

ARTICLE 3. USE REGULATIONS

3.01. PURPOSE.

The purpose of this Article is to classify, regulate, and restrict the location of commercial establishments, industries, residences, recreation, and other land uses in order to assure the compatibility of uses and practices within the goal of protecting the property rights of all individuals.

3.02. USE PROVISIONS

A. Permitted by Right

A “P” in a cell indicates that a use is allowed by-right in the respective zoning district. Permitted uses are subject to all other applicable regulations of this code.

B. Permitted with Standards

A “PS” in a cell indicates that a use is allowed by-right in the respective zoning district if it meets the additional standards that are identified in the last column of [Table 3.03-1: Use Table](#). Permitted uses with standards are subject to all other applicable regulations of the code. In certain cases, the specific characteristics or operational impacts of a use designated as “PS” may require approval of a Conditional Use Permit, as identified in the use-specific standards for the respective use.

C. Conditional Uses

A “C” in a cell indicates that a use may be permitted if approved through a conditional use process as established in [Section 13.06.B. Conditional Use](#) may be subject to use-specific standards that are identified in the last column of [Table 3.03-1: Use Table](#). Conditional uses are subject to all other applicable regulations of the code, including the conditional use review standards set forth in [Section 13.06.B. Conditional Use](#).

D. Conditional Uses with Standards

A “CS” in a cell indicates that a use may be permitted in the respective zoning district upon approval through the conditional use process established in [Section 13.06.B. Conditional Use](#) and compliance with the additional use-specific standards identified in the last column of [Table 3.03-1: Use Table](#). Conditional Uses with Standards are subject to all other applicable regulations of this code, including the conditional use review procedures and approval criteria set forth in [Section 13.06.B. Conditional Use](#). Failure to meet the applicable use-specific standards shall be grounds for denial of the conditional use application.

E. Prohibited Uses

A blank cell indicates a use is prohibited in the respective zoning district. If a use is not listed on [Table 3.03-1: Use Table](#), then it shall also be considered prohibited, unless approved by Planning Commission through the similar use determination process as established in [Section 3.04. Similar Use Determination](#).

F. Section References

The section references contained in the “Section” column in [Table 3.03-1: Use Table](#) are references to additional standards and requirements within these Zoning Regulations or Codified Ordinances that apply to the use listed in the respective row. Standards referenced in the table apply in all zoning districts in which the use is permitted or conditionally permitted, unless otherwise expressly stated.

3.03. USE TABLE

The following [Table 3.03-1: Use Table](#) lists the uses that are permitted, permitted with standards, conditionally permitted, and prohibited within the designed zoning districts of Frankfort, Franklin County.

Table 3.03-1: Permitted Use Table													
USE	FNL	RR	RL (RA+RB)	RT	RF (RS+RD)	RM (RL+RH)	MCL	MCC	MCR	PI	EE (PO+IC)	EG	ADDITIONAL STANDARDS
AGRICULTURAL USES													
Agribusiness	P	C											
Agritourism	P	C											
Ecotourism	C	C								C			
Farms, Crop Production	P	P									C		
Farms, Livestock	P	PS									CS		3.06.B
Farm Product, Retail	P	CS					CS	PS	PS				3.06.C
Farm Product, Warehousing and Storage	P	C							C		P		
Farm Product, Wholesale (Raw Materials)	P	C							C		C		
Fisheries	P	C									C	C	
Forestry Services	P	C									C	C	
RESIDENTIAL USES													
Dwelling, Single-Family, Detached	P	P	P	P	P								
Dwelling, Single-Family, Attached (Townhomes)			PS	PS	PS	PS	PS						3.07.B
Dwelling, Two-Family (Duplex)				PS	P	P	P	P					
Dwelling, Multi-Family, 3 – 5 units					P	P	P	P	P				
Dwelling, Multi-Family, 6 – 15 units						P	C	C	P				
Dwelling, Multi-Family, 16 – 30 units						PS		CS	CS				3.07.C.1
Dwelling, Multi-Family, 30 + units						PS			CS				3.07.C.2
Group Homes	P	P	P	P	P								
Mixed-Use, Vertical						PS	PS	PS	PS	PS			3.07.D
Mobile Homes	P	P											10.08
Qualified Manufactured Homes	P	P	P	P	P								
Qualified Manufactured Home Parks													
Residential Care Facility, Small	P	P	P	P	P	P							
Residential Care Facility, Large						P							
PUBLIC AND SEMI-PUBLIC USES													
Arboreta, Botanical and Zoological Gardens	CS							CS	CS				3.08.A
Campgrounds	CS	CS											3.08.B
Cemeteries	CS	CS	CS	CS	CS								3.08.C
Community Garden	P	P	P	P	P	P							
Education Facility, College, University, or Trade School	CS							CS	CS	CS	CS		3.08.D
Education Facility, Public or Private	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS			3.08.D
Golf Course / Country Club	C	C						C	C				
Government Facility	P	P	P	P	P	P	P	P	P	P	P		
Library, Museum, and Gallery	C	C	C	C	C	C	P	P	P	C			
Park or Recreation Facility, Public	P	P	P	P	P	P	P	P	P	P			
Religious Assembly	P	P	P	P	P	P	P	P	P	C	C	C	
COMMERCIAL USES													
Adult Entertainment Establishments									CS		CS		3.09.A
Animal Kennel, Daycare, and Training Facility	PS	CS					CS	CS	PS				3.09.B
Animal Hospital, Veterinarian Office, and Clinic	PS	PS					PS	PS	PS	PS			3.09.C
Automotive Fueling / Charging							CS	PS	PS		PS		3.09.D
Automotive Rental								PS	PS		PS		3.09.E
Automotive Sales / Leasing								PS	PS				3.09.F

Table 3.03-1: Permitted Use Table													
USE	FNL	RR	RL (RA+RB)	RT	RF (RS+RD)	RM (RL+RH)	MCL	MCC	MCR	PI	EE (PO+IC)	EG	ADDITIONAL STANDARDS
COMMERCIAL USES (CONT'D)													
Automotive Sales / Repair, Commercial & Recreational Vehicles									PS		PS	PS	3.09.G
Automotive Service / Repair, Major								PS	PS		PS	PS	3.09.H
Automotive Service / Repair, Minor							CS	PS	PS		PS		3.09.I
Automotive Wash / Detailing								PS	PS				3.09.J
Banks and Financial Institution							PS	PS	PS	PS			3.09.K
Bar / Tavern							P	P	P	P			
Bed and Breakfast	CS	CS				CS				CS			3.09.L
Brewery, Distillery, Winery, Cidery (macro)	CS							CS	CS		PS	PS	3.09.M
Brewery, Distillery, Winery, Cidery (micro)	PS	CS					CS	PS	PS		PS	PS	3.09.M
Brewpub							P	P	P		P		
Catering Service							P	P	P		P		
Club, Lounge, or Meeting Hall	P	P					P	P	P				
Commercial Recreation, Indoor (Major)								C	C		C		
Commercial Recreation, Indoor (Minor)							P	P	P		C		
Commercial Recreation, Outdoor (Major)	PS	CS						C	C		C		3.09.N
Commercial Recreation, Outdoor (Minor)	PS	CS					C	P	P		C		3.09.N
Creative Production Studio and Services							P	P	P		C		
Crematories								C	C		C		
Day Care Center	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	CS		3.09.O
Drive-in Theater	CS	CS							CS				3.09.P
Eating and Drinking Establishments							PS	PS	PS	PS			3.09.Q
Equestrian Academies and Services	P	C											
Firearm Clubs and Ranges	CS	CS						CS	CS		CS		3.09.R
Fitness Center								P	P				
Fitness Studio							P	P	P		C		
Funeral Services							P	P	P	P			
Garden Center / Greenhouse / Nursery	P	C					C	C	P		C		
General Contractors, Construction							PS	PS	PS	PS	P	P	3.09.S
Hospitals								C	P		C		
Hotels / Motels							P	P	P	P			
Institutional Care Facility		C	C	C	C	C	C	C	C				
Medicinal Cannabis, Cultivator	CS										CS	PS	3.09.T
Medicinal Cannabis, Dispensary							PS	PS	PS	PS			3.09.T
Medicinal Cannabis, Processor											CS	PS	3.09.T
Medicinal Cannabis, Producer											CS	PS	3.09.T
Medicinal Cannabis, Safety Compliance Facility							PS	PS	PS	PS	PS	PS	3.09.T
Medical Office, Clinic, Urgent Care							PS	PS	PS	PS	PS		3.09.U
Office							P	P	P	P	P	C	
Parking (Principal Use)							CS	CS	CS		CS		3.09.V
Personal Improvement Services	C						P	P	P	P	C		
Retail Sales and Service, Neighborhood-Scale						P	P	P	P	P			
Retail Sales and Service, Medium-Scale						C	C	P	P	P			
Retail Sales and Service, Large-Scale								CS	PS				3.09.W
Trade Equipment Sales								C	C		C		

Table 3.03-1: Permitted Use Table													
USE	FNL	RR	RL (RA+RB)	RT	RF (RS+RD)	RM (RL+RH)	MCL	MCC	MCR	PI	EE (PO+IC)	EG	ADDITIONAL STANDARDS
Wholesale, Commercial								C	C		C		
INDUSTRIAL USES													
Building Material Sales and Storage								CS	CS		PS	PS	3.10.A
Distribution / Fulfillment Center and Warehousing											PS	PS	3.10.B
Junk / Salvage / Tow Yard												CS	3.10.C
Laboratory and Research Facility									C		P	P	
Manufacturing, Artisanal	CS						PS	PS	PS		PS		3.10.D
Manufacturing, Fabrication								P	P		P	P	
Manufacturing, Light								C	C		P	P	
Manufacturing, General											P	P	
Mining	C											C	
Processing and Refining, Materials and Chemicals	C											P	
Self-Storage / Mini-Storage								CS	PS		PS	PS	3.10.E
Transportation Terminals and Freight Services											C	P	
Warehousing and Storage											P	P	
ACCESSORY USES AND STRUCTURES													
Accessory Dwelling Units	PS	PS	PS	PS	PS								3.11.C
Accessory Structures	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	3.11.D
Accessory Uses	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	3.11.E
Automated Teller Machines (ATM)							P	P	P	P			
Drive-Through Facilities								CS	PS				3.11.F
Electric Vehicle Charging Stations	P	P	P	P	P	P	P	P	P	P	P	P	
Family Child Care Home (Type I and Type II)	PS	PS	PS	PS	PS	PS							3.11.G
Fences and Walls	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	3.11.H
Home Occupations	PS	PS	PS	PS	PS	PS							3.11.I
Keeping of Fowl (Non-crowling)	PS	PS	PS	PS	PS						PS	PS	3.11.J
Outdoor Dining / Food Services							PS	PS	PS				3.11.K
Outdoor Displays and Sales	PS						PS	PS	PS		PS		3.11.L
Outdoor Storage, Bulk and Retail	PS							PS	PS		PS	PS	3.11.M
Pick-Up Window							PS	PS	PS				3.11.N
Roadside Stand	PS	PS	CS										3.11.O
Short-Term Rental (Non-Owner Occupied)	PS	PS			C	C	PS	PS	PS				3.11.P
Short-Term Rental (Owner Occupied)	PS	PS	PS	PS	PS	PS	PS	PS	PS				3.11.P
Swimming Pool	PS	PS	PS	PS	PS	PS							3.11.Q
TEMPORARY USES													
Construction Dumpster	P	P	P	P	P	P	P	P	P	P	P	P	
Construction Office / Trailer	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	3.12.B
Mobile Food Vendor	PS						PS	PS	PS	PS	PS	PS	3.12.C
Seasonal Sales							PS	PS	PS		PS		3.12.D
SPECIAL USES													
Data Center, Accessory (<2,000 sq. ft.)											PS	PS	3.13.A
Data Center, Minor (2,000 – 19,999 sq. ft.)											CS	CS	3.13.A
Data Center, Medium (20,000 – 99,999 sq. ft.)											CS	CS	3.13.A
Data Center, Major (100,000 – 499,999 sq. ft.)											CS	CS	3.13.A
Data Center, Campus (≥500,000 sq. ft.)											CS	CS	3.13.A

Table 3.03-1: Permitted Use Table													
USE	FNL	RR	RL (RA+RB)	RT	RF (RS+RD)	RM (RL+RH)	MCL	MCC	MCR	PI	EE (PO+IC)	EG	ADDITIONAL STANDARDS
Small Cellular Systems and Towers	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	3.13.B
Solar Energy Systems – Integrated / Roof Mounted	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	3.13.C
Solar Energy Systems – Small Scale	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	3.13.C
Solar Energy Systems – Intermediate Scale	CS	CS						PS	PS	PS	PS	PS	3.13.C
Solar Energy Systems – Large Scale	CS							CS	CS	CS	CS	CS	3.13.C
Wireless Telecommunication Facilities	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	3.13.D

3.04. SIMILAR USE DETERMINATION

- A. Where there is a proposed use that is not currently listed in the [Table 3.03-1: Use Table](#), the Planning & Zoning Administrator may review the use to determine the appropriate zoning districts, if any, where the use may be permitted.
- B. The Planning & Zoning Administrator should consider the nature, operation, and function of the use in its determination of an appropriate district.
- C. The Planning & Zoning Administrator shall then make a recommendation of finding that the use is not compatible with any existing zoning district and not permit the use under the current zoning code or, as an alternative, the Planning & Zoning Administrator may make a recommendation to the Planning Commission that a new district and/or new provision be adopted through the zoning text and/or map amendment procedure, pursuant to [Section 13.06.A. Zoning Map and Text Amendments](#).

