

ORDINANCE NO. 910.01

AN ORDINANCE APPROVING THE PLAN OF REORGANIZATION
OF MAGNUS, INC., DBA PLASTICS INVESTOR PARTNERSHIP

WHEREAS, the City of Vanceburg, Kentucky, was the recipient of funds from the United States Housing and Urban Development - Urban Development Action Grant ("HUD");

WHEREAS, the City of Vanceburg, Kentucky, utilized said funds for the acquisition and development in accordance with the approved plan of HUD of Magnus, Inc., DBA Plastics Investor Partnership;

WHEREAS, circumstances have arisen that required Magnus, Inc., DBA Plastics Investor Partnership to seek the protection of the United States Bankruptcy Laws under Chapter 11, a corporate reorganization;

WHEREAS, Magnus, Inc., DBA Plastics Investor Partnership has proposed a plan of reorganization which it intends on filing with the United States Bankruptcy Court, Eastern District of Kentucky;

WHEREAS, the proposed plan calls for a partial repayment of the HUD funds to the City of Vanceburg, Kentucky;

NOW THEREFORE, the City Council of the City of Vanceburg, Kentucky, ordains as follows:

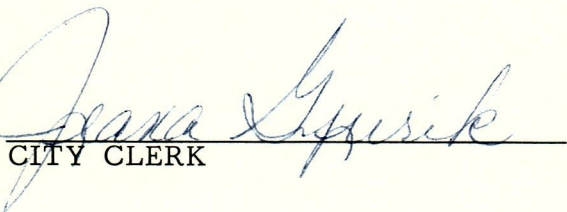
Section 1. The City of Vanceburg, Kentucky, is the recipient of the HUD funds for the Magnus, Inc., DBA Plastics Investor Partnership, is secured in those funds by a Second Mortgage on real estate and a Second Lien on tangible personal property and therefore, as recipient thereof is the real party in interest in the transaction.

Section 2. The City of Vanceburg, Kentucky, hereby accepts, adopts and ratifies the proposed Plan of Reorganization and Memorandum of Understanding as submitted to it by Magnus, Inc., Plastics Investor Partnership and authorizes the Mayor and City Clerk to execute and deliver to the Debtor, Magnus, Inc., DBA Plastics Investor Partnership, the Memorandum of Understanding reviewed in conjunction with the Plan of Reorganization.

First Reading: October 20, 1989

Second Reading: Oct 23, 1989


MAYOR, CITY OF VANCEBURG, KENTUCKY


CITY CLERK

ORDINANCE NO. 910.01

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WHEREAS, the proposed plan calls for a partial repayment of the HUD funds to the City of Vanceburg, Kentucky;

NOW THEREFORE, the City Council of the City of Vanceburg, Kentucky, ordains as follows:

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First Reading: October 20, 1989

Second Reading: Oct 23, 1989

M. J. "Pat" Cooper
MAYOR, CITY OF VANCEBURG, KENTUCKY

Jana Spisik
CITY CLERK

ORDINANCE # 910.02
COMMONWEALTH OF KENTUCKY

(Resolution No. 89 - 02)

WHEREAS, the City of Vanceburg proposes to develop recreational resources to provide for the health and well being of the general public; and

WHEREAS, the City intends to make preapplication to the Department of Local Government for assistance under the Land and Water Conservation Fund Act of 1965; and

WHEREAS, the Land and Water Conservation Fund is limited to funding a maximum of fifty percent of proposed project costs estimated at \$ 40,000.

NOW THEREFORE, BE IT RESOLVED BY THE CITY OF VANCEBURG, KENTUCKY, that the City hold in reserve fifty percent of said proposed project costs for the purpose of matching the Land and Water Conservation Fund assistance, and that in the event a grant is awarded, the City agrees to sign assurances to comply with all applicable Federal and Kentucky laws, rules and regulations, especially Title VI of the Civil Rights Act and Section 504 of the 1973 Rehabilitation Act.

ADOPTED BY THE CITY COUNCIL OF VANCEBURG, KENTUCKY.

M. J. "Pat" Cooper

Introduced and adopted: 1st Reading Dec 4, 1989
2nd Reading Dec 6, 1989

Signed by Mayor:

Recorded by Clerk: Jana Gyurik

Attest:

Index:

Jeana Billman

From: "E. V. Holder, Jr." <evh@alltel.net>
To: <jeana@ekns.net>
Sent: Monday, November 01, 2004 2:34 PM
Subject: ORDINANCE - PLANNING COMMISSION REVISED-- Oct04

Please print copies for Mayor and Council members.

ORDINANCE NO. 910.03

AN ORDINANCE OF THE CITY OF VANCEBURG APPROVING ENTRY BY THE CITY INTO AN AGREEMENT TO FORM AND OPERATE A PLANNING UNIT, PURSUANT TO KRS CHAPTER 100, WITH THE COUNTY OF LEWIS AND THE CITY OF CONCORD

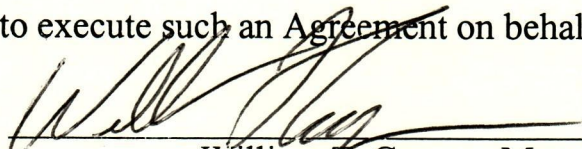
BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VANCEBURG, KENTUCKY AS FOLLOWS:

WHEREAS, City of Vanceburg has interogated with the County of Lewis (the "County") and the City of Concord to form a countywide planning commission; and,

WHEREAS, the County and City of Concord have responded in the affirmative; and,

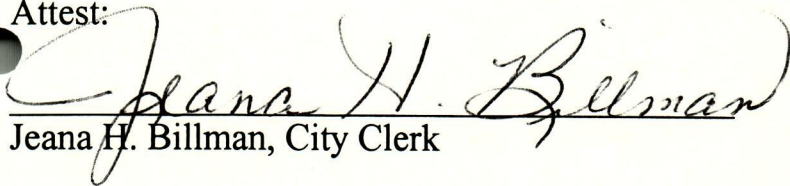
WHEREAS. An Agreement to Form a Planning Unit has been approved by the City of Vanceburg, the County and the City of Concord,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VANCEBURG, that an Agreement to Form and Operate A Planning Unit Pursuant to Chapter 100, Kentucky Revised Statutes, substantially in the form which is appended hereto and which is incorporated by reference herein, is approved and ratified, and the Mayor of the City of Vanceburg is hereby directed and authorized to execute such an Agreement on behalf of the City of Vanceburg.


William T. Cooper, Mayor

1st Reading: 11.01.04
2^d Reading: 11.19.04
Signed by Mayor: 11.22.04
Published: 11.22.04

Attest:


Jeana H. Billman, City Clerk

**AGREEMENT TO FORM AND OPERATE
A PLANNING UNIT PURSUANT TO
CHAPTER 100, KENTUCKY REVISED STATUTES**

WHEREAS, it is the desire of Lewis County, Kentucky, the City of Concord and the City of Vanceburg, to form and operate a joint planning unit pursuant to K.R.S. Chapter 100, to end that said political subdivisions may have or continue to have effective and viable planning, subdivision regulation and related controls upon the use and occupancy of land within their respective boundaries and to promote the health, safety and welfare of their respective citizens with the maximum of cooperation between said political subdivisions and

WHEREAS, achievement of the aforementioned goals necessitates agreement among said political subdivisions within the flexible framework of said statutes,

NOW THEREFORE the parties hereto agree as follows:

I Name:

The planning unit hereby established shall be known as the Lewis County Municipal Planning Commission, hereinafter referred to as the Commission.

II Boundaries:

The jurisdiction of the Commission shall be coterminous with the boundaries of Lewis County, but there shall be excluded from the area of jurisdiction any land lying within the corporate limits of any city in said county which is not a party hereto or which, having executed this agreement, subsequently withdraws therefrom.

III Commission:

A. The Commission shall consist of seven (7) members appointed as follows: Five (5) members by the Lewis County Judge/Executive, one of which must be provided to him by the Mayor of Concord, and two (2) members appointed by the Mayor of Vanceburg. All subject to the approval of the legislative bodies of the parties.

(1) Provided, however, should one or more of the aforementioned cities fail to become

a party to this agreement or, having done so, subsequently withdraw therefrom, the number of members on the Commission shall be reduced from seven by the number of appointees the mayor of such city is authorized to appoint.

B. At the first meeting of the Commission the citizen members shall draw lots to determine the term of office of each.

- (1) The drawing shall be so designed that a proportionate number of said citizen members shall serve one, two, three and four years respectively. In the event the number of citizen members does not divide evenly by four the longer term or terms shall have the greater number of positions.
- (2) Upon expiration of the term of each citizen member his successor shall be appointed by the officer who made his original appointment.
- (3) All terms shall initially be deemed to commence _____, though the appointments are made prior to said date and the commission commences operation prior thereto.
- (4) All initial appointments shall be made forthwith upon signature hereto by each signatory possessing a right of appointment. The Commission shall be deemed established and may commence business upon the appointment of three (3) members.

Any signatory whose mayor or judge possesses a right of appointment and for which not appointment is made before _____, shall be deemed to have withdrawn from this agreement.

IV Financing:

A. The Commission shall establish from time to time a schedule of fees to be charged for each type of application made to it and reasonably designed to meet the cost of acting thereon to the end that the Commission may meet its expenses and the reimbursable expenses of its members from its own revenues.

- (1) The Fiscal Court of Lewis County and each city signatory hereto (prorated according to population of each signatory political subdivision) shall provide from the respective general fund of each political subdivision a sum sufficient to meet any operating deficit of the Commission.
- (2) The undertaking of the parties above set forth shall be conditional upon approval of each annual budget of the Commission by the parties which shall include review of the fee schedule of the Commission. The budget and fee schedule for each year shall be submitted to the parties prior to April 1st. of the year preceding.
- (3) The compensation, if any, for the services of each citizen member of the Commission shall be fixed by the Commission, subject to approval of the legislative bodies of the signatories hereto in the above-mentioned process of financing.
- (4) In the event the Commission acts to fill a vacancy, (as provided by statute in the event of failure of the appropriate appointing authority to do so) such appointee shall have a claim for compensation in the same amount as his predecessor.

V Boards of Adjustment:

A. Each political subdivision may have a Board of Adjustment whose authority is exclusive within such political subdivision. The expenses in connection with the operation of such Board shall be the sole responsibility of the political subdivision.

- (1) Two or more political subdivisions may by appropriate resolution and an agreement establish a joint Board upon any acceptable terms.
- (2) Since it is imperative that all the territory included within the definition of "Boundaries", supra be within the jurisdiction of some Board of Adjustment, the territory within any signatory city whose mayor fails to appoint members to a Board or whose legislative body fails to provide for the establishment of such a Board or a joint Board, shall be deemed to be under the jurisdiction of the Board

appointed by the County Judge. Jurisdiction over any city territory shall later pass to the Board of Adjustment of said city, if such a board is subsequently established.

Expenses for the Board shall be the responsibility of the Fiscal Court and each signatory hereto which does not name its own board, prorated, based upon population.

VI Administrative Officials:

A. Each political subdivision signatory hereto shall appoint one or more persons to administer any provisions of the planning, zoning, subdivision or other regulations of such political subdivision in accordance with the terms of the applicable statutes.

- (1) In the absence of appointment the City Clerk shall act as such administrative official.
- (2) The salary and any other expense connected with the office of administrative official shall be borne by each signatory separately.
- (3) In the event a signatory hereto chooses not to appoint an administrative official, then the administrative official appointed by the County shall serve in which case, the salary and other expenses of such person shall be divided between the signatories participating in the services, pro rata, according to population.

B. All applications to the Commission concerning any land within a given political subdivision shall be made through the office of the administrative official of said political subdivision who shall forward the same to the Commission for action. The administrative official shall be supplied by the Commission with such authorized forms of application as the Commission may require.

- (1) The administrative official shall collect from the applicant the appropriate fee as established by the Commission for the action sought and shall forward the same to the Commission with the application. If authorized by the city or county which appointed him, he may also collect a fee for his or her services over and above that

fixed by the Commission.

- (2) The administrative official may append to the application transmitted to the Commission, his or her recommendation as the disposition thereof, or the recommendation of the legislative body or appropriate committee of the political subdivision.

VII Effective Date:

A. This agreement shall become effective upon the execution thereof by two (2) political subdivisions whose mayor or judge possesses the right of appointment of one or more members of the Commission.

- (1) On or before ninety (90) days prior to the anniversary date hereof (which shall be one year from the date of the first execution hereof) any signatory may, by notice mailed to all other signatories, call for a meeting to be held not more than sixty (60) and not less than thirty (30) days prior to said anniversary date, to renegotiate and amend any provision of this agreement and stating the reason therefore. The right to demand renegotiation shall be available to each signatory each year for the first five years of the existence of this agreement, after which time the terms hereof may not be varied except at five (5) year intervals and in the foregoing manner. A request for negotiation upon any ground shall open this entire agreement to amendment.

This agreement may also be amended by mutual consent of all signatories to it.

It is the intent hereof that each signatory be fairly represented on the Commission according to its population. As population changes in the signatory counties and cities, it is understood that representation should also change to reflect their current population(s).

IN WITNESS WHEREOF, the parties signatory, acting by and through officers

thereof duly authorized, have hereunto set their hands and seals upon the respective dates set forth.

VII Execution:

The original hereof may be recorded in the office of the Lewis County Clerk upon execution by two political subdivisions. Execution by other political subdivisions may be made by separate writings making reference to the original hereof, signed by the authorized officials and recorded in the office of the Lewis County Clerk.

The separate instrument by which other political subdivisions may become a party to this agreement shall read substantially as follows:

WHEREAS, at a regular meeting of the City Commission (Council) of the City of _____, held the ____ day of _____, 20____, by an ordinance duly passed, it was determined that said City should become a party to a certain contract entitled Agreement to Form and Operate a Planning Unit Pursuant to Chapter 100, Kentucky Revised Statutes, which contract was executed by Lewis County on the ____ day of _____, 20____ and which is of record in _____ Book _____ page _____, in the records of the Lewis County Clerk at Vanceburg, therefore

The City of _____ hereby becomes a party to said Agreement as fully and effectively as if the original of said Agreement had been executed.

IN WITNESS WHEREOF, the City of _____, acting by and through its mayor and clerk, duly authorized, hereto sets its hand and seal this ____ day of _____, 20____.

(Seal) City of _____
Attest: By: _____
Mayor

erkl
(Seal)

Attest:

County of Lewis

_____, Clerk

Judge/Executive

Date: _____

(Seal)

Attest:

City of Vanceburg

Jana Bellman, Clerk

Will Hoops

Mayor

Date: 11-22-04

(Seal)

Attest:

_____, Clerk

City of Concord

Mayor

Date: _____

**NOTICE OF ENACTMENT AND SUMMARY
OF ORDINANCE NO. 910.03**

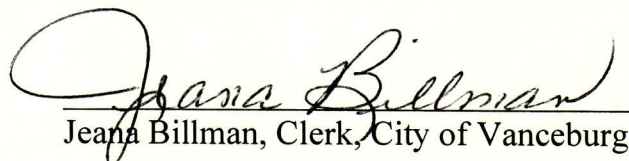
**AN ORDINANCE OF THE CITY OF VANCEBURG APPROVING ENTRY BY
THE CITY INTO AN AGREEMENT TO FORM AND OPERATE A PLANNING
UNIT PURSUANT TO KRS CHAPTER 100, WITH THE COUNTY OF LEWIS
AND THE CITY OF CONCORD.**

As required by KRS 83A.060(9), I hereby certify that an Ordinance bearing the above title was given first reading by the City Council of the City of Vanceburg, Kentucky, at a duly convened meeting held on November 1, 2004, and was given second reading on November 19, 2004, and that the following is a Summary of such Ordinance prepared by E. V. Holder, Jr., Attorney for the City of Vanceburg, Kentucky.

SUMMARY OF ORDINANCE

This Ordinance approves the City of Vanceburg entering into an agreement with the County of Lewis and the City of Concord to form and operate a planning unit pursuant to Chapter 100 of the Kentucky Revised Statutes.

A copy of the full text of said Ordinance is available for public inspection at the City Building, 615 Second Street, Vanceburg, Kentucky, during regular business hours, Monday through Friday.


Jeana Billman, Clerk, City of Vanceburg

ORDINANCE NO. 910.04
AN ORDINANCE FOR THE IMPLEMENTATION AND MAINTENANCE OF
STRUCTURE ADDRESSES AND THE MARKING THEREOF, WITHIN
THE CITY OF VANCEBURG, KENTUCKY

AN ORDINANCE pertaining to public health, safety and welfare of the citizens of Vanceburg, Kentucky; and providing a penalty for the violation of the provisions of this ordinance and repealing all ordinances in conflict herewith.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VANCEBURG, KENTUCKY AS FOLLOWS:

1. New Structures and Mobile Homes

All persons, firms, corporations, and other legal entities constructing new structures or relocating mobile homes in the City of Vanceburg, Kentucky, shall obtain an address, duly issued by Lewis County Fiscal Court, or its agent.


2. Posting of Designated Numbers

The owner or occupant or person in charge of any house, building, mobile home or other structure to which a number has been assigned,

- a) Shall within thirty (30) days after the receipt of such number affix the number in a conspicuous manner in a conspicuous place.
- b) Shall within thirty (30) days remove any different number which might be mistaken for or confused with the number assigned to said structure by the issuing authority.
- c) Each principal building or structure shall display the number assigned to the frontage on which the front entrance is located. In case the principal building or structure is occupied by more than one business or family dwelling unit, each separate front entrance may display a separate number.
- d) Numerals indicating the official numbers for each principal building, shall be posted in a manner as to be legible and distinguishable from the street or road on which the property is located, with numbers applied, of not less than three inches (3") in height.
- e) Mailboxes shall be marked with the house number.
- f) If the structure is not visible from the street or road on which it is located and no mailbox is beside the driveway leading to the structure, a sign or

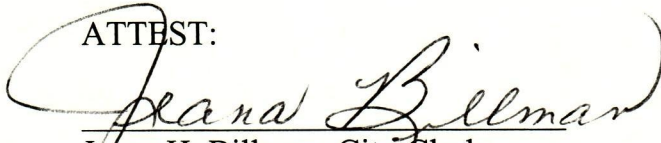
number post shall be erected to display the number which may be displayed either vertically from top down or horizontally.

3. Penalty: Failure to comply with the terms of this ordinance within thirty (30) days after notification shall be punished be fined not less than Ten Dollars (\$10.00) for every day of noncompliance.
4. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.



William T. Cooper, Mayor

ATTEST:



Jeana H. Billman, City Clerk

First Reading: 06-19-06

Second Reading: 07-10-06

Vote : 4 Yes 0 No

AN ORDINANCE CONVEYING REAL ESTATE
TO THE COUNTY OF LEWIS, KENTUCKY

WHEREAS, the City of Vanceburg, Kentucky, owns a parcel of real estate adjacent to the Lewis County Jail, known as the old city jail;

WHEREAS, the City of Vanceburg, Kentucky, has not had any use therefor for many years;

WHEREAS, the County of Lewis, Kentucky, requires said tract of real estate for its governmental purposes for jail improvements.

NOW THEREFORE, IT IS HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF VANCEBURG, KENTUCKY, as follows:

1. The real estate adjacent to the Lewis County Jail is hereby declared surplus property and of no use or benefit to the City of Vanceburg, Kentucky.

2. Said real estate described in Exhibit "A" shall be conveyed by sufficient deed to the County of Lewis, Kentucky, provided the County of Lewis provides storage for tools, etc. suitable to the City.

3. The Mayor and City Clerk are hereby authorized and directed to execute and deliver any and all deeds, contracts, and instruments necessary to carry out the intent and purpose of this Ordinance.

1st Reading: July 10, 1989

2nd Reading: July 17, 1989

M. J. "Pat" Cooper
MAYOR, CITY OF VANCEBURG, KENTUCKY

ATTEST:

Jeanne Spurik
CITY CLERK



**NOTICE OF ENACTMENT AND SUMMARY
OF ORDINANCE NO. 950.00**

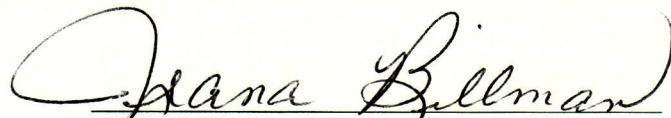
FLOOD DAMAGE PREVENTION ORDINANCE FOR CITY OF VANCEBURG

As required by KRS 83A.060(9), I hereby certify that an Ordinance bearing the above title was given first reading by the City Council of the City of Vanceburg, Kentucky, at a duly convened meeting held on November 1, 2004, and was given second reading on November 19, 2004, and that the following is a Summary of such Ordinance prepared by E. V. Holder, Jr., Attorney for the City of Vanceburg, Kentucky.

SUMMARY OF ORDINANCE

This Ordinance applies to all areas of special flood hazard within the jurisdiction of the City of Vanceburg, as identified by the Federal Insurance Administration, and mandates that no structure or land in said areas shall hereafter be located, or extended, converted or structurally altered without compliance with its provisions; requires the obtaining of a permit from the Mayor or his designee as administrator and the Kentucky Division of Water; permitting of manufactured homes within areas of special flood hazard; requires that all new construction and substantial improvements be constructed with materials and utility equipment resistant to flood damage; provides that in all areas of special flood hazard, the lowest floor of any residential structure constructed or substantially improved shall have the lowest floor elevated to or above base flood elevation or has said floor floodproofed; and provides penalties of \$500.00 or imprisonment of not more than 30 days for each day a violation of this Ordinance continues.

A copy of the full text of said Ordinance is available for public inspection at the City Building, 615 Second Street, Vanceburg, Kentucky, during regular business hours, Monday through Friday.


Jeana Billman, Clerk, City of Vanceburg

Commonwealth of Kentucky
CITY OF VANCEBRURG

ORDINANCE NO. 950.01

**FLOOD DAMAGE PREVENTION
ORDINANCE**

FOR

CITY OF VANCEBURG, KENTUCKY

ACKNOWLEDGEMENT

Thanks to

Kentucky Division of Water
Water Resources Branch
Floodplain Management Section

FLOOD DAMAGE PREVENTION ORDINANCE

TABLE OF CONTENTS

ARTICLE 1.	STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES.....	1
SECTION A.	STATUTORY AUTHORIZATION.....	1
SECTION B.	FINDINGS OF FACT.....	1
SECTION C.	STATEMENT OF PURPOSE.....	1
SECTION D.	OBJECTIVES.....	1
ARTICLE 2.	DEFINITIONS.....	2
ARTICLE 3.	GENERAL PROVISIONS.....	12
SECTION A.	LANDS TO WHICH THIS ORDINANCE APPLIES.....	12
SECTION B.	BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS.....	13
SECTION C.	ESTABLISHMENT OF DEVELOPMENT PERMIT.....	13
SECTION D.	COMPLIANCE.....	13
SECTION E.	ABROGATION AND GREATER RESTRICTIONS.....	13
SECTION F.	INTERPRETATION.....	13
SECTION G.	WARNING AND DISCLAIMER OF LIABILITY.....	13
SECTION H.	ENFORCEMENT, VIOLATION NOTICE AND PENALTIES.....	14
ARTICLE 4.	ADMINISTRATION.....	14
SECTION A.	DESIGNATION OF LOCAL ADMINISTRATOR.....	14
SECTION B.	ESTABLISHMENT OF DEVELOPMENT PERMIT.....	15
SECTION C.	DUTIES AND RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR.....	15
ARTICLE 5.	PROVISIONS FOR FLOOD HAZARD REDUCTION.....	18
SECTION A.	GENERAL CONSTRUCTION STANDARDS.....	18
SECTION B.	SPECIFIC STANDARDS.....	19
SECTION C.	STANDARDS FOR STREAMS WITHOUT ESTABLISHED BASE FLOOD ELEVATION (UNNUMBERED A ZONES) AND/OR FLOODWAYS.....	24
SECTION D.	STANDARDS FOR SHALLOW FLOODING ZONES.....	24
SECTION E.	STANDARDS FOR SUBDIVISION PROPOSALS.....	24
SECTION F.	STANDARDS FOR ACCESSORY STRUCTURES IN ALL ZONES BEGINNING WITH THE LETTER 'A'.....	25
SECTION G.	CRITICAL FACILITIES.....	25
ARTICLE 6.	APPEALS AND VARIANCE PROCEDURES.....	26
ARTICLE 7.	SEVERABILITY.....	29

FLOOD DAMAGE PREVENTION ORDINANCE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VANCEBURG, KENTUCKY:

ARTICLE 1. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES

SECTION A. STATUTORY AUTHORIZATION

The Legislature of the Commonwealth of Kentucky has in Kentucky Revised Statutes 82.082 delegated to local government units the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City Council of Vanceburg, Kentucky, hereby adopts the following floodplain management ordinance, as follows:

SECTION B. FINDINGS OF FACT

- 1) The flood hazard areas of the City of Vanceburg are subject to periodic inundation which result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all which adversely affect the public health, safety, and general welfare.
- 2) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increased flood height and velocity, and by the location in flood hazard areas of uses vulnerable to floods or hazardous to other lands which are inadequately elevated, flood-proofed, or otherwise protected from flood damage.

SECTION C. STATEMENT OF PURPOSE

It is the purpose of this ordinance to promote the public health, safety, and general welfare and to minimize public and private loss due to flooding by provisions designed to:

- 1) Restrict or prohibit uses which are dangerous to health, safety, and property due to water erosion hazards, or which result in damaging increases in erosion or in flood height or velocity;
- 2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- 3) Control the alteration of natural floodplains, stream channels, and natural protective barriers which accommodate or channel flood waters;
- 4) Control filling, grading, dredging, and other development which may increase erosion or flood damage, and;
- 5) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other areas.

SECTION D. OBJECTIVES

The objectives of this ordinance are to:

- 1) Protect human life and health;
- 2) Minimize expenditure of public money for costly flood control projects;
- 3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- 4) Minimize prolonged business interruptions;
- 5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines; streets and bridges located in areas of special flood hazard;
- 6) Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard or other flood-prone areas in such a manner as to minimize future flood blighted areas caused by flooding; and,
- 7) Ensure that potential homebuyers are on notice that property is in a Special Flood Hazard Area.
- 8) Ensure that those who occupy a Special Flood Hazard Area assume responsibility for their actions.

ARTICLE 2. DEFINITIONS

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

A Zone - Portions of the special flood hazard area (SFHA) in which the principle source of flooding is runoff from rainfall, snowmelt, or a combination of both. In A zones, floodwaters may move slowly or rapidly, but waves are usually not a significant threat to structures. Areas of 100-year flood, base flood elevations and flood hazard factors are not determined.

Accessory structure (Appurtenant structure) - A structure located on the same parcel of property as the principle structure, the use of which is incidental to the use of the principle structure. Accessory structures should constitute a minimal initial investment, may not be used for human habitation, and should be designed to have minimal flood damage potential. Examples of accessory structures are detached garages, carports, storage sheds, pole barns, and hay sheds.

Accessory use - A use which is incidental and subordinate to the principal use of the parcel of land on which it is located.

Addition (to an existing structure) - Any walled and roofed expansion to the perimeter of a structure in which the addition is connected by a common load-bearing wall other than a firewall. Any walled and roofed addition, which is connected by a firewall or is separated by independent perimeter load-bearing walls, is new construction.

A1-30 and AE zones - Special Flood Hazard Areas inundated by the 1% annual chance flood (100-year flood). Base flood elevations (BFEs) are determined.

AH zone - An area of 100-year shallow flooding where depths are between 1 and 3 feet (usually shallow ponding). Base flood elevations are shown.

AO zone - An area of 100-year shallow flooding where water depth is between one and three feet (usually sheet flow on sloping terrain) Flood depths are shown.

Appeal - A request for a review of the Floodplain Administrator's interpretation of any provision of this ordinance or from the floodplain administrator's ruling on a request for a variance.

AR/A1 – A30, AR/AE, AR/AH, AR/AO, and AR/A zones - Special Flood Hazard Areas (SFHAs) that result from the de-certification of a previously accredited flood protection system that is in the process of being restored to provide a 100-year or greater level of flood protection. After restoration is complete these areas will still experience residual flooding from other flooding sources.

A99 zone - That part of the SFHA inundated by the 100-year flood which is to be protected from the 100-year flood by a Federal flood protection system under construction. No base flood elevations are determined.

Area of shallow flooding - A designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM) where the base flood depths range from one to three feet, there is no clearly defined channel, the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

B and X zones (shaded) - Areas of the 0.2% annual chance (500-year) flood, areas subject to the 100-year flood with average depths of less than one foot or with contributing drainage area less than 1 square mile, and areas protected by levees from the base flood.

Base flood - A flood which has a one percent chance of being equaled or exceeded in any given year (also called the "100-year flood"). Base flood is the term used throughout this ordinance.

Base Flood Elevation (BFE) - The elevation shown on the Flood Insurance Rate Map (FIRM) for Zones AE, AH, A1-30, AR, AR/A, AR/AE, AR/A1-A30, AR/AH, and AR/AO that indicates the water surface elevation resulting from a flood that has a 1-percent or greater chance of being equaled or exceeded in any given year.

Basement - That portion of a structure having its floor subgrade (below ground level) on all four sides.

Building - A walled and roofed structure that is principally aboveground; including a manufactured home, gas or liquid storage tank, or other man-made facility or infrastructure. See definition for structure.

C and X (unshaded) zones - Areas determined to be outside the 500-year floodplain.

Community - A political entity having the authority to adopt and enforce floodplain ordinances for the area under its jurisdiction.

Community Rating System (CRS) - A program developed by the Federal Insurance Administration to provide incentives to those communities in the Regular Program to go beyond the minimum floodplain management requirements to develop extra measures for protection from flooding.

Community Flood Hazard Area (CFHA) - An area that has been determined by the Floodplain Administrator (or other delegated, designated, or qualified community official) from available technical studies, historical information, and other available and reliable sources, which may be subject to periodic inundation by floodwaters that can adversely affect the public health, safety and general welfare. Included are areas downstream from dams.

Critical facility - Any property that, if flooded, would result in severe consequences to public health and safety or a facility which, if unusable or unreachable because of flooding, would seriously and adversely affect the health and safety of the public. Critical facilities include, but are not limited to: housing likely to contain occupants not sufficiently mobile to avoid injury or death unaided during a flood; schools, nursing homes, hospitals, police, fire and emergency response installations, vehicle and equipment storage facilities, emergency operations centers likely to be called upon before, during and after a flood, public and private utility facilities important to maintaining or restoring normal services before, during and after a

flood, and those facilities or installations which produce, use or store volatile, flammable, explosive, toxic and/or water-reactive materials, hazardous materials or hazardous waste.

D zone - An area in which the flood hazard is undetermined.

Development - Any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or permanent storage of materials or equipment.

Elevated structure - A non-basement structure built to have the lowest floor elevated above ground level by means of fill, solid foundation perimeter walls, piling, columns (post and piers), shear walls, or breakaway walls. (See freeboard requirements for residential and non-residential structures.)

Elevation Certificate - A statement certified by a registered professional engineer or surveyor on the FEMA-approved form in effect at the time of certification that verifies a structure's elevation and other related information to verify compliance with this ordinance.

Emergency Program - The initial phase under which a community participates in the NFIP, intended to provide a first layer amount of insurance at subsidized rates on all insurable structures in that community before the effective date of the initial FIRM.

Enclosure - That portion of a structure below the Base Flood Elevation (BFE) used solely for parking of vehicles, limited storage, or access to the structure.

Encroachment - The physical advance or infringement of uses, plant growth, fill, excavation, structures, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

Existing construction - Any structure for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "Existing structures".

Existing Manufactured Home Park or Subdivision - A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management ordinance adopted by the City of Vanceburg based on specific technical base flood elevation data which established the area of special flood hazards.

Expansion to an existing Manufactured Home Park or Subdivision - The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Five-Hundred Year Flood - The flood that has a 0.2 percent chance of being equaled or exceeded in any year. Areas subject to the 500-year flood have a moderate to low risk of flooding.

Flood, Flooding, or Flood Water:

- 1) A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters; the unusual and rapid accumulation or runoff of surface waters from any source; and/or mudslides (i.e. mudflows). See Mudslides.
- 2) The condition resulting from flood-related erosion. See flood-related erosion.

Flood Boundary and Floodway Map (FBFM) - A map on which the Federal Emergency Management Agency (FEMA) or Federal Insurance Administration (FIA) has delineated the areas of flood hazards and the regulatory floodway.

Flood Hazard Boundary Map (FHBM) -A map on which the boundaries of the flood, mudslide (i.e. mudflow), and flood-related erosion areas having special hazards have been designated as Zones A, M, and/or E by the Federal Emergency Management Agency (FEMA) or Federal Insurance Administration (FIA).

Flood Insurance Rate Map (FIRM) - A map on which the Federal Emergency Management Agency (FEMA) or Federal Insurance Administration (FIA) has delineated special flood hazard areas and risk premium zones.

Flood Insurance Study - The report provided by the Federal Emergency Management Agency (FEMA) or Federal Insurance Administration (FIA) containing flood profiles, the Flood Insurance Rate Map (FIRM), and/or the Flood Boundary Floodway Map (FBFM), and the water surface elevation of the base flood.

Floodplain or flood-prone area - Any land area susceptible to being inundated by flood waters from any source.

Floodplain Administrator - The individual appointed by a NFIP participating community to administer and enforce the floodplain management ordinances.

Floodplain Management - The operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management ordinances, and open space plans.

Floodplain Management Regulations - This ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as grading and erosion control), and other applications of police power, which control development in flood-prone areas. This term describes federal, state and/or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Floodproofing - Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures, and their contents.

Floodproofing Certificate - A certification by a registered professional engineer or architect, on a FEMA-approved form in effect at the time of certification stating that a non-residential structure, together with attendant utilities and sanitary facilities is watertight to a specified design elevation with walls that are substantially impermeable to the passage of water and all structural components are capable of resisting hydrostatic and hydrodynamic flood forces, including the effects of buoyancy and anticipated debris impact forces.

Floodway - The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. Also referred to as the "regulatory floodway".

Floodway fringe - That area of the floodplain on either side of the regulatory floodway where encroachment may be permitted without additional hydraulic and/or hydrologic analysis.

Freeboard - A factor of safety, usually expressed in feet above the BFE, which is applied for the purposes of floodplain management. It is used to compensate for the many unknown factors that could contribute to flood heights greater than those calculated for the base flood. Freeboard must be applied not just to the elevation of the lowest floor or floodproofing level, but also to the level of protection provided to all components of the structure, such as building utilities, HVAC components, etc.

Fraud and victimization - As related in Article 6, **Appeals and Variance Procedures**, of this ordinance, means that the variance granted must not cause fraud on or victimization of the public. In examining this

requirement, the City Council of the City of Vanceburg will consider the fact that every newly constructed structure adds to government responsibilities and remains a part of the community for fifty to one hundred years. Structures that are permitted to be constructed below the base flood elevation are subject during all those years to increased risk of damage from floods, while future owners of the property and the community as a whole are subject to all the costs, inconvenience, danger, and suffering that those increased flood damages may incur. In addition, future owners may purchase the property, unaware that it is subject to potential flood damage, and can be insured only at very high flood insurance rates.

Functionally dependent use facility - A facility, structure, or other development, which cannot be used for its intended purpose unless it is located or carried out in close proximity to water. The term includes only a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, ship repair, or seafood processing facilities. The term does not include long-term storage, manufacture, sales, or service facilities.

Governing body - The local governing unit, i.e. county or municipality that is empowered to adopt and implement ordinances to provide for the public health, safety and general welfare of its citizenry.

Hazard potential - The possible adverse incremental consequences that result from the release of water or stored contents due to failure of a dam or misoperation of a dam or appurtenances. The hazard potential classification of a dam does not reflect in any way the current condition of a dam and its appurtenant structures (e.g., safety, structural integrity, flood routing capacity).

Highest adjacent grade - The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

Historic Structure - Any structure that is:

- 1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- 2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district.
- 3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- 4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - a) By an approved state program as determined by the Secretary of the Interior, or
 - b) Directly by the Secretary of the Interior in states without approved programs.

Increased Cost of Compliance (ICC) – Increased cost of compliance coverage provides for the payment of a claim for the cost to comply with State or community floodplain management laws or ordinances after a direct physical loss by flood. When a building covered by a Standard Flood Insurance Policy under the NFIP sustains a loss and the state or community declares the building to be substantially or repetitively damaged, ICC will help pay up to \$30,000 for the cost to elevate, floodproof, demolish, or remove the building.

ICC coverage is available on residential and non-residential buildings (this category includes public or government buildings, such as schools, libraries, and municipal buildings) insured under the NFIP.

Kentucky Revised Statute 151.250 - Plans for dams, levees, etc. to be approved and permit issued by cabinet – (Environmental and Public Protection Cabinet)

(1) Notwithstanding any other provision of law, no person and no city, county, or other political subdivision of the state, including levee districts, drainage districts, flood control districts or systems, or similar bodies, shall commence the construction, reconstruction, relocation or improvement of any dam, embankment, levee, dike, bridge, fill or other obstruction (except those constructed by the Department of Highways) across or along any stream, or in the floodway of any stream, unless the plans and specifications for such work have been submitted by the person or political subdivision responsible for the construction, reconstruction or improvement and such plans and specifications have been approved in writing by the cabinet and a permit issued. However, the cabinet by regulation may exempt those dams, embankments or other obstructions which are not of such size or type as to require approval by the cabinet in the interest of safety or retention of water supply.

(2) No person, city, county or other political subdivision of the state shall commence the filling of any area with earth, debris, or any other material, or raise the level of any area in any manner, or place a building, barrier or obstruction of any sort on any area located adjacent to a river or stream or in the floodway of the stream so that such filling, raising or obstruction will in any way affect the flow of water in the channel or in the floodway of the stream unless plans and specifications for such work have been submitted to and approved by the cabinet and a permit issued as required in subsection (1) above.

(3) Nothing in this section is intended to give the cabinet any jurisdiction or control over the construction, reconstruction, improvement, enlargement, maintenance or operation of any drainage district, ditch, or system established for agricultural purposes, or to require approval of the same except where such obstruction of the stream or floodway is determined by the cabinet to be a detriment or hindrance to the beneficial use of water resources in the area, and the person or political subdivision in control thereof so notified. The Kentucky Bureau of Surface Mining through KRS Chapter 350 shall have exclusive jurisdiction over KRS Chapter 151 concerning the regulation of dams, levees, embankments, dikes, bridges, fills, or other obstructions across or along any stream or in the floodway of any stream which structures are permitted under KRS Chapter 350 for surface coal mining operations.

Kentucky Revised Statute 151.320 - Officers required to enforce law.

(1) The mayor or chief executive officer of each city and the county judge/executive of each county, shall have the concurrent duty of enforcing with the cabinet, within their respective cities and counties, the provisions of KRS 151.250, 151.280 and 151.310 and rules and regulations issued thereunder.

(2) When a violation of KRS 151.250, 151.280 or 151.310 within his jurisdiction is brought to the attention of a mayor or chief executive officer of a city or a county judge/executive, he shall immediately notify the cabinet of the location and details of such violation.

Letter of Map Change (LOMC) – Is an official FEMA determination, by letter, to amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, and Flood Insurance Studies. LOMC's include the following categories:

- 1) **Letter of Map Amendment (LOMA)** – A revision based on technical data showing that a property was incorrectly included in a designated SFHA. A LOMA amends the current effective FIRM and establishes that a specific property is not located in a SFHA.
- 2) **Letter of Map Revision (LOMR)** - A revision based on technical data that, usually due to manmade changes, shows changes to flood zones, flood elevations, floodplain and floodway delineations, and planimetric features.
- 3) **Letter of Map Revision – Fill (LOMR F)** – A determination that a structure or parcel has been elevated by properly placed engineered fill above the BFE and is, therefore, excluded from the SHFA.

Levee - A man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

Levee System - A flood protection system that consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

For a levee system to be recognized, the following criteria must be met:

- 1) All closure devices or mechanical systems for internal drainage, whether manual or automatic, must be operated in accordance with an officially adopted operation manual (a copy of which must be provided to FEMA by the operator when levee or drainage system recognition is being sought or revised).
- 2) All operations must be under the jurisdiction of a Federal or State agency, an agency created by Federal or State law, or an agency of a community participating in the NFIP.

Limited storage - An area used for storage and intended to be limited to incidental items which can withstand exposure to the elements and have low flood damage potential. Such an area must be of flood resistant material, void of utilities except for essential lighting, and cannot be temperature controlled.

Lowest adjacent grade - The elevation of the sidewalk, patio, deck support, or basement entryway immediately next to the structure and after the completion of construction. It does not include earth that is emplaced for aesthetic or landscape reasons around a foundation wall. It does include natural ground or properly compacted fill that comprises a component of a structure's foundation system.

Lowest Floor - The lowest floor of the lowest enclosed area including basement. An unfinished or flood resistant enclosure, usable solely for parking of vehicles, structure access, or storage in an area other than a basement area is not considered a structure's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

Manufactured Home - A structure, transportable in one or more sections, which is built on a permanent chassis and is designed to be used with or without a permanent foundation when connected or attached to the required utilities. The term also includes park trailers, travel trailers, and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property. The term "manufactured home" does not include a "recreational vehicle" (see Recreational Vehicle).

Manufactured home park or subdivision - A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Map - The Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by the Federal Emergency Management Agency (FEMA).

Map Panel Number - The four-digit number on a flood map, followed by a letter suffix, assigned by FEMA. The first four digits represent the map panel. The letter suffix represents the number of times the map panel has been revised. (The letter "A" is not used by FEMA, the letter "B" is the first revision.)

Market value - The structure value, excluding the land (as agreed between a willing buyer and seller), as established by what the local real estate market will bear. Market value can be established by independent certified appraisal, replacement cost depreciated by age of structure (Actual Cash Value) or adjusted assessed values.

Mean Sea Level (MSL) - The average height of the sea for all stages of the tide. For the purposes of the National Flood Insurance Program, the MSL is used as a reference for establishing various elevations within the floodplain as shown on a community's FIRM. For purposes of this ordinance, the term is synonymous with either National Geodetic Vertical Datum (NGVD) 1929 or North American Vertical Datum (NAVD) 1988.

Mitigation - Sustained actions taken to reduce or eliminate long-term risk to people and property from hazards and their effects. The purpose of mitigation is twofold: to protect people and structures, and to minimize the costs of disaster response and recovery.

Mudslide (i.e. mudflow) - Describes a condition where there is a river, flow, or inundation of liquid mud down a hillside, usually as a result of a dual condition of loss of brush cover and the subsequent accumulation of water on the ground, preceded by a period of unusually heavy or sustained rain. A mudslide (i.e. mudflow) may occur as a distinct phenomenon while a landslide is in progress, and will be

recognized as such by the Floodplain Administrator only if the mudflow, and not the landslide, is the proximate cause of damage that occurs.

Mudslide (i.e. mudflow) area management - The operation of and overall program of corrective and preventative measures for reducing mudslide (i.e. mudflow) damage, including but not limited to emergency preparedness plans, mudslide control works, and floodplain management regulations.

Mudslide (i.e. mudflow) prone area - An area with land surfaces and slopes of unconsolidated material where the history, geology, and climate indicate a potential for mudflow.

National Flood Insurance Program (NFIP) - The federal program that makes flood insurance available to owners of property in participating communities nationwide through the cooperative efforts of the federal government and the private insurance industry.

National Geodetic Vertical Datum (NGVD) - As corrected in 1929, a vertical control used as a reference for establishing varying elevations within the floodplain. (Generally used as the vertical datum on the older FIRM's. Refer to FIRM legend panel for correct datum.)

New Construction - Structures for which the start of construction commenced on or after the effective date of City of Vanceburg's floodplain management regulations and includes any subsequent improvements to such structures.

New manufactured home park or subdivision - A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of City of Vanceburg's adopted floodplain management ordinances.

Non-Residential - Structures that are not designed for human habitation, including but is not limited to: small business concerns, churches, schools, farm structures (including grain bins and silos), pool houses, clubhouses, recreational structures, mercantile structures, agricultural and industrial structures, warehouses, and hotels or motels with normal room rentals for less than 6 months duration.

North American Vertical Datum (NAVD) - As corrected in 1988, a vertical control used as a reference for establishing varying elevations within the floodplain. (Generally used on the newer FIRM's and Digitally Referenced FIRM's (DFIRM's). (Refer to FIRM or DFIRM legend panel for correct datum.)

Obstruction - Includes but is not limited to any dam, wall, embankment, levee, dike, pile, abutment, protection, excavation, channelization, bridge, conduit, culvert, structure, wire, fence, rock, gravel, refuse, fill, structure, vegetation or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water, due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

One-Hundred Year Flood (100-Year Flood) (see Base Flood) - The flood that has a 1-percent or greater chance of being equaled or exceeded in any given year. Any flood zone that begins with the letter A is subject to the 100-year flood. Over the life of a 30-year loan, there is a 26-percent chance of experiencing such a flood with the SFHA.

Participating Community - A community that voluntarily elects to participate in the NFIP by adopting and enforcing floodplain management regulations that are consistent with the standards of the NFIP.

Pre-FIRM Construction - Construction or substantial improvement, which started on or before December 31, 1974, or before the effective date of the initial FIRM of the community, whichever is later.

Post-FIRM Construction - Construction or substantial improvement that started on or after the effective date of the initial FIRM of the community or after December 31, 1974, whichever is later.

Probation - A means of formally notifying participating NFIP communities of violations and deficiencies in the administration and enforcement of the local floodplain management regulations. During periods of probation, each insurance policy is subject to a \$50 surcharge.

Program Deficiency - A defect in a community's floodplain management regulations or administrative procedures that impairs effective implementation of those floodplain management standards or of the standards of 44 CFR 60.3, 60.4, 60.5, and/or 60.6.

Public Safety and Nuisance - Anything which is injurious to safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

Recreational Vehicle - A vehicle that is:

- 1) Built on a single chassis;
- 2) 400 square feet or less when measured at the largest horizontal projection;
- 3) Designed to be self-propelled or permanently towable to a light duty truck; and
- 4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Regular Program - The phase of a community's participation in the NFIP where more comprehensive floodplain management requirements are imposed and higher amounts of insurance are available based upon risk zones and elevations determined in a FIS.

Regulatory floodway - The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. See Base Flood.

Remedy a violation - The process by which a community brings a structure or other development into compliance with State or local floodplain management regulations, or, if this is not possible, to reduce the impact of non-compliance. Reduced impact may include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing state or federal financing exposure with regard to the structure or other development.

Repair - The reconstruction or renewal of any part of an existing structure.

Repetitive Loss - Flood-related damages sustained by a structure on two or more separate occasions during a 10-year period where the value of damages equals or exceeds an average of 50% of the current value of the structure, beginning on the date when the damage first occurred, or, four or more flood losses of \$1000.00 or more over the life of the structure, or, three or more flood losses over the life of the structure that are equal to or greater than the current value of the structure.

Riverine - Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Section 1316 - That section of the National Flood Insurance Act of 1968, as amended, which states that no new or renewal flood insurance coverage shall be provided for any property that the Administrator finds has been declared by a duly constituted state or local zoning authority or other authorized public body to be in violation of state or local laws, regulations, or ordinances that are intended to discourage or otherwise restrict land development or occupancy in flood-prone areas.

Sheet flow area - see "Area of shallow flooding".

Special flood hazard area (SFHA) - That portion of the floodplain subject to inundation by the base flood and/or flood-related erosion hazards as shown on a FHBM or FIRM as Zone A, AE, A1 – A30, AH, AO, or AR.

Start of Construction (includes substantial improvement and other proposed new development) - The date a building permit is issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement or other improvement is within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure (including manufactured home) on a site, such as the pouring of slabs or footings, the installation of piles, construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; the installation on the property of accessory structures, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the structure.

Structure - A walled and roofed building that is principally above ground; including manufactured homes, gas or liquid storage tanks, or other man-made facilities or infrastructures. See Building.

Subdivision - Any division, for the purposes of sale, lease, or development, either on the installment plan or upon any and all other plans, terms and conditions, of any tract or parcel of land into two (2) or more lots or parcels.

Subrogation - An action brought by FEMA to recover insurance money paid out where all or part of the damage can be attributed to acts or omissions by a community or other third party.

Substantial Damage - Means any damage to a building for which the cost of repairs equals or exceeds fifty percent of the market value of the building prior to the damage occurring. This term includes structures that are categorized as repetitive loss.

For the purposes of this definition, “repair” is considered to occur when the first repair or reconstruction of any wall, ceiling, floor, or other structural part of the building commences.

The term does not apply to:

- a.) Any project for improvement of a building required to comply with existing health, sanitary, or safety code specifications which have been identified by the Code Enforcement Official and which are solely necessary to assure safe living conditions, or
- b.) Any alteration of a “historic structure” provided that the alteration will not preclude the structure’s continued designation as a “historic structure”

Substantial Improvement - Means any combination of reconstruction, alteration, or improvement to a building, taking place during a five (5) year period, in which the cumulative percentage of improvement equals or exceeds fifty percent of the current market value of the building. For the purposes of this definition, an improvement occurs when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building.

The term does not apply to:

- a.) Any project for improvement of a building required to comply with existing health, sanitary, or safety code specifications which have been identified by the Code Enforcement Official and which are solely necessary to assure safe living conditions, or

- b.) Any alteration of a “historic structure” provided that the alteration will not preclude the structure’s continued designation as a “historic structure.” Or
- c.) Any building that has been damaged from any source or is categorized as repetitive loss.

Substantially improved existing manufactured home parks or subdivisions - Repair, reconstruction, rehabilitation, or improvement of the streets, utilities, and pads equaling or exceeding 50 percent of the value of the streets, utilities, and pads before the repair, reconstruction, or improvement commenced.

Suspension - Removal of a participating community from the NFIP for failure to enact and/or enforce floodplain management regulations required for participation in the NFIP. New or renewal flood insurance policies are no longer available in suspended communities.

Utilities - Includes electrical, heating, ventilation, plumbing, and air conditioning equipment.

Variance - Relief from some or all of the requirements of this ordinance.

Violation - Failure of a structure or other development to fully comply with this ordinance. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

Watercourse - A lake, river, creek, stream, wash, channel or other topographic feature on or over which water flows at least periodically.

Water surface elevation - The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

Watershed - All the area within a geographic boundary from which water, sediments, dissolved materials, and other transportable materials drain or are carried by water to a common outlet, such as a point on a larger stream, lake, or underlying aquifer.

X zone - The area where the flood hazard is less than that in the SFHA. Shaded X zones shown on recent FIRMs (B zones on older FIRMs) designate areas subject to inundation by the flood with a 0.2-percent probability of being equaled or exceeded (the 500-year flood) in any year. Unshaded X zones (C zones on older FIRMs) designate areas where the annual exceedance probability of flooding is less than 0.2 percent.

Zone - A geographical area shown on a Flood Hazard Boundary Map or a Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

ARTICLE 3. GENERAL PROVISIONS

SECTION A. LANDS TO WHICH THIS ORDINANCE APPLIES

This ordinance shall apply to all Special Flood Hazard Areas (SFHA) and, as determined by the Floodplain Administrator or other delegated, designated, or qualified community official as determined by the City Council of the City of Vanceburg from available technical studies, historical information, and other available and reliable sources, areas within the jurisdiction of the City Council of the City of Vanceburg

which may be subject to periodic inundation by floodwaters that can adversely affect the public health, safety, and general welfare of the citizens of the City of Vanceburg..

SECTION B. BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS

The Flood Insurance Study (FIS), and/or accompanying Flood Insurance Rate Maps (FIRMs) and/or Flood Hazard Boundary Maps (FHBMs) prepared by the Federal Emergency Management Agency and the Federal Insurance Administration (FIA) for the City of Vanceburg September 16, 2004, wherein **Special Flood Hazard Areas (SFHA)** are identified, are adopted by reference and declared to be a part of this ordinance. This FIS and attendant mapping is the minimum area of applicability of this ordinance and may be supplemented by studies for other areas which allow implementation of this ordinance and which are recommended to the City of Vanceburg by the Floodplain Administrator and are enacted by the City Council pursuant to statutes governing land use management regulations. The Flood Insurance Study (FIS) and/or Flood Insurance Rate Map (FIRM), and/or Flood Hazard Boundary Maps (FHBMs) are permanent records of the City of Vanceburg and are on file and available for review by the public during regular business hours at the City Building, 615 Second Street, Vanceburg, Kentucky.

SECTION C. ESTABLISHMENT OF DEVELOPMENT PERMIT

A Development Permit shall be required in conformance with the provision of this ordinance prior to the commencement of any development activities in the special flood hazard areas (SFHA). See Article 4, Section B for instructions and explanation.

Application for a development permit shall be made on forms furnished by the Floodplain Administrator.

SECTION D. COMPLIANCE

No structure or land shall hereafter be constructed, located, extended, converted or structurally altered without full compliance with the terms of this ordinance and other applicable state regulations. Violation of the requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Nothing herein shall prevent the City Council from taking such lawful action as is necessary to prevent or remedy any violation.

SECTION E. ABROGATION AND GREATER RESTRICTIONS

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

SECTION F. INTERPRETATION

In the interpretation and application of this ordinance, all provisions shall be:

- 1) Considered minimum requirements;
- 2) Liberally construed in favor of the governing body; and,
- 3) Deemed neither to limit nor repeal any other powers granted under state statutes.

SECTION G. WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damage. This ordinance shall not create liability on the part of the City Council of the

City of Vanceburg, any officer or employee, the Commonwealth of Kentucky, the Federal Insurance Administration, or the Federal Emergency Management Agency, thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

SECTION H. ENFORCEMENT, VIOLATION NOTICE AND PENALTIES

- 1) Civil Offense: If, at any time, development occurs which is not in accordance with the provisions of this ordinance including obtaining or complying with the terms and conditions of a floodplain construction permit and any approved modifications, such development shall constitute a civil offense.
- 2) Notice of Violation: If, at any time, a duly authorized employee or agent of the Floodplain Administrator has reasonable cause to believe that a person has caused development to occur which is not in accordance with the provisions of this ordinance including obtaining or complying with the terms and conditions of a floodplain construction permit and any approved modifications thereof, a duly authorized employee of the Floodplain Administrator shall issue a notice to the person responsible for the violation and/or the property owner, stating the facts of the offense or violation, the section of this ordinance and/or of the permit violated, when it occurred, how the violation is to be remedied to bring the development into conformity with this ordinance or with the approved permit, and within what period of time the remedy is to occur, which period of time shall be reasonable and shall be determined by the nature of the violation and whether or not it creates a nuisance or hazard. The remedy may include an order to stop work on the development. The notice shall also state that a citation may be forthcoming in the event that the requested remedies and corrective actions are not taken, which citation will request a civil monetary fine and shall state the maximum fine which could be imposed. See below.
- 3) Notice of Citation: Notice of Violation: If, at any time, a duly authorized employee or agent of the Floodplain Administrator has reasonable cause to believe that a person has caused development to occur which is not in accordance with the provisions of this ordinance including obtaining or complying with the terms and conditions of a floodplain construction permit and any approved modifications thereof, a duly authorized employee of the Floodplain Administrator may issue a citation to the offender stating the violation, prior notices of violation issued, how the violation is to be remedied to bring the development into conformity with this ordinance or with the approved permit, and within what period of time the remedy is to occur, and what penalty or penalties are recommended. When a citation is issued, the person to whom the citation is issued shall respond to the citation within seven (7) days of the date the citation is issued by either carrying out the remedies and corrections set forth in the citation, paying the civil fine set forth in the citation or requesting a hearing before the governing body. If the person to whom the citation is issued does not respond to the citation within seven (7) days, that person shall be deemed to have waived the right to a hearing and the determination that a violation occurred shall be considered final.
- 4) Penalties: Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with granting of a variance or special exceptions, shall constitute a misdemeanor civil offense. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$500.00 or imprisoned for not more than thirty (30) days, or both, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Floodplain Administrator from taking such other lawful action as is necessary to prevent or remedy any violation.

ARTICLE 4. ADMINISTRATION

SECTION A. DESIGNATION OF LOCAL ADMINISTRATOR

The City Council of the City of Vanceburg hereby appoints the Mayor or his appointee to administer, implement, and enforce the provisions of this ordinance by granting or denying development permits in accordance with its provisions, and is herein referred to as the Floodplain Administrator.

SECTION B. ESTABLISHMENT OF DEVELOPMENT PERMIT

A development permit shall be obtained before any construction or other development begins within any special flood hazard area established in Article 3, Section B. Application for a Development Permit shall be made on forms furnished by Floodplain Administrator prior to any development activities, and may include, but not be limited to, the following: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Endorsement of local administrator is required before a state floodplain construction permit can be processed. Specifically, the following information is required.

1) Application Stage

- a) Proposed elevation in relation to Mean Sea Level (MSL) of the proposed lowest floor (including basement) of all structures in Zone A and elevation of highest adjacent grade; or
- b) Proposed elevation in relation to Mean Sea Level to which any non-residential structure will be flood-proofed;
- c) All appropriate certifications from a registered professional engineer or architect that the non-residential flood-proofed structure will meet the flood-proofing criteria in Article 5, Section B (2) and Section D (2);
- d) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

2) Construction Stage

Upon placement of the lowest floor, **and before construction continues**, or flood proofing by whatever construction means, it shall be the duty of the permit holder to submit to the Floodplain Administrator and to the State a certification of the elevation of the lowest floor or flood-proofed elevation, as built, in relation to Mean Sea Level. In AE, A1-30, AH, and A zones where the Community has adopted a regulatory Base Flood Elevation, said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same.

When flood proofing is utilized for a particular structure, said certification shall be prepared by or under the direct supervision of a certified professional engineer or architect. Any continued work undertaken prior to the submission of the certification shall be at the permit holder's risk. The Floodplain Administrator shall review the lowest floor and flood proofing elevation survey data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the survey or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

SECTION C. DUTIES AND RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR

The Floodplain Administrator and/or staff is hereby appointed, authorized and directed to administer, implement and enforce the provisions of this ordinance. The Floodplain Administrator is further authorized to render interpretations of this ordinance, which are consistent with its spirit and purpose by granting or denying development permits in accordance with its provisions.

The duties and responsibilities of the Floodplain Administrator shall include, but not be limited to the following:

- 1) **Permit Review**: Review all development permits to ensure that:
 - a) Permit requirements of this ordinance have been satisfied;
 - b) All other required state and federal permits have been obtained: Advise permittee that additional federal or state permits may be required, and if specific federal or state permit requirements are known, require that copies of such permits be provided and maintained on file with the development permit;
 - c) Flood damages will be reduced in the best possible manner;
 - d) The proposed development does not adversely affect the carrying capacity of affected watercourses. For purposes of this ordinance, "adversely affects" means that the cumulative effect of the proposed development when combined with all other existing and anticipated development will increase the water surface elevation of the base flood more than one foot at any point.

- 2) **Review and Use of Any Other Base Flood Data**. When base flood elevation data has not been provided in accordance with Article 3, Section B, the Floodplain Administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal or state agency, or other source, in order to administer Article 5. Any such information shall be submitted to the City Council of the City of Vanceburg for adoption.
 - a) **Notification of Other Agencies**:
 - (i) Notify adjacent communities, the Kentucky Division of Water, and any other federal and/or state agencies with statutory or regulatory authority prior to any alteration or relocation of the watercourse, and
 - (ii) Submit evidence of such notification to the Federal Insurance Administration, Federal Emergency Management Agency (FEMA); and
 - (iii) Assure that the flood carrying capacity within the altered or relocated portion of said watercourse is maintained.

- 4) **Documentation of Floodplain Development**. Obtain and maintain for public inspection and make available as needed the following:
 - a) Certification required by Article 5, Section B (1) (lowest floor elevations) as shown on a completed and certified **Elevation Certificate**. Verify and record the actual elevation (in relation to Mean Sea Level) of the lowest floor (including basement) of all new or substantially improved structures, in accordance with Article 4, Section B (2);
 - b) Certification required by Article 5, Section B (2) (elevation or floodproofing of nonresidential structures) as shown on a completed and certified floodproofing certificate. Verify and record the actual elevation (in relation to Mean Sea Level) to which the new or substantially improved structures have been flood-proofed, in accordance with Article 4, Section B (2);
 - c) Certification required by Article 5, Section B (3) (elevated structures),
 - d) Certification of elevation required by Article 5, Section E (1) (subdivision standards),
 - e) Certification required by Article 5, Section B (5) (floodway encroachments),

- f) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished;
 - g) Review certified plans and specifications for compliance;
 - h) Remedial Action. Take action to remedy violations of this ordinance as specified in Article 3, Section H.
- 5) **Map Determinations.** Make interpretations where needed, as to the exact location of the boundaries of the special flood hazard areas, for example, where there appears to be a conflict between a mapped boundary and actual field conditions.
- a) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Article 6, Section (3) b;
 - b) When base flood elevation data or floodway data have not been provided in accordance with Article 3, Section B, then the Floodplain Administrator shall obtain, review, and reasonable utilize any base flood elevation and floodway data available from a federal, state, or other source, in order to administer the provisions of Article 5;
 - c) When flood-proofing is utilized for a particular structure, the Floodplain Administrator shall obtain certification from a registered professional engineer or architect, in accordance with Article 5, Section B (2) a floodproofing certificate;
 - d) All records pertaining to the provisions of this ordinance shall be maintained in the office of the Floodplain Administrator and shall be open for public inspection.
- 6) **Right of Entry.**
- a) Whenever necessary to make an inspection to enforce any of the provisions of this ordinance, or whenever the administrator has reasonable cause to believe that there exists in any structure or upon any premises any condition or ordinance violation which makes such building, structure or premises unsafe, dangerous or hazardous, the administrator may enter such building, structure or premises at all reasonable times to inspect the same or perform any duty imposed upon the administrator by this ordinance.
 - b) If such structure or premises are occupied, he/she shall first present proper credentials and request entry. If such building, structure, or premises are unoccupied, he shall first make a reasonable effort to locate the owner or other persons having charge or control of such request entry.
 - c) If entry is refused, the administrator shall have recourse to every remedy provided by law to secure entry.
 - d) When the administrator shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner or occupant or any other persons having charge, care or control of any building, structure, or premises shall fail or neglect, after proper request is made as herein provided, to promptly permit entry therein by the administrator for the purpose of inspection and examination pursuant to this ordinance.

7) **Stop Work Orders**

- a) Upon notice from the administrator, work on any building, structure or premises that is being done contrary to the provisions of this ordinance shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to his agent, or to the person doing the work, and shall state the conditions under which work may be resumed.

8) **Revocation of Permits**

- a) The administrator may revoke a permit or approval, issued under the provisions of this ordinance, in case there has been any false statement or misrepresentation as to the material fact in the application or plans on which the permit or approval was based.
- b) The administrator may revoke a permit upon determination by the administrator that the construction, erection, alteration, repair, moving, demolition, installation, or replacement of the structure for which the permit was issued is in violation of, or not in conformity with, the provisions of this ordinance.

9) **Liability**

- a) Any officer, employee, or member of the floodplain administrator's staff, charged with the enforcement of this ordinance, acting for the applicable governing authority in the discharge of his duties, shall not thereby render himself personally liable, and is hereby relieved from all personal liability, for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties. Any suit brought against any officer, employee, or member because of such act performed by him or her in the enforcement of any provision of this ordinance shall be defended by the department of law until the final termination of the proceedings.

10) **Expiration of Floodplain Construction Permit**

- a) A floodplain construction permit, and all provisions contained therein, shall expire if the holder of a floodplain construction permit has not commenced construction within one hundred and eighty (180) calendar days from the date of its issuance by the Floodplain Administrator.

ARTICLE 5. PROVISIONS FOR FLOOD HAZARD REDUCTION

SECTION A. GENERAL CONSTRUCTION STANDARDS

In all **Special Flood Hazard Areas** the following provisions are required:

- 1) All new construction and substantial improvements shall be adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- 2) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces.
- 3) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;

- 4) New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage;
- 5) Electrical, heating, ventilation, plumbing, air condition equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding; and if
- 6) Within Zones AH or AO, so that there are adequate drainage paths around structures on slopes to guide flood waters around and away from proposed structures.
- 7) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- 8) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;
- 9) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding; and,
- 10) Any alteration, repair, reconstruction, or improvements to a structure, which is not in compliance with the provisions of this ordinance shall meet the requirements of "new construction" as contained in this ordinance;
- 11) Any alteration, repair, reconstruction, or improvements to a structure, which is not in compliance with the provisions of this ordinance, shall be undertaken only if said non-conformity is not furthered, extended, or replaced.

SECTION B. SPECIFIC STANDARDS

In all special flood hazard areas where base flood elevation data have been provided, as set forth in Article 3, Section B, the following provisions are required:

- 1) **Residential Construction.** New construction or substantial improvement of any residential structure (or manufactured home) shall have the lowest floor, including basement, mechanical and utility equipment, and ductwork elevated no lower than one (1) foot above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with standards of Article 5, Section B (3).
 - a) In an AO zone, elevated above the highest adjacent grade to a height equal to or exceeding the depth number specified in feet on the FIRM, or elevated at least two feet above the highest adjacent grade if no depth number is specified. **(The Commonwealth of Kentucky recommends that the lowest floor be elevated above the highest adjacent grade to a height exceeding the depth number specified in feet on the FIRM by at least one foot, or elevated at least three feet above the highest adjacent grade if no depth number is specified.)**
 - b) In an A zone, where no technical data has been produced by the Federal Emergency Management Agency, elevated one (1) foot above the base flood elevation, as determined by this community. The Floodplain Administrator will determine the method by which base flood elevations are determined. Methods include but are not limited to detailed hydrologic and hydraulic analyses, use of existing data available from other sources, use of historical data, best supportable and reasonable judgment in the event no data can be produced. Title 401 KAR (Kentucky Administrative Regulations) Chapter 4, Regulation 060, Section 5(5)a, states as a part of the technical requirements for a State Floodplain Permit: The applicant shall provide cross sections for determining floodway

boundaries (and thereby Base Flood Elevations) at any proposed construction site where FEMA maps are not available. All cross sections shall be referenced to mean sea level and shall have vertical error tolerances of no more than + five-tenths (0.5) foot. Cross

sections elevations shall be taken at those points which represent significant breaks in slope and at points where hydraulic characteristics of the base floodplain change. Each cross section shall extend across the entire base floodplain and shall be in the number and at the locations specified by the cabinet. If necessary to ensure that significant flood damage will not occur, the cabinet may require additional cross sections or specific site elevations which extend beyond those needed for making routine regulatory floodway boundary calculations.

