered to be an undivided parcel for the purposes of these regulations. No portion of said parcel shall be used or sold in a manner which diminishes compliance with lot area or width requirements established by these regulations. Nor shall any division of any parcel be made which creates a lot with an area or width below the requirements stated in these regulations.

15.40-3.2.3 The lot size or frontage of a nonconforming lot of record may be enlarged even if that enlargement does not meet the minimum lot size or minimum lot frontage requirement for that district in which it is located. No subdivision or reduction in lot area or frontage of a nonconforming lot of record shall be permitted.

15.40-3.3 **NON-CONFORMING USES OF LAND**

Where, at the date of adoption or amendment of these regulations, lawful use of land exists which would not be permitted in the district under the terms of these regulations. The lawful use may be continued so long as it remains otherwise lawful subject to the following, provided:

15.40-3.3.1 No such non-conforming use shall be enlarged, increased, or extended to occupy a greater area of land than was occupied at the date of adoption or amendment of these regulations.

15.40-3.3.2 No 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 date of adoption or amendment of these regulations. However, said use may be moved to another position on the lot or parcel through appeal to the Board of Adjustments under Article 15.40-12.

15.40-3.3.3 When a non-conforming use of land is discontinued or abandoned for six (6) consecutive months or more, or for eighteen (18) months during any three (3) year period (except when governmental action prevents such use), the land shall not thereafter be used except in conformity with the regulations of the district in which it is located.

15.40-3.3.4 No additional structure, not conforming to the requirements of these regulations, shall be erected in connection with such nonconforming use of land.

15.40-3.4 **NON-CONFORMING STRUCTURES**

Where a lawful structure exists at the effective date of adoption or amendment of these regulations that could not be built under the terms of these regulations 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:

- 15.40-3.4.1 No such non-conforming structure may be enlarged, except for a one time grant of a dimensional variance by the Board of Adjustments as set out in Section 15.40-3.4.4, moved, or structurally altered in a way which increases its non-conformity, but any structure or portion thereof may be altered to decrease its non-conformity.
- 15.40-3.4.2 Should a non-conforming structure or portion of such a structure be damaged, destroyed, or demolished by any means except natural causes (such as damage caused by wind or tornado) to an extent of fifty five (55) percent or more of its replacement cost exclusive of foundation, at time of destruction, it shall not be repaired or reconstructed except in conformity of these regulations. If such non-conforming structure or portion of a such structure is damaged, destroyed, or demolished by natural causes, it may be reconstructed or repaired but not to exceed the number of square feet or height existing in it prior to the disaster.
- 15.40-3.4.3 Should such structure be moved for any reason, for any distance whatsoever, it shall thereafter conform to the regulations for the district in which it is located after it is moved. However, said structure may be moved to another part of the same lot by appeal to the Board of Adjustments as provided under Article 15.40-12.
- 15.40-3.4.4 The Board of Adjustments may grant one or more dimensional variance to section 15.40-3.4.1 above in order to permit the enlargement of a non-conforming structure. In granting the dimensional variance the Board of Adjustments must find the following:
- A. That the non-conforming structure existed at the time of adoption of these regulations;
  - B. That in granting the non-conforming expansion of the structure the expanded structure does not create a sight visibility problem, or diminish the minimum required off street parking for the type of use intended for the structure;
  - C. That the enlargement does not exceed ten (10) percent of the structure as of the date of adoption of these regulations.

15.40-3.5 **NON-CONFORMING USES OF STRUCTURES OR OF STRUCTURES AND PREMISES IN COMBINATION**

Where at the time of passage of these regulations or amendments, a lawful use involving an individual structure or of structure and premises in combination, exists that would not be allowed in the district under the terms of these regulations, that use may continue so long as it remains otherwise lawful, subject to the following provisions:

- 15.40-3.5.1 A structure, or structure and premises in combination, devoted to a non-conforming use shall not be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located. A one time exemption to this provision may be granted by the Board of Adjustments in accordance with the provisions of Section 15.40-3.5.7.
- 15.40-3.5.2 Any non-conforming use may be extended throughout any part of a structure which was arranged or designed for such use at the date of adoption or amendment of these regulations, but no such use shall be extended to occupy any land outside such structure.

- 15.40-3.5.3 No structural or structure and premises in combination, devoted to a non-conforming use shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except:
- A. To change the use to a use permitted in the district in which it is located.
  - B. To change the non-conforming use to another non-conforming use by appeal to the Board of Adjustments as provided under Section 151.40-12, provided the proposed use is in the same or a more restrictive use classification. This section does not allow for the expansion of a nonconforming structure containing an old or new nonconforming use, nor does it permit the establishment of a use totally out of character with the uses permitted within the zoning district where the property is located.
- 15.40-3.5.4 Any structure, or structure and land in combination, in or on which a non-conforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the non-conforming use may not thereafter be resumed.
- 15.40-3.5.5 Where non-conforming use status applies to a structure or structure and premises in combination, is voluntarily removed or is substantially altered, that removal or substantial alteration shall eliminate the non-conforming status of the structure or land. For purposes of this section voluntary removal shall mean any action by the owner or tenant of the structure which was not ordered by government. Substantial alteration shall mean the alteration which cost more than fifty five (55) percent or more of the value of the structure prior to alteration.
- 15.40-3.5.6 Where non-conforming use status applies to a structure or structure and premises in combination, is destroyed by any means except natural causes (such as damage caused by wind or tornado) the non-conforming status of the land will be lost. Destruction, for purposes of this section, is defined as damage to an extent of fifty five (55) percent or more of its replacement cost exclusive of foundation, at time of destruction. Where non-conforming use status applies to a structure or structure and premise in combination is damaged, destroyed, or demolished by natural causes, the structure may be reconstructed or repaired but in doing so, the new structure or repaired structure may not exceed the number of gross square feet existing in the structure at the time of the disaster. Nor may it extend or enlarge the scope and area of its non-conforming operation to a area of the property not occupied by the non-conforming use prior to the natural disaster except as provided in Section 15.40-3.5.6.
- 15.40-3.5.6 No non-conforming use of a structure, or structure and premises in combination, may be reestablished after it has been discontinued for six (6) months or more, or for eighteen (18) months during any three (3) year period, (except when government action prevents such use). The structure and premises in combination shall not thereafter be used, except in conformance with the regulating of the district in which it is located.
- 15.40-3.5.7 The Board of Adjustments may grant an expansion to a structure containing a non-conforming use under Section 15.40-3.5.1. In granting the expansion of the structure, the Board of Adjustments must find the following:
- A. That the non-conforming structure existed at the time of adoption of these regulations;
  - B. That the structure housing a non-conforming use has never received an exemption to

expand its size.

- C. That in granting the non-conforming expansion of the structure that the expanded structure does not create a sight visibility problem, or diminish the minimum required off street parking required for the type of use intended for the structure;
- D. That the enlargement does not exceed ten (10) percent of the structure as it existed as of the date of adoption or amendment of these regulations.

#### 15.40-3.6 **REPAIRS AND MAINTENANCE**

15.40-3.6.1 On any non-conforming structure or portion of structure and on any structure containing a non-conforming use, work may be done on ordinary repairs, or on repair or replacement of walls, fixtures, wiring, plumbing, or other parts provided that the gross square feet content of the non-conforming structure or portion shall not be increased. .

15.40-3.6.2 If a nonconforming 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 condition, it shall not thereafter be restored, repaired, or rebuilt except in conformity with the district regulations in which it is located.

15.40-3.6.3 Nothing in these regulations shall be deemed to prevent the strengthening, repairing, or restoring to a safe condition of any structure or part thereof declared to be unsafe by an official charged with protecting the public safety, upon order of such official.

#### 15.40-3.7 **USES UNDER CONDITIONAL USE PROVISIONS NOT NON-CONFORMING USES**

Any existing principal use existing at the date of the adoption or amendment of these regulations which would thereafter require a conditional use permit shall without further action be deemed a conforming use. Any enlargement or replacement of such a use, within a structure or on the land, shall require a conditional use permit.



## ARTICLE 151.40-4 SIGN REGULATIONS

### 151.40-4.1 PURPOSE

These regulations are intended to define, permit and control the use of signs. They have been established to achieve the following purposes:

- ▶ Protect the health, safety, and welfare of the public.
- ▶ Recognize the commercial communication requirements of all sectors of the business community.
- ▶ Promote the safety of persons and property, by requiring that signs not create a hazard due to collapse, fire, decay, or abandonment.
- ▶ Ensure that signs do not create traffic hazards by confusing or distracting motorists or by impairing drivers' ability to see pedestrians, obstacles, other vehicles, or to read traffic signs.
- ▶ Establish clear procedures for the administration and enforcement of these regulations.

### 151.40-4.2 SCOPE OF SIGN REGULATIONS

The sign regulations shall not relate to building design. Nor shall the sign regulations apply to official traffic or governmental signs; the copy and message of signs; signs not intended to be viewed from a public right-of-way; window displays; product dispensers and point of purchase displays; flags of any nation, government or noncommercial organization; gravestones; religious symbols; commemorative plaques; the display of street numbers; scoreboards on athletic fields; or any display or construction not defined herein as a sign.

### 151.40-4.3 GENERAL REGULATIONS FOR ON-PREMISE SIGNS

On-premises signs shall be allowed in the following districts provided the following size, location, and design standards are met. On-premise signs may be a wall, ground, or projecting sign, or combination thereof.

#### 151.40-4.3.1 AGRICULTURAL DISTRICT

A. The following on-premise signs shall be allowed in the agricultural district subject to the regulations contained herein:

- a. Business signs: One (1) unlighted real estate sign located on the premises or subdivision advertising property for sale or rent, not to exceed twelve (12) square feet in area.
- b. Identification Signs: Identification signs only, will be permitted in conjunction with cemeteries, public and private schools or colleges, country clubs, public or private golf courses, driving ranges, private outdoor recreation areas, park and ride facilities, public parks, playgrounds and camp grounds, veterinary hospital/clinic, commercial stables, commercial greenhouses, or churches. Each of these uses shall be allowed a maximum of forty-six (46) square feet of sign area per use;
- c. Home Occupation Signs: A maximum of two (2) square feet shall be allowed per home occupation;
- d. Historic site signs: A maximum of thirty-two (32) square feet shall be allowed of sign area.

#### 151.40-4.3.2 RESIDENTIAL DISTRICTS

A. The following on-premise signs shall be allowed in any residential district subject to the

regulations contained herein:

- a. Business signs: One (1) unlighted real estate sign located on the premises or subdivision advertising property for sale or rent, not to exceed twelve (12) square feet in area.
  - b. Identification signs: an identification sign will be permitted in conjunction with the following uses: Churches or other places of worship, private swimming pool or recreation area, hospitals for care of humans, personal care and nursing homes, bed and breakfast, libraries, child care, day care, or nurseries, public and private schools and colleges, public parks, community centers, and playgrounds, and apartments or multi-family. Each lot on which the above principal uses are located shall be allowed: A maximum of forty-six (46) square feet of sign area per use.
  - c. Home occupation and signs advertising sleeping rooms for rent: A maximum of two (2) square feet shall be allowed per home occupation and two (2) square feet advertising sleeping rooms for rent;
  - d. Historic site signs: A maximum of thirty-two (32) square feet shall be allowed of sign area.
  - e. Subdivision or manufactured home park low profile sign: One (1) low profile or monument sign containing the name of the subdivision or manufactured home park, not to exceed sixty-four (64) square feet in sign area.
- B. No sign shall be constructed at a height greater than six (6) feet from the average ground level.
- C. No sign shall be located nearer than six (6) feet from any property line.

#### 151.40-4.3.3 CENTRAL, GENERAL, AND HIGHWAY BUSINESS DISTRICTS

On-premise signs shall be allowed in the central, general and highway business districts except that no sign shall exceed two hundred (200) square feet in sign area.

#### 151.40-4.3.4 INDUSTRIAL DISTRICTS

On premise signs shall be allowed within an industrial zoning district except that no sign shall be larger than two hundred (200) square feet of sign area,

#### 151.40-4.4 LIGHTING AND NOISE

151.40-4.4.1 Signs may be illuminated provided no light from any illuminated sign shall cause direct glare into any adjoining piece of property, or any adjoining rights-of-way.

151.40-4.4.2 Any sign containing electrical components shall conform to current UL, ETL, CSA, or ULC standards and display a label from one of these recognized testing labs; or as an alternative, shall be designed and constructed to standards that would allow one of the above referenced labels to be affixed and thereafter inspected by local electrical inspectors to insure compliance with these standards.

151.40-4.4.3 No sign constituting a nuisance because of light, glare, focus, animation, flashing, or any illuminated signs of such intensity of illumination as to unduly disturb the use of residential property, shall be erected or continue in operation.

151.40-4.4.4 No sign shall have devices which emanate noise or sound.

**151.40-4.5 MAINTENANCE AND COMPLIANCE**

All signs shall be properly maintained. Exposed surfaces shall be clean and painted, if paint is required. Defective parts shall be replaced. The sign structure shall remain in proper alignment and the content of sign will remain readable. The Administrative Official shall have the right under Article 11 to order to repair or removal of any sign which is defective, damaged, or substantially deteriorated, as defined in the Building Code.

**151.40-4.6 SIGNS NOT REQUIRING A PERMIT**

The following types of signs are exempted from these regulations:

- 151.40-4.6.1 Official traffic signs or similar regulatory devices owned, erected and maintained by a state, county or city government.
- 151.40-4.6.2 Street address signs, not exceeding two (2) square feet in size.
- 151.40-4.6.3 Construction signs, not exceeding sixteen (16) square feet in size.
- 151.40-4.6.4 Non-illuminated signs, not more than three (3) square feet, in area warning trespassers or announcing property as posted.
- 151.40-4.6.5 Political campaign signs, provided they are located outside of the public rights-of-way, and are removed within fourteen (14) days after the campaign.

**151.40-4.7 SIGNS PROHIBITED**

151.40-4.7.1 The following signs are prohibited in the City of Marion:

- A. Abandoned signs.
- B. Any sign that due to its size, location, color or illumination obscures a sign displayed by a public authority, for the purpose of giving traffic or safety instructions or directions.
- C. Any sign, except an official public notice, which is nailed, tacked, posted, or in any other manner attached to trees, utility poles, or a building supporting wire, cable, or pipe; public benches on public property or rights-of-way; streetlight; or to public property of any description.
- D. Any sign located within a public rights-of-way, except for signs displayed by a duly constituted governmental authority or as provided in the Section 4.6

**151.40-4.8 NON-CONFORMING SIGNS AND ADVERTISING BUILDINGS**

151.40-4.8.1 Any sign which is lawfully existing and maintained at the time these regulations become effective which does not conform with the provisions hereof shall not be structurally altered. No nonconforming sign shall be enlarged, extended, structurally reconstructed, or altered in any manner; except a sign head may be changed so long as the new head is equal to, or reduced in height, sign area, and/or projection, and so long as the sign is not changed from an on-premises sign to an off-premises sign.

151.40-4.8.2 The addition of lighting or illumination to a nonconforming sign, shall constitute an expansion of a nonconforming building, and shall not be permitted under these regulations.

**151.40-4.9 DAMAGED OR NEGLECTED SIGNS**

The Administrative Officer shall have the authority to order the removal, without compensation, of any sign or sign building, that due to neglect or damage poses a clear danger to the health, safety and welfare of the public.

**151.40-4.10 OFF-PREMISES SIGNS**

- 151.40-4.10.1 Off-premises signs shall be allowed in the C-2, C-3, I-1 and I-2 zoning districts provided the following location and design standards are met:
- A. No off-premises sign shall be located within a five hundred (500) feet radius of an existing off-premises sign, or an off-premises sign for which a valid permit has been obtained, but has not yet been erected.
  - B. No off-premises sign shall be located within four hundred (400) feet of any residential district, park, school, library, or religious assembly property.
  - C. No off-premises sign shall be allowed to be installed on any roof of a building.
  - D. No off-premises sign may exceed thirty-five (35) feet in height above the average grade of the abutting roadway.
  - E. Side by side, double and multi-decker off-premises signs shall not be permitted.
  - F. No off-premises sign shall be nearer to any public street rights-of-way line upon which said sign faces than the building line provided for in the district where the sign is located. Any off-premises sign shall have a minimum side and rear yard setback of fifteen (15) feet.
  - G. The maximum size of any off-premises sign on a lot shall be three hundred seventy-eight (378) square feet.



## ARTICLE 151.40-5 VEHICLE REGULATIONS

### 151.40-5.1 PURPOSE

The purpose of Article 151.40-5 is to establish and describe the on-site parking, loading and unloading standards for various types of land use, the development and maintenance standards for parking and loading or unloading areas and, screening requirements for such areas in the City of Marion.

### 151.40-5.2 SCOPE OF OFF-STREET PARKING AND LOADING AND UNLOADING AREAS FOR MOTOR VEHICLES

151.40-5.2.1 No building shall be erected, enlarged or substantially altered, or its use changed, or a new use of the land initiated, unless permanently maintained off-street parking and loading spaces have been provided in accordance with the provisions of these regulations.

151.40-5.2.2 The provisions of this article, except where there is a change of use or where the building is enlarged, shall not apply to any existing building or to the C-1 district. Where a new use involves no additions or enlargements to the building, there shall be provided as many of such spaces as may be required by these regulations.

151.40-5.2.3 Any existing off-street parking area provided for an existing building or use shall not be reduced unless the off-street parking provided exceeds the requirements of these regulations. In no, case may the existing off-street parking area be reduced below the minimum required by these regulations.

151.40-5.2.4 Whenever a building is changed or enlarged in floor area, number of dwelling units, seating capacity, or otherwise, additional parking area will be required as provided under the terms of these regulations.

151.40-5.2.5 The additional parking spaces provided will be computed on the basis of number of spaces required by the size of the enlargement or change in use.

151.40-5.2.6 It shall be unlawful to begin to alter a building or change a use, or to maintain such altered building or changed use until such time as the additional required off-street parking is provided.

### 151.40-5.3 PARKING AREA DEVELOPMENT AND MAINTENANCE STANDARDS

The following development and maintenance standards shall apply to all parking areas:

151.40-5.3.1 Off-street parking areas shall be provided with vehicular access to either a street or alley.

151.40-5.3.2 Off-street parking areas shall be of useable shape and surface, and have convenient ingress and egress. Aisles and access drives shall be designed so as to provide adequate vehicular maneuvering upon the property being served. The parking area shall be located with respect to access drives and aisles so as to preclude backing onto or occupying any public rights-of-way.

- 151.40-5.3.3 Where parking areas are provided for five (5) or more vehicles, they shall be improved within six (6) months of completion of the building. The parking area will be completed with an asphalt, bituminous cement or other properly bound surface, so as to be durable and dustless, and shall be graded and drained, so as to dispose of all surface water accumulation to a storm drainage system without discharging the surface water over a public sidewalk.
- 151.40-5.3.4 Where parking areas are illuminated, lighting fixtures shall be so arranged that no part of any fixture shall be more than thirty (30) feet above the finished grade of the parking area. Fixtures shall be so designed and installed that the light is directed downward and reflected away from adjacent lots, roads, and streets.
- 151.40-5.4 **UNITS OF MEASUREMENT FOR PARKING AREA**
- 151.40-5.4.1 For purposes of calculating the required parking area for a given lot, the ration of three hundred (300) square feet of ground shall be provided for each parking space required by these regulations.
- 151.40-5.4.2 When determining maximum capacity, seats or other standards, calculations will be based on Kentucky Building Code Occupancy load requirements.
- 151.40-5.4.3 When units of measurement determining the number of required parking spaces result in the requirement of a fractional space, any fraction up to one half ( $\frac{1}{2}$ ) shall be disregarded, and fractions of one-half ( $\frac{1}{2}$ ) or more shall require one (1) parking space.
- 151.40-5.5 **LOADING AND UNLOADING SPACES REQUIRED**
- 151.40-5.5.1 All business and industrial districts shall provide loading and unloading spaces as required in these regulations. Any building hereafter erected or enlarged that is to be occupied by uses requiring the receipt or distribution by vehicles of material objects or merchandise, there shall be provided and maintained on the same lot not less than one (1) loading and unloading space for each separate occupancy requiring delivery of goods and having a gross floor area of up to five thousand (5,000) square feet. One additional loading space shall be provided for each additional ten thousand (10,000) square feet or fraction thereof.
- 151.40-5.5.2 Each loading space shall not be less than twelve (12) feet in width, fifty (50) feet in length, exclusive of driveways, aisles, and other circulation areas, and a minimum vertical height clearance of fifteen (15) feet. The minimum vertical clearance for funeral homes may be reduced to ten (10) feet. Each space shall be located with respect to access drives and aisles so as to preclude backing onto or occupying any public rights-of-way.
- 151.40-5.5.3 Loading and unloading space may occupy all, or any part, of any required yard space, except as otherwise provided in these regulations.
- 151.40-5.5.4 The provisions of this section, except where there is a change of use or where the building is enlarged, shall not apply to any existing building. Where the new use involves no additions or enlargements of the building, there shall be provided as many loading and unloading spaces as may be required by these regulations.

- 151.40-5.5.5 Existing off-street loading spaces provided for any building, or use shall be maintained thereafter so long as said building or use remains.
- 151.40-5.5.6 Any existing off-street loading and unloading space provided for any building or use shall not be reduced unless the off-street loading and unloading space provided exceeds the requirements of these regulations. In no case may the reduction in unloading space be diminished below the minimum requirements of these regulations.
- 151.40-5.5.7 Whenever a building is changed or enlarged in floor area or otherwise and additional loading and unloading spaces are required as a result of such change, under the terms of these regulations, the additional loading and unloading spaces shall be provided.
- 151.40-5.5.8 It shall be unlawful to begin or maintain such altered building or use until such time as the additional required off-street loading or unloading spaces are provided. The additional loading and unloading spaces provided will be computed on the basis of number of loading and unloading spaces required by the size of the enlargement or change.
- 151.40-5.5.9 If a building, existing prior to January 1, 2002, is enlarged to the extent of forty (40) percent or more in floor area, said building shall then and thereafter comply with the full loading and unloading requirements set forth herein as if it were new construction.