3.05. GENERAL USE REGULATIONS

A. Exemption of Essential Services

1. Statutory Exemption for Public Utility Service Facilities.

Pursuant to KRS 100.324, public utilities operating under the jurisdiction of the Kentucky Public Service Commission (PSC), the Federal Energy Regulatory Commission (FERC), or municipally owned electric systems shall not be required to receive local zoning approval or Planning Commission approval for the location, relocation, construction, or maintenance of **service facilities** (including mains, pipes, conduits, wires, cables, traffic signals, hydrants, poles, substations, regulator stations, towers, and incidental accessory equipment).

2. Nonservice Facilities.

Utility structures and sites that constitute nonservice facilities (such as office space, garage space, and warehouse space not incidental to a service facility) shall comply with all applicable district regulations and site development standards of these Zoning Regulations.

3. Municipal & Public Facility Review.

Proposals for the acquisition, disposition, or major development of land or structures for municipal buildings or other non-exempt public facilities shall be submitted to the Planning Commission for advisory review in accordance with **KRS 100.324(4)** to evaluate agreement with the Comprehensive Plan prior to construction.

B. Use Separation Measurements

Measurements from use to use shall be done so from property line to property line as measured from the nearest point along the closest property to the proposed use's nearest point along the closest property boundary.

C. Mixed Uses and Multiple Occupancies

Mixed use / multiple occupancies on a lot shall be permitted in non-residential districts, provided such uses / occupancies are located within the same principal building or comply with [Section 3.05.D. Multiple Uses and Structures](#) below.

D. Multiple Uses and Structures

In the FNL; RF; RM; MCL; MCC; MCR; PI; EE; and EG zoning districts, multiple principally permitted uses and structures are allowed within a single building or on a single lot subject to the following:

1. All structures that include a principally permitted use shall meet the setbacks for a principal structure for the applicable zoning district per [Section 4.02. Dimensional Standards](#).
2. All applicable development standards for the principally permitted uses shall be required, including, but not limited to, parking, landscaping, buffering, lighting, and signage.

ARTICLE 3. USE REGULATIONS
3.06. AGRICULTURAL USE REGULATIONS

E. Principal Building Required

1. No use shall be conducted on a lot without a principal structure first being established or present, unless specified otherwise.
2. The following uses are not required to have a principal structure:
 - a. Agricultural uses
 - b. Arboreta
 - c. Cemeteries
 - d. Community Gardens
 - e. Open Space and Conservation
 - f. Parking, Principal
 - g. Park or Recreation Facility, Public or Private
 - h. Public / Private Utility
 - i. Recreation or Entertainment Facility, Outdoor
3. The conducting of a principal use within an accessory structure is prohibited unless specifically exempt and regulated herein.

3.06. AGRICULTURAL USE REGULATIONS

A. Agricultural Land Exemptions

Notwithstanding any other provision of this Zoning Regulation, per [KRS 100.111\(2\)](#), "agriculture use" means the use of:

1. A tract of at least five (5) contiguous acres for the production of agricultural or horticultural crops, including but not limited to livestock, livestock products, poultry, poultry products, grain, hay, pastures, soybeans, tobacco, timber, orchard fruits, vegetables, flowers, or ornamental plants, including provision for dwellings for persons and their families who are engaged in the agricultural use on the tract, but not including residential building development for sale or lease to the public. For purposes of this subsection, "livestock" means cattle, sheep, swine, goats, horses, alpacas, llamas, buffaloes, and any other animals of the bovine, ovine, porcine, caprine, equine, or camelid species
2. Regardless of the size of the tract of land used, small farm wineries licensed under [KRS 243.155](#).
3. A tract of at least five (5) contiguous acres used for the following activities involving horses:
 - a. Riding lessons
 - b. Rides
 - c. Training
 - d. Projects for educational purposes
 - e. Boarding and related care; or
 - f. Shows, competitions, sporting events, and similar activities that are associated with youth and amateur programs, none of which are regulated by [KRS Chapter 230](#), involving 70 or less participants. Shows, competitions, sporting events, and similar activities that are associated with youth and amateur programs, none of which are regulated by [KRS Chapter 230](#), involving more than 70 participants shall be subject to local applicable zoning regulations; or

B. Farms, Livestock

Such uses, when located within the "RR" district, are subject to the following:

1. Lots shall be a minimum of five (5) acres in size.
2. Animals shall be kept in a fence or structure of sufficient height and construction to prevent the animal(s) from leaving the property.

C. Farm Product, Retail

1. All operations must be confined to an enclosed building, or enclosed and fully covered on all sides by an opaque ornamental screen, and shall comply with all height and setback requirements, and shall be included in the maximum lot coverage calculations. The sale of automobiles and trucks is exempted from this rule, but all outdoor display areas shall comply with the Parking Regulations in [Article 5. Parking, Loading, and Circulation](#).
2. In the CB and UM Districts, home garden equipment and supplies shall be confined within the structure. Sale of farm or equipment products in these districts shall be prohibited.

3.07. RESIDENTIAL USE REGULATIONS

A. Conversion of a Dwelling

The conversion of any building into a dwelling, or the conversion of any dwelling to accommodate an increased number of dwelling units or families, shall only be permitted within a zoning district that permits multiple dwelling units or accessory dwelling units. Such use shall be subject to all the applicable regulations contained within these zoning regulations.

B. Dwelling, Single-Family, Attached

1. Single family attached dwellings may be built to the side property lines when a shared wall is located on the shared property line. Where a shared wall is not located on the property line, the dwelling shall meet the required side setback.
2. No more than three (3) contiguous single-family attached dwellings may be established at the same setback. A variation of at least three (3) feet shall be required where a break in setback occurs.
3. A minimum of 10 feet shall be maintained between each separate group of dwelling units on one shared lot.
4. Driveways of attached units shall be paired. The minimum distance for driveways providing off street parking from garage / building to sidewalk shall be 18 feet.

C. Dwelling, Multi-Family

1. Multi-Family, 16 – 30 Units

In the “-S” and “-R” Community Character Designations, the following standards shall apply:

- a. A minimum of 25 percent of the development shall be occupied by open or green space that may include landscaping / screening areas, drainage areas, active and passive recreation areas, and other similar uses. Required on site retention and/or detention basin facilities can be used toward the open space requirement but may not be counted towards more than 50% of the required open space.
- b. The development shall include a minimum of one (1) amenity that are to be utilized by the residents of the development and/or the public. Such amenities may include club houses, pools, dog parks, playgrounds, active or passive parks, walking trails, public gathering areas, and other similar uses.

2. Multi-Family, 30+ Units

In the “-S” and “-R” Community Character Designations, the following standards shall apply:

- a. A minimum of 25 percent of the development shall be occupied by open or green space that may include landscaping / screening areas, drainage areas, active and

ARTICLE 3. USE REGULATIONS

3.08. PUBLIC & INSTITUTIONAL USE REGULATIONS

passive recreation areas, and other similar uses.

- b. The development shall include a minimum of two (2) amenities that are to be utilized by the residents of the development and/or the public. Such amenities may include club houses, pools, dog parks, playgrounds, active or passive parks, walking trails, public gathering areas, and other similar uses.
- c. Required on site retention and/or detention basin facilities can be used toward the open space requirement but may not be counted towards more than 50% of the required open space.

D. Mixed Use, Vertical

1. Residential uses shall only be permitted on the first floor if they are located in the rear half of the building to allow for a non-residential use to utilize the first-floor storefront
2. Residential uses are permitted to utilize the entirety of the second story or any additional stories

3.08. PUBLIC & INSTITUTIONAL USE REGULATIONS

A. Arboreta, Botanical, and Zoological Gardens

1. Sites that include the keeping of zoo animals shall be a minimum of 20 acres and be located at least 500 feet from any residential zoning district, residential lot line, or recorded residential subdivision.
2. Animals shall be kept in a fence or structure of sufficient height and construction to prevent the animal(s) from leaving the property.
3. Overnight sheltering of animals shall be within a completely enclosed building. Such buildings shall be within an area fully enclosed by a fence.
4. Site access shall be from an arterial or collector street at minimum.

B. Campgrounds

1. Such use shall only be permitted where principal access is to a street designated at least a collector.
2. Designated turnaround areas and emergency access routes shall be provided.
3. Camp sites for tents and recreational vehicles shall be used for temporary stay.
4. Such use shall comply with the standards established in [902 KAR 15:020](#).

C. Cemeteries

1. Parking shall be provided on site.
2. Cemeteries shall be established in compliance with all applicable City, County, and State laws.
3. The front lot line may be required to include buffering if the Planning Commission makes such a determination based on the adjacent uses.
4. Columbaria or other structures accessory to the cemetery shall meet the minimum bulk, screening, and setback requirements for the applicable underlying base zoning district.
5. Access to the site shall be from at least a collector street. Site circulation shall be such to create minimal interference with normal traffic operations on public rights-of-way. This provision may be waived or modified by the Planning Commission for sites located within the -R character sub-area on a case by case basis.

D. Education Facilities

1. Facilities shall provide a traffic management plan indicating designated drop-off and pick-up areas and on-site bus circulation (grades K-12).

3.09. COMMERCIAL USE REGULATIONS

A. Adult Entertainment Establishments

1. General Regulations

The establishment and operation of any SOB within the jurisdiction of Frankfort/Franklin County shall be subject to the following authorities Where conflicts arise in regulations, the more stringent shall apply.

- a. [KRS 231.010 et seq.](#): Regarding the permitting of entertainment venues.
- b. [KRS 531.010 et seq.](#): Regarding state-level criminal conduct standards.
- c. [SB 147 \(2024\)](#): Establishing the 933-foot minimum statewide separation "floor."
- d. Franklin County Ordinance No. 1, 2006 Series: regarding non-zoning business licensing and background checks.

2. Locational Standards and Buffers

All Sexually Oriented Businesses shall comply with the following minimum separation requirements. These distances shall be measured in a straight line from the nearest property line of the SOB to the nearest property line of the protected use:

- a. A minimum separation of 1,000 feet shall be maintained from any:
 - i. Educational facility (Public or Private K-12);
 - ii. Daycare center or preschool;
 - iii. Park, playground, or public recreational facility;
 - iv. Place of worship or religious institution; or
 - v. Public library.
- b. A minimum separation of 1,000 feet shall be maintained from any parcel zoned for residential use (R-Districts) or any parcel identified as a "Residential" character area in the Comprehensive Plan.
- c. No SOB shall be located within 1,500 feet of any other existing or permitted Sexually Oriented Business.

3. In addition to standard Site Plan Review requirements, the following shall apply:

- a. No Zoning Permit or Certificate of Occupancy shall be issued until the applicant provides documentation of an approved [City/County] Adult Entertainment License pursuant to the applicable Business Regulation Code.
- b. Site and floor plans shall demonstrate an "Open Booth" design. No viewing area shall be obscured by doors, curtains, or enclosures, and all such areas shall be visible from a continuous main aisle.
- c. Notwithstanding the provisions of the Sign Code, no exterior signage or display for an SOB shall contain any matter that is "Harmful to Minors" as defined by [KRS 531.010\(3\)](#).

B. Animal Kennel, Daycare, and Training Facility

1. Any outdoor run or enclosure shall be enclosed (uncovered) with a six (6) foot high privacy fence (wood or vinyl material), wall, or other similar method as determined appropriate by the Planning & Zoning Director. Chain link fences, with or without slats, do not meet this requirement.

ARTICLE 3. USE REGULATIONS
3.09. COMMERCIAL USE REGULATIONS

2. All principal boarding use activities shall be conducted within a completely enclosed principal structure. There shall be no storage or boarding of animals outside of a completely enclosed structure.
3. Any outdoor run or enclosure shall not be located in the front yard and shall comply with the minimum building setback requirements for the underlying zoning district.
4. Any outdoor run or enclosure shall not be used between the hours of 10:00 p.m. and 7:00 a.m.

C. Animal Hospital, Veterinarian Office and Clinic

1. Any outdoor run or enclosure shall not be located in the front yard and shall comply with the minimum building setback requirements for the underlying zoning district.
2. There shall be no breeding and/or boarding of dogs or other animals, except for confinement under emergency treatment in facilities within the principal structure.

D. Automotive Fueling / Charging

1. Fuel canopies, gas pumps, charging stations, air compressors, and similar equipment may be located in the front yard.
2. The only services permitted to be performed on a vehicle on site shall be the dispensing of fuel, oil, air, windshield wiper fluid, the charging of electric vehicles, and other similar activities customarily incidental to such use.
3. Under canopy lighting fixtures shall be flush mounted with the surface of the underside of the canopy and shall meet the lighting standards established by [Article 8. Outdoor Lighting](#).
4. Automobile fueling stations do not include facilities designed for the fueling of semi-trailer trucks.
5. There shall be no outdoor storage of car parts, wrecked cars, or other similar materials.
6. Electronic displays on freestanding signage shall be subject to the standards of [Section 7.09.B. Electronic Message Board](#).
7. Headlights shall be completely screened from public streets and adjoining property using hedges, shrubs, walls or similar methods, unless the adjacent property is used for automotive-related purposes.
8. This section shall not apply to electric vehicle (EV) chargers as an accessory use in a parking lot for use by customers or employees.
9. No outdoor speaker systems shall be permitted for uses that are located within 100 feet of any residential lot line, residential zoning district, or recorded residential subdivision.