- c) In all other Zones, elevated one (1) foot above the base flood elevation.

Upon the completion of the structure, the elevation of the lowest floor including basement shall be certified by a registered professional engineer or surveyor, and verified by the community building inspection department to be properly elevated. Such certification and verification shall be provided to the Floodplain Administrator.

- 2) **Non-residential Construction.** New construction or substantial improvement of any commercial, industrial, or non-residential structure (including manufactured homes used for non-residential purposes) shall be elevated to conform with Article 5, Section B (1) or together with attendant utility and sanitary facilities:

- a) Be floodproofed below an elevation one (1) foot above the level of the base flood elevation so that the structure is watertight with walls substantially impermeable to the passage of water;
- b) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
- c) Have the lowest floor, including basement, mechanical and utility equipment, and ductwork, elevated no lower than one (1) foot above the level of the base flood elevation, or;
- d) A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the official as set forth in Article 4, Section B (1) c.
- e) Manufactured homes shall meet the standards in Article 5, Section B (4).
 - f) All new construction and substantial improvement with fully enclosed areas below the lowest floor (excluding basements) that are usable solely for parking of vehicles, building access or storage, and which are subject to flooding, shall be constructed of flood resistant materials below an elevation one (1) foot above the base flood elevation, and, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Opening sizes (FEMA Technical Bulletin 1-93) for meeting this requirement must meet or exceed the following minimum criteria:
 - (i) Be certified by a registered professional engineer or architect; or
 - (ii) Have a minimum of two openings with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding. **The**

bottom of all openings shall be no higher than one foot above grade.

Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwater.

- 3) **Elevated Structures.** New construction or substantial improvements of elevated structures on columns, posts, or pilings (e.g.) that include fully enclosed areas formed by foundation and other exterior walls below the base flood elevation shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls.
- a) Opening sizes for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:
- (i) Provide a minimum of two (2) openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
 - (ii) The bottom of all openings shall be no higher than one foot above foundation interior grade (which must be equal to in elevation or higher than the exterior foundation grade); and,
 - (iii) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
- b) Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator); and,
- c) The interior portion of such enclosed areas shall not be partitioned or finished into separate rooms.
- d) The total floor area of all such enclosed areas shall not exceed 300 square feet. *
- e) For enclosures greater than seven (7) feet in interior height, where elevation requirements exceed six (6) feet above the highest adjacent grade, a copy of the legally recorded deed restriction prohibiting the conversion of the area below the lowest floor to a use or dimension contrary to the structures' originally approved design, shall be presented as a condition of issue of the final Certificate of Occupancy. *
- 4) **Standards for Manufactured Homes and Recreational Vehicles.**
- a) All new or substantially improved manufactured homes placed on sites located within A, A1-30, AO, AH, and AE on the community's Flood Insurance Rate Map (FIRM) must meet all the requirements for new construction, including elevation and anchoring. Locations include:
- On individual lots or parcels,
 - In expansions to existing manufactured home parks or subdivisions,
 - In new manufactured home parks or subdivisions or
 - In substantially improved manufactured home parks or subdivisions, or
 - Outside of a manufactured home park or subdivision,

- In an existing manufactured home park or subdivision on a site upon which a manufactured home has incurred "substantial damage" as the result of a flood,

All Manufactured homes must be:

- (i) Elevated on a permanent foundation, and
 - (ii) Have its lowest floor elevated no lower than one (1) foot above the level of the base flood elevation, and
 - (iii) Be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
- b) Excepting manufactured homes that have incurred substantial damage as a result of a flood, all manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that:
- (i) The manufactured home is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement, so that either the:
 - The lowest floor of the manufactured home is elevated no lower than one (1) foot above the level of the base flood elevation, or
 - The manufactured home chassis is supported by reinforced piers or other foundation elements of at least an equivalent strength, of no less than 36 inches in height above the highest adjacent grade.
- c) All recreational vehicles placed on sites located within A, A1-30, AO, AH, and AE on the community's Flood Insurance Rate Map (FIRM) must either:
- (i) Be on the site for fewer than 180 consecutive days,
 - (ii) Be fully licensed and ready for highway use, or
 - (iii) Meet the permit requirements for new construction of this ordinance, including anchoring and elevation requirements for "manufactured homes".

A recreational vehicle is ready for highway use if it is licensed and insured in accordance with the State of Kentucky motor vehicle regulations, is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

- 5) **Floodways.** Located within areas of special flood hazard established in Article 3, Section B, are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and has erosion potential, the following provisions shall apply:

Prohibit encroachments, including fill, new construction, substantial improvements, and other developments unless certification (with supporting technical data) by a registered professional engineer is provided demonstrating that encroachments shall not result in any increase in the base flood elevation levels during occurrence of base flood discharge;

- If Article 5, Section B (5) is satisfied, all new construction and substantial improvements and other proposed new development shall comply with all applicable flood hazard reduction provisions of Article 5.

6) **Standards for Utilities.**

- a) All new and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate:
 - (i) Infiltration of flood waters into the systems, and
 - (ii) Discharge from the systems into flood waters.
- b) On-site waste disposal systems shall be located to avoid impairment to them, or contamination from them during flooding.

7) **Structures Elevated on Fill.** A residential or non-residential structure may be constructed on permanent fill in accordance with the following:

- a) The lowest floor (including basement) of the structure or addition shall be no lower than one (1) foot above the base flood elevation;
- b) The fill shall be placed in layers no greater than one foot deep before compacting and should extend at least ten feet beyond the foundation of the structure before sloping below the base flood elevation, said slope being no greater than a 2:1 ratio unless a stability analysis is provided by a registered professional engineer;
- c) The top of the fill shall be no lower than one (1) foot above the base flood elevation. However, the ten-foot minimum may be waived if a structural engineer certifies an alternative method to protect the structure from damage due to erosion, scour, and other hydrodynamic forces;
- d) The fill shall not adversely affect the flow or surface drainage from or onto neighboring properties;
- e) All new structures built on fill must be constructed on properly designed and compacted fill (ASTM D-698 or equivalent) that extends beyond the building walls before dropping below the base flood elevation and has appropriate protection from erosion and scour. The design of the fill or the fill standard must be approved by a licensed professional engineer; or
- f) *If the community adopts and enforces the soil testing and compaction requirements set forth by the Standard, Uniform, or National Building Codes or the International Residential and Building Codes, it may qualify for additional CRS credit.*

8) **Vegetative Buffer Strips (Riparian Zones).** For all activities involving construction within 25 feet of the channel, the following criteria shall be met:

- a) *A natural vegetative buffer strip shall be preserved within at least 25 feet of the mean high water level of the channel.*
- b) *Where it is impossible to protect this buffer strip during the construction of an appropriate use, a vegetated buffer strip shall be established upon completion of construction.*

- c) *The use of native riparian vegetation is preferred in the buffer strip. Access through this buffer strip shall be provided for stream maintenance purposes.*

SECTION C. STANDARDS FOR STREAMS WITHOUT ESTABLISHED BASE FLOOD ELEVATION (UNNUMBERED A ZONES) AND/OR FLOODWAYS

Located within the special flood hazard areas established in Article 3, Section B, where streams exist but where no base flood data has been provided or where base flood data has been provided without floodways, the following provisions apply:

- 1) No encroachments, including fill material or structures shall be located within special flood hazard areas, unless certification by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.
- 2) New construction or substantial improvements of structures shall be elevated or flood proofed to elevations established in accordance with Article 3, Section B.

SECTION D. STANDARDS FOR SHALLOW FLOODING ZONES

Located within the special flood hazard areas established in Article 3, Section B, are areas designated as shallow flooding areas. These areas have flood hazards associated with base flood depths of one to three feet (1 – 3'), where a clearly defined channel does not exist and the water path of flooding is unpredictable and indeterminate; therefore, the following provisions apply:

- 1) All new construction and substantial improvements of residential structures shall:
 - a) Have the lowest floor, including basement, elevated to or above either the base flood elevation or in Zone AO the flood depth specified on the Flood Insurance Rate Map above the highest adjacent grade. In Zone AO, if no flood depth is specified, the lowest floor, including basement, shall be elevated no less than two (2) feet above the highest adjacent grade.
- 2) All new construction and substantial improvements of non-residential structures shall:
 - a) Have the lowest floor, including basement, elevated to or above either the base flood elevation or in Zone AO the flood depth specified on the Flood Insurance Rate Map, above the highest adjacent grade. In Zone AO, if no flood depth is specified, the lowest floor, including basement, shall be elevated no less than two (2) feet above the highest adjacent grade.
 - b) Together with attendant utility and sanitary facilities be completely floodproofed either to the base flood elevation or above or, in Zone AO, to or above the specified flood depth plus a minimum of one foot so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required as stated in Article 5, Section B (2).

SECTION E. STANDARDS FOR SUBDIVISION PROPOSALS

- 1) All preliminary subdivision proposals shall identify the flood hazard area and the elevation of the base flood and be consistent with the need to minimize flood damage;

- 2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;
- 3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards; and,
- 4) In areas where base flood elevation and floodway data is not available (Zone A or unmapped streams), base flood elevation and floodway data for subdivision proposals and other proposed development (including manufactured home parks and subdivisions) greater than 50 lots or 5 acres, whichever is the lesser, shall be provided.
- 5) All subdivision plans will include the elevation of proposed structure(s) and lowest adjacent grade. If the site is filled above the base flood elevation, the lowest floor and lowest adjacent grade elevations shall be certified by a registered professional engineer or surveyor and provided to the Floodplain Administrator.
- 6) All new subdivision proposals shall include streets for emergency access that will be subject to no more than six inches of flood waters during the 1% annual chance flood (100-year flood).

SECTION F. STANDARDS FOR ACCESSORY STRUCTURES IN ALL ZONES BEGINNING WITH THE LETTER 'A'

For all accessory structures in special flood hazard areas designated 'A' the following provisions shall apply:

- 1) Structure must be non-habitable;
- 2) Must be anchored to resist floatation forces;
- 3) Will require flood openings/vents no more than one foot above grade, total openings are to be one square inch per one square foot of floor area, at least two openings required on opposite walls;
- 4) Built of flood resistant materials below a level one (1) foot above the base flood elevation;
- 5) Must elevate utilities above the base flood elevation;
- 6) Can only be used for storage or parking;
- 7) Cannot be modified for a different use after permitting.

SECTION G. CRITICAL FACILITIES

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the SFHA (100-year floodplain). Construction of new critical facilities shall not be permissible within the floodway; however, they may be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated one foot or more above the level of the base flood elevation at the site. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible.

Critical facilities shall be constructed on properly compacted fill and have the lowest floor (including basement) elevated at least one foot above the elevation of the 500-year flood. A critical facility shall have at least one access road connected to land outside the 500-year floodplain that is capable of supporting a

12,500 pound vehicle The top of the road must be no lower than six inches (6") below the elevation of the 500-year floodplain.

ARTICLE 6. APPEALS AND VARIANCE PROCEDURES

1) Nature Of Variances

The variance criteria set forth in this section of the ordinance are based on the general principle of zoning law that variances pertain to a piece of property and are not personal in nature. A variance may be granted for a parcel of property with physical characteristics so unusual that complying with the requirements of this ordinance would create an exceptional hardship to the applicant or the surrounding property owners. The characteristics must be unique to the property and not be shared by adjacent parcels. The unique characteristic must pertain to the land itself, not to the structure, its inhabitants, or the property owners.

It is the duty of the City Council of the City of Vanceburg to help protect its citizens from flooding. This need is so compelling and the implications of the cost of insuring a structure built below flood level is so serious that variances from the flood elevation or from other requirements in the flood ordinance are quite rare. The long-term goal of preventing and reducing flood loss and damage can only be met if variances are strictly limited. Therefore, the variance guidelines provided in this ordinance are more detailed and contain multiple provisions that must be met before a variance can be properly granted. The criteria are designed to screen out those situations in which alternatives other than a variance are more appropriate.

2) Designation of variance and appeal board

- a) The City Council of the City of Vanceburg shall establish an Appeal Board consisting of three members to be appointed by the Mayor.

3) Duties of variance and appeals board

- a) The Appeal Board shall hear and decide requests for variances from the requirements of this ordinance and appeals of decisions or determinations made by the Floodplain Administrator in the enforcement or administration of this ordinance.
- b) Any person aggrieved by the decision of the Appeal Board or any taxpayer may appeal such decision to the Lewis District or the Lewis Circuit Court, as provided in Kentucky Revised Statutes.

4) Appeals/Variance Procedures

In passing upon such applications, the Appeal Board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and the:

- a) Danger that materials may be swept onto other lands to the injury of others;
- b) Danger to life and property due to flooding or erosion damage;
- c) Susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the existing individual owner and future owners of the property;
- d) Importance to the community of the services provided by the proposed facility;

- e) Necessity that the facility be located on a waterfront, in the case of functionally dependent facility;
- f) Availability of alternative locations which are not subject to flooding or erosion damage;
- g) Compatibility of the proposed use with existing and anticipated development;
- h) Relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- i) Safety of access to the property in times of flood for ordinary and emergency vehicles;
- j) Expected height, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,
- k) Costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water systems, streets, and bridges.

5) **Conditions for Variances**

Upon consideration of the factors listed above and the purposes of this ordinance, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

- a) Generally, variances may be issued for new construction, substantial improvement, and other proposed new development to be erected on a **lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures** constructed below the base flood level, providing that the procedures of Sections 4 and 5 of this ordinance have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.
- b) Variances shall not be issued within any mapped regulatory floodway if any increase in flood levels during the base flood discharge would result.
- c) Variances shall only be issued upon a determination that the variance is the "minimum necessary" to afford relief considering the flood hazard. "Minimum necessary" means to afford relief with a minimum of deviation from the requirements of this ordinance. For example, in the case of variances to an elevation requirement, this means the City Council of the City of Vanceburg need not grant permission for the applicant to build at grade, or even to whatever elevation the applicant proposes, but only to that elevation which the City Council of the City of Vanceburg believes will both provide relief and preserve the integrity of the local ordinance.
- d) Variances shall only be issued upon a determination that the variance is the "minimum necessary" to afford relief considering the flood hazard. In the instance of an historical structure, a determination shall be made that the variance is the minimum necessary to afford relief and not destroy the historic character and design of the structure.
- e) Variances shall only be issued upon:
 - (i) A showing of good and sufficient cause;
 - (ii) A determination that failure to grant the variance would result in exceptional hardship to the applicant (as defined in this ordinance); and

- (iii) A determination that the granting of a variance will not result in increased flood height, additional threats to public safety, cause extraordinary public expense, create nuisance (as defined in the definition section under "Public safety and nuisance"), cause fraud or victimization of the public (as defined in the definition section) or conflict with existing local laws or ordinances.
- f) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the structure is to be built and stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
- g) The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency (FEMA) and the Federal Insurance Administration (FIA) upon request.
- h) Variances may be issued for new construction, substantial improvement, and other proposed new development necessary for the conduct of a functionally dependent use provided that the provisions of Sections 6.3 A through 6.3 E are satisfied and that the structure or other development is protected by methods that minimize flood damages during the base flood and does not result in additional threats to public safety and does not create a public nuisance.

6) Variance Notification

Any applicant to whom a variance is granted shall be given written notice over the signature of a community official that:

- a) The issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage, and;
- b) Such construction below the base flood level increases risks to life and property. A copy of the notice shall be recorded by the Floodplain Administrator in the Office of the City of Vanceburg Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.
- c) The Floodplain Administrator shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in the community's biennial report submission to the Federal Emergency Management Agency.

7) Historic Structures

Variances may be issued for the repair or rehabilitation of "historic structures" (see definition) upon determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

8) No Impact Certification within the Floodway

Variances shall not be issued within any mapped or designated floodway if any increase in flood levels during the base flood discharge would result.

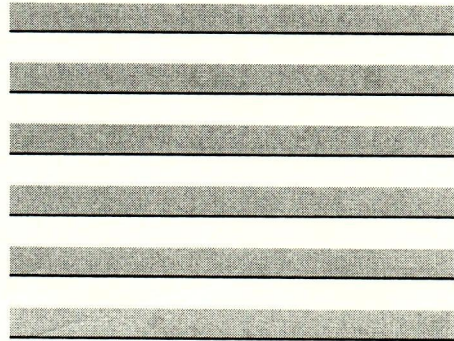
ARTICLE 7.

SEVERABILITY

This ordinance and the various parts thereof are hereby declared to be severable. Should any section of this ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any portion thereof other than the section so declared to be unconstitutional or invalid.

If any section, clause, sentence, or phrase of the Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall not affect the validity of the ordinance as a whole, or any portion thereof other than the section so declared to be unconstitutional or invalid.

This ordinance was adopted at a public meeting of the City Council of the City of Vanceburg on the 19th day of November, 2004..



CERTIFIED BY

Jeanne Billman

Jeanne Billman, City Clerk

William T. Cooper

William T. Cooper, Mayor

This 19th day of November, 2004

950.1 BUILDING PERMITS

SECTION ONE: That it shall be unlawful for any person, firm or corporation to build or construct any building of any type within the City limits of Vanceburg, Kentucky, without having first obtained a permit from the City Council, approving said building to be built or constructed.

SECTION TWO: Before receiving a permit the applicant shall file with the City Council a written application with attached plans and specifications for the proposed building and execute a bond with sufficient surety in the amount of 50% of the costs of the proposed structure, to the City of Vanceburg, Kentucky, that said buildings will be constructed as set out in the plans and specifications as filed with the City Council.

SECTION THREE: Any person, firm or corporation who violates this ordinance shall upon conviction be fined the sum of not less than \$100.00 and not more than \$500.00 for each offense.

SECTION FOUR: Any person, firm, or corporation who attempt to build without having first obtained a permit from the City Council as set out above or who having a permit but violates any of Section Two, shall be liable to the City for damages and shall upon orders of the City Council immediately tear down any or all said structures already built or constructed.

SECTION FIVE: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Adopted 6-2-47

950.4 BUILDING PERMIT FEES

SECTION ONE: The following fee schedule is hereby adopted and will apply for all permits issued for construction, remodeling or repairs within the corporate limits of the City of Vanceburg:

BUILDING PERMIT FEES

<u>Total Valuation</u>	<u>Fee</u>
Less than \$100.00	No Fee
\$101.00 - \$500.00	\$3.00
\$501.00 - \$1,000.00	\$5.00
Each additional \$1,000.00 or fraction through \$50,000.00	\$2.50
Each additional \$1,000.00 or fraction through \$100,000.00	\$2.00
Each additional \$1,000.00 or more than \$100,000.00	\$1.00

SECTION TWO: The same fee schedule set out in Section One shall apply for all remodeling or repair permits.

SECTION THREE: The fee for a permit to raze a residential building or structure shall be \$10.00; and for a commercial building or structure shall be \$50.00.

SECTION FOUR: All ordinances or parts of ordinances in conflict herewith, and specifically Section 102.8 of the National Building are hereby declared null and void to the extent of such conflict.

Adopted 11-1-66

950.5 BUILDING PERMIT FEES (AMENDS 950.4)

SECTION ONE: That Section Three of ordinance 950.4 pertaining to permits "issued for the construction, remodeling or repairs, and more particularly pertaining to permits to "RAZE" a residential building, structure, or commercial building or structure," be and the same is hereby repealed.

SECTION TWO: All other Sections of said Ordinance are ratified and retained.

~~RE~~ Adopted 2-7-67

SECTION ONE: For the purpose of Establishing Uniform Rules and regulations and making same more compact, the City Council of the City of Vanceburg, Kentucky, in regular session, re-adopted the following Codes:

(1) The Plumbing Code - Chapter 318-130 and subsequent numbers thereof 1970 Edition with all amendments thereof, if any, thereto - Adopted September 1, 1970

(2) The National Building Code being particularly the 1967 Edition thereof and the whole thereof, including the 1967 amendments and all subsequent amendments thereof, if any, Adopted December 14, 1967 and September 1, 1970

(3) The Housing and Unsafe Building Code being particularly the September 1967 Edition thereof and the whole thereof including any amendments thereof, if any, Adopted December 14, 1967

(4) The National Electrical Code being particularly the 1965 Edition thereof including the whole thereof, including all amendments thereof, if any, Adopted December 14, 1967

(5) Kentucky Standards of Safety, Fire Prevention and Protection Chapter 227 K.R.S. 227-300 and subsequent numbers thereof 1963 Edition with amendments thereto, if any, Adopted March 6, 1964

And being particularly the 1970 Edition of the Kentucky Revised Statutes (previous hereto 1962 Edition) and the whole of such Chapters thereof as set out and numbered herein, including the Codes Authorized and all amendments, if any, of which not less than Three (3) copies have been, and now are filed in the office of the City Clerk of Vanceburg, Kentucky and the same are hereby adopted and incorporated herein, as fully as if set out at length herein, and from the date on which this ordinance is effective, the provisions thereof be controlling in the construction, or alteration, or repair of all buildings and or structures therein centered within the Corporate limits of the City of Vanceburg, Kentucky.

SECTION TWO: This ordinance shall be effective on and after its approval by the Council and publication, as required by law, in the Lewis County Herald, a newspaper, and approval by the Mayor and attestation by the City Clerk.

Adopted 5-4-71

950.8 BUILDING PERMIT FEES (AMENDS 950.4)

SECTION ONE: That Section Three, fixing fee of \$10.00 for a permit to raze a residential building or structure and \$50.00 for a commercial building or structure be and the same is now stricken from the ordinance adopted November 1, 1966.

SECTION TWO: The remaining sections of said ordinance being One, Two and Four inacted November 1, 1966, are hereby re-adopted and re-affirmed.

Adopted 7-12-71

950.9

ADOPTION OF ELECTRICAL CODE - 1968

SECTION ONE: For the purpose of establishing uniform rules and regulations, the City Council hereby adopts the National Electrical Code, being particularly the 1968 Edition, including the 1969-1970 amendments, if any.

SECTION TWO: The enforcement of this ordinance shall be the responsibility of the official or agency designated by the appropriate appointive power, and as provided in Ordinance passed December 14, 1967.

Adopted 9-13-71

ORDINANCE NO. 950.10A

AN ORDINANCE REGULATING CERTAIN IMPROVEMENTS IN THE FLOOD
PLAIN OF VANCEBURG, KENTUCKY

The City of Vanceburg, by and through the City Council of the
City of Vanceburg, does hereby ordain as follows:

SECTION 1. Ordinance No. 950.10 is hereby repealed.

SECTION 2. Statutory Authorization, Findings of Fact, Purpose and Objectives

A. Statutory Authorization

The Legislature of the State of Kentucky has delegated the
responsibility to local governmental units to adopt regulations
designed to promote the public health, safety, and general
welfare of its citizenry.

B. Findings of Fact

(1) The flood hazard areas of Vanceburg are subject to
periodic inundation which results in loss of life,
property, health and safety hazards, disruption of commerce
and governmental services, extraordinary public expenditures
for flood protection and relief, and impairment of the tax
base, all of which adversely affect the public health,
safety and general welfare.

(2) These flood losses are caused by the cumulative effect of
of obstructions in flood plains causing increases in flood
heights and velocities, and by the occupancy in flood
hazard areas by uses vulnerable to floods or hazardous to
other properties which are inadequately elevated, flood-
proofed or otherwise protected from flood damages.

C. Statement of Purpose

It is the purpose of this ordinance to promote the public health,

general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion in flood heights or velocities;
- (2) require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) control the alteration of natural flood plains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;
- (4) control filling, grading, dredging and other development which may increase erosion or flood damage; and,
- (5) prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

D. Objectives

The objectives of this ordinance are:

- (1) to protect human life and health;
- (2) to minimize expenditure of public money for costly flood control projects;
- (3) to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) to minimize prolonged business interruptions;
- (5) to minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, and streets and bridges located in flood plains;
- (6) to help maintain a stable tax base by providing the sound

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of obstructions in flood plains causing increases in flood
heights and velocities, and by the occupancy in flood
hazard areas by uses vulnerable to floods or hazardous to
other properties which are inadequately elevated, flood-
proofed or otherwise protected from flood damages.

C. Statement of Purpose

It is the purpose of this ordinance to promote the public health,

use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and,

- (7) to insure that potential home buyers are notified that property is in a flood area.

SECTION 3. Definitions

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

"Area of Special Flood Hazard" is the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year.

"Base flood" means the flood having a one percent chance of being equalled or exceeded in any given year.

"Development" means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

"Flood" or Flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) the overflow of inland or tidal waters; and,
- (2) the unusual and rapid accumulation or runoff of surface waters from any source.

"Flood Hazard Boundary Map (FHBM)" means the official map issued by the Federal Insurance Administration where the Areas of Special Flood Hazard have been designated as Zone A.

"Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the

water surface elevation more than one foot.

"Habitable floor" means any floor usable for living purposes, which includes working, sleeping, eating, cooking or recreation, or a combination thereof. A floor used only for storage purposes is not a "habitable floor."

"Mobile home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. It does not include recreational vehicles or travel trailers.

"Structure" means a walled and roofed building that is principally above ground, as well as a mobile home.

"Substantial improvement" means for a structure built prior to the enactment of this ordinance, any repair, reconstruction, or improvement of a structure the cost of which equals or exceeds 50 percent of the market value of the structure either, (1) before the improvement or repair is started, or (2) if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration on any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or (2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

SECTION 4. General Provisions

A. Lands to Which this Ordinance Applies

This ordinance shall apply to all areas of special flood hazard within the jurisdiction of the City of Vanceburg.

B. Basis for Establishing the Areas of Special Hazard

The areas of special flood hazard identified by the Federal Insurance Administration in its Flood Hazard Boundary Map (FHBM) # 210142A, dated 3-5-76, and any revision thereto are adopted by reference and declared to be a part of this ordinance.

C. Compliance

No structure or land shall hereafter be located, or extended, converted, or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.

D. Abrogation and Greater Restrictions

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

E. Interpretation

In the interpretation and application of this ordinance, all provisions shall be: (1) considered as minimum requirements, (2) liberally construed in favor of the governing body, and (3) deemed neither to limit nor repeal any other powers granted under state statutes.

F. Warning and Disclaimer of Liability

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on

scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of City of Vanceburg or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

G. Penalties for Violation

Violation of the provisions of this ordinance or failure to comply with any of its requirements including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$50.00 or imprisoned for not more than 30 days, or both, and in addition shall pay all costs and expenses involved in the case. Each day such violation continued shall be considered a separate offense. Nothing herein contained shall prevent the City of Vanceburg from taking such other lawful action as is necessary to prevent or remedy any violation.

SECTION 5. Administration

A. Establishment of Development Permit

- (1) A Development Permit shall be required in conformance with the provisions of this ordinance.
- (2) Application for a Development Permit shall be made to the City Clerk on forms furnished by her and may include,

but not be limited to, the following: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials; drainage facilities; and, the location of the foregoing. Specifically, the following information is required:

- (a) elevation in relation to Mean Sea Level (MSL) of the lowest floor (including basement) of all proposed structures
- (b) elevation in relation to Mean Sea Level to which any non-residential structure will be flood-proofed
- (c) certification by a registered professional engineer or architect that the non-residential flood-proofed structure meets the flood-proofing criteria in Section 5, B(2).
- (d) description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

B. Designation of Local Administrator

The City Clerk is hereby appointed to administer and implement this ordinance by granting or denying development permit applications in accordance with its provisions. Duties of the City Clerk shall include, but not be limited to, the following:

(1) Permit Review

- (a) Review all development permits to determine that the permit requirements of this ordinance have been satisfied.
- (b) Advise permittee that additional federal or state permits may be required, and if specific federal or

state permits are known, require that copies of such permits be provided and maintained on file with the development permit.

- (c) Review all development permits to determine if proposed development adversely affects the flood-carrying capacity of the flood plain. For purpose of this ordinance, "adversely affects" means damage to adjacent properties because of rises in flood stages attributed to physical changes of the channel and the adjacent overbank areas.
 - (i) If it is determined that there is no adverse effect, and the development is not a building, then the permit shall be granted without further consideration.
 - (ii) If it is determined that there is an adverse effect, then technical justification (i.e., a registered professional engineering analysis) for the proposed development shall be required.
 - (iii) If the proposed development is a building, then the provisions of this ordinance shall apply.

C. Use of Other Base Flood Data

When base flood elevation data has not been provided in accordance with Section 3, B, Basis for Establishing the Areas of Special Hazard, then the City Clerk shall obtain, review, and reasonably utilize any base flood elevation data available from a federal, state or other source, in order to administer Section 5, B, of this ordinance.

D. Information to be Obtained and Maintained

- (1) Verify and record the actual elevation (in relation to Mean Sea Level) of the lowest floor (including basement) of all new or substantially improved structures.

- (2) Verify and record the actual elevation (in relation to Mean Sea Level) to which the new or substantially improved structures have been flood-proofed. Certification of such flood-proofing shall be obtained in accordance with Section 5, B(2).
- (3) All records pertaining to the provisions of this ordinance shall be maintained in the office of the City Clerk and shall be open for public inspection.

E. Alteration of Watercourses

- (1) Notify adjacent communities and the State Coordinating Agency prior to any alteration or relocation of a watercourse, and shall submit evidence of such notification to the Federal Insurance Administration.
- (2) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

F. Interpretation of FHBM Boundaries

Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual physical conditions), the City Clerk shall make the necessary interpretation.

SECTION 6. Provisions for Flood Hazard Reduction

A. General Standards

In all areas of special flood hazard, the following provisions are required:

- (1) Anchoring

- (a) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
- (b) All mobile homes shall be anchored to resist flotation, collapse or lateral movement by providing over-the-top ties to ground anchors.

Specific requirements shall be that:

- (i) over-the-top ties be provided at each of the four corners of the mobile home, with two additional ties per side at intermediate locations and mobile homes less than 50 feet long requiring one additional tie per side;
- (ii) Frame ties be provided at each corner of the home with five additional ties per side at intermediate points and mobile homes less than 50 feet long requiring four additional ties per side;
- (iii) All components of the anchoring system be capable of carrying a force of 4,800 pounds;
and,
- (iv) any additions to the mobile home be similarly anchored.

(2) Construction Materials and Methods

- (a) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (b) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.

(3) Utilities

- (a) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- (b) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
- (c) On site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(4) Subdivision Proposals

- (a) All subdivision proposals shall be consistent with the need to minimize flood damage.
- (b) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electric and water systems located and constructed to minimize flood damage.
- (c) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- (d) Base flood elevation data shall be provided for subdivision proposals and other proposed development which is greater than the lesser of 50 lots or 5 acres.

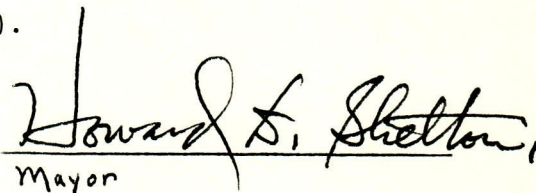
(5) Encroachments

The cumulative effect of any proposed development shall not adversely affect the area of special flood hazard. This determination is to be made in accordance with Section 5, B, (1)(c).

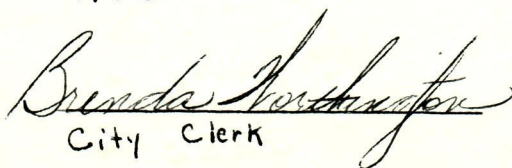
B. Specific Standards

In all areas of special flood hazard where base flood elevation data has been provided as set forth in Section 5, C, the following provisions are required:

- (1) Residential Construction - New construction or substantial improvement of any residential structure (including mobile home) shall have the lowest floor, including basement, elevated to or above base flood elevation.
- (2) Non-residential Construction - New construction or substantial improvement of any commercial, industrial or other non-residential structure (including mobile homes) shall either have the lowest floor, including basement, elevated to the level of the base flood elevation or, together with attendant utility and sanitary facilities, be flood-proofed so that below the base flood level the structure is water tight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the official as set forth in Section 5, A(2)(c).


Mayor

Attest:


City Clerk

ORDINANCE NO. 950.10B

FLOOD DAMAGE PREVENTION ORDINANCE

ARTICLE 1. STATUTORY AUTHORIZATION, FINDINGS OF FACT,
PURPOSE AND OBJECTIVES.

SECTION A. STATUTORY AUTHORIZATION.

The Legislature of the State of Kentucky has in the Kentucky Revised Statutes delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City Council of the City of Vanceburg, Kentucky, does ordain as follows:

SECTION A1. Ordinance No. 950.10A is hereby repealed.

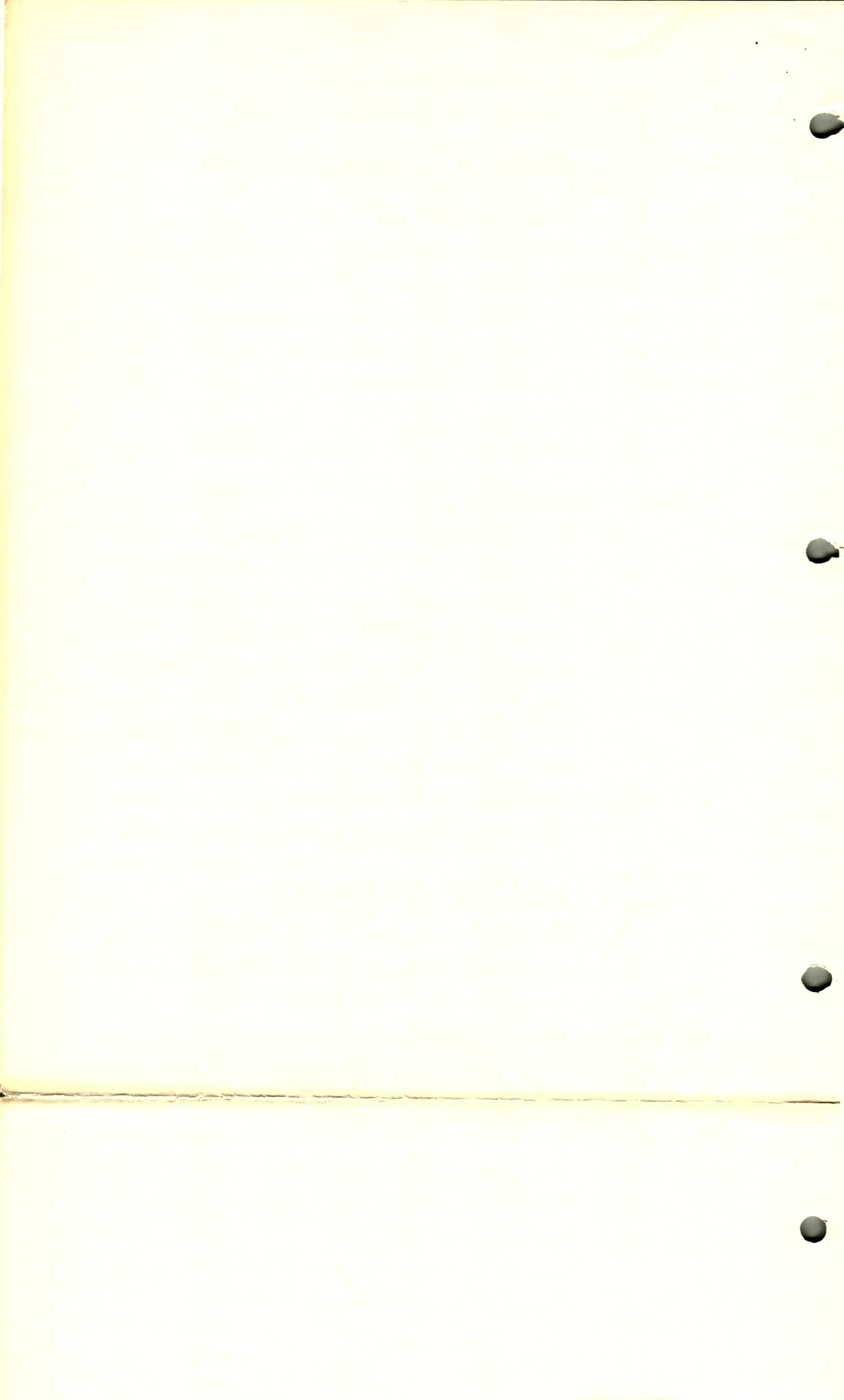
SECTION B. FINDINGS OF FACT.

- (1) The flood hazard areas of Vanceburg are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
- (2) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, floodproofed, or otherwise unprotected from flood damages.

SECTION C. STATEMENT OF PURPOSE.

It is the purpose of this ordinance to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;



- (2) require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accomodation of flood waters;
- (4) control filling, grading, dredging and other development which may increase erosion or flood damage, and;
- (5) prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

SECTION D. OBJECTIVES.

The objectives of this ordinance are:

- (1) to protect human life and health;
- (2) to minimize expenditure of public money for costly flood control projects;
- (3) to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) to minimize prolonged business interruptions;
- (5) to minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
- (6) to help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas, and;
- (7) to insure that potential home buyers are notified that property is in aflood area.

ARTICLE 2. DEFINITIONS.

Unless specifically defined below, words or phases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

"Addition (to an existing building)" means any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a fire wall. Any walled and roofed addition which is connected by a fire wall or is separated by independent perimeter load-bearing walls is new construction.

"Appeal" means a request for a review of the City Council 's
(local unit)
interpretation of any provision of this ordinance or a request for a variance.

"Area of shallow flooding" means a designated AO or VO Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

"Area of special flood hazard" is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

"Base flood" means the flood having a one percent chance of being equaled or exceeded in any given year.

"Basement" means that portion of a building having its floor subgrade (below ground level) on all sides.

"Breakaway wall" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

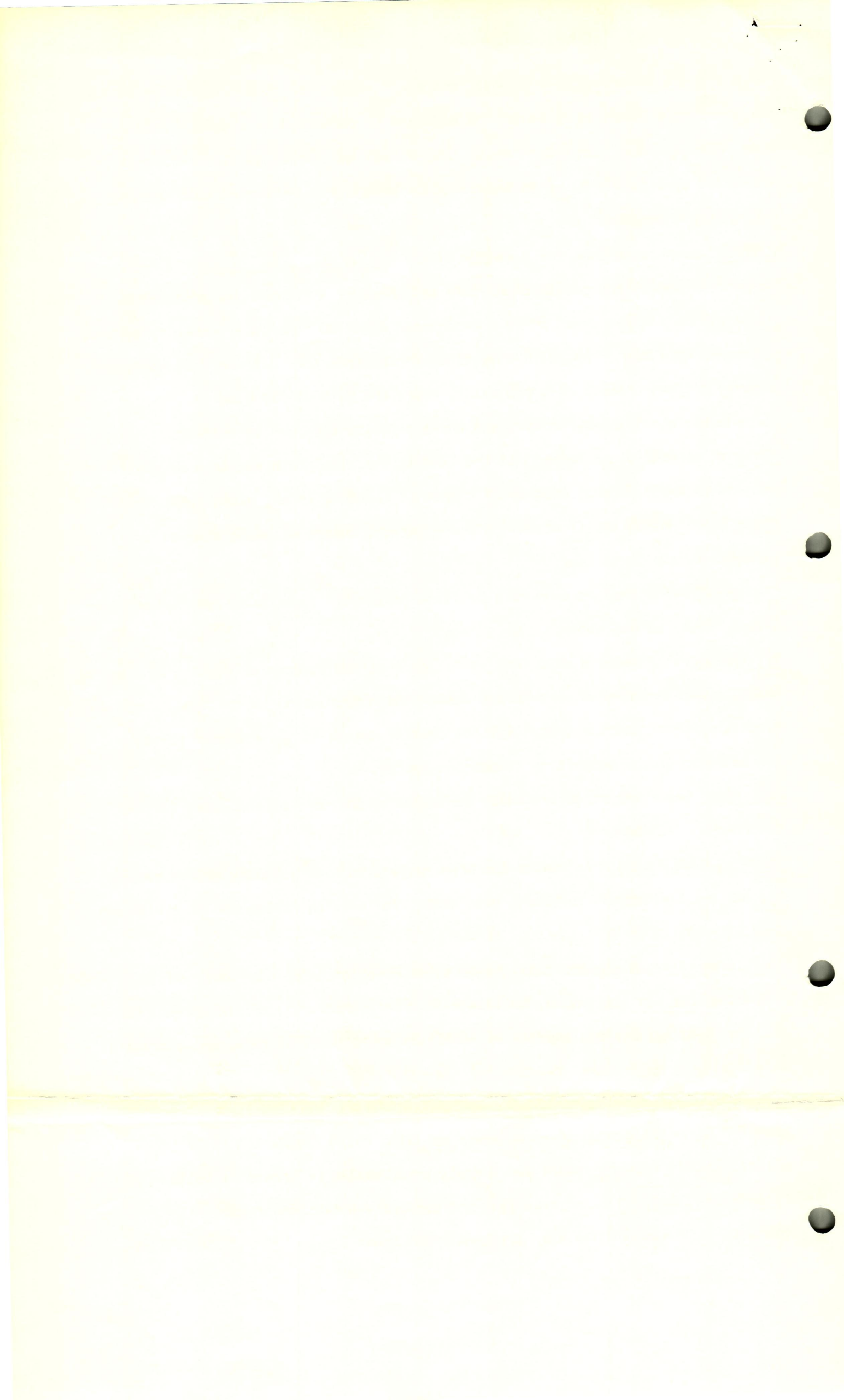
"Building" means any structure built for support, shelter, or enclosure for any occupancy or storage.

"Coastal High Hazard Area" means the area subject to high velocity waters caused by, but not limited to, hurricane wave wash. The area is designated on a FIRM as Zone VI - 30, VE or V.

"Development" means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or permanent storage of materials.

"Elevated building" means a non-basement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns (posts and piers), shear walls, or breakaway walls.

"Flood" or **"flooding"** means a general and temporary condition of partial or complete inundation of normally dry land areas from:



- (1) the overflow of inland or tidal waters;
- (2) the unusual and rapid accumulation or runoff of surface waters from any source.

"Flood Hazard Boundary Map (FHBH)" means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined as Zone A.

"Flood Insurance Rate Map (FIRM)" means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

"Flood Insurance Study" is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Boundary Floodway Map and the water surface elevation of the base flood.

"Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

"Floor" means the top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.

"Functionally dependent facility" means a facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, ship repair, or seafood processing facilities. The term does not include long-term storage, manufacture, sales, or service facilities.

"Highest adjacent grade" means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

"Mangrove stand" means an assemblage of mangrove trees which is mostly low trees noted for a copious development of interlacing adventitious roots above the ground and which contain one or more of the following species: black mangrove (Avicennia nitida); red mangrove (Rhizophora mangle); white mangrove (Languncularia racemosa); and buttonwood (Conocarpus erecta).

"Mean Sea Level" means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the flood plain. For purposes of this ordinance, the term is synonymous with National Geodetic Vertical Datum (NGVD).



"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers, and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property.

"National Geodetic Vertical Datum (NGVD)" as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the flood plain.

"New construction" means structures for which the "start of construction" commenced on or after the effective date of this ordinance.

"Sand dunes" means naturally occurring accumulations of sand in ridges or mounds landward of the beach.

"Start of construction" (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (P. L. 97-348)), includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

"Structure" means a walled and roofed building that is principally above ground, a manufactured home, a gas or liquid storage tank, or other man-made facilities or infrastructures.

"Substantial improvement" means any repair, reconstruction, alteration, or improvement to a structure, the cost of which equals or exceeds fifty percent of the market value of the structure, either (1) before the improvement or repair is started, or (2) if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include any project for improvement of a structure required to comply with existing health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions.

ARTICLE 3. GENERAL PROVISIONS.

SECTION A. LANDS TO WHICH THIS ORDINANCE APPLIES.

This ordinance shall apply to all areas of special flood hazard within the jurisdiction of City of Vanceburg
(local unit).

SECTION B. BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD.

The areas of special flood hazard identified by the Federal Emergency Management Agency in its _____, dated _____, with accompanying maps and other supporting data, and any revision thereto, are adopted by reference and declared to be a part of this ordinance.

SECTION C. ESTABLISHMENT OF DEVELOPMENT PERMIT.

A Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities.

SECTION D. COMPLIANCE.

No structure or land shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.

SECTION E. ABROGATION AND GREATER RESTRICTIONS.

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

SECTION F. INTERPRETATION.

In the interpretation and application of this ordinance all provisions shall be: (1) considered as minimum requirements; (2) liberally construed in favor of the governing body, and; (3) deemed neither to limit nor repeal any other powers granted under state statutes.

SECTION G. WARNING AND DISCLAIMER OF LIABILITY.

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of City of Vanceburg or by any officer or employee thereof (local unit) for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

SECTION H. PENALTIES FOR VIOLATION.

Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$ 250.00 or imprisoned for not more than 90 days, or both, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Vanceburg (local unit) from taking such other lawful action as is necessary to prevent or remedy any violation.

ARTICLE 4. ADMINISTRATION.SECTION A. DESIGNATION OF LOCAL ADMINISTRATOR .
(local administrator)

The City Clerk
(local administrator) is hereby appointed to administer and implement the provisions of this ordinance.

SECTION B. PERMIT PROCEDURES.

Application for a Development Permit shall be made to the City Clerk
(local administrator) on forms furnished by him or her prior to any development activities, and may include, but not be limited to, the following plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

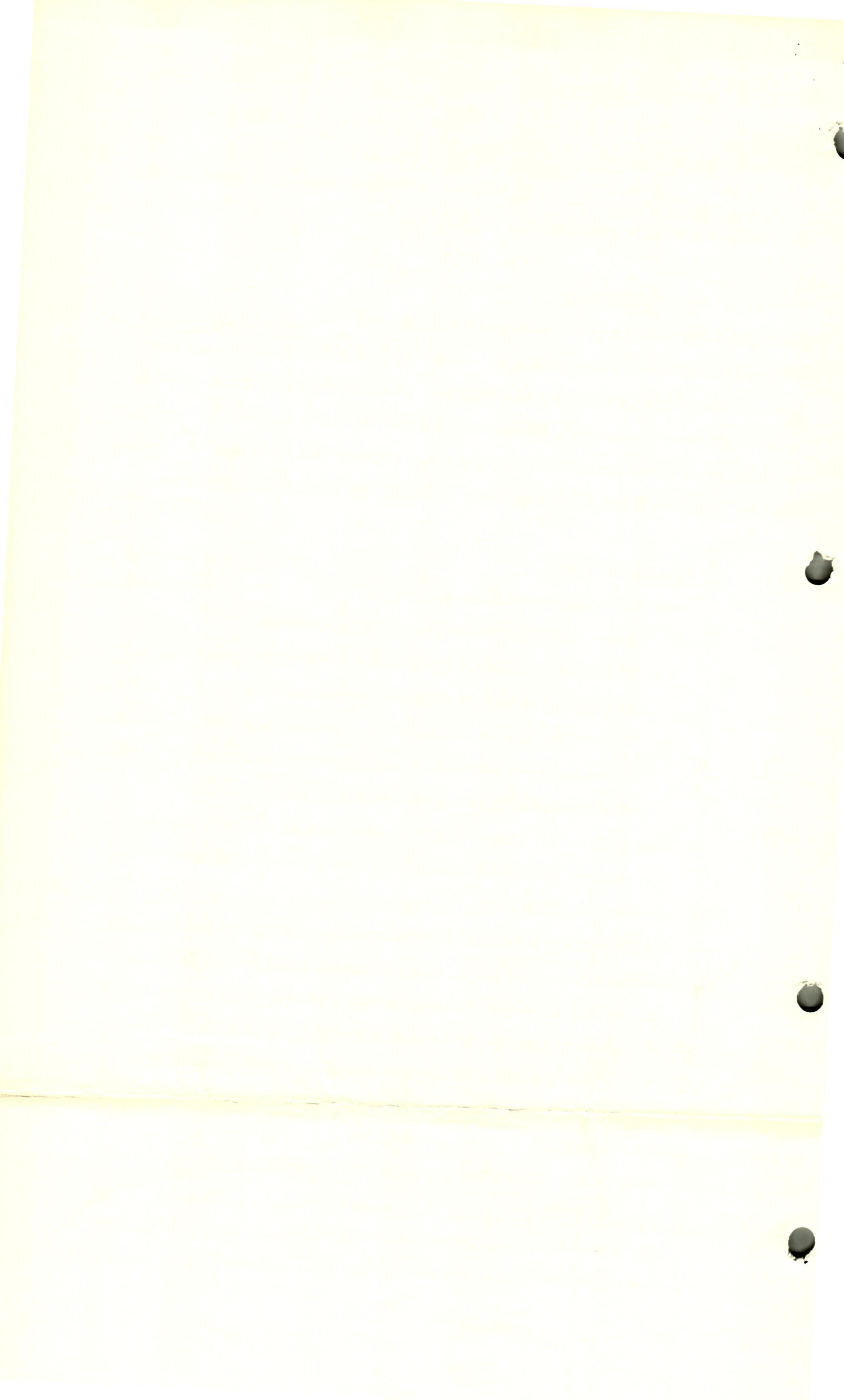
(1) Application Stage.

- (a) Elevation in relation to mean sea level of the proposed lowest floor (including basement) of all structures;
- (b) Elevation in relation to mean sea level to which any non-residential structure will be flood-proofed;
- (c) Certificate from a registered professional engineer or architect that the non-residential flood-proofed structure will meet the flood-proofing criteria in Article 5, Section B (2);
- (d) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development, and;

(2) Construction Stage.

Provide a floor elevation or flood-proofing certification after the lowest floor is completed, or in instances where the structure is subject to the regulations applicable to Coastal High Hazard Areas, after placement of the horizontal structural members of the lowest floor. Upon placement of the lowest floor, or flood-proofing by ~~whatever construction means, or upon placement of the horizontal~~ structural members of the lowest floor, whichever is applicable, it shall be the duty of the permit holder to submit to the

City Clerk
(local administrator) a certification of the elevation of the lowest floor, flood-proofed elevation, or the elevation of the lowest portion of the horizontal structural members of the lowest



floor, whichever is applicable, as built, in relation to mean sea level. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When flood-proofing is utilized for a particular building, said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. Any work undertaken prior to submission of the certification shall be at the permit holder's risk. The City Clerk
(local administrator) shall review the floor elevation survey data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the survey or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

SECTION C. DUTIES AND RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR
(local administrator).

Duties of the City Clerk
(local administrator) shall include, but not be limited

to:

- (1) Review all development permits to assure that the permit requirements of this ordinance have been satisfied;
- (2) Advise permittee that additional federal or state permits may be required, and if specific federal or state permit requirements are known, require that copies of such permits be provided and maintained on file with the development permit.
- (3) Notify adjacent communities and the Department of National Resources & Environmental Protection
(state coordinating agency) prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
- (4) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
- (5) Verify and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, in accordance with Article 4, Section B (2).
- (6) Verify and record the actual elevation (in relation to mean sea level) to which the new or substantially improved structures have been flood-proofed, in accordance with Article 4, Section B (2).



- (7) In Coastal Hazard Areas, certification shall be obtained from a registered professional engineer or architect that the structure is designed to be securely anchored to adequately anchored pilings or columns in order to withstand velocity waters and hurricane wave wash.
- (8) In Coastal High Hazard Areas, the City Clerk
(local administrator) shall review plans for adequacy of breakaway walls in accordance with Article 5, Section B (5) (h).
- (9) When flood-proofing is utilized for a particular structure, the City Clerk
(local administrator) shall obtain certification from a registered professional engineer or architect, in accordance with Article 5, Section B(2).
- (10) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the City Clerk
(local administrator) shall make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.
- (11) When base flood elevation data or floodway data have not been provided in accordance with Article 3, Section B, then the (local
City Clerk shall obtain, review and reasonably utilize any base administrator) flood elevation and floodway data available from a federal, state or other source, in order to administer the provisions of Article 5.
- (12) All records pertaining to the provisions of this ordinance shall be maintained in the office of the City Clerk
(local administrator) and shall be open for public inspection.

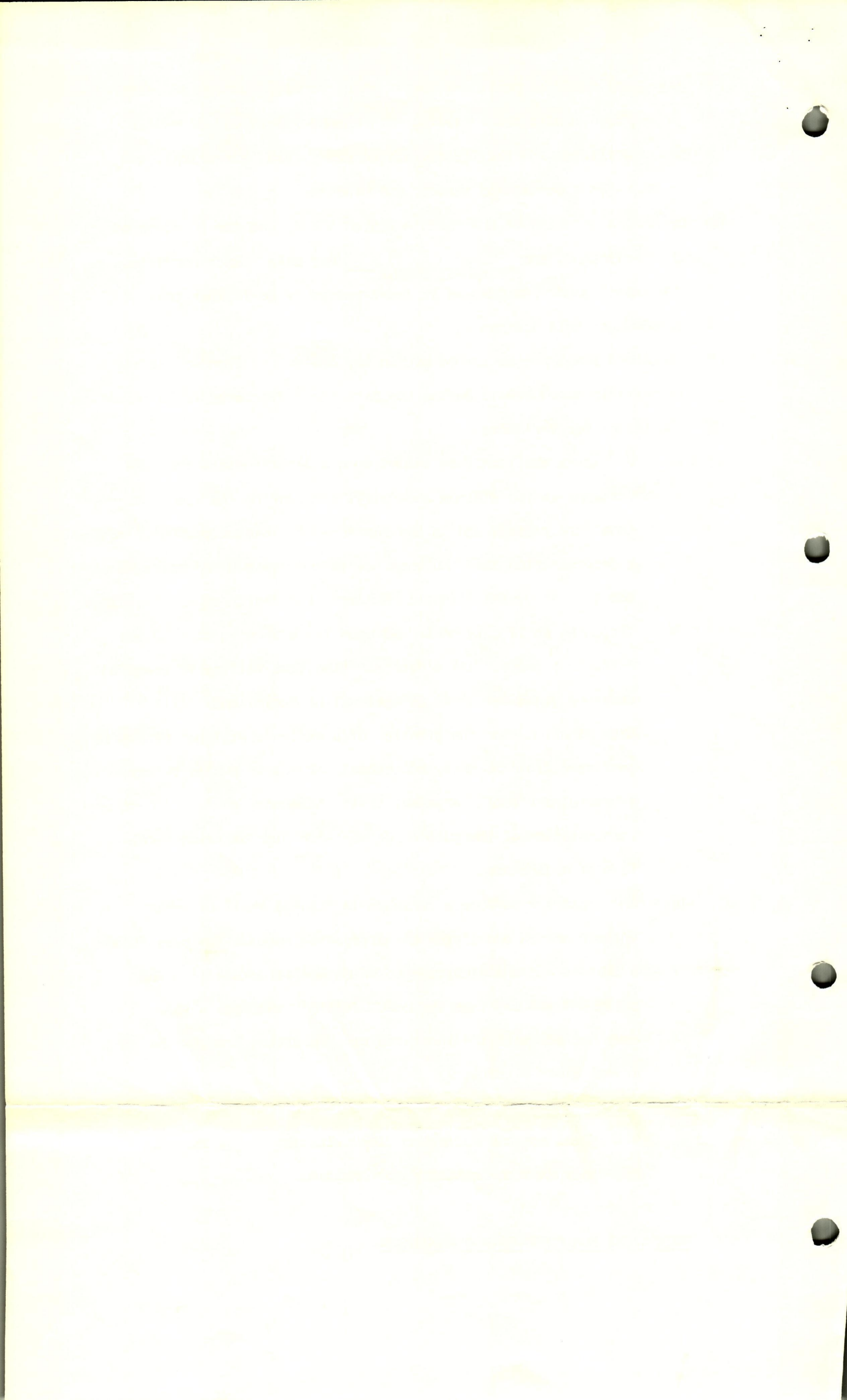
SECTION D. VARIANCE PROCEDURES.

- (1) ~~The~~ City Council
(Appeal Board) as established by City of Vanceburg
(local unit) shall hear and decide appeals and requests for variances from the requirements of this ordinance.
- (2) ~~The~~ City Council
(Appeal Board) shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the City Clerk
(local administrator) in the enforcement or administration of this ordinance.

- (3) Any person aggrieved by the decision of the City Council
(Appeal Board)
or any taxpayer may appeal such decision to the
Circuit Court, as provided in
(name of the appropriate court)
Kentucky Revised Statute.
(statute)
- (4) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places without regard to the procedures set forth in the remainder of this section, except for Article 4, Section D. (8) (a) and (d), and provided the proposed reconstruction, rehabilitation, or restoration will not result in the structure losing its historical designation.
- (5) In passing upon such applications, the City Council
(Appeal Board)
shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:
- (a) the danger that materials may be swept onto other lands to the injury of others;
 - (b) the danger to life and property due to flooding or erosion damage;
 - (c) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (d) the importance of the services provided by the proposed facility to the community;
 - (e) the necessity of the facility to a waterfront location, in the case of a functionally dependent facility;
 - (f) the availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 - (g) the compatibility of the proposed use with existing and anticipated development;
 - (h) the relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - (i) the safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (j) the expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site, and;

- (k) the costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- (6) Upon consideration of the factors listed above, and the purposes of this ordinance, the City Council
(Appeal Board) may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.
- (7) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (8) Conditions for Variances:
- (a) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief; and in the instance of a historical building, a determination that the variance is the minimum necessary so as not to destroy the historic character and design of the building;
- (b) Variances shall only be issued upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship, and; (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- (c) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the structure is to be built and stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
- (d) The City Clerk
(local administrator) shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

ARTICLE 5. PROVISIONS FOR FLOOD HAZARD REDUCTION.



SECTION A. GENERAL STANDARDS.

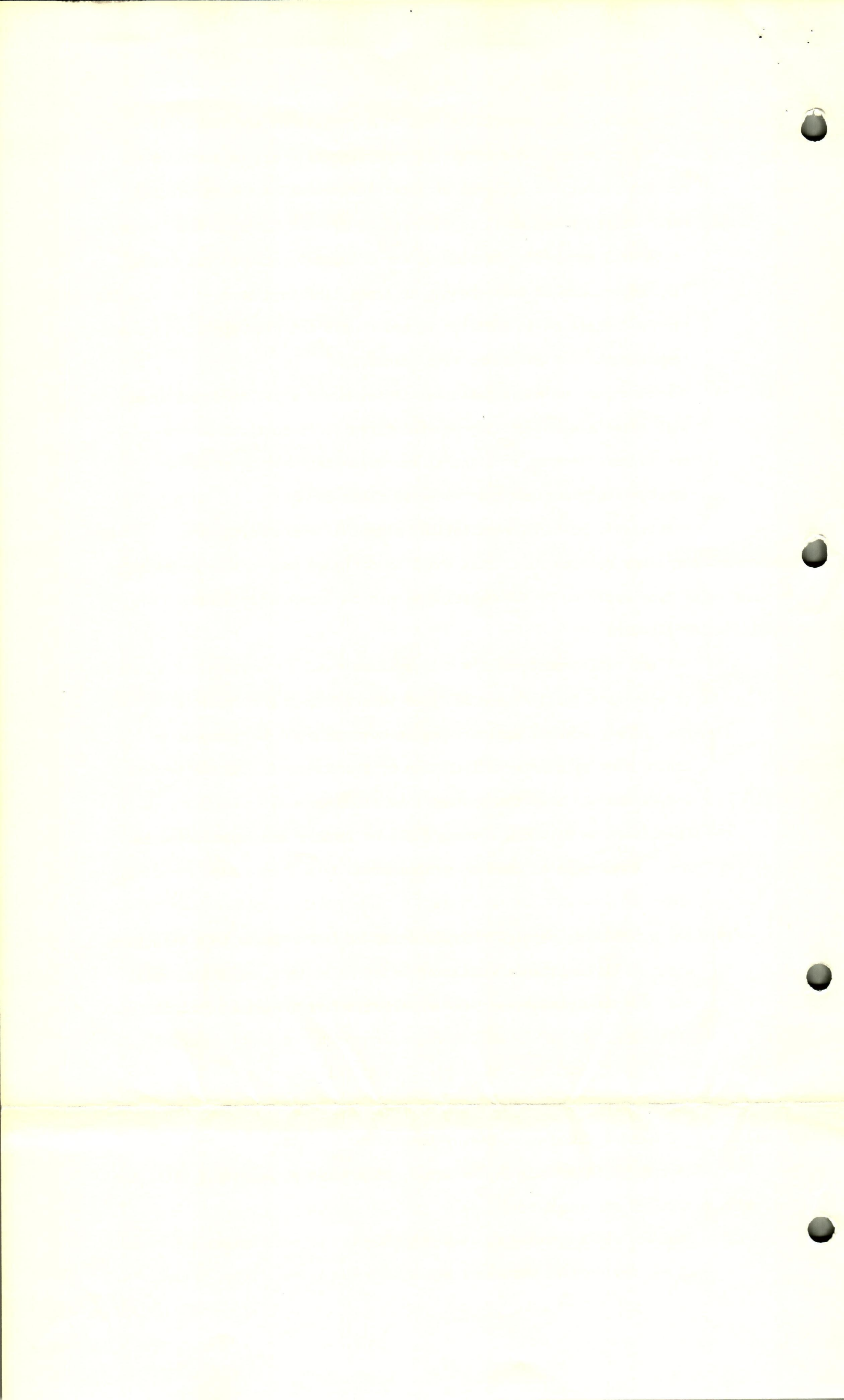
In all areas of special flood hazard the following provisions are required:

- (1) New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure;
- (2) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces.
- (3) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;
- (4) New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
- (5) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- (6) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (7) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;
- (8) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding, and;
- (9) Any alteration, repair, reconstruction or improvements to a structure which is in compliance with the provisions of this ordinance, shall meet the requirements of "new construction" as contained in this ordinance.

SECTION B. SPECIFIC STANDARDS.

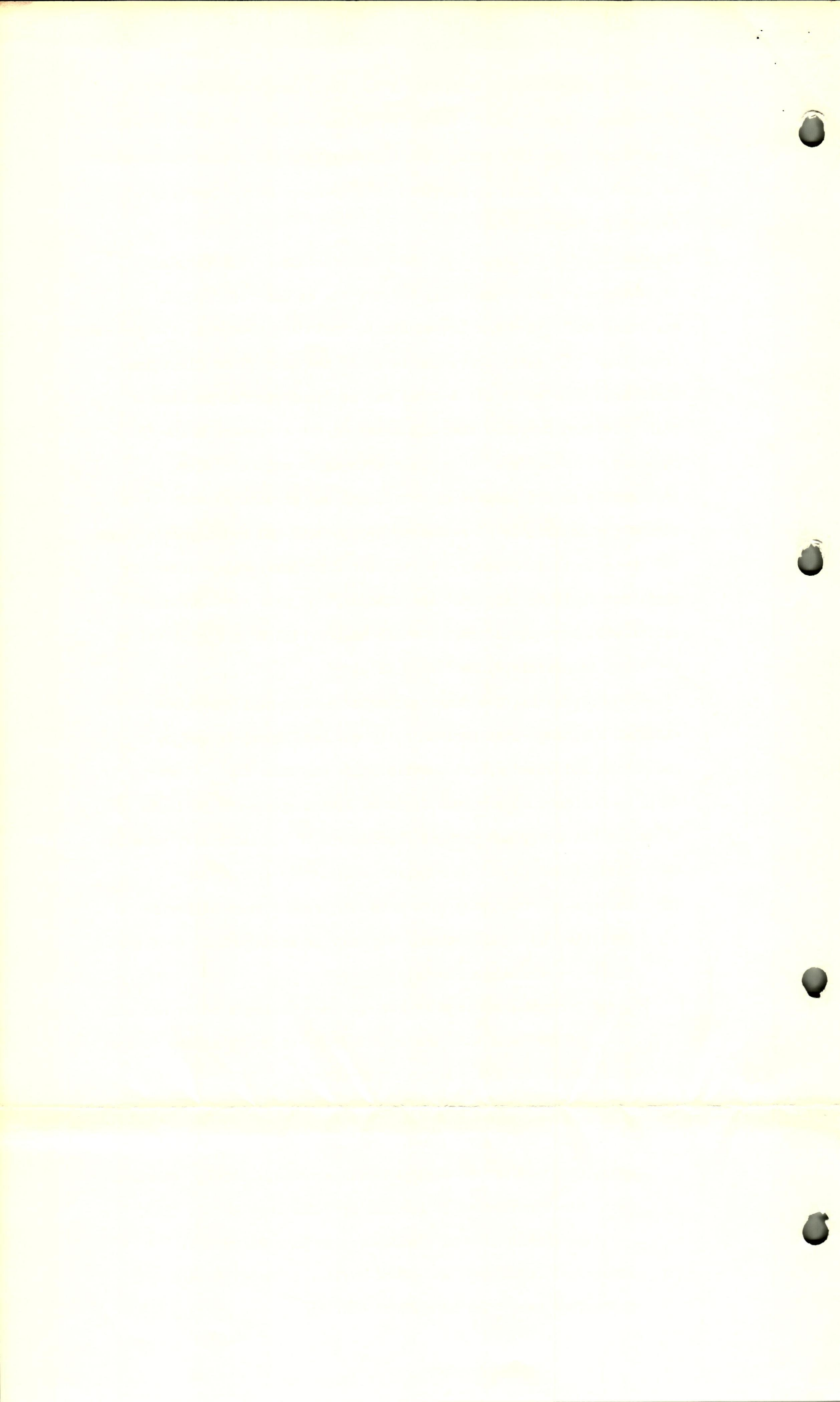
In all areas of special flood hazard where base flood elevation data have been provided, as set forth in Article 3, Section B, or Article 4, Section C (11), the following provisions are required:

- (1) Residential Construction. New construction or substantial improvement of any residential structure shall have the lowest floor, including



basement, elevated no lower than (0 feet) above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of flood waters shall be provided in accordance with standards of Article 5, Section B (3).