151.40-5.6 **PARKING, LOADING, AND UNLOADING AREAS IN REQUIRED YARDS**

- 151.40-5.6.1 Where Permitted, the following shall apply:
- A. Minimum required off-street parking areas, loading and unloading spaces, and commercial parking lots, may be located in any required yard.
  - B. In a multi-family residential development or in all business or industrial zoning districts no parking area, loading or unloading space, or commercial parking lot may allow the backing of vehicles onto a public street.
  - C. In any residential, business, or industrial zoning district, the backing of vehicles from a parking area, a loading or unloading space, or commercial parking lot onto an alley is permitted.
- 151.40-5.6.2 Where Prohibited
- Minimum required off-street parking areas, loading and unloading areas, and commercial parking lots are prohibited in the following yards or portions of yards, except for permitted access drives:
- A. In the C-2 and C-3 and the industrial districts, the required off-street parking areas and loading and unloading spaces, or commercial parking lot shall have a setback requirement in any yard adjacent to an arterial or collector street, subject to the following:
    - a. No portion of these areas, except for permitted access drives, shall be located closer to the front property line than ten (10) feet.
    - b. Vehicular use areas adjacent to one-way streets, or those designated by the Transportation Element of the Comprehensive Plan as future one-way streets, will not be required to provide the setbacks mentioned above.

151.40-5.7 **NUMBER OF OFF-STREET PARKING SPACES OR OFF-STREET PARKING AREA REQUIRED**

In all districts, the following off-street parking space minimum requirements shall apply regardless of whether the use is principally or conditionally permitted.

**RESIDENTIAL**

- 151.40-5.7.1 Single Family and Two Family Dwellings - Two (2) space per dwelling unit plus one (1) space for each two (2) rooms rented out (see Section 151.40-5.8.4)
- 151.40-5.7.2 Multi Family Dwellings - Two (2) spaces per dwelling unit plus one (1) additional space for every four (4) units in the development.
- 151.40-5.7.3 Boarding Houses, Rooming Houses, or Apartment Hotels - One (1) space for each two (2) bedrooms rented or intended to be rented out.
- 151.40-5.7.4 Manufactured Home on Individual Lot - Two (2) spaces for each unit.
- 151.40-5.7.5 Manufactured Home Within Manufactured Home Park - One (1) space for each manufactured home space plus one fourth (1/4) space for common or visitor parking per manufactured home space.
- 151.40-5.7.6 Home Occupations - Four (4) spaces for offices of physicians or dentists; two (2) spaces for attorneys; one (1) space for all others.
- 151.40-5.7.7 Residential Care Facilities and Homes Emphasizing Special Services, Treatment, or Supervision -Two (2) spaces for each five (5) beds except for uses exclusively serving children under 16, in which case one (1) space for every three (3) beds shall be required.

**COMMERCIAL**

- 151.40-5.7.8 Automotive Showroom or Dealer (New or Used) and Motor Vehicle Repair, when an Accessory Use to the Dealership or Showroom - One (1) space per four hundred (400) square feet of gross floor area in the showroom and office area, plus two (2) spaces per service bay and one (1) space per one thousand five hundred (1500) square feet of outdoor vehicle display area.
- 151.40-5.7.9 Automotive Parts Sales - One (1) per two hundred (200) square feet of gross floor area within the building.
- 151.40-5.7.10 Motor Vehicle Repair and Maintenance, not Including Substantial Body Work - One (1) per two hundred (200) square feet of gross floor area within the building.
- 151.40-5.7.11 Motor Vehicle Painting and Body Work - One (1) per two hundred (200) square feet of gross floor area within the building.
- 151.40-5.7.12 Salvage Yards - One (1) per two hundred (200) square feet of gross floor area within the building.
- 151.40-5.7.13 Business and Professional Office Uses not Elsewhere Listed - One (1) space for each three hundred (300) square feet of gross floor area within the building.
- 151.40-5.7.14 Offices for Persons Services such as Attorneys, Stock Brokers, Insurance, Accounting, Engineering, Travel Agencies - One (1) per two hundred (200) square feet of gross floor area within the building of building.
- 151.40-5.7.15 Banks with Drive-in Windows - One (1) per two hundred (200) square feet of gross floor area within the building.
- 151.40-5.7.16 Barber or Beauty Shop - Two (2) spaces per barber or beauty chair.
- 151.40-5.7.17 Bed & Breakfast - One (1) space for each bedroom.
- 151.40-5.7.18 Commercial or Business Service - Four (4) spaces for the first one thousand (1,000) square feet of gross floor space used or usable in the sale of merchandise, and one

- additional space for each additional two hundred fifty (250) square feet of such floor space.
- 151.40-5.7.19 Commercial Greenhouses - One (1) per two hundred (200) square feet of gross floor area within the building.
- 151.40-5.7.20 Dry Cleaner, Laundromat - One (1) per two hundred (200) square feet of gross floor area within the building.
- 151.40-5.7.21 Funeral Home - One (1) per one hundred (100) square feet of gross floor area within the building.
- 151.40-5.7.22 Furniture Stores - One (1) space for each five hundred (500) square feet of gross floor area within the building.
- 151.40-5.7.23 Hotels and Motels - One (1) space per suite or rooms offered for tourist accommodation plus one (1) space for each three (3) employees. If a restaurant or meeting rooms comprises part of the use, the restaurant and meeting room parking standards shall be required in addition to the above requirements.
- 151.40-5.7.24 Restaurant, Café, or Establishment Serving Food, Beverages or Refreshments - One (1) space for each one hundred (100) square feet of gross floor area within the building. Employee parking shall be provided at the ratio of one space of each three (3) employees.
- 151.40-5.7.25 Retail Stores, Supermarkets, Department Stores and Personal Service Establishments not Elsewhere Listed - Five and one half (5 ½) spaces per one thousand (1000) square feet of Gross floor area within the building.
- 151.40-5.7.26 Convenience Stores - One (1) space for each one hundred fifty (150) square feet of gross floor area within the building. Employee parking shall be provided at the ratio of one space of each three (3) employees.
- 151.40-5.7.27 Veterinarian and Related Animal Services - One (1) per two hundred (200) square feet of gross floor area within the building.

#### RECREATIONAL OR ENTERTAINMENT

- 151.40-5.7.28 Auditorium, Stadium, or Other Place of Public Assembly - One (1) space for each five (5) seats available at maximum capacity.
- 151.40-5.7.29 Bowling Lanes, Tennis and Racquet Ball Courts or Clubs and Similar Facilities: Five (5) spaces for each lane, court or other recreational facility plus one (1) space per each two hundred (200) square feet of gross floor area within the building used in a manner not susceptible to such calculation.
- 151.40-5.7.30 Pinball, Game Rooms, Dance Halls, Billiards or Pool Halls, Skating Rinks, Exercise or Similar facilities Without Fixed seats - One (1) space for every 100 square feet of gross floor area within the building plus one (1) space for every three (3) employees on the maximum shift.
- 151.40-5.7.31 Community Centers - One (1) space for every six (600) square feet of gross floor area within the building.
- 151.40-5.7.32 Miniature Golf Courses, Skateboard Parks, Water Slides and Similar Uses - One (1) space per three hundred (300) square feet of area plus one (1) space per two hundred (200) square feet of building gross floor area within the building.
- 151.40-5.7.33 Driving Ranges not Accessory to Golf Courses - One (1) space per tee plus one (1) space per two (200) square feet of building gross floor area within the building.
- 151.40-5.7.34 Par 3 Golf Courses - Two (2) spaces per golf hole plus one (1) space per two hundred (200) square feet of building gross floor area within the building.

- 151.40-5.7.35 Publicly Owned and Operated Outdoor Recreational Facilities such as Athletic Fields, Golf Courses, Tennis Courts, Swimming Pools, Parks not Associated with a School - One (1) space per two hundred (200) square feet of area within enclosed buildings, plus one (1) space for every three (3) persons that the outdoor facilities are designed to accommodate when used to the maximum capacity.
- 151.40-5.7.36 Privately Owned Outdoor Recreational Facilities such Golf and Country Clubs, Swimming and Tennis Clubs - One (1) space per two hundred (200) square feet of area within enclosed buildings, plus one (1) space for every three (3) persons that the outdoor facilities are designed to accommodate when used to the maximum capacity.
- 151.40-5.7.37 Private Clubs, Lodge, or Union Halls - One (1) space per three (3) members or one (1) per one hundred (100) square feet of gross floor area in meeting rooms which ever is greater.
- 151.40-5.7.38 Theater, Indoor - One (1) space for each three (3) seats.

**INDUSTRIAL**

- 151.40-5.7.39 Manufacturing or Industrial Plant - One (1) space for each four (4) employee at maximum employment on a single shift plus one parking space for each truck operated by the business. The Planning Commission may require additional space if it deems necessary.
- 151.40-5.7.40 Wholesale, Storage and Warehousing - Two (2) spaces per one thousand (1,000) square feet of gross floor area within the building.

**INSTITUTIONAL**

- 151.40-5.7.41 Cemeteries or crematorium- One (1) space per two hundred (200) square feet of gross floor area of office and maintenance building.
- 151.40-5.7.42 Child Care Facility, Day Care, or Nursery - One (1) space per each employee and one (1) space per two hundred (200) square feet of gross floor area within the building.
- 151.40-5.7.43 Church - One (1) space for each five (5) seats available at maximum capacity.
- 151.40-5.7.44 Hospitals, Clinics, Other Medical Facilities Including Mental Health Treatment Facilities in Excess of 10,000 Square Feet of Gross Floor Area: One (1) space for each for (2) authorized patient beds or patient beds in use, whichever is greater, plus one (1) space for each five (500) square feet of gross floor area used for administrative, surgical and diagnostic purposes.
- 151.40-5.7.45 Library, Museum, Art Galleries and Similar Uses - One (1) space per three hundred (300) square feet of gross floor area within the building plus five (5) spaces for each craft room, meeting room, or special facility room.
- 151.40-5.7.46 Medical and Dental Offices and Health offices with not more than 10,000 Square Feet of Gross Floor Area - One (1) space for each two hundred (200) square feet of gross floor area within the building.
- 151.40-5.7.47 Nursing, Personal Care, Residential, or Intermediate Care Facilities - One (1) space per two hundred (200) square feet of gross floor area within the building.
- 151.40-5.7.48 Penal and Correctional Facilities - One (1) space per every two (2) employees on maximum shift.

**SCHOOLS**

- 151.40-5.7.49 Day Care Center for Children or Adults - One (1) space for each four hundred and twenty (420) square feet of gross floor area within the building exclusive of kitchen and bathroom.

- 151.40-5.7.50 Elementary and Middle School - Two (2) spaces for each classroom.
- 151.40-5.7.51 Secondary and Post-Secondary Schools including Colleges and Trade or Vocational Schools - Four (4) spaces per classroom or one (1) space for each six (6) seats in auditoriums, gyms, arena or stadium whichever requires the greater number of spaces, but in no case shall more than three hundred spaces be required.

**OTHER USES OR COMBINATIONS OF USES**

- 151.40-5.7.52 Combination of Uses - Combined uses shall provide parking equal to the total requirements for the individual uses.
- 151.40-5.7.53 Uses Not Elsewhere Specified - One (1) space for each three hundred (300) square feet of gross floor area within the building.

**151.40-5.8 VARIANCES FROM VEHICLE STANDARDS**

- 151.40-5.8.1 For any dwelling unit or manufactured home requiring two (2) off-street parking spaces, one space may be in front of the other, only if said dwelling unit does not share a common parking area with other units and the structure sets back twenty five (25) or more feet from the front property line.
- 151.40-5.8.2 For any single family or two-family dwelling unit or manufactured home on a single lot, a car port or an enclosed garage may count as one (1) of the required parking spaces.
- 151.40-5.8.3 Deviations from the minimum requirements for planned residential development projects or planned multi-family developments shall be presented to the Planning Commission for approval.

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## **ARTICLE 151.40-6**

### **GENERAL ZONING AND DISTRICT REGULATIONS**

#### **151.40-6.1 PURPOSE**

The purpose of this article is to establish and describe the following items: general regulations applicable to all zoning districts; exceptions and adjustments to site requirements as prescribed for principal buildings in Article 151.40-8 of these regulations; regulations for accessory buildings, and buildings and features in required yards.

#### **151.40-6.2 APPLICATION OF ZONING DISTRICT REGULATIONS**

The requirements set by these regulations within each district shall be minimum or maximum limitations, as appropriate to the case, and shall apply uniformly to each class or kind of building or land, except as exempted by these regulations.

#### **151.40-6.3 REQUIRED STREET FRONTAGE**

Unless specifically permitted by other sections of these regulations, no structure shall be erected or placed on a lot which does not abut on at least one public street for a minimum distance of forty (40) feet. A lot fronting on the curved portion of a cul-de-sac may be reduced to a minimum of thirty (30) feet provided the lot is forty (40) feet wide at the minimum front yard setback line as set out under the district where the lot is located.

#### **151.40-6.4 HEIGHT STANDARDS AND EXCEPTIONS TO HEIGHT LIMITATIONS**

151.40-6.4.1 Height requirements for principal and accessory buildings shall conform to the maximum height requirements prescribed in Article 8 of these regulations except that the following structures or portions of structures shall be exempt from the district regulations governing the maximum height of structures: Church spirals; belfries; cupolas; chimneys; elevator shafts; whip antennas less than ten (10) feet in length; and similar structural appendages not intended as places of occupancy or storage. Flagpoles and similar devices; water tanks; mechanical or electrical equipment; satellite dishes; solar collectors and similar equipment; fixtures; and devices located on a roof provided that such features shall be erected only to the height necessary to accomplish the purpose they are intended to serve shall be exempt from the maximum height standards.

151.40-6.4.2 Towers and antennas are allowed in all districts to the extent authorized by the maximum height limitations of each specific zoning districts.

#### **151.40-6.5 REDUCTIONS IN LOT AREA PROHIBITED**

No lot, even though it may consist of one or more adjacent lots of record, shall be reduced in area so that the lot area per dwelling unit, lot width, buildable area, or other requirements of these regulations are not maintained.

#### **151.40-6.6 GENERAL REGULATION OF PRINCIPAL BUILDINGS**

##### **151.40-6.6.1 NO MORE THAN ONE PRINCIPAL BUILDING PER LOT**

- A. One principal building together with its permitted accessory buildings shall be located on a separate lot, except as specifically permitted in these regulations.
- B. Temporary buildings are permitted during construction only and must be removed within

- sixty days of completion of construction or occupancy which ever occurs first.
- C. Multiple building development is permitted if approved as part of a development plan as provided by Article 151.40-13.

**151.40-6.6.2 SITE REQUIREMENTS MUST BE MET FOR EACH BUILDING OR LAND USE**  
No part of a yard, open space, off-street parking, loading space or other special use area required above, or in connection with any building, or land required for any building, may be included as fulfilling the requirements for an adjacent building unless otherwise specifically permitted in these regulations.

**151.40-6.7 GENERAL REGULATIONS FOR DRAINAGE AND FLOOD PLAIN**

**151.40-6.7.1 SINKHOLE**

Sinkhole and other similar depressions and the area within twenty-five (25) feet from the lowest point of said area or the area known to periodically flood, whichever is greater, shall be preserved in its natural state for the purpose of providing drainage. Outlets for the sinkhole may be improved to facilitate drainage. The Planning Commission shall have the power to increase the area around the sinkhole if drainage conditions warrant such action.

**151.40-6.7.2 FLOOD PLAINS**

No building shall be built in areas within the flood way or other area subject to flooding by the one hundred (100) year storm event, or in areas that are either natural or man-made drainage ways.

**151.40-6.7.3 MINIMUM LOT AREA ABOVE THE FLOOD PLAIN REQUIRED**

No lot shall be created nor shall an existing lot be built upon which does not have an area at least equal to one half ( 1/2) the minimum lot size , as required by the zoning district within which the property is located, above the one hundred (100) year frequency flood level.

**151.40-6.8 CONVERSION OF BUILDINGS**

The conversion of any building, whether residential or nonresidential, so as to accommodate an increased number of dwelling units or to accommodate another permitted use shall be permitted only within a district in which a new building for similar occupancy would be permitted under these regulations. The resulting occupancy shall comply with all the requirements governing new construction in such district. If the conversion involves no expansion of the principal building volume or no conversion of an accessory building into a principal building, the resulting occupancy shall be exempt from the following requirements: minimum lot size, maximum floor area, lot coverage, dimensions of yard, and minimum open space.

**151.40-6.9 GENERAL REGULATIONS FOR LOTS AND YARDS**

**151.40-6.9.1 MULTIPLE BUILDING DEVELOPMENT COMPLIANCE**

A multiple building development, when permitted in a district and when a development plan has been approved according to the requirements set out in Article 151.40-13, shall follow the setback requirements as approved in the development plan.

**151.40-6.9.2 BUILDING LINE SETBACK**

A front building setback line shall be established for each lot, except for lots located in the C-1 zoning district. In cases of existing lots, dimensional variances may be granted by the Board of

Adjustments where existing development on adjoining lots does not meet the required building setback. The requirement established in this section shall not apply to a central business district.

**151.40-6.9.3 CORNER LOTS**

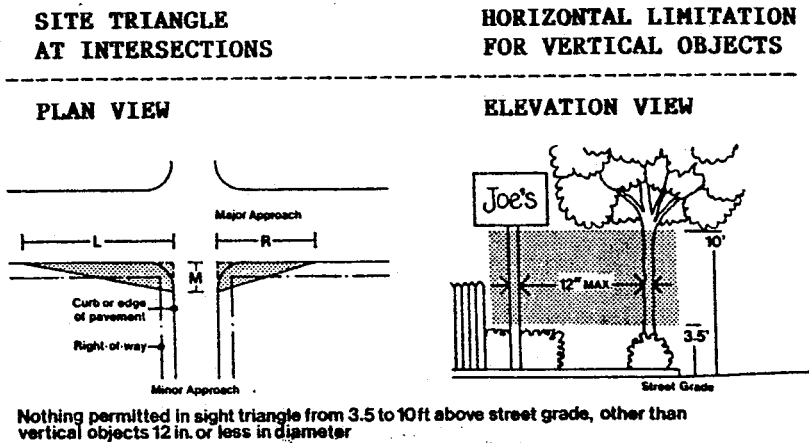
Corner lots shall be required to provide a front yard along any lot line abutting a street, unless the plat expressly makes which street the dwelling will front. A rear yard shall be substituted for any side yard not abutting a street, unless the plat expressly makes which street line will be the front property.

**151.40-6.9.4 SETBACK REQUIREMENTS FOR CORNER LOTS**

The building setback line from the front property line on each street shall be one half the width of the street right-of-way or twenty (20) feet which ever is greater along the front property line. For all other street frontage property lines, the setback shall be at least ten (10) feet. The property owner shall declare which property line will be considered the front property line. Once this declaration is made, it may not subsequently be changed. All other street front property lines will be considered as side property lines.

**151.40-6.9.5 SITE TRIANGLES FOR TRAFFIC VISIBILITY**

Notwithstanding any other provisions of these regulations, in any district, at any street intersection, alley or driveway intersection, all structures shall conform with the limitations of the applicable sight distance triangle as shown in the following illustration and table, unless specifically exempted in these regulations. The requirement established in this section shall not apply to the Central Business District.



**INTERSECTION MINOR APPROACH**

INTERSECTION	ANY STREET	ALLEY OR DRIVEWAY
MAJOR APPROACH	EXCEPT ALLEY	
Arterial Street	L=300' R=150' M=15'	L=200' R=100' M=10'
Any Other Street	L=150' R=75' M=15'	L=100' R=50' M=10'

**151.40-6.9.6 ONE-WAY STREET EXCEPTION**

Sight triangles shall not apply on one-way streets at corners where traffic does not approach the intersection.

**151.40-6.10 NO NEW NON-CONFORMING YARDS OR LOTS**

No yard or lot existing at the time of adoption of these regulations shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the adoption of these regulations shall meet at least the minimum requirements established by these regulations.

**151.40-6.11 ADJUSTMENTS TO PRINCIPAL BUILDING YARD REQUIREMENTS PRESCRIBED IN ARTICLE 151.40-8**

Yard requirements for principal buildings shall conform to the dimensions prescribed in Article 8 of these regulations unless adjusted by the following:

- A. For any yard that adjoins a controlled access highway where access is not permitted from the site, the minimum setback requirement for principal buildings shall be fifteen (15) feet from the rights-of-way line of said highway.
- B. For any yard that adjoins an alley, the setback requirement shall apply as if the alley did not exist and the property lines on either side of the alley were a common line between two adjoining properties. But in no case shall the principal or accessory building be closer than three (3) feet from the alley right-of-way line.

**151.40-6.12 ADJUSTMENTS TO YARDS DESIGNATED ON PLATS OF RECORD**

Yard requirements for principal buildings shall conform to the dimensions prescribed on a recorded plat. When the building setback lines designated on a plat of record conflict with the requirements of these regulations, principal buildings shall conform to the more restrictive setback requirements.

**151.40-6.12.1 ADJUSTMENTS TO YARDS FOR EXISTING ALIGNMENT OF BUILDINGS ALONG A STREET**

For a single lot on a street with existing development and where there are existing buildings on one or more sides of the proposed building site, the required setback for a new, separate principal building may be reduced to the average of the actual setbacks of the existing principal buildings that are located nearest both sides of the proposed building site, or in the same block front. Any intersecting street other than an alley shall constitute the end of the block front.

**151.40-6.12.2 ADJUSTMENTS TO YARDS FOR ADDITIONS TO LEGAL NONCONFORMING BUILDINGS**

Additions may be made to an existing principal building when the lot on which it is located has a legal nonconforming yard. However, such addition may not be located closer to the lot line than that the closest point of the original principal building foundation to the lot line. In no case may the new construction be located closer to the edge of any street or alley rights-of-way than ten (10) feet.

**151.40-6.13 GENERAL PROVISIONS FOR ACCESSORY BUILDINGS, AND BUILDINGS AND FEATURES**

**151.40-6.13.2 USE OF YARDS FOR ACCESSORY BUILDINGS**

No accessory buildings are permitted in front yard.

**151.40-6.14 OUTDOOR FLOORS AND STAIRS**

For the purpose of these provisions, an outdoor floor shall be any pedestrian, ground pavement or floor structure that is not enclosed within a principal or accessory building. Outdoor stairs shall be any paved or structural steps that are not enclosed within a principal or accessory building. The following standards shall apply.