E. Automotive Rental

1. Automotive rental uses shall be conducted from a permanent principal structure located on the same lot. The use of temporary trailers, sheds, or outdoor kiosks as the sole business office is prohibited.
2. Any automotive repair and service work shall be accessory to the rental operation and shall be conducted within a completely enclosed building.
3. Headlights shall be completely screened from public streets and adjoining property using hedges, shrubs, walls or similar methods, unless the adjacent property is used for automotive-related purposes.
4. No outdoor speaker systems shall be permitted for uses that are located within 100 feet of any residential lot line, residential zoning district, or recorded residential subdivision.
5. All sales and circulation areas must be paved with asphalt or concrete. There shall be no vehicle storage or sales on unpaved and unstriped areas.

6. There shall be no outdoor storage of car parts, wrecked cars, or other similar materials.

F. Automotive Sales / Leasing

1. A principal structure is required for an Automotive Sales / Leasing use.
2. Any automotive repair and service work shall be accessory to the sales / leasing operation and shall be conducted within a completely enclosed building.
3. Headlights shall be completely screened from public streets and adjoining property unless the adjacent property is used for automotive-related purposes.
4. No outdoor speaker systems shall be permitted for uses that are located within 100 feet of any residential lot line, residential zoning district, or recorded residential subdivision.
5. All sales and circulation areas must be paved with asphalt or concrete. There shall be no vehicle storage or sales on unpaved and unstriped areas.
6. There shall be no outdoor storage of car parts, wrecked cars, or other similar materials.

G. Automotive Sales/ Repair, Commercial and Recreational Vehicles

1. Use shall be located along a street classified at least as a major arterial.
2. No outdoor speaker systems shall be permitted for uses that are located within 100 feet of any residential lot line, residential zoning district, or recorded residential subdivision.
3. No trucks, machinery, or equipment shall be parked or stored within the front yard or on an arterial street within 25 feet of the right-of-way.
4. All other requirements outlined in [Section 3.09.F. Automotive Sales / Leasing](#) shall apply to Automotive Sales / Repair, Commercial and Recreational Vehicles.

H. Automotive Service / Repair, Major

1. All repair work shall be conducted within a completely enclosed building.
2. Vehicles awaiting service, or awaiting customer pick up, and which are licensed, and operable shall be parked in a marked parking space on a surface paved with either asphalt or concrete.
3. Any unlicensed, inoperable, junk, or wrecked vehicles, and any outdoor storage of car parts or similar materials shall be located in the rear yard and completely screened by a six (6) foot high privacy fence (wood, vinyl, or other similar material as approved by the Planning & Zoning Director) or wall. Chain link fences, with or without slates, do not meet this requirement.

I. Automotive Service / Repair, Minor

1. All repair work shall be conducted within a completely enclosed building.
2. There shall be no outdoor storage of car parts, junk cars, or other similar materials.

J. Automotive Washing / Detailing

1. Use shall be located along a street classified at least as a major collector.
2. Vacuuming and/or steam cleaning equipment may be located outside a building in the side or rear yard but shall not be placed in any yard adjoining a residential lot line, residential district, or recorded residential subdivision.
3. All vehicles required to wait for access to the facility shall be provided with off-street parking or stacking spaces, as required per [Section 5.04. Off-Street Stacking Spaces](#).
4. There shall be no outdoor storage of car parts, wrecked cars, or other similar materials.

K. Banks and Financial Institutions

ARTICLE 3. USE REGULATIONS
3.09. COMMERCIAL USE REGULATIONS

1. Where permitted, any drive-through facilities shall meet the requirements established in [Section 3.11.F. Drive-Through Facilities](#), and any pick-up window facility shall meet the requirements established in [Section 3.11.N. Pick-Up Windows](#).

L. Bed and Breakfast

1. Bed and breakfast homes may be located in any single-family residential structure subject to conditional use permit review and approval by the Board of Zoning Adjustment.
2. The owner of any single-family residential structure where a Bed and Breakfast Home is located must reside at the home.
3. Bed and breakfast homes shall be limited to four (4) lodging units or bedrooms provided for guest accommodations. The maximum length of stay for any guest shall be four (4) nights.
4. No structure shall be altered or enlarged beyond its existing walls in order to accommodate the bed and breakfast uses
5. Parking shall be provided in accordance with [Article 5. Parking, Loading, and Circulation](#).
6. Any sign that is provided shall not exceed two (2) square feet and meet all requirements for the applicable zoning district related to signage in [Article 7. Signage](#).
7. The owner of the bed and breakfast shall be required to obtain approval and licensing from the State of Kentucky Health Department for septic systems.

M. Brewery, Distillery, Winery, and Cidery

1. Outdoor storage for such use is only permitted in the EE or EG Districts and shall comply with outdoor storage requirements of [Section 3.11.M. Outdoor Storage, Bulk and Retail](#).
2. All production shall be within completely enclosed structures.
3. Outdoor dining or gathering areas are subject to the regulations in [Section 3.11.K. Outdoor Dining/Food Service Areas](#).
4. All production shall be within completely enclosed buildings, except exterior storage tanks that hold materials or products associated with the brewing or distilling process must be located in the side or rear yard, unless waived by the Planning Commission. Such storage tanks shall be subject to the maximum height restrictions of the zoning district they are located within. No signage or identification may be located on such containers unless approved by the Planning Commission.
5. When a facility located within the FNL district, the following shall apply:
 - a. Delivery of any supplies and pick-up of finished products shall not be carried out by vehicles with more than three axles.
 - b. The distillery/winery shall not operate between the hours of 9:00 p.m. and 7:00 a.m. (with the exception of any incidental activities of an agricultural nature). (*The fermentation of the distillery's product does not constitute "operation" for the purposes of this requirement.)
 - c. The craft distillery/winery must be located on a lot that is a minimum of 50 acres.
 - d. If a distillery, the location of the actual distillery facility (i.e., mash tun, fermenters, still or bottling facilities) shall be located a minimum of 150 feet from every property line. In the case of a winery the location of the fermenters, and bottling facilities shall be located a minimum of 150 feet from every property line.
 - e. Any retail sale on site shall be clearly incidental to the distillery operation and in compliance with the applicable state and federal statutes.
 - f. Craft distilleries or small farm wineries in residential or agricultural zones shall not produce more than 50,000 gallons per year of finished product. This production

maximum includes any product distilled off-site and/or shipped in to be blended and/or bottled on site.

- g. Any proposal for a conditional use shall be accompanied by a site plan showing all ingress, egress, building site (existing and proposed), all utilities, means of fire protection, parking layout and other information as may be required by the staff or Board of Zoning Adjustments.

N. Commercial Recreation, Outdoor (Major)

1. All active recreation areas, structures, outdoor seating, and public gathering spaces shall be setback a minimum of 100 feet from any adjacent residential zoning district boundary or existing residential use.
2. The facility shall have primary vehicular access from a designated Collector or Arterial roadway. Access via local residential streets is strictly prohibited.
3. When adjacent to a residential zoning district or existing residential use, outdoor activities, amplified sound, and grounds maintenance using heavy equipment shall be restricted to the hours of 7:00 AM to 10:00 PM.
4. All outdoor lighting shall be fully shielded, downward-facing, and comply with Article 5. Outdoor Lighting. Lighting for outdoor playing fields, courts, or tracks shall be extinguished within 30 minutes of the conclusion of the final event or by 10:30 PM, whichever occurs first.
5. Ancillary accessory uses including concession stands, and retail sales directly related to the principal recreational use are permitted, provided the dimensional standards and lot / building coverage requirements established by [Article 4. Dimensional Standards](#) for the applicable zoning district are met.

O. Day Care Center

The following provisions apply to commercial Day Care Centers. Family Child Care, Home (as regulated by [Table 3.03-1: Use Table](#) and [Section 3.11.G. Family Child Care Home](#) are not included in this use type.

1. Such use shall comply with all provisions established by [KRS Chapter 199](#) related to Day Care Centers and Child Care.

P. Drive-In Theater

1. Site must have direct access to an arterial road as identified in the functional street classification map.
2. The viewing screen shall not be visible from any public right-of-way within 1,500 feet. In addition, cars parked in the viewing area shall be screened on all sides by a wall, fence or densely planted evergreen buffer not less than six (6) feet in height.
3. Stacking space for the vehicles waiting for admission to the theater shall be equal to 20% of the capacity of the theater. All entrances and exits shall be separated, and internal circulation shall be laid out to provide one-way circulation.
4. Sale of refreshments shall be limited to patrons of the theater. Amusement parks, playgrounds, or similar, shall be accessible only to the patrons of the theater.
5. All parking area and access ways shall be adequately illuminated; provided, however, that such lighting shall be shielded to prevent any glare or reflection onto a public right-of-way or neighboring properties, as established in [Article 8. Outdoor Lighting](#).

Q. Eating and Drinking Establishment

ARTICLE 3. USE REGULATIONS
3.09. COMMERCIAL USE REGULATIONS

1. Establishments may include a drive-through facility as an accessory to the use only in districts where permitted in the Accessory Structures and Uses subsection of [Table 3.03-1: Use Table](#) and as regulated by [Section 3.11.F. Drive-Through Facilities](#).
2. Establishments may include a pick-up window facility as an accessory to the use only in districts where permitted in the Accessory Structures and Uses subsection of [Table 3.03-1: Use Table](#) and as regulated by [Section 3.11.N. Pick-Up Windows](#).
3. Establishments may include outdoor dining / food service as an accessory to the use only in districts where permitted in the Accessory Structures and Uses subsection of [Table 3.03-1: Use Table](#) and as regulated by [Section 3.11.K. Outdoor Dining/Food Service Areas](#).

R. Firearm Clubs and Ranges

1. Outdoor Firearm Clubs and Ranges shall meet the following:
 - a. Outdoor shooting ranges, including firing lines, targets, and berms, shall be a minimum of 500 feet from all property lines, and a minimum of 1,000 feet from any residential use, educational facility, or place of worship.
 - b. Earthen berms or bullet containment systems behind all targets shall be a minimum of 20 feet in height.
2. Indoor Firearm Clubs and Ranges shall meet the following:
 - a. Facilities shall include ballistic walls, ceilings, and containment systems.
 - b. Facilities shall include air filtration systems for lead and particulate removal.

S. General Contractors, Construction

1. In the MCL districts, such use is permitted for business office portion of use only. No equipment may be located, either temporarily or permanently, at this location.
2. In the MCC and MCR district, all equipment on site must be located within a completely enclosed structure or within a fenced in area not visible from the right-of-way.

T. Medicinal Cannabis

1. Such licensed cannabis businesses shall comply with the provisions established by [KRS 218B](#).
2. Medical Cannabis Cultivator uses shall be limited to only Tier I and Tier II in the Farms and Natural Landscape, FNL district as a conditional use.

U. Medical Office, Clinic Urgent Care

1. Medical offices, clinics, and urgent cares shall not include helipads on site unless specifically approved through the conditional use process established in [Section 13.06.B. Conditional Use](#).

V. Parking (Principal Use)

1. Parking, Commercial and Fleet Vehicles

- a. All landscape and buffer requirements outlined in [Section 6.07. Landscape Buffer Requirements](#) shall apply.

2. Parking, Passenger Vehicles

- a. All landscape and buffer requirements outlined in [Section 6.07. Landscape Buffer Requirements](#) and [Section 6.08. Vehicular Use Area \(VUA\) Landscaping Requirements](#) shall apply.
- b. Signage shall be limited to freestanding signage for parking lot identification per street frontage as well as Incidental Signs per [Section 7.09.D. Incidental Signs](#).

W. Retail Sales and Service, Large-Scale

1. Large-scale retail establishments shall be accessed from at least a collector street, and the number and location of access points shall be reviewed and approved by the appropriate

jurisdiction having authority. Site circulation shall be provided with internal access drives that connect developments, buildings, and parking areas.

2. If there are multiple lots that comprise the overall development, cross access and cross parking agreements shall be established that are agreed upon and executed by all applicable property owners.
3. The development shall provide continuous internal pedestrian walkways, no less than four (4) feet in width, which are provided from the public sidewalk located in the adjacent road right-of-way to each principal customer entrance of the principal building on the site. The internal walkway on site must feature landscaping, benches and other such materials/facilities for no less than fifty percent (50%) of its length.
4. Raised sidewalks, no less than eight (8) feet in width shall be provided along the full length of the building along any façade featuring a customer entrance or which abut public parking areas.
5. All deliveries, loading, and trash storage or removal shall be conducted behind the building, in the rear yard.
6. The development shall contribute to the establishment or enhancement of community and public spaces by providing at least two (2) of the following amenities, which in combination shall make up a minimum of five percent (5%) of the gross floor area of the large retail establishment. Such amenities may be included within the designated open space or green space required in Subsection Z.6 (above).
 - a. Decorative pedestrian plaza with benches;
 - b. Pocket park;
 - c. Outdoor playground area;
 - d. Kiosk or wayfinding area;
 - e. Water feature;
 - f. Clock tower; or
 - g. Other such deliberately shaped area or a focal feature of amenity.
7. Parking shall be distributed around large buildings on not less than two sides to shorten the distance to other buildings and public sidewalks and to reduce perceived scale of paved surfaces. No single parking area shall exceed 200 spaces unless divided into two or more sub-areas separated from each other by landscaping, access drives or public streets, pedestrian walkways or building.

3.10. INDUSTRIAL USE REGULATIONS

A. Building Material Sales and Storage

1. A principal building is required on site.
2. Materials stored outside shall be located in the side or rear yard and shall comply with the outdoor storage requirements of [Section 3.11.M. Outdoor Storage, Bulk and Retail](#).
3. Any operations conducted outside of the principal structure shall be within an area enclosed on all sides with a solid wall or uniformly opaque fence not less than six (6) feet in height.