- (2) Non-Residential Construction. New construction or substantial improvement of any commercial, industrial, or non-residential structure shall have the lowest floor, including basement, elevated no lower than (0 feet) above the level of the base flood elevation. Structures located in all A-zones may be flood-proofed in lieu of being elevated provided that all areas of the structure below the required elevation are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the official as set forth in Article 4, Section B (3).
- (3) Elevated Buildings. New construction or substantial improvements of elevated buildings that include fully enclosed areas formed by foundation and other exterior walls below the base flood elevation shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls.
- (a) Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:
- (i) Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
 - (ii) ~~The bottom~~ of all openings shall be no higher than one foot above grade; and,
 - (iii) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both direction.
- (b) Electrical, plumbing, and other utility connections are prohibited below the base flood elevation;



- (c) Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator); and
 - (d) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.
- (4) Floodways. Located within areas of special flood hazard established in Article 3, Section B, are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and has erosion potential, the following provisions shall apply:
- (a) Prohibit encroachments, including fill, new construction, substantial improvements and other developments unless certification (with supporting technical data) by a registered professional engineer is provided demonstrating that encroachments shall not result in any increase in flood levels during occurrence of the base flood discharge;
 - (b) If Article 5, Section B(4)(a) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article 5.
-

SECTION C. STANDARDS FOR STREAMS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS AND/OR FLOODWAYS.

Located within the areas of special flood hazard established in Article 3, Section B, where small streams exist but where no base flood data have been provided or where no floodways have been provided, the following provisions apply:



- (1) No encroachments, including fill material or structures shall be located within a distance of the stream bank equal to _____ times the width of the stream at the top of bank or twenty feet each side from top of bank, whichever is greater, unless certification by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- (2) New construction or substantial improvements of structures shall be elevated or flood-proofed to elevations established in accordance with Article 4, Section C (11).

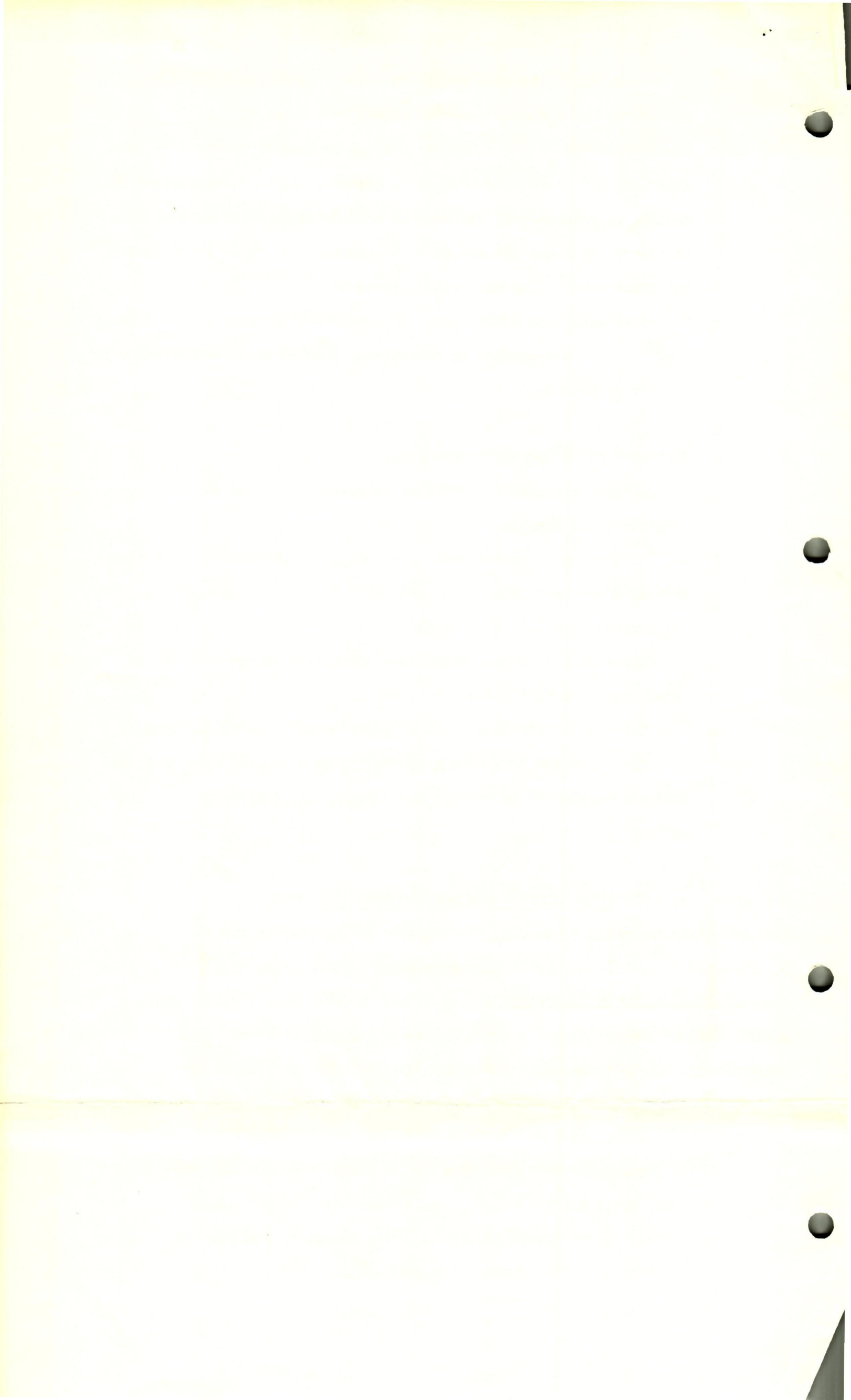
SECTION D. STANDARDS FOR SUBDIVISION PROPOSALS.

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage;
- (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;
- (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards, and;
- (4) Base flood elevation data shall be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivisions) which is greater than the lesser of fifty lots or five acres.

SECTION E. STANDARDS FOR AREAS OF SHALLOW FLOODING (AO ZONES).

Located within the areas of special flood hazard established in Article 3, Section B, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three feet (1' -3') where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply:

- (1) ~~All new construction and substantial improvements of residential~~ structures shall have the lowest floor, including basement, elevated to the depth number specified on the Flood Insurance Rate Map, in feet, above the highest adjacent grade. If no depth number is specified, the lowest floor, including basement, shall be elevated, at least two (2) feet above the highest adjacent grade.



(2) All new construction and substantial improvements of non-residential structures shall:

- (a) have the lowest floor, including basement, elevated to the depth number specified on the Flood Insurance Rate Map, in feet, above the highest adjacent grade. If no depth number is specified, the lowest floor, including basement shall be elevated at least two (2) feet above the highest adjacent grade, or;
- (b) together with attendant utility and sanitary facilities be completely flood-proofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

1st reading Jan 5, 1987
2nd reading Feb 2, 1987

Adopted on February 2, 1987.

BY: M. J. "Pat" Cooper (Mayor)

(Signatures of Governing Board)

Certified by: Brenda Thornton

Date: February 3, 1987

**NOTICE OF ENACTMENT AND SUMMARY
OF ORDINANCE NO. 950.10C**

FLOOD DAMAGE PREVENTION ORDINANCE FOR CITY OF VANCEBURG

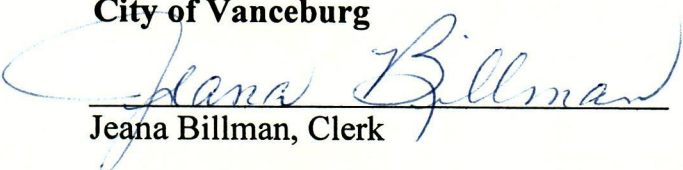
As required by KRS 83A.060(9), I hereby certify that an Ordinance bearing the above title was given first reading by the City Council of the City of Vanceburg, Kentucky, at a duly convened meeting held on February 4, 2013, and was given second reading on March 4, 2013, and that the following is a Summary of such Ordinance prepared by John M. Holder, Attorney for the City of Vanceburg, Kentucky.

SUMMARY OF ORDINANCE

This Ordinance applies to all areas of special flood hazard within the jurisdiction of the City of Vanceburg, as identified by the Federal Insurance Administration, and mandates that no structure or land in said areas shall hereafter be located, or extended, converted or structurally altered without compliance with its provisions; requires the obtaining of a permit from the Mayor or his designee as administrator and the Kentucky Division of Water; permitting of manufactured homes within areas of special flood hazard; requires that all new construction and substantial improvements be constructed with materials and utility equipment resistant to flood damage; provides that in all areas of special flood hazard, the lowest floor of any residential structure constructed or substantially improved shall have the lowest floor elevated to or above base flood elevation or has said floor floodproofed; and provides penalties of \$100.00 or imprisonment of not more than 10 days for each day a violation of this Ordinance continues.

A copy of the full text of said Ordinance is available for public inspection at the City Building, 189 Second Street, Vanceburg, Kentucky, during regular business hours, Monday through Friday.

City of Vanceburg


Jeana Billman, Clerk

Commonwealth of Kentucky
CITY OF VANCEBURG

ORDINANCE NO. 950.10C

**FLOOD DAMAGE PREVENTION
ORDINANCE**

FOR

CITY OF VANCEBURG

FLOOD DAMAGE PREVENTION ORDINANCE

TABLE OF CONTENTS

ARTICLE 1.	STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES	2
SECTION A.	STATUTORY AUTHORIZATION.....	2
SECTION B.	FINDINGS OF FACT	2
SECTION C.	STATEMENT OF PURPOSE.....	2
SECTION D.	OBJECTIVES	2
ARTICLE 2.	DEFINITIONS	3
ARTICLE 3.	GENERAL PROVISIONS	12
SECTION A.	LANDS TO WHICH THIS ORDINANCE APPLIES	12
SECTION B.	BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS.....	12
SECTION C.	ESTABLISHMENT OF DEVELOPMENT PERMIT	12
SECTION D.	COMPLIANCE	12
SECTION E.	ABROGATION AND GREATER RESTRICTIONS	13
SECTION F.	INTERPRETATION.....	13
SECTION G.	WARNING AND DISCLAIMER OF LIABILITY	13
SECTION H.	ENFORCEMENT, VIOLATION NOTICE AND PENALTIES	13
ARTICLE 4.	ADMINISTRATION	14
SECTION A.	DESIGNATION OF LOCAL ADMINISTRATOR.....	14
SECTION B.	ESTABLISHMENT OF DEVELOPMENT PERMIT	14
SECTION C.	DUTIES AND RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR.....	15
ARTICLE 5.	PROVISIONS FOR FLOOD HAZARD REDUCTION	17
SECTION A.	GENERAL CONSTRUCTION STANDARDS.....	17
SECTION B.	SPECIFIC STANDARDS	18
SECTION C.	STANDARDS FOR STREAMS WITHOUT ESTABLISHED BASE FLOOD ELEVATION (UNNUMBERED A ZONES) AND/OR FLOODWAYS	21
SECTION D.	STANDARDS FOR SHALLOW FLOODING ZONES	21
SECTION E.	STANDARDS FOR SUBDIVISION PROPOSALS	22
SECTION F.	STANDARDS FOR ACCESSORY STRUCTURES IN ALL ZONES BEGINNING WITH THE LETTER 'A'	22
SECTION G.	CRITICAL FACILITIES	23
ARTICLE 6.	APPEALS AND VARIANCE PROCEDURES	23
ARTICLE 7.	SEVERABILITY	25

Be it ordained by the City Council of the City of Vanceburg, Kentucky:

ARTICLE 1. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES

SECTION A. STATUTORY AUTHORIZATION

The Legislature of the Commonwealth of Kentucky has in Kentucky Revised Statutes 82.082 delegated to local government units the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City Council of Vanceburg, Kentucky, hereby adopts the following floodplain management ordinance, as follows:

SECTION B. FINDINGS OF FACT

- 1) The flood hazard areas of Vanceburg are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all which adversely affect the public health, safety, and general welfare.
- 2) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increased flood height and velocity, and by the location in flood hazard areas of uses vulnerable to floods or hazardous to other lands which are inadequately elevated, flood-proofed, or otherwise protected from flood damage.

SECTION C. STATEMENT OF PURPOSE

It is the purpose of this ordinance to promote the public health, safety, and general welfare and to minimize public and private loss due to flooding by provisions designed to:

- 1) Restrict or prohibit uses which are dangerous to health, safety, and property due to water erosion hazards, or which result in damaging increases in erosion or in flood height or velocity;
- 2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- 3) Control the alteration of natural floodplains, stream channels, and natural protective barriers which accommodate or channel flood waters;
- 4) Control filling, grading, dredging, and other development which may increase erosion or flood damage, and
- 5) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other areas.

SECTION D. OBJECTIVES

The objectives of this ordinance are to:

- 1) Protect human life and health;
- 2) Minimize expenditure of public money for costly flood control projects;
- 3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- 4) Minimize prolonged business interruptions;

- 5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines; streets and bridges located in areas of special flood hazard;
- 6) Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard or other flood-prone areas in such a manner as to minimize future flood blighted areas caused by flooding;
- 7) Ensure that potential homebuyers are on notice that property is in a Special Flood Hazard Area; and,
- 8) Ensure that those who occupy a Special Flood Hazard Area assume responsibility for their actions.

ARTICLE 2. DEFINITIONS

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

A Zone - Special Flood Hazard Areas inundated by the 1% annual chance flood (100-year flood). Base flood elevations (BFEs) are not determined.

Accessory structure (Appurtenant structure) - A structure located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Accessory structures should constitute a minimal initial investment, may not be used for human habitation, and should be designed to have minimal flood damage potential. Examples of accessory structures are detached garages, carports, storage sheds, pole barns, and hay sheds.

Accessory use - A use which is incidental and subordinate to the principal use of the parcel of land on which it is located.

Addition (to an existing structure) - Any walled and roofed expansion to the perimeter or height of a structure.

AE zones - Special Flood Hazard Areas inundated by the 1% annual chance flood (100-year flood). Base flood elevations (BFEs) are determined.

AH zone - An area of 100-year shallow flooding where depths are between one and three feet (usually shallow ponding). Base flood elevations are determined.

AO zone - An area of 100-year shallow flooding where water depth is between one and three feet (usually sheet flow on sloping terrain). Flood depths are determined.

Appeal - A request for a review of the Floodplain Administrator's interpretation of any provision of this ordinance or from the floodplain administrator's ruling on a request for a variance.

AR/A1 – A30, AR/AE, AR/AH, AR/AO, and AR/A zones - Special Flood Hazard Areas (SFHAs) that result from the de-certification of a previously accredited flood protection system that is in the process of being restored to provide a 100-year or greater level of flood protection. After restoration is complete these areas will still experience residual flooding from other flooding sources.

A99 zone - That part of the SFHA inundated by the 100-year flood which is to be protected from the 100-year flood by a Federal flood protection system under construction. No base flood elevations are determined.

Area of shallow flooding - A designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM) where the base flood depths range from one to three feet, there is no clearly defined channel, the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Base flood - A flood which has a one percent chance of being equaled or exceeded in any given year (also called the "100-year flood"). Base flood is the term used throughout this ordinance.

Base Flood Elevation (BFE) - The elevation shown on the Flood Insurance Rate Map (FIRM) for Zones AE, AH, A1-30, AR, AR/A, AR/AE, AR/A1-A30, AR/AH, and AR/AO that indicates the water surface elevation resulting from a flood that has a 1-percent or greater chance of being equaled or exceeded in any given year.

Basement - any area of a structure having its floor sub-grade (below ground level) on all sides.

Building - See definition for structure.

Community - A political entity having the authority to adopt and enforce floodplain ordinances for the area under its jurisdiction.

Community Rating System (CRS) - A program developed by the Federal Insurance Administration to provide incentives to those communities in the Regular Program to go beyond the minimum floodplain management requirements to develop extra measures for protection from flooding.

Community Flood Hazard Area (CFHA) - An area that has been determined by the Floodplain Administrator (or other delegated, designated, or qualified community official) from available technical studies, historical information, and other available and reliable sources, which may be subject to periodic inundation by floodwaters that can adversely affect the public health, safety and general welfare. This includes areas downstream from dams.

Critical facility - Any property that, if flooded, would result in severe consequences to public health and safety or a facility which, if unusable or unreachable because of flooding, would seriously and adversely affect the health and safety of the public. Critical facilities include, but are not limited to: housing likely to contain occupants not sufficiently mobile to avoid injury or death unaided during a flood; schools, nursing homes, hospitals, police, fire and emergency response installations, vehicle and equipment storage facilities, emergency operations centers likely to be called upon before, during and after a flood, public and private utility facilities important to maintaining or restoring normal services before, during and after a flood, and those facilities or installations which produce, use or store volatile, flammable, explosive, toxic and/or water-reactive materials, hazardous materials or hazardous waste.

D zone - An area in which the flood hazard is undetermined.

Development - Any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or storage of equipment or materials.

Elevated structure - For insurance purposes, a non-basement structure built to have the lowest floor elevated above ground level by foundation walls, shear walls, posts, piers, pilings or columns.

Elevation Certificate - A statement certified by a registered professional engineer or surveyor on the FEMA-approved form in effect at the time of certification that verifies a structure's elevation and other related information to verify compliance with this ordinance.

Emergency Program - The initial phase under which a community participates in the NFIP, intended to provide a first layer amount of insurance at subsidized rates on all insurable structures in that community before the effective date of the initial FIRM.

Enclosure - That portion of a structure below the lowest floor used solely for parking of vehicles, limited storage, or access to the structure.

Encroachment - The physical advance or infringement of uses, plant growth, fill, excavation, structures, or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

Existing construction - Any structure for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. Existing construction may also be referred to as existing structures.

Existing Manufactured Home Park or Subdivision - A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management ordinance adopted by a community.

Expansion to an existing Manufactured Home Park or Subdivision - The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Five-Hundred Year Flood - The flood that has a 0.2 percent chance of being equaled or exceeded in any year. Areas subject to the 500-year flood have a moderate risk of flooding.

Flood or Flooding - A general and temporary condition of partial or complete inundation of normally dry land areas from:

- a.) The overflow of inland or tidal waters.
- b.) The unusual and rapid accumulation or runoff of surface waters from any source.
- c.) Mudslides which are proximately caused by flooding and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
- d.) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.

Flood Boundary and Floodway Map (FBFM) - A map on which the Federal Emergency Management Agency (FEMA) has delineated the areas of flood hazards and the regulatory floodway.

Flood Hazard Boundary Map (FHBM) - A map on which the boundaries of the flood, mudslide (i.e. mudflow), and flood-related erosion areas having special hazards have been designated as Zones A, M, and/or E by the Federal Emergency Management Agency (FEMA).

Flood Insurance Rate Map (FIRM) - A map on which the Federal Emergency Management Agency (FEMA) has delineated special flood hazard areas and risk premium zones.

Flood Insurance Study - The report provided by the Federal Emergency Management Agency (FEMA) containing flood profiles, the Flood Insurance Rate Map (FIRM), and/or the Flood Boundary Floodway Map (FBFM), and the water surface elevation of the base flood.

Floodplain or flood-prone area - Any land area susceptible to being inundated by flood waters from any source.

Floodplain Administrator - The individual appointed by the community to administer and enforce the floodplain management ordinances.

Floodplain Management - The operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing natural resources in the floodplain, including but not

limited to emergency preparedness plans, flood control works, floodplain management ordinances, and open space plans.

Floodplain Management Regulations - This ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as grading and erosion control), and other applications of police power, which control development in flood-prone areas. This term describes federal, state and/or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Floodproofing - Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures, and their contents.

Floodproofing Certificate - A certification by a registered professional engineer or architect, the FEMA form in effect at the time of certification stating that a non-residential structure, together with attendant utilities and sanitary facilities is watertight to a specified design elevation with walls that are substantially impermeable to the passage of water and all structural components are capable of resisting hydrostatic and hydrodynamic flood forces, including the effects of buoyancy and anticipated debris impact forces.

Floodway - The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. Also referred to as the "regulatory floodway".

Floodway fringe - That area of the floodplain on either side of the regulatory floodway.

Freeboard - A factor of safety, usually expressed in feet above the BFE, which is applied for the purposes of floodplain management. It is used to compensate for the many unknown factors that could contribute to flood heights greater than those calculated for the base flood. Freeboard must be applied not just to the elevation of the lowest floor or floodproofing level, but also to the level of protection provided to all components of the structure, such as building utilities, HVAC components, etc.

Fraud and victimization - As related in Article 6, **Appeals and Variance Procedures**, of this ordinance, means that the variance granted must not cause fraud on or victimization of the public. In examining this requirement, the City Council will consider the fact that every newly constructed structure adds to government responsibilities and remains a part of the community for fifty to one hundred years. Structures that are permitted to be constructed below the base flood elevation are subject during all those years to increased risk of damage from floods, while future owners of the property and the community as a whole are subject to all the costs, inconvenience, danger, and suffering that those increased flood damages may incur. In addition, future owners may purchase the property, unaware that it is subject to potential flood damage, and can be insured only at very high flood insurance rates.

Functionally dependent use facility - A facility, structure, or other development, which cannot be used for its intended purpose unless it is located or carried out in close proximity to water. The term includes only a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

Governing body - The local governing unit, i.e. county or municipality that is empowered to adopt and implement ordinances to provide for the public health, safety and general welfare of its citizenry.

Hazard potential - The possible adverse incremental consequences that result from the release of water or stored contents due to failure of a dam or miss-operation of a dam or appurtenances. The hazard potential classification of a dam does not reflect in any way the current condition of a dam and its appurtenant structures (e.g. safety, structural integrity, flood routing capacity).

Highest adjacent grade - The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

Historic Structure - Any structure that is:

- 1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- 2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district.
- 3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- 4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - a) By an approved state program as determined by the Secretary of the Interior, or
 - b) Directly by the Secretary of the Interior in states without approved programs.

Increased Cost of Compliance (ICC) – Increased cost of compliance coverage means under the standard flood insurance policy the cost to repair a substantially flood damaged building that exceeds the minimal repair cost and that is required to bring a substantially damaged building into compliance with the local flood damage prevention ordinance. Acceptable mitigation measures are flood proofing (nonresidential), relocation, elevation, demolition, or any combination thereof.

ICC coverage is available on residential and non-residential buildings (this category includes public or government buildings, such as schools, libraries, and municipal buildings) insured under the NFIP.

Letter of Map Change (LOMC) – An official FEMA determination, by letter, to amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, and Flood Insurance Studies. LOMC's include the following categories:

- 1) **Letter of Map Amendment (LOMA)** – A revision based on technical data showing that a property was inadvertently included in a designated SFHA. A LOMA amends the current effective FIRM and establishes that a specific property is not located in a SFHA.
- 2) **Letter of Map Revision (LOMR)** - A revision based on technical data that, usually due to manmade changes, shows changes to flood zones, flood elevations, floodplain and floodway delineations, and planimetric features.
- 3) **Letter of Map Revision – Based on Fill (LOMR-F)** – A determination that a structure or parcel has been elevated by properly placed engineered fill above the BFE and is, therefore, excluded from the SFHA.

Levee - A man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

Levee System - A flood protection system that consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

Limited storage - An area used for storage and intended to be limited to incidental items which can withstand exposure to the elements and have low flood damage potential. Such an area must be of flood resistant material, void of utilities except for essential lighting, and cannot be temperature controlled.

Lowest adjacent grade – The lowest elevation of the sidewalk, patio, attached garage, deck support, basement entryway or grade immediately next to the structure and after the completion of construction.

Lowest Floor - The lowest floor of the lowest enclosed area including basement. An unfinished or flood resistant enclosure, usable solely for parking of vehicles, structure access, or storage in an area other than a

basement area is not considered a structure's lowest floor, **provided** that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

Manufactured Home - A structure, transportable in one or more sections, which is built on a permanent chassis and is designed to be used with or without a permanent foundation when connected or attached to the required utilities. The term also includes park trailers, travel trailers, and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property. The term "manufactured home" does not include a "recreational vehicle" (see Recreational Vehicle).

Manufactured home park or subdivision - A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Map - The Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by the Federal Emergency Management Agency (FEMA).

Map Panel Number - The four-digit number on a flood map, followed by a letter suffix, assigned by FEMA. The first four digits represent the map panel. The letter suffix represents the number of times the map panel has been revised. (The letter "A" is not used by FEMA, the letter "B" is the first revision.)

Market value - The property value (as agreed between a willing buyer and seller), excluding the value of the land as established by what the local real estate market will bear. Market value of the structure can be established by independent certified appraisal; replacement cost depreciated by age of structure (Actual Cash Value) or adjusted assessed values.

Mean Sea Level (MSL) - The average height of the sea for all stages of the tide. For the purposes of the National Flood Insurance Program, the MSL is used as a reference for establishing various elevations within the floodplain as shown on the community's FIRM. For purposes of this ordinance, the term is synonymous with either National Geodetic Vertical Datum (NGVD) of 1929 or North American Vertical Datum (NAVD) of 1988.

Mitigation - Sustained actions taken to reduce or eliminate long-term risk to people and property from hazards and their effects. The purpose of mitigation is twofold: to protect people and structures, and to minimize the costs of disaster response and recovery.

Mudslide (i.e. mudflow) - Describes a condition where there is a river, flow, or inundation of liquid mud down a hillside, usually as a result of a dual condition of loss of brush cover and the subsequent accumulation of water on the ground, preceded by a period of unusually heavy or sustained rain. A mudslide (i.e. mudflow) may occur as a distinct phenomenon while a landslide is in progress, and will be recognized as such by the Floodplain Administrator only if the mudflow, and not the landslide, is the proximate cause of damage that occurs.

Mudslide (i.e. mudflow) area management - The operation of and overall program of corrective and preventative measures for reducing mudslide (i.e. mudflow) damage, including but not limited to emergency preparedness plans, mudslide control works, and floodplain management regulations.

Mudslide (i.e. mudflow) prone area - An area with land surfaces and slopes of unconsolidated material where the history, geology, and climate indicate a potential for mudflow.

National Flood Insurance Program (NFIP) - The federal program that makes flood insurance available to owners of property in participating communities nationwide through the cooperative efforts of the federal government and the private insurance industry.

National Geodetic Vertical Datum (NGVD) - As corrected in 1929, a vertical control used as a reference for establishing varying elevations within the floodplain. (Generally used as the vertical datum on the older FIRM's. Refer to FIRM legend panel for correct datum.)

New Construction - Structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

New manufactured home park or subdivision - A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

Non-Residential – Structures that are not designed for human habitation, including but is not limited to: small business concerns, churches, schools, farm structures (including grain bins and silos), pool houses, clubhouses, recreational structures, mercantile structures, agricultural and industrial structures, warehouses, and hotels or motels with normal room rentals for less than 6 months duration.

North American Vertical Datum (NAVD) – As corrected in 1988, a vertical control used as a reference for establishing varying elevations within the floodplain. (Generally used on the newer FIRM's and Digitally Referenced FIRM's (DFIRM's). (Refer to FIRM or DFIRM panel legend for correct datum.)

Obstruction - Includes but is not limited to any dam, wall, embankment, levee, dike, pile, abutment, protection, excavation, channelization, bridge, conduit, culvert, structure, wire, fence, rock, gravel, refuse, fill, structure, vegetation or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water, due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

One-Hundred Year Flood (100-Year Flood) (see Base Flood) - The flood that has a 1-percent or greater chance of being equaled or exceeded in any given year. Any flood zone that begins with the letter A is subject to inundation by the 100-year flood. Over the life of a 30-year loan, there is a 26-percent chance of experiencing such a flood with the SFHA.

Participating Community - A community that voluntarily elects to participate in the NFIP by adopting and enforcing floodplain management regulations that are consistent with the standards of the NFIP.

Pre-FIRM Construction - New construction or substantial improvements for which start of construction occurred on or before December 31, 1974, or before the effective date of the initial FIRM of the community, whichever is later.

Post-FIRM Construction – New construction or substantial improvements for which start of construction occurred after December 31, 1974, or on or after the effective date of the initial FIRM of the community, whichever is later.

Probation – A FEMA imposed change in community's status resulting from violations and deficiencies in the administration and enforcement of the local floodplain management regulations.

Program Deficiency - A defect in a community's floodplain management regulations or administrative procedures that impairs effective implementation of those floodplain management standards.

Public Safety and Nuisance - Anything which is injurious to safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

Recreational Vehicle - A vehicle that is:

- 1) Built on a single chassis;
- 2) 400 square feet or less when measured at the largest horizontal projection;
- 3) Designed to be self-propelled or permanently towable to a light duty truck; and
- 4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Regular Program - The phase of a community's participation in the NFIP where more comprehensive floodplain management requirements are imposed and higher amounts of insurance are available based upon risk zones and flood elevations determined in the FIS.

Regulatory floodway - The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. See Base Flood.

Remedy a violation - The process by which a community brings a structure or other development into compliance with State or local floodplain management regulations, or, if this is not possible, to reduce the impact of non-compliance. Reduced impact may include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing state or federal financing exposure with regard to the structure or other development.

Repair - The reconstruction or renewal of any part of an existing structure.

Repetitive Loss - Flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

Repetitive Loss Property - Any insurable building for which two or more claims of more than \$1,000 were paid by the National Flood Insurance Program (NFIP) within any rolling 10-year period, since 1978. At least two of the claims must be more than ten days apart but, within ten years of each other. A RL property may or may not be currently insured by the NFIP.

Riverine - Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Section 1316 - That section of the National Flood Insurance Act of 1968, as amended, which states that no new or renewal flood insurance coverage shall be provided for any property that the Administrator finds has been declared by a duly constituted state or local zoning authority or other authorized public body to be in violation of state or local laws, regulations, or ordinances that are intended to discourage or otherwise restrict land development or occupancy in flood-prone areas.

Severe Repetitive Loss Structure - Any insured property that has met at least one of the following paid flood loss criteria since 1978, regardless of ownership:

1. Four or more separate claim payments of more than \$5,000 each (including building and contents payments); or
2. Two or more separate claim payments (building payments only) where the total of the payments exceeds the current market value of the property.

In either case, two of the claim payments must have occurred within ten years of each other. Multiple losses at the same location within ten days of each other are counted as one loss, with the payment amounts added together.

Sheet flow area - see "Area of shallow flooding".

Special flood hazard area (SFHA) - That portion of the floodplain subject to inundation by the base flood and/or flood-related erosion hazards as shown on a FHBM or FIRM as Zone A, AE, A1 – A30, AH, AO, or AR.

Start of Construction (includes substantial improvement and other proposed new development) - The date a building permit is issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement or other improvement is within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure (including manufactured home) on a site, such as

the pouring of slabs or footings, the installation of piles, construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; the installation on the property of accessory structures, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the structure.

Structure - A walled and roofed building, including gas or liquid storage tank that is principally above ground, as well as a manufactured home.

Subdivision - Any division, for the purposes of sale, lease, or development, either on the installment plan or upon any and all other plans, terms and conditions, of any tract or parcel of land into two (2) or more lots or parcels.

Subrogation - A legal action brought by FEMA to recover insurance money paid out where all or part of the damage can be attributed to acts or omissions by a community or other third party.

Substantial Damage - Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement - Any reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during a 1-year period in which the cumulative percentage of improvements equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

- a.) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local Code Enforcement Official and which are the minimum necessary to assure safe living conditions, or
- b.) Any alteration of a "historic structure" provided that the alteration will not preclude the structure's continued designation as a "historic structure."

Substantially improved existing manufactured home parks or subdivisions - Repair, reconstruction, rehabilitation, or improvement of the streets, utilities, and pads equaling or exceeding 50 percent of the value of the streets, utilities, and pads before the repair, reconstruction, or improvement commenced.

Suspension - Removal of a participating community from the NFIP for failure to enact and/or enforce floodplain management regulations required for participation in the NFIP.

Utilities - Include, but not limited to, electrical, heating, ventilation, plumbing, and air conditioning equipment that service the structure and the site.

Variance - Relief from some or all of the requirements of this ordinance.

Violation - Failure of a structure or other development to fully comply with this ordinance. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

Watercourse - A lake, river, creek, stream, wash, channel or other topographic feature on or over which water flows at least periodically.

Water surface elevation - The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

Watershed - All the area within a geographic boundary from which water, sediments, dissolved materials, and other transportable materials drain or are carried by water to a common outlet, such as a point on a larger stream, lake, or underlying aquifer.

X (shaded) and B zones - Areas of the 0.2% annual chance (500-year) flood that are outside of the SFHA, areas subject to the 100-year flood with average depths of less than one foot or with contributing drainage area less than 1 square mile, and areas protected by levees from the base flood

X (unshaded) and C zones - Areas determined to be outside the 500-year floodplain.

Zone - A geographical area shown on a Flood Hazard Boundary Map or a Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

ARTICLE 3. GENERAL PROVISIONS

SECTION A. LANDS TO WHICH THIS ORDINANCE APPLIES

This ordinance shall apply to all Special Flood Hazard Areas (SFHA), areas applicable to KRS 151.250 and, as determined by the Floodplain Administrator or other delegated, designated, or qualified community official as determined by the City Council of Vanceburg from available technical studies, historical information, and other available and reliable sources, areas within the jurisdiction of the City Council of Vanceburg which may be subject to periodic inundation by floodwaters that can adversely affect the public health, safety, and general welfare of the citizens of Vanceburg.

SECTION B. BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS

The areas of special flood hazard identified by the Federal Emergency Management Agency (FEMA) in the Flood Insurance Study (FIS) for Lewis County, dated April 16, 2013, with the accompanying Flood Insurance Rate Maps (FIRMS), other supporting data and any subsequent amendments thereto, are hereby adopted by reference and declared to be a part of these regulations by Vanceburg, and for those land areas acquired by Vanceburg through annexation. This FIS and attendant mapping is the minimum area of applicability of this ordinance and may be supplemented by studies for other areas which allow implementation of this ordinance and which are recommended to the City Council by the Floodplain Administrator and are enacted by City Council pursuant to statutes governing land use management regulations. The FIS and/or FIRM are permanent records of Vanceburg and are on file and available for review by the public during regular business hours at Vanceburg City Hall.

SECTION C. ESTABLISHMENT OF DEVELOPMENT PERMIT

A Development Permit shall be required in conformance with the provision of this ordinance prior to the commencement of any development activities in the special flood hazard areas (SFHA). See Article 4, Section B for instructions and explanation.

Application for a Development Permit shall be made on forms furnished by the Floodplain Administrator.

SECTION D. COMPLIANCE

No structure or land shall hereafter be constructed, located, extended, converted or structurally altered without full compliance with the terms of this ordinance and other applicable state regulations. Violation of the requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Nothing herein shall prevent the City Council from taking such lawful action as is necessary to prevent or remedy any violation.

SECTION E. ABROGATION AND GREATER RESTRICTIONS

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

SECTION F. INTERPRETATION

In the interpretation and application of this ordinance, all provisions shall be:

- 1) Considered minimum requirements;
- 2) Liberally construed in favor of the governing body; and
- 3) Deemed neither to limit nor repeal any other powers granted under state statutes.

SECTION G. WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damage. This ordinance shall not create liability on the part of the City Council of Vanceburg, any officer or employee, thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

SECTION H. ENFORCEMENT, VIOLATION NOTICE AND PENALTIES

- 1) Civil Offense: If, at any time, development occurs which is not in accordance with the provisions of this ordinance including obtaining or complying with the terms and conditions of a floodplain development permit and any approved modifications, such development shall constitute a civil offense.
- 2) Notice of Violation: If, at any time, a duly authorized employee or agent of the Floodplain Administrator has reasonable cause to believe that a person has caused development to occur which is not in accordance with the provisions of this ordinance including obtaining or complying with the terms and conditions of a floodplain development permit and any approved modifications thereof, a duly authorized employee of the Floodplain Administrator shall issue a notice to the person responsible for the violation and/or the property owner, stating the facts of the offense or violation, the section of this ordinance and/or of the permit violated, when it occurred, how the violation is to be remedied to bring the development into conformity with this ordinance or with the approved permit, and within what period of time the remedy is to occur, which period of time shall be reasonable and shall be determined by the nature of the violation and whether or not it creates a nuisance or hazard. The remedy may include an order to stop work on the development. The notice shall also state that a citation may be forthcoming in the event that the requested remedies and corrective actions are not taken, which citation will request a civil monetary fine and shall state the maximum fine which could be imposed. See below.
- 3) Notice of Citation: If, at any time, a duly authorized employee or agent of the Floodplain Administrator has reasonable cause to believe that a person has caused development to occur which is not in accordance with the provisions of this ordinance including obtaining or complying with the terms and conditions of a floodplain development permit and any approved modifications thereof, a duly authorized employee of the Floodplain Administrator may issue a citation to the offender stating the violation, prior notices of violation issued, how the violation is to be remedied to bring the development into conformity with this ordinance or with the approved permit, and within what period of time the remedy is to occur, and what penalty or penalties are recommended. When a citation is issued, the person to whom the citation is issued shall respond to the citation within seven (7) days of the date the citation is issued by either carrying out the remedies and corrections set forth in the citation, paying the civil fine set forth in the citation or requesting a hearing before the governing body. If the person to whom the citation is issued does not respond to the citation within seven (7) days, that person shall be deemed to have waived the right to a hearing and the determination that a violation occurred shall be considered final.

- 4) Penalties: Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with granting of a variance or special exceptions, shall constitute a misdemeanor civil offense. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined no less than \$100 or imprisoned for not more than 10 days, or both, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Floodplain Administrator from taking such other lawful action as is necessary to prevent or remedy any violation.

ARTICLE 4. ADMINISTRATION

SECTION A. DESIGNATION OF LOCAL ADMINISTRATOR

The City Council of Vanceburg hereby appoints the Mayor or designee to administer, implement, and enforce the provisions of this ordinance by granting or denying development permits in accordance with its provisions, and is herein referred to as the Floodplain Administrator.

SECTION B. ESTABLISHMENT OF DEVELOPMENT PERMIT

A Development Permit shall be obtained before any construction or other development begins within any special flood hazard area established in Article 3, Section B. Application for a Development Permit shall be made on forms furnished by Floodplain Administrator prior to any development activities, and may include, but not be limited to, the following: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Endorsement of floodplain administrator is required before a state floodplain construction permit can be processed. Specifically, the following information is required.

1) Application Stage

- a) Proposed elevation in relation to Mean Sea Level (MSL) of the proposed lowest floor (including basement) of all structures in Zone A and elevation of highest adjacent grade;
or
- b) Proposed elevation in relation to Mean Sea Level to which any non-residential structure will be flood-proofed;
- c) All appropriate certifications from a registered professional engineer or architect that the non-residential flood-proofed structure will meet the flood-proofing criteria in Article 5, Section B (2) and Section D (2);
- d) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

2) Construction Stage

Upon placement of the lowest floor, **and before construction continues**, or flood proofing by whatever construction means, it shall be the duty of the permit holder to submit to the Floodplain Administrator and to the State a certification of the elevation of the lowest floor or flood-proofed elevation, as built, in relation to Mean Sea Level. In AE, A1-30, AH, and A zones where the Community has adopted a regulatory Base Flood Elevation, said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same.

When flood proofing is utilized for a particular structure, said certification shall be prepared by or under the direct supervision of a certified professional engineer or architect. Any continued work

undertaken prior to the submission of the certification shall be at the permit holder's risk. The Floodplain Administrator shall review the lowest floor and flood proofing elevation survey data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the survey or failure to make said corrections required hereby shall be cause to issue a stop-work order for the project.

SECTION C. DUTIES AND RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR

The Floodplain Administrator and/or staff is hereby appointed, authorized and directed to administer, implement and enforce the provisions of this ordinance. The Floodplain Administrator is further authorized to render interpretations of this ordinance, which are consistent with its spirit and purpose by granting or denying development permits in accordance with its provisions.

The duties and responsibilities of the Floodplain Administrator shall include, but not be limited to the following:

- 1) **Permit Review:** Review all development permits to ensure that:
 - a) Permit requirements of this ordinance have been satisfied;
 - b) All other required state and federal permits have been obtained: review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C 1334.;
 - c) Flood damages will be reduced in the best possible manner;
 - d) The proposed development does not adversely affect the carrying capacity of affected watercourses. For purposes of this ordinance, "adversely affects" means that the cumulative effect of the proposed development when combined with all other existing and anticipated development will increase the water surface elevation of the base flood more than one foot at any point.
- 2) **Review and Use of Any Other Base Flood Data.** When base flood elevation data has not been provided in accordance with Article 3, Section B, the Floodplain Administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal or state agency, or other source, in order to administer the provisions of Article 5. Any such information shall be submitted to the City Council for adoption.
- 3) **Notification of Other Agencies:**
 - a) Notify adjacent communities, the Kentucky Division of Water, and any other federal and/or state agencies with statutory or regulatory authority prior to any alteration or relocation of the watercourse, and
 - b) Submit evidence of such notification to the Federal Emergency Management Agency (FEMA); and
 - c) Assure that the flood carrying capacity within the altered or relocated portion of said watercourse is maintained.
- 4) **Documentation of Floodplain Development.** Obtain and maintain for public inspection and make available as needed the following:
 - a) Certification required by Article 5, Section B (1) (lowest floor elevations) as shown on an accurately completed and certified **Elevation Certificate**. Verify and record the actual

elevation (in relation to Mean Sea Level) of the lowest floor (including basement) of all new and substantially improved structures, in accordance with Article 4, Section B (2);

- b) Certification required by Article 5, Section B (2) (elevation or floodproofing of nonresidential structures) as shown on an accurately completed and certified FEMA flood proofing certificate. Verify and record the actual elevation (in relation to Mean Sea Level) to which the new and substantially improved structures have been flood-proofed, in accordance with Article 4, Section B (2);
 - c) Certification required by Article 5, Section B (3) (elevated structures),
 - d) Certification of elevation required by Article 5, Section E (1) (subdivision standards),
 - e) Certification required by Article 5, Section B (5) (floodway encroachments),
 - f) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained;
 - g) Review certified plans and specifications for compliance; and
 - h) Remedial Action. Take action to remedy violations of this ordinance as specified in Article 3, Section H.
- 5) **Map Determinations.** Make interpretations where needed, as to the exact location of the boundaries of the special flood hazard areas, for example, where there appears to be a conflict between a mapped boundary and actual field conditions.
- a) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Article 6, Section (3) a;
 - b) When base flood elevation data and floodway data have not been provided in accordance with Article 3, Section B, then the Floodplain Administrator shall obtain, review, and reasonable utilize any base flood elevation and floodway data available from a federal, state, or other source, in order to administer the provisions of Article 5;
 - c) When flood-proofing is utilized for a particular structure, the Floodplain Administrator shall obtain certification from a registered professional engineer or architect, in accordance with Article 5, Section B (2) a flood proofing certificate;
 - d) All records pertaining to the provisions of this ordinance shall be maintained in the office of the Floodplain Administrator and shall be open for public inspection.
- 6) **Right of Entry**
- a) Whenever necessary to make an inspection to enforce any of the provisions of this ordinance, or whenever the floodplain administrator has reasonable cause to believe that there exists in any structure or upon any premises any condition or ordinance violation which makes such building, structure or premises unsafe, dangerous or hazardous, the floodplain administrator may enter such building, structure or premises at all reasonable times to inspect the same or perform any duty imposed upon the floodplain administrator by this ordinance.
 - b) If such structure or premises are occupied, the floodplain administrator shall first present proper credentials and request entry. If such building, structure, or premises are

unoccupied, he shall first make a reasonable effort to locate the owner or other persons having charge or control of such request entry.

- c) If entry is refused, the floodplain administrator shall have recourse to every remedy provided by law to secure entry.
- d) When the floodplain administrator shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner or occupant or any other persons having charge, care or control of any building, structure, or premises shall fail or neglect, after proper request is made as herein provided, to promptly permit entry therein by the floodplain administrator for the purpose of inspection and examination pursuant to this ordinance.

7) **Stop Work Orders**

- a) Upon notice from the floodplain administrator, work on any building, structure or premises that is being done contrary to the provisions of this ordinance shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to his agent, or to the person performing the work, and shall state the conditions under which work may be resumed.

8) **Revocation of Permits**

- a) The floodplain administrator may revoke a permit or approval, issued under the provisions of this ordinance, in case there has been any false statement or misrepresentation as to the material fact in the application or plans on which the permit or approval was based.
- b) The floodplain administrator may revoke a permit upon determination that the construction, erection, alteration, repair, moving, demolition, installation, or replacement of the structure for which the permit was issued is in violation of, or not in conformity with, the provisions of this ordinance.

9) **Liability**

- a) Any officer, employee, or member of the floodplain administrator's staff, charged with the enforcement of this ordinance, acting for the applicable governing authority in the discharge of his/her duties, shall not thereby render personally liable, and is hereby relieved from all personal liability, for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his/her duties. Any suit brought against any officer, employee, or member because of such act performed by him/her in the enforcement of any provision of this ordinance shall be defended by the department of law until the final termination of the proceedings.

10) **Expiration of Floodplain Construction Permit**

- a) A floodplain development permit, and all provisions contained therein, shall expire if the "start of construction" has not occurred within one hundred and eighty (180) calendar days from the date of its issuance.

ARTICLE 5. PROVISIONS FOR FLOOD HAZARD REDUCTION

SECTION A. GENERAL CONSTRUCTION STANDARDS

In all **Special Flood Hazard Areas** the following provisions are required:

- 1) All new construction and substantial improvements shall be adequately anchored to prevent flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- 2) Manufactured homes shall be anchored to prevent flotation, collapse, and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces.
- 3) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;
- 4) New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage;
- 5) Electrical, heating, ventilation, plumbing, air condition equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding; and if
- 6) Within Zones AH or AO, so that there are adequate drainage paths around structures on slopes to guide flood waters around and away from proposed structures.
- 7) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- 8) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;
- 9) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;
- 10) Any alteration, repair, reconstruction, or improvements to a structure, which is not in compliance with the provisions of this ordinance shall meet the requirements of "new construction" as contained in this ordinance;
- 11) Any alteration, repair, reconstruction, or improvements to a structure, which is not in compliance with the provisions of this ordinance, shall be undertaken only if said non-conformity is not furthered, extended, or replaced.

SECTION B. SPECIFIC STANDARDS

In all special flood hazard areas where base flood elevation data have been provided, as set forth in Article 3, Section B, the following provisions are required:

- 1) **Residential Construction.** New construction and substantial improvement of any residential structure (including manufactured home) shall have the lowest floor, including basement, mechanical equipment, and ductwork elevated no lower than at or above feet above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate automatic equalization of hydrostatic flood forces on walls shall be provided in accordance with standards of Article 5, Section B (3).
 - a) In an AO zone, the lowest floor shall be elevated above the highest adjacent grade to a height equal to or higher than the depth number specified in feet on the FIRM, or elevated at least two feet above the highest adjacent grade if no depth number is specified.

b) In an A zone, where no technical data has been produced by the Federal Emergency Management Agency, the Floodplain Administrator will determine the method by which base flood elevations are determined. Methods include, but are not limited to, detailed hydrologic and hydraulic analyses, use of existing data available from other sources, approximate methods, use of historical data, best supportable and reasonable judgment in the event no data can be produced. The lowest floor shall be elevated no lower than at or above feet above such base flood elevation. Title 401 KAR (Kentucky Administrative Regulations) Chapter 4, Regulation 060, Section 5(5)a, states as a part of the technical requirements for a State Floodplain Permit: The applicant shall provide cross sections for determining floodway boundaries (and thereby Base Flood Elevations) at any proposed construction site where FEMA maps are not available. All cross sections shall be referenced to mean sea level and shall have vertical error tolerances of no more than + five-tenths (0.5) foot. Cross sections elevations shall be taken at those points which represent significant breaks in slope and at points where hydraulic characteristics of the base floodplain change. Each cross section shall extend across the entire base floodplain and shall be in the number and at the locations specified by the cabinet. If necessary to ensure that significant flood damage will not occur, the cabinet may require additional cross sections or specific site elevations which extend beyond those needed for making routine regulatory floodway boundary calculations.

c) In all other Zones, elevated at or above feet above the base flood elevation.

Upon the completion of the structure, the elevation of the lowest floor (including basement) shall be certified by a registered professional engineer or surveyor, and verified by the community building inspection department to be properly elevated. Such certification and verification shall be provided to the Floodplain Administrator.

- 2) **Non-residential Construction.** New construction and substantial improvement of any commercial, industrial, or non-residential structure (including manufactured homes used for non-residential purposes) shall be elevated to conform with Article 5, Section B (1) or together with attendant utility and sanitary facilities:
- a) Be flood proofed to an elevation at or above feet above the level of the base flood elevation so that the structure is watertight with walls substantially impermeable to the passage of water;
 - b) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy and debris;
 - c) A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification along with the design and operational maintenance plans shall be provided to the Floodplain Administrator.
 - d) Manufactured homes shall meet the standards in Article 5, Section B (4).
 - e) All new construction and substantial improvement with fully enclosed areas below the lowest floor (including basements) that are usable solely for parking of vehicles, building access or storage, and which are subject to flooding, shall be constructed of flood resistant materials to an elevation at or above feet above the base flood elevation, and, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Openings for meeting this requirement must meet or exceed the standards of Article 5, Section B (3).
- 3) **Elevated Structures.** New construction and substantial improvements of elevated structures on columns, posts, or pilings that include fully enclosed areas formed by foundation and other exterior walls below the lowest floor shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls.

- a) Openings for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:
- (i) Provide a minimum of two (2) openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
 - (ii) The bottom of all openings shall be no higher than one foot above foundation interior grade (which must be equal to in elevation or higher than the exterior foundation grade); and
 - (iii) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
- b) Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door), limited storage of maintenance equipment used in connection with the premises (standard exterior door), or entry to the living area (stairway or elevator); and
- c) The interior portion of such enclosed areas shall not be finished or partitioned into separate rooms.

4) **Standards for Manufactured Homes and Recreational Vehicles.**

- a) All new and substantially improved manufactured homes placed on sites located within A, A1-30, AO, AH, and AE on the community's Flood Insurance Rate Map (FIRM) must meet all the requirements for new construction, including elevation and anchoring. Locations include:
- On individual lots or parcels,
 - In expansions to existing manufactured home parks or subdivisions,
 - In new manufactured home parks or subdivisions or
 - In substantially improved manufactured home parks or subdivisions,
 - Outside of a manufactured home park or subdivision, and
 - In an existing manufactured home park or subdivision on a site upon which a manufactured home has incurred "substantial damage" as the result of a flood,

All such manufactured homes must be:

- (i) Elevated on a permanent foundation, and
 - (ii) Have its lowest floor elevated no lower than at or above feet above the level of the base flood elevation, and
 - (iii) Be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
- b) Except manufactured homes that have incurred substantial damage as a result of a flood, all manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that:
- (i) The manufactured home is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement, so that either the:

- o The lowest floor of the manufactured home is elevated no lower than at or above feet above the base flood elevation, or
 - o The manufactured home chassis is supported by reinforced piers or other foundation elements of at least an equivalent strength, of no less than 36 inches in height above the highest adjacent grade.
- c) All recreational vehicles placed on sites located within A, A1-30, AO, AH, and AE on the community's Flood Insurance Rate Map (FIRM) must either:
- (i) Be on the site for fewer than 180 consecutive days,
 - (ii) Be fully licensed and ready for highway use, or
 - (iii) Meet the permit requirements for new construction of this ordinance, including anchoring and elevation requirements for "manufactured homes".

A recreational vehicle is ready for highway use if it is licensed and insured in accordance with the State of Kentucky motor vehicle regulations, is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

- 5) **Floodways.** Located within areas of special flood hazard established in Article 3, Section B, are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and has erosion potential, the following provisions shall apply:
- a) Prohibit encroachments, including fill, new construction, substantial improvements, and other developments unless certification (with supporting technical data) by a registered professional engineer is provided demonstrating that encroachments shall not result in any increase in the base flood elevation levels during occurrence of base flood discharge;
 - b) If Article 5, Section B (5) is satisfied, all new construction and substantial improvements and other proposed new development shall comply with all applicable flood hazard reduction provisions of Article 5.

SECTION C. STANDARDS FOR STREAMS WITHOUT ESTABLISHED BASE FLOOD ELEVATION AND/OR FLOODWAYS

Located within the special flood hazard areas established in Article 3, Section B, where streams exist but where no base flood data has been provided or where base flood data has been provided without floodways, the following provisions apply:

- 1) No encroachments, including fill material or structures shall be located within special flood hazard areas, unless certification by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.
- 2) New construction and substantial improvements of structures shall be elevated or flood proofed to elevations established in accordance with Article 3, Section B.

SECTION D. STANDARDS FOR SHALLOW FLOODING ZONES

Located within the special flood hazard areas established in Article 3, Section B, are areas designated as shallow flooding areas. These areas have flood hazards associated with base flood depths of one to three

feet (1 – 3'), where a clearly defined channel does not exist and the water path of flooding is unpredictable and indeterminate; therefore, the following provisions apply:

- 1) All new construction and substantial improvements of residential structures shall:
 - a) Have the lowest floor, including basement, elevated to or above either the base flood elevation or in Zone AO the flood depth specified on the Flood Insurance Rate Map above the highest adjacent grade. In Zone AO, if no flood depth is specified, the lowest floor, including basement, shall be elevated no less than two (2) feet above the highest adjacent grade.
- 2) All new construction and substantial improvements of non-residential structures shall:
 - a) Have the lowest floor, including basement, elevated to or above either the base flood elevation or in Zone AO the flood depth specified on the Flood Insurance Rate Map, above the highest adjacent grade. In Zone AO, if no flood depth is specified, the lowest floor, including basement, shall be elevated no less than two (2) feet above the highest adjacent grade.
 - b) Together with attendant utility and sanitary facilities be completely floodproofed either to the base flood elevation or above or, in Zone AO, to or above the specified flood depth plus a minimum of one foot so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required as stated in Article 5, Section B (2).

SECTION E. STANDARDS FOR SUBDIVISION PROPOSALS

- 1) All subdivision proposals shall identify the flood hazard area and the elevation of the base flood and be consistent with the need to minimize flood damage;
- 2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;
- 3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards; and,
- 4) In areas where base flood elevation and floodway data is not available, base flood elevation and floodway data for subdivision proposals and other proposed development (including manufactured home parks and subdivisions) greater than 50 lots or 5 acres, whichever is the lesser, shall be provided.
- 5) All subdivision plans will include the elevation of proposed structure(s) and lowest adjacent grade. If the site is filled above the base flood elevation, the lowest floor and lowest adjacent grade elevations shall be certified by a registered professional engineer or surveyor and provided to the Floodplain Administrator.

SECTION F. STANDARDS FOR ACCESSORY STRUCTURES IN ALL ZONES BEGINNING WITH THE LETTER 'A'

For all accessory structures in special flood hazard areas designated 'A' the following provisions shall apply:

- 1) Must be non-habitable;
- 2) Must be anchored to resist floatation and lateral movement;
- 3) Must be provided with flood openings in accordance with the standards of Article 5, Section B (3);

- 4) Must be built of flood resistant materials to at or above feet above the base flood elevation;
- 5) Must elevate utilities at or above feet above the base flood elevation;
- 6) Can only be used for storage or parking; and
- 7) Must not be modified for a different use after permitting.

SECTION G. CRITICAL FACILITIES

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the SFHA (100-year floodplain). Construction of new critical facilities shall not be permissible within the floodway; however, they may be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated one foot or more above the base flood elevation at the site. Flood proofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible.

ARTICLE 6. APPEALS AND VARIANCE PROCEDURES

1) Nature of Variances

The variance criteria set forth in this section of the ordinance are based on the general principle of zoning law that variances pertain to a piece of property and are not personal in nature. A variance may be granted for a parcel of property with physical characteristics so unusual that complying with the requirements of this ordinance would create an exceptional hardship to the applicant or the surrounding property owners. The characteristics must be unique to the property and not be shared by adjacent parcels. The unique characteristic must pertain to the land itself, not to the structure, its inhabitants, or the property owners.

It is the duty of the City Council to help protect its citizens from flooding. This need is so compelling and the implications of the cost of insuring a structure built below flood level is so serious that variances from the flood elevation or from other requirements in the flood ordinance are quite rare. The long-term goal of preventing and reducing flood loss and damage can only be met if variances are strictly limited. Therefore, the variance guidelines provided in this ordinance are more detailed and contain multiple provisions that must be met before a variance can be properly granted. The criteria are designed to screen out those situations in which alternatives other than a variance are more appropriate.

2) Designation of Variance and Appeal Board

- a) The City Council of Vanceburg shall establish a Variance and Appeal Board consisting of members of the City Council.

3) Duties of Variance and Appeals Board

- a) The Variance and Appeal Board shall hear and decide requests for variances from the requirements of this ordinance and appeals of decisions or determinations made by the Floodplain Administrator in the enforcement or administration of this ordinance.
- b) Any person aggrieved by the decision of the Variance and Appeal Board may appeal such decision to the Circuit Court, as provided in Kentucky Revised Statutes.

4) Variance Procedures

In passing upon such applications, the Variance and Appeal Board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and the:

- a) Danger that materials may be swept onto other lands to the injury of others;
- b) Danger to life and property due to flooding or erosion damage;
- c) Susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the existing individual owner and future owners of the property;
- d) Importance to the community of the services provided by the existing or proposed facility;
- e) Necessity that the facility be located on a waterfront, in the case of functionally dependent use;
- f) Availability of alternative locations, which are not subject to flooding or erosion damage;
- g) Compatibility of the proposed use with existing and anticipated development;
- h) Relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- i) Safety of access to the property in times of flood for ordinary and emergency vehicles;
- j) Expected height, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
- k) Costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water systems, streets, and bridges and culverts.

5) Conditions for Variances

Upon consideration of the factors listed above and the purposes of this ordinance, the Variance and Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

- a) Variances shall not be issued within any mapped regulatory floodway if any increase in flood levels during the base flood discharge would result.
- b) Variances shall only be issued upon a determination that the variance is the "minimum necessary" to afford relief considering the flood hazard. "Minimum necessary" means to afford relief with a **minimum** of deviation from the requirements of this ordinance. For example, in the case of variances to an elevation requirement, this means the City Council **need not grant** permission for the applicant to build at grade, or even to whatever elevation the applicant proposes, but only to that elevation which the City Council believes will both provide relief and preserve the integrity of the local ordinance.
- c) Variances shall only be issued upon:
 - (i) A showing of good and sufficient cause;
 - (ii) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - (iii) A determination that the granting of a variance will not result in increased flood height, additional threats to public safety, cause extraordinary public



expense, create nuisance (as defined in the definition section under "Public safety and nuisance"), cause fraud or victimization of the public (as defined in the definition section) or conflict with existing local laws or ordinances.

- d) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the structure is to be built and stating that the cost of flood insurance will be commensurate with the increased risk resulting from the lowest floor being situated below the base flood elevation.
- e) The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency (FEMA) upon request
- g) Variances may be issued for new construction, substantial improvement, and other proposed new development necessary for the conduct of a functionally dependent use provided that the provisions of Article 6 (4) are satisfied and that the structure or other development is protected by methods that minimize flood damages during the base flood and does not result in additional threats to public safety and does not create a public nuisance.

6) Variance Notification

Any applicant to whom a variance is granted shall be given written notice over the signature of a community official that:

- a) The issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage;
- b) Such construction below the base flood level increases risks to life and property. A copy of the notice shall be recorded by the Floodplain Administrator in the Office of the Vanceburg Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.
- c) The Floodplain Administrator shall maintain a record of all variance actions, including justification for their issuance or denial, and report such variances issued in the community's biennial report submission to the Federal Emergency Management Agency.

7) Historic Structures

Variances may be issued for the repair or rehabilitation of "historic structures" (see definition) upon determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

ARTICLE 7. SEVERABILITY

This ordinance and the various parts thereof are hereby declared to be severable. Should any section of this ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any portion thereof other than the section so declared to be unconstitutional or invalid.

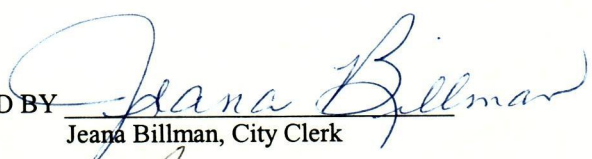


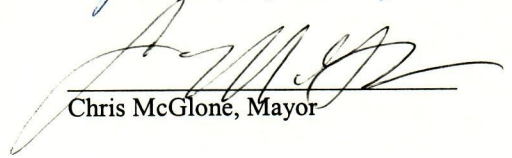
If any clause, sentence, or phrase of the Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall not affect the validity of the ordinance as a whole, or any portion thereof other than the section so declared to be unconstitutional or invalid.

This ordinance was adopted at a public meeting of the City Council of Vanceburg on 3/4/13.

First Reading 2.4.13

Second Reading 3.4.13

CERTIFIED BY 
Jeana Billman, City Clerk


Chris McGlone, Mayor

This 4th day of March, 2013.



NOTICE OF ENACTMENT AND SUMMARY
OF
ORDINANCE NO. 950.10C

*Amended
3/4/13
J*


AN ORDINANCE OF THE CITY OF VANCEBURG, KENTUCKY
REGARDING FLOOD DAMAGE PREVENTION

As required by KRS 83A.060(9), I hereby certify that an Ordinance bearing the above title was given first reading by the City Council of the City of Vanceburg, Kentucky, at a duly convened meeting of the City Council held on August 30, 1994, and was given second reading and enacted by said City Council at a duly convened meeting held on September 12, 1994, and that the following is a Summary of such Ordinance prepared by E. V. Holder, Jr., Attorney for the City of Vanceburg, Kentucky.

SUMMARY OF ORDINANCE

This Ordinance applies to all areas of the special flood hazard within the jurisdiction of the City of Vanceburg, as identified by the Federal Insurance Administration, and mandates that no structure or land in said areas shall hereafter be located, or extended, converted or structurally altered without compliance with the provisions of the Ordinance; requires the obtaining of a permit from the Mayor as administrator and the Kentucky Division of Water; permits manufactured homes within areas of special flood hazard; requires that all new construction and substantial improvements be constructed with materials and utility equipment resistant to flood damage; provides that in all areas of special flood hazard, the lowest floor of any residential structure constructed or substantially improved shall have the lowest floor elevated to or above base flood elevation or has said floor floodproofed; and provides penalties of \$250.00 or imprisonment of not more than ninety days for each day a violation of this Ordinance continues.

A copy of the full text of said Ordinance is available for public inspection at the City Building, 609 Front Street, Vanceburg, Kentucky, during regular business hours, Monday through Friday.


Jeana Billman
Clerk, City of Vanceburg

OFFICE OF THE ATTORNEY GENERAL

STATE OF ILLINOIS

IN SENATE, JANUARY 10, 1906.

REPORT OF THE COMMISSIONERS OF THE LAND OFFICE, IN ANSWER TO A RESOLUTION PASSED BY THE SENATE, APRIL 10, 1905.

STATE OF ILLINOIS

REPORT OF THE COMMISSIONERS OF THE LAND OFFICE, IN ANSWER TO A RESOLUTION PASSED BY THE SENATE, APRIL 10, 1905.

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**NOTICE OF ENACTMENT AND SUMMARY
OF
ORDINANCE NO. 950.10C**

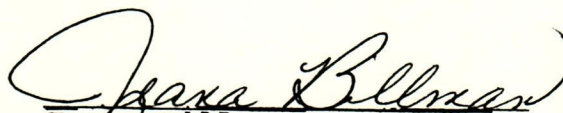
**AN ORDINANCE OF THE CITY OF VANCEBURG, KENTUCKY
REGARDING FLOOD DAMAGE PREVENTION**

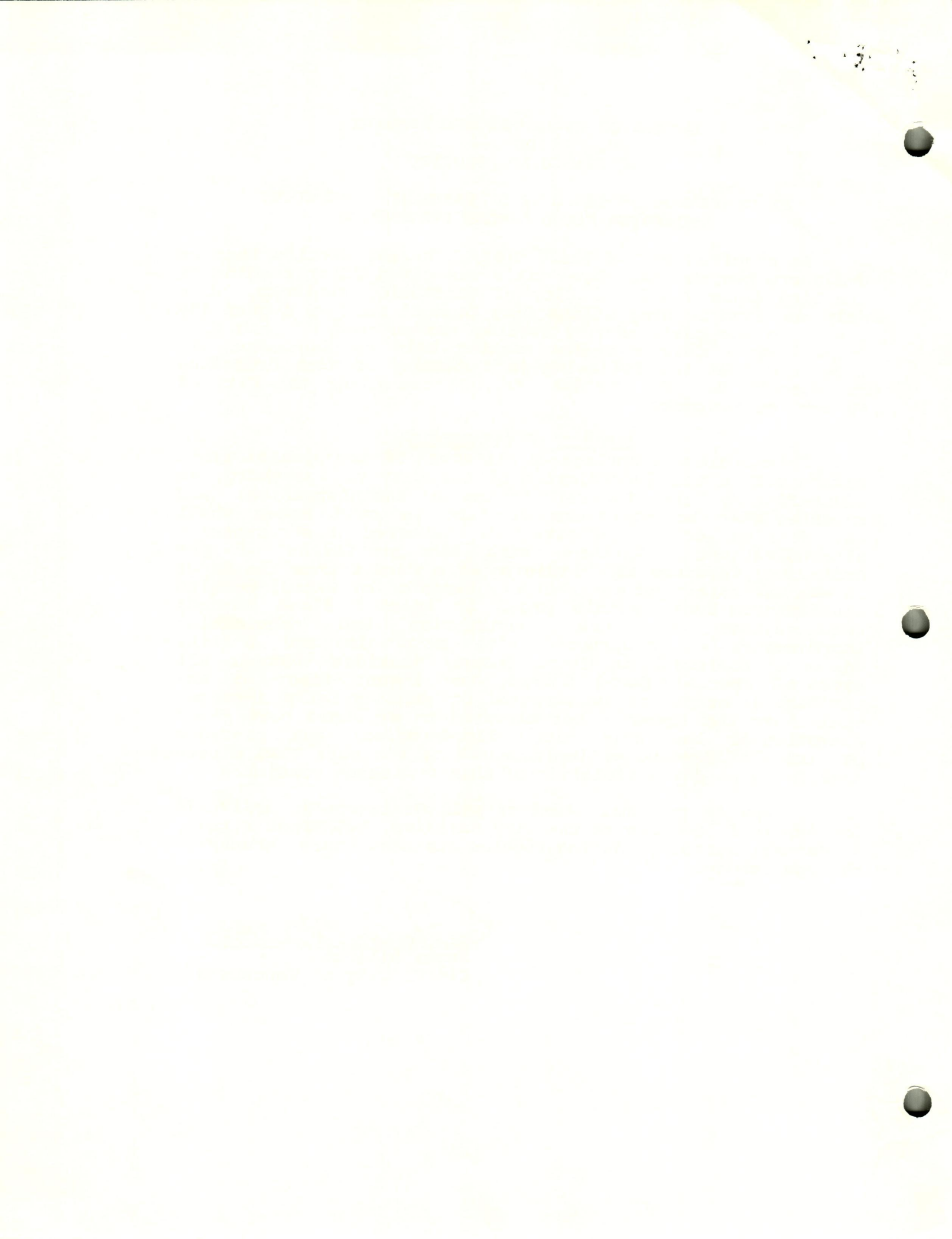
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A copy of the full text of said Ordinance is available for public inspection at the City Building, 609 Front Street, Vanceburg, Kentucky, during regular business hours, Monday through Friday.