- A. Up To Three (3) Feet Above Grade: Where the floor level of outdoor floor or the step level of outdoor stair is no more than three (3) feet above the adjoining finished grade, such features may be located in any required yard.
- B. More Than Three (3) feet Above Grade, At or Below First Floor Level: Where the floor level of outdoor floor or the step level of outdoor stair is more than three (3) feet above the adjoining finished grade, and is at or below the first floor level of the principal building, such features shall be located no closer than ten (10) feet to the edge of any street right-of-way, or closer than three (3) feet to any other lot line.
- C. More Than Three (3) feet Above Grade, Above First Floor Level: Where the floor level of outdoor floor or the step level of outdoor stair is more than three (3) feet above the adjoining grade, and is above the first floor level of the principal building, such feature shall conform to the setback requirements of the principal building or the accessory building to which it is attached..

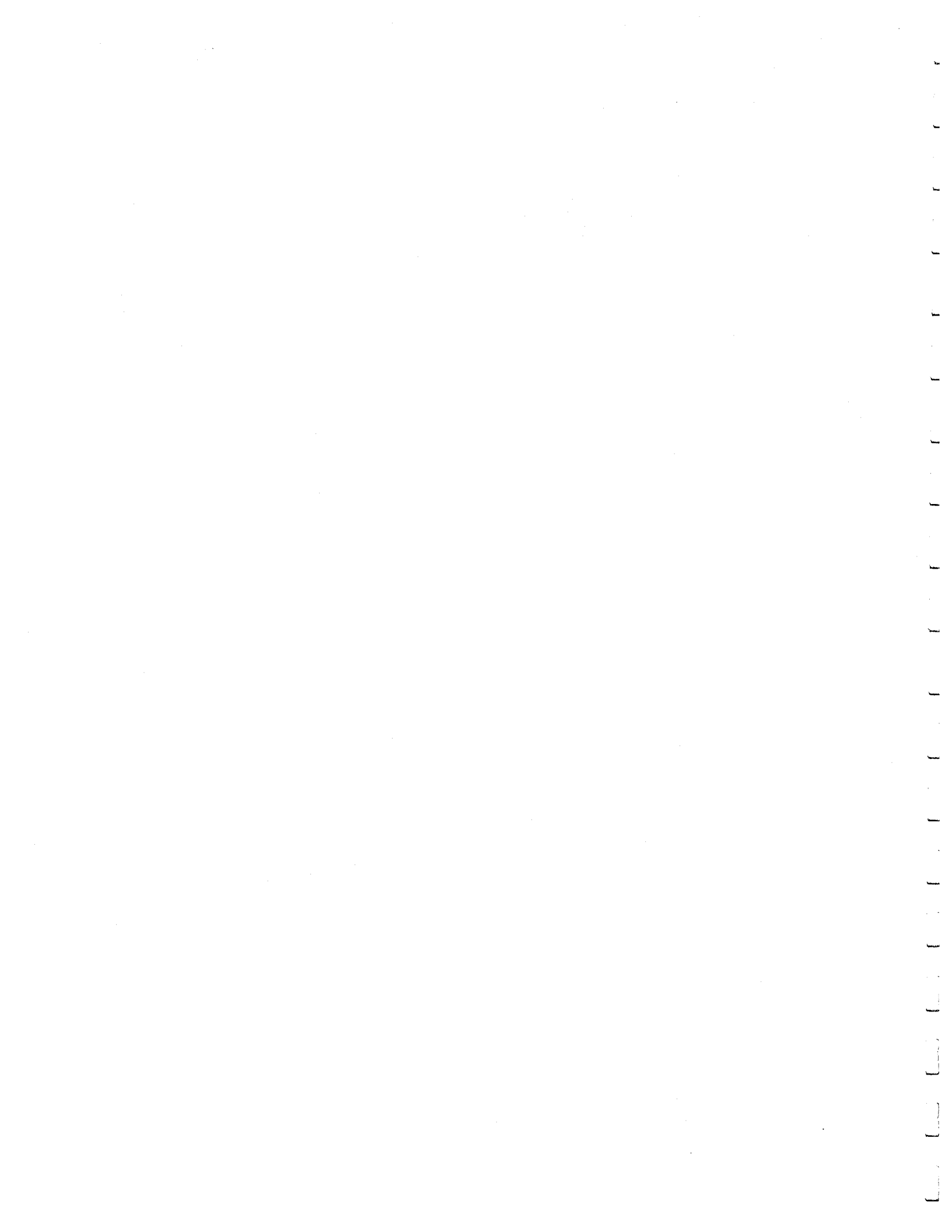
**151.40-6.15 VEHICULAR ACCESS TO LOTS****151.40-6.15.1 BASIC STANDARD**

The width of any driveway or entrance to lots shall be a minimum of ten (10) feet in width. Where the width of the lot would permit one or more driveways or entrances into the lot greater than ten (10) feet, the total width of all driveways or entrances shall not exceed forty percent (40%) of the total lot width of the street frontage of the lot. In no case shall the width of any single drive way or entrance exceed twenty-six (26) feet in width. Nor shall any point of access be closer than twenty five (25) feet of an intersection of the rights-of-way lines streets. Access points to an alley shall be established to promote safe access to the property. Access requirements that differ from the basic standard may apply to planned developments, when approved by the Planning Commission. Access requirements that differ from the basic standard may be approved by the Planning Commission on a subdivision plat, provided that they otherwise comply to the Marion subdivision regulations and public improvement specifications of the City of Marion.

**151.40-6.16 AGRICULTURAL LAND USE EXEMPT**

Notwithstanding any other provision of these regulations, land which is used *solely* for agricultural use as defined in these regulations shall have no regulations imposed as to building permits, certificates of occupancy, height, yard, or location requirements for agricultural buildings, except as follows:

- A. Setback lines shall be adhered to and shall meet the standard for the district in which the subject property is located, for the protection of existing and proposed streets and highways;
- B. Structures in a designated flood way or flood plain or which tend to increase flood heights or obstruct the flow of flood waters are fully regulated.



## **ARTICLE 151.40-7**

### **ESTABLISHMENT OF ZONING DISTRICTS, THE ZONING MAP AND ZONING IN ANNEXED TERRITORY**

#### **151.40-7.1 ESTABLISHMENT OF DISTRICTS**

For the purpose of these regulations, there are created the following zoning districts and the City of Marion, Kentucky, is divided into these districts:

##### **Agricultural**

AG Agricultural District

##### **Residential**

R-1 Single family Residential District

R-2 Single family and Two-family Residential District

R-3 Multi-family Residential District

R-4 Manufactured Home Residential District

##### **Commercial**

C-1 Central Business District

C-2 General Business District

C-3 Highway Business District

##### **Industrial**

I-1 Light Industrial District

I-2 General Industrial District

##### **Special - Overlay**

GFO General Flood Overlay District

MHO Manufactured Home Overlay District

L-HO Landmark and Historic Overlay District

#### **151.40-7.2 ZONING MAP**

The City of Marion is hereby divided into zoning districts as provided herein and as shown on the Zoning Map dated January 1, 2002, which together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of these resolutions. The zoning map will be the official record of zoning status of all land in the City and will be kept on file in the office of the Planning Commission and will be known herein as the, "Zoning Map".

#### **151.40-7.3 POSTING OF ZONING MAP AMENDMENTS**

Amendments to the zoning map which change the zoning district status of an area, after the effective date of said amendment, will be promptly posted on the zoning map by a person designated by the Planning Commission. Each amendment will be identified on the map by a numerical designation referring to the Planning Commission record of the amendment proceeding.

151.40-7.4      **REPLACEMENT OF ZONING MAP AND RETENTION OF HISTORIC ZONING MAPS**

In the event that the Marion zoning map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the Planning Commission may adopt an entire new zoning map. Any new zoning map adopted under this section may correct drafting or other errors or omissions in a prior map, but no such correction may have the effect of amending the original zoning map or any subsequent amendment thereof. The Planning Commission will keep copies of superseded prints of the zoning map for historical reference.

151.40-7.5      **RULES FOR INTERPRETATION OF ZONING DISTRICT BOUNDARIES**

Where uncertainty exists as to the exact location of the zoning district boundaries as shown on the zoning map, the following rules will apply:

- 151.40-7.5.1      Boundaries indicated as approximately following streets, highways, or alleys center line of the right-of-way, will be construed as the boundary of the zoning district. Vacated rights-of-way will not affect the original zoning;
- 151.40-7.5.2      Boundaries indicated as approximately following platted lot lines or property lines, such line will be construed as the boundary of the zoning district;
- 151.40-7.5.3      Boundaries indicated as approximately following political boundaries, such boundaries will be construed as the boundary of the zoning district;
- 151.40-7.5.4      Boundaries indicated as following railroad lines, such center line of the tracks will be construed as the boundary of the zoning district, unless that railroad rights-of-way has been sold to an adjoining property owner, not affiliated with the railroad. When the railroad rights-of-way have been sold to an adjoining property owner, not affiliated with the railroad, then the zoning which applies to the adjoining property shall extend across the full length of the railroad rights-of-way which was purchased by the adjoining property owner;
- 151.40-7.5.5      Boundaries indicated as following shore lines, such shore line will be construed as the boundary of the zoning district. In the event of change in the shore lines, the zoning district boundary will be construed as moving with the actual shore line. Boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes, or other bodies of water, such center line will be construed as the boundary of the zoning district;
- 151.40-7.5.6      Boundaries indicated as parallel to or extensions of features indicated in Sections 151.40-7.5.1 through 151.40-7.5.5 herein above will be so construed;
- 151.40-7.5.7      Boundaries indicated by specific distances on the zoning map will be taken literally and are not subject to review by the Board of Adjustments or Planning Commission. Distances not specifically indicated on the zoning map will be determined by the scale of the map;
- 151.40-7.5.8      Where a zoning district boundary line divides a lot which was in single ownership at the time of passage of these regulations, the Board of Adjustments may permit, as a conditional use, the extension of the regulations for either portion of the lot, not to exceed fifty (50) feet beyond the zoning district line into the remaining portion of the lot.
- 151.40-7.5.9      Where the above stated rules do not indicate the exact location of the zoning district boundary, the location of the zoning district boundary will be determined by appeal before the Board of Adjustments as provided by Section 151.40-12.7.2.



**151.40-7.6 ZONING STATUS AFFECTED BY ANNEXATION**

- 151.40-7.6.1 When the City of Marion proposes to annex unincorporated territory, it will prepare a comprehensive zoning map of the area to be annexed and will submit the comprehensive zoning map to the Planning Commission for review and recommendation.
- 151.40-7.6.2 The Planning Commission will within twenty-five (25) days of receipt of the comprehensive zoning map hold a public hearing. The public hearing will be held after the City of Marion will have adopted the ordinance stating the City's intention to annex and prior to the final action upon the ordinance of annexation.
- 151.40-7.6.3 The purpose of the public hearing will be to hear comments from the public concerning the proposed comprehensive zoning map. Notice setting forth the time, date, location and purpose of the public hearing will be published as required by KRS Chapter 424 and shall be given to the owners of all properties within the area proposed for annexation and to the adjoining property owners in accordance with KRS Chapter 100.212(2).
- 151.40-7.6.4 After the public hearing, the Planning Commission will consider the *1998 Comprehensive Plan, Marion, Kentucky* and the comments presented by the public at the public hearing in formulating its recommendation. The Planning Commission will, within thirty (30) days of the public hearing, forward its recommendation to the Marion City Council. The Planning Commission may either recommend adoption of the comprehensive zoning map as presented or the Planning Commission may draft such changes that would render the map acceptable to the Planning Commission and then it will recommend adoption of the proposed comprehensive zoning map. The Planning Commission will state the reasons for its approval of the original proposed comprehensive zoning map or for each changes that it drafts.
- 151.40-7.6.5 Upon receipt of the recommendation of approval from the Planning Commission, the Marion City Council will take final action upon the Planning Commission's recommendations. The Marion City Council action on the comprehensive zoning map must be made prior to adoption of the ordinance of annexation and will include in the ordinance of annexation a map showing the zoning which will be effective for the annexed property.



## ARTICLE 151.40-8

### SCHEDULE OF ZONING DISTRICT REGULATIONS

#### 151.40-8.1 AGRICULTURAL DISTRICT - AG

##### 151.40-8.1.1 PURPOSE

Lands currently in agricultural use and within the City of Marion and not subject to flooding are expected to become urban some time in the future. It is the intent of this district to promote compatibility with existing development. Agricultural activities conducted in an agricultural district should not be detrimental to urban land uses. Conversely, existing urban land uses should not preclude normal agricultural activities. It is not intended that these districts provide a location for a lower standard of residential land uses than is authorized in other districts. The types of uses, area, and intensity of use of land which are authorized in this district are designed to encourage and protect agricultural uses until urbanization is warranted and the appropriate change in district classification is made.

##### 151.40-8.1.2 PERMITTED PRINCIPAL USES AND BUILDINGS

The following uses are permitted by right, subject to all the applicable development standards and requirements of these regulations:

- A. Agriculture as defined in KRS Chapter 100, except industrial agricultural operations as defined in 401 Kentucky Administrative Regulations 5:072E;
- B. One family dwellings occupied by the owner or full time operator of the farm. (A building permit is required.) The single family detached dwelling may be a site-built or modular home;
- C. Commercial greenhouses and plant nurseries;
- D. An animal kennel, provided that any building or area used for such purposes, including pens, or exercise runs, will be at least one hundred (100) feet distant from any residential district;
- E. Veterinary hospital or clinic;
- F. Churches and religious assemblies;
- G. Public or private recreational areas including recreational vehicle park/campground, but not lighted golf courses designed for night play, or miniature golf courses;
- H. Sportsmen farm and fishing lakes.

##### 151.40-8.1.3 CONDITIONAL USES

The following uses are declared to possess such characteristic of unique or special form, nature of operation, extent or limited application that each specific use shall be considered on an individual case and shall be subject to written approval by the Board of Adjustments, in accordance with the provisions of this ordinance:

- A. Cemeteries and mausoleums;
- B. Public or private sewerage disposal plants;
- C. Public or private schools or colleges;
- D. Country club or public or private golf course;
- E. Private outdoor recreational facilities and camps;
- F. Park and ride facilities;
- G. Home occupations as regulated under section 151.40-9.3;
- H. Bed and breakfast as regulated under section 151.40-9.5.

**151.40-8.1.5 PROHIBITED USES AND BUILDINGS**

The following uses are prohibited in the agricultural district:

Commercial uses; industrial uses; wholesale and warehouse uses; mobile homes, manufactured home parks or subdivisions, two-family residential dwelling units, multi-family residential dwelling units, manufactured homes, Class A or B; hotels or motels; boarding or lodging houses; commercial recreation facilities, such as amusement parks, bowling alleys, skating rinks, pool halls; junk or salvage yards; and industrial agricultural operations as defined in 401 Kentucky Administrative Regulations 5:072E. No structure including agricultural buildings shall be placed in any area which has been designated as a flood plain.

For information concerning: lot and yard requirements; the percentage of lot that may be covered by all buildings and parking; and height of buildings; see Table 1 at the end of these regulations.  
For sign regulations for this district, see Article 5.  
For off street parking and unloading regulations for this district, see Article 6.

**151.40-8.2 SINGLE FAMILY RESIDENTIAL DISTRICT (R-1)****151.40-8.2.1 PURPOSE**

The purpose of the single family residential (R-1) zoning district is to permit the establishment of low density residential as the principle land use in the district. Related recreational, religious, and educational facilities normally required to provide the basic elements of a balanced, orderly, convenient, and attractive residential area are also permitted. The permitted residential density shall not exceed 4.5 dwelling units per net acre developed.

**151.40-8.2.2 PERMITTED PRINCIPAL USES AND BUILDINGS**

The following uses are permitted by right, subject to all the applicable development standards and requirements of these regulations:

- A. Single family detached dwellings, site built, modular home;
- B. Residential care facilities as defined in KRS Chapter 100.982 through 100.984;
- C. Parks and playgrounds owned and operated by the government.

**151.40-8.2.3 PERMITTED ACCESSORY USES AND BUILDINGS**

The following accessory uses shall be permitted as customarily incidental to the principal and conditional uses together with buildings customarily incidental and subordinate to any of the permitted or conditional uses:

- A. Garage or other building not used as a dwelling;
- B. Renting of sleeping rooms with three (3) sleeping rooms as the maximum that shall be rented in any building;
- C. Agricultural uses as permitted in Section 151.40-8.1.2, provided no building to be used for the keeping or poultry, hogs, or other farm livestock shall be located closer to any property line or dwelling than two hundred (200) feet;
- D. Satellite dishes, provided they are not located in any required front yard setback.

**151.40-8.2.4 CONDITIONAL PERMITTED USES AND BUILDINGS**

The following uses are declared to possess such characteristic of unique or special form, nature of operation, extent or limited application that each specific use shall be considered on an individual case and shall be subject to written approval by the Board of Adjustments in accordance with the provisions of this ordinance:

- A. Churches and other places of worship;
- B. Parish houses and parsonage;
- C. Libraries;
- D. Child care facility, day care center, and nursery services;
- E. Public recreational facilities;
- F. Personal care and nursing homes;
- G. Hospitals for the care of humans;
- H. Bed and breakfast as regulated under Section 151.40-9.5;
- I. Home occupations as regulated under Section 151.40-9.3;
- J. Radio and other towers and antennas;
- K. Accessory apartment as regulated in Section 151.40-9.4.

**151.40-8.2.5 PROHIBITED USES AND BUILDINGS**

The following uses are prohibited in the R-1 district:  
 Commercial uses; industrial uses, wholesale and warehouse uses; mobile homes, manufactured home parks or subdivisions, two-family residential dwelling units, multi-family residential dwelling units, and manufactured homes, class A and B; hotels and motels; commercial recreation facilities, such as amusement parks, bowling alleys, skating rinks, pool halls; junk or salvage yards; and industrial agricultural operations as defined in 401 Kentucky Administrative Regulations 5:072E. No structure including agricultural buildings shall be placed in any area which has been designated as a flood plain.

For information concerning: lot and yard requirements; the percent of lot that may be covered by all buildings and parking; and height of buildings, see Table 1, at the end of these regulations.  
 For sign regulations for this district, see Article 5.  
 For off street parking and unloading regulations for this district, see Article 6

**151.40-8.3 ONE AND TWO-FAMILY RESIDENTIAL DISTRICT R-2**

**151.40-8.3.1 PURPOSE**

The purpose of the one- and two-family residential (R-2) zoning district is to provide for the establishment of a low density residential use. The principal use of land in this district is for one- or two-family land uses. Related recreational, religious, and educational facilities normally required to provide the basic elements of a balanced, orderly, convenient, and attractive residential area are also permitted. The permitted residential developed density shall not exceed 5.5 dwelling units per net acre developed.

**151.40-8.3.2 PERMITTED PRINCIPAL USES AND BUILDINGS**

The following uses are permitted by right, subject to all the applicable development standards and requirements of these regulations:

- A. One- family detached, site built, or modular home;
- B. Two-family dwellings, site built or modular home,
- C. Residential care facilities as defined in KRS Chapter 100.982 through 100.984;
- D. Residential land uses may be in condominium form of ownership.

#### 151.40-8.3.3 PERMITTED ACCESSORY USES AND BUILDINGS

The following accessory uses shall be permitted as customarily incidental to the principal and conditional uses together with buildings customarily incidental and subordinate to any of the permitted or conditional uses:

- A. Private garage or other building not used as a dwelling;
- B. Renting of sleeping rooms with three (3) sleeping rooms as the maximum that shall be rented in any building;
- C. Satellite dishes, provided they are not located in any required front yard setback.

#### 151.40-8.3.4 CONDITIONAL PERMITTED USES AND BUILDINGS

The following uses are conditional uses in R-2 District, and require the written approval of the Board of Adjustments:

- A. Churches and other places of worship;
- B. Parish houses and parsonage;
- C. Libraries;
- D. Public and private schools or colleges;
- E. Child care facility, day care center, and nursery services;
- F. Personal care and nursing homes;
- G. Hospitals for the care of humans;
- H. Bed and breakfast as regulated under Section 151.40-9.5;
- I. Home occupations as regulated under section 151.40-9.3;
- J. Accessory apartments as regulated in Section 151.40-9.4;
- K. Radio and other towers and antennas.
- L. Antique, craft, or collectable shop.

#### 151.40-8.3.5 PROHIBITED USES AND BUILDINGS

The following uses are prohibited in the R-2 district:

Commercial uses; industrial uses; wholesale and warehouse uses; mobile homes, manufactured home parks, multi-family residential dwelling units and manufactured home, Class B; hotels or motels; commercial recreation facilities, such as amusement parks, bowling alleys, skating rinks, or pool halls; junk or salvage yards; and industrial agricultural operations as defined in 401 Kentucky Administrative Regulations 5:072E. No structure including agricultural buildings shall be placed in any area which has been designated as a flood plain.

For information concerning: lot and yard requirements; the percentage of lot that may be covered by all buildings and parking; and height of buildings; see Table 1, at the end of these regulations.  
 For sign regulations for this district, see Article 5.  
 For off street parking and unloading regulations for this district, se Article 6.

**151.40-8.4 MULTI-FAMILY RESIDENTIAL DISTRICT R-3****151.40-8.4.1 PURPOSE**

The purpose of the multi-family residential (R-3) zoning district is to provide for the establishment of medium density residential land uses. The principal use of land in this district is for one-family to multi-family dwellings. Multi-family dwellings containing no more than ten (10) dwelling units per structure would be permitted. The type of residential buildings may range from detached to attached and from townhouses to three-story apartment buildings. Related recreational, religious, and educational facilities normally required to provide the basic elements of a balanced, orderly, convenient, and attractive residential area are also permitted. The permitted residential developed density shall not exceed ten (10) dwelling units per net acre developed.

**151.40-8.4.2 PERMITTED PRINCIPAL USES AND BUILDINGS**

The following uses are permitted by right, subject to all the applicable development standards and requirements of these regulations:

- A. One-family detached, site built, or modular home;
- B. Two-family dwellings, site built or modular;
- C. Multi-family dwellings, site built or modular;
- D. Residential care facilities as defined in KRS Chapter 100.982 through 100.984;
- E. Residential land uses may be in condominium form of ownership.