B. Distribution / Fulfillment Center and Warehousing

1. Fleet vehicle parking shall be to the side or rear of the property on a striped asphalt or concrete paved surface.
2. Fleet vehicle parking areas shall be screened with an opaque, solid wall, fence, or hedge that is at least six (6) feet in height along all sides visible from adjoining residential property.

ARTICLE 3. USE REGULATIONS
3.10. INDUSTRIAL USE REGULATIONS

3. No junk, inoperative, or unlicensed automobiles, or parts, shall be permitted on the property.
4. No outdoor storage of any material or waste shall be permitted on site.
5. Loading docks and spaces shall meet the standards of [Section 4.07. Design Standards for Enterprise Districts](#).

C. Junk / Salvage / Tow Yard

1. Such use shall be a minimum of 300 feet from any residential lot line, residential zoning district, or recorded residential subdivision, unless otherwise established by the Board of Zoning Adjustments.
2. Such uses shall be located within one (1) mile of a state highway, federal highway, or freeway interchange.
3. The use shall have direct frontage and ingress / egress to an arterial street.
4. With the exception of processing of metal salvage, all waste processing shall be conducted within a completely enclosed building, or within a solid opaque masonry, brick, or concrete wall with a minimum height of eight (8) feet.
5. No articles shall be stacked or piled so as to exceed the height of the wall.
6. Burning on site is prohibited.
7. Processes involving the use of equipment for cutting, compressing, or packaging shall be conducted within a completely enclosed building.

D. Manufacturing, Artisanal

When such use is located within a MCL, MCC, MCR, or S-CBD zoning district, retail of products manufactured on site shall be included.

E. Self-Storage / Mini-Storage

1. The subject property shall have frontage and access from a Collector or higher rated street. This shall not be waived or modified.
2. Within Special Districts, new construction and any demolition of existing principal structures on the subject site shall only be permitted by the Planning Commission through the Development Plan approval process outlined in Section 13.06.E. Development Plan.
3. New construction will be permitted subject to approval of a Development Plan in accordance with [Section 13.06.E. Development Plan](#), and [Article 14. Subdivision Regulations](#).
4. No outside storage yard (boat, trailer, RV, etc.) shall be located inside of any required landscape buffer/easement. Any outside storage yard area that is not located adjacent to a residential zone or right-of-way, shall be set back a minimum of 25 feet from the property line. The outside storage yard area shall be further screened by a 6' privacy fence plus a 3' tall hedge (at time of planting) on all exterior sides located along the immediate perimeter of such storage yard, other than the entrance gate(s).
5. The maximum height of any building shall be 16 feet. The height shall be determined as defined within [Section 4.03.F. Height Measurements](#).
6. Access to each unit shall be limited to only internal drives.
7. Apart from the primary access drive, perimeter access drives shall be setback a minimum of 12 feet when no landscape buffer/easement is required; and perimeter access drive shall not encroach into any required landscape buffer/easement.
8. Exceptions to the above standards:
 - a. When the entire exterior perimeter of the buildings facing residential zoned property or street right-of-way are constructed with brick or split face cement blocks and the

roof(s) are gable or hip contain shingles, the project may be administratively exempt from subsections E.2 and E.5. above; or

- b. When all storage units are contained within a single building that are fully enclosed, heated and cooled, and provide all access to the units from the interior of the building, the project may be administratively exempt from subsections E.2 and E.5. above.
9. When an applicant is seeking Planning Commission review concerning any of the above items, such review shall be completed prior to the Board of Zoning Adjustment's review of the requested Conditional Use Permit.

3.11. ACCESSORY USE AND STRUCTURE STANDARDS

A. Purpose

This section authorizes the establishment of accessory uses and structures that are incidental and customarily subordinate to principal uses and structures.

B. General Provisions

Accessory uses or structures shall be permitted, provided that:

1. The building or use is incidental to, and customarily found in connection with, a principal building or use permitted in the district in which it is located.
2. It is subordinate to, and serves, the principal building or use.
3. It is located on the same lot as the principal use for which it serves.
4. An owner (or their authorized agent) applies for, and receives a Zoning Permit, unless otherwise exempted or not required by this section.
5. An accessory use or structure shall not be established unless a principal use or structure has first been established on a site in conformance with the applicable provisions of these Zoning Regulations.
6. Unless permitted by the Planning Commission, or as part of a Planned Development approval by the City or County, accessory structures and uses shall be prohibited in any open space area required by the provisions of these Zoning Regulations, with the exception of those structures that serve the open space, including but not limited to gazebos, picnic shelters, pergolas, and the like.

C. Accessory Dwelling Unit

1. No more than one (1) accessory dwelling unit is permitted per lot.
2. Accessory dwelling units may be within the principal structure, attached to the principal structure as an addition, or a stand-alone, detached structure. In all cases, the accessory dwelling unit shall be located on the same lot as the principal dwelling unit and structure.
3. Accessory dwelling units shall not exceed 800 square feet or 30% of the gross floor area of the principal dwelling, whichever is greater. For basement conversions within the principal structure, this maximum may be exceeded if no expansion of the structure's footprint occurs. Any accessory dwelling unit that exceeds this requirement shall require review and approval through the variance process as established by [Section 13.06.C. Variances](#).
 - a. Within the SH and SC districts, existing accessory structures that exceed these maximum dimensions or area provisions may be utilized as accessory dwelling units, provided that no further enlargement of the structure occurs.
4. Detached accessory dwelling units shall not exceed the height limit for accessory structures or the principal structure, whichever is less. Such structures shall comply with accessory structure setbacks and be located in the side or rear yard only.

ARTICLE 3. USE REGULATIONS

3.11. ACCESSORY USE AND STRUCTURE STANDARDS

5. One (1) pedestrian entrance is allowed on the street-facing facade. Secondary entrances must be oriented to the side or rear yard.
6. Accessory dwelling units must comply with maximum lot coverage requirements applicable to the principal dwelling.
7. Accessory dwelling units shall not be subdivided or sold separately from the principal dwelling that such accessory dwelling unit serves.
8. Short-term rental use of such dwelling units shall meet all standards and processes as established in [Section 3.11.P. Short Term Rentals](#).

D. Accessory Structures

1. General Regulations

- a. Accessory structures shall be located on the same lot as the principal use or principal structure served.
- b. Accessory structures shall be permitted only in yards authorized by the applicable zoning district as established in these provisions and shall not be located within a required front yard unless expressly permitted by these Zoning Regulations.
- c. Accessory structures shall be located at least 10 feet from any other building on the same lot, unless otherwise permitted by district-specific standards.
- d. Accessory structure height shall be measured in accordance with [Section 4.03.F. Height Measurements](#).
- e. An accessory structure may be constructed prior to the principal structure, provided a building permit has been issued for the principal structure. Use prior to issuance of a certificate of occupancy for the principal structure shall not exceed six (6) months. One addition six (6) month extension may be approved by the Planning & Zoning Director.
- f. Where an accessory structure is attached to the principal structure, the minimum setback standards for the principal structure in the applicable zoning district shall apply.
- g. Breezeways connecting accessory structures to principal structures shall not exceed 15 feet in length, measured wall-to-wall. Any breezeway exceeding 15 feet shall be considered an extension of the principal structure and shall comply with all standards applicable to principal structures.
- h. ADA-accessible ramps may be permitted within the front yard, subject to compliance with [Section 4.02. Dimensional Standards](#).
- i. Dog houses, gardens, playsets, trampolines, fire pits, sports equipment, hot tubs, and similar items, as determined by the Planning & Zoning Director shall be exempt from these provisions and shall not require a Zoning Permit.
- j. Accessory structures associated with uses classified as Public and Semi-Public Uses in [Table 3.03-1: Use Table](#) shall be regulated as residential accessory structures under this section unless otherwise specified.

2. Accessory Structures in the FNL and RR Zoning Districts (or Residential Lots Larger than one (1) acre)

a. Permitted Yards

Accessory structures shall not be located within the minimum required front yard setback for the applicable zoning district.

b. Lot Coverage

The cumulative area of accessory structures shall not exceed ten percent (10%) of the total lot area. Agricultural buildings, barns, greenhouses, and similar agricultural related structures shall be exempt from this coverage limitation.

c. Height

Accessory structures shall not exceed 25 feet. Agricultural buildings shall comply with principal structure height regulations of the applicable zoning district, unless otherwise provided in [Section 4.03.G. Exceptions to Height Requirements](#).

d. Setbacks

Minimum side and rear yard setback shall be two (2) feet.

3. Accessory Structures – Residential Districts

a. Permitted Yards

Accessory structures in all residential districts (with the exception of the RR district as established in [Section 3.11.D.2. Accessory Structures in the FNL and RR Zoning Districts](#), shall be located in the rear or side yard only.

b. Height

Accessory Structures shall not exceed the height of the principal structure.

c. Setbacks

Minimum side and rear yard setback shall be two (2) feet.

d. Maximum Cumulative Area

The cumulative area of all accessory structures on a lot shall not exceed the footprint size of the principal structure, nor shall it exceed the maximum lot coverage established in [Section 4.02. Dimensional Standards](#).

4. Accessory Structures – Non-Residential Zoning Districts

a. Permitted Yards

Side and rear yards only. Accessory structures shall not be located within the minimum required front yard setback.

b. Setbacks

Accessory structures greater than 200 square feet in area shall comply with principal structure setback requirements.

E. Accessory Uses

Any use which is customarily found in conjunction with, and required for the full utilization and economic vitality of a principal use, is permitted provided that:

1. The use meets the definition of accessory use;
2. The use complies with the applicable standards of this section; and
3. The use complies with any other applicable standards of these Zoning Regulations.

F. Drive-Through Facilities

Drive through uses as an accessory are only permitted within a -S or -R character designation

1. All drive-through areas, including, but not limited, stacking lanes, trash receptacles, outdoor speakers, drive-up windows and other objects associated with the drive-through area shall be located in the side or rear yard of a property.
2. Drive-through structures shall be subject to the vehicle stacking requirements of [Section 5.04. Off-Street Stacking Spaces](#).

ARTICLE 3. USE REGULATIONS

3.11. ACCESSORY USE AND STRUCTURE STANDARDS

3. Audible electronic devices such as loudspeakers, automobile service order devices and similar instruments shall not be audible from adjacent residential properties.
4. All signage shall comply with [Article 7, Signage](#).
5. An opaque, solid wall, fence or hedge that is at least six feet in height shall be located along all property lines that abut a residential property.

G. Family Child Care Home

Family Child Care Home, as defined by these Zoning Regulations, shall meet all requirements as established by [KRS 199.8982](#) and related provisions of [KRS Chapter 199](#), as administered by the Cabinet for Health and Family Services.

H. Fences and Walls

Walls and fences are permitted in any zoning district in accordance with the following provisions:

1. Any wall or fence shall be constructed entirely within the lot lines of any lot or parcel;
2. Fences and walls shall not impede or negatively impact drainage areas. In cases of uncertainty, the applicable engineering officials should be consulted.
3. Fences shall be installed with the structural members or framing directed inward toward the property in which the fence serves.
4. No barbed wire or electric fence shall be permitted in any residential (R) district, mixed-commercial (MC), or special (S) district.
5. Maximum height for wall or fences shall be in accordance with the following table:

Table 3.11-1: Maximum Permitted Fence and Wall Heights by District				
ZONING DISTRICT	FRONT YARD	SIDE YARD	STREET SIDE YARD	REAR YARD
FNL	4 ft	8 ft	8 ft	8 ft
RR, RL, RT, RF	4 ft.	6 ft.	6 ft	6 ft.
RM	4 ft.	8 ft.	6 ft	8 ft.
MCL, MCC, MCR	4 ft.	8 ft.	6 ft	8 ft.
S-CB; S-HD	Reference Design Guidelines			
EE, EG	8 ft.	8 ft.	8 ft	8 ft.
PD	Designed in accordance with plan.			