Jeana Billman
Clerk, City of Vanceburg



SECTION D. OBJECTIVES

The objectives of this ordinance are:

- (1) to protect human life and health;
- (2) to minimize expenditure of public money for costly flood control projects;
- (3) to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) to minimize prolonged business interruptions;
- (5) to minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
- (6) to help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize flood blight areas; and,
- (7) to insure that potential home buyers are notified that property is in a flood area.

ARTICLE 2. DEFINITIONS.

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

"Addition (to an existing building)" means any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a fire wall. Any walled and roofed addition which is connected by a fire wall or is separated by independent perimeter load-bearing walls is new construction.

"Appeal" means a request for a review of the City Clerk's (Local Administrator) interpretation of any provision of this ordinance or a request for a variance.

"Area of shallow flooding" means a designated AO Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

"Area of special flood hazard" is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

"Base flood" means the flood having a one percent chance of being equaled or exceeded in any given year.

"Basement" means that portion of a building having its floor subgrade (below ground level) on all sides.

"Breakaway wall" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

"Building" means a walled and roofed building that is principally above ground, a manufactured home, a gas or liquid storage tank, or other man-made facilities or infrastructures.

"Development" means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or permanent storage of materials or equipment.

"Elevated building" means a non-basement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns (posts and piers), shear walls, or breakaway walls.

"Existing Construction" any structure for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMS effective before that date. "Existing construction" may also be referred to as Existing structures."

"Existing Manufactured Home Park or Subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management ordinance adopted by the City of Vanceburg based on specific technical base flood elevation data which established the area of special flood hazards.

"Expansion to an existing Manufactured Home Park or Subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

"Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) the overflow of inland or tidal waters;
- (2) the unusual and rapid accumulation or runoff of surface waters from any source.

"Flood Hazard/Boundary Map (FHBM)" means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined as Zone A.

"Flood Insurance Rate Map (FIRM)" means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

"Flood Insurance Study" is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Boundary Floodway Map and the water surface elevation of the base flood.

"Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

"Floor" means the top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.

"Functionally dependent facility" means a facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, ship repair, or seafood processing facilities. The term does not include long-term storage, manufacture, sales, or service facilities.

"Highest adjacent grade" means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a building.

"Historic Structure" means any structure that is:

- a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

- b. *Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;*
- c. *Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or*
- d. *Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either :*
 - (1) *By an approved state program as determined by the Secretary of the Interior, or*
 - (2) *Directly by the Secretary of the Interior in states without approved programs.*

"Lowest Floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 60.3.

"Manufactured Home" means a structure transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. the term also includes park trailers, travel trailers, and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property.

"Mean Sea Level" means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For purposes of this ordinance, the term is synonymous with National Geodetic Vertical datum (NGVD).

"National Geodetic Vertical Datum (NGVD)" as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the floodplain.

"New Construction" means structures for which the "start of construction" commenced on or after the effective date of the City of Vanceburg's floodplain management regulations and includes any subsequent improvements to such structures.

"New Manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the City of Vanceburg's floodplain management regulations.

"100 Year Flood" see Base Flood.

"Recreational vehicle" means a vehicle which is:

- a. *built on a single chassis;*
- b. *400 square feet or less when measured at the largest horizontal projection;*
- c. *designed to be self-propelled or permanently towable to a light duty truck; and*

- d. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

"Start of Construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

"Structure" means a walled and roofed building that is principally above ground, a manufactured home, a gas or liquid storage tank, or other man-made facilities or infrastructures.

"Substantial Damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

"Substantial Improvement" means any combination of repairs, reconstruction, alteration, or improvements to a building, taking place during a five (5) year period, in which the cumulative cost equals or exceeds fifty percent of the market value of the building. The market value of the building should be (1) the appraised value of the building prior to the start of the initial repair or improvement, or (2) in the case of damage, the value of the building prior to the damage occurring. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. The term does not, however, include either: (1) any project for improvement of a building required to comply with existing health, sanitary, or safety code specifications which have been identified by the Code Enforcement Official and which are solely necessary to assure safe living conditions or (2) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

"Substantially improved existing manufactured home parks or subdivisions" is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities, and pads equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

"Variance" is a grant of relief from the requirements of this ordinance which permits construction in a manner otherwise prohibited by this ordinance where specific enforcement would result in unnecessary hardship.

ARTICLE 3. GENERAL PROVISIONS.

SECTION A. LANDS TO WHICH THIS ORDINANCE APPLIES.

This ordinance shall apply to all areas of special flood hazard within the jurisdiction of the City of Vanceburg.

SECTION B. BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD.

The areas of special flood hazard identified by the Federal Emergency Management Agency in its Flood Insurance Study dated February 19, 1987, with accompanying maps and other supporting data, and any revision thereto, are adopted by reference and declared to be a part of this ordinance

SECTION C. ESTABLISHMENT OF DEVELOPMENT PERMIT.

A Development Permit shall be required in conformance with the provision of this ordinance prior to the commencement of any development activities.

SECTION D. COMPLIANCE.

No structure or land shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.

SECTION E. ABROGATION AND GREATER RESTRICTIONS.

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

SECTION F. INTERPRETATION.

In the interpretation and application of this ordinance, all provisions shall be: (1) considered as minimum requirements; (2) liberally construed in favor of the governing body; and, (3) deemed neither to limit nor repeal any other powers granted under state statutes.

SECTION G. WARNING AND DISCLAIMER OR LIABILITY.

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City of Vanceburg (Local Unit) or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

SECTION H. PENALTIES FOR VIOLATION.

Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$250.00 or imprisoned for not more than 90 days, or both, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Vanceburg from taking such other lawful actions as is necessary to prevent or remedy any violation.

SECTION I. REPEAL OF PRIOR ORDINANCE.

ARTICLE 4. ADMINISTRATION.

SECTION A. DESIGNATION OF LOCAL ADMINISTRATOR

The Mayor is hereby appointed to administer and implement the provisions of this ordinance.

SECTION B. PERMIT PROCEDURES

Application for a Development Permit shall be made to the Mayor (Local Administrator) on forms furnished by him or her prior to any development activities, and may include, but not be limited to, the following: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

(1) Application Stage.

- (a) Elevation in relation to Mean Sea Level of the proposed lowest floor (including basement) of all buildings;
- (b) Elevation in relation to Mean Sea Level to which any non-residential building will be flood-proofed;
- (c) Certificate from a registered professional engineer or architect that the non-residential flood-proofed building will meet the flood-proofing criteria in Article 5, Section B (2);
- (d) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development; and,

(2) Construction Stage.

Provide a floor elevation or flood-proofing certification after the lowest floor is completed. Upon placement of the lowest floor, or flood-proofing by whatever construction means, it shall be the duty of the permit holder to submit to the Mayor (Local Administrator) a certification of the elevation of the lowest floor or flood-proofed elevation, as built, in relation to Mean Sea Level. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When flood-proofing is utilized for a particular building, said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. Any work undertaken prior to the submission of the certification shall be at the permit holder's risk. The Mayor (Local Administrator) shall review the floor elevation survey data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the survey or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

SECTION C. DUTIES AND RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR

The duties of the Mayor (Local Administrator) shall include, but not be limited to:

- (1) Review all development permits to assure that the permit requirements of this ordinance have been satisfied;
- (2) Advise permittee that additional federal or state permits may be required, and if specific federal or state permit requirements are known, require that

copies of such permits be provided and maintained on file with the development permit.

- (3) Notify adjacent communities and the Kentucky Division of Water prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency;
- (4) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished;
- (5) Verify and record the actual elevation (in relation to Mean Sea Level) of the lowest floor (including basement) of all new or substantially improved buildings, in accordance with Article 4, Section B (2);
- (6) Verify and record the actual elevation (in relation to Mean Sea Level) to which the new or substantially improved buildings have been flood-proofed, in accordance with Article 4, Section B (2);
- (7) When flood-proofing is utilized for a particular building, the Mayor (Local Administrator) shall obtain certification from a registered professional engineer or architect, in accordance with Article 5, Section B (2);
- (8) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Mayor (Local Administrator) shall make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article;
- (9) When base flood elevation data or floodway data have not been provided in accordance with Article 3, Section B, then the Mayor (Local Administrator) shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer the provisions of Article 5;
- (10) All records pertaining to the provisions of this ordinance shall be maintained in the office of the Mayor (Local Administrator) and shall be open for public inspection.)

SECTION D VARIANCE PROCEDURES.

- (1) ~~The City Council of Vanceburg (Appeal Board) is established by~~ the City Council (Local Unit) shall hear and decide appeals and requests for variances from the requirements of this ordinance.
- (2) The City Council (Appeal Board) shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Mayor (Local Administrator) in the enforcement or administration of this ordinance.
- (3) Any person aggrieved by the decision of the City Council (Appeal Board) or any taxpayer may appeal such decision to the Lewis Circuit Court (Appropriate Court), as provided in Kentucky Revised Statutes.
- (4) Variances may be issued for the repair or rehabilitation of historic structures (see definition) upon determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum to preserve the historic character and design of the structure.
- (5) In passing upon such applications, the City Council (Appeal Board) shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:

- (a) the danger that materials may be swept onto other lands to the injury of others;
 - (b) the danger to life and property due to flooding or erosion damage;
 - (c) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (d) the importance of the services provided by the proposed facility to the community;
 - (e) the necessity of the facility to a waterfront location, in the case of a functionally dependent facility;
 - (f) the availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 - (g) the compatibility of the proposed use with existing and anticipated development;
 - (h) the relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - (i) the safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (j) the expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,
 - (k) the costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities—such as sewer, gas, electrical, and water systems, and streets and bridges.
- (6) Upon consideration of the factors listed above, and the purposes of this ordinance, the City Council (Appeal Board) may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.
- (7) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (8) Conditions for Variances:
- (a) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief; and in the instance of a historical building, a determination that the variance is the minimum necessary so as not to destroy the historic character and design of the building;
 - (b) Variances shall only be issued upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship; and, (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
 - (c) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the building is to be built and stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
 - (d) The Mayor (Local Administrator) shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

ARTICLE 5. PROVISIONS FOR FLOOD HAZARD REDUCTION.

SECTION A. GENERAL STANDARDS.

In all areas of special flood hazard the following provisions are required:

- (1) New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure;
- (2) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces.
- (3) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;
- (4) New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
- (5) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- (6) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (7) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;
- (8) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding; and,
- (9) Any alteration, repair, reconstruction or improvements to a building which is not in compliance with the provisions of this ordinance, shall meet the requirements of "new construction" as contained in this ordinance.
- (10) Any alteration, repair, reconstruction or improvements to a building which is not in compliance with the provisions of this ordinance, shall be undertaken only if said non-conformity is not furthered, extended, or replaced.

SECTION B. SPECIFIC STANDARDS.

In all areas of special flood hazard where base flood elevation data have been provided, as set forth in Article 3, Section B, or Article 4, Section C (9), the following provisions are required:

- (1) Residential Construction. New construction or substantial improvement of any residential building (or manufactured home) shall have the lowest floor, including basement elevated 0 feet above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of flood waters shall be provided in accordance with standards of Article 5, Section B (3).
- (2) Non-Residential Construction. New construction or substantial improvement of any commercial, industrial, or non-residential building (or manufactured home) shall have the lowest floor, including basement, elevated 0 feet above the base flood elevation. Buildings located in all A-Zones may be flood-proofed in lieu of being elevated, provided that all areas of the building below the required elevation are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are

satisfied. Such certification shall be provided to the official as set forth in Article 4, Section C (7).

(3) Elevated Buildings. New construction or substantial improvements of elevated buildings that include fully enclosed areas formed by foundation and other exterior walls below the base flood elevation shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls.

(a) Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:

(i) Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;

(ii) The bottom of all openings shall be no higher than one foot above grade; and,

(iii) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both direction.

(b) Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator); and,

(c) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.

(4) Standards for Manufactured Homes and Recreational Vehicles.

(a) All manufactured homes placed or substantially improved (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood, must meet all the requirements for new construction, including elevation and anchoring.

(b) All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that:

(i) the lowest floor of the manufactured home is elevated to or above the level of the base flood elevation, or

(ii) the manufactured home chassis is supported by reinforced piers or other foundation elements of at least an equivalent strength, of no less than 36 inches in height above grade.

(iii) the manufactured home must be securely anchored to the adequately anchored foundation system to resist flotation, collapse and lateral movement.

(iv) In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood, any manufactured home placed or substantially improved must meet the standards of Article 5, Section B(4) (b)(i) and (iii) above.

- (c) *All recreational vehicles placed on sites must either:*
- (i) *be on the site for fewer than 180 consecutive days,*
 - (ii) *be fully licensed and ready for highway use, or*
 - (iii) *meet the permit requirements for new construction, including anchoring and elevation requirements for "manufactured homes".*

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

- (5) Floodways, Located within areas of special flood hazard established in Article 3, Section B, are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and has erosion potential, the following provisions shall apply:
- (a) Prohibit encroachments, including fill, new construction, substantial improvements and other developments unless certification (with supporting technical data) by a registered professional engineer is provided demonstrating that encroachments shall not result in any increase in flood levels during occurrence of base flood discharge;
 - (b) If Article 5, Section B (4) (a) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article 5.

SECTION C. STANDARDS FOR STREAMS WITHOUT ESTABLISHED BASE FLOOD ELEVATION AND/OR FLOODWAYS.

Located within the areas of special flood hazard established in Article 3, Section B, where streams exist but where no base flood data has been provided or where base flood data has been provided without floodways, the following provisions apply:

- (1) No encroachments, including fill material or structures shall be located within areas of special flood hazard, unless certification by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.
- (2) New construction or substantial improvements of buildings shall be elevated or flood-proofed to elevations established in accordance with Article 4, Section C (9).

SECTION D. STANDARDS FOR SUBDIVISION PROPOSALS.

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage;
- (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;
- (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards; and,
- (4) Base flood elevation data shall be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivisions) which is greater than the lesser of fifty lots or five acres.



SECTION E. STANDARDS FOR AREAS OF SHALLOW FLOODING (AO ZONES)

Located within the areas of special flood hazard established in Article 3, Section B, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three feet (1'-3') where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply:

- (1) All new construction and substantial improvements or residential structures shall have the lowest floor, including basement, elevated above the highest adjacent grade, at least as high as the depth number specified in feet on the City of Vanceburg's FIRM. If no depth number is specified, the lowest floor, including basement, shall be elevated at least two (2) feet above the highest adjacent grade.
- (2) All new construction and substantial improvements of non-residential structures shall:
 - (a) have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the City of Vanceburg's FIRM. If no depth number is specified, the lowest floor, including basement, shall be elevated at least two (2) feet above the highest adjacent grade, or
 - (b) together with attendant utilities and sanitary facilities be completely flood-proofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

ADOPTED ON Sept. 12, 1994

First Reading: August 30, 1994

William T. Cooper

Second Reading: Sept. 12, 1994

Mayor

Yes: 6

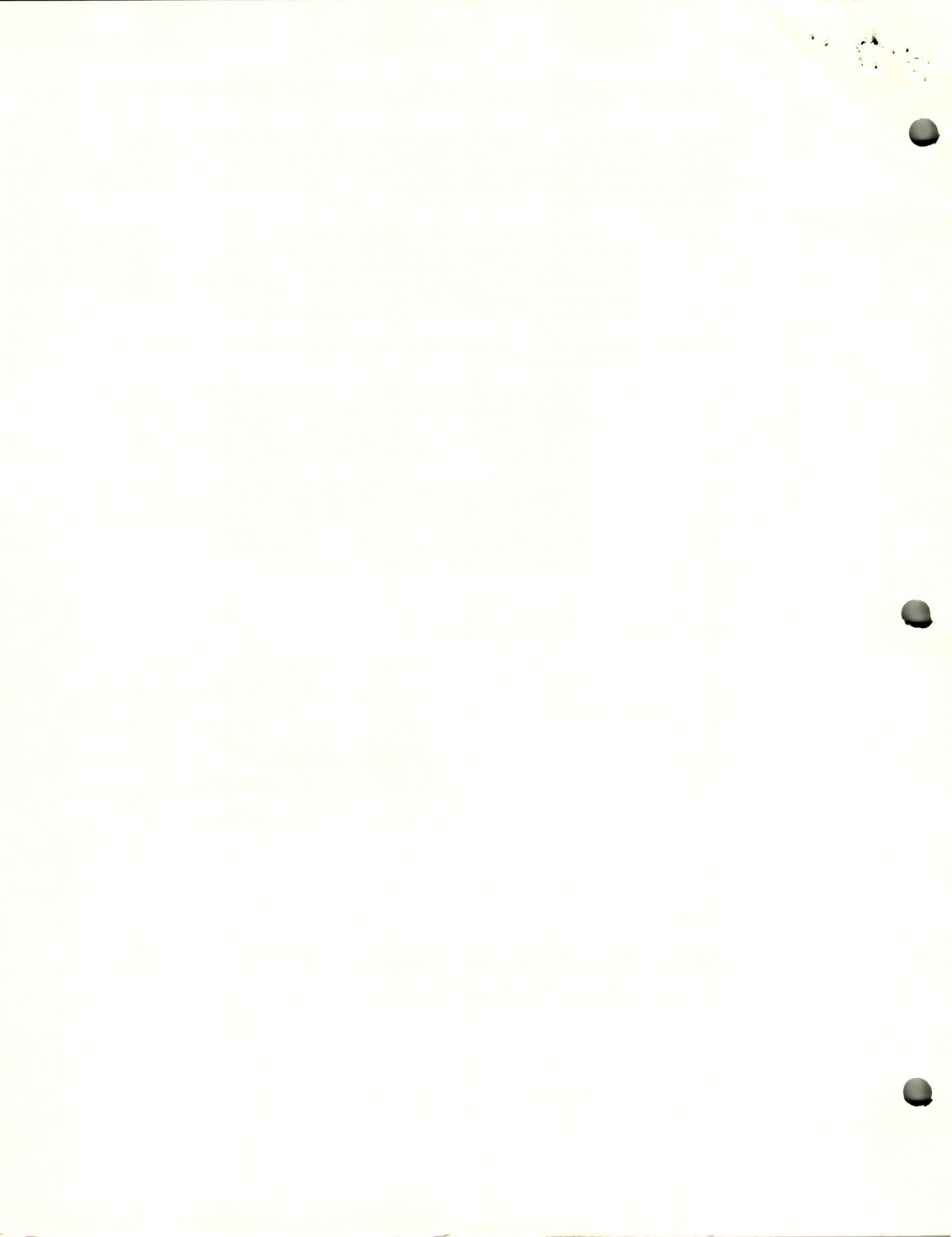
City of Vanceburg

No: 0

[Signature]
(Signatures of Governing Board)

CERTIFIED BY Jana Belman, City Clerk

DATE: 9-12-94



ORDINANCE NO. 960.01

AN ORDINANCE OF THE CITY OF VANCEBURG, KENTUCKY,
PERTAINING TO FAIR HOUSING

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VANCEBURG:

Section 1. POLICY

It is the policy of the City of Vanceburg to provide, within constitutional limitations, for fair housing throughout the city.

Section 2. DEFINITIONS

(a) "Dwelling" means any building, structure or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure or portion thereof.

(b) "Family" includes a single individual.

(c) "Person" includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers and fiduciaries.

(d) "To rent" includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises owned by the occupant.

(e) "Discriminatory housing practice" means an act that is unlawful under section 4, 5 or 6.

Section 3. UNLAWFUL PRACTICE

Subject to the provisions of subsection (b) and Section 7, the prohibitions against discrimination in the sale or rental of housing set forth in Section 3 shall apply to:

(a) All dwelling except as exempted by subsection (b).

(b) Nothing in Section 4 shall apply to:

(1) Any single-family house sold or rented by an owner: Provided, that such private individual owner does not own more than three such single-family houses at any one time; Provided further, that in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale or who was not the most recent resident of such house prior to such sale, the exemption granted by this subsection shall apply only with respect to one such sale within any twenty four-month period; Provided further, that such bona fide private individual owner does not own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of, more than three such single-family houses at any one time; Provided further, that the sale or rental of any such single-family house shall be excepted from the application of this title only if such house is sold or rented (A) without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent or salesman, or of such facilities or any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesman, or person and (B) without the publication, posting or mailing, after notice of any advertisement or written notice in violation of Section 4(c) of this ordinance, but nothing in this proviso shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title, or

(2) rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.

(c) For the purposes of subsection (b), a person shall be deemed to be in the business of selling or renting dwellings if:

(1) he has, within the preceding twelve months, participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein, or

(2) he has, within the preceding twelve months, participated as agent, other than in the sale of his own personal residence in providing sales or rental facilities or

sales of rental services in two or more transactions involving the sale or rental of any dwelling or any interest therein, or

(3) he is the owner of any dwelling designed or intended for occupancy by, or occupied by, five or more families.

Section 4. DISCRIMINATION IN THE SALE OR RENTAL OF HOUSING

As made applicable by Section 3 and except as exempted by Sections 3(b) and 7, it shall be unlawful:

(a) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable to deny, a dwelling to any person because of race, color, religion, sex, national origin, familial status or handicapped status.

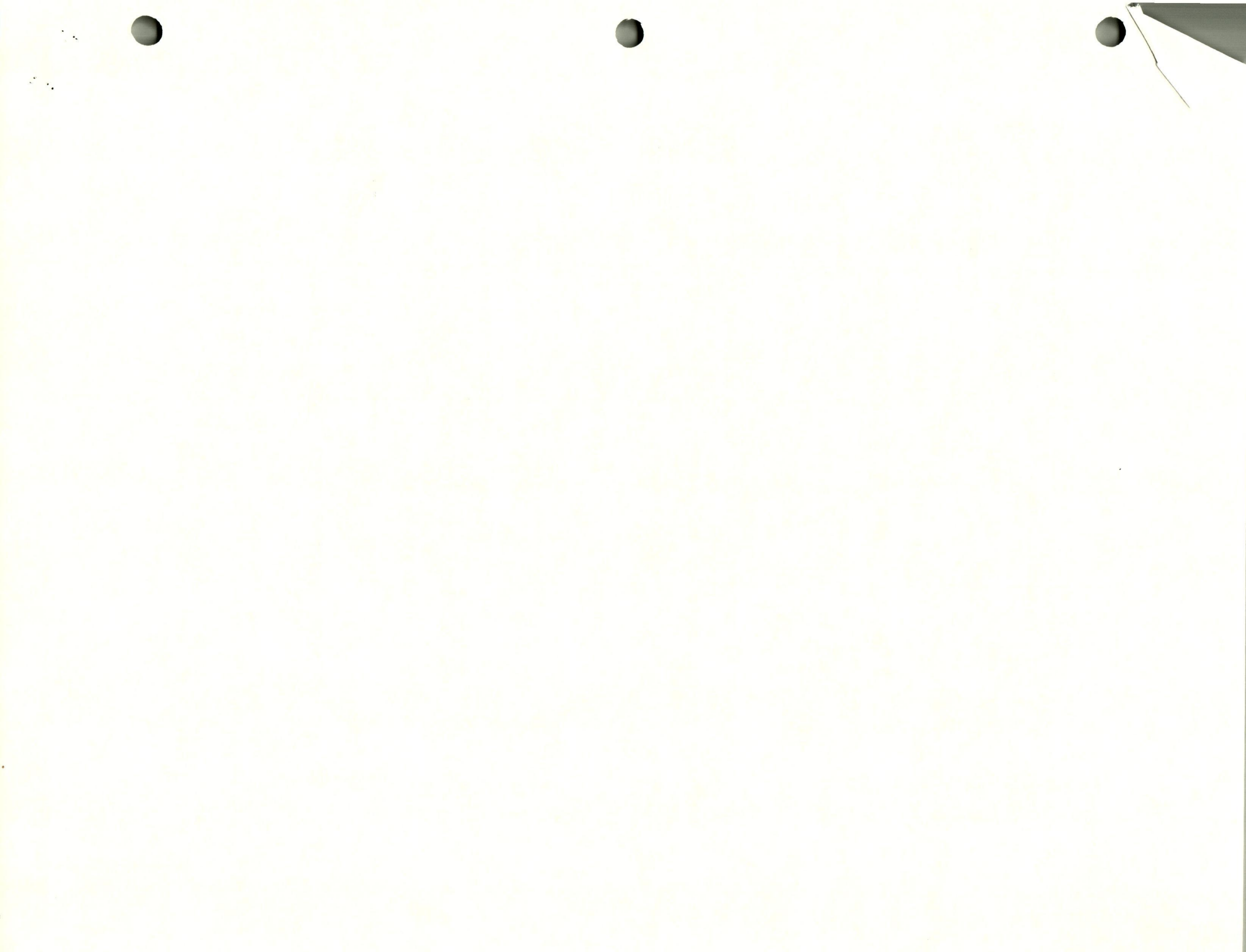
(b) To discriminate against any person, in the terms, conditions or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, sex, national origin, familial status or handicapped status.

(c) To make, print or publish, or cause to be made, printed or published, any notice, statement, or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation or discrimination based on race, color, religion, sex, national origin, familial status or handicapped status, or an intention to make any such preference, limitation or discrimination.

(d) To represent to any person because of race, color, religion, sex, national origin, familial status or handicapped status that any dwelling is not available for inspection, sale or rental when such dwelling is in fact so available.

Section 5. DISCRIMINATION IN THE FINANCING OF HOUSING

It shall be unlawful for any bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in whole or in part in the making of commercial real estate loans, to deny a loan or other financial assistance to a person applying therefor for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or to discriminate against him in the fixing of the amount, interest rate, duration or other terms or conditions of such



loan or other financial assistance, because of the race, color, religion or national origin of such person or of any person associated with him in connection with such loan or other financial assistance or the purposes of such loan or other financial assistance, or of the present or prospective owners, lessees, tenants or occupants of the dwelling or dwellings in relation to which such loan or other financial assistance is to be made or given; Provided, that nothing contained in this section shall impair the scope or effectiveness of the exception contained in Section 3(b).

Section 6. DISCRIMINATION IN THE PROVISION OF BROKERAGE SERVICES

It shall be unlawful to deny any person access to or membership or participation in any multiple-listing services, real estate brokers organization or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him in the terms or conditions of such access, membership or participation, on account of race, color, religion, sex, national origin, familial status or handicapped status.

Section 7. EXEMPTION

Nothing in this ordinance shall prohibit a religious organization, association or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, or national origin. Nor shall anything in this ordinance prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

Section 8. ADMINISTRATION

(a) The authority and responsibility for administering this Act shall be in the Chief Executive Officer of the City of Vanceburg.

(b) The Chief Executive Officer may delegate any of these functions, duties and powers to employees of the city or to boards of such employees, including functions, duties and powers with respect to investigating, conciliating, hearing, determining, ordering, certifying, reporting or otherwise acting as to any work, business or matter under this ordinance. The Chief Executive Officer shall by rule prescribe such rights of appeal from the decisions of his hearing examiners to other hearing examiners or to other officers in the city, to boards of officers or to himself, as shall be appropriate and in accordance with law.

(c) All executive departments and agencies shall administer their programs and activities relating to housing and urban development in a manner affirmatively to further the purposes of this ordinance and shall cooperate with the Chief Executive Officer to further such purposes.

Section 9. EDUCATION AND CONCILIATION

Immediately after the enactment of this ordinance, the Chief Executive Officer shall commence such educational and conciliatory activities as will further the purposes of this ordinance. He shall call conferences of persons in the housing industry and other interested parties to acquaint them with the provisions of this ordinance and his suggested means of implementing it, and shall endeavor with their advice to work out programs of voluntary compliance and of enforcement.

Section 10. ENFORCEMENT

(a) Any person who claims to have been injured by a discriminatory housing practice or who believes that he will be irrevocably injured by a discriminatory housing practice that is about to occur (hereafter "person aggrieved") may file a complaint with the Chief Executive Officer. Complaints shall be in writing and shall contain such information and be in such form as the Chief Executive Officer requires. Upon receipt of such a complaint, the Chief Executive Officer shall furnish a copy of the same to the person or persons who allegedly committed or about to commit the alleged discriminatory housing practice. Within thirty days after receiving a complaint, or within thirty days after the expiration of any period of reference under subsection (c), the Chief Executive Officer shall investigate the complaint and give notice in writing to the person aggrieved whether he intends to resolve it. If the Chief Executive Officer decides to resolve the complaints, he shall proceed to try to

eliminate or correct the alleged discriminatory housing practice by informal methods or conference, conciliation and persuasion. Nothing said or done in the course of such informal endeavors may be made public or used as evidence in a subsequent proceeding under this ordinance without the written consent of the persons concerned. Any employee of the Chief Executive Officer who shall make public any information in violation of this provision shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$1,000 or imprisoned not more than one year.

(b) A complaint under subsection (a) shall be filed within one hundred and eighty days after the alleged discriminatory housing practice occurred. Complaints shall be in writing and shall state the facts upon which the allegations of a discriminatory housing practice are based. Complaints may be reasonably and fairly amended at any time. A respondent may file an answer to the complaint against him and with the leave of the Chief Executive Officer, which shall be granted whenever it would be reasonable and fair to do so, may amend his answer at any time. Both complaints and answers shall be verified.

(c) If within thirty days after a complaint is filed with the Chief Executive Officer, the Chief Executive Officer has been unable to obtain voluntary compliance with is ordinance, the person aggrieved may, within thirty days thereafter, file a complaint with the Secretary of the Department of Housing and Urban Development. The Chief Executive Officer will assist in this filing.

(d) If the Chief Executive Officer has been unable to obtain voluntary compliance within thirty days of the complaint, the person aggrieved may, within thirty days hereafter commence a civil action in any appropriate court, against the respondent named in the complaint, to enforce the rights granted or protected by this ordinance, insofar as such rights relate to the subject of the complaint. If the court finds that a discriminatory housing practice has occurred or is about to occur, the court may enjoin the respondent from engaging in such practice or order such affirmative action as may be appropriate.

(e) In any proceeding brought pursuant to this section, the burden of proof shall be on the complainant.

(f) Whenever an action filed by an individual shall come to trial, the Chief Executive Officer shall immediately

terminate all efforts to obtain voluntary compliance.

Section 11. INVESTIGATIONS: SUBPOENA-GIVING OF EVIDENCE

(a) In conducting an investigation the Chief Executive Officer shall have access at all reasonable times to premises, records, documents, individuals, and other evidence or possible sources of evidence and may examine, record and copy such materials and take and record the testimony or statements of such persons as are reasonably necessary for the furtherance of the investigation; Provided, however. That the Chief Executive Officer first complies with the provisions of the Fourth Amendment relating to unreasonable searches and seizures. The Chief Executive Officer may issue subpoenas to compel his access to or the production of such materials, or the appearance of such persons, any may issue interrogatories to a respondent, to the same extent and subject to the same limitations as would apply if the subpoenas or interrogatories were issued or served in aid of a civil action in the United States district court for the district in which the investigation is taking place. The Chief Executive Officer may administer oaths.

(b) Upon written application to the Chief Executive Officer, a respondent shall be entitled to the issuance of a reasonable number of subpoenas by and in the name of the Chief Executive Officer to the same extent and subject to the same limitations as subpoenas issued by the Chief Executive Officer himself. Subpoenas issued at the request of a respondent shall show on their face the name and address of such respondent and shall state that they were issued at his request.

(c) Witnesses summoned by the subpoena of the Chief Executive Officer shall be entitled to the same witness and mileage fees as are witnesses in proceedings in United States district courts. Fees payable to a witness summoned by a subpoena issued at the request of a respondent shall be paid by him.

(d) Within five days after service of a subpoena upon any person, such person may petition the Chief Executive Officer to revoke or modify that subpoena. The Chief Executive Officer shall grant the petition if he finds that the subpoena requires appearance or attendance at an unreasonable time or place, that it requires production of evidence which does not relate to any matter under investigation, that it does not describe with sufficient

particularity the evidence to be produced, that compliance would be unduly onerous, or for other good reason.

(e) In case of contumacy or refusal to obey a subpoena, the Chief Executive Officer or other person at whose request it was issued may petition for its enforcement in the Municipal or State court for the district in which the person to whom the subpoena was addressed resides, was served or transacts business.

(f) Any person who willfully fails or neglects to attend and testify or to answer any lawful inquiry or to produce records, documents or other evidence, if in his power to do so, in obedience to the subpoena or lawful order of the Chief Executive Officer shall be fined not more than \$1,000 or imprisoned not more than one year, or both. Any person who with intent thereby to mislead the Chief Executive Officer, shall make or cause to be made any false entry or statement of fact in any report, account, record or other document submitted to the Chief Executive Officer pursuant to his subpoena or other order, or shall willfully neglect or fail to make or cause to be made full, true and correct entries in such reports, accounts, records or other documents, or shall willfully mutilate, alter or by any other means falsify any documentary evidence, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

(g) The city attorney shall conduct all litigation in which the Chief Executive Officer participates as a part or as amicus pursuant to this ordinance.

Section 12. ENFORCEMENT BY PRIVATE PERSONS

(a) The rights granted by Sections 3, 4, 5 and 6 may be enforced by civil actions in state or local courts of general jurisdiction. A civil action shall be commenced within one hundred and eight days after the alleged discriminatory housing practice occurred: Provided however, that the court shall continue such civil case brought pursuant to this section or Section 10(d) from time to time before bringing it to trial if the court believes that the conciliation efforts of the Chief Executive Officer are likely to result in satisfactory settlement of the discriminatory housing practice complained or in the complaint made to the Chief Executive Officer and which practice forms the basis for the action in court: And provided, however, that any sale, encumbrance, or rental consummated prior to the issuance of any court order issued under the authority of this ordinance, and involving a

bona fide purchaser, encumbrancer, or tenant without actual notice of the existence of the filing of a complaint or civil action under the provisions of this ordinance shall not be affected.

(b) The court may grant as relief, as it deems appropriate, any permanent or temporary injunction, temporary restraining order or other order, and may award to the plaintiff actual damages and not more than \$1,000 punitive damages, together with court costs and reasonable attorney fees in the case of a prevailing plaintiff; Provided, that the said plaintiff in the opinion of the court is not financially able to assume said attorney's fees.

Section 13. INTERFERENCE, COERCION OR INTIMIDATION

It shall be unlawful to coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by Sections 3, 4, 5 or 6. This section may be enforced by appropriate civil action.

Section 14. SEPARABILITY OF PROVISIONS

If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, the remainder of the ordinance and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

Section 15. PREVENTION OF INTIMIDATION IN FAIR HOUSING CASES

Whoever, whether or not acting under color of law, by force or threat of force willfully injures, intimidates or interferes with, or attempts to injure, intimidate or interfere with:

(a) any person because of his race, color, religion, sex, national origin, familial status or handicapped status, and because he is or has been selling, purchasing, renting, financing, occupying, or contracting or negotiating for the sale, purchase, rental, financing or occupation of any dwelling, or applying for or participating in any service, organization, or facility relating to the business of selling or renting dwellings; or

(b) any person because he is or has been, or in order to intimidate such person or any other person or any class of persons from:

(1) participating, without discrimination on account of race, color, religion, sex, national origin, familial status or handicapped status in any of the activities, services, organization or facilities described in subsection 15(a); or

(2) affording another person or class of persons opportunity or protection so to participate; or

(c) any citizen because he is or has been, or in order to discourage such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion or national origin, in any of the activities, services, organizations or facilities described in subsection 15(a) or participating lawfully in speech or peaceful assemble opposing any denial of the opportunity to so participate:

shall be fined not more than \$1,000 or imprisoned not more than one year, or both; and if bodily injury results shall be fined not more than \$10,000, or imprisoned not more than ten years, or both; and if death results shall be subject to imprisonment for any term of years or for life.

Section 16. REPEALER

All other ordinances or parts of ordinances which are in conflict herewith are hereby repealed.

(b) any person because he is or has been, or in order to intimidate such person or any other person or any class of persons from:

(1) participating, without discrimination on account of race, color, religion, sex, national origin, familial status or handicapped status in any of the activities, services, organization or facilities described in subsection 15(a); or

(2) affording another person or class of persons opportunity or protection so to participate; or

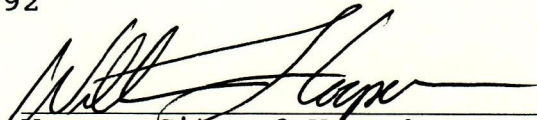
(c) any citizen because he is or has been, or in order to discourage such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion or national origin, in any of the activities, services, organizations or facilities described in subsection 15(a) or participating lawfully in speech or peaceful assemble opposing any denial of the opportunity to so participate:

shall be fined not more than \$1,000 or imprisoned not more than one year, or both; and if bodily injury results shall be fined not more than \$10,000, or imprisoned not more than ten years, or both; and if death results shall be subject to imprisonment for any term of years or for life.

Section 16. REPEALER

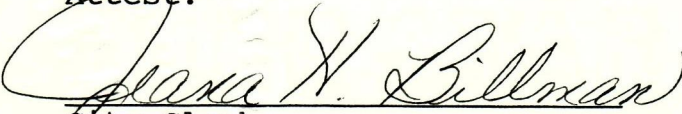
All other ordinances or parts of ordinances which are in conflict herewith are hereby repealed.

FIRST READING: MARCH 2, 1992
SECOND READING: APRIL 6, 1992



Mayor, City of Vanceburg

Attest:



City Clerk

**NOTICE OF ENACTMENT AND SUMMARY
OF ORDINANCE NO. 970.00**

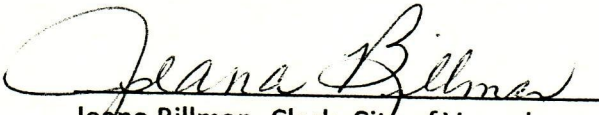
AN ORDINANCE OF THE CITY OF VANCEBURG APPROVING ZONING REGULATIONS FOR THE CITY AS RECOMMENDED BY THE LEWIS COUNTY MUNICIPAL PLANNING COMMISSION.

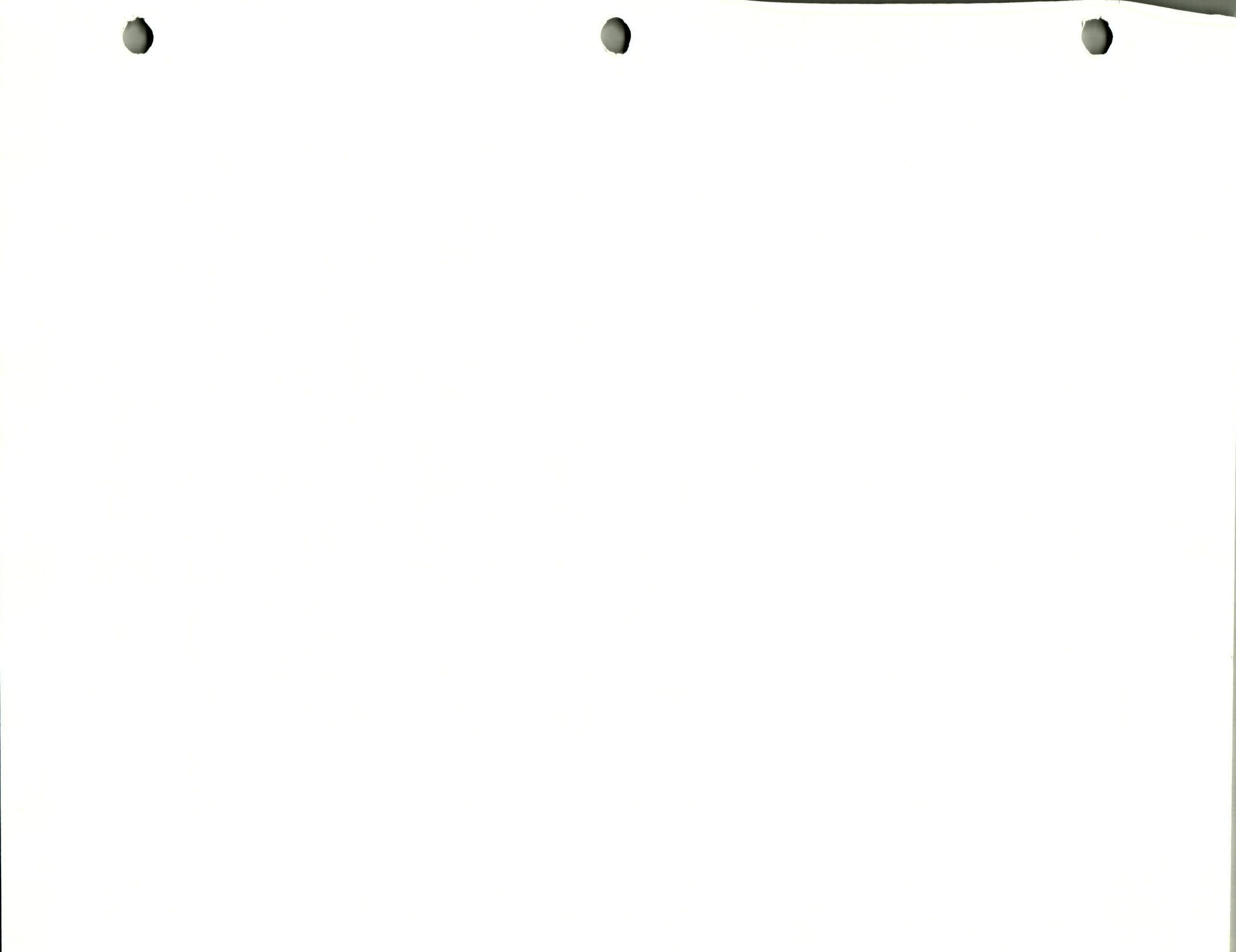
As required by KRS 83A.060(9), I hereby certify that an Ordinance bearing the above title was given first reading by the City Council of the City of Vanceburg, Kentucky, at a duly convened meeting held on July 6, 2009, and was given second reading on August 18, 2009, and that the following is a Summary of such Ordinance prepared by John M. Holder, Attorney for the City of Vanceburg, Kentucky.

SUMMARY OF ORDINANCE

This Ordinance concerns zoning regulations for the City of Vanceburg, as drafted by the Lewis County Planning Commission, and mandates that property located within the city limits comply with its provisions and provides penalties for violations of this Ordinance.


A copy of the full text of said Ordinance is available for public inspection at the City Building, 615 Second Street, Vanceburg, Kentucky, during regular business hours, Monday through Friday.


Jeana Billman, Clerk, City of Vanceburg




**CITY OF VANCEBURG
ORDINANCE NO. 970.00**

The document entitled "City of Vanceburg Zoning Regulations", dated April 8, 2009, as published by the Lewis County Municipal Planning Commission, which is attached to this ordinance as Exhibit "A", is hereby adopted in its entirety by reference, as if fully set forth in this ordinance, as the zoning ordinance for the city. A copy of the "City of Vanceburg Zoning Regulations", dated April 8, 2009, shall be made a part of the permanent records of the city and shall be maintained on file in the office of the city clerk for public inspection.



Mayor, City of Vanceburg

Attest:



City Clerk

1st Reading: 07.06.09

2nd Reading: 08.17.09

Vote

_____ No 5 Yes

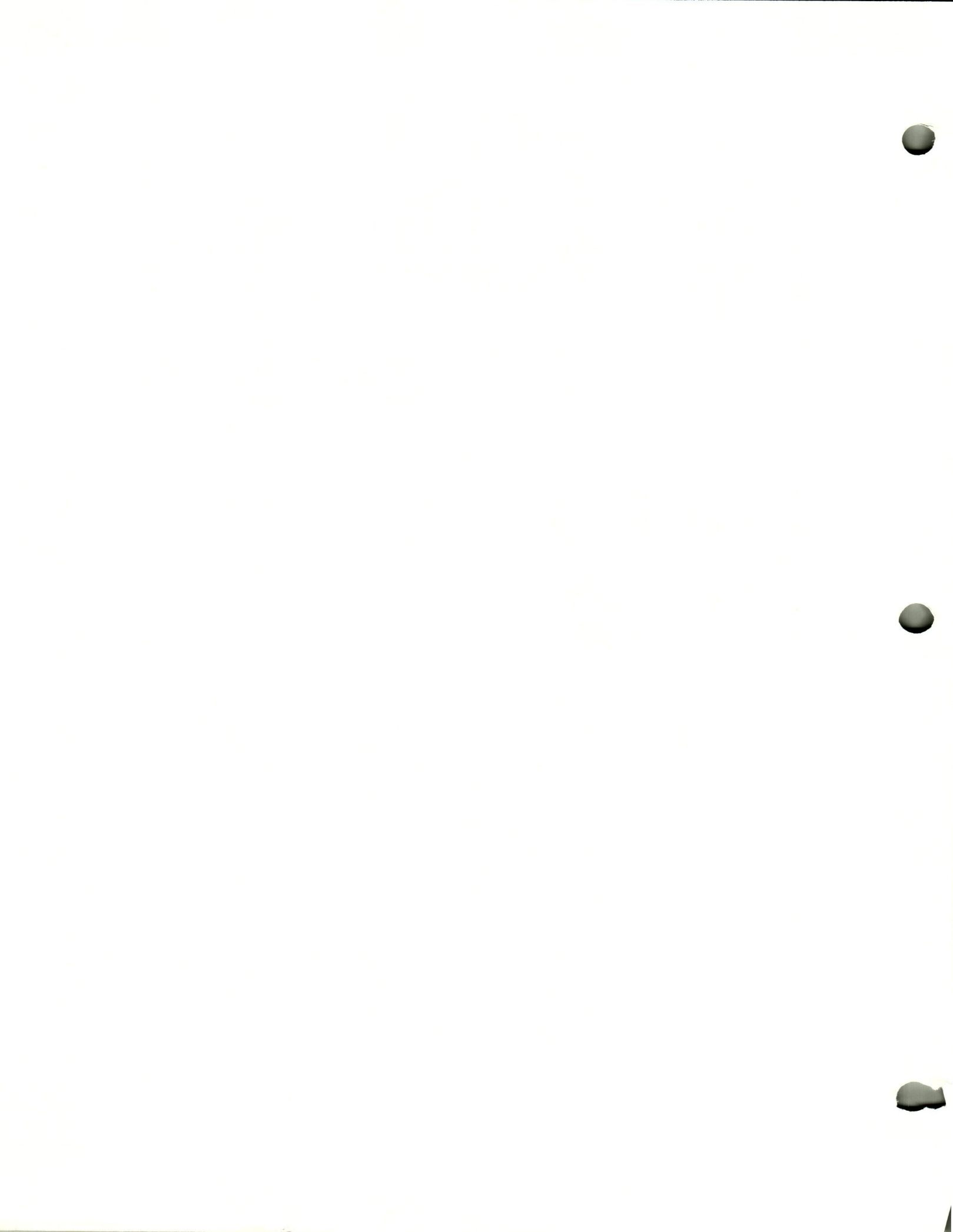


TABLE OF CONTENTS

	page
1. GENERAL PROVISIONS AND DEFINITIONS	1
1.1 Title	1
1.2 Provisions of Regulations Declared to be minimum requirements	1
1.3 Sever-ability Clause	1
1.4 Repeal of Conflicting ordinances and Regulations, effective date	1
1.5 Plans and construction in progress	1
1.6 Definitions	1-12
2. GENERAL ZONING REGULATIONS	13
2.1 Application of Regulations	13
2.2 General Development Regulations	13
2.2.1 Coordination with Building Codes	13
2.2.3 Approved Water Supply and Sewage Disposal for Buildings	13-14
2.2.4 Construction within Floodplains and Floodways	14
2.3 Conditional Use Regulations	14-15
2.4 SPECIAL REGULATION	15
2.4.1 Mobile Home Parks	15-16
2.4.2 Manufactured Homes	16-16A
2.4.3 Shopping Centers	16,17-18
2.4.4 Multi-Family Dwelling Units & Townhouses Development Plan Required	18
2.4.5 Home Occupation	18-19



TABLE OF CONTENTS

	Page
2.4.6 Day Care Facilities	19,20,21-22
2.5 General Regulations for Lots and Yards	22
2.5.1 Obstruction to Vision at Street Intersections	22
2.5.2 Front Yard Regulations for Double-Frontage Lots	22
2.5.3 Side Yard Regulations for Corner Lots	22
2.5.4 Application of Yards to One Building Only	22
2.5.5 Use of Yards for Accessory Building	23
2.5.6 Fences, walls, Hedges	23
2.6 Use Exceptions	23
2.7 Regulation of Principal Building	23-24
2.8 Exceptions to Height Regulations	24
2.9 Structures to Have Access	24
2.10 Wireless Facilities	24
3. NONCONFORMING SITUATIONS	25
3.1 Intent	25
3.2 Nonconforming Lots of Record	25-26
3.3 Continuation of Nonconforming Structures	26-27
3.4 Continuation of Nonconforming Uses/Situations	27
4. ZONING DISTRICTS AND ZONING MAP	28
4.1 Zoning Districts	28
4.2 Low Density Residential (R-1)	28-29
4.3 Low-Moderate Density Residential (R-1A)	29-30

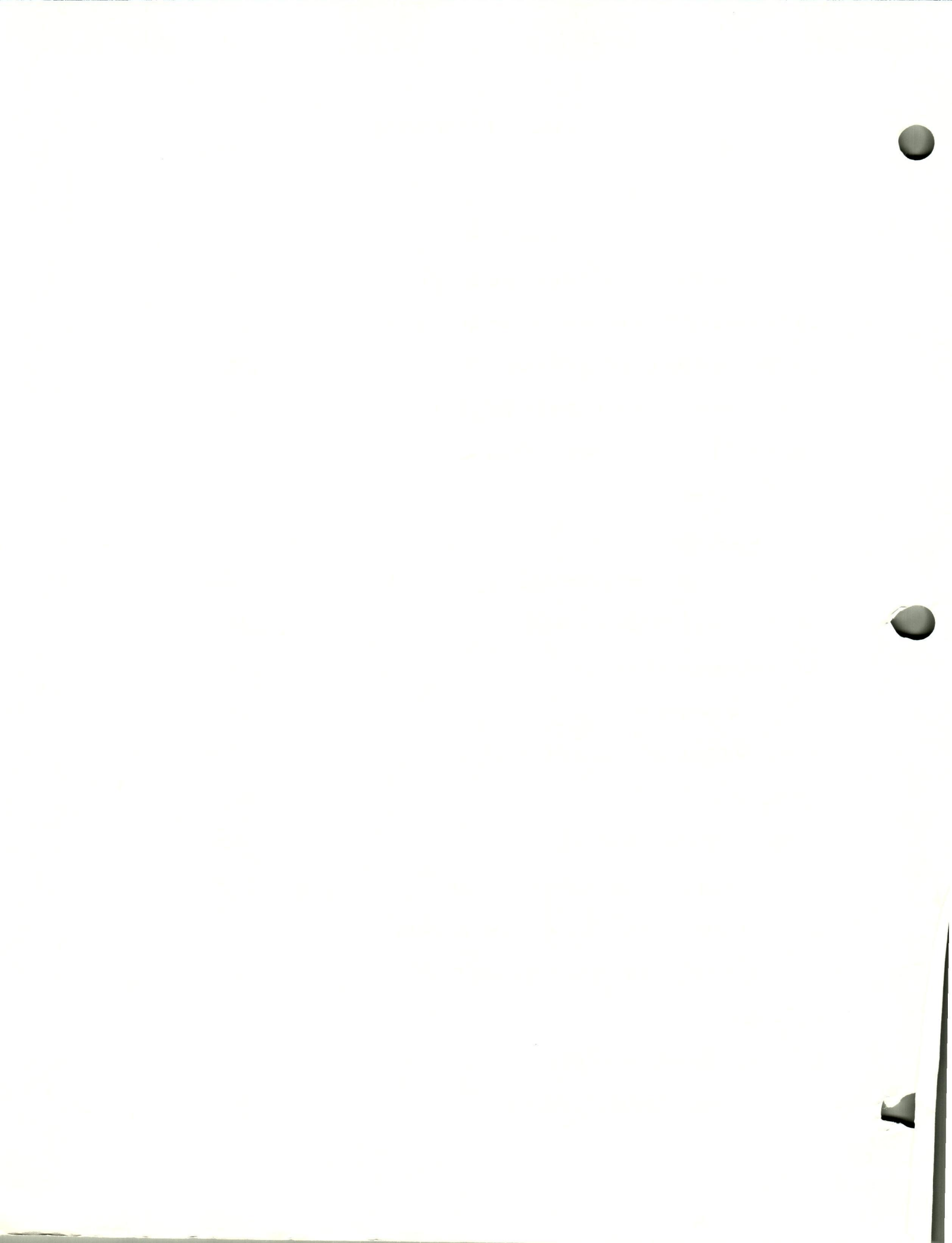


TABLE OF CONTENTS

	Page
4.4 Moderate Density Residential (R-2)	31-32
4.5 High Density Residential (R-3)	32-33
4.6 Mobile Home Parks (MHP)	33,34-35
4.7 Commercial District (C-1)	35,36-37
4.8 Central Business District (CBD)	37-38
4.9 Light Industrial (I-1)	38,39-40
4.10 General Industrial (I-2)	40,41-42
4.11 Public and Semi-Public (P)	42-43
4.12 Environmentally Sensitive Area Overlay District (ESA)	43-44
4.13 Special Provisions for Agricultural Areas	44-45
4.14 Official Zoning Maps	45-46
4.15 Replacement of Official Zoning Map	46
4.16 Interpretation of District Boundaries	46-47
4.17 Annexations	47
4.18 Compliance with Regulations	47
5. PARKING, LOADING AREAS AND LANDSCAPE	48
5.1 Off-Street Parking Space Regulations for Automobiles	48,49-50
5.2 Off-Street Loading and Unloading Space Regulations for Trucks	50
5.3 Additional Parking, Loading and Unloading Regulations	50-51
5.4 Landscape Requirements	51-52

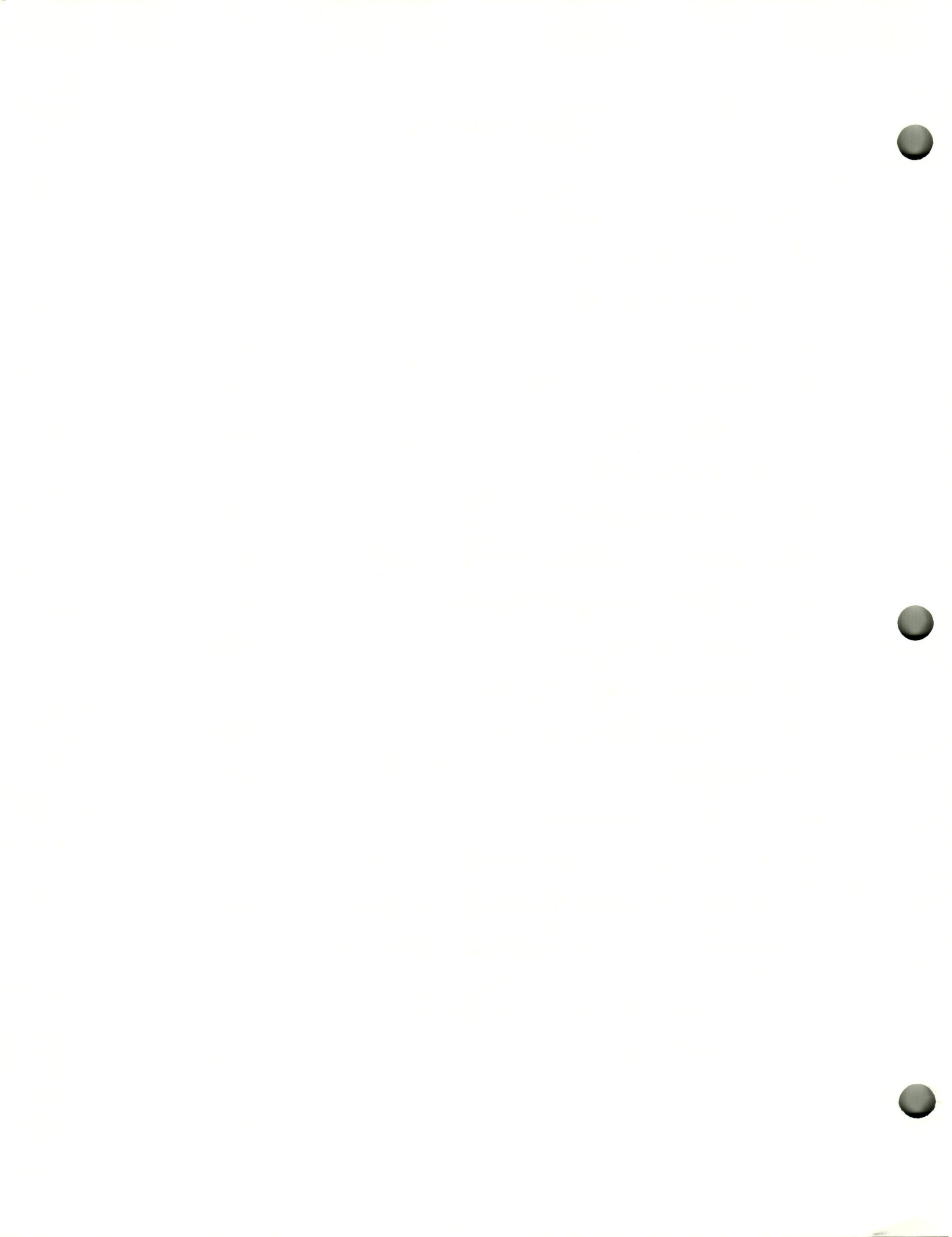


TABLE OF CONTENTS

	Page
6. SIGN REGULATIONS	52
6.1 Intent	52
6.2 Scope	53-54
6.3 Definitions of Signs	54,55,56,57,58-59
6.4 General Provisions	59,60-61
6.5 Prohibited Signs in All Zones	61-62
6.6 Permitted Signs in All Zones	62
6.7 Permitted Signs By Zone	63,64,65-66
6.8 Variances	66,67-68
7. DEVELOPMENT PLANS	69
7.1 Intent and Purpose	69
7.2 Approval Of Development Plan Before Zoning Permit	69
7.3 Where Required	69
7.4 Development Plan Procedures	70
7.5 Types of Development Plans	70,71-72
7.6 Amendments to Development Plans	72
7.7 Development Plans and Preliminary Subdivision Plats May be Combined	72
7.8 Preliminary or Final Subdivision Plants May be Substituted For Development Plans Required in Conjunction with a Map Amendment Request	72



TABLE OF CONTENTS

	Page
7.9 Request for Variance or Conditional Use Permits	73
8. ADMINISTRATION AND ENFORCEMENT	74
8.1 Administrative Official	74
8.2 Planning (Zoning) Commission	74-75
8.3 Zoning Permits Required	75
8.3.1 Application for Zoning Permit	75
8.3.2 Expiration of the Zoning Permit	75
8.4 Certificate of Occupancy for New, Altered or Nonconforming Uses	76
8.5 Construction and Use to be as Provided in Applications, Plans, Plans, Permits and Certificates of Occupancy	76
8.6 Complaints Regarding Violations	76
8.7 Penalties for Violations	76
8.7.1 Violations Regarding Lots or Parcels	76-77
8.8 Schedule of Fees, Charges and Expenses	77
9 BOARD OF ADJUSTMENT	77
9.1 Appointment and Proceedings of the Board	77
9.2.1 Administrative Review	77
9.2.2 Conditional Use Permit	78
9.2.3 Variances	78
9.2.4 Procedures	78-79

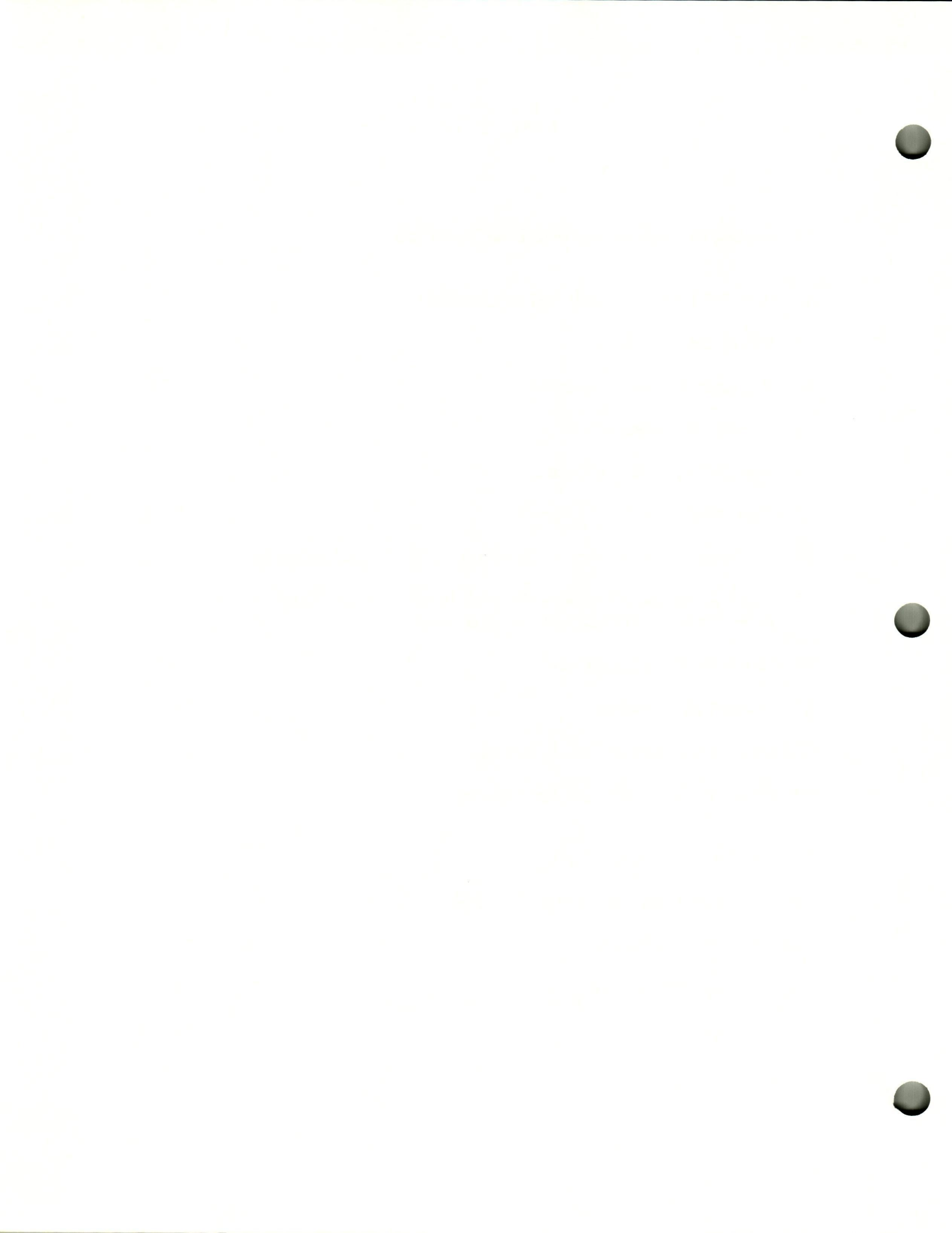


TABLE OF CONTENT

10 AMENDMENTS	Page 80
10.1 General	80
10.2 Application for Amendment	80
10.3 Planning Commission Procedure	80
10.4 Notice of Public Hearing	80
10.5 Public Hearing on Application	80
10.6 Recommendation of Commission for Zoning Map Amendment	81
10.7 Action by City Council on Zoning Map Amendments	81
10.8 Recommendation of Commission for Text Amendment	81
10.9 Action by City Council on Text Amendment	81
10.10 Special Conditions to the Granting of Zoning Changes	81
10.11 Currency of Zoning Map	81



ZONING REGULATIONS OF VANCEBURG, KENTUCKY

1. GENERAL PROVISIONS AND DEFINITIONS

TITLE

This document shall be known and may be cited as the "City of Vanceburg Zoning Ordinance".

PROVISIONS OF REGULATIONS DECLARED TO BE MINIMUM REQUIREMENTS

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

1.3 SEVERABILITY CLAUSE

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

1.4 REPEAL OF CONFLICTING ORDINANCES AND REGULATIONS, EFFECTIVE DATE

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

1.5 PLANS AND CONSTRUCTION IN PROGRESS

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

1.6 DEFINITIONS

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



- A. The word “person” included a firm, association, organization, partnership, trust, company, or corporation, as well as an individual.
- B. The present tense includes the future tense, the single number includes the plural, and the plural number includes the singular.
- C. The word “shall” is a mandatory requirement, the word “may” is a permissive requirement, and the word “should” is a preferred requirement.
- D. The words “used” or “occupied” included the words “intended”, “designed”, or “arranged” to be used or occupied.
- E. The word “lot” includes the words “plot” or “parcel”.

ACCESSORY USE OR STRUCTURE – A use or structure on the same lot with, and of a nature customarily incidental and subordinate to the principal use of the primary structure. In residential zones, no accessory structure may exceed one-half the floor area of the primary structure.

ACCESS, PRIMARY – The vehicular way leading from a major street to the front of a shopping center, commercial enterprise or manufacturing facility, or to the primary entrance point.

ACCESS, SECONDARY – The vehicular way leading from a minor street to the primary access route, or from the main entrance point to other entrances.

ADMINISTRATIVE OFFICIAL – means any department, employee or advisory, elected or appointed body which is authorized to administer any provision of the zoning ordinance, subdivision regulations, and if delegated, any provision of any housing or building regulation or any other land use control regulation.

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

ALTERATION, STRUCTURAL – Any change in the supporting members of the building, such as bearing walls, columns, beams, or girders.

AMUSEMENT – A means of amusing or entertaining; recreation; diversion; games.

BED AND BREAKFAST INN – A small inn consisting of sleeping room with either shared or individual bathroom and kitchen facilities used by houseguests for short durations and not intended for permanent residence except for owner/operators.