**151.40-8.4.3 PERMITTED ACCESSORY USES AND BUILDINGS**

The following accessory uses shall be permitted as customarily incidental to the principal and conditional uses together with buildings customarily incidental and subordinate to any of the permitted or conditional uses:

- A. Private garage or other building not used as a dwelling;
- B. Renting of sleeping rooms with three (3) sleeping rooms as the maximum that shall be rented in any building;
- C. Satellite dishes, provided they are not located in any required front yard setback.

**151.40-8.4.4 CONDITIONAL PERMITTED USES AND BUILDINGS**

The following uses are conditional uses in R-3 District, and require the written approval of the Board of Adjustments:

- A. Churches and other places of worship;
- B. Parish houses and parsonage;
- C. Libraries;
- D. Public and private schools or colleges;
- E. Child care facility, day care center, and nursery services;
- F. Personal care and nursing homes;
- G. Hospitals for the care of humans;
- H. Bed and breakfast as regulated under Section 151.40-9.5;
- I. Home occupations as regulated under section 151.40-9.3; rented in any building;
- J. Public owned parks, playgrounds, or community buildings, provided that any building shall not be less than twenty-five (25) feet from any side or rear lot line.
- K. Antique, craft, or collectable shop.
- L. Radio and other towers and antennas.

**151.40-8.4.5 PROHIBITED USES AND BUILDINGS**

The following uses are prohibited in the R-3 district:

Commercial uses; industrial uses; wholesale and warehouse uses; mobile homes, manufactured home parks, manufactured home, Class B; hotels and motels; commercial recreation facilities, such as amusement parks, bowling alleys, skating rinks, and pool halls; junk or salvage yards; and industrial agricultural operations as defined in 401 Kentucky Administrative Regulations 5:072E. No structure including agricultural buildings shall be placed in any area which has been designated as a flood plain.

For information concerning: lot and yard requirements; the percentage of lot that may be covered by all buildings and parking; and height of buildings; see Table 1 at the end of these regulations.  
For sign regulations for this district, see Article 5.  
For off street parking and unloading regulations for this district, see Article 6.

**151.40-8.5 MANUFACTURED HOME RESIDENTIAL DISTRICT - R-4****151.40-8.5.1 PURPOSE**

The purpose of the manufactured home residential (R-4) district is to provide for the establishment of residential areas containing manufactured home parks and subdivisions. Related recreational, religious, and educational facilities normally required to provide the basic elements of a balanced, orderly, convenient, and attractive residential area are also permitted. The permitted residential density shall not exceed eleven (11) manufactured homes per net acre developed in a manufactured home park or ten (10) dwelling units per gross acre developed in a manufactured home subdivision .

**151.40-8.5.2 PERMITTED PRINCIPAL USE AND BUILDING**

The following uses are permitted by right, subject to all the applicable development standards and requirements of these regulations:

- A. Manufactured home park or subdivision, with the minimum total acreage and number of units:
  - i. Five (5) single family detached manufactured homes spaces and a minimum of three (3) contiguous acres in the case of a manufactured home park are initially developed.
  - ii. Five (5) lots and a minimum of two (2) acre in the case of a manufactured home subdivision are initially developed.
- B. Manufactured homes, class A or B, modular homes.
- C. Residential care facilities as defined in KRS Chapter 100.982 through 100.984.

**151.40-8.5.3 PERMITTED ACCESSORY USES AND BUILDINGS**

The following accessory uses shall be permitted as customarily incidental to the principal and conditional uses together with buildings customarily incidental and subordinate to any of the permitted or conditional uses:

- A. Private garage or other building not used as a dwelling;
- B. Laundry facilities in conjunction with manufactured home park;
- C. Office for on site property management, in conjunction with manufactured home park;



- D. Maintenance and community building, in conjunction with manufactured home park.
- E. Satellite dishes, provided they are not located in any required front yard setback.

#### 151.40-8.5.4 **CONDITIONAL PERMITTED USE AND BUILDING**

The following uses are conditional uses in the R-4 district, and require the written approval of the Board of Adjustments:

- A. Libraries;
- B. Child care facility, day care center, and nursery services;
- C. Home occupations in compliance with Section 151.40- 9.3.
- D. Radio and other towers and antennas.

#### 151.40-8.5.5 **PROHIBITED USES AND BUILDINGS**

The following uses are prohibited in the R-4 district:

All Commercial, industrial, wholesale and warehouse, mobile homes, two-family residential dwelling units, multi-family residential dwelling units, hotels, motels, commercial recreation facilities, such as amusement parks, bowling alleys, skating rinks, pool halls, junk or salvage yards, and industrial agricultural operations as defined in 401 Kentucky Administrative Regulations 5:072E. No structure including agricultural buildings shall be placed in any area which has been designated as a flood plain.

#### 151.40-8.5.6 **MINIMUM LOT AREA**

Within each manufactured home park there will be developed manufactured home spaces for rent. Likewise, in a manufactured home subdivision, there will be individual lots created which are intended to be sold or leased. The following standards apply to those individual space or lot requirements.

- A. Each manufactured home space shall have allocated to it 4,000 square feet of area within a manufactured home park.
- B. All manufactured home spaces in a manufactured home park must be connected to public sanitary sewers.

In addition to lot requirements for manufactured homes in a manufactured home park stated above, when there is a non-residential uses included in the manufactured home park, additional area shall be provided as follows:

- C. 26,200 square feet for all non-residential uses.
- D. All non-residential uses must be connected to public sanitary sewers
- E. The initial area of a manufactured home park or subdivision must be a minimum of three (3) acres of contiguous land.

#### 151.40-8.5.7 **YARD REQUIREMENTS FOR MANUFACTURED HOME PARK**

The following standards apply to the yard requirements for the outer perimeter of the manufactured home park property.

- A. Minimum lot width of the park property at the front building line: One hundred (100) feet.
- B. Minimum front yard setback for all structures within the Park property: Twenty (20) feet from the manufactured home park front property
- C. Minimum lot width at the front property line of the Park property : Forty (40) feet.
- D. Minimum side yard setback from the manufactured home park side property lines for all structures: Ten (10) feet unless side yard has frontage on public road in which case, the

- set back will be the same as for front yard set back.
- E. Minimum rear yard setback from rear property line of the park for all structures: Twenty (20) feet.
  - F. The minimum width of side yards along intersecting internal streets for all structures shall be the same as the front yard setback required on such side street in section 151.40-8.8.7.B. See Section 151.40-7.12.1 for exceptions and modifications.

**151.40-8.5.8 YARD REQUIREMENTS FOR THE MANUFACTURED HOME SPACE WITHIN A MANUFACTURED HOME PARK**

- A. Minimum width of each manufactured home space: Forty (40) feet.
- B. Minimum front yard setback for all structures: Twenty (20) feet from the edge of pavement of the internal park street or twenty feet (20) from the front property line if manufactured home space fronts a public street.
- C. Minimum side yard setback for all structures: Ten (10) feet.
- D. Minimum rear yard setback from rear property line for all structures: Ten (10).
- E. Minimum lot depth: One hundred (100) feet.
- F. Spacing: No manufactured home shall be located within twenty (20) feet of another manufactured home.
- G. When a manufactured home space forms one or more of the park boundaries, the greater setback requirement will be used.

For information concerning: lot and yard requirements; the percentage of lot that may be covered by all buildings and parking; and height of buildings, see Table 1, at the end of these regulations.

For sign regulations for this district, see Article 5.

For off street parking and unloading regulations for this district, see Article 6.

Within a manufactured home subdivision, when a manufactured home is connected to an on site sewer system, the lot area shall be as determined by the Crittended County Health Department, but in no case less than 22,000 square feet.

**151.40-8.6 CENTRAL BUSINESS DISTRICT - C-1**

**151.40-8.6.1 PURPOSE**

The purpose of the Central business district is to accommodate and encourage further expansion and renewal of the traditional and central business core of Marion. A variety of business, institutional, public, cultural, residential and other related uses are encouraged in an effort to provide the mix of activities necessary to maintain the traditional nature of the central business core of Marion.

**151.40-8.6.2 PERMITTED PRINCIPAL USES AND BUILDINGS**

The following uses are permitted by right, subject to all the applicable development standards and requirements of these regulations:

- A. Retail Sales: Stores which deal in retail sales exclusively; restaurants; hardware stores; places of amusement; souvenir shops, antique shops, and curio shops; garages; and service stations.
- B. Consumer and Personal Services: Outlets which provide repair, grooming, business, information, financial or maintenance service for the consumer, either on the premises or

- at another location; self-service laundries; funeral homes; and private gymnasiums.
- C. Office Buildings: Buildings and professional; doctors, dentist, and chiropractors.
  - D. Limited Manufacturing: Any retail business or retail service which includes the making of articles to be sold at retail on the premises. Any such manufacturing or processing shall be incidental to a retail business or service and not more than five (5) persons shall be employed in such manufacturing.
  - E. Residential: Residential dwellings as permitted in R-3 zoning district, See Section 151.40-8.7.2 and manufactured homes, class A or B. Multi-family residential units may be proposed in a multiple building development configuration provided that a development plan has been approved by the Planning Commission (See Article 13).
  - F. Retail sales, consumer and personal services or office: Retail sales, consumer and personal services establishments or offices. These land uses may be proposed in a multiple building development configuration provided that a development plan containing the proposed land uses have been approved by the Planning Commission (see Section 151.40-13).
  - G. Government and institutional: Government offices, agencies and services; senior citizen centers; library, museum, art galleries, post office, art centers and similar uses (including associated educational and instructional activities); police stations, fire stations, rescue squad, and ambulance service.

#### 151.40-8.6.3 ACCESSORY USES AND BUILDINGS

Any accessory use or building customarily and incidental to permitted principle or conditional uses may be permitted.

#### 151.40-8.6.4 CONDITIONAL PERMITTED USES AND BUILDINGS

The following uses are conditional uses in a C-1 District and require written approval of the Board of Adjustments:

- A. Churches and other places of worship;
- B. Day care centers and nurseries;
- C. Radio and other towers and antennas.

#### 151.40-8.6.5 PROHIBITED USES AND BUILDINGS

The following uses are prohibited in the C-1 zoning district:

All industrial, wholesale and warehouse, coal, lumber, or building supply yard; fertilizer bulk plant; feed mill; dairy or bottling works; commercial laundries; electric welding; live animal or poultry sales; gasoline, oil or alcohol storage above ground in excess of 500 gallons; mobile homes, junk or salvage yards, and industrial agricultural operations as defined in 401 Kentucky Administrative Regulations 5:072E. No structure including agricultural buildings shall be placed in any area which has been designated as a flood plain.

#### 151.40-8.6.6 DEVELOPMENT PLAN REQUIRED

When a building containing multi-family dwelling units or a multiple building development is proposed, a development plan must be approved by the Planning Commission in accordance with Article 151.40-13.

## 151.40-8.6.7

**LOT REQUIREMENTS**

- A. Two thousand (2,000) square feet for the first residential dwelling unit and one thousand (1,000) square feet for each additional residential dwelling unit when the residential units are the principal use of the property. Residential units must be connected to the Marion public sanitary sewers. In a mixed use residential and non-residential use structure, there is no minimum lot requirements provided the residential units are not the principal use and they are located above non-residential land uses.
- B. No minimum when the principal building is designed for or intended to be used for a use other than a one family or two family residential dwelling and connected to the Marion sanitary sewer system.
- C. When residential and commercial land uses are located on the same lot, the residential calculation for determining minimum lot requirements shall be used exclusively.
- D. All buildings must be connected to the Marion Sanitary sewer system.

For information concerning: Yard requirements; the percentage of lot that may be covered by all structures and parking; and height of buildings, see Table 2, at the end of these regulations.  
 For sign regulations for this district, see Article 5.  
 For off street parking and unloading regulations for this district, see Article 6.

## 151.40-8.7

**GENERAL BUSINESS DISTRICT, C-2**

## 151.40-8.7.1

**PURPOSE**

The purpose of the general business (C-2) zoning district is to serve the adjoining neighboring residential areas and to provide selected retail and service uses that may serve the entire community, but not those retail and service uses intended to serve the regional retail service area of Marion. These districts are located adjacent to the C-2 zoning district and in selected residential neighborhoods, on highways leading from the C-2 zoning district.

## 151.40-8.7.2

**PERMITTED PRINCIPAL USE AND BUILDING**

The following uses and buildings are permitted by right, subject to all the applicable development standards and requirements of these zoning regulations:

- A. Retail Sales: Retail establishments which deal in retail sales exclusively; restaurants of all types; and places of amusement.
- B. Consumer and Personal Services: Service establishments which provide repair, grooming, business, financial or maintenance service for the consumer, either on the premises or at another location; self-service laundries, hotels and motels, and private gymnasiums.
- C. Office and professional: Office and professional uses and buildings.
- D. Limited Manufacturing: Any retail business or retail service which includes the making of articles to be sold at retail on the premises.
- E. Residential: Residential dwellings as permitted in Residential R-3 zoning district (see Section 151.40-8.5.2). Multi-family land use developments may be proposed in a multiple building development configuration provided that a development plan has been approved by the Planning Commission (see Article 151.40-13).

- F. **Government and institutional:** Government offices, agencies and services; senior citizen centers; library, museum, art galleries, post office, art centers, and similar uses (including associated educational and instructional activities); police stations, fire stations, rescue squad, and ambulance service.
- G. Retail sales, consumer and personal services or office and professional land uses may be proposed in a multiple building development configuration provided that a development plan containing the proposed land uses have been approved by the Planning Commission (see Section 151.40-13).

**151.40-8.7.3 ACCESSORY USE AND BUILDING**

Any accessory use or building customarily and incidental to permitted principle or conditional uses may be permitted.

**151.40-8.7.4 CONDITIONAL PERMITTED USE AND BUILDING**

The following uses are conditional uses in a C-2 zoning district and require written approval of the Board of Adjustments:

- A. Churches and other places of worship;
- B. Parish houses and parsonage;
- C. Public and Private schools and colleges;
- D. Day care centers, child care centers, and nurseries;
- E. Funeral home;
- F. Intermediate care facilities, skilled nursing facilities; nursing homes, and personal care facilities.
- G. Hospital; personal care home; or medical, dental or mental health office;
- H. Philanthropic institutions, social or fraternal lodges and clubs, union halls, and similar uses.
- I. Radio and other towers and antennas.

**151.40-8.7.5 PROHIBITED USE AND BUILDING**

The following uses are prohibited in the C-2 zoning district:

Any business which is primarily of a wholesale, storage or warehouse nature; coal, lumber, or building supply yard; fertilizer bulk plant; feed mill; dairy and bottling works; dry cleaning plant; electric welding; live animal or poultry sales; gasoline, oil or alcohol storage above ground in excess of 500 gallons; ice plant; laundry or bakery employing more than fifteen (15) persons; mobile homes; manufactured home parks; and any similar uses which in the opinion of the Board of Zoning Adjustment would be detrimental to the development in the general business district.

**151.40-8.7.6 DEVELOPMENT PLAN REQUIRED**

When a building which contains multi-family dwelling units, a multiple building development, a condominium development, or recreational vehicer park/campground is proposed a development plan must be approved by the Planning Commission in accordance with Article 151.40-13.

For information concerning: lot and yard requirements; the percentage of lot that may be covered by all buildings and parking; and height of buildings, see Table 2, at the end of these regulations.  
For sign regulations for this district, se Article 5.  
For off street parking and unloading regulations for this district, see Article 6.

**151.40-8.8 HIGHWAY BUSINESS DISTRICT, C-3****151.40-8.8.1 PURPOSE**

The purpose of the highway business, C-3, district is to encourage the establishment of commercial areas that can accommodate motor vehicle oriented customers. This district is specifically designed to service the motoring public and will be located along the major highways of Marion.

**151.40-8.8.2 PERMITTED PRINCIPAL USES AND BUILDINGS**

The following uses and buildings are permitted in any C-3 District, subject to all the applicable development standards and requirements:

- A. Retail Sales: Stores which deal in retail sales exclusively; restaurants, all types; souvenir shops; curio shops; garden centers; and new and used cars and truck sales; and places of amusement.
- B. Consumer and Personal Services: Outlets which provide repair, grooming, business, financial or maintenance service for the consumer, either on the premises or at another location; establishments that provide financial, business services; self-service laundries; hotels and motels; monument sales; pet shops; and private gymnasiums.
- C. Offices: Business and professional; Doctors, dentist, and chiropractors.
- D. Other non-residential uses: Funeral homes; cemeteries; intermediate care facilities; skilled nursing facilities; nursing homes; personal care home; hospitals and medical, dental or mental health offices.
- E. Residential: Residential dwellings as permitted in the R-3 zoning district. (see Section 151.40-8.5.2 for details).
- F. Government and institutional: Government offices, agencies and services; senior citizen centers; library, museum, art galleries, art centers and similar uses (including associated educational and instructional activities); post office, police stations, fire stations, rescue squad, and ambulance service.
- G. Recreational: Amusement parks; bowling alleys; roller skating rinks; archery ranges; miniature golf; golf driving range; and other similar outdoor recreational uses, provided that a development plan containing the proposed land uses have been approved by the Planning Commission (see Section 141.40-8.8.7 and Article 151.40-13).
- H. These additional land uses are permitted when they have been approved as a part of a development plan which has been approved in accordance with Article 151.40-13: Shopping centers; Multi-family land use developments, in a multiple building development configuration; Retail sales, consumer and personal services, office and professional, hospital or medical, dental or mental health office land uses in a multiple building development configuration;

**151.40-8.8.3 PERMITTED ACCESSORY USE AND BUILDING**

Any accessory building or use customarily incidental to the permitted uses are permitted.

**151.40-8.8.4 PERMITTED CONDITIONAL USE AND BUILDING**

The following uses are conditional uses in a C-3 district and require written approval of the Board of Adjustments:

- A. Churches and other places of worship;
- B. Parish houses and parsonages;
- C. Child care facilities, day care center and nurseries;

- D. Public parks and commercial recreational facilities;
- E. Public and Private schools and colleges;
- F. Philanthropic institutions and clubs;
- G. Radio and other towers and antennas.

**151.40-8.8.5 REQUIRED CONDITIONS**

Refuse facilities are permitted to be located outside a building provided it is completely screened from view of public streets and adjoining non-industrial zoned properties. These refuse facilities shall be screened on all sides except one by masonry walls or solid wood fencing not less than the height of the bin or container. One side shall be equipped with an opaque gate. Gates must have tie backs to secure in open position.

**151.40-8.8.6 PROHIBITED USE AND BUILDING**

The following uses are prohibited in the C-3 zoning district:

- All industrial uses not specifically allowed by this article.
- Outside storage, unless required by law;
- Automobile wrecking yards, junk yards and similar type salvage operations.
- Industrial agricultural operations, industrial agricultural operations as defined in 401 Kentucky Administrative Regulations 5:072E.
- No structure including agricultural buildings shall be placed in any area which has been designated as a flood plain.
- Mobile homes; and manufactured home parks.

**151.40-8.8.7 DEVELOPMENT PLAN REQUIRED**

When a building containing multi-family dwelling units, a multiple building development, a condominium, or arecreational vehicle park/campground is proposed, a development plan must be approved by the Planning Commission in accordance with Article 151.40-13 prior to the issuance of a building permit.

**151.40-8.8.8 LOT REQUIREMENTS**

- A. All buildings must be connected to Marion sanitary sewer system.
- B. Residential and commercial land uses may be located on the same lot or in the same development. When residential and non-residential land uses are located on the same lot, the lot calculations shall be based on the sum of each land use added together.

For information concerning: lot and yard requirements; the percentage of lot that may be covered by all buildings and parking; and height of buildings, see Table 2, at the end of these regulations.  
 For sign regulations for this district, see Article 5.  
 For off street parking and unloading regulations for this district, see Article 6.

**151.40-8.9 LIGHT INDUSTRIAL DISTRICT, I-1**

**151.40-8.9.1 PURPOSE**

The purpose of the light Industrial, I-1, zoning district is intended to provide areas in which the principal use of land is for light manufacturing and assembly plants, distribution, storage,

warehousing and wholesale business establishments which are clean, quiet, and free of hazardous and objectionable elements such as noise, odor, dust, smoke, or glare; operate entirely within enclosed buildings and generate little industrial traffic. In addition to such activity, certain types of commercial sales and service establishments are deemed to be especially suited for location in the light industrial district.

#### 151.40-8.9.3 **PERMITTED PRINCIPAL USES AND BUILDINGS**

The following uses and buildings are permitted in any I-1 District, subject to all the applicable development standards and requirements of these regulations:

- A. **MANUFACTURING**
  - a. Apparel and other finished products;
  - b. Newspaper Printing and publishing and commercial printing, lithographic;
  - c. Office and computing machines;
  - d. Electric and electronic equipment [except electronic transmission and distribution equipment and electrical industrial apparatus];
- B. **SALES, CONSTRUCTION AND SERVICE ESTABLISHMENTS**
  - a. Feed lots, display and stocking areas for the following types of business:
    - i. Agricultural and forest services
    - ii. Building construction, general contractors and special trade contractors;
    - iii. Motor vehicles and motor vehicle parts and supplies;
    - iv. Farm implement sales and service;
    - v. Lumber and building materials.
- C. **WAREHOUSING AND STORAGE**
  - a. Warehousing except live stock auction markets and farm product raw materials;
  - b. Trucking and courier services, except air related;
  - c. Terminal and joint terminal maintenance facilities for motor freight transportation;
  - d. Public warehousing and storage and mini-warehouses.
- D. **GOVERNMENT AND INSTITUTIONAL**
  - a. Government offices, agencies and services;
  - b. Police stations, fire stations, rescue squad, and ambulance service.
- E. **Limitations on storage tanks for flammable, reactive, or hazardous materials.**

Above ground storage tanks, except, hazardous waste materials:	1,000 gallons
Above ground storage tanks for hazardous waste materials	500 gallons

#### 151.40-8.9.4 **PERMITTED ACCESSORY USE AND BUILDING**

Any accessory building or use customarily incidental to the above permitted or conditionally permitted use shall be permitted.