I. Home Occupations

1. General Regulations

a. Permit Required

No business license for a Major Home Occupation shall be issued unless:

- i. A Conditional Use Permit has been issued by the Board of Adjustments; or
- ii. In the case of a Minor Home Occupation, the applicant has demonstrated compliance with all requirements of this Section.

b. Non-Transferability

A home occupation permit is non-transferable. A new home occupation permit shall be required upon any change in:

- i. The nature of the home occupation;
- ii. The occupant operating the home occupation; or
- iii. The address of the operation.

c. Retail Activity

- i. Retail sales on the premises shall be limited to handmade items, including crafts made in the home, and goods sold in conjunction with a service provided on site.
 - ii. Goods, products, or commodities purchased for the primary purpose of resale shall not be sold at retail or wholesale on the premises, stored, or displayed on the premises, or distributed to other locations.
 - iii. These provisions do not prohibit the storage of goods sold through mail-order or online sales, provided such storage does not violate other provisions of these regulations.
 - d. **Area Limitation**
 - i. The home occupation shall be clearly incidental and subordinate to the dwelling's residential use.
 - ii. No more than 50% of the principal dwelling floor area shall be used for the home occupation. If located in an accessory structure, that floor area may be counted toward the 50% limit.
 - e. **Permitted Location**

Home occupations shall be conducted only within:

 - i. The principal dwelling unit (including the basement and attached garage); and/or
 - ii. One (1) roofed, fully enclosed accessory structure located on the same parcel as the principal residence.
 - f. **Alteration of Structures**

No structural alterations shall be made that changes the residential character of the dwelling if no home occupation were present.
 - g. **Parking**

Any required parking for such operation shall be provided on-site and shall not alter the residential character of the lot.
 - h. **Products and Processing**

With the exception of arts and crafts created on site for individual orders, no goods, samples, materials, or products shall be sold, stored, displayed, manufactured, or processed on site.
 - i. **Performance Standards**
 - i. The home occupation shall not produce odor, vibration, fumes, glare, or electrical interference beyond what is typical for residential uses.
 - ii. No equipment or process shall cause visual or audible interference in off-site radio/television reception or cause voltage fluctuations off-site.
 - iii. No electrical or mechanical equipment or processes shall change the fire rating of the dwelling unit.
 - j. **Prohibited Home Occupations**

The following operations shall be prohibited as home occupations:

 - i. Automobile and small engine repair;
 - ii. Medical or dental offices (except psychiatry/psychology, and telehealth);
 - iii. Home cooking and catering;
 - iv. Private clubs;

ARTICLE 3. USE REGULATIONS

3.11. ACCESSORY USE AND STRUCTURE STANDARDS

- v. Eating and drinking establishments;
- vi. Fortune telling and similar;
- vii. Health spas (excluding personal trainers and massage therapists);
- viii. Hotels / motels;
- ix. Wholesale establishments;
- x. Kennels; and
- xi. Any use not specifically listed above, but exhibits characteristics of a listed prohibited operation, and which is determined to cause a negative impact on the residential character of the vicinity. Determinations shall be appealable to the Board of Zoning Adjustments.
- xii. Agriculture-related “home-based processing and micro-processing” in compliance with [HB 391](#) and [KRS 217.005 through KRS 217.215](#) shall be not be prohibited.

2. Minor Home Occupations

- a. Minor Home Occupations may be administratively approved, subject to the following:
 - i. No person other than a resident of the dwelling shall be engaged or employed in the home occupation.
 - ii. No visible exterior evidence of the home occupation shall be permitted.
 - iii. No advertising shall contain the property address.
 - iv. Customers, students, clients, or patrons of the home occupation are prohibited with the exception of pre-arranged pick-up or drop-off.
 - v. The use shall not require additional off-street parking or generate traffic beyond what is typical for a residential dwelling.
- b. No business license shall be issued for the operation until compliance with all criteria and conditions of this section is demonstrated.

3. Major Home Occupations

Major Home Occupations shall require a Conditional Use Permit from the Board of Zoning Adjustments, and shall comply with the following:

- a. Employees shall be limited to residents of the dwelling unit, except that one (1) non-resident employee may be present at any one (1) time.
- b. Limitations on hours of operation, number of customers permitted at the premises at one time, and frequency of customer and/or client visits shall be as determined by the Board of Adjustment.
- c. Hours of operation for such occupations with on-site patrons shall be between the hours of 7:00 a.m. and 9:00 p.m.
- d. No non-resident employee may work on-site between the hours of 9:00 p.m. and 7:00 a.m.
- e. One (1) non-illuminated sign, not exceeding two (2) square feet in area may be permitted per premises. Such sign shall not be freestanding.
- f. Deliveries associated with the home occupation shall not be made using tractor-trailers. No more than two (2) commercial deliveries (including, but not limited to, UPS, Federal Express, and U.S. Postal Service Express Mail) shall be made within any 24-hour period.

J. Keeping of Fowl (Non-Crowing)

1. Only the keeping of non-crowing chickens shall be allowed. Adult roosters, turkeys, guineas, ducks, geese or other domestic fowl are specifically prohibited.
2. There shall be no more than six (6) chickens kept on a property at any one time unless livestock is otherwise permitted in the zoning district.
3. A property housing chickens shall keep the chickens enclosed in the rear yard only. The rear yard shall be enclosed with a six foot (6') fence.
4. In addition to the fencing requirement, the chickens shall be kept in a structure with a roof that is enclosed on all sides, that has adequate ventilation, and that is able to be locked and secured to ensure chickens cannot run at large or leave the property and are safe from predators. Whenever left unattended, the chickens shall be kept within the structure.
5. The structure and any associated run attached to it shall be located in the rear yard and be a minimum of twenty-five feet (25') from the nearest residence, not including the residence of the owner of the chickens. For the purposes of this section, "residence" shall be defined to include both the principal structure and any decks, porches or sunrooms attached to the principal structure. This requirement shall be met at the time of permit issuance and is not meant to be retroactively applied in the event an adjacent residence constructs an addition of some type that encroaches upon an existing chicken henhouse/coop/tractor/run.
6. Chickens shall not be kept in a manner that would allow a perceptible odor beyond the property line.
7. There shall be no breeding or slaughtering of backyard chickens.
8. Provision shall be made for storage and removal of chicken manure. All manure for composting or fertilizing shall be contained in a well-aerated garden compost pile. All other manure not used for composting or fertilizing shall be removed from the property. In addition, the henhouse/coop/tractor/run and surrounding area shall be kept free from trash and accumulated droppings or feed.
9. All feed shall be stored inside or in a weather and rodent resistant container designed to prevent access by animals.

K. Outdoor Dining / Food Service Areas

1. Outdoor dining or food service areas shall be located along a sidewalk adjacent to the principal building or between the principal building and parking area. Outdoor cafes and food service areas shall not be located in such a manner as to require customers and employees to cross driveways or parking areas to go between the café / food service area and the principal building.

L. Outdoor Displays and Sales

These provisions apply to outdoor display and sale areas that are accessory to a principal use and shall not apply to uses where outdoor display or sale is the principal use (e.g., automotive sales, equipment rental, etc.).

1. Outdoor display and retail areas shall not be located within the public right-of-way, nor shall it interfere with parking or the safe and unobstructed view of pedestrian or vehicular traffic.

M. Outdoor Storage, Bulk and Retail

1. Black plastic-coated chain link fencing shall only be permitted where the fencing is not visible from any public rights-of-way or residential uses.
2. All outdoor storage areas shall be screened from view of the public right-of-way by a six (6) foot fence in conformance with this section. Screening shall not be required if the outdoor storage area is located of view from any public right-of-way.

ARTICLE 3. USE REGULATIONS

3.11. ACCESSORY USE AND STRUCTURE STANDARDS

N. Pick-Up Windows

1. All pick-up areas, including, but not limited to, stacking lanes, trash receptacles, window openings, and other objects associated with the pick-up window, shall be located in the side or rear of a property, and shall not interfere with, or impede any public right-of-way.
2. Audible electronic devices, such as loudspeakers, automobile service order devices, and similar instruments, shall not be permitted.
3. Pick-up windows are subject to all vehicle stacking requirements of [Section 5.04. Off-Street Stacking Spaces](#).
4. All signage associated with such facility shall comply with [Article 7. Signage](#).

O. Roadside Stands

1. Retail sales shall be limited to products raised, cultivated, or produced on premises. Items raised, cultivated, or produced locally, or in the immediate vicinity may be sold, but may not be the primary source (more than 50%) of products sold on premises.
2. No part of the operation or signage shall encroach within any public right-of-way.

P. Short Term Rentals

1. The maximum stay for a short term rental shall be 29 consecutive days for the same occupant.
2. The dwelling unit shall be limited to a single short term rental contract at a time.
3. The maximum number of persons residing in the short term shall not exceed two (2) times the number of bedrooms plus four (4) individuals.
4. No food or alcoholic beverages shall be prepared for or served to the guest by the host.
5. Outdoor signage in conjunction with the short term rental is prohibited.
6. If the short term rental is not the primary residence of the host, they shall provide information on how to be contacted by phone, email, and address. This information shall be provided in a conspicuous location within the short term rental.
7. Each short term rental shall provide an evacuation plan and provide smoke detectors in compliance with the Kentucky Residential Code.
8. Short-term rentals located within the City of Frankfort shall comply with the City's Noise Regulations established in the [Code of Ordinances – Section 131.01](#). Short term rentals located within Franklin County shall adhere to quiet hours between 11 p.m. and 7 a.m. Guests with pets are subject to the City's provisions regarding animals, found in [Chapter 90 of the Code of Ordinances](#). If the property is subject to two (2) or more substantiated civil and/or criminal complaints, the Planning Director may revoke the approval of the short term rental.
9. All short term rental hosts must submit an annual registration form to the Department of Planning and Community Development.
10. Each short term rental shall remain in compliance with the City of Frankfort's Business Regulations as codified in [Title XI of the City of Frankfort Code of Ordinances](#), or the Franklin County Business Regulations as codified in [Title XI of the Franklin County Code of Ordinances](#).
11. The short term rental host shall request a rental housing inspection at the time of annual registration through the Department of Planning and Community Development.
12. Short-term rental shall be required to renew its business license on an annual basis and comply with all transient room and local taxes requirements.

13. If the short term rental ceases operations they shall notify the Department of Planning and Community Development in order to keep an up-to-date record of operating short term rentals within the City.
14. Short term rentals shall not be utilized for private or commercial special events in which the number of participants exceeds the maximum occupancy limit, such as parties, weddings, concerts, or the like.
15. Detached accessory structures may be used as a short term rental only in a permitted Detached Accessory Dwelling Unit.
16. In the S-CD, Special-Capital District, non-owner-occupied short-term rentals shall be capped at a maximum of 5% of the total dwelling units located within that zoning district.
17. In the S-HD, Special-Historic District, non-owner occupied short term rentals shall be capped at, and not to exceed eight (8) non-owner occupied short term rentals within that zoning district.
18. Owner-occupied short-term rentals may rent their property for up to and not to exceed 24 days per calendar year, while they are not residing at the property and will still qualify as an owner-occupied short-term rental.
19. Apartment buildings under common ownership shall not operate more than 50% of the dwelling units in an apartment building as a short-term rental. This does not apply to condominiums where dwelling units are individually owned.
20. For Short Term Rentals regulated as conditions uses, the Board of Zoning Appeals shall take into consideration:
 - a. The number and concentration of Short Term Rentals, if any, within the general vicinity of the property being considered for such use.
 - b. Demonstrated compliance record of the applicant if they operate other Short Term Rentals in Frankfort or Franklin County.
 - c. The occupancy rate of other Short Term Rentals in the general vicinity, including those operated by the applicant.
 - d. Whether other Short Term Rentals in the general vicinity have been cited as a nuisance, including those operated by the applicant.
21. **Enforcement and Penalties**
 - a. The requirements of this Section may be enforced by the Planning and Community Development Department.
 - b. Any person who violates any of the provisions of this ordinance shall be deemed guilty of a violation and shall be issued a Notice of Violation. In the event that the violation is not corrected within 10 days following the issuance of a Notice of Violation, a Citation may be issued and a civil penalty applied in accordance with the following:
 - i. First Offense / Citation - \$100.
 - ii. Each subsequent day a violation continues after issuance of a Notice of Violation without correction shall be considered a separate offense subject to a penalty of \$25 / day.
 - c. Hosts who remain in violation after the prescribed time frame for correction shall have their license revoked. Continued operation of a Short Term Rental in violation of this ordinance may result in legal action instituted against the violator in a Court of appropriate jurisdiction.

Q. Swimming Pools

ARTICLE 3. USE REGULATIONS

3.11. ACCESSORY USE AND STRUCTURE STANDARDS

The following regulations apply to all privately owned swimming pools, hot tubs, and spas installed or maintained for more than fifteen (15) consecutive days and designed to contain water exceeding eighteen (18) inches in depth, unless otherwise exempted herein.

1. Setbacks and Location

- a. A minimum setback of five (5) feet shall be maintained from all side and rear property lines to any deck or patio surrounding the pool; and
- b. A minimum setback of 15 feet shall be maintained from all side and rear property lines to the water's edge. For the purposes of this provision, water's edge includes any structure used to enter or exit the water that is located in or under the water at the perimeter of the pool.
- c. Distance from a principal or accessory structure to the pool, deck, or patio shall comply with all applicable building and fire codes.
- d. No swimming pool, deck, patio, or related structure shall be located within a recorded easement for any purpose.

2. Fencing and Safety Barriers

Fences and safety barriers for pools within the City of Frankfort must comply with the requirements found within the City Nuisance Code. Any swimming pool, or the permitted area of the property in which it is located, shall be enclosed by a wall, fence, or barrier constructed of approved materials to prevent uncontrolled access from streets or adjacent properties. Such enclosure shall:

- a. Be not less than four (4) feet and not more than six (6) feet in height, measured from finished ground level on the side of the barrier away from the pool; and
- b. Be maintained in good condition at all times.
- c. Gates and doors within the enclosure shall be self-closing and self-latching, equipped with a lock or latching device, and maintained so as to positively close and latch when released from an open position of six (6) inches
- d. Where a self-latching device is located less than fifty-four (54) inches above the bottom of the gate, the release mechanism shall be located on the pool side of the gate.
- e. No existing pool enclosure shall be removed, replaced, or altered in any manner that reduces its effectiveness as a safety barrier.
- f. For above-ground pools, the pool sidewall may serve as the required safety barrier provided:
 - i. The sidewall is at least 48 inches in height as measured from grade at the base of the wall, or as otherwise approved by the Planning and Zoning Director; and
 - ii. Any ladder or means of access is capable of being locked, removed, or secured in an upright position to prevent unauthorized entry.
- g. Spas or hot tubs equipped with a safety cover that complies with ASTM F1346, as amended, shall be exempt from the enclosure requirements of this section.