BOARD OF ADJUSTMENT AND ZONING APPEALS – An appointed board responsible for hearing requests for variances and conditional use permits as outlined in the zoning regulations. The board is also responsible for hearing appeals of determinations made by the administrative official.



BUILDING – Any structure designed or intended for the support, enclosure, shelter, or protection of persons, animals, or personal property.

BUILDING, ACCESSORY – A subordinate building detached from, but located on the same lot as the principal building, the use of which is incidental and accessory to that of the main building or use.

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

BUILDING PERMIT – A document issued by a Building Inspector authorizing the construction, modification or renovation of structures.

CAPACITY – The maximum number of vehicles that have a reasonable expectation of passing over a given roadway or section in one direction during a given time period under prevailing roadway and traffic conditions.

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

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

COMMERCIAL RECREATION – A privately owned and operated facility that offers activities related to fitness, purposeful relaxation and/or games.

COMPREHENSIVE PLAN – A plan, or any portion thereof, adopted by the Planning Commission and/or the legislative authority of the City of Vanceburg, Kentucky, showing the general location and extent of present and proposed physical facilities including housing industrial and commercial uses, major streets, parks, schools, and other facilities. This plan establishes the goals, objectives, and general development policies of the community.

CONDITIONAL USE – A use permitted within a district other than a principally permitted use, requiring a conditional use permit and approval of the Board of Adjustment.

CONDITIONAL USE PERMIT – A document issued by the Administrative Official upon approval of the Board of Adjustment to allow a use other than a principally permitted use to be established within the district.

CONVENIENCE STORE – A small retail store selling general merchandise usually located off of arterial roads or highways.



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

DENSITY – A unit of measurement; the number of dwelling units per acre of land.

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

DWELLING – Any building or structure, except a house trailer or mobile home of less than 960 square feet of living space, which is wholly or partly used or intended to be used for living or sleeping by one or more human occupants.

DWELLING, SINGLE FAMILY – Family dwelling consisting of a single dwelling unit only separated from other dwelling units by open space.

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

DWELLING, MULTI-FAMILY – A dwelling consisting of three or more dwelling units including condominiums with varying arrangements of entrances and party walls.

DWELLING UNIT – A single unit providing complete independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation.

EASEMENT – A legally authorized use for a defined area by a property owner to the public, a corporation, another person, or an entity for a specified purpose.

FAMILY – Any number of persons all of whom are related by blood, adoption, or marriage and are occupying a single-family dwelling unit. Also includes one or more unrelated persons occupying a dwelling unit. No such family shall contain over five (5) unrelated persons.

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

FLOODWAY – The channel of a watercourse and that portion of adjacent land needed for the passage of a 100-year flood. If no maps or hydrologic calculations are available, floodplain soils as designated in the Soil Survey for Lewis County, Kentucky (October 1993) shall be presumed to be within the floodway. These soils are designated by the following map symbols: Bs, Me, Mo, Ne, No, and Sx.

FLOOR AREA OF A BUILDING – The sum of the gross horizontal area of the several floors of a building, excluding basement floor areas not devoted to residential use, but



including the area of roofed porches and roofed terraces. All dimensions shall be measured between interior faces of walls.

GARAGES, PRIVATE – A detached accessory building or portion of a principal building for the parking or temporary storage of automobiles, travel trailers, and/or boats of the occupants of the premises.

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

HOME OCCUPATION – Professional offices or personal services carried out for gain by a resident conducted as an accessory use in the residents dwelling unit.

HOMEOWNERS ASSOCIATION – A private, nonprofit corporation of homeowners and/or residents of a defined area for the purpose of owning, operating, and maintaining various common properties.

HOTEL OR MOTEL AND APARTMENT HOTEL – A building in which boarding or lodging are provide and offered to the public for compensation. As such it is open to the public unlike a boarding house, rooming house, lodging house, or dormitory which are separately defined.

INFRASTRUCTURE – The total composition of public, semi-public and private utilities, facilities and service, which make urban areas sustainable. The term infrastructure includes roads, rail, transit, sewer, water, storm drainage, all public utilities, educational facilities, police and fire services, recreation, general public health, public administration and revenue.

INSTITUTION – A facility designed and specifically used for a church, school, hospital, club, museum, civic, fraternal or charitable organization or entity conducting similar activities.

JUNKYARDS – The storage, salvaging, and sale of secondhand materials or old dilapidated machinery. Materials include motor vehicles, mobile homes, trailers, machinery, appliances, furniture, tires, building materials and scrap metal. The presence of two or more non-operational motor vehicles on a lot for a time period exceeding thirty (30) days shall constitute evidence regarding the establishment of a junkyard.

KENNEL – A lot or facility in which dogs greater than four (4) months of age are maintained for sporting, show or commercial purposes. Commercial purposes include the grooming, breeding, boarding, training, raising and selling of dogs.

LANDSCAPING – The preservation, addition and maintenance of trees, bushes, plants, and/or other natural features for an area to produce an aesthetic appearance for socio-environmental reasons

LANDSCAPE SCREEN OR BUFFERYARD – A defined area composed of vegetation and/or structures located between conflicting types or intensities of land uses or activities.



A landscape screen or bufferyard may include a combination of trees, bushes, earthen berms and/or landscaping fences. The purpose of a landscape screen or bufferyard is to minimize the potential negative impacts of noise, light, dust, dirt and differing visual effects of one use or activity upon another.

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

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

LOT COVERAGE - The ratio of enclosed ground floor area of all buildings on a lot to the horizontally projected area of the lot, expressed as percentage.

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

LOT, MINIMUM AREA OF – The area of a lot is computed exclusive of any portion of the right-of-way of any public or private street.

LOT MEASUREMENTS – A lot shall be measured as follows:

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

LOT OF RECORD – A lot, which is part of a subdivision recorded in the office of the county recorder, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

LOT TYPES – Terminology used in reference to corner lots, flag lots, interior lots, non-buildable lots and through lots is as follows:

1. *Corner Lot:* A lot located at the intersection of two or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than one hundred thirty five feet (135').
2. *Flag Lot:* A lot with access provided to the bulk of the lot through the means of a panhandle access corridor.
3. *Interior Lot:* A lot with only one frontage on a street.
4. *Non-Buildable Lot:* A lot, which cannot be built upon due to its inability to comply with the minimum zoning requirements.
5. *Reversed Frontage Lots:* A lot on which frontage is at right angles to the general lot layout of the development. A reversed frontage lot may also be a corner lot.
6. *Through Lot:* A lot other than a corner lot with frontage on more than one street. Through lots abutting two streets may be referred to as double frontage lots.

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

MANUFACTURED HOME (MOBILE HOME) – A dwelling unit that: (1) is not constructed in accordance with the standards set forth in the Kentucky Building Code, and (2) is composed of one or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported to the home site on its own chassis, and (3) has a minimum living space of at least four hundred (400) square feet.

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

- A. The minimum width of the main body of the home, as assembled in the site is not less than twenty four (24) feet as measured across sixty-five (65 percent of the total length);
- B. Has a minimum area of at least nine hundred sixty (960) square feet;
- C. The pitch of the home's roof has a minimum vertical rise of one (1) foot for each four (4) feet of horizontal run, and the roof is finished with a type of shingle that is commonly used in standard residential construction;
- D. The exterior siding consists of wood, hardboard, or aluminum 7m (vinyl covered or painted, but in no case exceeding the reflectivity of gloss white paint) comparable in composition, appearance, and durability to the exterior siding commonly used in standard residential construction;



- E. A continuous permanent masonry foundation, solid except for required ventilation and access, is installed under the home; and even if said wall is not structurally required by the manufacturer's installation specifications; and
- F. The tongue, axles, transporting lights, and removable towing apparatus are removed after placement on the lot and before occupancy.

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

MANUFACTURED HOME, CLASS C – Any manufactured home that does not meet the definitional criteria of a Class A or Class B manufactured home including any dilapidated unit.

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

MOBILE HOME PARK – A residential use located on a single lot where more than one (1) manufactured home (used for habitation) are parked, either free of charge or for revenue purposes; including any roadway, building, structure, vehicle, or enclosure used or intended for use as a part of the facilities for such park.

NONCONFORMING USE OR STRUCTURE – A building, structure, or use of land existing at the time of enactment of this regulation and which does not conform to the regulations of the district or zone in which it is situated.

NURSING HOME – A home or facility for the care and treatment of elderly or disabled people where the care is provided for twenty-four hours per day. This does not include residential care facilities as defined in KRS 100.984 or adult day care facilities as defined in KRS 205.010.

OPEN SPACE – An area open to the sky, which may be on the same lot with a building. The area may include, along with the natural environmental features, swimming pools, tennis courts, and other recreational facilities that the Planning Commission deems permissive. Streets, structures for habitation, and the like shall not be included.

PARKING SPACE, OFF-STREET – For the purpose of this regulation, off-street parking space shall consist of an area adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or



alley and maneuvering room, but shall be located totally outside of any street or alley right-of-way.

PERFORMANCE BOND OR SECURITY BOND –As agreement by a subdivider or developer with the city for the amount of the estimated construction cost guaranteeing the completion of physical improvements according to approved plans and specifications within the time prescribed by the construction agreement.

PLANNED DEVELOPMENT – A defined land area to be planned and developed as a single development or an ordered series of developments. A planned development may include a variety of land use types and densities that are characterized by innovative designs. A planned development’s design shall creatively address architectural design, location of structures, integration of differing land uses, access management, interior vehicular and pedestrian movement and access, stormwater management, landscaping, signage and the preservation of natural topography, drainage and vegetation.

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

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

RECYCLING CENTER – A completely enclosed facility that collects, sorts and processes for shipment to a recycling plant. Recoverable resources such as newspapers, glassware, plastics and aluminum cans.

RECYCLING COLLECTION POINT – A neighborhood collection point for the temporary storage of recoverable resources. Does not include the processing of recoverable resources for shipment to a recycling plant.

RECYCLING PLANT –A facility that is not a junkyard and in which recoverable resources are recycled, reprocessed and treated in order to return such materials to a condition in which they may be used in the production of additional goods.

RESIDENTIAL CARE FACILITY – A facility designed and used to aid individuals in need of mental, therapeutic counseling, rehabilitation or other correctional facilities.

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



ROOMING AND BOARDING HOUSE – A building designed or used to provide living accommodations for not more than six (6) occupants in which there are no cooking facilities for each occupant, or in which all occupants share common cooking facilities.

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

SEMI-PUBLIC USE – Churches, Sunday Schools, parochial schools, colleges, hospitals, and other facilities of an educational, religious, charitable, philanthropic, or nonprofit nature.

SERVICE STATION – Buildings and premises where gasoline, oil, grease, batteries, tires, and motor vehicle accessories may be supplied and dispensed at retail, and where in addition motor vehicle services may be rendered secondary to retail sales.

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

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

SIGHT DISTANCE – The length of roadway ahead visible to the driver. The minimum sight distance available should sufficiently enable a vehicle traveling at or near the design speed to stop before reaching a stationary object in its path.

SIGN – Any device designated to inform or attract the attention of persons not on the premises on which the sign is located.

SHOPPING CENTER – A group of commercial establishments planned, developed, owned and managed as a unit, with off-street parking provided on the property.

SITE OR DEVELOPMENT PLAN – A plan prepared to scale showing accurately and with complete dimensioning the location of all proposed uses and all site development features for a specific site. A site or development plan addresses physical design, location of structures, access management, interior vehicular and pedestrian access, stormwater management, landscaping signage, provision of all required improvements and the interrelationship of the various plan components. (See Article 7).

STORY – The portion of a building between the surface of a floor and the ceiling immediately above.

STRUCTURE – Anything constructed or erected, the use of which requires location on the ground, or attachment to something having a fixed location on the ground. Among



other things, structures include buildings, manufactured homes, modular homes, walls, fences and billboards.

THOROUGHFARE, STREET, OR ROAD –The full width between property lines bounding every public way of whatever nature, with a part thereof to be used for vehicular traffic and designed as follows:

- A. Alley: A minor street used primarily for vehicular access to the back or side of properties abutting on another street.
- B. Arterial Street: A general term denoting a highway primarily for through traffic, carrying heavy loads and large volumes of traffic, usually on a continuous route.
- C. Collector Street: A thoroughfare, whether within a residential, industrial, commercial, or other type of development, which primarily carries traffic from local streets to arterial streets, including the principal entrance and circulation routes within residential subdivisions.
- D. Cul-De-Sac: A local street of relatively short length with one end open to traffic and the other end terminating in a vehicular turnaround.
- E. Dead-end Street: A street temporarily having only one (1) outlet for vehicular traffic and intended to be extended or continued in the future.
- F. Expressway: A limited access multi-lane highway designed exclusively for unrestricted vehicular traffic having no private access with only interchanges at select arterials or major streets.
- G. Local Streets: A street primarily for providing access to residential, commercial, or other abutting property.
- H. Parallel Street: A local street, parallel and adjacent to an arterial or collector street, providing access to abutting properties and protecting from arterial or collector streets. (also referred to as a frontage road).

TOWNHOUSE – A group of three or more single-family dwelling units constructed in a row of attached units separated by a common vertical wall and each having a separate lot and entrance at street level.

USE –The specific purpose, for which land or a building is designated, arranged, intended, or for which it is or may be occupied or maintained.

VARIANCE – A variance is an exception granted from the literal enforcement of the zoning ordinance where, by reasons of exceptional narrowness, shallowness or unusual shape of a site, topographic conditions, or some other extraordinary situation or condition of that site, the literal enforcement of the dimensional requirements (height or width of a building or setbacks, but NOT intensity) of the zoning ordinance would deprive the applicant of reasonable capacity to make use of the land in a manner equivalent to those



permitted other landowners in the same zone or district. It is a departure from the dimensional terms of the ordinance where such departure meets the requirements of KRS 100.241 to 100.247.

VETERINARY ANIMAL HOSPITAL OR CLINIC – A place used for the care, grooming, diagnosis, and treatment of sick, ailing, infirm, or injured animals, and those who are in need of medical or surgical attention, and may include overnight accommodations on the premises for the treatment, observation and/or recuperation.

VICINITY MAP – A drawing located on a plat or development plan that sets forth by dimensions or other means, the relationship of the proposed subdivision or use to other nearby developments, landmarks, community facilities and services within the general area in order to better locate and orient the area in question.

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

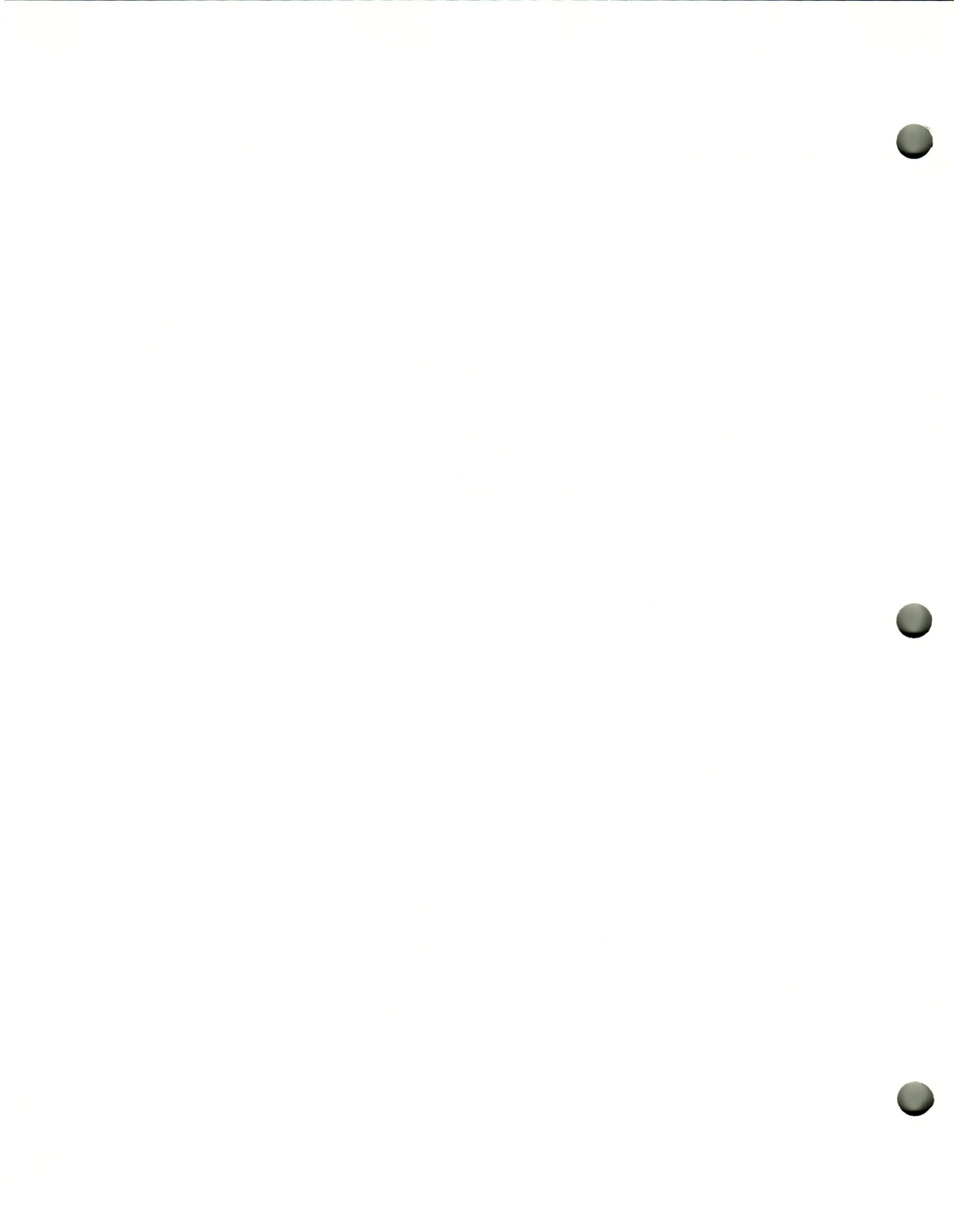
- A. Yard, Front: A yard extending between side lot lines across the front of a lot and from the front lot line to the front of the principal building.
- B. Yard, Rear: A yard extending between side lots across the rear of the principal building.
- C. Yard, Side: A yard extending from the principal building to the side lot line on both sides of the principal building between the lines establishing the front and rear yard.

ZONING DISTRICT – A mapped area to which different land use controls are imposed. These controls specify the allowed uses of land and building, the intensity of such uses, and the maximum height and minimum setbacks for any proposed structures.

ZONING MAP AMENDMENT – A change to the existing zoning district boundaries.

ZONING ORDINANCE/REGULATIONS – The minimum land use requirements for each zoning district, adopted for the promotion of the public health, safety and general welfare. Whenever the requirements of these regulations conflict with the requirement of any other lawfully adopted rules, regulations, ordinances, order or resolutions, the most restrictive, or that imposing the higher standards shall govern.

ZONING PERMIT – A permit issued by the Administrative Official authorizing the permitted use of a lot and/or structure and its accompanying characteristics.



2 GENERAL ZONING REGULATIONS

2.1 APPLICATION OF REGULATIONS

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

2.2 GENERAL DEVELOPMENT REGULATIONS

2.2.1 COORDINATION WITH BUILDING CODES

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

2.2.2 COORDINATION WITH BUILDING CODES

In all cases involving the construction of a building – whether for residential, commercial, or industrial purposes and without regard to densities therein, the builder shall be required to furnish a signed and duly notarized statement from a certified electrician that state electrical codes have been fully complied with. In addition, all building construction projects must obtain a building permit prior to construction and a certificate of occupancy upon completion and prior to occupancy.

2.2.3 APPROVED WATER SUPPLY AND SEWAGE DISPOSAL FOR BUILDINGS

All primary structures located within the City shall be connected to the public water system. All commercial, industrial and multi-family facilities shall be connected to the public sewage system. Single-family residential structures located within 200 feet of the City's sewage collection lines shall be connected to the public sewage treatment system unless a written exemption is obtained from the manager of the Vanceburg Sewer



Department. Such exemption shall only be granted if physical obstructions, surface elevations or other factors prohibit providing service.

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

2.2.4 CONSTRUCTION WITHIN FLOODPLAINS AND FLOODWAYS

No buildings or structures may be constructed within a 100-year floodplain or floodway, which will increase flood heights or obstruct the flow of water. All development must be in conformance with the Vanceburg Floodplain Ordinance.

2.3 CONDITIONAL USE REGULATIONS

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

- A. All Districts: The following conditional uses may be approved in all zoning districts
1. Non-local public utility and private transmission lines and pipes.
 2. Radio, TV, and telephone transmission structures (including wireless facilities when approved by the planning commission in accordance with the city's wireless facilities ordinance).
 3. Large utility structures and public service buildings
 4. Government buildings and uses
- B. Specified Districts: Other conditional uses may be approved only in those zoning districts where they are designated as conditional uses after the zoning district regulations schedule.
- C. Procedure: An applicant shall submit an application for a conditional use permit to the Administrative Official, and the applicant shall follow all procedures set forth in this regulation and KRS 100. The Administrative Official shall refer the application to the Board of Adjustment.

The Board of Adjustment is authorized by KRS 100 to grant, modify, or deny a conditional use permit. Other regulations for conditional use permits are as follows:

1. The Board of Adjustment may attach necessary conditions such as time limitations, requirements that one or more things be done before the request can be initiated, or conditions of a continuing nature. Any such conditions shall be recorded in the Board's minutes and on the conditional use permit, along with reference to the specific section in the zoning



regulation listing the conditional use under consideration The Board of Adjustment shall have the power to revoke conditional use permits or variances for noncompliance with conditions thereof. Furthermore, the Board shall have the right of action to compel offending structures or uses removed at the cost of the violator and may have judgment in person for such cost.

2. Granting of a conditional use permit does not exempt the applicant from complying with all of the requirements of this regulation and any other regulations and ordinances of the City of Vanceburg that may relate to the specified use.
3. A conditional use permit shall be exercised within one (1) year from the date of issuance within the meaning of KRS 100 or shall be void unless an extension has been granted by the Board of Adjustment.
4. The Administrative Official shall review all conditional use permits, except for those for which all conditions have been permanently satisfied, annually and shall have the power to inspect the land or structure where the conditional use is located in order to ascertain that the landowner is complying with all of the conditions which are listed on the conditional use permit. If the landowner is not complying with all conditions listed on the permit the Administrative Official shall report this fact in writing to the Chairman of the Board of Adjustment. The report shall state specifically the manner in which the landowner is not complying with the conditions on the conditional use permit, and a copy of the report shall be furnished to the Chairman of the board of Adjustment. If upon hearing the report as required by KRS 100, the Board of Adjustment finds the facts alleged to be true and that the landowner has taken no steps to comply with them between the date of the report and the date of the hearing, the Board may authorize the Administrative Official to revoke the conditional use permit and to take the necessary legal action to cause the termination of the activity on the land which the conditional use permit authorizes.
5. Once the Board of Adjustment had completed a conditional use permit and all conditions required are of such type that they can be completely and permanently satisfied, the Administrative Official, upon the request of the applicant, may if the facts warrant, make a determination that the conditions have been satisfied and the note the conclusion in the margin of the copy of the conditional use permit which is on file with the Lewis County Court Clerk, as required by KRS 100. Therefore, said use, if it continues to meet the other requirements of the regulations, will be treated as a permitted use.
6. All final plats approved by the Planning Commission and all variances and conditional use permits approved by the Board of Adjustment shall be recorded at the expense of the applicant in the office of the county Clerk within ten (10) working days of issuance of the variance or permit.

2.4 SPECIAL REGULATONS

2.4.1 MOBILE HOME PARKS



2.4.2 MANUFACTURED HOMES

- A. Class A manufactured homes are permitted in R-2 districts.
- B. Class B manufactured homes are permitted in mobile home parks within the MHP district and as a conditional use in the R-2 district.**
- C. Class C manufactured homes are nonconforming structures in all districts.
- D. No manufactured homes shall be erected or placed for occupation within the City unless a zoning permit has been issued by the Administrative Official.
- E. Manufactured homes shall be oriented on lots in a manner similar to most surrounding homes unless otherwise approved by the Administrative Official as part of the zoning permit. For example, the narrow side of the base shall not be facing the street when surrounding homes have the long side of the house facing the street.



- A. Intent: It is the intent of this section to regulate the location of and to encourage, stabilize, and protect the development of well-planned mobile home parks.
- B. Approval procedures: Mobile home parks shall contain no lots smaller than five thousand (5,000) square feet and shall be located only in an R-3 district, and shall be developed according to the general standards and regulations stated in Item C below. A development plan approved in accordance with Section 7.4 is required prior to the construction or occupation of any mobile home park. All homes placed for occupation in a mobile home park are required to have a zoning permit. Only Class A and Class B manufactured homes are permitted in mobile home parks. Class C manufactured homes are considered nonconforming structures.
- C. General Standards for mobile home parks: The Planning Commission, shall review the particular facts and circumstances of each proposed mobile home park in terms of the following standards and shall find adequate evidence, as a condition of approval, showing that the mobile home park development:
1. Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the character of the general vicinity.
 2. Will not be hazardous or detrimental to existing or future neighborhood uses.
 3. Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, fire hydrants, street lights, drainage, refuse disposal, and schools or that the persons or the agencies responsible for the establishment of the proposed park shall be able to provide adequately any such services.
 4. Will be consistent with the intent and purpose of this regulation and the Comprehensive Plan.
 5. Will have vehicular approaches to the property which shall be so designed as not to create an interference or safety hazard with traffic or surrounding public streets or roads.
 6. Will not result in the destruction, loss, or damage of natural, scenic, or historic features of major importance.
- D. Mobile home park requirements: Mobile home parks shall meet the requirements of the Kentucky Mobile Home and Recreational Vehicle Park Act of 1972, Chapter 219.

2.4.2 MANUFACTURES HOMES (SEE PAGE 16A)

2.4.3 SHOPPING CENTERS are permitted only in the C-1 business district. A development plan must be approved in accordance with Section 7.4 prior to the issuance of a building permit for any shopping center.

- A. Intent: It is the intent of this section to regulate the location of, and to encourage the development of, well-planned shopping centers; and to fully integrate the development of



shopping centers with the community's overall land-use, transportation, and utility potentials and goals. These intents provide for the specific purposes of:

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

B. Dimensional and Design Standards for Shopping Centers:

1. No permanent building or structure shall be located within thirty (30) feet of the right-of-way line of any public road, street or highway containing a right-of-way width of fifty (50) feet or less. No permanent building or structure shall be located within twenty feet of the right-of-way width of between fifty-one (51) and seventy-five (75) feet. No permanent building or structure shall be located within fifteen (15) feet of the right-of-way line of any public road, street, or highway containing a right-of-way width of seventy-six (76) or more feet.
2. The above requirement may be waived by the Planning Commission if it finds that said street is unlikely to be widened past current right-of-way limits within the next twenty (20) years, and that the literal enforcement of the above provision would result in an unnecessary and undue hardship to the applicant.
3. No primary access route from any arterial public road, street, or highway to any shopping center shall be located closer than one hundred linear feet from the nearest intersection or within one hundred (100) feet of another primary access drive along the same arterial.
4. Marginal access streets (frontage roads) may be required parallel to and adjacent to any public road, street, or highway if deemed necessary by the Planning Commission to avoid traffic problems and congestion along adjacent arterial streets. When required such frontage roads shall be not less than twenty-six (26) feet wide, which shall be improved and paved in accordance with accepted standards.
5. Parking spaces shall be required at the ratio of eight (8) spaces for the first one thousand (1,000) square feet gross floor area for all shopping centers, in addition to parking required by the appropriate schedule of district regulations.



6. Each shop or business shall be provided with a rear or side entrance that is accessible to a service drive. The service drive shall be in addition to and shall not be a part of the drive or circulation system used by the vehicles of customers or shoppers. The arrangement of truck loading and unloading facilities for each shop or business shall be such that in the process of loading and unloading no truck will block the passage of any other vehicles using the service drive or extend into any other private drive, street, avenue, or vehicular circulation system.
7. All shopping centers shall be permanently screened from adjoining residential districts that are immediately contiguous to the shopping center property by a fence and evergreen hedge with a minimum height of five (5) feet and placed inside the shopping center property line. Additional landscaping may be required at the discretion of the Planning Commission and Board of Adjustment. Within six months of the opening of the first established business, screening as required must be completed.

2.4.4 MULTI-FAMILY DWELLING UNITS & TOWNHOUSES DEVELOPMENT PLAN REQUIRED

For all multi-family dwelling units (4 or more units) and townhouses, a development plan approved in accordance with Section 7.4 is required prior to issuance of a zoning permit.

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

Small apartment houses (up to four units) shall be permitted uses in the R-2 and R-3 residential zones, as indicated in the Schedule of District Regulations for these zones. Apartment complexes are a permitted use within the R-3 residential zone, except that the Planning Commission may attach both fencing and evergreen screening requirements as a condition for final plat or plan approval.

2.4.5 HOME OCCUPATION

- A. No person other than members of the family residing in an owner occupied residence shall be engaged in the home occupation except in a single-family residence. In single-family residences, up to two additional persons may be employed. However, one additional off-street parking space must be provided per employee.
- B. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants. Not more than twenty-five (25) percent of the floor area of the dwelling unit shall be used in the conduct of the home occupation.

- C. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of a home occupation. Only one sign, not exceeding four (4) square feet in area, non-illuminated, yard or wall mounted sign may be posted.
- D. No home occupation shall be conducted in any accessory building.
- E. No traffic shall be generated by such home occupation in greater volume than would normally be expected in a residential neighborhood. Any need for parking generated by the conduct of such home occupation shall meet the off street parking requirements as specified in this regulation, and shall not be located in a required front yard.
- F. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers, or causes fluctuations in line voltage off the premises.
- G. A home occupation permit shall be issued by the Board of Adjustment as a conditional use only in accordance to Section 2.3 of this regulation.

2.4.6 DAY CARE FACILITIES

A. Definitions-

- a. **Child day care** means the provisions of supplemental parental care and supervision: (1) for a non-related child or children; (2) on a regular basis; (3) for less than 24 hours a day; and (4) under license or certification by the Kentucky Department of Human Resources. As used in this regulation, the term is not intended to include baby-sitting services of a casual, nonrecurring nature or in the child's own home. Likewise, the term is not intended to include cooperative, reciprocative childcare by a group of parents in their respective domiciles.
- b. **Adult day care** means the provision of care for adults: (1) not related to the operator of the facility by blood, marriage, or adoption; (2) on a regular basis; (3) for less than 24 hours a day, and (4) in conformance with the regulations of the Kentucky Department of Human Resources.
- c. **Day care center** means a building or structure wherein an agency, person, or persons regularly provides care for a group of children or adults for periods of less than 24 hours a day. Day care facilities include family day care homes, Type I day care facilities, and Type II day care facilities. They do not include preschools, nursery schools or nursing homes.
- d. **Family day care home** means a family abode of a person or persons who regularly provides direct care during part of the 24-hour day to six or fewer children, under 12 years of age or three



(3) or fewer adults, who are not related to the operator by blood, marriage or adoption.

- e. **Type II day care center** means a licensed or certified home or dwelling unit that regularly provides for the care of seven (7) through twelve (12) children or four (4) through ten (10) adults.
- f. **Type I day care center** means a licensed or certified facility other than a dwelling unit that regularly receives 4 or more children or adults for day care, or any facility, including a dwelling unit, which regularly provides day care for 13 or more children or eleven or more adults.

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

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

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

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

- 1. A zoning permit (along with a copy of state license or certification is obtained from the city.
- 2. Type II Day Care Centers providing adult day care must meet handicapped accessibility standards for walkways, entrances, doorways and bathrooms.
- 3. Residential Zoning Districts (R-1, R-2, and R-3). A Type II day care center may be allowed only upon issuance of a conditional use permit and provided the conditions set forth in Section 2.46 (C) are met.

4. All Other Zoning Districts. A Type II day care center is permitted by right in all other zoning districts provided the conditions set forth in Section 2.46 (C) of this regulation are met.

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

1. Limitation in Use of Family Residence: No Type I day care center shall be located in a private family residence unless the portion of the residence where those being cared for have access is used exclusively for their care during the hours the center is in operation or is separate from the usual living quarters of the family.
2. All Residential Zones. A Type I day center may be allowed in R-2 and R-3 residential zoning districts only upon issuance of a conditional use permit and subject to the following conditions:
 - a. State licensing or certification requirements are met, including those pertaining to building, fire safety, and health codes.
 - b. Lot size, building size, setbacks and lot coverage conform to those applicable to the zoning district.
 - c. Type I Day Care Centers providing adult day care must meet handicapped accessibility standards for walkways, entrances, doorways and bathrooms.
 - d. Signage, if any, will conform to the requirements of the zoning district.
 - e. A zoning permit (with a copy of a state license) is obtained from the city.
 - f. At least one (1) on-site parking space must be provided for each on-duty staff person.
 - g. An on-site vehicle turnaround, or separate entrance and exit points, and passenger loading area must be provided.
 - h. A solid fence at least six (6) feet high must be installed along each side and rear-yard lot line.
 - i. No structured area for active play or play structures may be located in a front yard or within ten (10) feet of a side or rear lot line.
 - j. The site must be landscaped in a manner compatible with adjacent residences
 - k. No structural or decorative alteration that will alter the residential character of an existing residential structure used for day care is permitted. Any new or remodeled structure must be designed to be compatible with the residential character of the surrounding neighborhood.
 - l. A Type I day care center shall not be located within three hundred (300) feet of another Type I or Type II day care center, excluding any day care center that is an accessory use in a community service facility.

3. All Other Zoning Districts: A Type I day care center is permitted by right in all other zoning districts subject to the following conditions:
 - a. State licensing and certification standards and requirements are met.
 - b. Setbacks, screening, and landscaping shall conform to the pertinent portions of the zoning code.
 - c. Structure shall meet building, sanitation, health, traffic safety, and fire safety code requirements including handicapped accessibility standards.
 - d. A minimum of one (1) off-street parking space shall be provided for each employee, plus an off-street drop-off/pick-up area.
 - e. A zoning permit (along with a copy of a state license) is obtained from the city.

2.5 GENERAL REGULATIONS FOR LOTS AND YARDS

2.5.1 OBSTRUCTION TO VISION AT STREET INTERSECTIONS

The following shall apply in all but central business districts. Within the area defined by the intersection of any two right-of-way lines of streets, or of streets and railroads, and a straight line intersecting those two right-of-way lines at points forty (40) feet from their intersection, no obstruction to vision between a height of two and one-half (2 ½) feet, and ten (10) feet above the imaginary plane defined by those three points of intersection are permitted. The regulation shall not, however, be deemed to prohibit any necessary retaining walls.

2.5.2 FRONT YARD REGULATIONS FOR DOUBLE-FRONTAGE LOTS

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

2.5.3 SIDE YARD REGULATIONS FOR CORNER LOTS

On a corner lot, the front yard shall be determined by the orientation of the building located on the site. The setback for the front yard shall remain the same as that required in the applicable zoning district. However, the minimum side yard setback for side (including the corner) of the principal building facing the right-of-way shall be no more than five (5) feet less than the required front yard setback. Therefore, if a front yard setback requirement is twenty-five (25) feet, the side yard abutting the right-of-way must be a minimum of twenty (20) feet. Accessory buildings shall conform to setback lines established on both streets and conform to the requirements of Section 2.51 of this regulation. See also definition for "Yard" in Article 1.

2.5.4 APPLICATION OF YARDS TO ONE BUILDING ONLY

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

2.5.5 USE OF YARDS FOR ACCESSORY BUILDING

No accessory buildings are permitted in front yards or within six (6) feet of other buildings. Accessory buildings are permitted in rear or side yards but must comply with dimensional and area regulations.

2.5.6 FENCES, WALLS, HEDGES

Notwithstanding other provisions of this regulation, fences, walls, and hedges may be permitted in any required yard, or along the edge of any yard as long as they do not obstruct the visibility at intersections as required in Section 2.5.1

2.6 USE EXCEPTIONS

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

- A. No building permit, zoning permit or certificate of occupancy required
1. Local public utility distribution and collection structures such as pipes and transmission lines, transformers, meters, etc. Large utility structures such as substations, or wireless facilities (cellular towers) are permitted only as a conditional use.
 2. Public streets and all appurtenances necessary for traffic direction and safety.
 3. Private drives, private parking areas, and the parking of vehicles incidental to the principal use on the same premises.
 4. Real estate signs located on the premises being advertised for sale or for rent, not to exceed a total of ten (10) square feet in area.
 5. Signs not over four (4) feet in area identifying permitted home occupations on the same premises.
 6. Horticulture and Landscaping of any premises.
 7. Agriculture, but not including agricultural structures.

B. Churches are conditional uses in all zones, and must comply with overall yard and access requirements for the neighborhood as a whole and for the zone in question. In addition, evergreen screening shall be required five (5) feet from all contiguous properties for all churches locating or relocating within a residential area. Such screening may be required by the Planning Commission within other zones depending upon circumstance.

2.7 REGULATION OF PRINCIPAL BUILDING

Only one (1) principal building and permitted accessory structures may be erected on any lot or parcel of land, unless a development plan has been approved by the Commission pursuant to Article 7 allowing multiple principal structures. Temporary structures are permitted *for office use only* during the construction phase of a project or a maximum of one (1) year. The administrative official may grant an extension of time for good cause

shown. All temporary structures must be identified on the zoning permit application and approved prior to the issuance of a zoning permit.

2.8 EXCEPTIONS TO HEIGHT REGULATIONS

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

2.9 STRUCTURES TO HAVE ACCESS

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

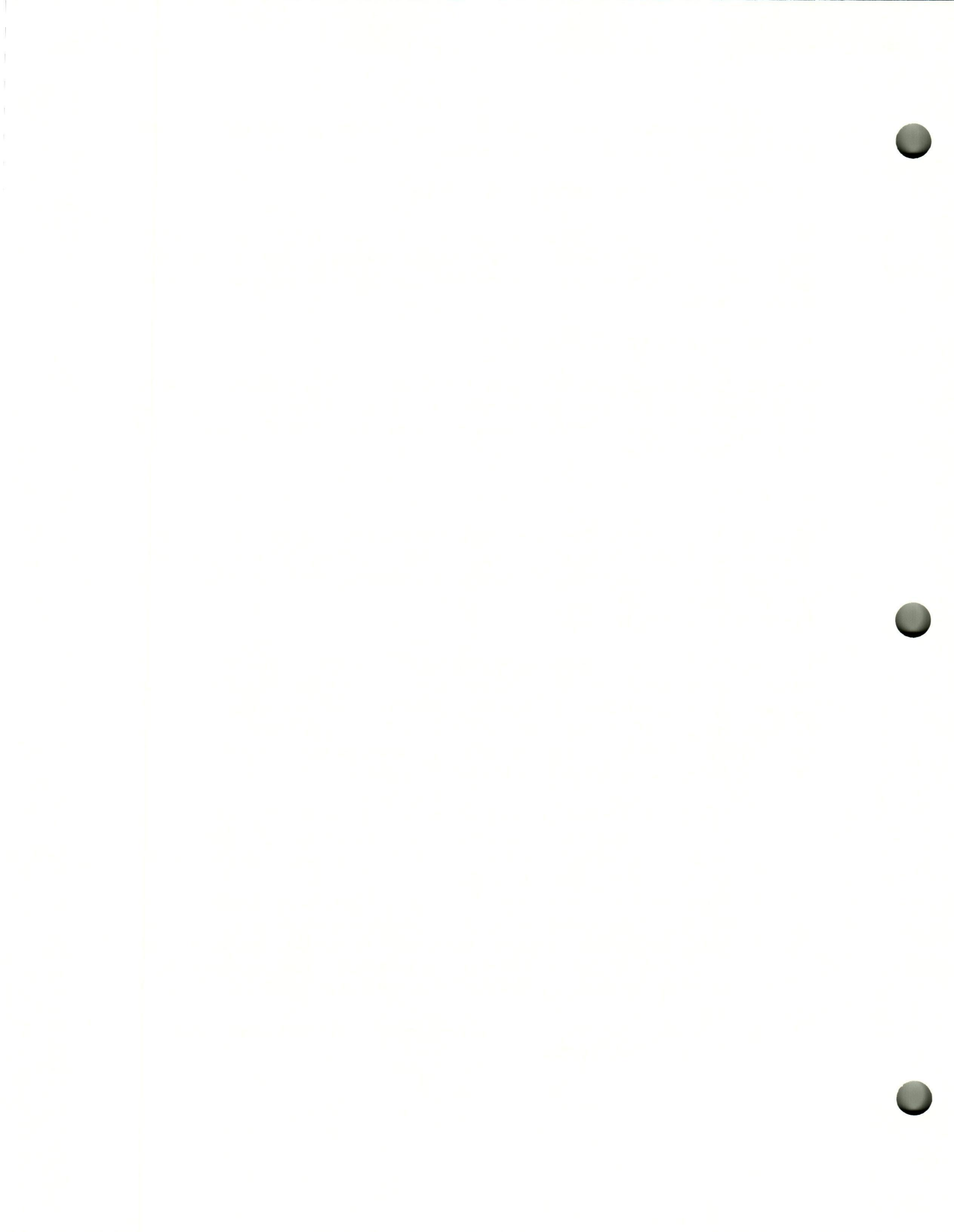
2.10 SAFETY

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

2.10 WIRELESS FACILITIES

The City of Vanceburg, while recognizing the need to provide essential utilities to its citizens, shall require that all proposed cellular towers, antennas and other wireless facilities (referred to collectively as “wireless facilities”) be developed in a manner which retains the integrity of neighborhoods and the overall character, property values and aesthetic quality of life of the community at large. General development policies for the location of wireless facilities within zoning districts as conditional uses shall:

1. Ensure that wireless facilities are constructed in practical locations by allowing facilities that minimize the impact to residential neighborhoods.
2. Minimize the number of wireless facilities by requiring the use of existing structures and co-location where feasible.
3. Ensure that there is a minimal impact upon the visual environment by requiring adequate screening and/or aesthetically pleasing design.
4. Protect the public health, safety and welfare by requiring that the wireless facilities are adequately secured and encouraging the timely maintenance of structures. In addition, provisions for the removal of abandoned facilities is required.
5. All wireless facilities must be in conformance with the City of Vanceburg Wireless Facilities Ordinance.



3 NONCONFORMING SITUATIONS

3.1 INTENT

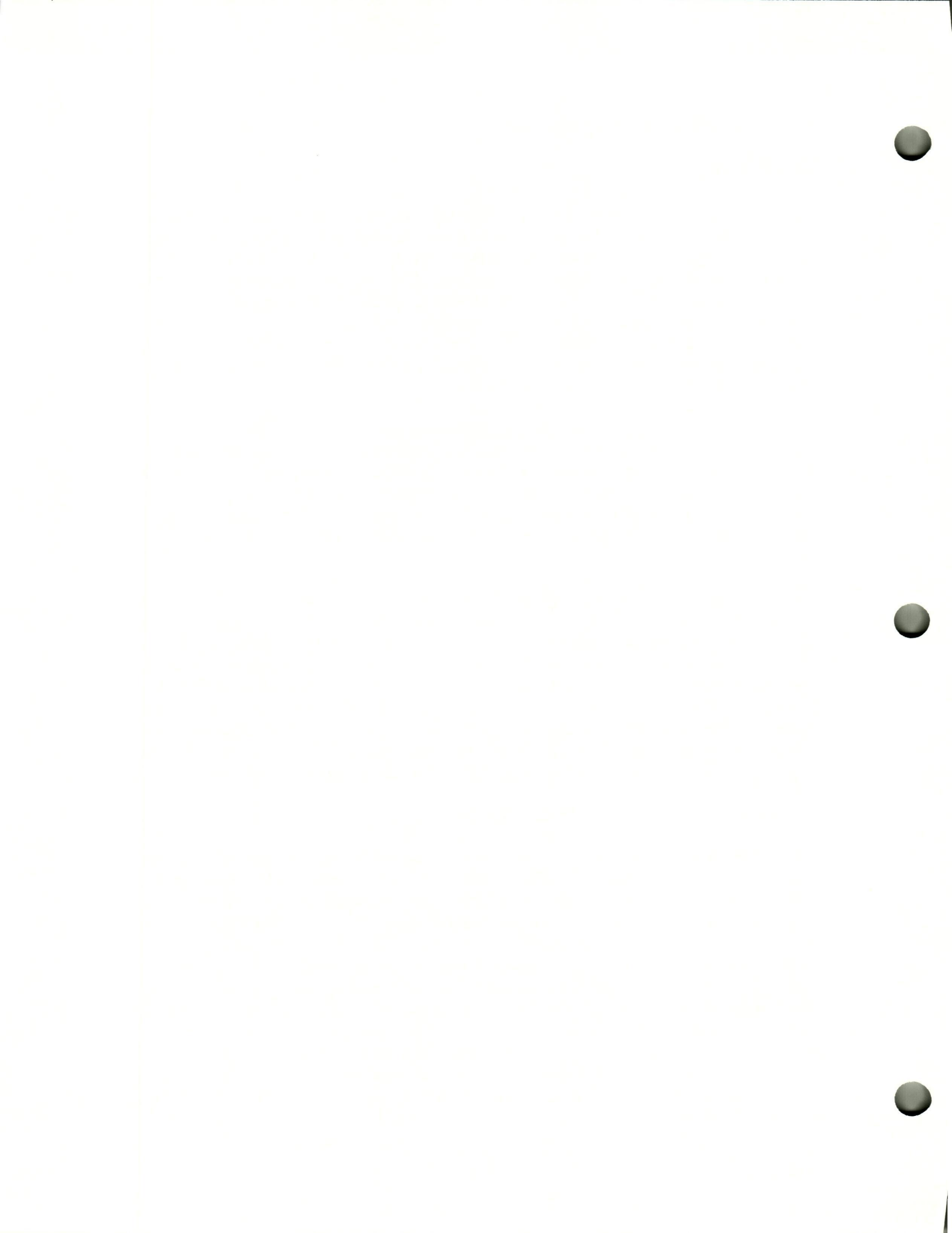
Within the districts established by this regulation or amendments that may later be adopted there are existing lots, structures, and uses of land, and structures which were lawful before this regulation was passed originally or amended but which would be prohibited, regulated, or restricted under the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

A. Incompatibility of nonconforming uses: Nonconforming uses are declared by this regulation to be incompatible with permitted uses in districts in which the use is located. A nonconforming use of a structure and land in combination shall not be extended or enlarged after passage of this regulation by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which would be generally prohibited in the district in which such use is located.

B. Avoidance of undue hardship: To avoid undue hardship, nothing this regulation shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this regulation and upon which actual building construction has been carried or diligently. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun prior to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

3.2 NONCONFORMING LOTS OF RECORD

a. If any lot of record does not meet the minimum square footage requirements that are generally applicable in the district wherein said lot is located, and that lot existed at the effective date of adoption or amendment of this order, the owner may develop that lot in conformance with the dimensional (square footage) regulations, including the front yard setback requirements previously in effect. However, at least six (6) feet of open space must be left between the primary residential (and accessory structure) and the nearest existing building or residential structure located on adjacent property. The lot must then be developed in conformance with all other requirements of this order. Any variance of yard requirements shall be obtained only through action of the Board of Adjustment. Subdivisions which have been granted preliminary plat approval prior to the adoption of this order, may be developed in conformance with dimensional regulations under which the preliminary plat approval was given. However, all other requirements of this ordinance must be met.



B. If two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this regulation and if all or part of the lots do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this regulation and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this regulation no shall any division or any parcel be made which creates a lot with width or area below the requirements stated in this regulation.

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

3.3 CONTINUATION OF NONCONFORMING STRUCTURES

A. Alterations: A nonconforming structure shall not be enlarged, replaced or structurally altered except as provided for in this regulation. Minor repairs to and routine maintenance of property where nonconforming situations exist are permitted and encouraged. Major alterations, i.e., work estimated to cost more than 25 percent of the appraised valuation of the structure to be altered may be done only in accordance with a zoning permit (and building permit, if applicable) issued pursuant to this regulation.

B. Restoration: If a structure located on a lot where a nonconforming situation exists is damaged to an extent that the costs of repair or replacement would exceed 25 percent of the appraised valuation of the damaged structure, then the damaged structure may be repaired or replaced only in accordance with a zoning permit (and building permit, if applicable). This section does not apply to structures used for single-family residential purposes, which structures may be reconstructed pursuant to a building permit just as they may be enlarged and replaced in Section 3.3 (E)

C. For the purposes of Section 3.3 (A) and (B):

1. The "cost: if renovation, repair or replacement shall mean the fair market value of the materials and services necessary to accomplish such renovation, repair or replacement.
2. The "cost" of renovation, repair or replacement shall mean the total cost of all such intended work, and no person may seek to avoid the intent of Subsections (A) or (B) by doing such work incrementally.
3. The "appraised valuation" shall mean either the appraised valuation for property tax purposes, or the valuation determined by a licensed property appraiser.



D. The administrator shall issue a zoning permit authorized by this section if they find that in completing the renovation, repair or replacement work:

1. No violation of Section 3.3 will occur, and
2. The permittee will comply to the extent reasonably possible with all provisions of this regulation applicable to the existing use (except that the permittee shall not lose their right to continue a nonconforming use).

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

F. Notwithstanding Section 3.3(A): any structure used for residential purposes including existing manufactured homes and maintained as nonconforming use may be enlarged or replaced with a similar structure of a larger size, so long as the enlargement or replacement does not create new non-conformities or increase the extent of existing non-conformities with respect to such matters as setback and parking requirements. This paragraph is subject to the limitations stated in Section 3.4(B) (abandonment and discontinuance of nonconforming situations)

CONTINUATION OF NON CONFORMING USES/SITUATIONS

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

A. Extension: A nonconforming use shall not be extended, enlarged, or moved to occupy any portion of the premises, either land or structure, which was not originally occupied by the nonconforming use.

B. Discontinuance: Whenever a nonconforming use of any premises or use of a nonconforming structure has been abandoned or discontinued for a period of three hundred sixty (360) days (with the exception of agricultural uses), no nonconforming use may be re-established on those premises. A use shall be considered discontinued when city utilities have been disconnected for a period of three hundred sixty (360) days.

C. Changes: The Board of Adjustment shall not permit a change from one nonconforming use to another unless the new nonconforming use is in the same or a more restrictive classification.

4 ZONING DISTRICTS AND ZONING MAP

4.1 ZONING DISTRICTS

In order to classify, regulate, and restrict the use and location of buildings designed for specified uses, to regulate and determine the area of yards, courts, and other open spaces surrounding buildings, and to realize the general purposes set forth in the Preamble of this Ordinance, the City is divided into zoning districts. The specific purpose of each zoning district is set forth in Section 4.2 through 4.10.

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

- R-1 Low Density Residential
- R-1A Low-Moderate Density Residential
- R-2 Moderate Density Residential
- R-3 High Density Residential
- MHP Mobile Home Park
- C-1 Commercial District
- CBD Central Business District
- I-1 Light Industrial
- I-2 General Industrial
- P Public and Semi-Public
- ESA Environmentally Sensitive Area Overlay District

4.2 LOW DENSITY RESIDENTIAL (R-1)

A. Intent: The intent of this district is to provide for low density single family detached homes and supporting uses. This district consists of larger lot residential areas and located in areas where adequate infrastructure is available or proposed.

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

1. Detached single-family residences.
2. Ornamental parks, landscaped areas, open spaces, bikeway systems, trails and other pedestrian networks.

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

1. Private garages and parking areas
2. Private swimming pools, tennis courts, and swing sets
3. Storage sheds, private greenhouses and gazebos
4. Private, noncommercial parks and open space

5. Living quarters without cooking facilities and not rented for guests and employees of the premises
 6. Family day care homes as regulated in Section 2.4.6
- D. Conditional Uses: (Permitted only with Board of Adjustment approval).
1. Type II day care centers
 2. Home occupations
 3. Churches, Sunday Schools and parish houses (Site/Development Plan Required)
 4. Utility facilities

Lot, yard and height requirements

- A. Minimum lot size – 10,000 square feet
- B. Minimum lot frontage – 75 feet
- C. Minimum front yard depth – 25 feet
- D. Minimum side yard depth – 15 feet
- E. Minimum rear yard depth – 20 feet
- F. Maximum lot coverage – No limitation
- G. Maximum height of building – 35 feet
- H. Accessory uses shall only be located within the backyard, at least six (6) feet from and adjoining side or back lot boundary and other buildings
- I. Off-street parking – A paved driveway and either an enclosed two-car garage or two-car carport.
- J. For lots of record and lots containing single family dwellings existing at the time of the adoption of this ordinance, a single family home may be constructed if the following regulations can be met:
 - a. Minimum lot area - Seven thousand five hundred square feet (7,500)
 - b. Minimum width – Fifty feet (50)
 - c. Minimum yards –
Front yard-fifteen (15) feet, Side yard- ten (10) feet, Rear yard – fifteen (15) feet

4.3 LOW-MODERATE DENSITY RESIDENTIAL (R-1A)

A. Intent: The intent of this district is to provide for a more compact, but essentially single family residential environment with single family detached homes and supporting uses. Such districts shall be located where adequate infrastructure is available or proposed.

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

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

1. Private garages and parking areas
2. Private swimming pools, tennis courts, and swing sets.
3. Storage sheds, private greenhouses and gazebos
4. Private, noncommercial parks and open space
5. Family day care homes as regulated in Section 2.4.6

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

1. Home occupations
2. Type II day care centers
3. Utility facilities
4. Churches, Sunday Schools and parish houses (site development plan required).

Lot, yard and Height Requirements

E. Minimum lot size – 5,000 square feet

F. Minimum lot frontage – 50 feet

G. Minimum front yard depth – 15 feet

H. Minimum side yard depth- 10 feet

I. Minimum rear yard depth – 15 feet

J. Maximum lot coverage – No limitation

K. Maximum height of building – 35 feet

L. Accessory uses shall only be located within the backyard, at least six (6) feet from an adjoining side or back lot boundary, the primary structure and other buildings.

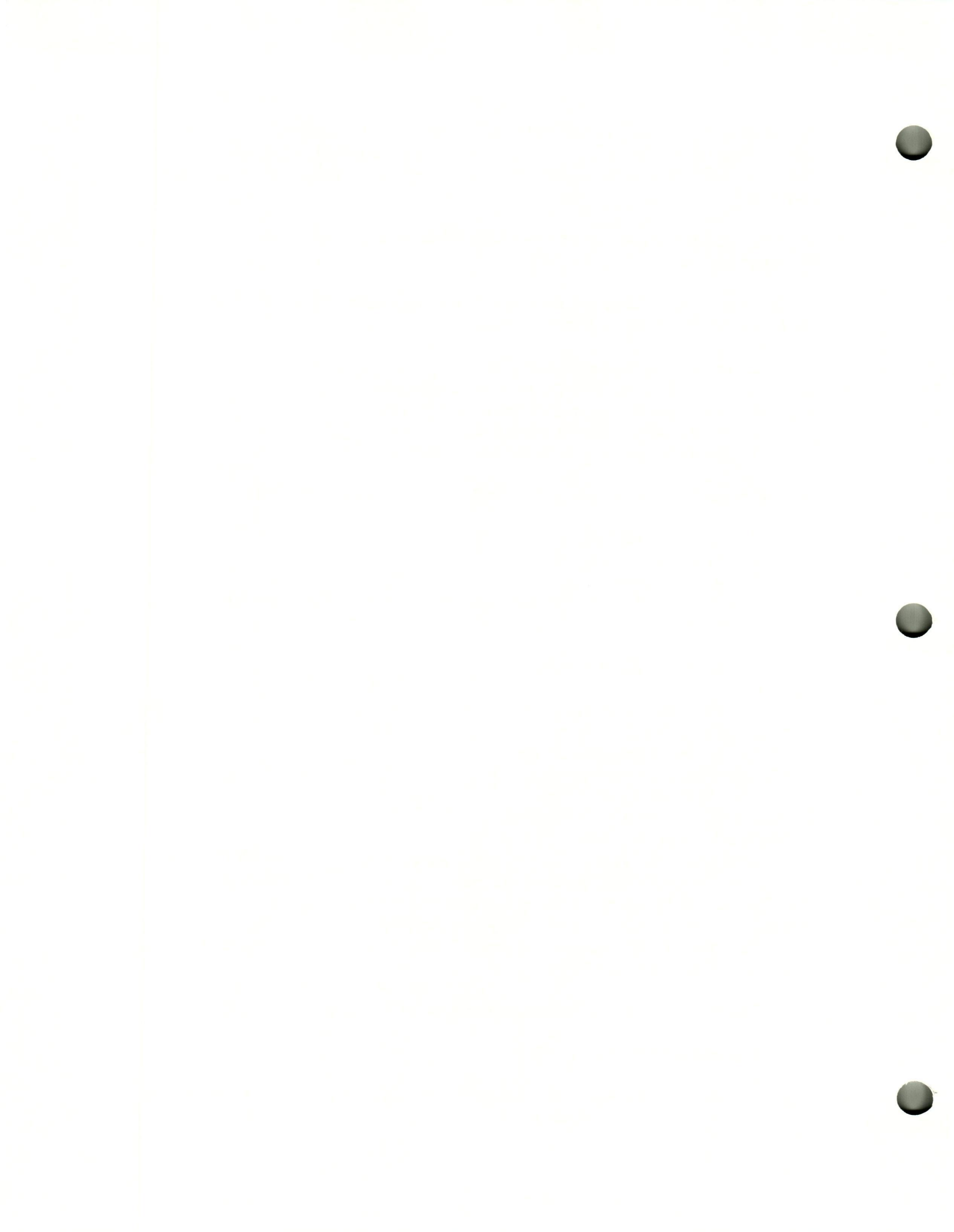
M. Off-street parking – A paved driveway and two off street parking spaces

N. For lots of record and lots containing single family dwellings existing at the time of the adoption of this ordinance, a single family home may be constructed if the following regulations can be met:

a. Minimum lot area – Four thousand two hundred fifty square feet (4,250)

b. Minimum width – Fifty feet (50)

c. Minimum yards – Front yard: fifteen (15) feet, Side Yard: eight (8) , Rear yard:
Fifteen (15) feet

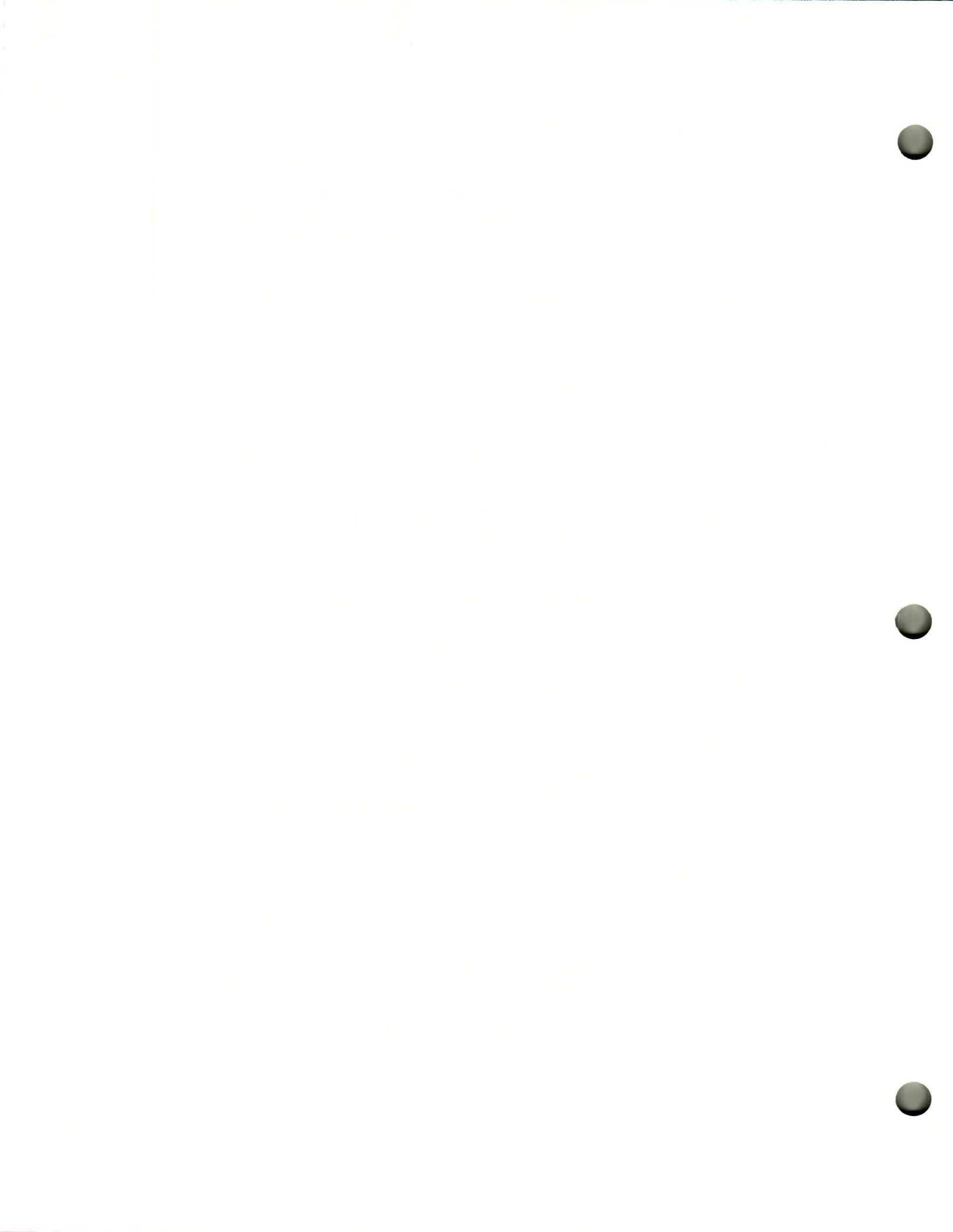


4.4 MODERATE DENSITY RESIDENTIAL (R-2)

- A. Intent: This district is intended to encourage moderate density residential development, including a compatible mixture of duplexes and triplexes with single-family residences in areas where adequate infrastructure is available. In new developments containing a mixture of densities, single-family homes shall be grouped separately from duplexes and triplexes.
- B. Principal Uses: (Other uses substantially similar to those listed herein shall also be deemed permitted)
1. Single family homes
 2. Duplexes and triplexes
 3. Class A manufactured homes
 4. Apartments and townhouses with four or less units
 5. Ornamental parks, landscaped areas, open spaces, bikeway systems, trails and other pedestrian networks.
- C. Accessory Uses: (Uses and structures which are customarily accessory and clearly incidental and subordinate to permitted uses)
1. Private garages, storage sheds and parking areas
 2. Private swimming pools, tennis courts, and swing sets
 3. Private, noncommercial parks and open space
 4. Family day care homes as regulated in Section 2.4.6
- D. Conditional Uses: (Permitted only with Board of Adjustment approval)
1. Home occupations
 2. Utility facilities
 3. Type I and II day care centers
 4. Class B Manufactured homes containing a minimum area of 400 sq. ft. that meet the specifications of Class A Manufactured Homes (except width and area requirements).

Lot, Yard and Height Requirements

- E. Minimum lot size – 10,000 square feet (10,800 sq. ft. for duplexes, 11,700 sq. ft. for triplexes). For lots of record containing single family dwelling at the time of adoption of this ordinance, the minimum lot area size is 9,600 square feet. Connection to a public sewer system is mandatory for duplexes, triplexes and other multifamily units.
- F. Minimum lot frontage – 50 feet for single family, 75 feet for multifamily
- G. Minimum front yard depth – 20 feet
- H. Minimum side yard depth – 10 feet



- I. Minimum rear yard depth – 20 feet
- J. Maximum lot coverage – No limitation
- K. Maximum height of building – 35 feet
- L. Accessory uses shall only be located within the backyard, at least six (6) feet from an adjoining side or back lot boundary, the primary structure and other buildings.
- M. Off-street parking – A paved driveway and two parking spaces per unit, parking in the rear of multifamily units is preferred.

4.5 HIGH DENSITY RESIDENTIAL (R-3)

A. Intent: This district is intended for multi-family residential uses containing four or more unites with adequate open space and recreational facilities. It is mandatory for development in this district to be connected to a publicly maintained sanitary sewer system. A development plan must be submitted.

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

- 1. Multifamily residential uses containing four or more units
- 2. Apartments, townhouses and condominiums
- 3. Parks and playgrounds
- 4. Laundromats for use of occupants only
- 5. Offices for administration and maintenance of multi-family complexes
- 6. Family day care homes as regulated in Section 2.4.6

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

- 1. The accessory uses permitted in the R-2 Zone

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

- 1. Home occupations
- 2. Utility facilities
- 3. Type I and Type II day care centers

Lot, Yard and Height Requirements

- E. Minimum lot size – 10,800 square feet for multifamily units
- F. Minimum lot frontage – 100 feet
- G. Minimum front yard depth – 25 feet



- H. Minimum side yard depth – 10 feet
- I. Minimum rear yard depth – 25 feet
- J. Maximum height of building – 50 feet, 35 feet if lot adjoins R-1, R-1A or R-2 district
- K. Accessory uses shall only be located within the backyard, at least five (5) feet from an adjoining side or back lot boundary and at least six (6) feet from the principal structure.
- L. Off-street parking- A paved driveway and two parking spaces per unit if less than four units, 1.5 per unit for multi-family. Parking in the rear is preferred for multifamily units.

4.6 MOBILE HOME PARKS (MHP)

A. Intent: The purpose of the Mobile Home Park District is to provide an alternative type of dwelling within well-planned and desirable environments for individuals or families who do not prefer conventionally constructed dwellings and may not desire private property ownership. Such parks must have adequate open space, recreational facilities and be located in areas with adequate infrastructure and convenient accessibility. It is mandatory for development in this district to be connected to a publicly maintained sanitary sewer system. A development plan must be submitted.

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

1. Individual Class B manufactured homes (mobile homes) having floor areas greater than four hundred (400) square feet. Site plan review will be required for a Mobile Home Park with individually owned lots and public streets.
2. Recreational facilities as defined below:
 - a. General leisure, ornamental and other parks, spaces, trails, bikeways and similar uses;
 - b. Play lots or tot lots, playgrounds, play fields or athletic fields and other activities;
 - c. Basketball or tennis courts;
 - d. Swimming pools;
 - e. Picnicking, hiking areas and trails

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

1. Offices for administration and maintenance
2. Carports and parking areas
3. Structures such as trailer skirting, fences and walls
4. Buildings such as storage sheds, private greenhouses and gazebos
5. Storage of recreational vehicle or unit where appropriate
6. Family day care homes as regulated in Section 2.4.6

7. A dwelling unit of the family of the mobile home park owner-operator and/or resident manager including the accessory uses listed above and including a private garage, private swimming pools and recreational courts.