#### 151.40-8.9.5 **CONDITIONAL PERMITTED USE AND BUILDING**

The following uses are conditional uses in a I-1 District and require written approval of the Board of Adjustments:

- A. Manufactured ice;
- B. Machine shops, jobbing and repair;
- C. Welding and special dies and tools, die sets, jigs and fixtures, and industrial molds;
- D. Fabrication and processing plants of articles to be sold at retail on the premises;
- E. Photocopying and duplicating services;
- F. Partitions, shelving, lockers, and office and store fixtures including cabinet shops,
- G. Child care facility when developed in conjunction with a planned industrial park or is



exclusively for the benefit of employees of the manufacturing plant. Two or more adjoining manufacturing plants may jointly operate a child care facility.

**151.40-8.9.6****REQUIRED CONDITIONS**

- A. Where possible, loading docks should be located so as not to front on a public highway.
- B. No materials or supplies shall be stored or permitted to remain on any part of the property outside of the buildings constructed thereon.
- C. Manufacturing, processing, service and repair operations shall be conducted only within completely enclosed buildings.
- D. Where a commercial lot adjoins a residential lot, a well maintained buffer at least six (6) feet in height shall be installed to screen the business use from the adjoining lot in the residential district. The screen shall begin at the front building line and extend along the common lot line.
- E. Refuse facilities are permitted to be located outside a building provided it is completely screened from view of public streets and adjoining non-industrial zoned properties. These refuse facilities shall be screened on all sides except one by masonry walls or solid wood fencing not less than six (6) feet in height. Refuse may not be stacked higher than the top of the screening. The remaining side shall be equipped with an opaque gate. Gates must have tie backs in a secure position in open position.
- F. Outside storage is not permitted.
- G. No waste material or refuse may be dumped upon, or be permitted to remain upon any part of an industrial site outside of the buildings erected thereon..

**151.40-8.9.7****PROHIBITED USES AND BUILDINGS**

Residential buildings; manufactured homes, modular homes, public or private elementary or high schools; churches; yards or lots for scrap or salvage operations, processing or yards, storage, display or sales of any scrap, salvage, or second hand building material, wrecked automobiles, second hand automobile parts; and salvage yards; Uses which emit, smoke, noise, odor or dust which would be obnoxious or detrimental to neighboring properties.

For information concerning: lot and yard requirements; the percentage of lot that may be covered by all buildings and parking; and height of buildings, see Table 2, at the end of these regulations.  
For sign regulations for this district, see Article 5.  
For off street parking and unloading regulations for this district, see Article 6.

**151.40-8.10****GENERAL INDUSTRIAL DISTRICT, I-2****151.40-8.10.1****PURPOSE**

The purpose of the heavy industrial (I-2) zoning district is to encourage the development of major manufacturing, processing, warehousing and other business establishments. These uses require extensive community facilities, and reasonable access to arterial highways. They may have extensive open space and service areas and may have associated with the use certain environmental factors that may extend beyond their property boundaries.

151.40-8.10.2 **PERMITTED PRINCIPAL USE AND BUILDING**

The following uses and buildings are permitted by right, subject to all the applicable development standards and requirements of these regulations.

A. **MANUFACTURING**

- a. Soil preparation services and crop services;
- b. Veterinary services;
- c. Animal services , except veterinary;
- d. Farm management services and landscape and horticultural services;
- e. Dairy products and canned, frozen and preserved fruits, vegetables, and food specialties and bakery products;
- f. Candy, chocolate, chewing gum products and salted or roasted nuts and seeds;
- g. Beverages, except malt, wine or distilled and blended liquors;
- h. Manufactured ice;
- i. Apparel and other finished products;
- j. Newspaper printing and publishing and commercial printing, lithographic;

B. **SALES AND SERVICE FIRMS**

Agricultural and forest services and lawn and garden services;

C. **SERVICE ESTABLISHMENTS**

- a. Building Construction, general contractors, heavy construction contractors and special trade contractors;
- b. Sales lots, display and stocking areas for the following types of business:
- c. Building Construction, general contractors and special trade contractors;
- d. Motor vehicles and motor vehicle parts and supplies;
- e. Farm implements;
- f. Lumber and building materials;
- g. Services to dwellings and other buildings;
- h. Computer and data processing;
- I. Engineering, architectural and surveying services;
- j. Accounting, auditing and bookkeeping services;
- k. Research, development and testing services;
- l. Management and public relations services;
- m. Labor unions and similar labor organizations;

D. **WAREHOUSING AND STORAGE**

- a. Warehousing;
- b. Trucking and courier services, except air;
- c. Terminal and joint terminal maintenance facilities for motor freight transportation;
- d. Public warehousing and storage and mini-warehouses.

151.40-8.10.3 **PERMITTED ACCESSORY USE AND BUILDING**

An accessory building and use, which is customarily incidental to the principal and conditional use, shall be permitted. Garages and employee recreational facilities which may be locate and conducted out of doors shall be considered accessory uses, except when the recreational facility is to be lighted and that facility would be located adjacent to residential zoning districts.

151.40-8.10.4 **CONDITIONAL PERMITTED USE AND BUILDING**

The following uses are conditional uses in a I-2 district and require written approval of the Board of Adjustments.

- A. **MANUFACTURING**
  - a. Custom slaughtering and meat products;
  - b. Grain mill products;
  - c. Fats and oil processing and rendering mills and miscellaneous food; preparations and kindred products.
  - d. Tobacco products;
  - e. Clothing products;
  - f. Lumber and wood products, except furniture;
  - g. Furniture and fixtures;
  - h. Paperboard containers and boxes, converted paper and paperboard products, except containers and boxes;
  - i. Books and Periodicals: publishing and printing and miscellaneous publishing;
  - j. Manifold forms and blank book, looseleaf binders and bookbinding and greeting cards, and service industry for printing trade;
  - k. Chemicals and allied products;
  - l. Rubber and miscellaneous plastics products;
  - m. Leather and leather products;
  - n. Stone, clay, glass, and concrete products;
  - o. Primary metal industries and fabricated metal products, except machinery and transportation equipment;
  - p. Industrial and commercial machinery and computer equipment;
  - q. Electronic and other electrical equipment;
  - r. Transportation equipment;
  - s. Measuring, analyzing and controlling instruments; photographic, medical and optical goods; watches and clocks;
  - t. Miscellaneous manufacturing industries including any other manufacturing not otherwise categorized by these regulations;
- B. **BUSINESS SERVICES**  
Linen supply and industrial laundries.
- C. **WHOLESALE TRADE**  
Live stock auction markets and farm product raw materials;.
- D. **MINING and QUARRYING**
  - a. Crushed and broken stone, including riprap;
  - b. Sand and gravel;
  - c. Agricultural lime.
- E. **OTHER CONDITIONAL USES INCLUDE:**  
Scrap iron and salvage yards; salvage car lots, see Section 151.40-9.2 for standards for approval; Employee recreational facilities which may be located and conducted out of doors and which have lighting; and child care facilities when developed in conjunction with a planned industrial park or is exclusively for the benefit of employees of the manufacturing plant. Two or more adjoining manufacturing plants may jointly operate a child care facility.
- F. **PUBLIC FACILITIES**  
Police, fire, rescue squads, public water and sewage treatment plants and other public facilities and utility plants.

151.40-8.10.5 **REQUIRED CONDITIONS**

- A. Lots adjacent to a residential district, shall have all buildings located so as to provide a minimum side yard of fifty (50) feet on the side adjoining the residential property.
- B. Where possible, loading docks should be located so as not to front on a public street.
- C. No materials or supplies shall be stored or permitted to remain on any part of the property outside of the buildings constructed thereon without proper screening and adequate distance from adjoining properties.
- D. No waste material or refuse may be dumped upon, or be permitted to remain upon any part of an industrial site outside of the buildings erected thereon except as may be required for pretreatment of waste prior to its being discharged into the municipal sewage system.

151.40-8.10.6 **PROHIBITED USES AND BUILDINGS**

The following uses and buildings are prohibited in the I-2 district:

- A. Residential dwelling units; manufactured home parks or subdivisions, mobile homes, or Type A or B manufactured homes, modular homes.
- B. No private access to any use in this district shall be permitted through any residential district.
- C. Industrial agricultural operations as defined in 401 Kentucky Administrative Regulations 5:072E. No structure including agricultural buildings shall be placed in any area which has been designated as a flood plain.

For information concerning: lot and yard requirements; the percentage of lot that may be covered by all buildings and parking; and height of buildings, see Table 1, at the end of these regulations.  
 For sign regulations for this district, see Article 5.  
 For off street parking and unloading regulations for this district, see Article 6.

151.40-8.11 **GENERAL FLOOD PLAIN OVERLAY DISTRICT - GFO**151.40-8.11.1 **PURPOSE**

The purpose of the General Flood plain Overlay (GFO) district is to protect the public health, safety and general welfare and reduce the financial burdens imposed on the community, its governmental units and its individuals, that may result from improper use of land which because of certain natural or man-made features are not suitable for extensive development. Areas subject to frequent or periodic flood and overflows, unstable soil conditions, underground caverns, and other conditions that are deemed by the Planning Commission to be detrimental to the public welfare are subject of this section in addition to the underlying zoning district requirements. Upon proof that flood and overflow conditions do not exist, or that corrective measures can be taken to correct such conditions, the GFO district requirements may be set aside and the property in question may be used in accordance with the district standards of the underlying zoning district.

151.40-8.11.2 **LAND TO WHICH FLOOD HAZARD DESIGNATION APPLIES**

- A. All lands determined to be subject to periodic flooding within the 100-year flood level; or contain an opening into the subterranean water channel, shall be subject to these regulations.

- B. The originally designated areas shall include those areas shown on Marion Zoning Map dated January 1, 2002.

**151.40-8.11.3 CRITERIA FOR DETERMINING AREA OF GFO DISTRICT**

The criteria for determining the original area subject to general flooding was the Crittenden County Soils Maps. The criteria for adding added to the GFO district shall be means of drainage calculations prepared by a registered Kentucky Professional Engineer using the 100- year frequency flood and a recognized national drainage formula, such as Denver method, SCS method, or the rational method.

**151.40-8.11.4 WARNING AND DISCLAIMER OF LIABILITY**

The degree of flood protection required by these regulations is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on occasion. Flood heights may be increased by man made or natural causes. This article does not warrant, directly or indirectly, that areas outside the GFO district will be free from flooding or flood damage. This article shall not create liability on the part of the City of Marion for any flood damages that result from reliance on this article or any administrative decision lawfully made there under.

**151.40-8.11.5 MAINTENANCE OF PROPERTY**

This article does not obligate the City of Marion or any other government agency, any assumption of maintenance of any area designated as GFO district. Nor does it assume any maintenance obligation for storm drainage systems approved by the Planning Commission or the City of Marion.

**151.40-8.11.6 PERMITTED PRINCIPAL USES AND BUILDINGS**

The following uses are permitted in the GFO district subject to all the applicable development standards and requirements of these regulations:

- A. Any use permitted in the underlying district that does not require the erection of a structure or buildings intended for year-around use or occupancy, fences excepted.
- B. Agricultural uses such as general farming; growing of outdoor plants; nurseries; truck farming; forestry; sod farming; horticulture; wild crop harvesting provided the use does not require the construction of a structure and that the use conforms to the location requirements set forth in the agricultural district.

**151.40-8.11.7 PERMITTED ACCESSORY USES AND BUILDINGS**

An accessory use, which are customarily incidental to the principal and conditional use, shall be permitted so long as there is no structure associated with the accessory use, fences excepted. An accessory building are not permitted in the GFO district.

**151.40-8.11.8 CONDITIONAL PERMITTED USES AND BUILDINGS**

The following uses and buildings are conditional uses in the GFO district, and require the written approval of the Board of Adjustments: Public and private recreational uses provided no building intended for regular occupancy is erected within the 100 year flood plain area.

**151.40-8.11.9 PROHIBITED USE AND BUILDING**

The following uses and buildings are prohibited in the GFO district:

- A. Commercial, office, hospitals, nursing homes, industrial, wholesale and warehouse;

- B. Residential dwelling units, manufactured home parks, manufactured homes, manufactured home subdivisions, modular homes;
- C. Industrial agricultural operations as defined in 401 Kentucky Administrative Regulations 5:072E;
- D. Agricultural buildings;
- E. Public or private schools or colleges ;
- F. Churches and other religious facilities;
- G. Yards or lots for scrap or salvage operations, processing or yards, storage, display or sales of any scrap, salvage, or second hand building material, wrecked automobiles, second hand automobile parts; and salvage yards.

**151.40-8.11.10 LOT REQUIREMENT**

No lot may be created which would be entirely covered by the 100 year flood plain nor may a permanent structure be built on an existing lot that is entirely covered by the 100 year flood plain. Lots which have a part of its area covered by the 100 year flood plain must have a buildable area outside the 100 year flood plain equal to one half (½) the minimum lot size permitted for a lot as specified by the underlying zoning district where it is located.

For information concerning: lot and yard requirements; the percentage of lot that may be covered by all buildings and parking; and height of buildings, see Table 1, at the end of these regulations.  
 For sign regulations for this district, see Article 5.  
 For off street parking and unloading regulations for this district, see Article 6.

**151.40-8.12 MANUFACTURED HOME OVERLAY DISTRICT (MHO)**

**151.40-8.12.1 PURPOSE**

The purpose of the Manufactured Home Overlay (MHO) District is to establish regulations which will allow the placement of a single family manufactured home on an individual lot in areas zoned for residential development as a permitted use.

**151.40-8.12.2 APPLICABILITY**

The MHO district is an overlay district that modifies the standards of the underlying base district. The MHO district may only be applied in area zoned R-2 and R-3. And shall be indicated on the zoning map (i.e., R-3/MHO or hatched pattern on zoning map). All regulations of the underlying base district that are not in conflict with section 151.40-8.12 of the MHO district shall applied to the MHO. Where the regulations of the underlying base district are in conflict with the MHO district, the MHO district shall control.

**151.40-8.12.3 PERMITTED PRINCIPAL USES AND BUILDINGS**

The following uses will be permitted:

- A. Any permitted use or building as set out in the underlying base district shall be permitted.
- B. Owner occupied single family, Type A manufacture or modular homes shall be permitted in the MHO District.

**151.40-8.12.4 PERMITTED ACCESSORY USE AND BUILDING**

Any accessory building or use customarily incidental to the permitted uses as set out in the underlying base district are permitted.

**151.40-8.12.5 ONE TYPE A MANUFACTURED OR MODULAR HOME UNIT PER LOT**

Each type A manufactured home or modular unit shall be considered a principal structure and only one principal structure per lot is permitted in the MHO district.

For information concerning: lot and yard requirements; the percentage of lot that may be covered by all buildings and parking; and height of buildings, see Table 1, at the end of these regulations.  
For sign regulations for this district, see Article 5.  
For off street parking and unloading regulations for this district, see Article 6.

**151.40-8.13 LANDMARK AND HISTORIC OVERLAY DISTRICT (L-HO)****151.40-8.13.1 PURPOSE**

The purpose of the Landmark and historic Overlay District (L-HO) is to establish regulations which are designed to :

- ▶ Maintain and preserve the unique historic, cultural, and architectural characteristics of sites and buildings in the City of Marion which have special or distinctive features or are of special historic, architectural, aesthetic or cultural interest and value to the city, the state or the nation.
- ▶ Promote the use and preservation of such landmarks or districts, thus, strengthen the economy of the City and enhancing its attractiveness to residents, visitors and tourists.
- ▶ Promote the educational, cultural and general welfare of the residents of Marion.
- ▶ Stabilize and improve property values within the area in which the district or landmark property is located.
- ▶ Foster civic pride in the value of notable accomplishments of the past and to enhance the visual and aesthetic character, diversity and interest of Marion.

**151.40-8.13.2 APPLICABILITY**

The L-HO district is an overlay district that modifies the standards of the underlying base district. The L-HO district designation may be applied to any single property or contiguous area within the City of Marion upon a nomination, public hearing and finding that such property or district has the appropriate architectural, cultural, or historic significance. The provisions of the underlying base district that are not in conflict with section 151.40-8.13 of the L-HO district shall continue to be applied. Changes in land use or alterations to a properties within a L-HO district, shall conform to standards of appropriateness, and owners shall be required to obtain a Certificate of Appropriateness prior to any land use or structural modifications.

**151.40-8.13.3 MAINTENANCE OF PROPERTY**

No provision of these regulations shall be construed to allow derelict or unsafe properties to be immune from public safety regulations that may be adopted by the City of Marion or the Commonwealth of Kentucky.

**151.40-8.13.4 CRITERIA FOR SELECTING LANDMARKS OR HISTORIC DISTRICTS**

Criteria found in the Secretary of Interior's Standards, provisions of the Kentucky Heritage Council, local historic references, and Guidelines adopted by the City of Marion, shall be used in verifying the suitability of a nomination for L-HO district designation.

**151.40-8.13.5 CERTIFICATES OF APPROPRIATENESS**

A certificate of appropriateness from the Board of Adjustments shall be required before a person may undertake the following actions affecting a landmark property or a property in a historic district:

- A. Alteration of the exterior part of the building or structure that is visible from a public right-of-way;
- B. New construction;
- C. Demolition;
- D. Relocation.

**151.40-8.13.6 WHO MAY APPLY**

- A. Nomination of a landmark property or historic district as a L-HO district may originate from the City of Marion, the Marion Main Street, Inc Preservation Board, or the property owners of the property in question. The person or organization proposing a designation shall provide the Planning Commission the names and addresses of the owners of the affected property and the owners of all adjoining property as listed on the tax rolls of the Crittenden County Property Valuation Administrator (PVA).
- B. A request for a certificate of appropriateness may originate from the property owner, their agent or a lessee of the property. When a request for a certificate of appropriateness is requested by the lessee, the application must include an affidavit by the property owner agreeing to the application.

**151.40-8.13.7 DUTIES OF MARION MAIN STREET, INC. OR OTHER DESIGNATED AUTHORITY**

Regardless of the origin of the nomination, when the nomination for designation of a landmark and historic (L-H) district, is filed with the Planning Commission, the Administrative Officer shall forward the nomination to the Marion Main Street, Inc. or other designated authority. The designated authority, shall review the nomination and assemble information about the landmark property or historic district being considered for designation. In assembling information about the landmark property or historic district and making its recommendation, the designated authority, shall utilize the expertise of community organizations, may utilize historic surveys, mapping, historic research, photographs, development plans, district design regulations, if previously adopted, and architectural information. The designated authority shall have twenty one days (21) from the date the nomination is filed with the Planning Commission to review, assemble information about the land mark property or historic district, and forward this information together with its written recommendations to the Planning Commission. If the designated authority fails to forward its review and recommendation to the Planning Commission within the twenty one (21) day limit, the Planning Commission shall set a date to hear the nomination and shall consider the nomination forwarded without a recommendation.

**151.40-8.13.8 DUTIES OF THE PLANNING COMMISSION**

The Planning Commission shall be responsible for establishing all landmark sites and historic districts as a L-HO district. Designation of a L-HO district shall be the same as for the creation of



any zoning district.

**151.40-8.13.9 PERMITTED PRINCIPAL USES AND BUILDINGS**

Any permitted use or building as set out in the underlying base district shall be permitted except that all new construction or additions to the existing principal building must have a certificate of appropriateness prior to the beginning of construction. The demolition of any existing structure or alteration of an existing structure must have a certificate of appropriateness prior to the commencement of demolition or alteration.

**151.40-8.13.10 PERMITTED ACCESSORY USE AND BUILDING**

Any accessory building or use customarily incidental to the permitted uses as set out in the underlying base district are permitted except that all new construction or additions to the an existing accessory building must have a certificate of appropriateness prior to the beginning of construction. The demolition of any existing structure or alteration of an existing structure must have a certificate of appropriateness prior to the commencement of demolition or alteration.

**151.40-8.13.11 CONDITION USES**

Any conditional use as set out in the underlying base district shall be permitted except that in granting the conditional use, the Board of Adjustments must take into consideration the unique character and historic value of the landmark property or historic district.

**151.40-8.13.12 PROHIBITED USES AND BUILDINGS**

Any use prohibited in the underlying zoning district shall be prohibited in the L-HO district.

**151.40-8.13.13 COMPLIANCE WITH HISTORIC PRESERVATION DESIGN GUIDELINES**

When the Marion Main Street, Inc. or other designated authority has prepared and the Marion City Council has approved historic preservation design guidelines for use within the City of Marion, the standards or set back standards of the underlying zoning district may be modified in keeping with the historic preservation design guidelines.

For information concerning: lot and yard requirements; the percentage of lot that may be covered by all buildings and parking; and height of buildings, see Table 1, at the end of these regulations.  
For sign regulations for this district, see Article 5.  
For off street parking and unloading regulations for this district, see Article 6.



## CHAPTER 151.40-9 SPECIAL REGULATIONS

### 151.40-9.1 PURPOSE

The following uses are considered to have unique characteristics that warrant special regulation to govern their placement within the community.

### 151.40-9.2 MANUFACTURED HOME PARK

#### 151.40-9.2.1 PURPOSE

The purpose of the supplemental regulations for manufactured home park are designed to recognize modern advances in manufactured housing technology and to promote cost effective site development. The standards set out in this section will insure that manufactured housing communities can be harmoniously developed and be integrated into the City of Marion. Furthermore, these regulations provide for institutional support services, such as playgrounds, and community centers within the development and for the use of the park inhabitants.

#### 151.40-9.2.2 MANUFACTURED HOME INDIVIDUAL SPACE REQUIREMENTS:

##### A. AREA REQUIREMENTS

The individual mobile home spaces within a manufactured home park shall meet the lot area standards as specified in Section 151.40-8.5.6.

##### B. REQUIRED SETBACKS

Individual mobile home spaces within a manufactured home park shall meet the yard standards as specified in Section 151.40-8.5.8.

##### C. MINIMUM SPACING

No manufactured home shall be located within fifteen (15) feet of another manufactured home except that a minimum end-to-end clearance of not less than twelve (12) feet shall be permitted, and in instances where the sides opposite the entrance of two manufactured homes face each other, the amount of space between the two manufactured homes may be reduced to no less than twenty (20) feet.