3. Illumination

Any lighting used to illuminate a swimming pool, hot tub, or spa shall be arranged and shielded to deflect light away from adjacent properties

4. Utilities

If electrical service drop conductors or other utility wires cross over or under a proposed pool location, the applicant shall coordinate with the applicable utility provider to relocate such facilities prior to issuance of a zoning or building permit. Required relocation shall be completed before final permit approval.

3.12. TEMPORARY USE REGULATIONS

A. General Provisions

1. A temporary Zoning Permit shall be required for all temporary buildings, structures, or uses that are either not constructed, installed, or established to exist in perpetuity in order to ensure conformance to these zoning regulations and which are to be established for a period not to exceed 180 days as established by the Kentucky Building Code for temporary structures, unless otherwise specified herein.
2. Temporary buildings, structures, or uses shall be reviewed in accordance with the provisions of this section and all other applicable sections of these Zoning Regulations.

B. Construction Office / Trailer

1. A construction trailer or temporary offices, with fixed connections to utilities such as electric and telephone / data, may be used for temporary office and storage during the duration of construction on a site.

C. Mobile Food Vendors

1. Mobile food vendors shall comply with all applicable regulations of the [City of Frankfort Code of Ordinances Chapter 115](#), [Franklin County Ordinances](#), and [Kentucky Revised Statutes Chapter 217](#), including all relevant state health and food safety standards.
2. Mobile food vendors shall be located entirely on private property with the permission of the property owner and shall not encroach into any public right-of-way, sidewalk, or street without the appropriate permits.
3. All operations, including customer queuing and signage, shall be contained entirely on the property and shall not obstruct drive aisles, emergency access, or public rights-of-way.
4. Waste collection shall be provided on-site and removed daily. Disposal of wastewater, grease, or other refuse on the premises is prohibited unless specifically approved by the local health authority.
5. Temporary signage is permitted in accordance with zoning requirements, provided it is removed at the close of each day and is not located within a public right-of-way.

D. Seasonal Sales

A seasonal sales of items pertaining to a holiday, event, or season (ex: sale of Christmas trees, pumpkins, and similar items) is subject to the following:

1. Seasonal sales which are sponsored by a governmental entity are exempt from the requirements of this section.
2. A site plan shall be submitted for approval that illustrates the location of the sales area, parking, circulation, pedestrian and vehicle ingress or egress, surface material, and sanitary facilities, as applicable.
3. The applicant for the activity shall provide written agreement from the property owner granting permission for the proposed use.
4. No activities shall take place in the public right-of-way.
5. Signage for seasonal sales shall be limited to the size and type requirements of the zoning district in which they are located and shall be attached to, and flush mounted to the temporary sales structure, tent, trailer, or similar use.

6. A seasonal sale is limited to a period not to exceed 60 days per calendar year.

3.13. SPECIAL USE REGULATIONS

A. Data Centers

1. General Requirements

- a. A principal building is required on site and shall be designed and constructed to accommodate data processing, storage, and associated mechanical and electrical infrastructure.
- b. Cryptocurrency mining and blockchain validation operations as a primary use shall be prohibited.
- c. Where the requirements of this section differ from the underlying zoning requirements, the most restrictive of the two shall be required.

2. Classification by Size

- a. Accessory Data Center (<2,000 sq. ft.) shall be permitted as an accessory use in accordance with the underlying zoning district.
- b. Minor Data Center (2,000–19,999 sq. ft.) shall require standard development plan approval as established by [Section 13.06.E. Development Plan](#).
- c. Medium Data Center (20,000–99,999 sq. ft.) shall require standard development plan approval as established by [Section 13.06.E. Development Plan](#).
- d. Major Data Center (100,000–499,999 sq. ft.) shall require Planning Commission approval.
- e. Data Center Campus (≥500,000 sq. ft.) shall require Planning Commission and legislative approval.

3. Location and Separation

- a. Data Centers shall be set back a minimum of 500 feet from any residential lot line, residential district, park, school, or hospital.
- b. The minimum setback may be reduced to 300 feet when separated by an arterial roadway or highway.

4. Building Design and Screening

- a. Blank walls exceeding 100 feet in length facing a public right-of-way shall incorporate façade articulation or architectural variation.
- b. All rooftop mechanical equipment shall be screened from view from adjacent properties and public rights-of-way.
- c. Mechanical yards, substations, and utility infrastructure shall be located to the side or rear of the principal structure and screened with an opaque wall or fence not less than eight (8) feet in height.
- d. Enhanced architectural standards, including masonry materials and step-backs, shall be required when adjacent to non-industrial districts.

5. Noise Standards

- a. Continuous noise generated by mechanical equipment, including cooling systems and backup generators, shall comply with applicable noise regulations at the property line.
- b. An acoustic analysis may be required as part of site plan or conditional use approval.
- c. Generator testing shall be limited in frequency and duration as determined during

development plan review.

6. Mechanical and Utility Infrastructure

- a. Backup generators, fuel storage tanks, cooling towers, and substations shall be located behind the principal building or within enclosed service areas. Any generator located outside a building shall not be tested more than once per week, with testing only occurring between the hours of 8 a.m. to 5 p.m.
- b. All such equipment shall be screened from view with an opaque wall, fence, or landscaping.
- a. Any equipment associated with the facility shall not generate any noise that equals or exceeds a measured sound level of 65 dBA when measure at or beyond any property boundary of the sound source.
- c. On-site fuel refining or industrial-scale fuel processing is prohibited.

7. Traffic and Access

- a. All loading areas and service access shall be located to the side or rear of the building and shall not face a public right-of-way.
- b. Site access shall be designed to minimize conflicts with adjacent properties and shall comply with spacing requirements for driveways.
- c. Emergency access shall be provided in coordination with the applicable fire authority.

8. Environmental and Infrastructure Impacts

- a. Developments shall provide documentation of projected water usage and energy demand as part of site plan approval.
- b. Developments shall implement low-impact development practices in energy efficiency. The development shall:
 - i. Minimize land disturbance;
 - ii. Maximize tree preservation;
 - iii. Minimize impervious surface;
 - iv. Utilize alternative energy sources (solar, wind, hydro, or any other system that can be demonstrated to the Planning Director to reduce energy demands from the distribution systems) to the greatest extent possible; and
 - v. Utilize reclaimed water for cooling, when available.
- c. Stormwater management facilities shall be designed to accommodate large roof areas and impervious surfaces.
- d. No industrial waste discharge shall be permitted beyond standard sanitary and stormwater systems.

9. Security and Lighting

- a. Perimeter fencing shall not exceed eight (8) feet in height unless otherwise approved and shall be designed to minimize visual impact.
- b. Lighting shall be directed downward and shielded to prevent glare onto adjacent properties.
- c. Flashing, strobe, or high-intensity lighting visible from off-site shall be prohibited.

10. Outdoor Storage

- a. No outdoor storage of materials or equipment shall be permitted except for screened mechanical and utility infrastructure.

ARTICLE 3. USE REGULATIONS
3.13. SPECIAL USE REGULATIONS

- b. All permitted outdoor equipment shall comply with [Section 3.11.M. Outdoor Storage, Bulk and Retail](#).

B. Small Cell Systems and Towers

1. Purpose

These regulations balance the need for new Small Cell Systems and Small Cell Towers with the impacts New Small Cell Towers have on adjacent land uses; provide for the safest and most efficient integration of cellular antenna facilities for Cellular Telecommunication Services or Personal Communication Services within the community; provide for these facilities in coordination with the recommendations of the City of Frankfort / Franklin County Comprehensive Plan; and to further the public health, safety, and general welfare of the City of Frankfort and Franklin County.

2. Title

These regulations shall be known as the Regulations for Small Cell Systems and Small Cell Towers in the City of Frankfort and Franklin County and may be referred to as "these regulations."

3. Authorization

These regulations are adopted pursuant to authority granted to planning commissions in the Commonwealth of Kentucky by [KRS 100.985 through 100.987](#).

4. Citations of Kentucky Revised Statutes

Whenever a provision of these regulations cites a provision of the Kentucky Revised Statutes (KRS), and that provision is later amended or superseded, these regulations shall be deemed amended to refer to the amended provision, or to the provision that most closely corresponds to the superseded provision

5. Applicability

These regulations apply to every utility or company that is engaged in the business of providing the required infrastructure to a utility that proposes to construct a small cell system or small cell tower for cellular telecommunications services or personal communications services. These regulations also apply to towers that do not meet the requirements of minor adjustments, in accordance with [Section 3.13.B.16. Amendments to Approved Plans](#) of these regulations.

6. Relationship to Applicable Codes

These regulations are not intended to supersede in any way the requirements of the local zoning ordinance or the requirements of the Kentucky Building Code.

7. Status as Minimum Standards

In their interpretation and application, these regulations shall be viewed as minimum standards or requirements, adopted for promotion of the public health, safety, and general welfare. Whenever these regulations conflict with a requirement of any other lawfully-adopted rule, regulation, ordinance, order, or resolution, the most restrictive or that imposing the higher standards shall govern

8. Compliance Required

Except as hereinafter specified, no small cell system or small cell tower shall hereafter be placed or constructed except in conformity with these regulations and all applicable federal, state and local law and regulations.

9. Burden of Proof

The burden of demonstrating that an application subject to these regulations complies with applicable review and approval standards is on the applicant.

10. Pre-Application Conference

A pre-application conference is optional and is not required. A pre-application conference does not trigger any of the FCC's shot clock requirements for placement of small cell or small cell towers. Applicants may contact staff and request a pre-application conference. Upon receipt of this request, staff will set up the meeting which shall include staff, the applicant, any applicable utility providers, the local jurisdiction, and the owner of the right-of-way or property on which the small cell system or small cell tower is proposed to be installed. A pre-application conference allows for early coordination by identifying existing structures that might be suitable for collocation and identifying any other items which are in conformance/nonconformance with the comprehensive plan, local zoning ordinance, and/or the provisions of these regulations. A pre-application conference provides an opportunity for an initial discussion regarding proposed structure locations, design and the application submittal, approval process and coordination with utilities for possible use of pre-existing structures. Applicants desiring to have a pre-application conference should supply the applicant's preferred locations, structure design style and structure height one week prior to the pre-application conference or upon request for a pre-application conference.

11. Application Submittal

Prior to making an application for a small cell system tower in the rights-of-way, applicant must first obtain a franchise from Franklin County, unless applicant already possesses a franchise from Franklin County or the Commonwealth. All proposed small cell systems, except non-tower small cell systems, co-locations to existing structures or those exempted by [Section 3.13.B.14. Location and Design Regulations](#) shall be subject to Planning Commission review and approval. Non-tower small cell systems, co-locations to existing structures and those exempted by [Section 3.13.B.14. Location and Design Regulations](#) shall be subject to administrative review and approval by staff. The factual determination approving or rejecting such plans shall be made in accordance with requirements of this and other applicable sections of these regulations and the Comprehensive Plan. One application for multiple proposed towers within the same small cell system is encouraged whenever possible.

12. Application Requirements

- a. All information contained in the application and any updates, except for any map or other information that specifically identifies the proposed location of the cellular antenna tower then being reviewed, shall be deemed confidential and proprietary within the meaning of [KRS 61.878](#). The Planning Commission shall deny any public request for the inspection of this information, whether submitted under Kentucky's Open Records Act or otherwise, except when ordered to release the information by a court of competent jurisdiction.
- b. Applicants for the construction of small cell systems and/or small cell towers for cellular telecommunications services or personal communications services may choose to provide either the uniform application per [KRS 100.9865](#) or in lieu of the uniform application, the following information should be submitted:
- c. **Fee Structure**
 - i. **Co-locations**

The application fee is \$500 for up to five antennas which are placed on existing utility poles, towers or other structures. For each additional antenna placed on existing utility poles beyond the five, there is an additional fee of \$100 per antenna.

ii. New Towers

The application fee is \$1,000 for each new small cell tower which supports an antenna.

- d. A written description and map showing the coverage area of the provider's existing facilities in the general and site- specific areas that are the subject of the application.
- e. A statement of the telecommunications objectives for the proposed location, whether the proposed facility is necessary to prevent or fill a gap capacity shortfall, expand or provide new coverage, or to deploy new technology in the applicant or provider's service area, whether it is the least obtrusive means of doing so, and whether there are any alternative sites that would have fewer aesthetic impacts while providing comparable service.
- f. A statement by an authorized representative that the applicant or provider holds all applicable licenses or other approvals required by the Federal Communications Commission, the Kentucky Public Service Commission, and any other agency of state or federal government with authority to regulate telecommunications facilities that are required in order for the applicant to construct the proposed facility.
- g. A statement by an authorized representative that the applicant or provider is in compliance with all conditions required for such license and approvals.
- h. A full description of the number and dimensions of all small cell towers proposed to be installed.
- i. A site development plan, signed and sealed by a professional engineer registered in Kentucky, showing the proposed location of the tower and existing structures within 500 feet of the proposed site.
- j. A vertical profile sketch or drawing of the towers, signed and sealed by a professional engineer registered in Kentucky, indicating the height of the tower and the placement of all antennas and equipment enclosures.
- k. A statement indicating the individual who is the authorized agent and their preferred email and mailing address to receive communications.
- l. Photographs of view shed from each proposed tower location, taken in at least four directions.
- m. Description of whether other overhead utilities exist within 500 feet of the proposed antenna location.