D. Conditional Uses: The following uses and appropriate accessories subject to the approval and qualifications of the Board of Adjustment provided: a) the activity is an integral and subordinate function of a permitted use; or b) is a functional activity of a mobile home park; c) the activity (except mobile home sales) is only for residents of the mobile home park; and d) the arrangement of uses, buildings or structures will be mutually compatible with the organization of permitted and accessory uses in this district.

1. Self service laundering and dry cleaning services
2. Postal services
3. Type I day care centers not located in a dwelling unit
4. Clubhouses, community centers and similar common assembly or shared facilities.

Lots, Yard and Height Requirements

- E. Intensity – The intensity of use in a Mobile Home Park shall not average more than seven (7) mobile home units per acre
- F. Minimum park size – The minimum size and extent of a Mobile Home Park district including all the contiguous private property so designated shall not be less than five (5) acres.
- G. Minimum lot width per mobile home – 50 feet
- H. Minimum front yard depth – 25 feet
- I. Minimum side yard depth – 10 feet
- J. Minimum rear yard depth – 25 feet
- K. Maximum height of mobile homes and accessory buildings – 35 feet
- L. Accessory uses shall only be located within the backyard, at least six (6) feet from an adjoining side or back lot boundary, the primary structure and other buildings
- M. Minimum standards – All permitted, accessory and conditional uses, buildings and structures in this district are subject to:
 - a. The supplemental parking/loading and signage regulations as defined in Article 5 and 6 of this ordinance
 - b. Requirements of Kentucky Mobile Home and Recreation Vehicle Park regulations including KRS 219.310 through KRS 219.410; permits as required under KRS 219.310 through 219.410 shall be included with the application for site plan review.



- c. Each mobile home shall be provided with adequate anchorage and tie-downs
- d. Any other requirements imposed by the Lewis County Health Department or local building codes
- e. Each mobile home park shall have an appropriate landscape buffer, which shall be located along the perimeter of the site (see Article 5).

4.7 COMMERCIAL DISTRICT

- A. Intent: It is the intent of this district to provide areas for commercial development outside of the central business district. This development should be located along major highways and should be clustered with common highway access points wherever possible. Strip development with numerous highway access points is discouraged.
- B. Principal Uses: (Other uses substantially similar to those listed herein shall also be deemed permitted).
 - 1. Professional Offices such as real estate, insurance, financial, postal services and others that have low traffic generation rates (does not include medical offices or government offices).
 - 2. Physician, dental, optical goods and services
 - 3. Veterinary services and pet grooming services (excluding the outdoor boarding of animals).
 - 4. Laundering, dry cleaning, alteration and garment repair and shoe repair operations
 - 5. Establishments for the retail sale of food such as grocery stores, bakeries, meat stores.
 - 6. Restaurants including small fast food restaurants, ice cream parlors, bakeries, etc.
 - 7. Convenience stores
 - 8. Banking services (including drive-thru facilities), savings and loan associations, credit unions and other credit services.
 - 9. Hardware stores
 - 10. Recreation centers, gymnasiums, clubs and similar athletic uses
 - 11. Personal service establishments such as beauty shops, barber shops, tanning salons, shoe repair, clothing repair, Laundromats and cleaners
 - 12. Other clearly retail uses which are considered to be compatible by the Planning Commission. Examples are stores selling clothing, shoes, fabric, electronics, hardware, hobby items, photo finishing, gifts and antiques, books, stationery and prescription drugs, florists and home decorating stores.
 - 13. Quick copy services not utilizing offset printing methods
 - 14. Type I and Type II day care centers
 - 15. Motion picture theaters (indoor)
 - 16. Motor vehicle sales and services
 - 17. Hotels and motels



18. Department stores (including those for home furnishings and apparel), mail order business, direct retail establishments.
19. Places of amusement (bowling alley, skating rinks, miniature golf, etc.), assembly or commercial recreational facilities
20. Wholesale or retail outlet stores
21. Shopping centers
22. Manufacturing or processing establishments incidental to retail functions only with no more than 10 employees which are nonhazardous and nonpolluting and conducted fully within an enclosed building
23. Mobile home sales and services.

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

1. Parking areas or structures
2. Drive through facilities for the sale of permitted goods or services

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

1. Gasoline service stations and vehicle maintenance (car wash) facilities
2. Churches, synagogues, temples and other places of religious worship
3. Storage units
4. Public buildings, trade or vocational schools
5. Private clubs, lodges and social centers
6. Printing and typesetting operations that employ fewer than 25 persons
7. Shops of special trade and general contractors such as plumbing, heating, electrical, carpentry, painting, metal work, printing, publishing, major automobile and truck repair, sign painting, etc.

E. Minimum lot size – 7,500 square feet

F. Minimum lot frontage – 75 feet

G. Minimum front yard depth – 20 feet

H. Minimum side yard depth – 10 feet

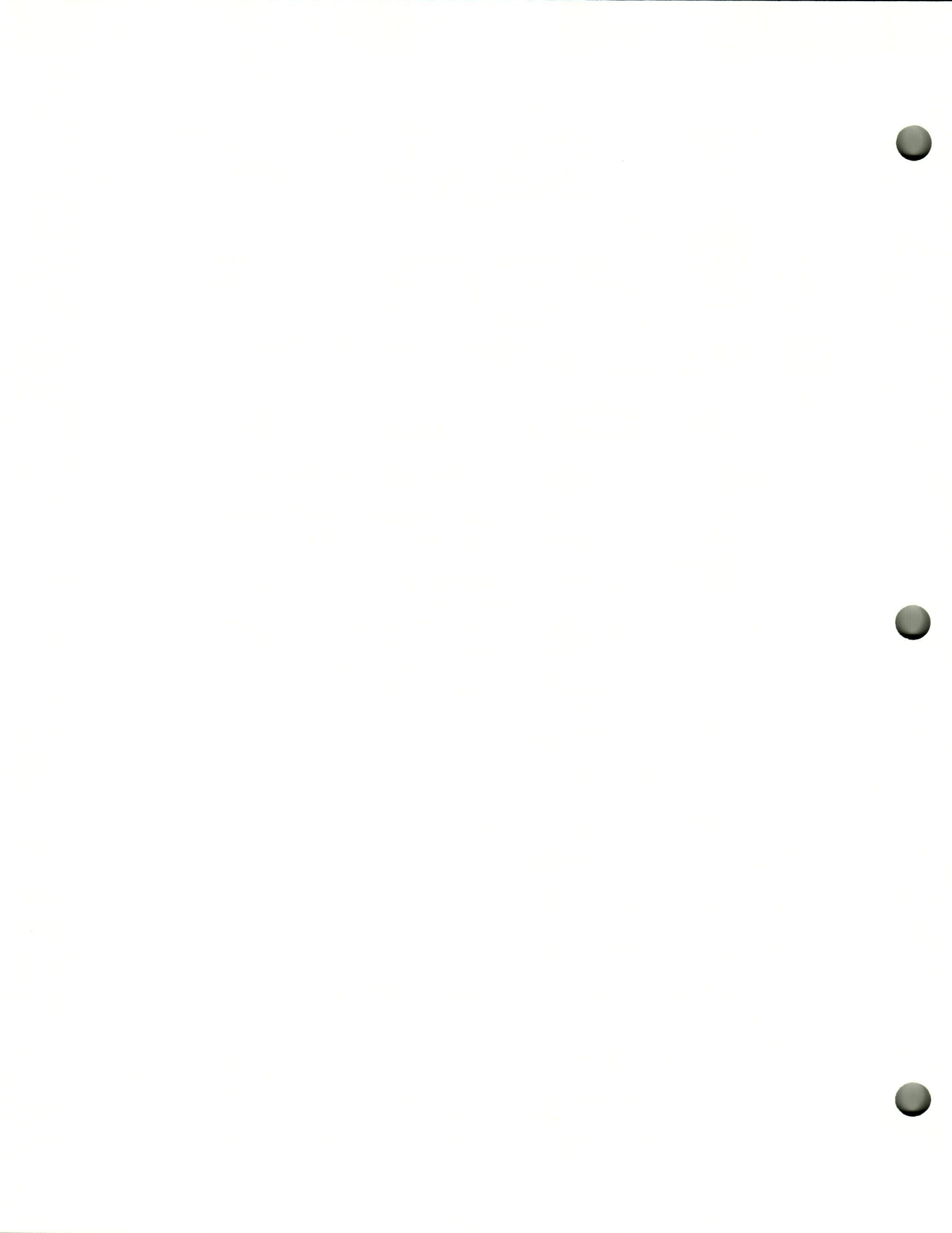
I. Minimum rear yard depth – 10 feet

J. Maximum lot coverage – No limitation

K. Maximum building height – 50 feet, 35 feet if located within 100 feet of a residential structure

L. Off-street parking spaces (paved):

1. Accessory dwelling and lodging units – two (2) spaces per unit
2. Restaurants – one (1) per 100 square feet of floor area
3. Fast food establishments – one (1) per 30 square feet of floor area



4. Professional Offices – One (1) per 300 square feet of floor area
5. Other Commercial Uses – one (1) per 200 square feet of floor area

M. Special provisions:

1. A five foot privacy fence is required between shopping center and residential properties
2. Landscape buffers are required as regulated in Section 5.4
3. Lighting or signage which causes a significant glare to adjacent residential uses is prohibited

4.8 CENTRAL BUSSINESS DISTRICT (CBD)

A. Intent: The intent of this district is to encourage sound expansion and renewal of the City's central business district.

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

1. Retain businesses and retail services
2. Places of amusement and assembly, offices, hotel, motels, garages, automotive sales and services
3. Manufacturing or processing establishments that do not create dust, smoke, noise, odor or other pollution outside the lot on which it is located and not employing more than 10 persons
4. Personal service establishments
5. Restaurants, convenience stores, grocery stores
6. Professional offices, governmental offices, laboratories and facilities
7. Public/semi-public uses such as libraries, vocational or technical schools, churches, nursing homes, funeral homes, medical offices.
8. Public Utility installations, offices, storage and maintenance facilities
9. Wholesale retail outlets
10. Family day care homes, Type I and Type II day care centers as regulated in Section 2.4.6.
11. Single family homes with two off street parking spaces.

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

1. Wholesale, warehouse and storage facilities
2. Parks and open space
3. Dwelling Units occupying the same building as the principal business that are located behind or above the business when at least two off-street parking spaces are provided per dwelling unit for fewer than four units and 1.5 parking spaces per unit for four or more units in the same building.

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

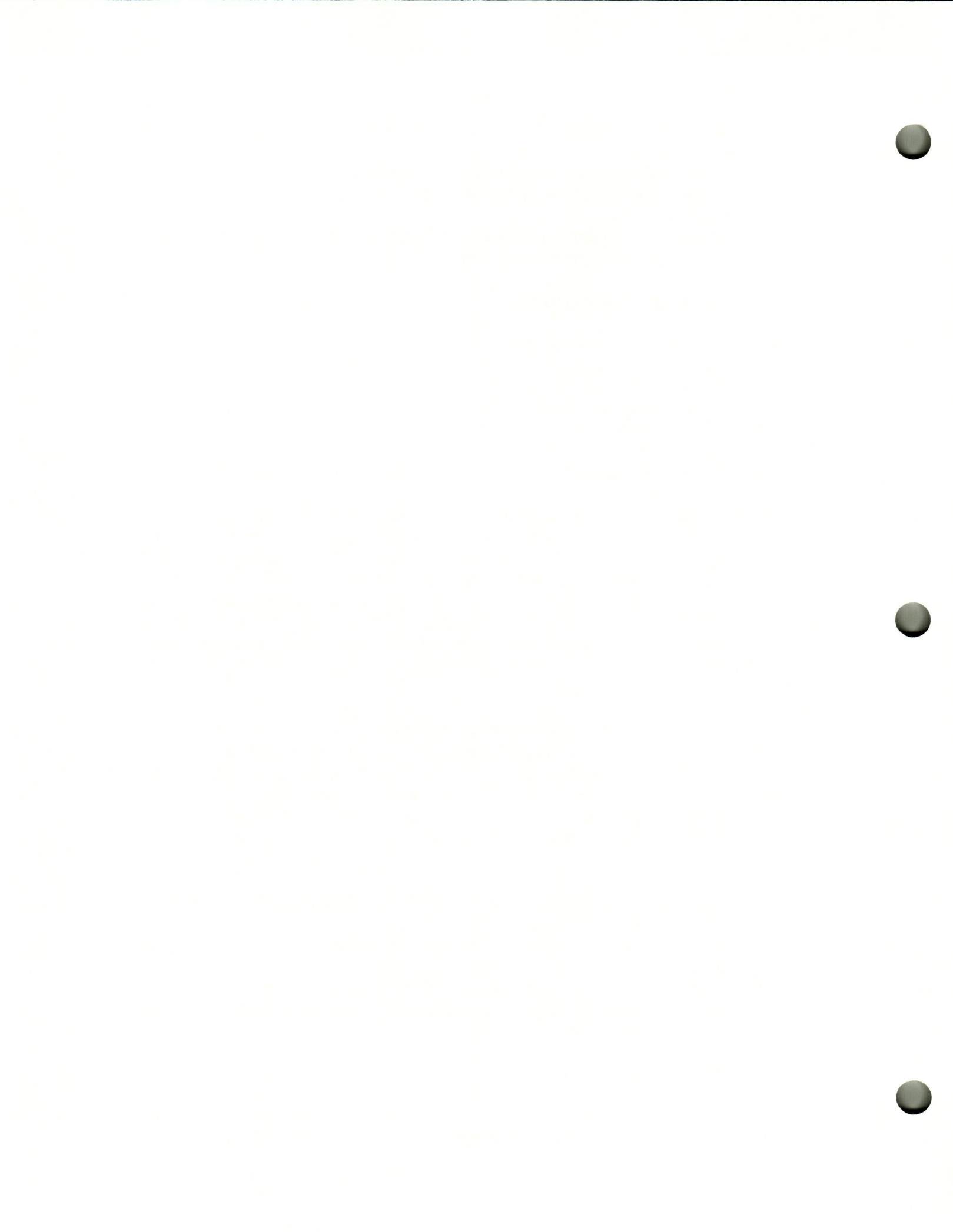
1. Drive-through facilities for sale of goods or products or provision of services otherwise permitted.
2. Private clubs, lodges, social centers, athletic clubs
3. Printing, typesetting and newspaper publications that employ fewer than ten (10) employees
4. Commercial buildings renovated for apartment usage when 1.5 off-street parking spaces are provided per unit.

Lot, Yard and Height Requirements

- E. Minimum lot size – 5,000 square feet
- F. Minimum lot frontage – 50 feet
- G. Minimum front yard depth – No limitation
- H. Minimum side yard depth – No limitation
- I. Minimum rear yard depth – No limitation
- J. Maximum lot coverage – 80 %
- K. Maximum height of building – 75 feet, 50 feet if lot adjoins residential district with no intervening street.
- L. Off-street parking – A paved off-street parking area with two (2) spaces for one to three dwelling units, 1.5 spaces for four or more dwelling units; restaurants, one (1) per 100 sq.ft. of floor area; other commercial uses, one (1) per 100 sq. ft. of floor area. For off street commercial uses, parking shall be located within 500 feet of the establishment served. Hotels or motels shall provide one (1) parking space per suite. Off street parking requirements for commercial structures may be modified by the Board of Adjustment for existing structures if warranted by general parking demand and availability; however, no new residential structures shall be approved unless off-street parking is provided as required.
- M. Exception to lot, yard and height requirements. Existing lots containing structures at the time of adoption of this ordinance may be accepted from the lot size and frontage requirements if an existing structure has been significantly damaged or destroyed due to fire or natural disaster. Where lot size and frontage requirements cannot reasonably be complied with, the administrative official is authorized to issue a permit for the repair or reconstruction of the structure if the following findings can be made:
 1. The property cannot reasonably be redeveloped for the existing or proposed use without such deviations.
 2. These deviations are necessitated by the size or shape of the nonconforming lot, and
 3. The property can be developed as proposed without any significant adverse impact on surrounding properties, character of the central business district and the public health or safety.

4.9 LIGHT INDUSTRIAL (I-1)

- A. Intent: The intent of this district is to provide for the manufacturing, wholesale businesses and related uses not involving a potential nuisance in terms of smoke, noise,



odor, dust, heat, light, vibration or industrial waste. They should operate mostly within enclosed structures and generate low to moderate amounts of traffic. Consideration should be given to the relationship of this zone to surrounding land uses.

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

1. Wholesale business, storage, and warehousing
2. Shops of special trade and general contractors such as plumbing, heating, electrical, carpentry, painting, metal work, printing, publishing, major automobile and truck repair, sign painting, etc.
3. Laundry, clothes cleaning or dyeing shops
4. Ice plants
5. Tire retreading and recapping
6. Parking lots and structures
7. Machine shops
8. Kennels, animal hospitals or clinics providing that such structures or area used (not including parking areas) shall be at least 100 feet from any residential zone.
9. Sales, purchasing or feed, grain or other agricultural supplies or products.
10. Establishments for the sale, display, rental or repair of all types of motor vehicles, farm equipment or contractor equipment.
11. Establishments for the display and sale of precut, prefabricated or shell homes
12. Retail sale of building materials lumber, garden supplies, plant materials
13. The manufacturing, assembling, processing, packaging or similar treatment of such products as bakery goods, candy, ceramics, clothing, cabinets, electrical parts, signs, electronic instruments, food products, pottery, china, shoes, television receivers, toys, watches, clocks, optical goods, and plastics. Recycling, storing, baling and processing of glass, cardboard, nontoxic, metals and plastics.
14. Recycling, sorting, storage, baling and processing of paper scrap shall be permitted only when wholly conducted in an enclosed building. This does not include automobile wrecking yards or junk yards.
15. Transfer stations for handling of solid waste when conducted within an enclosed building and located more than 100 feet from any residential zone.

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

1. Off-street parking areas, structures and loading zones
2. Recreational facilities
3. Office buildings
4. Retail sale of commodities manufactured, fabricated or processed on the premises
5. Type I child care centers primarily for children of employees of the premises.

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



1. Any manufacturing operation that will employ more than fifty (50) persons
2. Concrete mixing and concrete products
3. Cable television system facilities
4. Any heavy industry producing moderate amounts of noise, odor, dust, smoke or other types of pollution

Lot, Yard and Height Requirements

- E. Minimum lot size – 15,000 square feet
- G. Minimum lot frontage – 100 feet
- H. Minimum side yard depth – 25 feet
- I. Minimum rear yard depth – 50 feet
- J. Maximum lot coverage – 50 percent
- K. Maximum height of building – 50 feet, 35 feet if within 100 feet of a residential structure.
- L. Off-street parking spaces:
 - a. Industrial Plants – Fifteen (15) spaces plus one (1) space for every two (2) employees on a single shift at maximum employment. In addition, one space shall be provided for every truck operated by the plant.
 - b. Other industrial or retail uses – one (1) for every 400 sq. ft of floor area
 - c. Vehicle repair or service shops shall have additional parking for estimated number of vehicles to be kept on site temporarily.
- M. Special provisions:
 1. All uses shall be conducted in a completely enclosed building, except for outdoor storage uses which shall be enclosed on all sides by a solid wall or fence not less than six (6) feet in height.
 2. Landscape buffers are required as regulated in Section 5.4
 3. No industrial building shall be located closer than 100 feet to any residential district.
 4. Lighting or signage which causes a glare to adjacent residential districts is prohibited.

4.10 GENERAL INDUSTRIAL (I-2)

- A. Intent: This zone is intended for manufacturing, industrial and related uses that involve potential nuisance factors.
- B. Principal Uses: (Other uses substantially similar to those listed herein shall also be deemed permitted).



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

Lot, Yard and Height Requirements

- E. Minimum lot size – 15,000 square feet
- F. Minimum lot frontage – 100 feet
- G. Minimum front yard depth – 20 feet
- H. Minimum side yard depth – 25 feet
- I. Minimum rear yard depth – 50 feet
- J. Maximum height of building – 50 feet, 35 feet if within 100 feet of a residential structure
- K. Maximum lot coverage – 50% for structures



L. Off-street parking spaces: Industrial Plants – Fifteen (15) spaces plus one (1) space for every two (2) employees on a single shift at maximum employment. In addition, one space must be provided for every truck operated by the plant.

- a. Other industrial or retail uses – one (1) for every 400 sq. ft. of floor area
- b. Vehicle repair or service shops shall have additional parking for estimated number of vehicles to be kept on site temporarily

M. Special provisions

1. All uses shall be conducted in a completely enclosed building, except for outdoor storage uses which shall be enclosed on all sides by a solid wall or fence not less than six (6) feet in height
2. Landscape buffers are required as regulated in Section 5.4
3. Lighting and signage which causes a significant glare to adjacent residential districts is prohibited.

4.11 PUBLIC AND SEMI-PUBLIC (P)

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

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

1. Public owned or noncommercial recreational facilities and conservation areas, fairgrounds, parks, play areas.
2. Schools, colleges or training schools.
3. Churches, cemeteries or places of worship
4. Hospitals, clinics, nursing homes or medical buildings
5. Type I day care centers
6. Government buildings, offices or facilities
7. Private clubs, lodges, social centers or community centers
8. Private non-profit institutions
9. Libraries, museums or art galleries

C. Accessory uses:

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



D. Conditional Uses:

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

Lot, Yard and Height Requirements

E. Minimum lot size – 7,500 square feet

F. Minimum lot frontage – 75 feet

G. Minimum front yard depth – 20 feet

H. Minimum side yard depth – No limitation

I. Minimum rear yard depth – No limitation

J. Maximum lot coverage – No limitation

K. Maximum height of building – 50 feet, 35 feet if within 70 feet of a residential structure.

L. Off-street parking spaces:

1. Places of public assembly – 20% of capacity
2. Public buildings – 2 times the number of employees
3. Offices – 1 per 400 sq. ft. of floor area
4. Hospitals, clinics, medical buildings – 3 times the number of employees
5. Parks and playgrounds – 5 spaces plus 1 per 500 square feet of use area

M. Special provisions

1. Landscape buffers are required as regulated in Section 5.4
2. Lighting or signage which causes a significant glare to adjacent residential districts is prohibited.

4.12 ENVIRONMENTALLY SENSITIVE AREA OVERLAY DISTRICT (ESA)

A. Intent: Environmentally Sensitive District – is defined as a geographic area of the city exhibiting sensitive and distinctive environmental characteristics. These environmental characteristics are of concern due to flooding, slope stability and include certain geologic formations, soil types, slopes, vegetation, natural drainage systems, scenic views and other similar natural features.

B. Purpose: The purpose of the ESA is to assist developers in identifying environmentally sensitive sites and providing guidelines for developments in order to make them compatible with the environment. It is also the purpose of this district to protect those characteristics of the environment which are vulnerable to damage by



development permitted under conventional zoning and building regulations. The ESA distinguished specific areas which require additional site planning and engineering. The end result is to protect the public and property owners from unsafe buildings or unstable land caused by improper development in environmentally sensitive areas.

C. Location: The general location of ESAs are identified on the Vanceburg Future Land Use and/or Zoning Map. These areas have one or more of the following characteristics:

1. Located within a floodplain
2. Slopes of 20 percent or greater for a minimum height of 60 feet
3. Areas where soil types severely limit development
4. Existence of geologic formations which limit development

D. Development Guidelines: The Vanceburg Planning Commission and prospective developers should utilize the following development guidelines for the construction of any type of structure in developmentally sensitive areas. The Planning Commission shall use these guidelines as general parameters for reviewing site/development plan proposals as well as any reviews concerning zoning map amendments and subdivision plats. The planning commission may require additional studies or geotechnical reports when considering development proposals in these identified areas. General development guidelines are as follows:

1. Cluster new development, retaining surrounding tree cover, vegetation and minimizing changes in topography,
2. Plan buildings to fit into a hillside rather than altering the hillside to fit the buildings.
3. Stagger or step building units according to the topography
4. Plan buildings, drives and parking areas to acknowledge the natural contour of the site.
5. Respect the site's conditions of steepness, soil, bedrock and hydrology so as to insure hillside stability both during and after development. Utilize erosion control measures during and after grading.
6. Minimize large cuts, fills and any other earth modification
7. Respect and retain natural site features such as streams, slopes, ridgelines, wildlife habitat, existing vegetation and trees.
8. Employ sufficient and in some cases, additional storm water runoff systems that control the amount and rate of flow of storm water leaving the post-development site that could affect adjacent steep slopes. Use natural drainage courses wherever possible.

4.13 SPECIAL PROVISIONS FOR AGRICULTURAL AREAS

For the purposes of this regulation, land which is used solely for agriculture, farming, dairying, stock-raising, or similar purposes shall have no regulations imposed as to building permits, certificates of occupancy, height, yard, location or court requirements for agricultural buildings, except that: a) no structure for feeding or sheltering of animals or poultry shall be located within 100 feet of any dwelling or street; b) setback lines may be required for the protection of existing and proposed streets and highways, with no



buildings or structures in a floodway; c) no building or structures shall be constructed in the 100 year floodplain which will increase flood heights or obstruct the flow of flood water; and d) agricultural uses shall be prohibited if they are in violation of the City's Nuisance Ordinance. Any existing agricultural use may be continued (is "grandfathered in") until the property is otherwise developed.

4.14 OFFICIAL ZONING MAP

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

Any new official zoning map constructed from one or several amendments to the aforementioned map shall be identified by the signature of the Mayor, attested by the City Clerk, and bear the seal of the City under the following words: "This is to certify that this is the Official Zoning Map for the City, referred to in Section 4.12 of The Vanceburg Zoning Ordinance, adopted by the Vanceburg City Council on 8-18-07 (date)".

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

In addition, each amendment to the zoning district boundaries shall be individually noted on a copy of the City's lot line map and the boundaries of the change (only) circumscribed by a red felt-tip pen. The words shall also be written: "Official Zoning Map, Amendment number, on _____, 19__ (date of final approval) and the amendment shall be filed in the City Clerk's Office. Clearly legible certified copies of the amendment shall be provided to the Mayor, Planning Commission Chairman, and Applicant(s).

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

Regardless of the existence of purported copies of the official zoning map which may from time to time be made or published, the official zoning map, which shall be located



in the office of the City Clerk, shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the City.

4.15 REPLACEMENT OF OFFICIAL ZONING MAP

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

4.16 INTERPRETATION OF DISTRICT BOUNDARIES

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

- A. Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines.
- B. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- C. Boundaries indicated as approximately following city limits shall be construed as following such city limits
- D. Boundaries indicated as following electrical transmission lines shall be construed as following the easement boundary, or if unclear, the overhang of main supporting poles.
- E. Boundaries indicated as following shore lines shall be construed to follow such shore lines and in the event of change in the shore line shall be construed as moving with the actual shore line, boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such center lines.
- F. Boundaries indicated as parallel to or extensions of features indicated in Subsections 4.14(A) through (E) above shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map.
- G. Where physical or cultural features existing on the ground are at variance with those shown on the official zoning map or in other circumstances not covered by Subsections



4.14(A) through (F) above, the Board of Adjustment shall interpret the district boundaries.

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

4.17 ANNEXATIONS

After the adoption of an ordinance stating the city's intention to annex land into the city, the planning commission shall hold a public hearing to determine the appropriate zoning classification in accordance with KRS 100.209. Notice setting forth the time, date, location and purpose of the public hearing shall be published as required by KRS Chapter 424 and shall be given to the owners of all properties within the area in accordance with KRS 100.212.

4.18 COMPLIANCE WITH REGULATIONS

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

A. No building, structure, or land shall be used or occupied and no buildings or structure or part thereof shall be erected, constructed, reconstructed, moved, or structurally altered except in conformity with all of the regulations herein specified for the district in which it is located.

B. No building or other structure shall be erected or altered that would:

1. Amount to greater height or bulk than provided for in the appropriate schedule of district regulations.
2. Accommodate or house a greater number of families than that reasonably inferred by the zonal intent statement.
3. Occupy a greater percentage of lot area than the maximum specified "Floor Area Ratio" for the respective district affected.
4. Have a narrower or smaller rear yard, front yard, side yard, or other open spaces than that provided for in the appropriate schedule of district regulations.

C. No yard or lot existing at the time of passage of this regulation shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this regulation shall meet at least the minimum requirements set forth herein.



5 PARKING, LOADING AREAS, AND LANDSCAPE

5.1 OFF-STREET PARKING SPACE REGULATIONS FOR AUTOMOBILES

- A. Existing Parking Space: Existing off-street parking space provided for any building or use at the time of adoption of the regulation shall not thereafter be reduced unless it exceeds the requirements of this regulation. Any existing building or use not provided with off-street parking space shall be provided with adequate off-street parking in conformance with this ordinance at the time of any expansive structural alteration of the building or expansion of the use creating a need for additional parking.
- B. Required off-Street Parking Space: When any building is built or any use of premises is initiated, it shall be provided with sufficient off-street parking space on the premises so that it will not generate additional automotive parking on any street as a result of their normal activity. The Board of Adjustment shall interpret the amount of parking space required for any building or use, assisted by the following standards (Section 5.1C) whenever the Administrative Official is unable to apply these standards literally or when they determine a parking space deficiency. In either case, the Administrative Official shall apply to the Board for an original interpretation. Off-street parking for a pre-existing structure in a central business district shall be approved by the Board of Adjustment.
- C. Off-Street Parking Standards: The minimum off-street parking requirements for the several common types of buildings and uses listed vary by zoning district. In general, requirements are lower in areas of town that presently have a number of parking facilities, and higher in the areas of town that are likely to be targeted for shopping center development or other commercial facilities with very high traffic generation potential. Refer to the appropriate zoning district requirements (Article 4) for actual determination of minimum criteria. In addition to those standards, the applicant shall be required to demonstrate the following:
1. Safety Considerations: The applicant shall present to the Planning Commission a plat or development plan showing the overall design of any shopping centers, commercial or industrial structures as a condition precedent to the issuance of a zoning permit. All plats and development plans must show layout and arrangements for parking facilities and must provide for the maximum possible separation of pedestrian and vehicular traffic. The need for safe pedestrian access as well as vehicular access to the facility shall be incorporated in the overall design concept. In addition, the points of ingress and egress for vehicular traffic shall be at those respective points on the property providing for the maximum possible visibility, yet meeting space-from-intersection requirements.
 2. Parking Space Dimensions and Aisle Widths:
 - a. Except for parallel parking, each parking space shall contain a rectangular area at least nineteen (19) feet long and nine (9) feet wide. Lines demarcating parking spaces may be drawn at various



angles in relation to curb or aisles, so long as the parking spaces so created contain within them the rectangular area required by this section. Whenever parking areas consist of spaces set aside for parallel parking, the dimensions of such parking spaces shall be not less than twenty-two (22) feet by nine (9).

- b. Parking spaces for the physically disabled shall be twelve (12) feet in width or nine (9) feet in width with an adjacent access aisle a minimum of five (5) feet in width. Two (2) accessible parking spaces may share a common access aisle. Accessible parking spaces shall be designated as reserved for the disabled by a sign showing the symbol of accessibility. Such signs shall not be obscured by a vehicle parked in the space.
- c. Parking area aisle widths shall conform to the following table, which varies the width requirements according to the angle of parking.

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

- d. Driveways shall be not less than ten (10) feet in width for one-way traffic and twenty-four (24) feet in width for two-way traffic, except that twelve (12) foot-wide driveways are permissible for tow-way traffic when the driveway is: (1) not longer than fifty (50) feet, (2) provides access to not more than six (6) spaces, and (3) sufficient turning space provided so that vehicles need not back into a public street.

3. General Design Requirements:

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



properties or public rights-of-way. Such areas shall also be designed so that vehicles do not extend over sidewalks or tend to bump against or damage any wall, vegetation, or other obstruction.

- d. Circulation areas shall be designed so that vehicles can proceed safely without posing a danger to pedestrians or other vehicles and without interfering with parking areas.
4. Marking: Traffic flow patterns in parking lots shall be clearly marked at all times either by sign or by painted arrows. Painted arrows and letters on a parking lot surface must be repainted at least once annually. Directional signs and appropriate identification signs shall be maintained so as to ensure legibility of all lettering and illustrations at all times.
5. Additional Parking Standards: The Board of Adjustment may raise the standards listed above when necessary to conform with Section 5.1 (b), above, and shall use similar criteria of floor area, employment, or capacity to interpret standards for buildings and uses not specifically listed above.

5.2 OFF-STREET LOADING AND UNLOADING SPACE REGULATIONS FOR TRUCKS

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

5.3 ADDITIONAL PARKING, LOADING AND UNLOADING REGULATIONS

A. Arrangement of off-street parking space: Off-street parking space required for any building or use may be located within walking distance of five hundred (500) feet from the premises it serves but detached there from or may be consolidated into a large parking area serving other buildings and uses, either of which arrangements must be approved by the Board of Adjustment. The Administrative Official shall apply to the Board for an original interpretation when zoning permits are requested in such cases. The Board may not authorize the total amount of parking space required for all buildings and uses to be diminished except as follows: if a consolidated parking area serves buildings or uses which do not generate automobile parking at the same times, i.e., churches and stores, total parking space may be diminished to the maximum required by those buildings and uses which do generate the parking of automobiles at the same time.

B. Proof of availability: The Board of Adjustment may require a plat, deed, and any other proof necessary to show that there is permanent required parking space, if located off the premises it serves, and that it is controlled by and available to the applicant to construct a parking lot.



C. Surfacing of parking, loading and unloading spaces: Parking, loading, and unloading spaces and the access thereto shall be surfaced in a manner adequate to eliminate dust and mud.

5.4 LANDSCAPE REQUIREMENTS

A. Landscape Buffer Areas: A landscape buffer area not less than ten (10) feet in width, shall be located along all lot lines separating an industrial, public/semi-public, central business district or commercial lot or development from residential areas and other locations as required by the zoning ordinance. The landscape buffer may be reduced to five (5) feet when used in conjunction with a six (6) foot high wall or privacy fence. Such landscape buffer is not required on lot lines bordering a street. A planted screen determined by the Planning Commission to be of a height and density sufficient to adequately protect residences from higher density residential, industrial or commercial use shall be placed within such easement at the time of installation of other improvements and prior to final plat approval. If not installed prior to final plat approval, the surety for the subdivision shall include sufficient amounts to assure planting of this screening.

B. Vehicular Use Area Perimeter Requirements:

A vehicular use area (V.U.A.) is an open or unenclosed area containing more than 1,800 sq. ft. of area and/or used by five (5) or more types of vehicle, whether, moving or at rest, including, but not limited to , parking lots, loading and unloading areas, mobile home parks, sales and service areas. Driveways are considered to be vehicular use areas whenever they are adjacent to public streets or other vehicular use elements described previously in this paragraph (and intervening curbs, sidewalks, landscape strips, etc., do not eliminate adjacency.

1. Vehicular use areas (V.U.A.) located in any commercial, industrial or public/semi-public zone except for the central business district shall have a landscape buffer area at least five (5) feet wide where vehicles overhang and three (3) feet wide (that prohibits any vehicular overhang) for other areas between the vehicular use area and adjacent properties or streets.
2. This landscape buffer shall consist of one (1) tree for each forty (40) feet of boundary of the V.U.A. or fraction thereof plus a three (3) foot average height continuous planting, hedge, fence, wall or earth mound or a three (3) foot decrease in elevation from the adjoining property to the V.U.A.
3. The height of the planting may be reduced to eighteen (18) inches average height along streets or right-of-ways for vehicle sales facilities, service stations or financial institutions with drive-in facilities or night deposits.

A. General Requirements:



1. Existing landscape material which is proposed to be used to fulfill requirements for landscape screening shall be nursery stock and identified on the development plan or subdivision plat.
2. Cars or other objects shall not overhang or otherwise intrude into the required screening/landscaping easement more than two and one-half (2 ½) feet and wheel stops or curbs will be required. Owner of the property shall be responsible for the proper maintenance of the screening buffer. The required screening buffer may be combined with a utility easement or other easement if planting material is approved by the Utility Department and Planning Commission.
3. Plant material to be used in screening easements shall be identified on the final development plan or subdivision plat.
4. Grass or ground cover shall be planted on all sections of landscape buffers not occupied by other landscape materials.
5. Landscape materials shall be installed to provide a minimum of fifty percent (50%) winter opacity and a seventy (70%) summer opacity, between one(1) foot above finished grade level to the top of the required planting, hedge, fence, wall or earth mound.
6. Landscape buffers may not be required along a common boundary if landscape requirements have been fully complied with on the adjoining property.
7. Required trees do not have to be planted at set intervals, they may be grouped together.
8. Landscape materials shall not be planted at set intervals, they may be grouped together.
9. Landscape materials may include plantings such as trees, shrubs, ground covers, perennials, annuals, and other materials such as rocks, water, sculpture, walls, fences and street furniture.
10. Protection of existing plantings – Maximum effort should be made to save fine specimens. No material or temporary soil deposits shall be placed within four (4) feet of shrubs or ten (10) feet of trees designated on the plans to be retained. Protective barriers or tree walls shall be installed around each plant or group of plants that are to remain on site.

6 SIGN REGULATIONS

6.1 INTENT

The intent of this Article is to provide sign standards and regulations for the identification of residential subdivisions, professional offices, businesses and industrial activities. At the same time these regulations seek to promote signage which: (1) does not unduly detract from the overall aesthetics of the community; (2) reduces intrusions and protects property values; (3) provides for improved public safety by minimizing the undue



distraction of the motoring public; (4) provides for the protection and enhancement of the tourist industry by promoting a more harmonious and pleasing community image; (5) is equitably provided in terms of the nature and scale of the activities to be identified and of nonconforming signs; and (6) generally enhances and strengthens the economic stability of the City of Vanceburg.

6.2 SCOPE

The provisions of this Article shall apply to the display, construction, erection, alteration, use, location, and maintenance of all signs within the City of Vanceburg, and it shall be unlawful hereafter to display, construct, erect, alter, use or maintain any sign except in conformance with provisions of this Article.

Furthermore, it shall be unlawful to alter, maintain, enlarge, use, or display any sign erected or constructed prior to the enactment of this Article except in conformance with this Article. Except as specifically provided, the following shall be exempt from the provisions of this Article;

- A. Signs which are not visible beyond the boundaries of the lot or parcel upon which they are located and/or from any public thoroughfare or right-of-way.
- B. Official governmental notices and notices posted by governmental officers in the performance of their duties; governmental signs to control traffic, identify streets, to warn of danger or for other regulatory purposes. Identification or bulletin board signs accessory to governmental buildings or other facilities shall not be exempt from the provisions of this Article.
- C. The flag, pennant, or insignia of any nation, organization of nations, state, county or city, any religious, civic or fraternal organization, or any educational institution; except when such are used in connection with a commercial promotion or as an advertising device.
- D. Works of fine art which in no way depict, identify, or advertise a product or business.
- E. Temporary decorations or displays, when such are clearly incidental to and are customarily and commonly associated with any national, local, or religious holiday or celebration.
- F. Temporary or permanent signs erected by public utility companies or construction companies to warn of danger or hazardous conditions, including signs indicating the presence of underground cables, gas lines, and similar devices.
- G. Merchandise, pictures, or models of products or services which are incorporated as an integral part of a window display. Signs displayed on trucks, buses, trailers or other vehicles which are being operated in the normal course of a business, such as signs indicating the name of the owner or business which are affixed or painted onto moving vans, delivery trucks, contractors' vehicles and equipment, rental trucks and trailers, and the like. However, these types of signs must be clearly incidental to the

use of the vehicle in conjunction with a bona fide business and cannot be used for the sole purpose of displaying signs. Such vehicles must be parked or stored in areas appropriate to their use as vehicles, and in such a manner and location on the lot so as to minimize their visibility from any street to the greatest extent feasible.

6.3 DEFINITIONS

The following definitions unique to this Article are listed below. The terms to be defined have been grouped according to the specific aspects of sign control to which they pertain in order to provide a clearer understanding of the regulations contained later in this Article.

A. Sign: Any writing, pictorial representation, form, emblem, trademark, flag, banner, decoration (including material used to differentiate the sign copy from the background) or any figure which is written, printed, projected, painted, constructed, or otherwise displayed upon or designed into a building, board, plate, canopy, awing, window, vehicle, or upon any object or device which by reason of its form, color, wording, symbol, design, illumination, motion or other characteristic is designed to attract attention to the subject thereof or is used as a means of identification, advertisement, announcement, or product illustration.

B. Basic Sign Types By Function: The following categories of signs are hereby defined based upon the nature of the information they are intended to provide:

1. **ADVERTISING SIGN** – A sign which directs attention to a business, product, service or activity generally conducted, sold or offered at a location different than where such sign is posted.
2. **ATTENTION BOARD** – A sign which contains no permanent copy, either letters or emblems, on which copy is changed manually with changeable letters and which announces special activities on the property.
3. **BULLETIN BOARD** – A sign which allows the manual changing of the copy material and is used to notify the public of noncommercial events or occurrences such as church services, political rallies, civic meetings or similar events.
4. **BUSINESS SIGN**- A sign which directs attention to a business, profession, product, activity, or entertainment, sold or offered upon the premises where such sign is located, and may include information included on identification signs.
5. **CONSTRUCTION SIGN** – A temporary sign identifying the project name, the architect, engineer, contractor, financing company, material supplier, or others engaged in work on the construction site on which the sign is located. Leasing information, renderings and similar copy shall also be permitted
6. **DIRECTIONAL SIGN** – A noncommercial sign of an instructional nature, such as “parking”, “exit”, or “entrance”, displayed solely for the convenience of the public, no more than twenty-five percent (25%) of such sign being devoted to the name or logo of the property, business or profession on the site and containing no business advertising, product

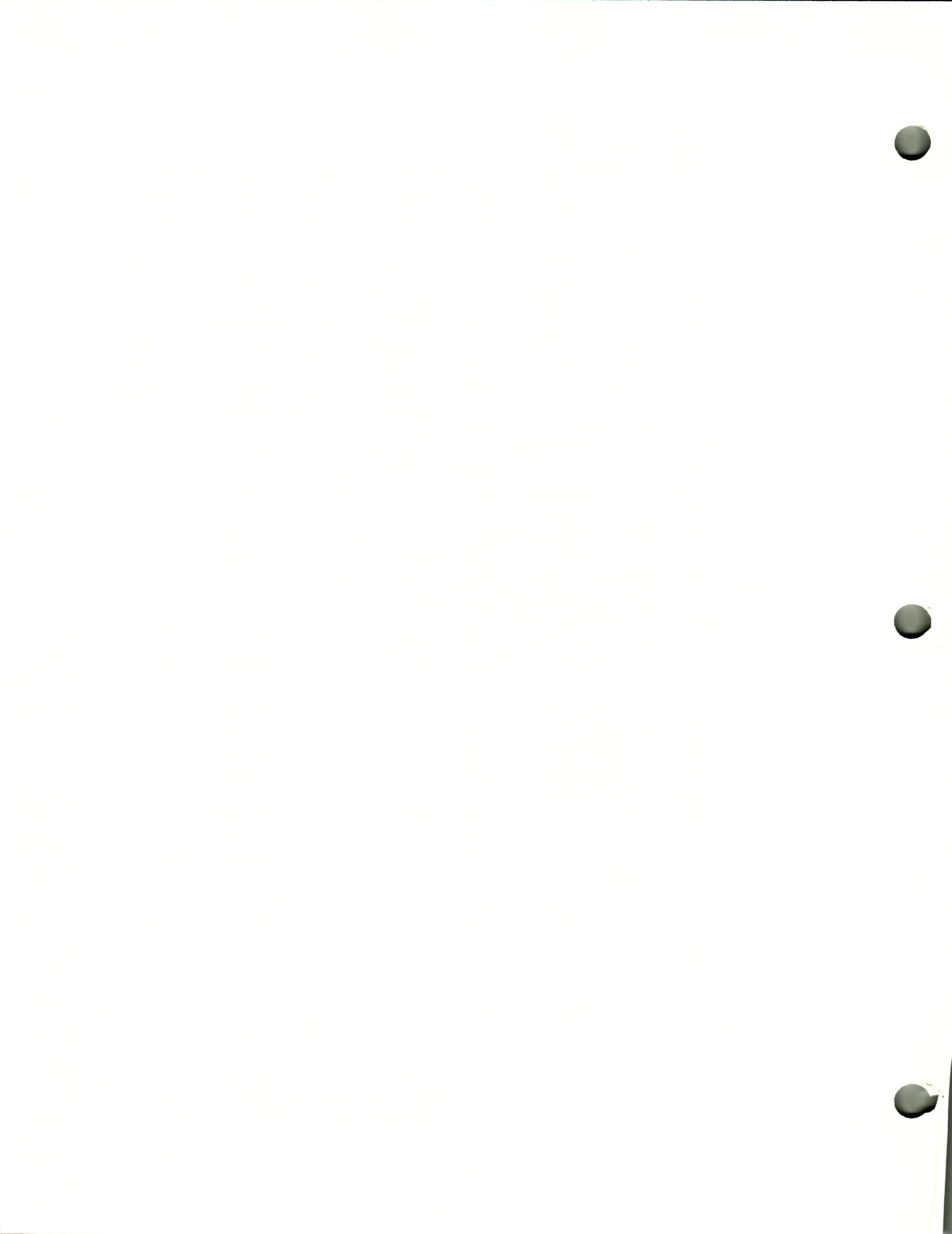


trade name identification or listing of any product sold or offered on the premises.

7. **GOVERNMENT SIGN** – A temporary or permanent sign erected by any government body for traffic direction, or for designation or direction to any school, hospital, park, historic site or other service, property or facility.
8. **HISTORIC MARKET** – A sign or emblem which commemorates or identifies an event, past ownership of property, or age of a building.
9. **INCIDENTAL SIGN** – A small sign, not exceeding two (2) square feet, limited to information and directions related to the permitted use on the lot or building on which the sign is located, and may not contain direct illumination as defined in this Article. Examples of incidental signs would include “no smoking”, “restroom”, “no solicitors”, “no trespassing”, “self service”, “vacancy”, credit card acceptance signs, signs indicating hours of business and similar information.
10. **IDENTIFICATION SIGN** – A sign which establishes the identity of a building or building complex by name or symbol. The sign may also contain business name, street address, and/or management but cannot have any direct advertising value.
11. **INFORMATIONAL SIGN** – A sign whose copy gives only the time, temperature and/or date through an electronic message display system or by mechanical means (including clocks and thermometers), but provides no advertising of any product or business activity.
12. **MENU BOARD** – A free standing or wall mounted sign primarily designed for the display of menu items and prices for the purpose of placing orders for such items in conjunction with a restaurant or drive through services.
13. **NAMEPLATE** – A wall sign which gives only the name, address, and/or occupation of the occupant(s) of the building on which it is located.
14. **POLITICAL SIGN** – A temporary sign supporting the candidacy for office or urging action on any other matter on the ballot of a state, local or national election or referendum.
15. **REAL ESTATE SIGN** – A temporary sign indicating only sale or rental of property at the same location as the sign is erected.
16. **TRACT SIGN** – A temporary sign advertising the original sale of property in a subdivision.
17. **TEMPORARY SIGN** – Any sign or advertising display constructed of cloth, canvas, light fabric, cardboard, wallboard, plywood, or other light materials with or without frames, and/or intended to be displayed for a limited period of time only.

C. Sign Types By Means of Mounting or Erecting: The following categories of signs are hereby defined primarily by the means of mounting or erecting and location placement upon a building or premises:

1. **AWING SIGN** - A sign painted or printed on, attached flat against the surface of an awning. As used in this article, awning shall be defined as a shelter



supported entirely from an exterior wall of a building consisting of cloth or other similar non-rigid material supported by a frame.

2. **UNDER AWNING OR UNDER CANOPY SIGNS** – A small sign, limited to four (4) square feet, attached to or suspended from the underside of a canopy or awning having a clearance of not less than eight (8) feet.
3. **CANOPY SIGN** – A sign painted, printed or attached flat against a surface of a canopy. As used in this article, canopy shall be defined as a permanently roofed shelter covering a sidewalk, driveway or other similar area, which shelter may be wholly supported by a building or may be wholly or partially supported by columns, poles or braces extended from the ground.
4. **FREE STANDING SIGN** – A sign, not attached to any building, erected using poles, braces, or other means.
5. **MARQUEE** – A sign used in conjunction with a theater which in addition to permanent copy may include changeable letters. This type of sign is typically supported by the building and generally projects away from the structure.
6. **MOBILE SIGNS** – Mobile signs are signs which are: (1) affixed to a frame having wheels or capable of being carried, or otherwise portable; (2) do not have a permanent foundation; (3) cannot withstand the stress and wind loads of the Building Code; and (4) designed to stand free from a building or other structure. Signs designed to be affixed to the surface of real estate shall be deemed free standing signs and not mobile signs, but the mere removal of wheels or temporary securing of a sign to the surface of real estate shall not prevent its being a mobile sign within this definition.
7. **PROJECTING SIGN** – A sign which is attached directly to a canopy, marquee, or wall of a building and which extends horizontally outward from such canopy, marquee or wall more than twenty-four (24) inches.
8. **ROOF SIGN** – A sign which projects above the cornice of a flat roof or above the top edge of any roof including the ridge line of a gabled or hipped roof. Such top edge shall not include any cupolas, pylons, chimneys or other minor projections above the roof line.
9. **WALL MOUNTED SIGN** – A sign attached parallel to and extending not more than twenty-four (24) inches from the wall of the building. Includes painted, individual letter and cabinet signs, signs on a mansard, or on a parapet not exceeding three (3) feet in height (provided the parapet extends on at least three (3) sides of a building) and signs erected on or against the side of a roof but not projecting above the roof line. No copy shall be permitted to be displayed on the sides of the sign which are perpendicular to the wall face.
10. **PAINTED SIGN** – Any sign which is applied with paint or similar substance directly to a wall or other surface. Any painted sign shall be subject to the regulations of the zone in which it is located.
11. **WINDOW SIGNS** – A sign which is painted on, applied or attached to the interior of a window or located within three (3) feet of the interior of a window and which can be seen through the window from the exterior of the structure. Merchandise which is included in a window display shall not be included as a part of a window sign.

D. Sign Types By Design Features: The following categories of signs are hereby defined primarily by certain design features of the sign itself.

1. **NON-ILLUMINATED SIGN** – A sign which does not emit or reflect artificial light from any source either directly or indirectly
2. **ILLUMINATED SIGN** – A sign which emits or reflects, either directly or indirectly, artificial light from any source.
 - a. **DIRECTLY ILLUMINATED SIGN** – A sign which is lighted by means of an unshielded light source (including neon tubing) which is visible as a part of the sign and where light travels directly from the source to the viewer's eye.
 - b. **INDIRECTLY ILLUMINATED SIGN** – A sign whose light source is so situated as to project light onto the exterior or front of the sign surface, or to project light onto the building façade where the sign is located.
 - c. **INTERNALLY ILLUMINATED SIGN** – A sign whose light source is within the sign, with the sign having a transparent or translucent background or cover which silhouettes, opaque or translucent letters or designs.
3. **ROTATING OR MOVING SIGN** – A sign, any portion of which, moves by mechanical means, motion of the wind or other means. Such motion does not refer to methods of changing copy used on an electronic message display system.
4. **FLASHING OR BLINKING SIGN** – A sign, the illumination of which is not kept constant and which contains an intermittent or sequential flashing light source for the purpose of either attracting attention to the sign or as a method of changing copy.
5. **ELECTRONIC MESSAGE DISPLAY SYSTEM** – A sign with copy which utilizes rotating reflective disc, direct illumination, rotating veins, light emitting diodes (LED's, or liquid crystal diodes (LCD's) and is changed by means of a central computer teletype.

E. Other Sign Types and Definitions: The following phrases are hereby defined for the purposes of this Article:

1. **ABANDONED SIGN** – A sign and/or supporting structure which no longer identifies a business conducted or product sold on the premises; any advertising sign which no longer directs attention to a bona fide business conducted, product sold, or activity or campaign being conducted; or for which no legal owner can be found. A sign shall be deemed as abandoned when the conditions described above have been in evidence for a period exceeding one hundred eighty (180) days. For the purpose of this definition, an advertising sign shall not be deemed abandoned solely because the sign has contained no copy for a period exceeding one hundred eighty (180) days.



2. **AREA OF A SIGN** – Shall be defined and computed as follows:
- a. **FREE STANDING OR PROJECTING SIGNS:**
Any double-faced sign shall have only one face, the largest, counted in counted in calculation the area.
 - 1. Any sign with three or more sign faces shall have the area calculated by summing the area of the sign faces and dividing by two.
 - 2. If the sign is composed of one or two individual cabinets, the area around and enclosing the perimeter of each cabinet or module shall be summed and totaled to determine the area. The perimeter of the measurable area shall not include embellishments such as pole covers, framing, decorative roofing, etc., provided there is no written copy on such embellishments and their total surface area (excluding pole covers provided such covers do not extend more than six (6) inches at any point from any structural member) does not exceed twenty-five percent (25%) of the otherwise permitted sign area.
 - 3. If the sign is composed of more than two (2) sing cabinets, or modules, the area enclosing the entire perimeter of all cabinets and/or modules within a single continuous geometric figure shall be the area of the sign. The measurable area shall not include embellishments such as pole covers, framing, decorative roofing, etc., provided there is no written copy on such embellishments and their total surface area (excluding pole covers provided such covers do not extend more than six (6) inches at any point from any structural member) does not exceed twenty-five percent (25%) of otherwise permitted sign area.
 - b. **WALL SIGNS** – The area shall be within a single continuous perimeter composed of any straight line geometric figure which encloses the extreme limits of the copy including vertical and horizontal spacing between individual letters, logos, etc.
3. **BANNER SIGN, PENNANT, OR STREAMER** – An identification sign made of durable fabric only, and not made of wood, metal or soft or hard plastic, having no enclosing framework. Such banner sign, pennant or streamer may be non-illuminated or indirectly illuminated only.
4. **CLEARANCE OF A SIGN** – The least vertical distance between the lowest point of any sing, including the framework, and the established grade at the sign.
5. **HEIGHT OF A SIGN** – The vertical distance measured from the highest point of the sign including the frame and any embellishments and the established grade at the adjacent street.
6. **FACE OF A SIGN** – The vertical area of the sign on which the copy is placed.



7. **COPY** – Any word, letter, number, or emblem affixed to the sign surface either permanently or in removable form.
8. **DOUBLE-FACED SIGN** - A sign with two faces either set parallel or up to a forty-five degree (45%) shall be considered two (2) separate signs.
9. **ILLEGAL SIGN** – A sign which does not meet the requirements of this zoning Regulation and which is not non-conforming.
10. **NON-CONFORMING SIGN** – A sign which was legally erected but which does not comply with the adopted sign regulations of this Zoning Regulation for the zone in which it is located.
11. **SETBACK OF A SIGN** – The horizontal distance between any street right-of-way and free standing sign and/or its supporting structure. The measurement shall be taken at the closest point proximity between the right-of-way and any part of the sign or structure.
12. **BUILDING FRONTAGE** – The horizontal, linear dimension of that side of a building which abuts a street, parking area, or other unenclosed circulation area open to the general public. Where more than one (1) use occupies a building, the building frontage shall be the front width of the portion of the building occupied by that use.
13. **STREET FRONTAGE** – The linear distance between the lot lines measured along the abutting public or private street.

6.4 GENERAL PROVISIONS

A. **PERMIT REQUIREMENTS:** No sign, except as specifically exempted herein, shall be displayed, erected, relocated or altered unless and until a permit has been issued by the Administrative Official. Application materials shall be as required by the Administrative Official, and shall include, but shall not be limited to the following:

1. A completed application form.
2. A site plan and/or building elevation drawing, showing the location of the proposed sign (s) on the lot and/or building, including setbacks.
3. Detailed sign information, including type of construction, method of illumination, dimensions, copy, method of mounting and/or erecting and other similar information.
4. The written consent of the owner of the underlying real property or authorized agent.
5. A permit fee in an amount determined by the City Council.

The Administrative Official shall maintain written records of all permits issued or formally denied and any conditions attached to approval of such permit requests. Signs may be erected or constructed only in compliance with the approved permit.



B. ENFORCEMENT - The Administrative Official shall enforce the provisions of this Article and shall utilize its powers to ensure compliance with its provisions and the provisions of any approved permit. The Administrative Official shall maintain written records of any enforcement actions taken.

C. SIGNS EXEMPT FROM PERMIT REQUIREMENT – The following signs shall not require a permit. However, such signs are subject to applicable restrictions contained within this Article, and the Administrative Official shall take enforcement action against any such sign which does not conform to the specified requirements.

1. Political Signs;
2. Nameplates;
3. Government Signs;
4. Real Estate Signs;
5. Incidental Signs;
6. Window Signs; and
7. The changing of copy on a billboard, attraction board, marquee, informational sign, or electronic message display system.

D. All real estate and tract signs shall be removed within ten (10) days after the completion of sales activities in connection with the property or tract to which they pertain.

E. Illuminated signs shall be located in a fashion which minimizes, to the greatest feasible, the direct rays of such illumination penetrating into any residential zone or property used for residential purposes.

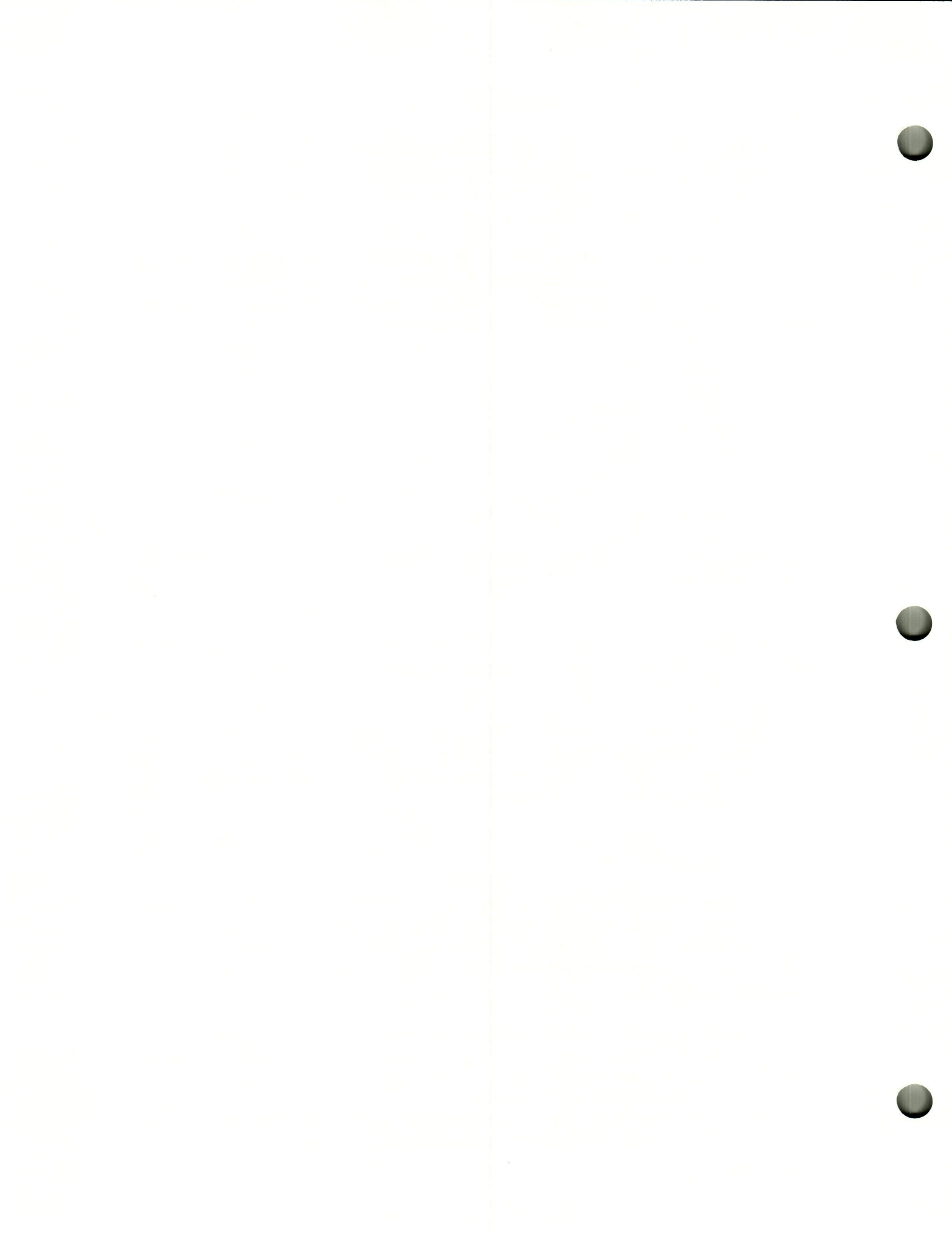
F. No light, sign or other advertising device shall be designed or erected in such a manner or location as to imitate or resemble any official traffic sign, signal or device or use any words, phrases, symbols or characters implying the existence of danger, or the need to stop or maneuver the vehicle.

G. No sign shall be attached to or painted on the surface of any tree utility pole, street light or dilapidated structure.

H. Gooseneck and thin line reflectors and lighting shall be permitted on indirectly illuminated signs, provided such do not extend six (6) feet beyond the sign structure to which they are attached and such illumination is directed upon the sign in such a fashion as to reduce the possibility of direct light rays shining onto any adjacent property or public way.

J. Neon lighting and tubing and other exposed light sources not exceeding one hundred (100) watts per bulb may be used where signs are permitted to be directly illuminated as defined in this Article. However, no such lighting may be used to outline buildings, structures, or ornamental features.

K. Signs accessory to legal nonconforming uses shall be permitted and shall be subject to the regulations of the zone in which the use is located.



- L. Where wall signs are permitted as a percentage of wall area to which it is attached, such wall area shall include all windows, doors, and wall area of the building in one (1) plane of elevation. Where the building or wall face is broken or irregular in relation to a single vertical plane perpendicular to the ground (by such architectural features as dormers, pitched roofs, awnings, etc.) the requirements may be applied in one of two ways:
1. The total building face may be considered as one (1), two-dimensional wall with the number of signs permitted and maximum area requirements applied on that basis.
 2. Where each individual plane created by the architectural feature projects or is recessed by twelve (12) inches or more, each plane may be considered as a separate wall, and number of signs permitted and maximum area requirements applied on that basis. However, the total square footage of the permitted signs shall not exceed the square footage permitted under 6.4 (L)(1) above, and no sign shall be oriented in a direction other than that of the building face under consideration.
- M. No incidental sign shall be attached to a free standing advertising sign, business sign, identification sign or directional sign.
- N. Canopy signs shall be counted as part of and limited to the percentage allowable for wall signs. The height of canopy signs shall not exceed twenty (20) feet, only three (3) feet of the vertical dimension shall be used for computing the area of such facing, and any sign or sign cabinet permitted shall have maximum vertical dimension of three (3) feet.

6.5 PROHIBITED SIGNS IN ALL ZONES

The following signs and/or sign features shall be prohibited in all zones.

- A. Projecting Signs
- B. Roof Signs
- C. Flashing or Blinking Signs (except for permitted informational signs).
- D. Rotating or Moving Signs
- E. Abandoned Signs
- F. Streamers, pennants and tag signs or similar signs or devices (except when attached to a permitted temporary sign).
- G. Any sign which emits any noise, odor or visible matter for the purpose of attracting attention to the sign.
- H. Any free standing sign, any portion of which overhangs any part of a building.

I. Any sign erected or maintained in such a manner which would create a traffic hazard or would obstruct the vision clearance at corners or curb cuts.

J. Any sign not properly secured or which is considered unsafe.

6.6 PERMITTED SIGNS IN ALL ZONES

The following signs shall be permitted within all zones subject to the restriction specified:

A. Government signs with no restrictions on size, number or location

B. Real estate signs, limited to one (1) sign per frontage; non illuminated; not exceeding six (6) square feet in area and six (6) feet in height; and removed within ten (10) days after completion of the sale or lease of the property to which they pertain.

C. Construction signs, not exceeding sixty-four (64) square feet, non illuminated and they shall be removed prior to occupancy of the structure to which they pertain.

D. Tract signs, setback from any street as required for a principal structure within the zone; non-illuminated; and further regulated as follows:

1. Where the subdivision contains twenty-five (25) lots or less, the sign area shall not exceed sixty-four (64) square feet.
2. Where the subdivision contains more than twenty-five (25) lots or less, the sign area shall not exceed one hundred (100) square feet.
3. Each subdivision shall be permitted one (1) tract sign per street frontage; provided the total number of signs shall not exceed four (4) signs.

E. Incidental Signs

F. Temporary signs, not specifically otherwise regulated, in accordance with the following conditions:

1. Such signs shall be limited to window or wall signs only; shall not exceed one hundred (100) square feet in surface area per use where non rigid materials are used; and shall not exceed thirty-two (32) square feet per use where rigid materials such as wallboard or plywood are utilized; ;and shall comply with the applicable regulations for the zone in which they are located.
2. Such signs shall not remain in place for a period of more than thirty (30) days, except that the Administrative Official, may for good cause, extend the time period for an additional thirty (30) days upon application. In addition , no use shall be permitted to display a temporary sign for more than a total of one hundred twenty (120) days during any calendar year.