##### D. INTERNAL STREETS

- a. Each manufactured home park shall have at least one street within the mobile park which gives access between the park's mobile home spaces and the public street.
- b. All manufactured home spaces shall abut upon an internal street as specified in Section 151.40-8.5.8.
- c. All streets within the manufactured home park shall have a pavement of not less than eighteen (18) feet.
- d. The manufactured home street which provides access may not be located closer than one hundred (100) feet from another access street, nor may it be closer than one hundred twenty-five (125) feet from an intersection of any public street.
- e. All streets within the park shall be hard-surfaced and well lighted.
- f. No street within the manufactured home park shall be within three (3) feet of the property line.
- g. The owner of the mobile park shall maintain the streets within the manufactured home park.

- E. **PARKING STANDARDS**  
One (1) paved automobile parking space shall be provided on every manufactured home space, plus one fourth (1/4) parking space for each manufactured home space for visitor or common parking. The additional parking may be in a central location.
- F. **UTILITIES**  
All manufactured home spaces shall be provided with public water, sewer and electrical facilities meeting the standards specified by the City of Marion and state regulations, and each manufactured home shall be properly connected with said utilities.
- G. **LIGHTING**  
All streets within a manufactured home park shall be lighted, and meet the minimum standards of street lighting in the City of Marion.
- H. **DRAINAGE**  
A drainage plan for the entire manufactured home park shall be filed with the development plan and shall be approved prior to development of any part of the manufactured home park. The drainage plan must meet the minimum standards of the City of Marion, and if developed, in phases all drainage facilities required to accommodate the individual phases shall be constructed at time of development of that phase.
- I. **ACCESSORY BUILDING**  
Any accessory building, patio, and pad shall be located at least five (5) feet from any manufactured home space line. The maximum floor area of any accessory structure shall be one hundred (100) square feet. The accessory building shall be built in compliance with the Kentucky Building Code.
- J. **FOUNDATION**  
All manufactured homes must and placed on permanent foundations. The bottom of the manufactured home shall not be more than four (4) feet above the ground at any point. A solid form of permanent skirting material shall be placed around each manufactured home.
- K. **CONNECTING BUILDINGS**  
Only porches, stairs, and other open structures may be attached to a manufactured home, but must be easily removed. No building for human occupancy or for storage shall be built to the manufactured home.
- L. **HOUSE NUMBERS**  
Each manufactured home space shall be clearly marked with a manufactured home space number. The manufactured home space number shall be made of durable material and may be mounted either on the manufactured home or on a ground monument. The manufactured home space number shall be clearly visible from the manufactured home park's internal street.

151.40-9.2.3 **PROCEDURE FOR APPROVING MANUFACTURED HOME PARK**

Before applying for a building permit for a manufactured home park, the owner of the property where the manufactured home park is proposed, shall submit a development plan to the Planning Commission for its approval in accordance with Article 151.40-13. No development of the mobile home park may commence prior to the approval of the Planning Commission.

**151.40-9.3 MULTI-FAMILY****151.40-9.3.1 PURPOSE**

The purpose of supplemental regulations for multi-family residential developments is to promote cost effective site development standards for higher density residential developments and to insure that multi-family housing can be harmoniously integrated into a residential neighborhoods of Marion.

**151.40-9.3.2 OVERALL DEVELOPMENT POLICIES**

- A. The City of Marion has been divided into neighborhoods. These neighborhoods have been described in *The 1998 Comprehensive Plan, Marion, Kentucky*. Within each neighborhood which has a majority of residential buildings, the total multi-family dwelling units that may be approved within that neighborhood may not exceed 25 percent of the total residential dwellings in that neighborhood.
- B. The proposed multi-family development must meet the requirements of Residential Land Use Development Policy 3.1.3.
- C. No multi-family development may exceed the overall net residential density for the city as set out in *The 1998 Comprehensive Plan, Marion, Kentucky*.

**151.40-9.3.3 PROCEDURE**

The developer, before attempting to obtain a building permit or beginning any construction for a multi-family development, must submitted to and receive the approval of the Planning Commission of a development plan prepared in accordance with Article 151.40-13.

**151.40-9.4 HOME OCCUPATIONS****151.40-9.4.1 PURPOSE**

The provisions of this section shall govern the conduct, establishment and maintenance of a home occupation in the R-1, R-2, R-3 and R-4 districts. Home Occupational permits are granted to a specific person for a specific location and are not transferable. In general, a home occupation will be so located and conducted that the average neighbor, under normal circumstances, would not be aware of its existence other than for a sign permitted elsewhere in these regulations. The standards for home occupations in this section are intended to ensure compatibility with other permitted uses and with the residential character of the neighborhood. No home occupation shall be established unless and until a permit is issued, by the Board of Adjustments, in accordance with the provisions of these regulations

**151.40-9.4.2 ACTIVITIES CONSIDERED TO BE HOME OCCUPATIONS**

The following activities are of such a nature as to be considered a home occupation. They may be conducted in the home when a home occupation permit has been applied for, and approved by the Board of Adjustments in according with the standards set out in this section:

An office in the residence of a physician, dentist, lawyer, engineer, architect, realtor, insurance agent; the studio of an artist; a teacher of music (limited to three pupils at a time), making of handicraft, dressmaking, laundering, and beauty and barber shops.

**151.40-9.4.3 CONDITIONS OF CONDUCT THAT MUST BE MET**

Home occupations may be conducted within a dwelling subject to compliance with all of the

following conditions:

- A. No person other than members of the applicant's immediate family residing on the premises shall be engaged in such home occupation.
- B. The home occupation shall be clearly incidental and subordinate to the use of the building as a residence.
- C. The dwelling unit where the home occupation is to be carried out shall be the principal residents of the applicant.
- D. No more than one (1) home occupation shall be carried on in or on the same premises nor shall an individual be granted more than one home occupation permit simultaneously.
- E. The home occupations can be conducted within the dwelling unit or within a private garage of which he is the owner or occupant, but not both simultaneously. The location of where the home occupation is conducted will be determined at time of approval of application. Regardless of where conducted, the home occupation may not take up more than twenty five (25) percent of the area of one floor of the building in which it is located.
- F. There shall be no change in the outside appearance of the dwelling or accessory building, nor shall the residence be altered or structural features changes in a manner which would not customarily be found in a residential dwelling or accessory building associated with a dwelling of the neighborhood where the residence or accessory building is located.
- G. There is no external storage or display of material, containers, finished products, equipment, or associated trucks or commercial vehicles.
- H. No more than one commercially licensed vehicle is parked on the premises related to the home occupation.
- I. There shall be no change in the outside appearance of the dwelling or premises, or other visible evidence of the conduct of such home occupation.
- J. There shall be no sales on the premises in connection with the home occupation.
- K. Two parking space shall be provided for the proper conduct of the home occupation off the street and other than in a required front yard.
- L. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interferences, outside the dwelling unit. In the case of electrical interferences, no equipment or process shall be used which crates visual or audible interference in any television or radio receivers off the premises, or cause fluctuations in line voltage off the premisses.

#### 151.40-9.4.3 FINDINGS NECESSARY FOR GRANTING A HOME OCCUPATION

Before a home occupation is granted, the board of adjustments must find:

- A. That the applicant has or can fully comply with the standards of conduct of a home occupation.
- B. That the granting of the home occupation will not alter the basic character of the vicinity where the home occupation will be conducted.
- C. The board of adjustments may attach such conditions as it deems necessary to insure protection of the neighborhood involved and consistent with the purposes of this section.

#### 151.40-9.4.4 APPLICATION FOR HOME OCCUPATION AND NOTICE REQUIREMENTS

An application for a home occupation shall be made in writing to the board of adjustments. The Board of Adjustments shall then hold at least one public hearing after notice as required by KRS Chapter 424. Notice of the hearing shall also be given at least fourteen (14) days in advance of the hearing by first class mail to the owners of all property adjoining where the home occupation will be conducted.

**151.40-9.4.5 ABATEMENT**

A home occupation permit may be revoked by the Board of Adjustments, following a public hearing, upon a determination that the occupation or use has been and is conducted so as to create one or more of the following conditions:

- A. A nuisance or other undesirable condition interfering with the public health, safety, morals or general welfare of the neighborhood in which it is located.
- B. A violation of the provisions of these regulations or any other applicable law, ordinance, or violation of the conditions imposed upon the home occupation permit.

**151.40-9.4.6** The Board of Adjustments or an official appointed by the Planning Commission may initiate proceedings for the revocation of a home occupation permit. If the Board of Adjustments find there are sufficient ground for a revocation hearing then the Board of Adjustments shall proceed in the following manner:

- A. There shall be a notice of revocation hearing prepared. Such notice shall set forth precisely the grounds of revocation and shall be forwarded to the Board of Adjustments and to the holder of the home occupation.
- B. Notice of revocation proceedings shall be given to the holder of the home occupation permit at least fourteen (14) days in advance of the hearing. The form of notice shall be by registered or certified mail, return receipt requested, to the holder of the permit. The notice of revocation shall state the date, time and location of the revocation hearing. The notice of revocation shall inform the holder of the home occupation of their right to appear in person or be represented by an attorney, that the holder of the home occupation may speak at the hearing and inter into evidence any information that would refute the allegations.
- C. Following the public hearing, the Board of Adjustments will make a determination of facts related to grounds for revocation. The Board of Adjustments will then vote to revoke the home occupation and shall notify the holder of the home occupation of its decision in writing, within 10 days of its meeting.

**151.40-9.5 ACCESSORY APARTMENT****151.40-9.5.1 PURPOSE**

The provisions of this section shall govern the conduct, establishment and maintenance of an accessory apartment in the R-1, R-2, and R-3 districts. An accessory apartment permit is granted for a specific location and is not transferable. In general, an accessory apartment may be a part of the principal dwelling or may be located in a detached building. The accessory apartment shall be so located and conducted that the average neighbor, under normal circumstances, would not be aware of its existence. The standards for an accessory apartment in this section are intended to ensure compatibility with other permitted uses and with the residential character of the neighborhood in which it is located. No accessory apartment shall be established unless and until a permit is issued, by the Board of Adjustments, in accordance with the provisions of these regulations.

**151.40-9.5.2 CONDITIONS THAT MUST BE MET**

Accessory apartment may be permitted subject to compliance with all of the following conditions:

- A. No more than one accessory apartment shall be permitted on any lot.
- B. An accessory apartment shall be permitted only if there is a principal dwelling existing on the lot at the time the accessory apartment is established or if the principal dwelling is

- constructed at the same time as the accessory apartment. The accessory apartment may continue only as long as there is a principal dwelling on the lot.
- C. Either the accessory apartment or the principal dwelling must be occupied by an owner of the lot. The accessory apartment may continue only as long as the accessory apartment or the principal dwelling is occupied by an owner of the lot.
  - D. An accessory apartment must be clearly subordinate to principal dwelling.
  - E. An accessory apartment shall be a minimum of three hundred (300) square feet of living area but shall not exceed the greater of either, nine hundred (900) square feet living area or twenty five (25) percent of the living area of the principal dwelling.
  - F. The accessory apartment shall have a separate access, not observable from the street, unless there is a single access from the front of the building with a split access inside the building.
  - G. The addition of the accessory apartment will maintain the appearance of a single family dwelling.
  - H. If the accessory apartment is being added or attached to an existing building, the principal dwelling may not be enlarged more than 10 per cent of the original foundation.
  - I. The accessory apartment shall have a kitchen and bathroom wholly within the dwelling.

151.40-9.5.3 **FINDINGS NECESSARY FOR GRANTING AN ACCESSORY APARTMENT PERMIT**

Before an accessory apartment permit is granted, the Board of Adjustments must find:

- A. That the applicant has or can fully comply with the standards for establishing an accessory apartment.
- B. That the granting of the accessory apartment permit will not alter the basic character of the vicinity where the accessory apartment will be located.
- C. The Board of Adjustments may attach such conditions as it deems necessary to insure protection of the neighborhood involved and consistent with the purposes of this section.

151.40-9.5.4 **APPLICATION FOR ACCESSORY APARTMENT AND NOTICE REQUIREMENTS**

An application for an accessory apartment permit shall be made in writing to the Board of Adjustments. The Board of Adjustments shall then hold at least one public hearing after notice as required by KRS Chapter 424. Notice of the hearing shall also be given at least fourteen (14) days in advance of the hearing by first class mail to the owners of all property adjoining where the accessory apartment will be located.

151.40-9.5.5 **ABATEMENT**

An accessory apartment permit may be revoked by the Board of Adjustments, following a public hearing, upon a determination that the standards for creating the accessory apartment are not being adhered to in accordance with the approval of the Board of Adjustments. The Board of Adjustments or an official appointed by the Planning Commission may initiate proceedings for the revocation of an accessory apartment permit. If the Board of Adjustments find there are sufficient ground for a revocation hearing before the Board of adjustments, the Administrative Official shall proceed in the following manner:

- A. There shall be a notice of revocation hearing prepared. Such notice shall set forth precisely the grounds of revocation and shall be forwarded to the Board of Adjustments and to the holder of the accessory apartment.
- B. Notice of revocation proceedings shall be given to the holder of the accessory apartment



permit at least fourteen (14) days in advance of the hearing by registered mail or by certified mail, return receipt requested, to the holder of the permit. The notice of revocation shall state the date, time and location of the revocation hearing and that the holder of the accessory apartment permit has the right to appear in person or be represented by an attorney and that the holder of the accessory apartment permit may present and give evidence to refute the allegations of the Administrative Official.

#### 151.40-9.6 **BED AND BREAKFAST FACILITIES**

##### 151340-9.6.1 **PURPOSE**

Bed and breakfast facilities may be approved by the Board of Adjustments in R-1, R-2, and R-3 districts as a conditional use provided that the following requirements are met:

##### 151.40-9.6.2 **CONDITIONS THAT MUST BE MET**

Adequate off street parking shall be required of each applicant with at least one paved parking space for each authorized guest room. All plans for the construction of new parking must accompany the original applications. If non-resident employees are anticipated, additional parking may be required.

- A. Guests may not be permitted to prepare food within the facility.
- B. No other commercial activities of any kind shall be conducted on the premises.
- C. One sign that is attached to the front wall of the building shall be allowed provided that it does not exceed eight (8) square feet in size and is lighted only by indirect lighting. The sign may identify the name of the building and other historical information and may contain the words "bed and breakfast", but it shall not have any advertising and shall be for identification purposes only.
- D. The number of guest rooms in a facility shall be established by the Board of Adjustments by the size of the building and density of the neighborhood and in no event shall it exceed six (6) rooms and the number of guests in a facility at any one time shall not exceed eighteen (18) persons.
- E. The maximum length of stay of any guest, at any one time, shall be thirt (30) days.
- F. Exterior modifications shall be allowed only if the facility would retain the look of a home and would not resemble a commercial establishment.
- G. The establishment shall pass periodic inspections by agencies that oversee such an establishment, and it shall be licensed by all proper agencies.
- H. A resident manager shall live in the facility during all periods of operation.
- I. The approval of an application and issuance of a permit shall be a non-transferable, personal right that shall not pass with the property to subsequent owners. The failure of the applicant to actively participate in the management of the facility or if the facility is operated so that it unduly interferes with the residential nature of the area shall be grounds for revocation of the permit.



## ARTICLE 151.40-10 AMENDMENTS

### 151.40-10.1 AMENDMENTS IN GENERAL

- 151.40-10.1.1 Whenever, by public necessity, convenience, general welfare, or good zoning practices require, the City Council of Marion may by ordinance, after receiving a recommendation thereon from the Planning Commission, and subject to procedures by law, amend, supplement, change, or repeal these zoning regulations and boundaries or zoning district classification of property. Because of procedural requirements, amendments will be classified as either text amendments or zoning map amendments.
- 151.40-10.1.2 Amendments to the text of these zoning regulations shall be made in accordance with the provisions of this article.
- 151.40-10.1.3 Amendments to the zoning map shall be made in accordance with the provisions of this article.

### 151.40-10.2 INITIATION OF AMENDMENTS

- 151.40-10.2.1 A proposal for amendment to the text of these zoning regulations may originate with the Planning Commission, Marion City Council, or Board of Adjustments or in the case of article 151.40-8.13, the Marion Main Street, Inc. Regardless of the origin of the proposed text amendment, it shall be referred to the Planning Commission before adoption.
- 151.40-10.2.2 A proposal for amendment to zoning map may originate with the Planning Commission, Marion City Council, with an owner of the property in question or in the case of a nomination for designation of a Landmark and Historic (L-H) District, Marion Main Street, Inc.. Regardless of the origin of the proposed zoning map amendment, it shall be referred to the Planning Commission before adoption.

### 151.40-10.3 PRE-APPLICATION CONFERENCE

Prior to formal application for amendment of the zoning map, the applicant and/or his attorney, must hold a conference with the Administrative Official to discuss the application procedures. The pre-application conference shall also be utilized to inform the applicant, whether or not a general development plan is required by these zoning regulations. If the development plan is required, the applicant will be informed that it must be submitted concurrently with the zoning map amendment. Also, at the pre-application conference, the Administrative Official will discuss the additional procedures required for the designation of a Landmark and Historic district map amendment.

At the time of the pre-application conference, the applicant and his attorney, must be prepared to discuss the general nature of the development, including size and location of the property in question, the specific land uses proposed for the property in question, the general size of the development, or in the case of residential units, the number of dwelling units, the location and capacity of the utilities serving the property in question and how the property in question will have ingress and egress to the public road system.

No application will be accepted for a public hearing prior to the pre-application conference being

held, and no pre-application conference may be scheduled for any day which is a filing deadline.

#### 151.40-10.4 **COMPLIANCE WITH THESE ZONING REGULATIONS**

The Administrative Officer shall not accept any amendment for the zoning map that does not comply with the minimum lot area, width of lot, or frontage requirements as requested by zoning district being requested by the applicant.

#### 151.40-10.5 **REFERRAL OF LANDMARK AND HISTORIC DISTRICT ZONING MAP AMENDMENTS TO THE MARION MAIN STREET, INC FOR COMMENT AND REVIEW**

When the Administrative Officer receives a nomination for designation of a landmark and historic (L-H) district, that nomination shall be forwarded to Marion Main Street, Inc. or other designated authority for their review and comment. The designated authority shall have twenty one (21) days to review the nomination, assemble the necessary information about the property or district being considered for designation, and forward its recommendation back to the Administrative Officer. The comments and recommendations of the designated authority shall be in writing and state its reasons for its recommendations. Following the twenty one (21) day review period or receipt of the information and recommendation from the designated authority which occurs first, the Administrative Officer shall immediately forward the nomination to the Planning Commission which shall set a date for a hearing on the nomination in the same manner as a zoning map amendment.

#### 151.40-10.6 **PUBLIC HEARING**

The Planning Commission shall hold at least one (1) public hearing, after notice as required by this Article and KRS chapter 100, for any text or zoning map amendment.

#### 151.40-10.7 **NOTICE**

The Planning Commission shall hold its public hearing, after the following notice has been given.

##### 151.40-10.7.1 **TEXT AMENDMENT**

- A. Published notice of the public hearing is given in accordance with the provisions of KRS Chapter 424.

##### 151.40-10.7.2 **ZONING MAP AMENDMENT**

- A. Published notice of the public hearing is given in accordance with the provisions of KRS Chapter 424. This published notice shall also include the street address of the property in question, or if one is not available or practicable due to the number of addresses involved, a geographic description sufficient to locate and identify the property, and the names of two (2) streets on either side of the property which intersect the street on which the property is located; when the property in question is located at the intersection of two (2) streets, the notice shall designate the intersection by the name of both streets rather than name the two (2) streets on either side of the property.
- B. A sign at least three by three (3 x 3) feet and constructed of durable material shall be posted conspicuously on the property, the classification of which is proposed to be changed. This sign shall be posted for fourteen (14) days immediately prior to the

hearing. It shall be the responsibility of the Planning Commission to see that the sign is placed upon the property in question in a timely fashion. The posted sign shall state the following:

- a. "Zone Change" and that the property is to be considered for a change from its present classification to the proposed designation. The letters for this portion of the sign shall be three (3) inches in height. The time, place and date of hearing shall be stated in letters at least one (1) inch in height. The sign shall state the telephone number and address of the Planning Commission.

C. **CERTIFIED MAIL**

**If the zoning map amendment is proposed by a property owner**, the notice of the hearing shall be given at least fourteen (14) days in advance of the hearing by certified mail to an owner of every parcel of property adjoining the property the classification of which is proposed to be changed. It shall be the duty of the person or persons proposing the map amendment to furnish to the Planning Commission with the names and addresses of the owners of all adjoining property. Records maintained by the Property Valuation Administrator (PVA) may be relied upon conclusively to determine the identity and address of the owner. If the property is in condominium or cooperative forms of ownership, the person notified by mail shall be the president or chairman of the owner group which administers property commonly owned by the condominium or cooperative owners. A joint notice may be mailed to two co-owners of an adjoining property who are listed in the PVA's records as having the same address.

If the property the classification of which is proposed to be changed adjoins property in a different planning unit, or property which is in a different jurisdiction which is not part of the planning unit, notice of the hearing shall be given at least fourteen (14) days in advance of the hearing, by registered mail to certain public officials, as follows: (a) If the adjoining property is part of a planning unit, notice shall be given to that unit's Planning Commission; or (b) If the adjoining property is not part of a planning unit, notice shall be given to the mayor of the city in which the property is located or, if the property is in an unincorporated area, notice shall be given to the judge/executive of the county in which the property is located.

**If the zoning map amendment is proposed by the Planning Commission or the Marion City Commission, or in the case of a nomination for designation of a Landmark and Historic (L-H) district, Marion Main Street, Inc.** the notice of the hearing shall be given at least thirty (30) days in advance of the hearing by certified mail to an owner of every parcel of property adjoining the property, the classification of which is proposed to be changed. It shall be the duty of the agency who is proposing the map amendment, to furnish the names and addresses of the owners of all adjoining property to the Planning Commission. In all other respects the requirements for notice shall be the same as for a property owner, including use of PVA records, and notice of adjoining jurisdictions.

151.40-10.8 **PLANNING COMMISSION CONSIDERATION AND ACTION**

All proposed amendments to the text of these regulations or to the zoning map shall be referred to the Planning Commission for study and recommendation.