13. Processing of Applications

- a. Applications will be reviewed for substance only when they meet all submittal requirements. If applications are not complete, staff must notify the applicant within ten days from the submission of the application stating the application is incomplete and identifying the missing materials, which must be submitted in order to complete the application. No further review of the application will take place until the application is complete. If the resubmitted materials are not complete, staff must notify the applicant within ten days from the submission of the application stating the application is incomplete and identifying the missing materials, which must be submitted in order to complete the application. No further review of the application will take place until the application is complete.
- b. For applications that are eligible for administrative review and approval, staff shall review and take final action on applications for new small cell systems within 30 days of a completed application. This time period will not begin until the application

is deemed complete by staff. Staff shall notify the applicant once the application is deemed complete and provide the deadline for the staff review period. Staff shall either approve, approve with conditions, or deny the application. If staff does not make a final decision within the required 30 days, the application shall be deemed to be approved as submitted.

- c. An applicant claiming to be injuriously affected or aggrieved by an official action, order, requirement, interpretation, grant, refusal, or decision of staff in the administration of these regulations may appeal the action to the Board of Zoning Adjustments pursuant to [Section 13.06.D. Appeals](#) of these Zoning Regulations.
- d. An applicant claiming to be injured or aggrieved by any final action of the Planning Commission or Board of Zoning Adjustments shall appeal from the final action to the Franklin County Circuit Court. Such appeal shall be taken within 30 days after such action, or such longer period as allowed under applicable law.
- e. The procedure by which the Planning Commission may allow for waivers of these regulations is set out in [Section 13.07. Waivers and Modifications](#) of these Zoning Regulations.
- f. In addition to Planning Commission approval, any applicable building, zoning, and electrical permits, and permission from the local jurisdiction, right-of-way or property owner are required prior to the beginning of construction.

14. Location and Design Regulations

A new small cell system is subject to design review and approval by staff. The design criteria required for the new small cell systems is determined by the type of location or zoning district in which the facility is to be located. The design review and approval process, including any public hearing, shall be compliant with commonwealth and federal law, including applicable FCC cell siting application shot clock approval timelines.

a. Non-Tower Small Cell System Locations

A utility planning to locate an antenna or related equipment on existing telecommunications structures, water towers, buildings, utility poles (as defined by this regulation) or other existing structures shall file with the planning office its intent to do so, including the name and address of the utility, name of the owner of the structure, the latitude and longitude of the structure, and a description of the plan to locate the antenna or related equipment including a statement documenting that the new antenna or related equipment location does not change the height of the structure beyond the lower of 10 feet, or a 10% increase in height over the original height of the structure. These non-tower locations must adhere to all other applicable federal, state, and local zoning codes, building codes or permits.

b. New Small Cell System and Small Cell Tower Locations

The regulations in this division apply to all new small cell system and small cell towers.

- i. Except when deployed in response to temporary service outages, as a result of emergencies, or at the request of first responders, temporary, mobile or wheeled cellular antenna towers shall not be permitted.
- ii. New small cell towers shall not exceed the maximum building height for the zoning district (or adjacent zoning district if in right-of-way) within which they are located or 35-feet whichever is greater. A height that is in excess of what is permitted within the zoning district may be approved by

ARTICLE 3. USE REGULATIONS
3.13. SPECIAL USE REGULATIONS

staff if it integrates stealth technology that better meets the objectives of these regulations.

- iii. New small cell towers shall be designed and constructed to accommodate a minimum of two service providers.
- iv. New small cell towers may be located on public or private nonresidential land or within a public right-of-way provided it does not interfere with other utilities, functionality of sidewalks, visibility, or other matters of public safety.
- v. New small cell towers shall not be illuminated, except in accord with state or federal regulations, or unless illumination is integral to the stealth technology, such as a design intended to look like a streetlight pole.
- vi. New small cell towers shall not include advertisements and may only display information required by a federal, state, or local agency. Such display shall not exceed one square foot in area, unless required by state or federal regulations, or unless a larger display is integral to the stealth technology. Such display shall not exceed the width of the pole, unless required by state or federal regulations or a wider sign is integral to the stealth technology, such as a design which integrates a decorative banner.
- vii. If a new small cell tower is located in an area with primarily underground utilities, or where no adjacent overhead utility lines exist, it shall not utilize overhead utility lines.
- viii. In instances where an antenna is proposed to be constructed within a historic or commercial district with established public or private design control measures, regulations in division [Section 3.13.B.14.c. New Small Cell Systems and Small Cell Towers in Residential Zones](#) of this section shall be followed. Efforts shall be made to adhere to any established design control measures or existing furnishing or fixture styles within the district. Where additional local design review processes exist, such as certificates of appropriateness, such approvals may be required.

c. New Small Cell Systems and Small Cell Towers in Residential Zones

The regulations in this division apply to small cell systems small cell towers to be located within, or immediately adjacent to, residential zoning districts as defined in [Section 3.13.B.14.a. Non-Tower Small Cell System Locations](#) of this section.

- i. Facilities in residential areas are strongly encouraged to be non-tower wireless communication facilities, which are exempt from these regulations per [Section 3.13.B.14.a. Non-Tower Small Cell System Locations](#) of this section.
- ii. New small cell towers and antenna or related equipment shall be camouflaged by stealth technology. Examples of appropriate stealth technology for residential areas includes, at a minimum, towers with all cables, wires, transmission equipment, electric meters, power equipment, etc. installed inside the small cell tower. Other types of stealth technology or other methods which will reduce the visual impact may be approved by staff.
- iii. All poles and antennas shall be uniform grey or black in color, unless another color is integral to the stealth technology as approved by staff.
- iv. The use of cooling fans is discouraged. When needed, fans with lower noise profiles must be used.

- v. New small cell towers should avoid areas without overhead utilities. If a small cell tower is located in an area with primarily underground utilities it must adhere to stealth technology that incorporates the telecommunications equipment into a streetscape amenity such as a decorative lamp post, streetlight or other approved design. In areas with overhead utilities, cylindrical antennas are required.
- vi. In residential areas, a small cell tower shall not be located closer than the height of the proposed tower to an existing or proposed residential structure, or no closer than 30 feet, whichever is greater.
- vii. Efforts should be made to locate new small cell towers in the yard location where other overhead utilities are located in the event that co-location has been demonstrated to be infeasible.
- viii. New small cell towers within residential areas should be located to avoid obstructing the view of building facades by placing the tower at a corner, intersection or along a lot line.
- ix. New small cell tower shall not be located within 500 feet of an existing small cell system tower. Multiple carriers are permitted and encouraged to locate on one tower, where possible.

d. **New Small Cell System and Cell Towers in Non-Residential Zones.**

The regulations in this division apply to towers to be located within non-residential zoning districts.

- i. In instances where a facility is proposed to be constructed in the right of way within 100 feet of a residential zone or use, even if the antenna's physical location is within a non-residential zone, regulations in [Section 3.13.B.14.c. New Small Cell Systems and Small Cell Towers in Residential Zones](#) shall be followed.
- ii. Antennas in commercial, institutional, or park areas are encouraged to be installed as non-tower wireless communication facilities.
- iii. Reasonable effort shall be given to locate new equipment based upon the following hierarchy of zones and land uses from the most to least preferred:
 - (A). Co-locate on an existing structure whenever possible.
 - (B). Institutional.
 - (C). Industrial.
 - (D). Commercial.
 - (E). Public parks.
 - (F). Agricultural.
- iv. Equipment enclosures, including electric meters, should be nearly the same width as the pole or as small as possible. Ground mounted equipment boxes should be screened from view with shrubs or other appropriate screening as approved by staff.
- v. Shrouds, risers, and conduits shall be used to reduce the appearance of external cabling.
- vi. All poles, antennas, brackets, cabling, risers, shrouds, and conduits shall be uniform grey or black in color, or other color as approved by staff.

vii. Cylindrical antennas shall be required, unless another antenna style is integral to the stealth technology as approved by staff.

viii. There shall be no more than a four inch offset between the pole and pole mounted equipment enclosures.

15. Evaluation Criteria

Evaluation of the proposal shall be based upon the following criteria and shall be subject to administrative approval by staff:

- a. The extent to which the proposal is consistent with the purposes of these regulations.
- b. The extent to which the proposal minimizes the impact on adjacent land uses, especially in terms of visual impact.
- c. The extent to which the proposed facility is camouflaged (i.e., use of stealth technology).
- d. The extent to which the proposed facility conforms to the character of the surrounding area (i.e., buildings, street lighting, signs).

16. Amendments to Approved Plans

- a. Any amendments to plans for small cell systems and small cell towers, except for the minor adjustments outlined below, shall be made in accordance with the procedure required by [Section 3.13.B.13. Processing of Applications](#) subject to the same limitations and requirements as those under which such plans were originally approved. Minor adjustments shall be submitted and reviewed per the requirements of [Section 3.13.B.13.a.](#)
- b. The following activities shall be considered minor adjustments from the original approval of an application for towers located in public rights-of-way. Changes are measured cumulatively from the original approval of the tower or base station.
- c. Tower height increases by less than 10% or ten feet, whichever is greater.
- d. Change in the tower width of less than 10% or six (6) feet, whichever is greater.

17. Penalty

- a. Violation of the provisions of this chapter or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) shall constitute a violation punishable by a fine not to exceed \$250 and each day such violation or non-compliance continues shall be a separate offense.
- b. Violation of the provisions of [Article 12. Flood Damage Prevention](#) 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 [Article 12. Flood Damage Prevention](#) 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 one year, 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.
- c. Violation of the provisions of [Section 7.14. Sign Construction Standards](#) or failure to comply with any order or inspection report within the same time limit stated therein shall be guilty of a misdemeanor and shall upon conviction, be punished by a fine of not less than \$25.00 nor more than \$500 or by punishment; for not more than

one year or by both such fine and imprisonment each day that such violation or failure to comply occurs, or is continued, shall constitute a separate offense.

C. Solar Energy Systems

1. Purpose

The purpose of these regulations is to:

- a. facilitate the siting, development, construction, installation, and decommissioning of solar energy systems in the City of Franklin and Franklin County in a predictable manner that promotes and protects the safety, health, and general welfare of the community;
- b. encourage the appropriate siting of solar energy systems to bolster local economic development and job creation, diversify the state's energy portfolio, strengthen energy and grid security, and reduce other environmental impacts;
- c. consider, avoid to the extent possible, and mitigate any adverse impacts to wildlife and nationally important agricultural lands, forests, endangered species habitat, and historic, natural, and other sensitive lands; and
- d. establish standards and requirements to assure that the use and enjoyment of lands located adjacent to, and in proximity of, solar energy systems are fully protected; and
- e. serve as supplemental as permissible to any safety, health, or environment requirements of federal and state law and regulation.

2. Applicability

- a. These regulations apply to the siting, construction, installation, and decommissioning of any new SES within the jurisdiction of the City of Franklin and Franklin County after the effective date of these zoning regulations.
- b. An SES in operation, or which has begun physical construction prior to adoption of these regulations, shall be considered to have legal nonconforming status in accordance with [KRS 100.253](#).
- c. The following are not subject to the provisions of these regulations:
 - i. Modification to an existing SES that alone or in combination increases the total SES footprint by no more than five percent (5%) of the original footprint.
 - ii. Routine maintenance and repair, including replacement of solar panels, not increasing the existing SES footprint.
- d. Any exempt SES shall provide the Planning Commission, Board of Adjustment, or other city and/or county authority having jurisdiction, with information concerning service facilities which have been located on and relocated on private property in accordance with [KRS 100.342\(3\)](#).
- e. An SES shall comply with all applicable federal, state, and local laws, regulations, permitting, and other requirements, and applicable building, fire, electrical, and plumbing codes.

3. Accessory Use

The SES is permitted as an accessory use within any zoning district where the SES is permitted as a principal or conditional use, subject to the requirements contained herein.

Notwithstanding the foregoing, a Small Scale Ground Mounted SES qualifies as an accessory use only if its area is less than 50% of the footprint of the primary structure.

4. General Requirements – Integrated and Rooftop Solar Energy Systems

a. Solar Access

Consistent with [KRS 381.200\(2\)](#), a property owner may obtain a solar easement from another property owner for the purpose of ensuring adequate exposure to sunlight for an Integrated or Rooftop SES. Such easement shall be recorded.

b. Tree Removal

The removal of trees or natural vegetation for an Integrated or Rooftop SES shall be limited to the extent practicable and shall comply with all the requirements of the City of Frankfort and Franklin County ordinances and zoning regulations regarding tree removal, and any applicable state or federal requirements.

c. Height Restrictions

A rooftop SES shall conform to any height restrictions for roof-mounted mechanical devices or equipment for the applicable zoning district. A rooftop SES shall be positioned on the roof so as not to extend above or beyond the edge of any ridge, hip, valley, or eave, provided that where it is mounted on a sloped roof, the SES shall not vertically exceed the highest point of the roof to which it is attached by more than five (5) feet.

d. Lighting

Integrated and Rooftop SESs shall not be illuminated and shall be designed and installed to prevent off-site glare.

e. Historic Preservation

Where an integrated rooftop SES is proposed to be installed on a property located within an historic district, or which is listed on the National Register of Historic Places, the proposed installation shall be subject to any review and compliance required by federal, state, and local laws and regulations for exterior renovations or additions to such structures.