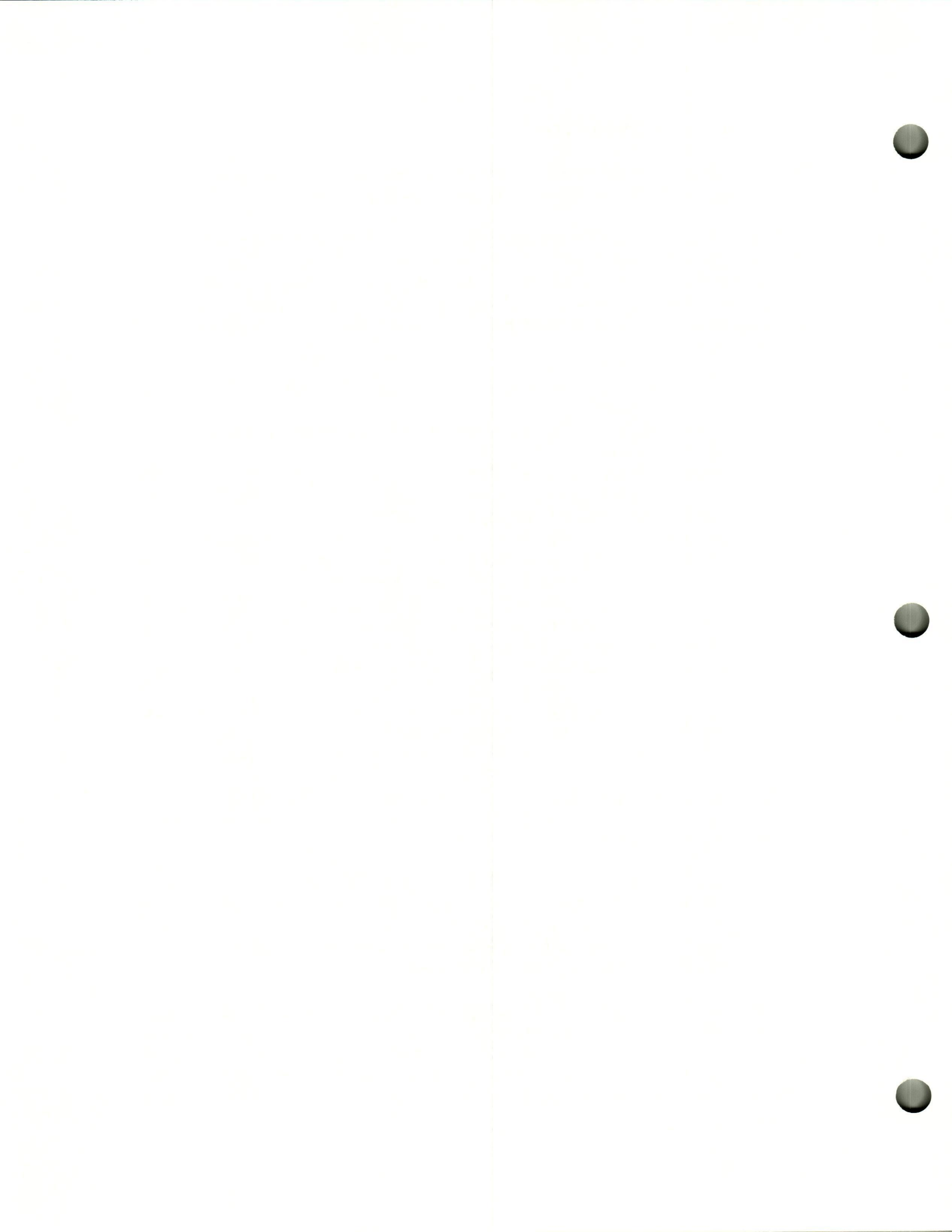
G. Historic markers not exceeding six (6) square feet in area, limited to one (1) sign per street frontage.



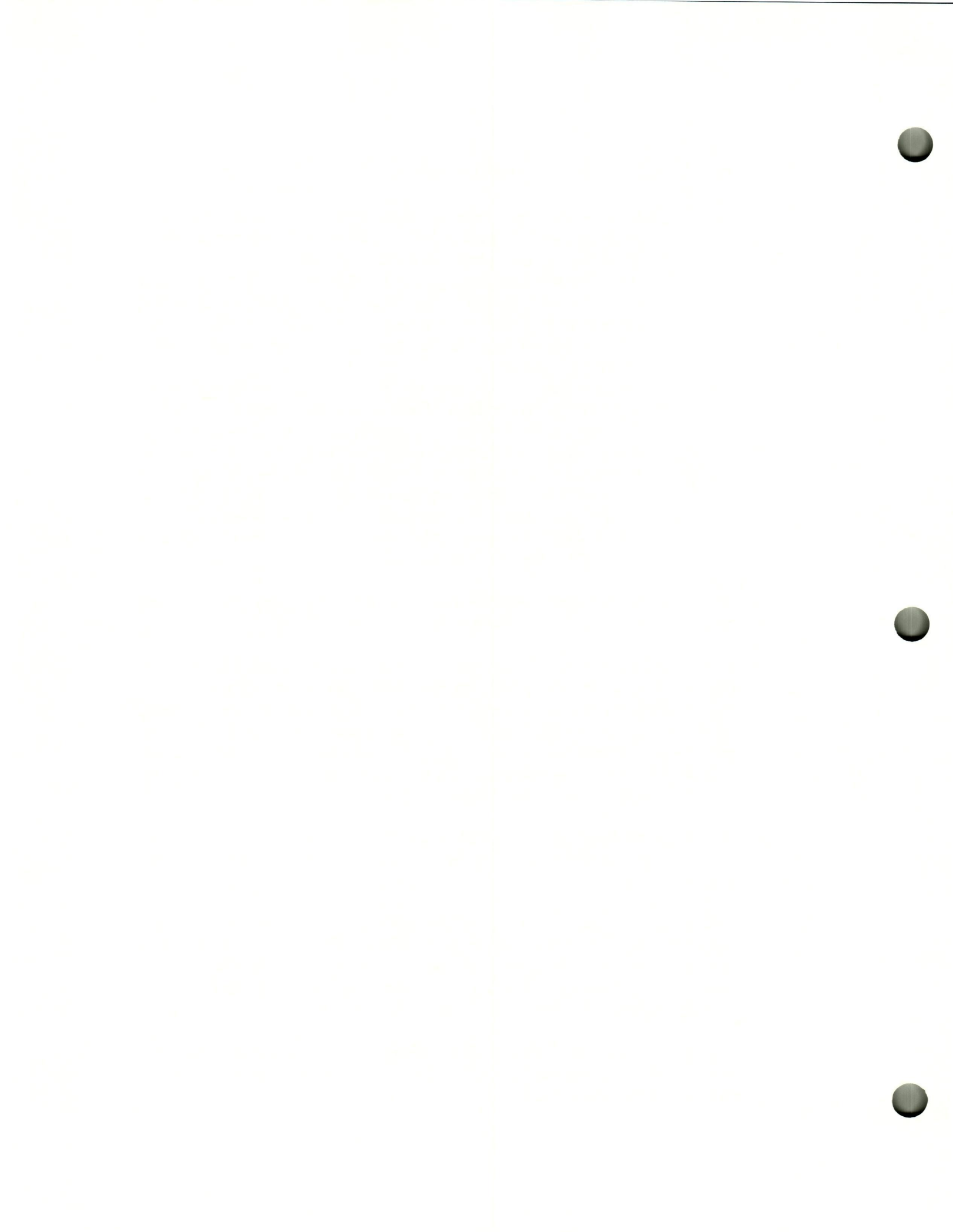
6.7 PERMITTED SIGNS BY ZONE

The following sign regulations shall be applicable within the zoning categories indicated. Any sign not specifically permitted shall be deemed as prohibited.

- A. Low to Medium Density Residential Zones (R-1, R-1A, R-2): Permitted signs within these zones shall be wall signs unless otherwise specified; signs shall be either non-illuminated or indirectly illuminated. Minimum setback for any free standing sign permitted under this section shall be one-half (1/2) the minimum front yard requirements for the zone in which the sign is to be located; and no less than ten (10) feet in any case.
1. One nameplate per residence or other permitted use; not exceeding one (1) square foot in area.
 2. One identification sign for a permitted home occupation not exceeding four (4) square feet in area.
 3. One identification sign, for a farm or estate exceeding five (5) acres in size; free standing or wall mounted; not exceeding ten (10) square feet in area; not exceeding ten (10) feet in height in free standing.
 4. One identification sign for a permitted kindergarten, nursery school, day nursery, or child care center; wall mounted not more than seven (7) feet above ground level; not exceeding four (4) square feet in area.
 5. One identification sign for a permitted church or school for academic instruction; free standing or wall mounted; not exceeding thirty-two (32) square feet in area; not exceeding eight (8) feet in height if free standing; in addition, one bulletin board free standing or wall mounted not exceeding twelve (12) square feet in area and eight (8) feet in height.
 6. One identification sign for any permitted use not otherwise specifically provided for; free standing or wall mounted; not exceeding thirty-two (32) square feet in area; not exceeding eight (8) feet in height if free standing.
- B. High Density Residential Zones and Mobile Home Parks (R-3, MHP): Permitted signs within these zones shall be free standing or wall mounted as specifically noted; signs shall be either non-illuminated or indirectly illuminated.
1. Signs as permitted and regulated under Section 6.7(A) above.
 2. One identification sign for a multi-family residential building containing four (4) or more dwelling units; free standing or wall mounted; not exceeding thirty-two (32) square feet in area; not exceeding eight (8) feet in height if free standing; minimum setback of at least twenty (20) feet.
- C. Commercial District (C-1), Public/Semi-Public (P) and Industrial Zones (I-1, I-2): Permitted signs may be free standing or wall mounted as specified; signs may be non-illuminated, indirectly illuminated, internally illuminated or directly illuminated unless specified otherwise; no free standing business sign shall exceed thirty (30) feet in height. A variance for sign height may be granted for commercial facilities located at or near expressway interchanges.



1. Commercial signs shall be permitted as follows:
 - a. The total surface area of business signs shall not exceed two (2) square feet per linear foot of street or building frontage, whichever is greater or thirty-two (32) square feet whichever is greater.
 - b. One free standing business sign per lot shall be permitted per street frontage with a maximum of two (2) free standing signs; not exceeding one hundred (100) square feet per sign; minimum setback shall be one-half (1/2) the setback required for a principal building but not less than ten (10) feet in any case.
 - c. The surface area of wall mounted business signs shall not exceed fifteen percent (15%) of the wall area to which it is attached or thirty-two (32) square feet whichever is greater, each wall to be considered separately. Only one (1) business sign shall be permitted per wall. In case of a building containing two or more separate business uses, these requirements shall be applied separately to the wall area of the building space leased, rented or owned by the individual business tenant.
 - d. Window signs shall be permitted limited to no more than twenty-five percent (25%) of the total window area.
2. One nameplate per tenant or lessee; not exceeding two (2) square feet in area; non-illuminated or indirectly illuminated.
3. In conjunction with an indoor theater, one marquee not to exceed twenty-four (24) square feet per theater; such marquee shall project no more than eight (8) feet from the building face to which it is attached and shall have a minimum clearance of eight (8) feet. In addition, one attraction board attached to one free standing business sign, not to exceed twenty-four (24) square feet per theater. The area of the marquee and attraction board shall be included in the computation of the maximum permitted sign area.
4. One attraction board, wall mounted or attached to a permitted free standing business sign; the area of the attraction board to be included in the maximum permitted sign area.
5. One menu board per restaurant use, all copy (including any logos, restaurant name, etc.) shall have a maximum letter height and width of six (6) inches containing no direct illumination; not exceeding thirty (30) square feet in area; maximum height of eight (8) feet if free standing, and not located so as to have copy visible to vehicular traffic on any adjacent street.
6. In addition, advertising signs shall be permitted on or in place of business signs; however, all other requirements for business signs such as height, number and size shall be met.



7. Mobile signs may be permitted as temporary signs for a period not to exceed sixty (60) days per year when properly secured.

D. Central Business District (CBD): Permitted signs may be free standing or wall mounted as specified; such signs may be non-illuminated, indirectly illuminated, internally illuminated or directly illuminated unless specified otherwise; painted wall signs shall be prohibited.

1. Business signs shall be permitted as follows:

- a. Permitted signs shall identify only the premises on which they are located and shall contain only the name and type of establishment and one trademark or logo. General products advertising or lists of specific goods or services shall be prohibited.
 - b. Only one free standing sign shall be permitted for each street frontage, or face of building. The free standing signs shall have a maximum area of fifty (50) square feet, a maximum height of twenty (20) feet, and a maximum projection into the right-of-way of twelve (12) inches.
 - c. One wall mounted sign per building face shall be permitted, placed at a height of fifteen (15) feet or higher. Such signs shall have a maximum area of three (3) percent of the wall area to which it is attached with a maximum projection into the right-of-way of twelve (12) inches.
 - d. In addition to the wall sign permitted under (c) above, one additional wall mounted sign shall be permitted per building face. Such signs shall have a maximum lettering height or vertical cabinet dimension of two and one-half (2 ½) feet; and shall be located at a height of fifteen (15) feet but no more than ten (10) feet on the building.
 - e. Window signs shall be permitted, limited to no more than twenty-five percent (25%) of the total window area.
2. Wall mounted identification signs not exceeding five (5) square feet with a maximum letter height of six (6) inches; located no higher than ten (10) feet on the face of the building; one sign per establishment having a separate and direct entrance to the outside; maximum projection into the right-of-way of twelve (12) inches.
 3. Nameplates, directional signs, menu boards, informational signs and signs on or under a canopy or awning shall be permitted as regulated in the C-1 zone.
 4. In conjunction with an indoor theater, one marquee not to exceed twenty-four (24) square feet per theater; such marquee shall project no more than eight (8) feet from the building face to which it is attached and shall have a minimum clearance of eight (8) feet. In addition, one attraction board attached to one free standing business sign, not to exceed twenty-four (24) square feet per theater. The area of the marquee and attraction board shall be included in the computation of the maximum permitted sign area.



E. Shopping Centers: Signs in shopping centers shall be permitted and regulated as for C-1 (Section 6.7C) except as follows:

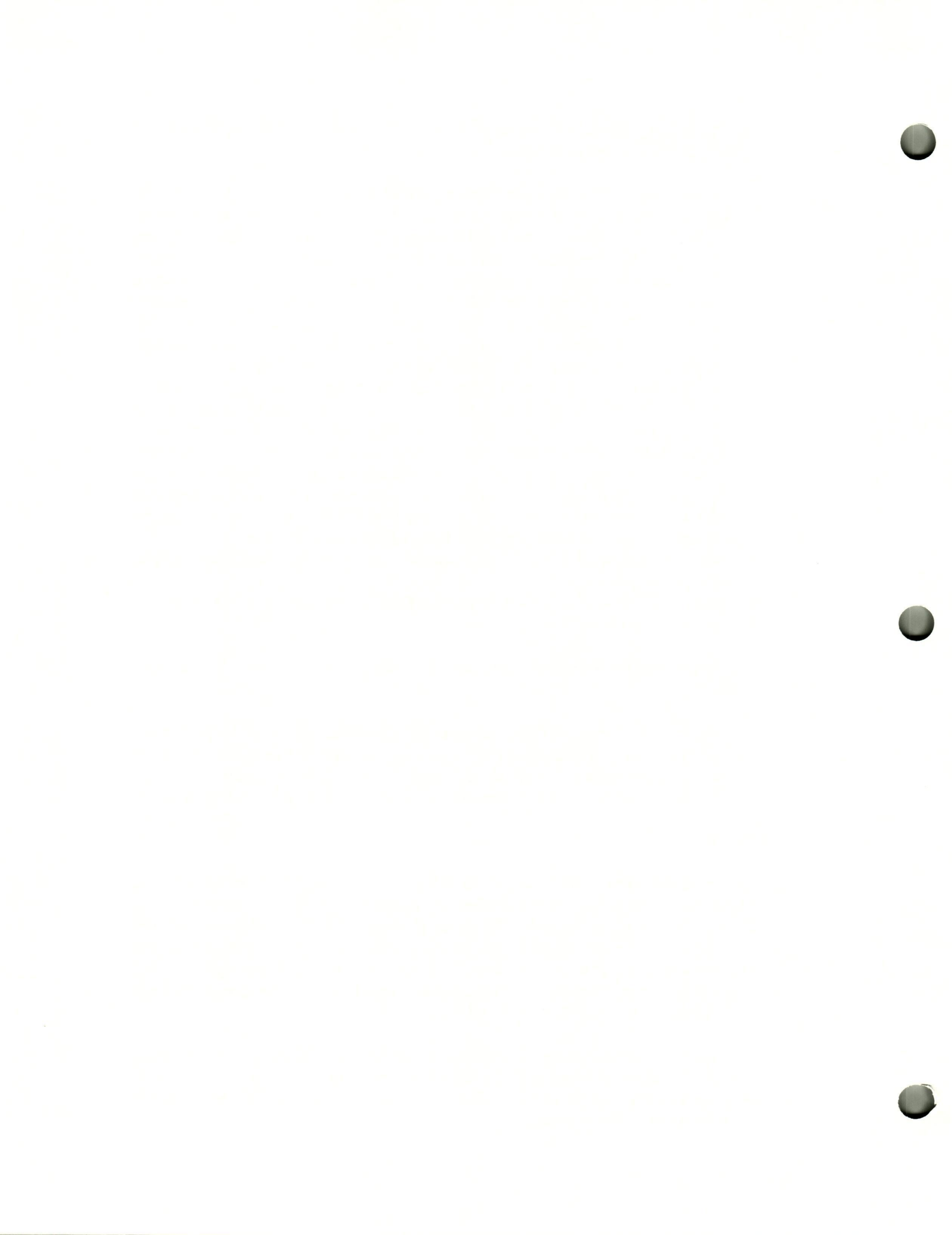
1. In place of the free standing signs permitted under Section 6.7(C)(1)(b), the only permitted free standing signs shall be shopping center identification signs. One sign shall be permitted per street frontage, with a maximum of two (2) signs. The maximum square footage of each sign shall be seventy-five (75) square feet with a maximum height of twenty (20) feet. An attraction board may be attached to the free standing sign provided it does not exceed the area of the identification sign and provided that no permanent copy identifying any specific business or product sold within the center is included on the attraction board. The area of the attraction board shall be included in the computation of the area of the freestanding sign. The copy on such an attraction board shall be limited to sales or other events on the premises and civic meetings, rallies or other noncommercial events on or off the premises.
2. The wall mounted signs shall show only the name and/or logo of the business or profession, and shall contain no product trade name identifications. A listing of any products sold or offered on the premises may be an integral part of, and incorporated into each permitted wall sign, provided the listing occupies no more than fifty percent (50%) of the area of the sign.
3. Window signs shall be permitted, limited to no more than twenty-five (25%) of the total window area.
4. Non-illuminated or indirectly illuminated projecting signs may be permitted only as a conditional use.

F. Mobile Home Parks: Permitted signs shall be either non-illuminated or indirectly illuminated.

1. One free-standing mobile home park identification sign shall be permitted; sign not to exceed thirty-two (32) square feet in area; not exceeding eight (8) feet in height, minimum setback of twenty (20) feet from any street.
2. One nameplate per mobile home; not exceeding one (1) square foot in area

6.8 VARIANCES

- A. The Board of Adjustment shall have the authority to hear and decide on applications for variances to the dimensional requirements contained herein in accordance with Article 9 of this zoning ordinance. The Board shall not be authorized to increase the number of permitted signs; and may not permit any sign to be erected or mounted to incorporate any design feature, information, or copy, not to permit a design type that is not specifically permitted in the zone in which would increase the maximum total permitted sign area on a single lot or building.
- B. Before granting a variance to the dimensional requirements for a sign, the Board shall find all of the following which shall be recorded along with any imposed conditions or restrictions in the minutes and records and issued in written form to the applicant to constitute proof of the variance:



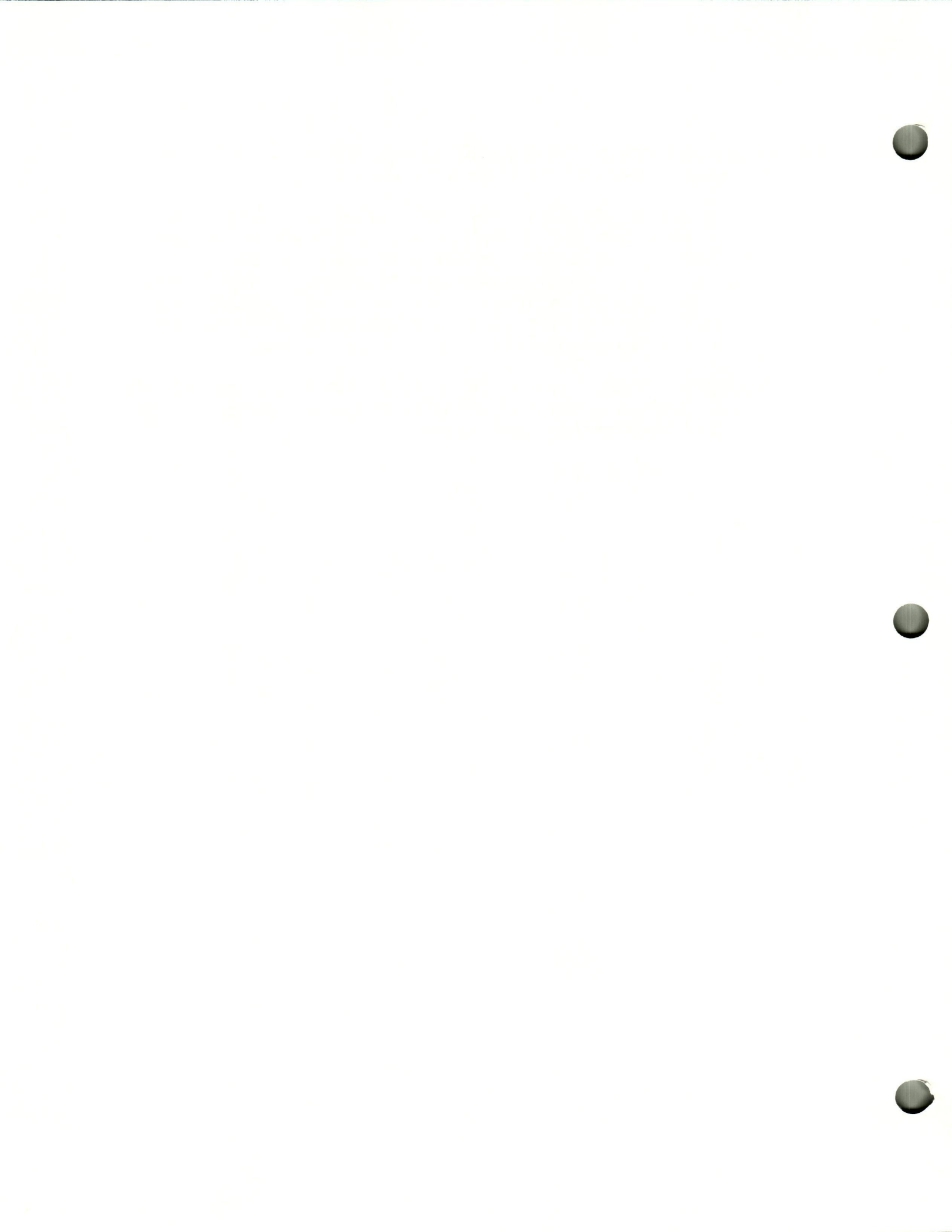
1. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or in the same zone.
 2. The strict application of the provisions of the sign regulations of this zoning ordinance would deprive the applicant of a reasonable use of the land or would create unnecessary hardship on the applicant.
 3. Such special circumstances are not the result of actions of the applicant taken subsequent to the adoption or amendment of the sign regulation of this zoning ordinance.
 4. Reasons that the variance will not adversely affect the public health, safety and welfare, and will not alter the essential character of the general vicinity, and will not cause a hazard or a nuisance to the public.
- C. Nonconforming Signs: A legal nonconforming sign may continue in existence and shall be properly maintained in good condition. These sign regulations shall not be construed to prevent the strengthening, repair, or restoring to a safe condition any sign, but a nonconforming sign shall not be:
1. Changed to another nonconforming sign; except where only the faces or the messages are changed, or where the sign is reduced in height, size or area.
 2. Structurally altered (except to meet safety requirements) so as to prolong the life of the sign.
 3. Altered so as to increase the degree of nonconformity of the sign. Expanded or enlarged.
 4. Re-established after its discontinuance for ninety (90) days.
 5. Moved to a new location on the building or lot.
- D. Discontinuance of Illegal Signs: Mobile signs which remain on a property over sixty (60) days per year are illegal signs and subject to immediate enforcement action.
- E. Discontinuance of Temporary Signs: Any temporary sign erected or displayed more than ninety (90) days prior to the date of passage of this Article shall be removed forthwith.
- F. Signs As Conditional Uses: The Board of Adjustment shall have the authority to approve conditional uses for signs which are specifically listed in the zone in question. Such signs shall be subject to all provisions and procedures as set forth in Article 9 for a conditional use permit.



G. Maintenance Standards: Every sign including those signs for which a permit is not required, shall be maintained in good condition at all times.

1. Any painted wall sign shall be repainted at least once every three (3) years.
2. All signs which contain painted parts shall be kept neatly painted including metal parts which are not galvanized or of rust resistant materials.
3. The Administrative Official shall have the authority to order the repair, repainting, alteration or removal of any sign which constitutes a hazard to the health, safety or public welfare or which is an eyesore to the community by reason of inadequate maintenance, dilapidation or obsolescence.

H. Penalties For Violation: Violation of the provisions of these sign regulations shall constitute a misdemeanor which shall be subject to the fines and penalties as set forth in Article 8 for violation of this zoning ordinance.



7 DEVELOPMENT PLANS

7.1 INTENT AND PURPOSE

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

7.2 APPROVAL OF DEVELOPMENT PLAN BEFORE ZONING PERMIT

For any case where a development plan is required by this Zoning Regulation, no zoning permits shall be issued until a Final Development Plan is approved by the Planning Commission. The approval of a development plan shall limit and control the issuance of all zoning permits, and restrict the construction, location and use of all land and structures to the conditions as set forth in the plan.

7.3 WHERE REQUIRED

Development plans shall be requires as follows:

- A. Development Plans Required in Conjunction with Zone Map Amendment Requests:
Development plans shall be required to accompany any zoning map amendment request.
1. All applications for zoning map amendments shall require the submission and approval of both a preliminary development plan and a final development plan prior to development of the property. The preliminary development plan shall be required to be submitted in conjunction with the zoning map amendment request.
 2. The Commission in its discretion may waive the requirement for the submission and approval of a preliminary development plan, a final development plan or both, if the Commission finds that there will be minimal impact to the neighborhood or the subject property.
- B. Development Plans Required For Multiple Principle Structures As Permitted By Section 2.7:
Development plans required by Section 2.7 to permit more than one principal structure and its accessory structures on a lot or a parcel of land shall be submitted to the Commission, in accordance with the provisions of this article.
- C. Development Plans Required For All Commercial and Industrial Developments.
Development plans are required for all commercial or industrial developments where new facilities are to be built or expanded by twenty-five (25) percent or more. In addition, where improvements are to be installed, standards for these improvements shall be governed by the City of Vanceburg Subdivision Regulations.

7.4 DEVELOPMENT PLAN PROCEDURES

The following shall be the procedure for Planning Commission consideration of any development plan.

A. Filing: To formally request Planning Commission action on a development plan, the developer shall file three (3) completed copies of the plans, as required, at least fourteen (14) days before the planning commission's next regular meeting date.

B. Review: The Administrative Official shall review the development plan for completeness. The development plan must be complete before the Planning Commission is required to consider the application. An application is complete when it contains all the information necessary for the permit issuing authority to decide whether or not the development, if completed as proposed, will comply with all the requirements of this zoning ordinance. Applicants are encouraged to meet with the Administrative Official prior to submission of the development plan. Upon finding the application complete, the Administrative Official shall review the development plan and make recommendations to the Commission.

C. Commission Action: All development plans shall be approved or disapproved within sixty (60) days of the date they are formally filed for Commission action. However, in case of a development plan filed in conjunction with a map amendment request, the Planning Commission may postpone action of the development plan until after the legislative body has made its decision on the map amendment request.

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

7.5 TYPES OF DEVELOPMENT PLANS

The two types of development plans (preliminary development plans and final development plans) are defined as follows:

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

1. **Contents of Preliminary Development Plan** – A preliminary development plan shall contain the following information at a minimum:
 - a. A title block containing the plan name, development plan type, name and address of developer and plan preparer; and written scale.
 - b. The boundary of the subject property, deed book/page number (or plat cabinet) reference, owner's name and address, and deed book references and owner's names for all adjoining property.
 - c. A vicinity sketch, oriented in the same direction as the design scheme.
 - d. Topography with contour intervals as shown on the available USGS sheets
 - e. Location, arrangement, and approximate dimensions of existing and proposed driveways, walkways, parking areas and arrangement of spaces, points of ingress and egress, and other vehicular and pedestrian right-of-way.
 - f. Location of any proposed or existing streets within or abutting the subject property
 - g. Screening, landscaping, buffering, recreational, and other open space areas.
 - h. Approximate size, location, height, floor area, area arrangement and use of proposed existing building and signs
 - i. Storm drainage areas, floodplains, conceptual drainage controls, storm water retention areas and any other designated environmentally sensitive or geologic hazard area.
 - j. Proposed and existing easements for utilities or other purposes
 - k. Areas of substantial existing trees including those located along fence rows and drainage areas along with a general description of the type and size of such trees.
 - l. A statistical summary of all pertinent site data, including site area, zoning, building coverage and floor area, parking, open space, etc.
 - m. An owner's certification, signed and witnessed as follows: "I (We) do hereby certify that I am (we are) the only owner (s) of the property shown hereon, and do adopt this as my (our) development plan for the property."
 - n. A commission's certification to be signed by the commission's secretary or chairman if and when the plan is fully approved, as follows: "I do hereby certify that this development plan was approved by the Planning Commission."

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



1. Contents of Final Development Plan: All information required for preliminary development plans as required under Section 7.5(A)(1); and that the plan information shall be of an exact nature, rather than approximate or general.

7.6 AMENDMENTS TO DEVELOPMENT PLANS

Amendments to approved development plans can be made only by official Planning Commission actions. Content, 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 by the commission.

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

7.7 DEVELOPMENT PLANS AND PRELIMINARY SUBDIVISION PLATS MAY BE COMBINED

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

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

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



7.9 REQUEST FOR VARIANCES OR CONDITIONAL USE PERMITS

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

8 ADMINISTRATION AND ENFORCEMENT

8.1 ADMINISTRATIVE OFFICIAL

A fully qualified Administrative Official designated by the Vanceburg Planning Commission and City Council shall administer and enforce this zoning regulation. The Administrative Official may be provided with the assistance of such other persons as directed by the Vanceburg City Council and Planning Commission.

A. For the purposes of the zoning ordinance, the Administrative Official shall have the following duties:

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

8.2 PLANNING (ZONING) COMMISSION

Matters of the Planning Commission pertaining to membership, appointment, terms, vacancies, oath, compensation, removal and officers shall be in accordance with KRS 100. The Commission shall adopt rules necessary to the conduct regular held meetings, those meetings held at the call of the chairman and at such other times as the Commission may determine. All meetings shall be open to the public. The Commission shall keep minutes of its proceedings, including regulations, transactions, findings, and



determinations, and the number of votes for and against each question, and if any member is absent or disqualifies from voting, indicating that fact.

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

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

8.3 ZONING PERMITS REQUIRED

No building or other structure shall be erected, moved, added to, or structurally altered without a zoning permit issued by the Administrative Official. No zoning permit shall be issued by the Administrative Official except in conformity with the provisions of this zoning regulation, unless they receive a written order from the Board of Adjustment in the form of an administrative review, conditional use permit, or variance as provided by this zoning ordinance. When required by Kentucky Building Code, a building permit must also be obtained. In addition, all construction must be in conformance with the city's Floodplain Ordinance.

If no zoning permit has been issued and a builder begins or continues to build, a restraining order may be obtained upon application to the proper court of record and evidence of the lack of a zoning permit shall establish a prima facie case for the issuance of the restraining order.

8.31 APPLICATION FOR ZONING PERMIT

All application for zoning permits shall be drawn to a scale as may be required by the Administrative Official. One copy of the plans shall be returned to the applicant by the Administrative Official, after having marked such copy either as approved or disapproved and attested to same by this signature on such copy. The original copy of the plans, similarly marked shall be retained by the Administrative Official.

8.32 EXPIRATION OF THE ZONING PERMIT

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



8.4 CERTIFICATE OF OCCUPANCY FOR NEW, ALTERED, OR NONCONFORMING USES

Where required, it shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a certificate of occupancy has been issued.

No nonconforming structure or use shall be renewed, changed, or extended until a zoning permit (and where required, building permit) have been issued by the Administrative Official.

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

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

8.6 COMPLAINTS REGARDING VIOLATIONS

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

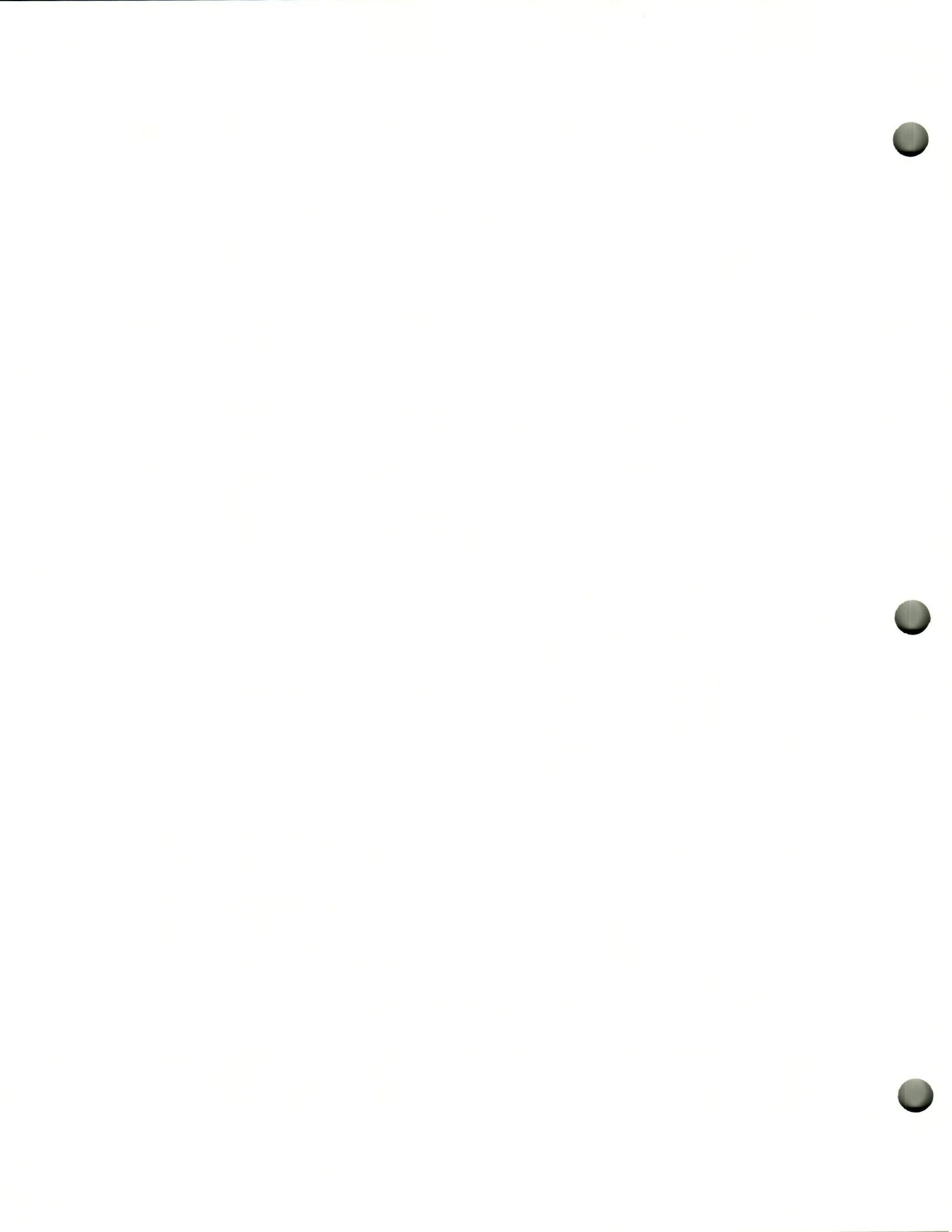
8.7 PENALTIES FOR VIOLATIONS

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

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

8.7.1 VIOLATIONS REGARDING LOTS OR PARCELS

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



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

8.8 SCHEDULE OF FEES, CHARGES, AND EXPENSES

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

9 BOARD OF ADJUSTMENT

9.1 APPOINTMENT AND PROCEEDINGS OF THE BOARD

Upon adoption of the Vanceburg Zoning Ordinance, the City of Vanceburg shall appoint a five (5) member Board of Adjustment. Matters of the Board of Adjustment pertaining to membership, appointment, term, vacancies, oath, compensation, removal and officers, shall be in accordance with KRS 100.217.

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

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

AN APPEAL

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

9.2.1 ADMINISTRATIVE REVIEW

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



9.2.2 CONDITIONAL USE PERMIT

The Board shall have the authority to approve or disapprove applications for conditional uses. The Board may approve, modify, or deny any application for a conditional use permit. If it approves such permit, it may attach necessary conditions such as time limitations, requirements that one or more things be done before the request can be initiated, or conditions of a continuing nature. Any such conditions shall be recorded in the Board's minutes and on the conditional use permit. The granting of a conditional use permit does not exempt the applicant from complying with all the requirements of the building, housing and other applicable regulations.

9.2.3 VARIANCES

The Board shall have the power to hear and decide on applications for dimensional variances where, by reason of the exceptional narrowness, shallowness, or unusual shape of a site or by reason of exceptional topographic conditions, or some other extraordinary situation or condition of that site, the literal enforcement of the dimensional requirements (height or width of building or size of yards, but no population density) of zoning ordinance would deprive the applicant of reasonable capacity to make use of the land in a manner equivalent to the use permitted other landowners in the same zone. The Board may impose any reasonable conditions or restrictions on any variance it decides to grant.

Before any dimensional variance is granted, the Board must find all of the following, which shall be recorded along with any imposed conditions or restrictions in its minutes and records and issued in written form to the applicant to constitute proof of the dimensional variance.

1. The specific conditions in detail which are unique to the applicant's land and do not exist on other land in the same zone.
2. The manner in which the strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land in the manner equivalent to the use permitted other landowners in the same zoned
3. That the unique conditions and circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning ordinance
4. Reasons that the variance will preserve, not harm the public safety and welfare, and not alter the essential character of the neighborhood

9.2.4 PROCEDURES

An application to the Board for an original interpretation, a decision or an appeal from a decision of the Administrative Official shall be made in writing on forms provided by the Board and must provide sufficient information for administrative purposes. Additional statements or information with respect to the case involved may also be submitted by the applicant for review by the Board. An appeal must be filed within sixty (60) days after the Administrative Official has refused a zoning permit or the right to appeal shall be



waived. The Administrative Official shall transmit to the Board the complete record of the decision appealed.

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

A. Limits of Authority: The Board shall act only within the strict limits of its authority as defined in the zoning ordinance. The Board has no authority to vary the use regulations or other regulations not specifically delegated to it. The Board shall not hold hearings on applications or appeals seeking decisions that the Board is not authorized to make.

B. Special Conditions: The Board may attach special conditions to any decision it is authorized to make in order to ensure that the intent of the zoning ordinance will be carried out.

C. Majority Vote Required: The concurring vote of a majority of the entire membership of the Board shall be necessary in making any decision.

D. Additional Powers: In exercising the above powers, the Board shall have all the powers of the Administrative Official in addition to its other powers and duties.



10 AMENDMENTS

10.1 GENERAL

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

10.2 APPLICATION FOR AMENDMENT

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

10.3 PLANNING COMMISSION PROCEDURE

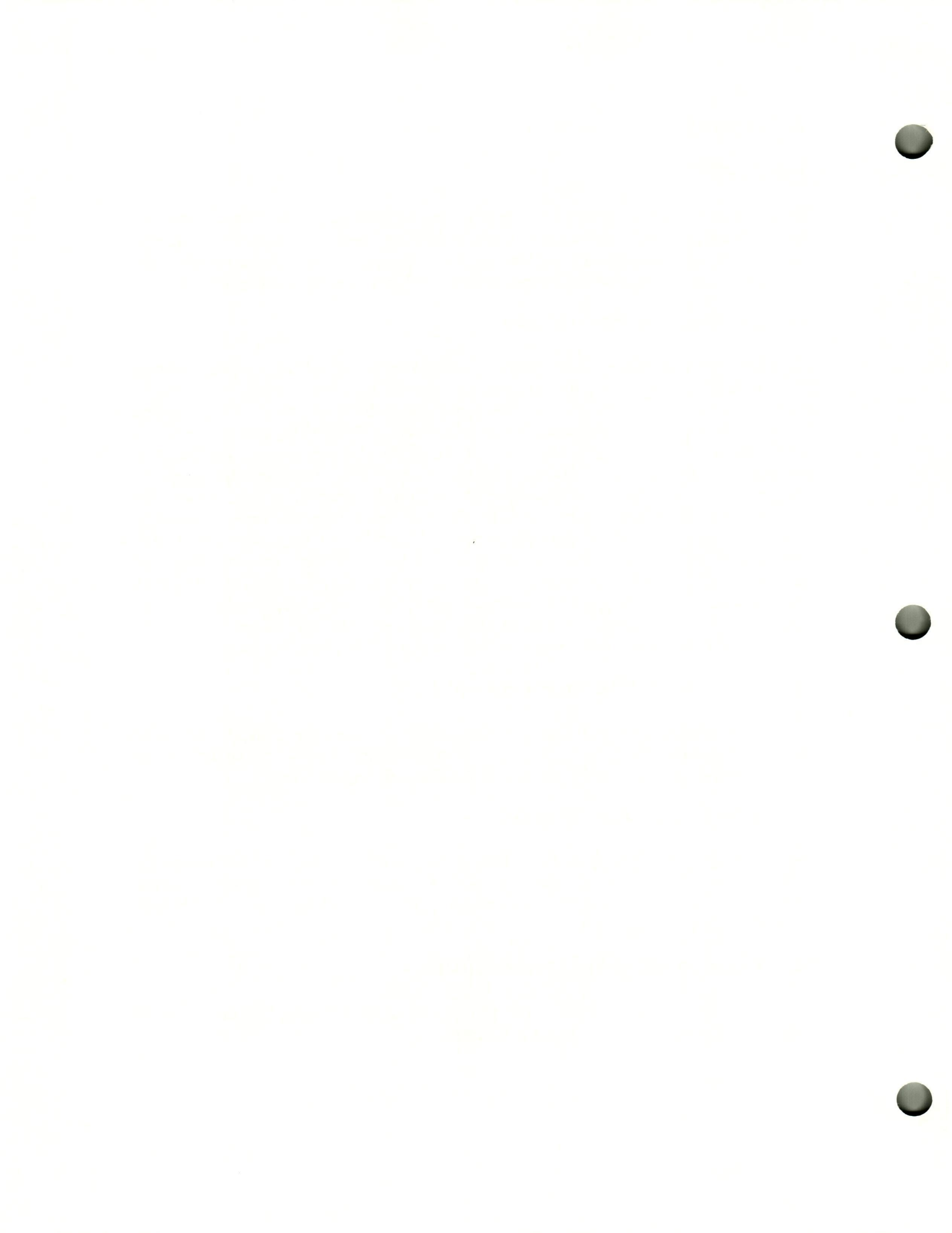
Upon filing of an application for an amendment to the Official Zoning Map or the text of this ordinance, the Planning Commission shall study and review the application as provided in this ordinance and the bylaws of the Planning Commission.

10.4 NOTICE OF PUBLIC HEARING

Before voting upon any proposed amendment, notice of the time, place and reason for holding a public hearing shall be given by one (1) publication in the newspaper of general circulation in the city, not earlier than twenty-one (21) days or later than seven (7) days before the public hearing.

10.5 PUBLIC HEARING ON APPLICATION

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



10.6 RECOMMENDATION OF COMMISSION FOR ZONING MAP AMENDMENT

Before recommending to the City Council that an application for amendment to the zoning Map be granted, the Planning Commission, in the absence of such a finding that the request is in conformance with the City of Vanceburg Comprehensive Plan, must make the following findings (1) the original zoning classification given to the property was inappropriate or improper, or (2) there have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in the Comprehensive Plan adopted by the Planning Commission and which have substantially altered the basic character of such area. These findings of fact shall be recorded in the minutes and records of the Commission. After voting to recommend that an application for amendment to the Official Zoning Map be granted or denied, the Planning Commission shall forward its findings of fact and recommendations in writing to the City Council.

10.7 ACTION BY CITY COUNCIL ON ZONING MAP AMENDMENTS

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

10.8 RECOMMENDATION OF COMMISSION FOR TEXT AMENDMENT

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

10.9 ACTION BY CITY COUNCIL ON TEXT AMENDMENT

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

10.10 SPECIAL CONDITIONS TO THE GRANTING OF ZONING CHANGES

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



10.11 CURRENCY OF ZONING MAP

The Planning Commission and the Administrative Official shall ensure that amended zoning district boundaries are accurately placed on the certified copies of the Zoning Map and shall initial and date all such additions to them as approved.

PASSED AND RECOMMENDED BY RESOLUTION OF THE VANCEBURG PLANNING COMMISSION FOR ENACTMENT: _____/_____/_____

ENACTED BY ORDINANCE OF THE VANCEBURG CITY COUNCIL FOR ENFORCEMENT BY THE VANCEBURG PLANNING COMMISSION.

Date of First Reading: _____/_____/_____

Date of Second Reading: _____/_____/_____

ORDINANCE NO. 970.00A

AN ORDINANCE OF THE CITY OF VANCEBURG IN LEWIS COUNTY, KENTUCKY, AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF VANCEBURG, KENTUCKY, CHANGING THE ZONING CLASSIFICATIONS OF PROPERTY BEING DEVELOPED BY PEOPLE'S SELF-HELP HOUSING, INC. FROM RESIDENTIAL-ONE (R-1) TO A ZONING CLASSIFICATION OF RESIDENTIAL-TWO (R-2) IN WHICH THE PARCEL IS LOCATED AT 217 FAIRLANE DRIVE AND LIES WITHIN THE CORPORATE LIMITS OF THE CITY OF VANCEBURG, KENTUCKY, AND OWNED BY PEOPLE'S SELF-HELP HOUSING, INC., IN VANCEBURG, KENTUCKY, 41179.

WHEREAS, on the 26th day of November, 2013, the Lewis County Municipal Planning Commission did hold a public hearing on the application of People's Self-Help Housing, Inc. (PSHH) requesting a change in zoning classification and a map amendment from the City of Vanceburg, in which includes four lots of land (description attached) with a current zoning classification of Residential-One (R-1) to a zoning classification of Residential Two (R-2) in which the parcel is located at 217 Fairlane Drive and lies within the corporate limits of the City of Vanceburg, Lewis County, Kentucky; and

WHEREAS, upon the foregoing Application, the Lewis County Municipal Planning Commission did make written findings and conclusions in support of the requested zone change and zoning map amendment together with findings and conclusions in support of the requested zone change and zoning map amendment together with written recommendations addressed to and received by the City Council of the City of Vanceburg, Lewis County, Kentucky, that PSHH's requested change in zoning classification and zoning map amendment be granted, approved and duly so ordained by the City of Vanceburg, Kentucky, outlined in the findings and recommendations as the public hearing of the Lewis County Municipal Planning Commission; and

WHEREAS, the City Council reviewed said Application at its regular council meeting on December 2, 2013, and did make a review of the evidence, written findings, and conclusions of the Lewis County Municipal Planning Commission (findings being attached), together with recommendations addressed to and received by the City Council of the City of Vanceburg, Lewis County, Kentucky, and

WHEREAS, the City Council of the City of Vanceburg, Kentucky, after review did so concur in the findings, conclusions and recommendations of the Commission concerning the change in zoning classification and map amendment, by vote of _____ by the legislative body.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VANCEBURG, KENTUCKY AS FOLLOWS:

SECTION I.

As the legislative body of the City of Vanceburg, the Vanceburg City Council hereby adopts the findings of facts and conclusions of law after review of the evidence and record of Lewis County Municipal Planning Commission and adopts it hearing as its own:

A. That on November 26, 2013, the Lewis County Municipal Planning Commission did hold a public hearing on the application of PSHH requesting a change of zoning classification and map amendment from the City of Vanceburg, in which includes four lots of land (description attached) with a current zoning classification of Residential-One (R-1) to a zoning classification of Residential-Two (R-2) in which the parcel is located 217 Fairlane Drive and lies within the corporate limits of the City of Vanceburg, Lewis County, Kentucky; and

B. Upon the following Application, the Lewis County Municipal Planning Commission did make written findings and conclusions in support of the requested zone change and zoning

map amendment together with findings and conclusions in support of the requested zone change and zoning map amendment together with recommendations addressed to and received by the City Council of the City of Vanceburg, Lewis County, Kentucky, that PSHH's requested change in zoning classification and zoning map amendment be granted and approved; and

C. That the City Council of the City of Vanceburg, Kentucky, reviewing evidence provided thereto so concur in the findings, conclusions and recommendations of the Commission concerning the change in zoning classification and map amendment.

SECTION II.

That the City of Vanceburg Zoning Ordinance and map be amended to show a change in the zone classification from Residential-One (R-1) to Residential-Two (R-2) for the real property described herein below to wit:

See **Exhibit A** attached hereto and incorporated herein by reference pursuant to K.R.S. 83.060(5).

The Zoning classification of the heretofore and attached described parcel of land belonging to People's Self-Help Housing, Inc. and situated at 217 Fairlane Drive, Vanceburg, Kentucky, be so fixed and reclassified to the zoning classification of the City of Vanceburg, and the Mayor of the City of Vanceburg, Kentucky, is hereby authorized and so ordered to make upon the Official Zoning Map, an endorsement to evidence the zoning reclassification and to make reference to the number of this Ordinance on such change.

SECTION III.

This zone classification is subject to terms and conditions established by the Lewis County Municipal Planning Commission in its approval of the subject application in recommending the zone classification to the City of Vanceburg, Kentucky.

SECTION IV.

The provisions of this Ordinance are severable; the invalidity of any provision of this Ordinance shall not affect the validity of any other provision thereof; and such other provisions shall remain in full force and effect as long as they remain valid in the absence of those provisions determined to be invalid.

SECTION V.

All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

SECTION VI.

This Ordinance shall be effective as soon as possible according to law.

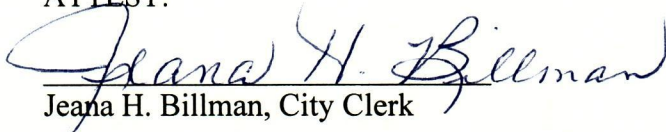
SECTION VII.

This Ordinance shall be published in summary pursuant to K.R.S. 83(A).060(9) and shall be effective as soon as possible according to law.



Chris McGlone, Mayor

ATTEST:



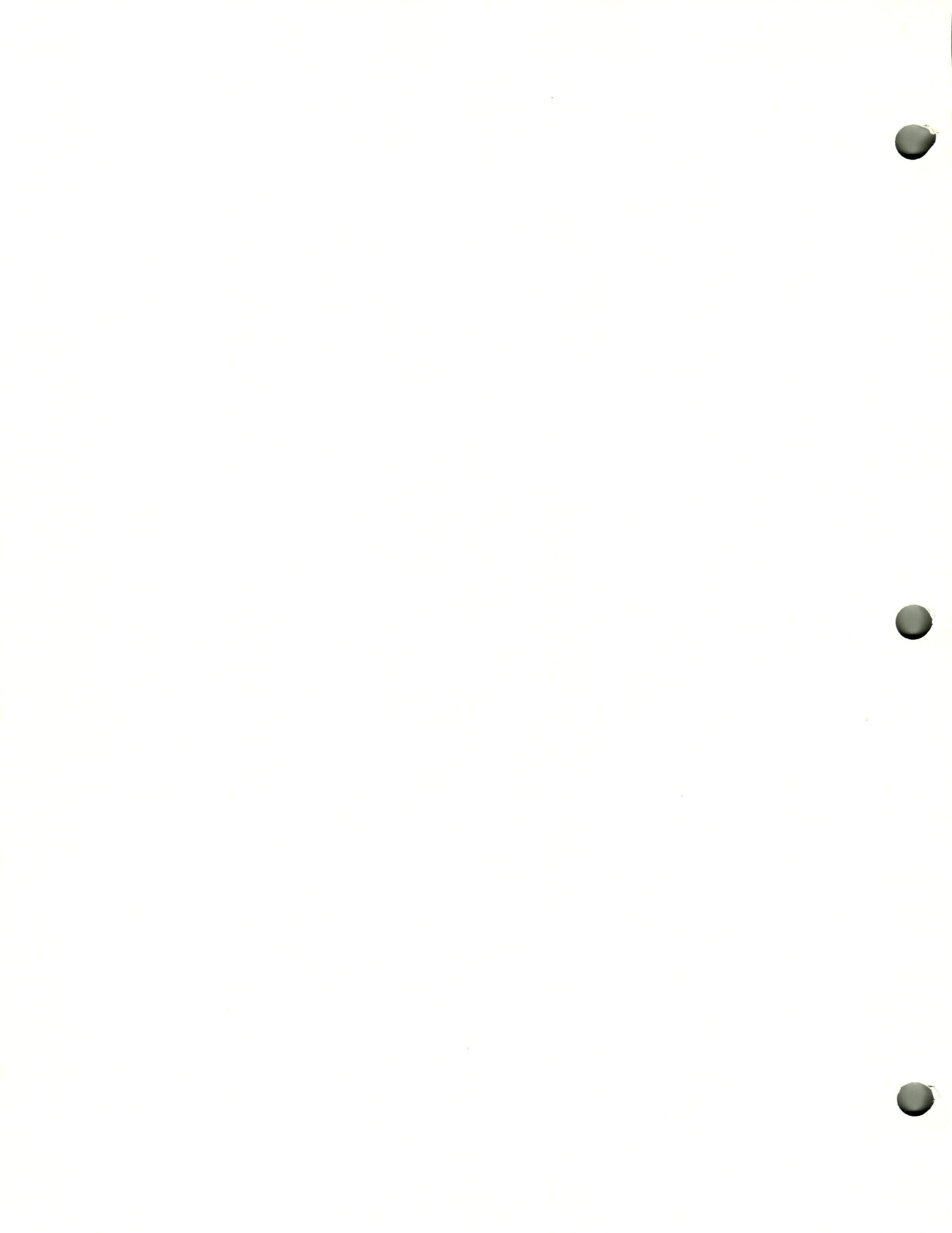
Jeana H. Billman, City Clerk

First Reading: 12-02-13

Second Reading: 01-9-14

Vote : 5 Yes 0 No





980.00

NOTICE OF ENACTMENT AND SUMMARY OF BOND ORDINANCE

ORDINANCE OF THE CITY OF VANCEBURG, KENTUCKY AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF \$150,000 PRINCIPAL AMOUNT OF CITY OF VANCEBURG GENERAL OBLIGATION BONDS, SERIES 2011 FOR THE PURPOSE OF FINANCING THE COST (NOT OTHERWISE PROVIDED) OF THE CONSTRUCTION OF A FIRE STATION/COMMUNITY CENTER FOR OF SAID CITY; SETTING FORTH TERMS AND CONDITIONS UPON WHICH SAID BONDS MAY BE ISSUED AND OUTSTANDING; PROVIDING FOR THE COLLECTION, SEGREGATION AND DISTRIBUTION OF THE TAX REVENUES OF SAID CITY; AND PROVIDING FOR AN ADVERTISED, PUBLIC COMPETITIVE SALE OF SAID BONDS.

As required by KRS 83A.060(9), I hereby certify that an Ordinance bearing the above title was given first reading (by Title and Summary) by the City Council of the City of Vanceburg, Kentucky, at a duly convened meeting of said City Council held on April 13, 2011, and was given second reading (by Title and Summary) and enacted by said City Council at a duly convened meeting held on May 2, 2011, and that the following is a Summary of such Ordinance prepared by W. Randall Jones, of the firm of Rubin & Hays, Attorneys at Law, Louisville, Kentucky. (Signed W. Randall Jones)

SUMMARY OF ORDINANCE

Said Ordinance authorizes the issuance of \$150,000 of City of Vanceburg General Obligation Bonds, Series 2011 (the "Bonds"), for the purpose of financing the cost (not otherwise provided) of the Project referred to in said title; authorizes interim financing to pay the costs of said Project pending the issuance of the Bonds; designates the depository bank of the proceeds of the Bonds and of certain funds to be maintained in connection with the Bonds; provides for a Sinking Fund for the payment of principal and interest on the Bonds and a Debt Reserve Fund; provides that said Bonds are secured by a pledge of the tax revenues of the City; establishes the method of payment of the principal of and interest on the Bonds, and the conditions and restrictions for the issuance of bonds ranking on a parity with the Bonds; provides certain covenants of the City for the further protection of the holders of the Bonds, including covenants as to compliance with the Internal Revenue Code; and prescribes terms and conditions upon which bids will be received for the purchase of the Bonds.

A copy of the full text of said Ordinance is available for public inspection during regular business hours, Monday through Friday. (Signed) Jeana Billman, City Clerk, City of Vanceburg, Kentucky.

BOND ORDINANCE

CITY OF VANCEBURG, KENTUCKY

AUTHORIZING

CITY OF VANCEBURG GENERAL OBLIGATION BONDS, SERIES 2011

IN THE PRINCIPAL AMOUNT OF

\$150,000

TABLE OF CONTENTS

ARTICLE 1.	DEFINITIONS; PURPOSE; AUTHORIZATION OF BONDS; SECURITY.	2
Section 101.	Definitions	2
Section 102.	Purpose	4
Section 103.	Declaration of Period of Usefulness	4
Section 104.	Authorization of Bonds	4
Section 105.	Tax Levy and Pledge; Sinking Fund	5
Section 106.	Lien on Contracts	6
ARTICLE 2.	THE BONDS; BOND FORM; PREPAYMENT.	7
Section 201.	Principal Payments	7
Section 202.	Issuance of Current Bonds; Bond Form	7
Section 203.	Place of Payment and Manner of Execution	7
Section 204.	Provisions as to Prepayment	7
ARTICLE 3.	CONSTRUCTION ACCOUNT; INTERIM FINANCING; APPLICATION OF PROCEEDS; ARBITRAGE LIMITATIONS.	8
Section 301.	Construction Account; Application of Proceeds of Bonds; Other Transfers and Deposits	8
A.	Covenants Applicable if RD Purchases Current Bonds	8
B.	Application of Proceeds of Current Bonds	8
Section 302.	Interim Financing Authorization	10
A.	Interim Financing	10
B.	Multiple Advances by RD	11
Section 303.	Arbitrage Limitations on Investment of Proceeds	11
ARTICLE 4.	FLOW OF FUNDS	13
Section 401.	Funds	13
Section 402.	Flow of Funds	13
A.	Revenue Fund	13
B.	Sinking Fund	13

C.	Debt Reserve Fund	13
D.	Monthly Principal and Interest Payments if Requested by RD	14
E.	Surplus Funds	14
F.	Investment and Miscellaneous Provisions	14
ARTICLE 5.	COVENANTS OF CITY	16
Section 501.	Rates and Charges	16
Section 502.	Books and Accounts; Audit	16
Section 503.	Project to Continue to be Operated on Fiscal Year Basis; Annual Budget	16
Section 504.	General Covenants	17
Section 505.	Other Covenants Applicable So Long as RD Owns Any Bonds	18
ARTICLE 6.	INFERIOR BONDS AND PARITY BONDS	19
Section 601.	Inferior Bonds	19
Section 602.	Parity Bonds to Complete the Project	19
Section 603.	Parity Bonds to Finance Future Improvements	19
Section 604.	Covenants to be Complied with at Time of Issuance of Parity Bonds	21
Section 605.	Prepayment Provisions Applicable to Parity Bonds	21
Section 606.	Consent of the RD Regarding Future Bonds	21
Section 607.	Priority of Lien; Permissible Disposition of Surplus or Obsolete Facilities	21
ARTICLE 7.	DEFAULT AND CONSEQUENCES	23
Section 701.	Events of Default	23
Section 702.	Consequences of Event of Default	23
ARTICLE 8.	CONTRACTUAL PROVISIONS; MISCELLANEOUS PROVISIONS.	24
Section 801.	Ordinance Contractual with Bondowners	24
Section 802.	All Current Bonds are Equal	24
Section 803.	City Obligated to Refund Current Bonds Owned by Government Whenever Feasible; Defeasement Prohibited	24
Section 804.	Approval and Acceptance of RD Grant Agreement	25
Section 805.	Approval and Acceptance of CDBG Grant Agreement	25
Section 806.	Use of City Streets	25
Section 807.	Authorization, Ratification and Confirmation of Approval and Execution of Various Documents	25
Section 808.	Authorization of Condemnation to Acquire Easements and/or Sites	25
Section 809.	Authorization to File Required Financing Statements	26

ARTICLE 9.	SALE OF CURRENT BONDS	27
Section 901.	Sale of Current Bonds	27
Section 902.	Adjustment in Maturities, Prepayment Provisions and Other Dates if Delivery is Delayed	27
ARTICLE 10.	CONCLUDING PROVISIONS	28
Section 1001.	Covenant of City to Take All Necessary Action To Assure Compliance with the Code	28
Section 1002.	Severability Clause	29
Section 1003.	All Provisions in Conflict Repealed	29
Section 1004.	Effective Date	29

EXHIBIT A - Schedule of Principal Payments

EXHIBIT B - Form of Fully Registered Bond

EXHIBIT C - Requisition Certificate

BOND ORDINANCE

ORDINANCE OF THE CITY OF VANCEBURG, KENTUCKY AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF \$150,000 PRINCIPAL AMOUNT OF CITY OF VANCEBURG GENERAL OBLIGATION BONDS, SERIES 2011 FOR THE PURPOSE OF FINANCING THE COST (NOT OTHERWISE PROVIDED) OF THE CONSTRUCTION OF A FIRE STATION/COMMUNITY CENTER FOR OF SAID CITY; SETTING FORTH TERMS AND CONDITIONS UPON WHICH SAID BONDS MAY BE ISSUED AND OUTSTANDING; PROVIDING FOR THE COLLECTION, SEGREGATION AND DISTRIBUTION OF THE TAX REVENUES OF SAID CITY; AND PROVIDING FOR AN ADVERTISED, PUBLIC COMPETITIVE SALE OF SAID BONDS.

WHEREAS, the City Council (the "Council") of the City of Vanceburg, Kentucky, a municipal corporation of the Commonwealth of Kentucky (the "City") deems it necessary to authorize and provide for the issuance of general obligation bonds in the principal amount of \$150,000 (the "Current Bonds"), pursuant to Sections 158 and 159 of the Kentucky Constitution and applicable laws, as amended, including Sections 66.011 through 66.171 of the Kentucky Revised Statutes (the "Act"), for the purpose of financing the cost (not otherwise provided) of the construction of a fire station/community center (the "Project") for the City, and to prescribe the covenants of the City, the rights of Bondholders and the details of the issuance of the proposed Current Bonds, and

WHEREAS, the Project being financed with the proceeds of the Current Bonds constitutes a public project within the meaning of Section 66.011 of the Kentucky Revised Statutes, and

WHEREAS, upon issuance of the Current Bonds, the total indebtedness of the City within the meaning of Section 158 of the Kentucky Constitution, as amended, and the total net indebtedness of the City within the meaning of the Act, do not exceed 2% of the total value of taxable property within the City's boundaries, as determined by the last certified assessment with respect to such property; and

WHEREAS, it is the desire and intent of the City at this time to enact this Ordinance which, among other things, authorizes and provides for the issuance of the Current Bonds for the purposes aforesaid and sets forth the restrictions and conditions on which the Current Bonds are to be issued and outstanding,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VANCEBURG, KENTUCKY, AS FOLLOWS:

ARTICLE 1. DEFINITIONS; PURPOSE; AUTHORIZATION OF BONDS; SECURITY.

Section 101. Definitions. As used in this Ordinance, unless the context requires otherwise:

"*Act*" refers to Sections 158 and 159 of the Kentucky Constitution and Sections 66.011 through 66.171, inclusive, of the Kentucky Revised Statutes.

"*Beginning Month*" refers to the month following the month in which the Current Bonds authorized herein are issued, sold and delivered to the Purchaser thereof.

"*Bond Counsel*" refers to an attorney or firm of attorneys recognized nationally as experts in the field of municipal bond law and shall be deemed to refer to Rubin & Hays, Louisville, Kentucky, or their successors.

"*Bondowner*" or "*Owner*" refer to registered Owners of the Current Bonds at the time issued and outstanding hereunder.

"*Bonds*" refers to the outstanding Current Bonds.

"*CDBG Grant*" refers to the Community Development Block Grant described in Section 805 of this Ordinance.

"*City Clerk*" refers to the elected or appointed City Clerk of the City.

"*Council*" refers to the City Council of the City, or such other body as shall be the governing body of the City under the laws of Kentucky at any given time.

"*Code*" refers to the Internal Revenue Code of 1986, as amended, and the Treasury Regulations relating thereto.

"*Construction Account*" refers to the City of Vanceburg Fire Station Construction Account, created in Section 301(B) of this Current Bond Ordinance.

"*Contractors*" refers to the general contractors who have been employed by the City to construct the Project.

"*City*" refers to the City of Vanceburg, Kentucky.

"*Current Bond Ordinance*" or "*Ordinance*" refer to this Ordinance authorizing the Current Bonds.

"*Current Bonds*" refers to the \$150,000 of City of Vanceburg General Obligation Bonds, Series 2011 authorized by this Ordinance, to be dated as of the date of issuance thereof.

"Debt Reserve Fund" refers to the City of Vanceburg Fire Station Debt Reserve Fund, created in Section 402 of this Ordinance.

"Depository Bank" refers to the bank, which shall be a member of the FDIC, which bank shall be designated by the City.

"Event of Default" refers to one or more of the Events of Default set forth in Section 701 of this Ordinance.

"FDIC" refers to the Federal Deposit Insurance Corporation, or its successors.

"Fiscal Year" refers to the annual accounting period of the City, beginning on July 1 and ending on June 30 of each year.

"Funds" refers to the Construction Account, the Revenue Fund, the Sinking Fund and the Debt Reserve Fund.

"Government" refers to the United States of America, or any agency thereof, including RD.

"Grant Proceeds" refers to the proceeds of the RD Grant and the CDBG Grant.

"Local Counsel" refers to John M. Holder, Esq., Vanceburg, Kentucky, or any other attorney or firm of attorneys designated by the City.

"Mayor" refers to the elected Mayor of the City.

"Multiple Advances" refers to the advance of loan funds from RD as described in Section 302 of this Ordinance.