**151.40-10.8.1 TEXT AMENDMENT**

The Planning Commission shall at its public hearing, study the need and justification for the proposed text amendment and shall make a recommendation as to whether the text of the amendment should be approved or disapproved. The recommendation of the Planning Commission shall be in writing and state its reasons for its recommendation. If the amendment originated with the Marion City Council, the Planning Commission shall make its recommendation within sixty (60) days of the date of its receipt of the proposed amendment.

**151.40-10.8.2 ZONING MAP AMENDMENT**

A. The Planning Commission shall at its public hearing, study the need and justification for the proposed zoning map amendment, make findings of fact and a recommendation of approval or disapproval of the proposed map amendment to the Marion City Council. The findings of fact and recommendations shall include a summary of the evidence and testimony presented by the proponents and opponents of the proposed amendment. If the vote of the Planning Commission results in a tie vote, the proposed map amendment shall be subject to further consideration by the Planning Commission for a period not to exceed thirty (30) days. At the end of this period, if the tie has not been broken, the application shall be forwarded to the Marion City Council without a recommendation of approval or disapproval.

B. Before any zoning map amendment is granted, both the Planning Commission and the Marion City Council, must find that the zoning map amendment, is in **agreement with the community's comprehensive plan**, or, in the absence of such a finding, that one or more of the following apply:

- a. That the original zoning classification given to the property was inappropriate or improper.
- b. That there have been major changes of an economic, physical or social nature within the area involved which were not anticipated in the community's comprehensive plan and which have substantially altered the basic character of such area.

These findings shall be recorded in the minutes and records of the Planning Commission and the legislative body. The Planning Commission recommendation on the amendments shall state that the Planning Commission recommends the amendment be approved or that it be disapproved and shall state the reasons for its recommendation. In case of a proposed amendment originating with a legislative body or fiscal court, the Planning Commission shall make its recommendation within sixty (60) days of the date of its receipt of the proposed amendment.

**151.40-10.9 MARION CITY COUNCIL STUDY AND ACTION**

Before enacting any proposed amendments to the text of these zoning regulations or to the zoning map, the Marion City Council shall consider the recommendation of the Planning Commission together with its written comments and/or findings of fact and summary of evidence presented at the Planning Commission public hearing.

**151.40-10.9.1 TEXT AMENDMENT**

It shall take an affirmative vote of a majority of the Marion City Council to adopt the proposed text amendment to these regulations.

**151.40-10.9.2 ZONING MAP AMENDMENT**

A. It shall take a majority of the entire Marion City Council to override the recommendation

of the Planning Commission on a zoning map amendment. It shall take a majority of the entire Marion City Council to adopt a zoning map amendment whenever the Planning Commission forwards the application to the Marion City Council without a recommendation of approval or disapproval due to a tie vote.

- B. The Marion City Council shall take final action upon the proposed zoning map amendment within ninety (90) days of the date upon which the Planning Commission takes its final action upon such proposal.
- C. Unless a majority of the entire Marion City Council votes to override the Planning Commission's recommendation, such recommendation shall become final and effective and if a recommendation of approval was made by the Planning Commission, the ordinance of the Marion City Council adopting the zoning map amendment shall be deemed to have passed by operation of law.

151.40-10.10 **CERTIFICATE OF LAND DEVELOPMENT**

A certificate of Land Development shall be filed with the County Court Clerk by the Administrative Official in accordance with the requirements of KRS 100.3681 through 100.3684.

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## **ARTICLE 151.40-11**

### **ADMINISTRATIVE MECHANISMS AND ENFORCEMENT**

#### **151.40-11-1 APPOINTMENT OF ADMINISTRATIVE OFFICER**

The provisions of these regulations shall be administered and enforced by an Administrative Officer as may from time to time designated. The Administrative Officer, in the performance of his duties and functions, may enter upon any land and make examinations and surveys that do not cause damage or injury to private property.

#### **151.40-11-2 POWERS AND DUTIES OF ADMINISTRATIVE OFFICER**

The Administrative Officer shall have the following powers and duties:

- A. To issue or deny a building permit for the erection, construction, reconstruction, moving, adding to, or alteration of any building or the establishment of any land use. The Administrative Officer shall also have the authority to issue certificates of occupancy. The issuance of building permits or certificates of occupancy shall be in accordance with the literal terms of these zoning regulations.
- B. To make and keep accurate records in a permanent file of all actions necessary and appropriate for the administration of these zoning regulations. These records shall include, but not be limited to, the issuance of building permits, certificates of occupancy, inspection violations, stop orders, applications for hearing before the Planning Commission, and condemnations.
- C. Make inspection of any premisses necessary to carry out his duties in the enforcement of these Zoning Regulations.
- D. To enforce these zoning regulations and take all necessary steps to remedy any condition found in violation of the provisions of these zoning regulations.
- E. Collect any fees authorized by these zoning regulations.
- F. Make inspections of any building or land to determine if violations of these zoning regulations have been committed or exist.

#### **151.40-11.3 BUILDING PERMITS REQUIRED**

It shall be unlawful to commence the excavation for, or the construction and erection of any building or structure, until the Administrative Officer has issued a building permit for such work. It shall be unlawful to commence moving, adding to, or structurally altering any building or structure, until the Administrative Officer has issued a building permit for such work. No excavation, cut or fill of earth or debris, shall hereafter be undertaken, until the Administrative Officer has issued a permit for such excavation, cut or fill. Excavation related to agricultural uses, for public utilities, and in an approved subdivision shall not require such permits.

#### **151.40-11-4 EXCEPTIONS WHEN BUILDING PERMITS NOT REQUIRED**

No building permit or certificate of occupancy shall be required in the following cases:

- A. Recurring maintenance work.
- B. For those buildings and uses exempted by these zoning regulations.
- C. Installation of required improvements according to an approved subdivision plat or when required by other ordinance or regulation.

**151.40-11-5 PROCEDURE FOR OBTAINING BUILDING PERMIT****151.40-11.5.1. APPLICATION**

The property owner or their designated representative may apply for a building permit. The Administrative Official may require that the application be filed on a form and in a manner approved by the Planning Commission. The application for a building permit shall be filed with the Administrative Official at the office of the Planning Commission. In applying to the Administrative Official for a building permit, the applicant shall submit a plan drawn to scale showing the dimensions of the lot to be built upon, the outside dimensions of all buildings to be constructed or altered and all existing buildings, the use of buildings, yard depths, and any other information necessary for determining conformance with these regulations. The Crittenden County Health Officer's certificate approving proposed water and sewerage facilities and a plumbing permit from the state plumbing inspectors must accompany applications according.

**151.40-11.5.2. ISSUANCE**

If the proposed construction or alteration conforms with all applicable provisions of these zoning regulations and all other applicable ordinances, regulations and codes, the Administrative Officer shall issue a building permit authorizing such construction or alteration. If the proposed construction or alteration fails to conform, the Building Inspector shall refuse to issue a building permit and shall deliver written notice to the applicant stating the reasons for the refusal. The Administrative Officer shall act upon applications for building permits within two (2) weeks from the date of their submission. In the case of a refusal to grant application, the Administrative Officer shall act within five (5) days of making the determination to refuse the permit.

**151.40-11.5.3. VALIDITY**

The issuance of a building permit by the Building Inspector shall not waive any provisions of these regulations.

**151.40-11.5.4. DURATION**

A building permit shall become void one (1) year from the date of issuance unless substantial progress has been made by that date, on the construction or alteration authorized therein. A building permit may be renewed without fee upon review by the Building Inspector before it becomes void.

**51.40-11-6 BUILDINGS AND USES TO BE AS PROVIDED IN BUILDING PERMITS, PLANS**

Building Permits or certificates of occupancy issued on the basis of plans and applications approved by the Administrative Official authorize only the use, arrangement and construction set forth in such permits, plans and certificates, and no other. The use, arrangement or construction at variance with that authorized shall be deemed a violation of these zoning regulations.

**151.40-11-7 STATUS OF BUILDING PERMIT ISSUED IN VIOLATION OF THESE ZONING REGULATIONS**

Any building permit or certificate of occupancy issued in conflict with the provision of these zoning regulations shall be null and void.

151.40-11-8 **COMPLAINTS REGARDING VIOLATIONS**

Whenever a violation of these zoning regulations occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint, stating fully the causes and basis thereof, shall be filed with the Administrative Official. He shall record properly such complaint, immediately investigate, and take action thereon as provided by these zoning regulations.

151.40-11-9 **CITATIONS FOR VIOLATIONS**

The Administrative Official may issue citations for violations of these zoning regulations which the administrative official has observed. But the Administrative Official shall not have powers of peace officers to make arrests or carry deadly weapons. The defendant shall appear within a designated time pursuant to the citation. The procedure for citations issued by the Administrative Official shall be as provided in KRS 431.015.

151.41-11-10 **PENALTIES FOR VIOLATIONS**

- A. Any person or entity who violates any of the provisions of these zoning regulations for which no other penalty is provided, shall upon conviction, be fined no less than ten dollars (\$10) but no more than five hundred dollars (\$500) for each conviction. Each day of violation shall constitute as a separate offense.
- B. Any person, owner, or agent who violates the Ordinance shall, upon conviction, be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500), for each lot or parcel which was the subject of sale or transfer, or a contract for sale or transfer.
- C. 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 or record and evidence of the lack of a building permit shall establish a prima facie case for the issuance of the restraining order.



## **ARTICLE 151.40-12**

### **BOARD OF ADJUSTMENTS**

#### **151.40-12.1 CREATION AND APPOINTMENT**

- A. Board of Adjustment shall consist of three (3) citizen members, one of which may be a member of the Marion Planning Commission. The Mayor of the City of Marion shall appoint the members of the Board of Adjustments with the approval of the Marion City Council. Subject to the provisions of KRS 100.217, the terms of office shall be 4 years ending on June 30 of the designated year.
- B. The Board of Adjustments annually shall elect a Chairman, Vice-Chairman, and Secretary. Any officer shall be eligible for re-election at the expiration of his term.

#### **151.40-12.2 AREA OF JURISDICTION**

The area of jurisdiction of the Board of Adjustments shall include all land within City of Marion.

#### **151.40-12.3 MEETINGS**

- A. Meetings of the Board of Adjustments shall be held at the call of the Chairman or with the consent of two members of the Board of Adjustments, who shall give written notice at least fourteen (14) days prior to the meeting (See Article I, Section 1.10 for computation of time). Notice of meetings shall contain the date, time and place for the meetings, and the subject or subjects which will be discussed. All meetings and hearings of the Board of Adjustments shall be open to the public in accordance with KRS Chapter 61.800 through 61.850, open meetings, and all records of the Board of Adjustments shall be available for review by the public in accordance with KRS Chapter 61.870 through 61.884, open records. The Board of Adjustments shall adopt by-laws for the transaction of business.
- B. The Board of Adjustments shall keep minutes and records of all proceedings. The contents of the minutes shall include as a minimum recording: All transactions, findings, and determinations; the number of votes for and against each question, and if any member is absent or abstains from voting, indicating the fact. Minutes and records of proceedings shall immediately after adoption, be filed in the office of the Planning Commission. All minutes and records of the Board of Adjustments shall be a public record, available to the general public inspection.
- C. If a transcript of the minutes of the Board of Adjustments is requested by a party, such transcript shall be provided and the transcript provided shall constitute the record of the Board of Adjustments. Any expense incurred by the Board of Adjustments directly related to producing the transcript shall be born by the requesting party.
- D. A simple majority of the total membership of the Board of Adjustments shall constitute a quorum for the conduct of all business.
- E. Any member of the Board of Adjustment who has any direct or indirect financial interest in the outcome of any question before the body shall disclose the nature of the interest and shall disqualify himself from participating in consideration or voting on the question.

#### **151.40-12.4 POWERS AND DUTIES**

The Board of Adjustments shall possess those powers and duties as established by KRS Chapter 100.217 through 100.271. More specifically, the Board of Adjustment shall have the following powers and duties:

A. **GENERAL POWERS**

- a. Issue subpoenas to compel witnesses to attend its meetings and give evidence bearing upon the questions before it. The Chairman shall have the power to administer oaths to witnesses prior to their testifying before the Board of Adjustments on any issue.
- b. The Board of Adjustments shall prescribe the procedures to be followed at its public hearings. No information offered at a hearing of the Board of Adjustments shall be excluded for failure to follow judicial rules of evidence. All information allowed to be received shall constitute evidence upon which action may be based.
- c. Members of the Board of Adjustments may visit a site pertinent to a public hearing prior to the final decision of the Board of Adjustments.

B. **SPECIFIC DUTIES**

- a. Administrative Review. Hear and decide appeals where it is alleged by the appellants that there is an error in any order, requirement, permit, decision, determination, or refusal made by the Administrative Officer in the enforcement of these zoning regulations.
- b. Request for Interpretation. Interpreted of questions involving the zoning district boundary lines in relation to lot lines as contained in the zoning map.
- c. Conditional Uses. Hear and decide applications for conditional use.
- d. Dimensional Variance. Hear and decide on applications for dimensional variances.
- e. Certificate of Appropriateness. Hear and decide applications for certificates of appropriateness.

151.40-12.5 **ADMINISTRATIVE PROCEDURES**151.40-12.5.1 **Administrative Procedures Applicable to all Duties of the Board of Adjustments**

- A. All applications for decisions by the Board of Adjustments must be made in writing and submitted to the Board of Adjustments by filing a copy of the application and drawing with the Administrative Officer at City Hall.
- B. Within twenty one (21) days of the receipt of an administrative appeal, request for interpretation, conditional use, dimensional variance or certificate of appropriateness application, the Board of Adjustments shall hold a public hearing. Within sixty (60) days of the date of receipt of the application the Board of Adjustments shall take final action on the administrative appeal, request for interpretation, or application for conditional use, dimensional variance or, certificate of appropriateness.
- C. The Planning Commission shall adopt a schedule of fees for all request for appeals, interpretations, conditional use permits, dimensional variances and certificates of appropriateness.
- D. All appeals which are granted; interpretations rendered; conditional use permits approved; dimensional variances granted; or certificates of appropriateness approved by the Board of Adjustments shall be recorded, at the expense of the applicant, in the office of the Crittenden County Court Clerk. The Administrative Officer shall notify, in writing, the applicant of the decision of the Board of Adjustments within 5 working days of final action by the Board of Adjustments. In addition to the forgoing recondition, a certificate of land use restrictions for each request for interpretation, conditional use permit or dimensional variance approved by the Board of Adjustments shall be recorded in the office of the Crittenden County Court Clerk in accordance with KRS Chapter 100.3681 through 100.3684. The cost of recording the certificate of land use restrictions shall be at the expense of the applicant.

- 151.40-12.5.2 **SPECIAL FILING PROCEDURES FOR ADMINISTRATIVE REVIEWS**
- A. An appeal may be taken by any person, or entity claiming to be injuriously affected or aggrieved by the decision or ruling of the Administrative Official. The appeal shall include the specific grounds for the appeal and a list of all parties of record.
  - B. The appeal must be taken within thirty (30) days after the appellant or his agent receives notice of the action by the Administrative Official.
  - C. The Board of Adjustments shall notify in writing the applicant, the Administrative Official and all parties of record.
- 151.40-12.5.3 **SPECIAL FILING PROCEDURES FOR REQUEST FOR INTERPRETATIONS**
- A. Request for Interpretations may be taken by any person or entity claiming to be an affected property owner. The request for interpretation may be taken at any time.
  - B. The request shall specify the nature of the interpretation or the disputed question that the Board of Adjustments is being requested to render.
  - C. The Board of Adjustments shall give written notice the party requesting the interpretation and the Administrative Official.
- 151.40-12.5.4 **SPECIAL FILING PROCEDURES FOR CONDITIONAL USE PERMITS**
- A. Applications for conditional use permits may be filed by the property owner, their attorney or other person who has written notarized power of attorney from the property owner. The request for a conditional use permit must be taken prior to commencing the specific land use requiring a conditional use permit.
  - B. The application for a conditional use permit shall include the application form and a plan. The plan, drawn to scale, shall show as a minimum, the dimensions of the lot to be built upon, the outside dimensions of all existing buildings and all buildings to be constructed or altered, the use of buildings, yard depths, and any other information necessary in order to render a decision on the conditional use permit.
  - C. The Board of Adjustments shall give written notice to the applicant, the Administrative Official and an owner of every parcel of property adjoining the property to which the application applies.
- 151.40-12.5.5 **SPECIAL FILING PROCEDURES FOR DIMENSIONAL VARIANCE**
- A. Applications for a dimensional variance will be accepted only from a property owner. The applicant for a dimensional variance shall bear the burden of showing in the application that sufficient specific facts exist which would permit the Board of Adjustments to grant the dimensional variance.
  - B. The application for a dimensional variance shall include the application form and a drawing. The drawing, prepared to scale shall contain the following information as a minimum, the location of all existing buildings and property boundary lines, the location of the dimensional variance, the amount in feet of dimensional variance being requested, and any new or intended new buildings. The Board of Adjustments may require additional information from the applicant in order to complete its deliberations.
  - C. The Board of Adjustments shall give written notice to the applicant, the Administrative Official and an owner of every parcel of property adjoining the property to which the application applies.

151.40-12.6 **SPECIAL FILING PROCEDURES FOR CERTIFICATE OF APPROPRIATENESS**

- 151.40-12.6.1. Applications for certificate of appropriateness may be filed by the property owner of property located in an L-H district or by their attorney or other person who has written notarized power of attorney from the property owner. The request for a certificate of appropriateness must be taken prior to commencing the specific land use requiring a conditional use permit.
- 151.40-12.6.2 The application for a certificate of appropriateness shall include the application form and a plans showing the proposed alterations, new construction, demolition, or relocation. The plan, drawn to scale, shall show as a minimum, the dimensions of the lot to be built upon, the outside dimensions of all existing buildings and all buildings to be constructed or altered, demolished or relocated. The application shall describe, in written or graphic form, the architectural and structural features of the structure and how the modifications of the existing or new structure will maintain the historic, cultural or architectural character of the property or district where the site is located. The Board of Adjustments may require any other information necessary in order to render a decision on the conditional use permit. In preparing the application, the applicant may consult with the Marion Main Street, Inc. and utilize its services in assisting the applicants in the use of Secretary of Interior's Standards, provisions of the Kentucky heritage Council, local historical references, and any historic preservation design guidelines that have been adopted by the City of Marion.
- 151.40-12.6.3 The Board of Adjustments shall give written notice to the applicant, the Administrative Official, Marion Main Street, Inc., and an owner of every parcel of property adjoining the property to which the application applies.

151.40-12.7 **PUBLIC NOTICE REQUIREMENTS**

- 151.40-12.7.1. **PUBLIC NOTICE REQUIREMENTS APPLICABLE TO ALL DUTIES OF THE BOARD OF ADJUSTMENTS**
- A. The Board of Adjustments shall fix a reasonable time for all public hearings and shall give public notice of such public hearing in accordance with KRS Chapter 424. The public notice shall state the time and place of public hearing and the subject or subjects to be discussed.
- B. When written notice of a public hearing is required the following shall apply:
- C. The written notice shall be by certified mail. The notice shall contain the time, location, and date of the public hearing when the application will be heard. The written notice shall be by certified mail and postmarked at least fourteen (14) days in advance of the public hearing.
- D. The Board of Adjustment's secretary or other person as may be designated by the Board of Adjustments shall certify that the notice was mailed in accordance with the requirements of KRS chapter 100 and these zoning regulations.
- E. It shall be the duty of the applicant to furnish to the Board of Adjustments the name and address of an owner of each parcel or property as required by the type of application requiring written public notice.
- F. Records maintained by the PVA's office may be relied upon conclusively to determine the identity and address of said owner. In the event such property is in condominium or cooperative forms of ownership, then the person notified by mail shall be the president or



chairperson of the owner group which administers property commonly owned by the condominium or cooperative owners.

151.40-12.7.2. **SPECIAL NOTICE REQUIREMENTS FOR CONDITIONAL USE PERMIT**

- A. **POSTED SIGN.** In addition to written notice, a sign, at least three by three by three (3 x 3) feet, stating the proposed conditional use, the property involved, and the time, date and location of the public hearing shall be posted conspicuously on the property for which the conditional use is provided fourteen (14) days prior to the public hearing. The Secretary of the Board of Adjustments or other person appointed by the Board of Adjustments shall post the sign.

151.40-12.8 **HEARING BEFORE THE BOARD OF ADJUSTMENTS**

151.40-12.8.1 HEARING PROCEDURES APPLICABLE TO ALL DUTIES OF THE BOARD OF ADJUSTMENTS

- A. All interested parties may appear, enter his appearance, and shall be give an opportunity to be heard. The affected party may appear at the hearing in person or by attorney.
- B. A pass vote which is cast on any matter before the Board of Adjustments shall have no force or effect and shall not count as a vote with the majority of votes cast.

151.40-12.8.2 FOR ADMINISTRATIVE REVIEWS

- A. When an appeal is filed, the administrative official shall forthwith transmit to the Board of Adjustments all the papers constituting the record relating to the action appealed from in a timely fashion prior to the hearing.
- B. The Administrative Official shall be treated as and be the respondent at the hearing before the Board of Adjustments.
- C. With respect to appeals, the Board of Adjustments may reverse or affirm in whole or in part, or may modify the order, requirement or decision or determination appealed from and shall make any order, requirement, decision or determination that in its opinion ought to be make in the case before it.

151.40-12.8.3 FOR REQUEST FOR INTERPRETATIONS

- A. When a request for interpretation is filed, the administrative official shall transmit to the Board of Adjustments a copy of the request and all pertinent information concerning the request for interpretation.
- B. In considering request for interpretation, the Board of Adjustments shall take into consideration the rules of interpretation contained in Section 151.40-7.5, in making its decision on location of a zoning district boundary and shall confine its decision to the location of the district boundary. The Board of Adjustments shall not have the power to modify the zoning district designation.

151.40-12.8.4 FOR REQUEST FOR CONDITIONAL USE PERMIT

- A. The applicant has the responsibility to demonstrate to the Board of Adjustments how the granting of the requested conditional use permit will proper integration the proposed use into the community
- B. The Board of Adjustments may approve, modify, or deny any application for a conditional use permit. If it approves such permit, it may attach necessary conditions such as time limitations, requirements that one or more things be done before the request can be

initiated, or conditions of a continuing nature. Any such conditions shall be recorded in the Board of Adjustments's minutes and on the conditional use permit, along with a reference to the specific section in these zoning regulations listing the conditional use under consideration.