"Outstanding Bonds" refers to the outstanding Bonds, and does not refer to, nor include, any Bonds for the payment of the principal and interest of which sufficient funds will have been deposited and earmarked for payment of Bonds; provided all Outstanding Bonds of any series held by the RD shall be deemed to constitute Outstanding Bonds until paid regardless of the deposit of funds to pay for same.

"Parity Bonds" refers to Bonds which may be issued in the future which, pursuant to this Ordinance, rank on a basis of parity with the outstanding Bonds, as to priority, security and source of payment, and does not refer to Bonds which might be issued so as to rank inferior to the security and source of payment of the outstanding Bonds.

"Project" refers specifically to the construction of a fire station/community center for the City, which Project is being financed by the Current Bonds and by other funds.

"Purchaser" refers to the agency, person, firm or firms, or their successors, to whom the Current Bonds herein authorized are awarded at the public sale of the Current Bonds.

"RD" refers to the U.S. Department of Agriculture, acting through Rural Development.

"RD Grant" refers to the RD grant described in Section 804 of this Ordinance.

"Required Signatures" refers to the signatures necessary to be obtained with reference to the approval of the expenditures to be made from the Construction Account, which required signatures shall consist of the signatures of (1) the Mayor; and (2) the Purchaser.

"Revenue Fund" refers to the City of Vanceburg General Obligation Bond Revenue Fund, described in Section 401 of this Ordinance.

"Sinking Fund" refers to the City of Vanceburg General Obligation Bond Sinking Fund, described in Section 401 of this Ordinance.

"Treasurer" refers to the elected or appointed Treasurer of the City.

"U.S. Obligations" refers to Bonds or Bonds which are the direct obligations of the United States of America, or obligations the principal of and interest on which are guaranteed by the United States of America.

All words and terms importing the singular number shall, where the context requires, import the plural number and vice versa. Unless otherwise indicated, references to Articles or Sections refers to those in this Ordinance.

Section 102. Purpose. The Current Bonds shall be issued for the purpose of financing the cost (not otherwise provided) of the Project. The Council hereby declares the Project to constitute a public project, and said Project shall continue to be owned, controlled, operated and maintained by the City as a public project pursuant to the Act, so long as any Bonds remain outstanding.

Section 103. Declaration of Period of Usefulness. The Board hereby declares that the period of usefulness of the Project is more than thirty (30) years from the date of completion of the Project.

Section 104. Authorization of Bonds. The City has heretofore determined that the total cost of the Project, including preliminary expenses, land and rights-of-way, legal and administrative costs, publication costs, initial deposits required and all incidental expenses, will not exceed \$725,000. Therefore, it is hereby determined to be necessary in order for the City to finance the cost (not otherwise provided) of the Project that the City issue a total of \$150,000 of Current Bonds, which, when combined with the Grant Proceeds in the amount of \$575,000, will provide the total cost of the Project.

Accordingly, for the purpose of financing the cost (not otherwise provided) of the Project, under the provisions of the Act, there is hereby authorized to be issued and sold \$150,000 principal amount of City of Vanceburg General Obligation Bonds, Series 2011.

The Current Bonds shall be dated as of the date of delivery to the Purchaser thereof; shall bear interest from such date at such interest rate as may be fixed by the negotiated bidding for such Current Bonds, as hereinafter provided; and shall be issued and delivered as prescribed in Section 202 hereof.

Interest on the Current Bonds shall be payable semiannually on January 1 and July 1 of each year, provided that the first interest payment period will cover interest only from the date of delivery of the Current Bonds to the ensuing January 1 or July 1, as the case may be. Principal of the Current Bonds shall be payable on January 1 of each of the respective years until maturity, as set out in Section 201 hereof.

Section 105. Tax Levy and Pledge; Sinking Fund. For the purpose of providing funds required to pay the interest on the Current Bonds as and when the interest becomes due and in order to create a sinking fund to pay and discharge the principal thereof (and premium, if any) as the Current Bonds become due, there shall be and there is hereby levied upon all of the taxable property within the boundaries of the City, beginning in 2012 and continuing in each year as long as any of the Current Bonds are outstanding, a direct annual tax (as mandatorily required by Section 159 of the Kentucky Constitution) sufficient, to the extent other lawfully available moneys of the City are not provided for that purpose, to provide said debt service funds. The proceeds derived from said special annual tax levied from time to time, together with other lawfully available moneys of the City provided for the purpose, shall be deposited and carried in a special and separate bank account in the name of the City and held apart from all other funds of the City, shall be applied only for the purpose of paying the principal of and interest (and premium, if any) on the Current Bonds, and shall be designated the City's "Sinking Fund". The proceeds of said special annual tax and the balances accumulated from time to time in the Sinking Fund are hereby irrevocably pledged for the purpose of paying the principal of and interest (and premium, if any) on the Current Bonds and shall never be used for any other purpose. The City hereby covenants with the holders of the Current Bonds that it will levy said special annual tax in each year at whatever rates may be necessary from time to time in order to produce the amounts required in each year, to the extent not otherwise provided, to pay the Current Bonds and interest (and premium, if any) when and as they mature or become due.

If principal or interest should fall due in any year at a time when there are insufficient funds on hand, collected by reason of the foregoing special tax levy, such principal and interest shall be paid from other available funds of the City and reimbursement therefor shall be made out of the special tax hereby provided when the same shall have been collected.

All moneys held in the Sinking Fund shall be deposited in a bank or banks which are members of the FDIC, and all such deposits which cause the aggregate deposits of the City in any one bank to be in excess of the amount insured by FDIC shall be continuously secured by a valid

pledge of direct obligations of the United States of America having an equivalent market value. All or any part of the Sinking Fund may be invested as provided in Section 402 hereof, maturing or being subject to retirement at the option of the holder on such dates as the same may be needed for meeting interest and/or principal payments, and all such investments shall be carried to the credit of the Sinking Fund.

Section 106. Lien on Contracts. In addition to the tax revenue pledge securing the Current Bonds, a lien is hereby created and granted in favor of the Bondholders on all contracts, and on all other rights of the City pertaining to the Project, enforceable by assignment to any receiver or other operator proceeding by authority of any court.

ARTICLE 2. THE BONDS; BOND FORM; PREPAYMENT.

Section 201. Principal Payments. Principal payments due on the Current Bonds shall be as set forth in the schedule of maturities set out in **Exhibit A** attached to this Ordinance and incorporated herein.

Section 202. Issuance of Current Bonds; Bond Form. The Purchaser of the Current Bonds at the public sale shall take delivery of the Current Bonds in the form of one or more fully registered Bonds, as set forth in **Exhibit B** attached hereto and incorporated herein, amounting in the aggregate to the principal amount of the Current Bonds authorized herein, maturing as to principal as set out in Section 201. The Current Bonds shall be numbered R-1 and consecutively upward thereafter. Such Current Bonds shall, upon appropriate execution on behalf of the City as prescribed, constitute the entire Bond issue herein authorized, shall be negotiable (subject to registration requirements as to transferability), registered as to principal and interest and payable as directed by the registered Owner.

Section 203. Place of Payment and Manner of Execution. Both principal of and interest on the Current Bonds shall be payable at the place and in the manner set out in the form of such Current Bond. The Current Bonds shall be executed on behalf of the City by the manual or facsimile signature of the Mayor of the City, with the Corporate Seal of the City affixed thereto and attested by the manual or facsimile signature of the City Clerk of said City.

If either of the officers whose signatures appear on the Current Bonds ceases to be such officer before delivery of said Current Bonds, such signatures shall nevertheless be valid for all purposes the same as if such officers had remained in office until delivery.

Section 204. Provisions as to Prepayment. Except when all of the Current Bonds are held by the Government, principal maturities falling due prior to January 1, 2021, shall not be subject to prepayment. Principal maturities falling due on and after January 1, 2021, shall be subject to prepayment by the City on any date falling on and after January 1, 2020, at par plus accrued interest, without any prepayment penalty.

So long as all of the Current Bonds are owned by the Government, all or any of the Current Bonds, or payments in a multiple of \$100, may be prepaid at any time in inverse chronological order of the principal maturities due, at par plus accrued interest without any prepayment penalty. Notice of such prepayment shall be given by certified mail to the Bondowner or his assignee, at least 30 days prior to the date fixed for prepayment. Notice of such prepayment may be waived with the written consent of the Bondowner.

**ARTICLE 3. CONSTRUCTION ACCOUNT;
APPLICATION OF PROCEEDS; ARBITRAGE LIMITATIONS.**

Section 301. Construction Account; Application of Proceeds of Bonds; Other Transfers and Deposits. The Treasurer, or such other City official as shall be designated by the Council, shall be the custodian of all funds belonging to and associated with the Project. All moneys in excess of the amount insured by the FDIC in the Construction Account shall be secured by the Depository Bank in accordance with U. S. Treasury Department Circular No. 176. The officials of the City entrusted with the receipt and disbursement of revenues of the Project and the custody of valuable property shall be covered by a fidelity bond in the amount of not less than \$9,500 (the "Fidelity Bond"), or such larger amount as RD may require, which Fidelity Bond shall be effective and secured by a surety company approved by RD so long as it is owner of any of the Current Bonds. RD and the City shall be named co-obligees in such Fidelity Bond and the amount thereof shall not be reduced without the written consent of RD. Whenever sums in the Funds shall exceed \$9,500, the Fidelity Bond shall be increased accordingly as requested by and with the approval of RD.

A. Covenants Applicable if RD Purchases Current Bonds. It is acknowledged that all covenants herein with reference to the necessity for approval of RD, the necessity of observing RD regulations and procedures and the necessity of using RD forms (the "RD Forms"), shall apply only if the RD is the Purchaser of the Current Bonds and only so long as the RD holds the Current Bonds thereafter. In the event that the RD shall not be the Purchaser of the Current Bonds, or, after purchasing same, shall sell or transfer the Current Bonds to an Owner who shall not be the Government, all covenants herein with reference to the necessity for approval of the RD, the necessity of observing RD regulations and procedures, and the necessity of using RD Forms, shall not be applicable.

B. Application of Proceeds of Current Bonds. The proceeds of the Current Bonds shall be applied as follows:

(1) Payment of Costs of Project and Costs of Issuance. At the time of delivery of the Current Bonds, there shall be paid all amounts then due and payable in connection with the costs of the Project and in connection with the issuance of the Current Bonds.

(2) Construction Account. If and to the extent that the proceeds of the Current Bonds shall be in excess of the amount necessary to pay the interest, principal and costs referred to in subparagraph B(1) of this Section, such excess amount shall immediately be deposited in the "City of Vanceburg Fire Station Construction Account" hereby created, which shall be established at the Depository Bank.

(3) Withdrawal of Funds From Construction Account. Prior to the expenditure by the City of any moneys from the Construction Account, the City must obtain written approval from RD as to such expenditures, if RD is the Owner of any Outstanding Bonds. The proceeds of said Construction Account shall be withdrawn only on checks signed by the Mayor, the Treasurer (or by such other official of the City as may be authorized by the Council), provided such

official shall be covered by the Fidelity Bond required by Section 301 of this Ordinance, in payment for services and/or materials supplied in connection with the Project, as evidenced by (1) a Requisition Certificate; and (2) invoices and/or partial payment estimates bearing the written approval of the Mayor (or by such other official of the City as may be authorized by the Council), and which invoices and/or partial payment estimates must have been reviewed and approved for payment by the designated RD official.

During construction, the City shall disburse Construction Account funds in a manner consistent with RD Instruction 1780.

The City shall prepare and submit any and all RD Forms required by RD. Periodic audits of the City's Construction Account records shall be made by RD as determined by it to be necessary.

(4) Investment of Funds in Construction Account. Pending disbursement of amounts on deposit in the Construction Account, all such funds, or such portion of said amounts on deposit in said Construction Account as is designated by the Council, shall be invested for the benefit of such Construction Account in Certificates of Deposit, savings accounts or U.S. Obligations which may be converted readily into cash, having a maturity date prior to the date when the sums invested will be needed for costs of the Project (as determined by the Mayor and the RD), provided that to the extent that any amounts on deposit in said Depository Bank shall cause the total deposits of the City in said Depository Bank to exceed the amount insured by the FDIC, the same shall be continuously secured by a valid pledge of U.S. Obligations, having an equivalent market value, in conformity with Section 66.480 of the Kentucky Revised Statutes. Any such investments will be a part of the Construction Account, and income from such investments will be credited to the Construction Account. All such investments shall be subject to the limitations set out in Section 303 hereof.

(5) Statements of Contractors, Engineers and Attorneys as to Payment. Prior to the delivery of the Current Bonds, if RD is the Purchaser of the Current Bonds, the City will be required to provide RD with statements from the Contractors, Engineers and attorneys for the City that they have been paid to date in accordance with their contract or other agreements and, in the case of any Contractor, that he has paid his suppliers and subcontractors. Any exceptions must be authorized under RD Instruction 1780.

(6) Disposition of Balance in Construction Account After Completion of Project. When the Project has been completed and all construction costs have been paid in full, as certified by the City and/or by RD, any balance then remaining in the Construction Account may, with the consent of RD, be applied to the cost of additional construction and equipping of the Project or any other capital improvements for the City (the "Additional Construction"). If such Additional Construction is to be undertaken by the Contractors previously engaged in the Project, such Additional Construction may be authorized by a change order.

Section 302. Interim Financing Authorization.

A. Interim Financing. The City shall use interim financing for the Project during construction of that portion of the cost of the Project financed by the Current Bonds, if available at reasonable rates and terms.

The borrowing of up to the aggregate sum of \$150,000 from the Interim Lender is hereby authorized; and the Mayor is hereby authorized to execute the Bond in the name and on behalf of the City. Each advance under the Bond shall evidence a loan by the Interim Lender to the City for services rendered and/or materials supplied in connection with the Project, as evidenced by a Requisition Certificate.

Interim financing shall be disbursed as follows:

(1) At the direction of the City, the Interim Lender shall disburse the proceeds of the Bond by cashier's checks directly to the parties entitled thereto as set forth in the Requisition Certificate; or

(2) At the direction of the City, the Interim Lender shall deposit the proceeds of the Bond in the Construction Account, in which event amounts of the City on deposit therein shall, until expended to the extent that same shall exceed the amount insured by the FDIC, be fully secured by a pledge of U.S. Obligations.

The aggregate of the principal amount of all Bonds shall not exceed \$150,000. Each Bond which is renewed or superseded shall be simultaneously cancelled by the Interim Lender and transmitted to the Treasurer. The rate of interest applicable to each Bond shall not exceed a reasonable rate, which rate is subject to the approval of the RD.

The total authorized interim financing of \$150,000 shall be the maximum indebtedness which the City may owe at any one time to the Interim Lender for the purpose of providing temporary construction financing for the Project; provided, however, that the City may reduce the amount owed by the City to the Interim Lender from time to time as and when funds are available to the City, the proceeds of the sale of the Current Bonds or otherwise, and may reborrow from the Interim Lender additional amounts in anticipation of the further receipt by the City of additional proceeds from the Current Bonds.

The City hereby covenants and agrees with the Interim Lender that upon the issuance and delivery of the Current Bonds, the City will apply the proceeds thereof, to whatever extent may be necessary, in payment of the principal amount of the Bond, together with accrued interest thereon to the date of such payment; and the proceeds of the Current Bonds are hereby pledged therefor, and such pledge shall constitute a first and prior charge against said proceeds.

It is understood that the foregoing constitutes an alternative method of obtaining interim financing, and does not preclude the authorization and sale, by public advertisement or

otherwise, of bond anticipation Bonds to the most favorable bidder on the open market, by concurrent or subsequent proceedings of the City.

B. Multiple Advances by RD. In the event the Current Bonds are purchased by the RD, and in the event the City is unable to obtain a commitment for interim financing for the Project from any Interim Lender at reasonable rates and terms, the Mayor is authorized to request Multiple Advances of loan funds from the RD.

If the RD agrees to make Multiple Advances to the City pending the delivery of the Current Bonds, the Mayor is hereby authorized to execute in the name and on behalf of the City any number of Bonds. Each such Bond, evidencing an advance of funds by the RD to the City, shall be in the form prescribed by the RD.

Each request for an advance from the RD shall be accompanied by a Requisition Certificate. The City will also furnish to the RD, prior to the receipt of each Multiple Advance, whatever additional documentation shall be requested by the RD, including an updated supplemental title opinion of Local Counsel and an updated supplemental preliminary legal opinion of Bond Counsel.

The proceeds of any Multiple Advances shall be either (I) disbursed directly to the parties entitled thereto for services and/or materials supplied in connection with the Project; or (ii) deposited into the Construction Account and disbursed in accordance with the provisions of Section 301 hereof, in which event amounts on deposit in such Construction Account shall, until expended, to the extent that same shall exceed the amount insured by the FDIC, be fully secured by a pledge of U.S. Obligations.

The proceeds of the Current Bonds are hereby pledged to the repayment of such Multiple Advances, and such pledge shall constitute a first and prior pledge against such proceeds. The City further pledges the revenues of the City to the repayment of said Multiple Advances, subject to the vested rights and priorities of the pledges securing the Outstanding Bonds.

Section 303. Arbitrage Limitations on Investment of Proceeds. The City covenants and certifies, in compliance with the Code, on the basis of known facts and reasonable expectations on the date of adoption of this Ordinance, that it is not expected that the proceeds of the Current Bonds will be used in a manner which would cause the Current Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code. The City covenants to the Owners of the Current Bonds that (1) the City will make no use of the proceeds of said Current Bonds which, if such use had been reasonably expected on the date of issue of such Current Bonds, would have caused such Current Bonds to be "arbitrage bonds"; and (2) the City will comply with all of the requirements of the Code to whatever extent is necessary to assure that the Current Bonds shall not be treated as or constitute "arbitrage bonds" and that the interest on the Bonds shall be excludable from gross income for federal income tax purposes.

Prior to or at the time of delivery of the Current Bonds, the Mayor and/or the Treasurer (who are jointly and severally charged with the responsibility for the issuance of the Current Bonds) are authorized to execute such certifications as shall be required by Bond Counsel, setting out all known and contemplated facts concerning the anticipated construction, expenditures and investments, including the execution of necessary and/or desirable certifications of the type contemplated by Section 148 of the Code in order to assure that interest on the Current Bonds shall be excludable from gross income for federal income tax purposes and that the Current Bonds will not be treated as "arbitrage bonds".

ARTICLE 4. FLOW OF FUNDS.

Section 401. Funds. There are hereby created and established in this Ordinance the following funds and accounts:

- (a) City of Vanceburg General Obligation Bond Revenue Fund;
- (b) City of Vanceburg General Obligation Bond Sinking Fund; and
- (c) City of Vanceburg General Obligation Bond Debt Reserve Fund

All of the Funds shall be maintained with the Depository Bank so long as any Bonds remain outstanding.

Section 402. Flow of Funds. After the issuance of the Current Bonds, the income and revenues of the City shall be collected, segregated, accounted for and distributed as follows:

A. Revenue Fund. The City covenants and agrees that it will deposit in the Revenue Fund, promptly as received from time to time, all revenues, including any and all taxes collected. The moneys in the Revenue Fund shall continue to be used, disbursed and applied by the City only for the purpose and in the manner and order of priorities specified in this Ordinance, all as permitted by the Act, and in accordance with previous contractual commitments.

B. Sinking Fund. There shall be transferred from the Revenue Fund and deposited into the Sinking Fund on or before the 20th day of each month, for payment of interest on and principal of the Current Bonds, a sum equal to the total of the following:

- (1) An amount equal to one-sixth (1/6) of the next succeeding six-month interest payment to become due on the Current Bonds, plus
- (2) A sum equal to one-twelfth (1/12) of the principal of any Current Bonds maturing on the next succeeding January 1.

If the City for any reason shall fail to make any monthly deposit as required, then an amount equal to the deficiency shall be set apart and deposited into the Sinking Fund out of the first available revenues in the ensuing months, which amount shall be in addition to the monthly deposit otherwise required during such succeeding months. Whenever there shall accumulate in the Sinking Fund amounts in excess of the requirements during the next twelve months for paying the principal of and interest due on the Outstanding Bonds, as same fall due, such excess may be used for redemption or prepayment of any Outstanding Bonds, subject to the terms and conditions set forth therein, prior to maturity.

C. Debt Reserve Fund. It is hereby determined that upon the issuance of the Current Bonds, and upon completion of the Project, as certified by RD, there shall be transferred from the Revenue Fund the sum of at least \$915 annually which shall be deposited into the Debt Reserve Fund until there is accumulated in such Debt Reserve Fund the sum of at least \$9,150,

which amount shall be maintained, and when necessary, restored to said sum of \$9,150, so long as any of the Current Bonds are outstanding and unpaid.

Moneys in the Debt Reserve Fund may be withdrawn and used by the City, upon appropriate certification of the City Council, for the purpose of paying the cost of unusual or extraordinary maintenance, repairs, renewals and replacements not included in the annual budget of current expenses and/or of paying the costs of constructing future acquisition, construction and equipping of fire station/community center facilities which will either enhance its revenue-producing capacity or will provide a higher degree of service, and when necessary, for the purpose of making payments of principal and interest on the Current Bonds if the amount on deposit in the Sinking Fund is not sufficient to make such payments.

D. Monthly Principal and Interest Payments if Requested by RD. So long as any of the Current Bonds are held or insured by RD, the City shall, if requested by RD, make the payments required by this Section 402, in monthly installments to RD or to the insured Owners of the Current Bonds.

E. Surplus Funds. Subject to the provisions for the disposition of the income and revenues of the City as set forth hereinabove, which provisions are cumulative, and after paying or providing for the payment of debt service on any subordinate obligations, there shall be transferred, within sixty days after the end of each fiscal year, the balance of excess funds in the Revenue Fund on such date, to the Debt Reserve Fund for application in accordance with the terms of this Ordinance or to the Sinking Fund to be applied to the maximum extent feasible, to the prompt purchase or redemption of Outstanding Bonds.

F. Investment and Miscellaneous Provisions. All monies in the Sinking Fund and the Debt Reserve Fund shall be deposited in the Depository Bank, or such portion thereof as is designated by the City Council. All monies in the Sinking Fund and the Debt Reserve Fund shall be invested for the benefit of such respective Funds in Certificates of Time Deposit or savings accounts of the Depository Bank or in U.S. Obligations which may be converted readily into cash, having a maturity date prior to the date when the sums invested will be needed for the purposes for which such funds may be expended, provided that to the extent that any amount of the City on deposit in the Depository Bank shall cause the total deposits of the City in said Depository Bank to exceed the amount insured by the FDIC, such excess amount shall be continuously secured by a valid pledge of U.S. Obligations, having an equivalent market value, in conformity with Section 66.480 of the Kentucky Revised Statutes.

Any investments will be a part of the respective Funds from which the proceeds invested are derived, and income from such investments will be credited to such respective Funds. All investments of funds derived from proceeds of the Outstanding Bonds shall be subject to the applicable limitations set out in Section 303 hereof.

All payments into the Funds shall be made on or before the twentieth (20th) day of each month, except that when the twentieth (20th) day of any month shall be a Saturday, Sunday or a legal holiday, then such payment shall be made on the next succeeding business day.

All monies held in any of the Funds shall be kept apart from all other City funds and shall be deposited in the Depository Bank, and all such deposits which cause the aggregate of all deposits of the City therein to be in excess of the amount secured by FDIC, shall (unless invested as herein authorized) be secured by a surety bond or Bonds or by a pledge of U.S. Obligations, having a market value equivalent to such deposit.

The Treasurer shall keep appropriate records as to payment of principal and interest installments and as to payment of principal of and interest on any Bonds.

ARTICLE 5. COVENANTS OF CITY

Section 501. Rates and Charges. The City shall charge such taxes, rates and charges for all services and facilities rendered by the Project, which rates and charges shall be reasonable, taking into account and consideration the cost and value of the Project, the cost of maintaining, repairing and operating same and the amounts necessary for the payment of principal of and interest on Outstanding Bonds against the City. The City shall charge such rates and charges as shall be adequate to meet the requirements of Articles 4 and 5 hereof.

The City covenants that it will not reduce the taxes, rates and charges for the services rendered by the City without first filing with the City Clerk a certification of a Certified Public Accountant that the annual net revenues (defined as gross revenues less operating expenses) of the City for the fiscal year preceding the year in which such reduction is proposed, as such annual net revenues are adjusted, after taking into account the projected reduction in annual net revenues anticipated to result from any such proposed rate decrease, are equal to not less than 120% of the average annual debt service requirements for principal and interest on all of the then Outstanding Bonds payable from the revenues of the City, calculated in the manner specified in Section 603 hereof.

Section 502. Books and Accounts; Audit. The City shall maintain proper records and accounts relating to the operation of the Project and the City's financial affairs; and the Bondowners, or their authorized representatives, shall have the right at all reasonable times to inspect the Project and all records, accounts and data relating thereto. An annual audit shall be made of the books and accounts pertinent to the Project by a Certified Public Accountant licensed in Kentucky. No later than one hundred twenty (120) days after the close of each Fiscal Year, copies of such audit reports certified by such Certified Public Accountant shall be promptly mailed to the RD without request, so long as the Government is the Owner of any of the Bonds, and to any Bondowner that may have made a written request for same.

Monthly operating reports shall be furnished to the RD and to any Bondowner requesting same, during the first two (2) years of operation after completion of the Project, and whenever and so long as the City is delinquent in any of the covenants set out in this Current Bond Ordinance. Thereafter, quarterly operating reports shall be furnished at all other times to the RD and to any Bondowner requesting the same.

Section 503. Project to Continue to be Operated on Fiscal Year Basis; Annual Budget. While any of the Bonds are outstanding and unpaid, and to the extent permitted by law, the Project shall continue to be operated and maintained on a Fiscal Year basis.

Not later than sixty (60) days before the end of each Fiscal Year, the City agrees to cause to be prepared a proposed annual budget of operating expenses (the "Proposed Budget") of the Project for the then ensuing Fiscal Year, itemized on the basis of monthly requirements. A copy of said Proposed Budget shall be mailed to any Bondowner who may request in writing a copy of such

Proposed Budget and to the RD without request, if the Government is the Owner of any of the Bonds.

For the purpose of the Proposed Budget, operating expenses shall include all reasonable and necessary expenses of operating, repairing, maintaining and insuring the Project, but shall exclude depreciation and debt service payments. The City covenants that the operating expenses incurred in any year will not exceed the reasonable and necessary amounts therefor, and that the City will not expend any amount or incur any obligation for operation or maintenance and repair in excess of the amounts provided for operating expenses in the annual budget, except upon Ordinance by the City that such expenses are necessary to operate and maintain the Project.

If the Owners of at least 50% of the principal amount of the Outstanding Bonds, or the Government so long as it is the Owner of any of said Outstanding Bonds, so request, the City Council shall hold an open hearing not later than thirty (30) days before the beginning of the ensuing Fiscal Year, at which time any Bondowner may appear by agent or attorney and may file written objections to such proposed budget. Notice of the time and place of such hearing shall be mailed at least fifteen (15) days prior to the hearing to each registered Bondowner and to the Government.

The City covenants that annually before the first day of the Fiscal Year, the annual budget for the upcoming Fiscal Year will be adopted substantially in accordance with the Proposed Budget, and that no expenditures for operation and maintenance expenses of the Project in excess of the budgeted amount shall be made during such Fiscal Year unless directed by said City by a specific Ordinance duly adopted.

Section 504. General Covenants. The City, through its City Council, hereby covenants and agrees with the Owners of the Bonds that:

- (1) It will faithfully and punctually perform all duties with reference to the Project required by the Constitution and laws of the Commonwealth of Kentucky;
- (2) It will make and collect reasonable and sufficient taxes, rates and charges for services and facilities rendered by the Project;
- (3) It will segregate the taxes, revenues and income from the City and make application thereof consistent with and as provided by this Ordinance;
- (4) Unless the written consent of the Owners of a majority of the principal amount of the Outstanding Bonds has been obtained, the City agrees not to sell, lease, mortgage or in any manner dispose of any integral part of the Project, until all of the Outstanding Bonds shall have been paid or provided for in full, as provided herein; subject to the provisions of Section 607 hereof;

- (5) It will maintain in good condition and continuously operate the Project and appurtenances thereto and will charge such taxes, rates and charges for the services rendered thereby so that the gross income and revenues will be sufficient at all times (I) to pay the interest on and principal of the Outstanding Bonds as same become due; (ii) to pay the cost of operating and maintaining the Project; and (iii) to provide for an adequate depreciation account;
- (6) It will carry and maintain insurance on the Project subject to loss or damage in amounts and against hazards substantially in accordance with the practices of other cities or corporations which own and maintain fire station/community center facilities under similar conditions; and so long as the Government is the Owner of any of the Outstanding Bonds, the Government will be listed as co-beneficiary on any such policy.

Section 505. Other Covenants Applicable So Long as RD Owns Any Bonds.

So long as RD shall own any of the Bonds, the City shall comply with such RD regulations, requirements and requests as shall be made by RD, including the furnishing of operating and other financial statements, in such form and substance and for such periods as may be requested by RD, the carrying of insurance of such types and in such amounts as RD may specify, with insurance carriers acceptable to RD and compliance with all of the terms and conditions of the Loan Resolution (RD Form 1780-27) adopted and executed by the City, which is hereby authorized, approved, ratified and confirmed.

ARTICLE 6. INFERIOR BONDS AND PARITY BONDS

Section 601. Inferior Bonds. Except as hereinafter provided below in this Article, the City shall not, so long as any Bonds are outstanding, issue any additional Bonds payable from the revenues of the City unless the security and/or pledge of the revenues to secure such additional Bonds are made inferior and subordinate in all respects to the security of the Bonds.

The City expressly reserves the right at any time to issue its Bonds or other obligations payable from the revenues of the City and not ranking on a parity basis with the Current Bonds, without any proof of previous earnings or net revenues, provided that the consent of RD must be obtained prior to the issuance of any inferior Bonds so long as RD owns any of the Bonds, and provided further that, after the initial completion of the Project, such inferior Bonds may be issued only for the purpose of providing for future acquisition, construction and equipping of fire station/community center facilities and only in express recognition of the priorities, liens and rights created and existing for the security, source of payment and protection of the Outstanding Bonds; provided further, that nothing in this Section is intended to restrict or shall be construed as a restriction upon, the ordinary refunding all or a portion of the Outstanding Bonds.

Section 602. Parity Bonds to Complete the Project. The City hereby certifies, covenants and agrees that in the event that the cost of completion of the construction of the Project shall exceed the moneys available to the City from any and all sources, the City shall have the right, if necessary, to provide for such excess, and only such excess, through the issuance of Parity Bonds, provided the City has obtained a certification from engineers to the effect that it is necessary to issue the desired amount of Parity Bonds in order to enable the City to pay the cost (not otherwise provided) of the completion of the Project, and provided the City has complied with the provisions of Section 603 below or has obtained the consent of (1) RD if the Government is the purchaser of the Current Bonds; or (2) the Owners of at least 75% of the principal amount of the Current Bonds outstanding, if the Current Bonds have been issued, sold and delivered and are held by Owners other than the Government.

Section 603. Parity Bonds to Finance Future Improvements. The City reserved the right and privilege, and does hereby reserve the right and privilege, of issuing additional Parity Bonds, but only under the conditions specified in this Ordinance, which conditions are as follows:

The City further reserves the right to add new fire station/community center facilities by the issuance of one or more additional series of Parity Bonds to be secured by a parity lien on and ratably payable on a parity with the Current Bonds, from the revenues of the City, provided:

(a) The facilities to be constructed from the proceeds of the additional Parity Bonds are made a part of the Project and their revenues are pledged as additional security for the additional Parity Bonds and for the Outstanding Bonds.

(b) The City is in compliance with all covenants and undertakings in connection with all of the Outstanding Bonds.

(c) The annual net revenues (defined as gross revenues less operating expenses), of the then existing Project for the Fiscal Year preceding the year in which such Parity Bonds are to be issued, adjusted as hereinafter provided, shall be certified by an independent Certified Public Accountant to be equal at least one hundred twenty percent (120%) of the average annual debt service requirements for principal and interest on all Outstanding Bonds payable from the revenues of the City, plus the anticipated debt service requirements of any Parity Bonds then proposed to be issued. The calculation of average annual debt service requirements of principal and interest on the additional Parity Bonds to be issued shall, regardless of whether such additional Parity Bonds are to be serial or term Bonds, be determined on the basis of the principal of and interest on such Parity Bonds being payable in approximately equal annual installments.

(d) The annual net revenues referred to above may be adjusted for the purpose of the foregoing computations to reflect:

(1) any revisions in the City's taxes, rates or charges being imposed on or before the time of the issuance of any such additional Parity Bonds, and

(2) any increase in the annual tax revenue and net revenues to be realized from the proposed acquisition, construction and equipping of new fire station/community center facilities being financed (in whole or in part) by such additional Parity Bonds;

provided all such adjustments shall be based upon and included in a certification of a Certified Public Accountant.

(e) Compliance with Section 603(a) through (d) shall not be necessary for the issuance of Parity Bonds if the City has obtained the written consent of RD for the issuance of such Parity Bonds, if the Government is the Owner of any Bonds at the time of issuance of such Parity Bonds and no other prerequisite need be complied with by the City in order to issue Parity Bonds.

(f) The City reserves the right to issue parity Bonds to refund or refinance any part or all of the Current Bonds, provided that prior to the issuance of such additional parity Bonds for that purpose, there shall have been procured and filed with the City Clerk a statement by a Certified Public Accountant, as defined herein, reciting the opinion based upon necessary investigation that:

(i) after the issuance of such parity Bonds, the annual net revenues, as adjusted and defined above, of the then existing system for the fiscal year preceding the date of issuance of such parity Bonds, after taking into account the revised debt service requirements resulting from the issuance of such parity Bonds and from the elimination of the Bonds being refunded or refinanced thereby, are equal to not less than 120% of the average annual debt service requirements then scheduled to fall due in any fiscal year thereafter for principal of and interest on all of the then

Outstanding Bonds payable from the revenues of the City, calculated in the manner specified above; or

(ii) in the alternative, that the average annual debt service requirements for the Current Bonds, any previously issued parity Bonds and the proposed refunding parity Bonds, in any year of maturities thereof after the redemption of the Bonds scheduled to be refunded through the issuance of such proposed refunding parity Bonds, shall not exceed the average annual debt service requirements applicable to the then outstanding Current Bonds and any previously issued parity Bonds for any year prior to the issuance of such proposed parity Bonds and the redemption of the Bonds to be refunded.

Section 604. Covenants to be Complied with at Time of Issuance of Parity Bonds. The City hereby covenants and agrees that in the event any Parity Bonds are issued, the City shall:

(a) Adjust the monthly amount to be deposited into the Sinking Fund on the same basis as that prescribed in the provisions establishing such Sinking Fund, to reflect the average annual debt service requirements of the Parity Bonds;

(b) Adjust the minimum annual amount to be deposited monthly into the Debt Reserve Fund on the same basis as that prescribed in the provisions establishing such Debt Reserve Fund, taking into account the future debt service requirements of all Bonds which will then be outstanding against the Project; and

(c) Make such Parity Bonds payable as to principal on January 1 of each year in which principal falls due and payable as to interest on January 1 and July 1 of each year until the final maturity of such Parity Bonds.

Section 605. Prepayment Provisions Applicable to Parity Bonds. If, in connection with any subsequently issued series of Parity Bonds, it is provided that excess revenues in the Revenue Fund shall be used to prepay Outstanding Bonds in advance of scheduled maturity, or if the City at its option undertakes to prepay Outstanding Bonds in advance of scheduled maturity, it is agreed and understood, for so long as the Government owns any of the Outstanding Bonds, that no such prepayment will be effected without the approval of the RD.

Section 606. Consent of the RD Regarding Future Bonds. Notwithstanding any other provisions of this Ordinance, the City agrees that so long as the Government owns any Outstanding Bonds against and/or payable from the revenues of the City, the City will not issue any future Bonds, Bonds or other obligations against, secured by or payable from the revenues of the City without the written consent of RD.

Section 607. Priority of Lien; Permissible Disposition of Surplus or Obsolete Facilities. The City covenants and agrees that so long as any of the Current Bonds are outstanding, the City will not sell or otherwise dispose of any of the facilities of the Project, or any part thereof, and,

except as provided above, the City will not create or permit to be created any charge or lien on the revenues thereof ranking equal or prior to the charge or lien of the Outstanding Bonds. Notwithstanding the foregoing, the City may at any time permanently abandon the use of, or sell at fair market value, any part of the facilities of the Project, provided that:

- (a) The City is in compliance with all covenants and undertakings in connection with all of the Outstanding Bonds, and the required reserves for such Outstanding Bonds will have been accumulated;
- (b) The City will, in the event of any such sale, apply the proceeds to either (1) redemption of Outstanding Bonds in accordance with the provisions governing prepayment of Bonds in advance of maturity; or (2) replacement of the facility so disposed of by another facility, the revenues of which shall be incorporated into the Project, as hereinbefore provided;
- (c) The City certifies, in good faith, prior to any abandonment of use, that the facilities to be abandoned are no longer economically feasible of producing net revenues; and
- (d) The City certifies, in good faith, that the estimated net revenues of the remaining facilities of the City for the then next succeeding Fiscal Year, plus the estimated net revenues of the facilities, if any, to be added to the Project, comply with the earnings requirements hereinbefore provided in the provisions and conditions governing the issuance of Parity Bonds.

Notwithstanding any other provisions hereof, so long as any Bonds are held by the Government, the City shall not dispose of its title to the Project or to any part thereof, without first obtaining the written consent of the RD.

ARTICLE 7. DEFAULT AND CONSEQUENCES

Section 701. Events of Default. The following items shall constitute an Event of Default on the part of the City:

- (a) The failure to pay principal of the Current Bonds as and when same shall become due and payable, either at maturity or by proceedings for redemption.
- (b) The failure to pay any installment of interest on the Current Bonds when the same shall become due and payable or, if any or all of the Outstanding Bonds are owned by the RD, within thirty (30) days thereafter.
- (c) The default by the City in the due or punctual performance of any of the covenants, conditions, agreements and provisions contained in the Current Bonds, or in this Ordinance.
- (d) The failure to promptly repair, replace or reconstruct facilities of the Project that have been damaged and/or destroyed.
- (e) The entering of any order or decree with the consent or the acquiescence of the City, appointing a receiver of all or any part of the Project or any revenues thereof; or if such order or decree shall be entered without the acquiescence or consent of the City, its failure to have the order vacated, discharged or stayed on appeal within sixth (60) days after entry.

Section 702. Consequences of Event of Default. Any Owner of the Current Bonds may enforce and compel the performance of all duties and obligations of the City set forth herein. Upon the occurrence of an Event of Default, then upon the filing of a suit by any Owner of said the Current Bonds, any court having jurisdiction of the action may appoint a receiver to administer said Project on behalf of the City with power to charge and collect taxes and rates sufficient to provide for the payment of operating and maintenance expenses and for the payment of principal of and interest on the Outstanding Bonds and to provide and apply the income and revenues in conformity with this Ordinance and with the laws of the Commonwealth of Kentucky.

The City hereby agrees to transfer to any bona fide receiver or other subsequent operator of the Project, pursuant to any valid court order in a proceeding brought to enforce collection or payment of the City's obligations, all contracts and other rights of the City pertaining to the Project, conditionally, for such time only as such receiver or operator shall operate by authority of the court. Upon the occurrence of an Event of Default, the Owner of any of the Outstanding Bonds may require the governing body of the City by appropriate order to raise tax rates a reasonable amount consistent with the requirements of this Ordinance.

ARTICLE 8. CONTRACTUAL PROVISIONS; MISCELLANEOUS PROVISIONS.

Section 801. Ordinance Contractual with Bondowners. The provisions of this Ordinance constitute a contract between the City and its City Council and the Owners of the Current Bonds as may be outstanding from time to time; and after the issuance of any of said Current Bonds, no change, alteration or variation of any kind of the provisions of this Ordinance shall be made in any manner which will affect an Owner's rights except as herein provided or except with the written consent of all Bondowners until such time as all of the Current Bonds and the interest thereon have been paid in full or fully provided for; provided that the City Council may adopt any Ordinance for any purpose not inconsistent with the terms of this Ordinance and which shall not impair the security of the Owners of the Current Bonds and/or for the purpose of curing any ambiguity, or of curing, correcting or supplementing any defective or inconsistent provisions contained herein or in any Ordinance or other proceedings pertaining hereto.

It is further agreed that the Owners of 75% in principal amount of the Current Bonds at any time outstanding shall have the right to consent to and approve the adoption of Ordinances or other proceedings, modifying or amending any of the terms or provisions contained in this Ordinance, subject to the conditions that (a) this Ordinance shall not be so modified in any manner that may adversely affect the rights of the Owners of any of the Current Bonds without similarly affecting the rights of all Owners of such Outstanding Bonds, or to reduce the percentage of the number of Owners whose consent is required to effect a further modification and (b) no such change may be effected without the consent of the RD so long as the RD owns any of the Outstanding Bonds.

Section 802. All Current Bonds are Equal. The Current Bonds authorized herein shall not be entitled to priority one over the other in the application of the income and revenues of the City, or with respect to the security for their payment, regardless of the time or times of their issuance, it being the intention that there shall be no priority among any of the Current Bonds regardless of the fact that they may be actually issued and delivered at different times.

Section 803. City Obligated to Refund Current Bonds Owned by Government Whenever Feasible; Defeasement Prohibited. So long as the Government is the Owner of any of the Current Bonds, if it appears to the Government that the City is able to refund such Current Bonds in whole or in part, by obtaining a loan for such purposes from responsible cooperative or private credit sources, or to sell Bonds of the City in the open market, at reasonable rates and terms, for loans or bond issues for similar purposes and periods of time, the City will, upon request of the Government, obtain such loan and/or issue such Bonds in sufficient amount to repay the Government and will take all such action as may be required in connection therewith.

In addition, so long as the Government is the Owner of any of the Current Bonds, the City shall not issue any Bonds or other obligations for the purpose of defeasing or otherwise terminating the lien of the Current Bonds without immediately prepaying all of the then outstanding Current Bonds.

Section 804. Approval and Acceptance of RD Grant Agreement. The RD has agreed to make a grant to the City in the amount of \$75,000 (the "RD Grant") to supplement the proceeds of the Current Bonds in order to provide the total cost of the Project, and the RD has requested the City to approve, accept and execute RD Form 1780-12 (the "RD Grant Agreement"), setting out the terms and conditions upon which said RD Grant will be made. Said RD Grant Agreement is hereby approved, and the Mayor and the City Clerk are authorized to execute said RD Grant Agreement on behalf of the City. The Mayor and City Clerk are also authorized on behalf of the City to accept any and all other RD Grants offered to the City in connection with the Project and to execute any and all RD Grant Agreements and any other documents as may be requested by the RD in connection with RD Grants which have been and/or which may hereafter be approved for such Project.

Section 805. Approval and Acceptance of CDBG Grant Agreement. The Department of Housing and Urban Development (the "HUD") has agreed to make a grant to the City in the amount of \$500,000 (the "CDBG Grant"), to supplement the proceeds of the Current Bonds in order to provide the total cost of the Project, and HUD has requested the City to approve, accept and execute a certain CDBG Grant Agreement (the "CDBG Grant Agreement") setting out the terms and conditions upon which said CDBG Grant will be made. Said CDBG Grant Agreement is hereby approved, and the Mayor and the City Clerk are authorized to execute said CDBG Grant Agreement on behalf of the City. The Mayor and City Clerk are also authorized on behalf of the City to accept any and all other CDBG Grants offered to the City in connection with the Project and to execute any and all CDBG Grant Agreements and any other documents as may be requested by the HUD in connection with CDBG Grants which have been and/or which may hereafter be approved for such Project.

Section 806. Use of City Streets. The use of all City streets, highways, alleys and public ways for the construction and maintenance of the Project is hereby authorized, without the necessity of further permits, licenses or other certifications from the City.

Section 807. Authorization, Ratification and Confirmation of Approval and Execution of Various Documents. The City Council hereby authorizes, approves, ratifies and confirms the previous action of the officers of the City in approving and executing various documents related to the financing of the Project, including the following:

- (a) Legal Services Agreement with Bond Counsel.
- (b) Legal Services Agreement with Local Counsel.
- (c) Letter of Intent to Meet Conditions of RD Letter of Conditions (RD Form 1942-46).
- (d) Loan Resolution (RD Form 1780-27).

Section 808. Authorization of Condemnation to Acquire Easements and/or Sites. In the event that (a) any necessary deeds of easement to allow construction of the Project over the property

of any property owner or (b) any necessary deed to the necessary site of any combined and consolidated water and sewer facility of the Project shall not be obtained through negotiation within 10 days after the date of enactment of this Ordinance and in the event that (1) such combined and consolidated water and sewer lines cannot be located within the right-of-way of the State and/or County road involved, and/or (2) such combined and consolidated water and sewer facilities cannot be located on a site already owned by the City, Local Counsel is hereby authorized and directed to file condemnation actions to obtain such necessary rights-of-way and/or sites forthwith, without further authorization or direction from the City or the City Council. Local Counsel is further directed to follow the same condemnation procedure in the event that it becomes necessary, through change orders, line extensions and/or errors in the location of property lines and/or property owners, to obtain additional easements, rights-of-way and/or sites for completion of the Project and whenever the necessary deed is not obtained by negotiation at least 10 days prior to the date on which construction is contemplated in the respective easement, right-of-way and/or site.

The City further approves the payment from the funds available therefor allocated to the costs of the Project to pay any judgment award, or compromise, determined by Local Counsel with the acquiescence of the City Council, toward the costs of such easements, rights-of-way and/or sites; provided, in each instance, that the payment of such funds to satisfy any judgment, award or compromise must first be approved by the RD; and the City Council further determines that if and to whatever extent the funds available from the proceeds of the financing contemplated by this Ordinance, shall be inadequate to pay any judgment, award or compromise amount for such easements, rights-of-way and/or sites, or if the City is unable to obtain the approval of the RD for any such payment, the City Council shall take all reasonably necessary actions, within the powers and authority of the City Council, to make such additional amount available from all other available City resources.

Section 809. Authorization to File Required Financing Statements. In the event that it is determined by Bond Counsel or Local Counsel that the City is required to file any financing statements under the Kentucky Uniform Commercial Code in order to perfect the pledge of the tax revenues of the City's System as security for the Current Bonds, Bond Counsel and/or Local Counsel are hereby authorized to prepare and file with the appropriate officials such financing statements as they deem necessary.

ARTICLE 9. SALE OF CURRENT BONDS.

Section 901. Sale of Current Bonds. The Current Bonds shall be offered publicly for sale upon the basis of sealed, competitive bids at such time as the City Council shall designate.

A suggested form of "Notice of Bond Sale", a suggested form of "Official Notice of Sale of Bonds" and a suggested form of "Bid Form", having been prepared in advance by Bond Counsel, and all of such documents having been found to be in satisfactory form, a copy of each is hereby ordered to be filed in the records of the City Clerk with the Minutes of the meeting at which this Ordinance is enacted. The Notice of Bond Sale shall be signed by the City Clerk and may be used for the purpose of publishing notice of the sale of the Current Bonds. Copies of such documents shall be furnished to any interested parties who may request same.

In the event that there is no bid or that all bids are rejected, the City may readvertise the sale pursuant to this Ordinance.

Section 902. Adjustment in Maturities, Prepayment Provisions and Other Dates if Delivery is Delayed. In the event that delivery of the Current Bonds authorized herein is delayed for any reason and the City, with the consent of the Purchaser of the Current Bonds, determines it is in the City's best interest to change the maturities, the applicable prepayment date or any other dates, the City may adjust the same by an Order of the City Council approving the adjustments.

ARTICLE 10. CONCLUDING PROVISIONS

Section 1001. Covenant of City to Take All Necessary Action To Assure Compliance with the Code. In order to assure the Owners of the Current Bonds that such Current Bonds shall continue to be legal and that interest thereon will continue to be excludable from gross income for Federal income tax purposes and exempt from all Kentucky income taxation, the City covenants to and with the Owners of the Current Bonds to take the following action:

(a) The City will (1) take all actions necessary to comply with the provisions of the Code necessary to assure that interest on the Current Bonds will be excludable from gross income for Federal income tax purposes, (2) will take no actions which will violate any of the provisions of the Code, and (3) not use the proceeds of the Current Bonds for any purpose which will cause interest on the Current Bonds or on interim financing obligations, including, but not limited to the Bond, issued pursuant to Section 302 hereof to become includable in gross income for Federal income tax purposes.

(b) The City hereby certifies that it does not reasonably anticipate that the total principal amount of "qualified tax-exempt obligations" within the meaning of Section 265(b)(3) of the Code which the City, or any subordinate entity of the City, will issue during the calendar year during which the Current Bonds are issued, will exceed \$10,000,000; and therefore the City hereby designates the Current Bonds and all interim financing obligations, including, but not limited to the Bond, issued pursuant to Section 302 hereof as "qualified tax-exempt obligations".

(c) The City further certifies that the Current Bonds and any and all interim financing obligations of the City are not "private activity bonds" within the meaning of the Code.

(d) The City covenants and agrees that it will not issue, or cause any subordinate entity of the City to issue on the City's behalf, bonds or other obligations considered under the Code to be "tax-exempt obligations" (other than private activity bonds) in the aggregate principal amount in excess of \$5,000,000 during the calendar year in which the Bonds will be issued.

(e) The City covenants and agrees to comply with the rebate requirements on certain excess earnings imposed by Section 148 of the Code, and in the event it is determined by the City, upon the advice of Bond Counsel, that the Construction Account, or any other Fund established hereunder, is subject to said rebate requirements and does in fact generate earnings from "non-purpose investments" in excess of the amount which said investments would have earned at a rate equal to the "yield" on the Current Bonds, plus any income attributable to such excess, there shall be established a separate and special fund with the Depository Bank, which fund shall be designated the "Excess Earnings and Rebate Fund", which shall be utilized for the collection and payment of any excess generated from investments and the remittance thereof to the United States of America on or before the anniversary

of the fifth (5th) year from the date of the Current Bonds, and once every five (5) years thereafter until the final retirement of the Current Bonds; the last installment, to the extent required, to be made no later than sixty (60) days following the date on which funds sufficient for the complete retirement of the Current Bonds are deposited with any escrow agent. The City further covenants to file any and all reports, if any, as may be required to be filed with the Government with regard to the liability or non-liability of the City as to any such rebate requirements and to maintain records in regard thereto for the period of time required by applicable Treasury regulations.

Section 1002. Severability Clause. If any section, paragraph, clause or provision of this Ordinance shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance, which shall continue in full force and effect.

Section 1003. All Provisions in Conflict Repealed. All motions, Ordinances and orders, or parts thereof, in conflict with the provisions of this Ordinance, are to the extent of such conflict hereby repealed. It is hereby specifically ordered and provided that any proceedings heretofore taken for the issuance of other Bonds of the City payable or secured in any manner by all or any part of the income and revenues of said Project or any part thereof, and which have not been heretofore issued and delivered, are hereby revoked and rescinded, and none of such other Bonds shall be issued and delivered. The City covenants to correct by appropriate proceedings any required procedure previously taken invalidly.

Section 1004. Effective Date. This Ordinance shall take effect upon its enactment and publication by title and summary, as provided by law.

Introduced and given first reading on April 13, 2011.

Given second reading and enacted on May 2, 2011.

City of Vanceburg, Kentucky

Mayor

(Seal of City)

Attest:

City Clerk

CERTIFICATION

I, the undersigned, hereby certify that I am the duly qualified and acting City Clerk of the City of Vanceburg, Kentucky, and that the foregoing Ordinance is a true copy of a Ordinance duly enacted by the City Council of said City, signed by the Mayor of said City at a properly convened meeting of said City Council held on May 2, 2011, as shown by the official records of said City in my custody and under my control.

I further certify that said meeting was duly held in accordance with all applicable requirements of Kentucky law, including KRS 61.810, 61.815, 61.820 and 61.823, that a quorum was present at said meeting, that said Ordinance has not been modified, amended, revoked or repealed, and that same is now in full force and effect.

IN TESTIMONY WHEREOF, witness my signature as City Clerk this May 2, 2011.

City Clerk

EXHIBIT A

<u>Payment Due</u> <u>January 1</u>	<u>Principal Payment</u>
2013	\$3,000
2014	3,000
2015	3,000
2016	3,500
2017	3,500
2018	3,500
2019	3,500
2020	4,000
2021	4,000
2022	4,000
2023	4,500
2024	4,500
2025	5,000
2026	5,000
2027	5,000
2028	5,500
2029	5,500
2030	6,000
2031	6,000
2032	6,500
2033	6,500
2034	7,000
2035	7,000
2036	7,500
2037	8,000
2038	8,000
2039	8,500
2040	9,000

EXHIBIT B

(FORM OF FULLY REGISTERED BOND)

UNITED STATES OF AMERICA
COMMONWEALTH OF KENTUCKY
CITY OF VANCEBURG
GENERAL OBLIGATION BONDS, SERIES 2011

No. R-1

Interest Rate: _____ %

\$150,000

KNOW ALL PERSONS BY THESE PRESENTS:

That the City of Vanceburg, Kentucky (the "City"), acting by and through its City Council (the "Council"), a public body corporate in Lewis County, Kentucky, for value received, hereby promises to pay to

the registered owner hereof, or to its registered assigns, solely from the fund hereinafter identified, the sum of

_____ DOLLARS (\$ _____),

on the first day of January, in years and installments as follows:

<u>Year</u>	<u>Principal</u>	<u>Year</u>	<u>Principal</u>	<u>Year</u>	<u>Principal</u>
-------------	------------------	-------------	------------------	-------------	------------------

[Here the printer of the Current Bond will print the maturities of the Current Bonds purchased by the registered Owner]

and in like manner, solely from said fund, to pay interest on the balance of said principal sum from time to time remaining unpaid, at the Interest Rate specified above, semiannually on the first days of January and July in each year, beginning with the first January or July after the date of this Bond, until said sum is paid, except as the provisions hereinafter set forth with respect to prepayment may be and become applicable hereto, both principal and interest being payable, without deduction for exchange or collection charges, in lawful money of the United States of America, at the address of the registered owner shown on the registration book of the City.

This Bond is issued in the aggregate principal sum of One Hundred Fifty Thousand Dollars (\$150,000), of like tenor and effect (except possibly as to numbering, maturities, interest rates, and provisions as to prior redemption), and this Bond and the issue of which it forms a part (hereinafter sometimes collectively referred to as the "Bonds"), are authorized and issued under a Ordinance (the "Ordinance") enacted by the City Council of the City for the purpose of defraying the costs of the construction of a fire station/community center to be located in Vanceburg, Kentucky (the "Project"), pursuant to and in full compliance with the laws of the Commonwealth of Kentucky.

The Bonds constitute general obligations of the City and the full faith, credit and taxing power of the City is irrevocably pledged to the prompt payment of the principal of, premium, if any, and interest on the Bonds when the same become due. Reference is hereby made to the Ordinance for a more particular description of the terms and conditions under which the Bonds are issued, a more specific identification of the Project, its use and operation, a description of the Project, the revenues pledged for the payment of the Bonds, the nature and extent of the security, the rights and duties of the City, and the rights of the owners of the Bonds with respect to such security.

For the purpose of providing funds required to pay the principal of, premium, if any, and interest on the Bonds as and when the same becomes due, there shall be levied upon all of the taxable property within the City, beginning in the year 2012 and continuing in each year as long as any of the Bonds are outstanding, a direct annual tax (as mandatorily required by Section 159 of the Kentucky Constitution) sufficient, to the extent other lawfully available moneys of the City are not provided for that purpose, to provide said debt service funds. The proceeds derived from said special annual tax levied from time to time, together with other lawfully available moneys of the City provided for the purpose, shall be deposited and carried in a special and separate bank account in the name of the City and held apart from all other funds of the City, shall be applied only for the purpose of paying the principal of, premium, if any, and interest on the Bonds, and shall be designated the City's "Sinking Fund". The proceeds of said special annual tax and the balances accumulated from time to time in the Sinking Fund are irrevocably pledged for the purpose of paying the principal of, premium, if any, and interest on the Bonds and shall never be used for any other purpose.

In the Ordinance, the City has covenanted with the holders of the Bonds that it will levy said special annual tax in each year at whatever rates may be necessary from time to time in order to produce the amounts required in each year, to the extent not otherwise provided, to pay the Bonds and interest (and premium, if any) when and as they mature or become due.

If principal or interest should fall due in any year at a time when there are insufficient funds on hand, collected by reason of the foregoing special tax levy, such principal and interest shall be paid from other available funds of the City and reimbursement therefor shall be made out of the special tax provided in the Ordinance when the same shall have been collected.

This Bond shall be registered as to principal and interest in the name of the owner hereof, after which it shall be transferable only upon presentation to the City Clerk of the City as the Bond Registrar, with a written transfer duly acknowledged by the registered owner or its duly authorized

attorney, which transfer shall be noted upon this Bond and upon the registration book of the City kept for that purpose.

The City, at its option, shall have the right to prepay, on any interest payment date on and after January 1, 2020, in inverse chronological order of the installments due on this Bond, the entire principal amount of this Bond then remaining unpaid, or such lesser portion thereof, in a multiple of One Hundred Dollars (\$100), as the City may determine, at a price in an amount equivalent to the principal amount to be prepaid plus accrued interest to the date of prepayment, without any prepayment premium. Notice of such prepayment shall be given by certified mail to the registered owner of this Bond or its assignee, at least 30 days prior to the date fixed for prepayment. Notice of such prepayment may be waived with the written consent of the registered owner of this Bond.

So long as the registered owner of this Bond is the United States of America, or any agency thereof, the entire principal amount of this Bond, or installments in multiples of \$100, may be prepaid at any time in inverse chronological order of the installments due.

Upon default in the payment of any principal or interest payment on this Bond, or upon failure by the City to comply with any other provision of this Bond or with any provision of the Ordinance, the registered owner may, at its option, institute all rights and remedies provided by law or by said Ordinance.

It is hereby certified, recited and declared that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of this Bond, do exist, have happened and have been performed in due time, form and manner as required by law, and that the face amount of this Bond, together with all other obligations of the City, does not exceed any limit prescribed by the Constitution or Statutes of the Commonwealth of Kentucky.

IN WITNESS WHEREOF said City of Vanceburg, by its City Council, has caused this Bond to be executed by its Mayor, and attested by its City Clerk, on the date of this Bond, which is

City of Vanceburg, Kentucky

By _____
Mayor

Attest:

City Clerk

PROVISION FOR REGISTRATION

This Bond shall be registered on the registration book of the City kept for that purpose by the City Clerk, as Bond Registrar, upon presentation hereof to said City Clerk, who shall make notation of such registration in the registration blank, and this Bond may thereafter be transferred only upon written transfer acknowledged by the registered owner or its attorney, such transfer to be made on said book and endorsed hereon.

Date of Registration	Name of Registered Owner	Signature of Bond Registrar

ASSIGNMENT

For value received, this Bond is hereby assigned, without recourse and subject to all of its terms and conditions, unto _____, this ____ day of _____, _____.

By: _____

EXHIBIT C

REQUISITION CERTIFICATE

Re: City of Vanceburg General Obligation Bonds Series 2011, in the principal amount of \$150,000.

The undersigned hereby certify as follows:

1. That they are the signatories required for construction draws pursuant to the Ordinance enacted by the City of Vanceburg, Kentucky (the "City").
2. That the named firms and/or persons set forth on Exhibit A attached hereto are now entitled to the aggregate sum of \$ _____, itemized as set forth in said Exhibit A and as per approved invoices attached hereto:
3. That upon said amount being lent to said City and/or obtained by said City from the proceeds of the Bonds and/or other sources, the undersigned approve such expenditure and the payment of said amounts to said firms and/or persons, either directly or from amounts deposit in the "City of Vanceburg General Obligation Construction Account".
4. That we hereby certify that we have carefully inspected the work and, as a result of our inspection and to the best of our knowledge and belief, the amounts shown in this Requisition Certificate are correct and the work has been performed in accordance with the agreements between the City and the parties requesting payment.

IN TESTIMONY WHEREOF, witness the signature of the undersigned, this ____ day of _____, 20____.

City of Vanceburg, Kentucky

USDA, Rural Development

By _____
Authorized Representative

By _____
Authorized Representative

Approved on _____

Approved on _____

Amount expended heretofore \$ _____

Amount approved herein _____

Total _____

Approved on _____

EXHIBIT A TO REQUISITION CERTIFICATE

Name of Entity/Person

Amount

MUNICIPAL SALE ORDER

MUNICIPAL ORDER OF THE CITY COUNCIL OF THE CITY OF VANCEBURG, KENTUCKY, ACCEPTING THE SUCCESSFUL BID FOR THE PURCHASE OF \$150,000 PRINCIPAL AMOUNT OF CITY OF VANCEBURG GENERAL OBLIGATION BONDS, SERIES 2011.

WHEREAS, Notice of Sale of \$150,000 of City of Vanceburg General Obligation Bonds, Series 2011 (the "Bonds") has heretofore been given in strict compliance with the proceedings of this City Council of the City of Vanceburg (the "City") and with the provisions of the publication laws applicable thereto, thus enabling everyone interested in said Bonds to present a proposal in connection therewith, and

WHEREAS, the only bid received for the purchase of said Bonds was the bid of the U.S. Department of Agriculture, acting through Rural Development ("RD"), which bid was a bid of par for all of the Bonds at a single interest rate not to exceed 4.125% per annum, subject to the right of the City to request that such Bonds shall bear interest at such lower interest rate as may be in effect for RD loans at the time of delivery of the Bonds, and

WHEREAS, it is deemed advisable that the City Council adopt a Municipal Order accepting said bid,

NOW, THEREFORE, BE IT ORDERED BY THE CITY COUNCIL OF THE CITY OF VANCEBURG, KENTUCKY, AS FOLLOWS:

SECTION 1. That it is hereby determined that the bid of RD for the purchase of the Bonds, scheduled to mature on January 1 in each of the respective years, 2013 through 2040, inclusive, as advertised, and as authorized by the Bond Ordinance (the "Bond Ordinance") heretofore adopted, at a price of par (\$150,000) for Bonds bearing interest at an interest rate not to exceed 4.125% per annum (or at such lower interest rate as may be in effect for RD loans at the time of delivery of the Bonds), is the best bid received, with the most favorable net interest cost to the City; and that said Bonds be and they are hereby awarded to RD as being a sale of said Bonds on the best terms and for the best interests of the City.

SECTION 2. That the interest rate on said Bonds is hereby fixed at said rate of 4.125% per annum (or at such lower interest rate as may be applicable, as aforesaid) as set out in such bid.

SECTION 3. That in accordance with the terms of the commitment of RD, approved by the City and RD, and as provided in the Official Notice of Sale of Bonds, said Bonds shall be issued to RD as a single Bond, in fully registered form.

SECTION 4. That said Bonds shall be delivered by the City Treasurer and/or other proper City officials to RD as soon as said Bonds are printed and ready for delivery in accordance with the Bond Ordinance, and that all of the proceeds of the sale of said Bonds shall be used only as provided in the Bond Ordinance.

SECTION 5. That the acceptance of said bid subjects the City to no obligation to deliver the Bonds if for any reason the City is unable to obtain the final approving legal opinion of Rubin & Hays, Louisville, Kentucky, as to said Bonds, or if said Bonds should be subject to ad valorem taxation by the Commonwealth of Kentucky or by any political subdivision thereof, or if the receipt of interest on said Bond should be includable in gross income for Federal income tax purposes, or subject to income taxation by the Commonwealth of Kentucky, prior to or on the delivery date of said Bonds, and RD shall not be required to accept delivery of said Bonds without the final approving opinion of Rubin & Hays accompanying said Bonds, or if said Bonds or the interest thereon shall become includable in gross income for Federal income tax purposes or subject to ad valorem or income taxation of the Commonwealth of Kentucky prior to or on such delivery date.

SECTION 6. That the Mayor is hereby authorized to request, at the appropriate time prior to the delivery of the Bonds, that RD reduce the interest rate on the Bonds to such lower interest rate as may be in effect for RD loans at the time of delivery of the Bonds, without any further action by this City Council.

SECTION 7. That all motions, orders and resolutions, or parts thereof, in conflict herewith, be and the same are hereby amended or repealed to the extent of such conflict, and this Municipal Order shall be in force immediately upon its adoption.

Adopted on May 2, 2011.

CITY OF VANCEBURG, KENTUCKY

By _____
Mayor

Attest:

City Clerk

CERTIFICATE OF CITY CLERK

I, the undersigned, hereby certify that I am the City Clerk of the City of Vanceburg, that the foregoing is a true, complete and correct copy of a Municipal Order adopted by the City Council of said City, signed by the Mayor, and attested by me as City Clerk, upon the occasion of a properly convened meeting of the City Council held on May 2, 2011, that said meeting was duly held in accordance with all applicable requirements of Kentucky law, including KRS 61.810, 61.815, 61.820 and 61.825, that a quorum was present at said meeting, that said Municipal Order has not been modified, amended, revoked or repealed, and that same is now in full force and effect.

IN TESTIMONY WHEREOF, witness my signature and the Seal of the City this May 2, 2011.


City Clerk

(Seal of City)

Jeana Billman

From: "Randy Jones" <wrjones@rubinhays.com>
To: "Jeana Billman" <jeana@ekns.net>
Cc: "Howe, Elwood - Morehead, KY" <elwood.howe@ky.usda.gov>
Sent: Monday, April 18, 2011 3:38 PM
Attach: Sale Order.pdf
Subject: Vanceburg RD project

Hi Jeana,

In connection with your City Council meeting on May 2, 2011, I have attached the Sale Order accepting RD's bid on the Bonds. The Council should give second reading and enact the Bond Ordinance and then open RD's Bond bid letter (this will be sent to you from the RD State office), read same and then adopt the attached Order accepting RD's bid.

Let me know if you have any questions.

Thanks

W. Randall Jones, Esq.
Rubin & Hays
450 South Third Street, Suite 300
Louisville, Kentucky 40202
Telephone: (502) 569-7534
Fax: (502) 569-7555
Email: wrjones@rubinhays.com

No virus found in this message.
Checked by AVG - www.avg.com
Version: 10.0.1204 / Virus Database: 1435/3583 - Release Date: 04/19/11

*Municipal
Order*

Wm. J. ...
... ..
... ..