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

151.40-12.8.5 REVOCATION OF CONDITIONAL USE PERMIT

- A. The Board of Adjustments has the power to revoke a conditional use permit for non-compliance with the conditions of the conditional use permit. Furthermore, the Board shall have the right of action to compel offending buildings or uses removed at the cost of the violator and may have judgement in person for such cost.
- B. The Administrative Officer shall review all conditional use permits, except those for which all conditions have been permanently satisfied, at least once annually or more often if requested by the Board of Adjustments, to determine if the all conditions which were listed on the conditional use permit are being met.
- C. The Administrative Officer shall have the power to inspect the land or building where the conditional use is located in order to ascertain that the landowner is complying with all the conditions which are listed on the conditional use permits.
- D. Report of Violation: If the landowner is not complying with all of the conditions listed on the conditional use permit, the Administrative Officer shall report the fact in writing to the Chairman of the Board of Adjustments. The report shall state specifically the manner in which the landowner is not complying with the conditions on the conditional use permit, and a copy of the report shall be furnished to the landowner at the same time that it is furnished to the Chairman of the Board of Adjustments.
- E. Public Hearing: The Board of Adjustments shall hold a hearing on the report within thirty (30) days of receipt of the report, and notice of the time and place of the hearing shall be furnished to the landowner at least one (1) week prior to the hearing.

151.40-12.8.6 TIME LIMIT FOR EXERCISING CONDITIONAL USE PERMITS FOLLOWING APPROVAL

In any case where a conditional use permit has not been exercised within the time limit set by the Board of Adjustments, or within one (1) year from its date of issuance, if no specific time limit has been set, the Board of Adjustments may reverse the approval of a conditional use permit. Such conditional use permit shall not revert to its original designation unless the Board of Adjustments has held a public hearing. Once there is a public hearing, the conditional use permit shall be revoked by the Board of Adjustments unless it determines that there are unusual circumstances that warrant the issuance of a new conditional use permit. The procedure for issuing the new conditional use will be the same manner as the original requested conditional use.

151.40-12.8.7 FOR REQUEST OF DIMENSIONAL VARIANCE

- A. The Board of Adjustments may approve or deny any application for a dimensional variance. In granting a dimensional variance, the Board of Adjustments may attach thereto such conditions regarding the location, character and other features of the proposed building, building or use as it may deem advisable in the furtherance of the purposes of these Regulations.

- B. When considering a dimensional variance, the Board of Adjustments shall take in to consideration the following facts:  
For a lot of record:
1. The lot of record is of an unusual shape, smallness of size or other extraordinary physical conditions not of the making of the property owner or their predecessor in title;
  2. That the property owner is deprived of a reasonable capacity to use the land in a manner equivalent to the use permitted other landowners whose land is in the same zoning district classification.
- C. For other dimensional variances (such as the height of a building on a conforming lot or the size of an open space):
1. The requested dimensional variance arises from special circumstances which do not generally apply to land in the general vicinity, or in the same zoning district classification;
  2. The strict application of the provisions of the zoning regulations would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant; and
  3. The circumstances are the result of actions of the applicant taken subsequent to the adoption of these zoning regulations.
  4. That the condition which warrant a dimensional variance existed at the time these zoning regulations were adopted.
- D. The Board of Adjustments must find that the granting of the dimensional variance will not:
1. Adversely affect the public health, safety or welfare;
  2. Adversely alter the essential character of the general vicinity;
  3. Cause a hazard or a nuisance to the public; and
  4. Allow an unreasonable circumvention of the requirements of these zoning regulations.
- E. The written approval granted by the Board of Adjustments must contain the following:
1. A listing of the specific conditions which are unique to the applicant's land and do not exist on other land in the general vicinity or in the same zoning district .
  2. The manner in which the strict application of the provisions of these regulations would deprive the applicant of the reasonable use of the land in the manner equivalent to the use permitted other landowners in the same zoning district.
  3. That the unique conditions and circumstances are not the result of actions of the applicant taken subsequent to the adoption of these zoning regulations.
  4. Reasons that the dimensional variance will preserve and not harm the public safety and welfare and will not alter the essential character of the neighborhood.
- F. **DIMENSIONAL VARIANCES WHICH ARE PROHIBITED**  
The Board of Adjustments shall not possess the power to grant a dimensional variance to permit a use of any land, building, or building which is not permitted in the district where the property is located; to permit a use not authorized by these zoning regulations; to alter the density requirements of the zoning district where the property is located; or permit the expansion of a nonconforming use.

**G. DIMENSIONAL VARIANCE RUNS WITH THE LAND**

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

**151.40-12.8 DISPOSITION OF APPROVED APPLICATIONS**

The Secretary of the Board of Adjustments or other officer appointed by the Board of Adjustments shall see that the following is filed in the Crittenden County Court Clerk's office:

- A. Copy of the approved application with any conditions and the set of fact supporting the approval of the application, shall be maintained in the files of Board of Adjustment's Office or in the permanent records of City Hall.
- B. Copy of the approved application with any conditions shall be mailed to the applicant by registered mail.
- C. For all approved dimensional variances or conditional use permits, a certificate of land use restriction shall be recorded at the expense of the applicant in the office of the County Court Clerk. The certificate of land use restrictions shall be recorded in accordance with KRS Chapter 100.3681 through 100.3684.

The filing expense of the conditional use permit and dimensional variance approved by the Board of Adjustments together with a certificate of land use restriction shall be the responsibility of the applicant.

**151.40-12.9 CERTIFICATE OF LAND DEVELOPMENT**

A certificate of Land Development shall be filed with the County Court Clerk by the Administrative Official in accordance with the requirements of KRS 100.3681 through 100.3684

## ARTICLE 13 DEVELOPMENT PLANS

### 151.40-13.1 PURPOSE FOR DEVELOPMENT PLANS

The purpose of this Article is to establish and define development plan which is a review procedure whereby the Planning Commission affords the applicant the opportunity to:

- ▶ Demonstrate the character and objectives of the proposed development;
- ▶ There is sufficient capacity of community facilities and services to adequately provide for the proposed development and that the proposed development will not create a burden on those services.
- ▶ Demonstrate that there will be no adverse impact on the character of the neighborhood.
- ▶ Demonstrate that there will be no adverse impact on the Community.
- ▶ Provide the Planning Commission adequate detail for it to evaluate the proposed development and to determine what shall be binding on the use and development of the property.

### 151.40-13.2 WHERE REQUIRED

As a condition to the granting any amendment to the zoning map, a development plan must be filed when one or more of the following land developments are proposed:

- 151.40-13.2.1 Industrial zoning proposal of five (5) acres or more or a development which is contiguous to any existing industrial zoned property in the same ownership or which will be leased to the same parties;
- 151.40-13.2.2 A development which contains commonly owned lands which are governed by a horizontal (condominium) property regime (KRS chapter 381.805 through 381.910);
- 151.40-13.2.3 Mobile home park or subdivision;
- 151.40-13.2.4 Any multiple principal building development is proposed;
- 151.40-13.2.5 A building containing multi-family residential dwelling units is proposed;
- 151.40-13.2.6 A recreational vehicle park/campground is proposed;
- 151.40-13.2.7 Any development when the applicant voluntarily files a development with a development plan.

### 151.40-13.3 DEVELOPMENT PLAN PROCEDURES

#### 151.40-13.3.1 FILING

When a development plan is required by this article, the Planning Commission shall not proceed to hear the application for the zoning map amendment until the development plan in the form specified by these zoning regulations has been received in the office of the Planning Commission. The Administrative Official shall not issue a building permit until the Planning Commission approves the development plan, or the conditions contained in a conditional approval have been fully met.

The Development plan shall be submitted concurrently with the zoning map amendment when a zoning map amendment is required for the proposed use.

The development plan shall be in a "conceptual" form at the time of the rezoning map amendment

application. The conceptual plan shall be prepared in accordance with the requirements of this article.

**151.40-13.3.2 REVIEW**

The Planning Commission staff and concerned agencies shall review the development plan and seek a consensus on all issues. The administrative official shall distribute the development plan to all concerned agencies in sufficient time to permit them to review and report their comments on the development plan, prior to the public hearing before the Planning Commission.

**151.40-13.3.3 ACTION**

The Planning Commission may make one of four decisions when taking action on a development plan. These actions are as follows:

- A. The Planning Commission approves the development plan with no further corrections or revisions of the plan required from the applicant.
- B. The Planning Commission places certain conditions on the approval of the development plan. No building permits may be issued until all of the conditions have been satisfied. If the revised development plan fails to meet all the conditions of approval, the Administrative Official shall within ten (10) days notify the applicant that the revised plan failed to meet some or all standards for approval. The applicant may modify the development plan in accordance with the conditions, and resubmit for compliance review, the modifications to the Administrative Official. If the applicant and the Administrative Official fail to agree that the modified development plan meets the Planning Commission original conditional approval, the applicant may petition the Planning Commission for a hearing on the disputed items. The Planning Commission shall handle the petition for hearing in the same manner as the original hearing on the development plan. The Planning Commission may require an additional fee be charged for this second and any subsequent reviews of the revised development plan or for hearing the appeal from the applicant.
- C. The Planning Commission defers action to its next meeting in order that certain clarification can be made in regard to the development plan. No completely new submittal is required of the developer, as is the case for a deferral.
- D. The Planning Commission disapproves the development plan. The Administrative Official shall within five (5) days of the Planning Commission action, inform the applicant, in writing, that the Planning Commission has denied the development plan. To request new review and action, the developer must file a new application, a additional filing fee, an amended development plan which addresses the reasons stated in the denial, and other materials as requested by the Planning Commission.

**151.40-13.3.4 TIMING RESTRICTIONS**

The following time restrictions shall be applicable to development plans:

- A. Revised development plans shall be submitted the Administrative Official within thirty (30) days of the date of Planning Commission action to approve the development plan with conditions. Failure to timely submitted the revised development plan by the applicant, the Planning Commission shall schedule a public hearing to deny the development plan.
- B. If the developer has not undertaken final development of the project within five (5) years of the date of Planning Commission action on the development plan, the Planning Commission may set a public meeting to consider reverting the zoning map amendment and revoking the development plan.

**151.40-13.4 CONCEPT DEVELOPMENT PLAN**

A conceptual development plan is a site plan by which, at the early stages of development design, the Planning Commission may consider major aspects of the development without requiring an undue amount of architectural or engineering design work on the part of the applicant.

**151.40-13.5 CONTENT AND FORMAT OF CONCEPTUAL DEVELOPMENT PLANS**

All development plans shall be prepared on Mylar or other material capable of clear reproduction using ozalid or other print process as directed by the Planning Commission. Plans shall be legible and of a size and scale (generally not exceeding 1" = 100') which enables clear representation of required information. Required plan information shall be as follows:

- A. A title block containing the plan name; label conspicuously stating that this is a conceptual development plan; name and address of property owner, developer, if different than owner of property; name and address of person or firm who preparer plan; north arrow; a written and graphic scale, and date plan prepared.
- B. The boundary of the subject property, the zoning classification of the property and adjacent properties, and names and addresses for all adjoining property.
- C. Vicinity map, oriented in the same direction as the development plan.
- D. Topography with contour intervals, grid elevations or spot elevations of sufficient detail to generally describe the lay of the land.
- E. Internal traffic considerations, including location, arrangement, of existing and proposed streets, parking areas, and points of ingress and egress onto the existing public streets.
- F. External traffic considerations, location of any existing or proposed streets adjacent to or within 200 feet of the subject site. If a new street is proposed, a letter from the highway department stating they have reviewed the development plan and that the proposal meets all KYDOT requirements for an encroachment permit.
- G. Public areas and other open spaces. Areas of substantial existing trees will be located, including those located along fence rows and drainage areas.
- H. Approximate location of various land uses and of building, where a planned building group is proposed and any existing buildings. For mobile home parks, a plan of a typical mobile home space showing the typical location of the mobile home, parking, accessory buildings, mobile home site lines, and setbacks. For arecreational vehicle park/campground the typical location of the recreational vehicle, parking and setbacks. The approximate configuration of lot lines for project anticipated to involve land subdivision or condominium.
- I. Existing and proposed storm drainage systems, including flood plains, conceptual drainage controls and storm water retention, and any other designated environmental sensitive or geologic areas (i. e. steep slopes).
- J. Location of existing utilities, including line sizes, and fire hydrants locations, both within the subject site and within 200 feet of the project.
- K. The location of any existing historic sites, buildings, or districts located within the subject site or within the neighborhood where the site is located, and an explanation of how they will be affected by this development. The location of any scenic views from this site will be identified and an explanation of how they will be affected by this development.
- L. A statistical table summarizing all pertinent site data, including site area, current and proposed zoning, building coverage, total gross floor area of all commercial areas, parking area, open spaces, and number and type of dwelling units.
- M. A description of how the overall site design and land use of proposed development is compatible

- with the existing design and land use of the neighborhood in which the site is located and how they are consistent with the Marion Comprehensive Plan.
- N. A note stating that no grading, stripping, excavation, filling, or other disturbance of the natural ground cover shall take place unless and until the city engineer for the City of Marion has approved the developer's proposed soil erosion control procedures and, if required, a soil erosion control plan.
- O. A note stating that no building permits shall be issued until all conditions have been met.
- P. An owner's certification, signed and witnessed as follows: " I (We) do hereby certify that I am (we are) the only owner(s) of the property shown hereon, and do adopt this as my (our) concept development plan for the property."
- Q. The Planning Commission's certification following approval of the development plan, shall be as follows for approved development plans: "We do hereby certify that this concept development plan entitled (name of development), was approved by the Marion Planning Commission at its meeting held on (date), \S\ Chairman and Secretary". The Planning Commission's certification shall be signed by the Planning Commission Chairman and Secretary when the development plan is approved.
- R. If the Planning Commission approved the development plan with conditions, the Planning Commission's certification shall be as follows when the developer has complied with the conditions approved by the Planning Commission: "We do hereby certify that this concept development plan entitled (name of development), was conditionally approved by the Marion Planning Commission at its meeting held on (date). We further certify that all conditions have been permanently met and that such conditions were reviewed by the Administrative Official as per letter dated (date), \S\ Chairman and Secretary."

#### 151.40-13.6 AMENDMENTS TO DEVELOPMENT PLANS

Amendments in approved development plans can be made only by Planning Commission action at a public hearing. Contents, format and procedures shall be the same as for the original submission. However, amendments which fully meet the requirements set forth hereinafter for minor amendments may be approved and certified in writing by the Administrative Official without further action by the Planning Commission.

##### 151.40-13.7.1 Minor Amendments Defined

Minor amendments are intended to expedite approval in those situations where amendments are of minor significance and generally relate to the shifting of previously approved spaces. Such amendments:

- A. Shall not decrease the overall land area in yards or other open spaces;
- B. Shall not increase building ground area coverage, floor area, or height; or increase the number of dwelling units;
- C. Shall not change the location or cross-section of any street and shall not increase the number or change the location of street access points on arterial or collector streets as defined by the Marion Comprehensive Plan;
- D. May include a reduction in parking spaces only when an associated reduction in floor area or number of dwelling units would permit a lesser number of minimum required off-street parking spaces than required for the original development plan. To qualify as a minor amendment, this reduction may be equal to but not exceed the difference in minimum required parking spaces between the original plan and the proposed minor amended plan.

##### 151.40-13.7.2 Procedures for Development Plan Amendments

- A. Filing - To request approval of an amendments to approved development plan, the



applicant shall file with the Planning Commission a completed application form, filing fee and copies of the proposed amendment to the plan. The Administrative Official will determine the number of plans to be submitted and shall make these copies of the plan available to all other concerned agencies.

- B. Review - Administrative Official shall review the plan for compliance with all applicable requirements and ordinances and shall consult with concerned agencies as appropriate to assure proper plan review. The Administrative Official shall make a determination as to whether or not the proposed development plan amendment is a minor amendment or other class of amendment. Upon determination that the proposed development plan amendment is a minor amendment and that it meets all requirements for approval, the Administrative Official shall approve the minor amendment and inform the Planning Commission of his action. When the Administrative Official determines that the proposed development plan amendment is not a minor amendment, but that the proposal does not meet the minor amendment guidelines, the Administrative Official shall inform both the applicant and the Planning Commission of his decision and the proposed development plan amendment shall be referred to the Planning Commission for action.

#### 151.40-13.7.3 **Content and Format of Minor Amendments**

Minor amendments shall have the same content and format requirements as the original development plan, except that

- A. The title shall indicate the plan is a minor amendment;  
 B. A note shall be added listing the exact nature of the requested changes; and  
 C. The following will be the required language for the Planning Commission Chairman and Secretary certification: "We do hereby certify that this minor amendment to the development plan entitled (name of development), which was originally approved by the Marion Planning Commission on (date), complies with Marion zoning regulations provisions regarding minor amendments to development plans, \S\ Chairman, Secretary."

#### 151.40-13.7 **RELATIONSHIP TO SUBDIVISION REGULATIONS**

The relationships between development plans and the Subdivision Regulations are established as follows:

##### 13.7.1 **Applicability of Subdivision Regulations**

Although development plans are not subdivision plats, quite often the development plan does indicate a need or intent to subdivide property. For any such development plan, the design and improvement standards contained within the Marion Subdivision Regulations shall be applied to proposals contained on the development plan.

##### 13.7.2 **Development Plans Required by the Subdivision Regulations**

Development plans required by the Subdivision Regulations are required to conform with the provisions of this Article.

##### 13.7.3 **Development Plans and preliminary subdivision plats may be Combined.**

It is recognized that for certain development situations it can be advantageous to both the applicant and the Planning Commission to combine the functions and requirements for development plans and preliminary subdivision plats in order to streamline the development approval process while not reducing the quality of the review. The following provisions shall be applicable to any such combined plan:

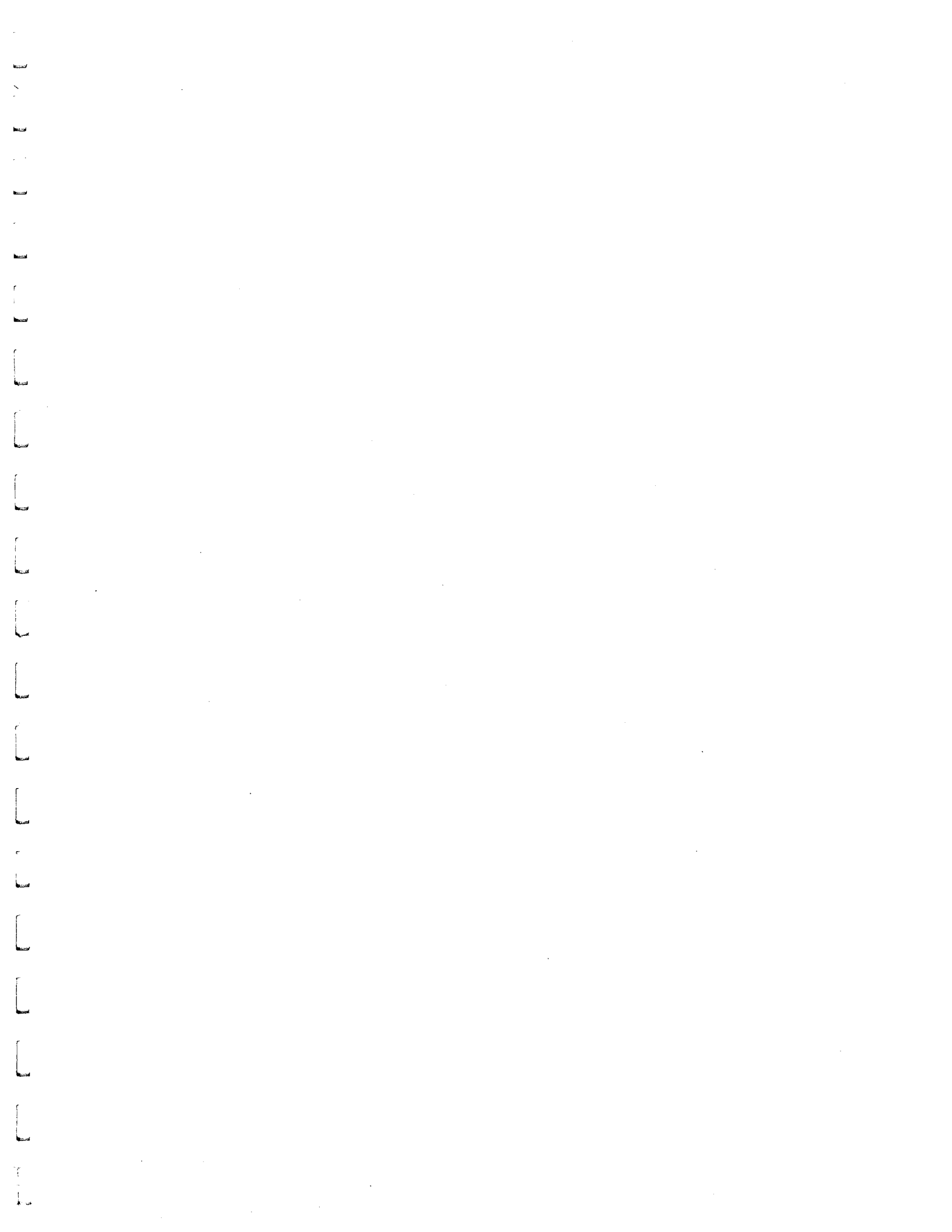
- A. The developer shall meet with the Administrative Official no later than five (5) working days in advance of the filing deadline to discuss the appropriation of filing a combined

- development plan and subdivision plat.
- B. The plat shall show all information required for preliminary subdivision plat as set forth in the Subdivision Regulations and any other information required for submission of a development plan.
  - C. Provisions relating to the timing of public or private streets or other public or common use improvements in relation to the timing of building permit issuance may be required.

151.40-13.7.9 **PRELIMINARY SUBDIVISION PLAT MAY BE SUBSTITUTED FOR A CONCEPTUAL DEVELOPMENT PLAN WHICH IS REQUIRED IN CONJUNCTION WITH ZONING MAP AMENDMENT**

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

Development plans required by this Article where the zoning map amendments is to Residential zoning district and multi-family development is not proposed, the developer may combine the development plan with subdivision plats.



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