5. General Requirements – Ground Mounted SESs

a. Solar Access

Consistent with [KRS 381.200\(2\)](#), a property owner may obtain a solar easement from another property owner for the purpose of ensuring adequate exposure to sunlight for an Integrated or Rooftop SES. Such easement shall be recorded.

b. Tree Removal

The removal of trees or natural vegetation for an Integrated or Rooftop SES shall be limited to the extent practicable and shall comply with all the requirements of the City of Frankfort and Franklin County ordinances and zoning regulations regarding tree removal, and any applicable state or federal requirements.

c. Height Requirements for Ground Mounted SES

A Ground Mounted SES shall not exceed 20 feet in height as measured from the highest natural grade below each solar panel without a variance approved by the Board of Adjustment or other authority having jurisdiction. The height restriction excludes utility poles, storage batteries, substation structures, and antennas constructed for the project. A Ground Mounted SES may exceed 20 feet in height upon finding that the SES would be more productive, use less land, or provide other environmental, economic, or other benefits if the height limitation is increased.

d. Agrivoltaics Projects

Ground Mounted SESs in agricultural zones, or within the “-R” subarea as defined in [Section 2.03. Community Character Designations](#) shall be encouraged to be Agrivoltaic Projects.

e. **Non-Agrivoltaic Projects**

Ground Mounted SES that are not Agrivoltaic Projects, or cease to be Agrivoltaic Projects, located in agricultural zones, or within the “-R” subarea as defined in [Section 2.03. Community Character Designations](#) on land identified by the Natural Resources Conservation Services of the United States Department of Agriculture as either prime farmland or farmland of statewide importance, shall be designed and structured to allow for future farming of the site to the extent commercially practicable, including the establishment of effective ground cover, minimization of erosion and sedimentation, and decompaction of soil. For the purposes of this section, a Ground Mounted SES shall not be treated as an Agrivoltaic Project or shall cease to be treated as an Agrivoltaic Project, as applicable, if the Ground Mounted SES is not co-located on a parcel of land being simultaneously used for agricultural use. For the purposes of this section, agricultural use has the same meaning as found in [KRS 100.111\(2\)](#).

f. **Siting Restrictions**

- i. An Intermediate or Large Scale Ground Mounted SES, measured from the closer of the outer edge of the nearest panel or perimeter fencing, shall be located at least:
 - (A). A minimum of 50 feet from the property line of any property zoned for residential or agricultural use,
 - (B). A minimum of 30 feet from the property line of any property zoned for commercial, business, industrial, office, or institutional use, and
 - (C). A minimum of 50 feet from the centerline of any public road.
 - (D). A minimum of 100 feet from a residence located on a property other than that on which the Ground Mounted SES is to be installed.
- ii. These setback provisions above can be waived in writing by the adjacent property owner to whom the property line or residence setback is applicable.
- iii. Setbacks are not required where the property line is shared by two (2) or more participating landowners.
- iv. Setback requirements may be reduced by 25% where effective existing or proposed visual screening is determined to exist by the Planning Commission.

g. **Screening**

Ground Mounted SESs shall be reasonably screened from properties zoned for residential uses other than that on which the SES is to be constructed using the Buffer standards established by [Section 6.07. Landscape Buffer Requirements](#) of these zoning regulations.

h. **Signage**

A Ground Mounted SES may include such signage as is required by law to provide safety information and other signage as may be permitted by law.

6. General Requirements Applicable to Siting Board Regulated SESs

a. Decommissioning

Whenever an application is submitted for a Siting Board Regulated SES for land use approvals under this ordinance, such application shall include a decommissioning plan that shall describe how the Siting Board Regulated SES will be decommissioned and dismantled following the end of its useful life. The decommissioning plan shall, at a minimum, include plans to:

- i.** Remove all above-ground facilities, unless:
 - (A).** The applicant is or will be the landowner; or
 - (B).** The applicant is the lessee of the land and has reached an agreement with the lessor providing otherwise.
- ii.** Remove any underground components and foundations of above-ground facilities, unless:
 - (A).** The applicant is or will be the landowner; or
 - (B).** The applicant is the lessee of the land and has reached an agreement with the lessor providing otherwise.
- iii.** Facilities removed under this subsection shall be removed to a depth of three (3) feet below the surface grade of the land in or on which the component has been installed, unless the applicant is the lessee of the land and has reached an agreement with the lessor providing otherwise.
- iv.** Return the land to a substantially similar state as it was prior to the commencement of construction;
- v.** Leave any interconnection or other facilities in place for future use at the completion of the decommissioning process unless:
 - (A).** The applicant is or will be the landowner; or
 - (B).** The applicant is the lessee of the land and has reached an agreement with the lessor providing otherwise.
- vi.** Secure a bond or other similar security as defined below for the project to assure financial performance of the decommissioning obligation, provided that:
 - (A).** The amount of the proposed bond or similar security shall be determined by an independent, licensed engineer who is experienced in the decommissioning of solar electric generating facilities and has no financial interest in either the Siting Board Regulated SES or any parcel of land upon which the Siting Board Regulated SES is located. The proposed amount of the bond or similar security shall be the net present value of the total estimated cost of completing the decommissioning plan, less the current net salvage value of the Siting Board Regulated SES's components.
 - (B).** The bond or other similar security names:
 - (1).** For property that is leased by the applicant, each landowner from whom the applicant leases land the Energy and Environment Cabinet as the primary co-beneficiaries; or

- (2). For the property that is owned by the applicant, the Energy and Environment Cabinet as the primary beneficiary; and
- (3). City of Frankfort, Franklin County as a secondary beneficiary
- (C). The bond or other similar security shall be provided by an insurance company or surety that shall at all times maintain at least an "Excellent" rating as measured by the AM Best rating agency or an investment grade credit rating by any national credit rating agency and, if available, shall be noncancelable by the provider or the customer until completion of the decommissioning plan or until a replacement bond is secured; and
- (D). The bond or other similar security shall provide that at least thirty (30) days prior to its cancellation or lapse, the surety shall notify the applicant, its successor or assign, each landowner, the Energy and Environment Cabinet, and the City of Frankfort or Franklin County of the impending cancellation or lapse. The notice shall specify the reason for the cancellation or lapse and provide any of the parties, either jointly or separately, the opportunity to cure the cancellation or lapse prior to it becoming effective. The applicant, its successor, or its assign shall be responsible for all costs incurred by all parties to cure the cancellation or lapse of the bond. Each landowner, or the Energy and Environment Cabinet or the City of Frankfort or Franklin County with the prior approval of each landowner, may make a demand on the bond and initiate and complete the decommissioning plan.
- vii. Unless the applicant is or will be the landowner, communicate with the affected landowner at the end of the Siting Board Regulated SES's useful life so that any requests of the landowner that are in addition to the minimum requirements set forth in this paragraph may, in the sole discretion of the applicant or its successor or assigned, be accommodated; and
- viii. Incorporate the requirements of [Section 3.13.C.6.a.i -vi.](#) (above) into the applicant's leases with landowners, if any.

Where the applicant is also seeking a construction certification pursuant to [KRS 278.700-278.716](#), the applicant may submit a copy of the complete state siting board application and the site assessment report meeting the requirements of [KRS 278.706](#) and [278.708](#) in lieu of the above requirements of [Section 3.13.C.6.a.i -vi.](#) (above).

b. Changes to Decommissioning Plan; Transfer of Sale or Ownership or Control of Siting Board Regulated SES.

It is acknowledged and recognized that [KRS 278.210](#), among other things, requires the secretary of the Energy and Environment Cabinet to periodically review the decommissioning plan and the bond or similar security required by [KRS 278.706\(2\)\(m\)](#) and imposes notice requirements and other conditions in connection with the transfer or sale of ownership, control, or the right to control, a Siting Board Regulated SES. The applicable City of Frankfort or Franklin County authority deems

ARTICLE 3. USE REGULATIONS
3.13. SPECIAL USE REGULATIONS

all such monitoring, review, and change of ownership or control requirements set forth in [KRS 278.210](#) sufficient; provided, however, that the applicant, its successor, or its assign shall notify the applicable City of Frankfort or Franklin County authority of any changes to the decommissioning plan or the bond or similar security required by [KRS 278.706\(2\)\(m\)](#) that may be made from time to time pursuant to the provisions of [KRS 278.210](#).

c. Construction Certificate

Whenever an application is submitted that is for a Siting Board Regulated SES for land use approvals under these zoning regulations, such land use approval(s) shall be obtained prior to the granting of a construction certification pursuant to [KRS 278.700 – 278.716](#).

7. Conditional Use Permit Review Standards

- a. The Board of Adjustments shall consider the standards set forth in [Section 13.06.B. Conditional Use](#) when determining whether the issuance of a conditional use permit is warranted. The Board of Adjustment shall further determine the granting of a conditional use for the proposed SES:
 - i. Does not materially endanger the public health or safety;
 - ii. Meets all applicable conditions and specifications set forth in this Ordinance;
 - iii. Would not substantially injure the value of adjoining property; and
 - iv. Be in conformity with the Comprehensive Plan, particularly the sustainability goals and objectives of the Comprehensive Plan.
- b. A conditional use permit issued by the Board of Adjustment shall include, at a minimum, all applicable requirements of Sections 5, 6, and 7 of these provisions, and any additional conditions deemed by the Board of Adjustment necessary or appropriate pursuant to [KRS 100.27](#) to allow the proper integration of the proposed SES into the zone and location in which it is proposed.

D. Wireless Communications Facilities

1. Purpose

The purpose of these regulations is to allow for cellular antenna towers to be located in the City of Frankfort and Franklin County in order to meet the increasing demands for wireless communication services, and as codified in [KRS Chapters 100](#) and [278](#), and with the intention of providing:

- a. the safest and most efficient integration of cellular antenna
- b. facilities in compliance with the recommendations of the comprehensive plan;
- c. promotion of co-location;
- d. facilities compatible with adjacent land use;
- e. facilities that further the public health, safety, and general welfare.

2. Intent

- a. In as much as the Congress of the United States enacted the Telecommunications Act of 1996, being Pub. L. 104-104, Sec. 1(a), Feb. 8, 1996, 110 Stat. 56, amending various sections of U.S.C. Titles 15, 18, and 47, it is the intent of this subchapter to deregulate the telecommunications industry by providing a more competitive environment for wired and wireless telecommunications.
- b. Kentucky Legislature initially passed House Bill 168, and later enacted House Bill

270, to allow local governments which have adopted planning and zoning regulations to plan for and regulate the siting of cellular antenna towers.

- c. The intent of this subchapter is to provide for cellular telecommunication towers in appropriate locations throughout the community at sites which provide adequate cellular telecommunication service while protecting the public, preserving the character and value of surrounding property and protecting the view from residential areas.

3. Applicability

This subchapter shall apply to all cellular telecommunication towers located, or to be located, within the jurisdiction of the city and county.

4. General Requirements

- a. A cellular antenna tower for cellular telecommunications services or personal communications services may be allowed in any zone after a review by the Frankfort/Franklin County Planning Commission, in accordance with the adopted goals and objectives of the Frankfort/Franklin County Comprehensive Plan and the regulations contained within the Frankfort Zoning Ordinance, and after being granted a Certificate of Necessity and Convenience by the Public Service Commission. Co-location of service facilities is preferred. Co-location objectives may be satisfied by configuration of new facilities for multiple carriers or by co-location on existing facilities. Any request for review of a proposal to construct such an antenna tower or to reconfigure, enlarge or reconstruct an existing antenna tower, shall be made only in accordance with these regulations.
- b. Telecommunication antennae shall not be allowed on any building or structure located within the City's historic zoning districts or identified on the National Register of Historic Places, unless approved by the Architectural Review Board. Towers are not allowed within 2,000 feet of any historic building or historic zoning district.
- c. However, if the property is subject to an existing Conditional Use Permit, the property owner shall obtain approval of the appropriate modification request. Such request shall be filed simultaneously with the antenna tower for cellular telecommunications services or personal communications services request filed pursuant to this section. Review of the Conditional Use Permit plan shall be limited to a determination of the impact of the antenna tower for cellular telecommunications services or personal communications services construction on the requirements of the Conditional Use Permit. The property owner shall be responsible for making alternative provision for any alteration of Conditional Use Permit or shall obtain a variance or waiver of the Permit requirement affected by the location of the tower on the site. (Editor's Note: As authorized in KRS 100, the Planning Commission may modify an existing Conditional Use Permit in conjunction with a request for review of a proposal to construct an antenna tower for cellular telecommunications services or personal communications services.)
- d. Commencing from the time that a utility files a uniform application with the Public Service Commission, all information contained in the uniform application and any updates, except for information that specifically identifies the proposed location of the cellular antenna tower then being reviewed by the applying utility, shall be deemed confidential and proprietary within the meaning of [KRS 61.878](#). The Public Service Commission and the local Planning Commission shall deny any public request for the inspection of this information, whether submitted under Kentucky's Open Records Act or otherwise, except when ordered to release the information by

a court of competent jurisdiction. Any person in violation this subsection shall be guilty of official misconduct in the second degree as provided under [KRS 522.030](#).

5. Permitted Locations

- a. To the extent feasible, applicants are encouraged to consider properties owned by the local government for the location of cell towers, if such properties are appropriate in view of surrounding land uses. Wherever possible, cellular antenna towers, whether temporary or permanent, shall be sited at locations that minimize their adverse effect on residential uses in the immediate area. Only when no other adequate site is available shall a cellular antenna tower be permitted in a residential zone.
- b. In accordance with the procedures established by this subchapter, cellular antenna towers may be permitted in any zone when approved by the Planning Commission, with the following exception:
- c. the Frankfort/Franklin County Planning Commission may allow the placement of cellular antenna towers in designated flood hazard areas as shown on the Flood Insurance Rate Map (FIRM) as being the 100-year floodplain upon review of the applicant's justification.

6. Design Standards

a. Lighting / Signage

- i. Cellular antenna towers shall not be lighted, except in accord with other state and federal regulations.
- ii. There shall be no signs permitted, except those displaying emergency information, owner contact information, warning or safety instructions or signs which are required by a federal, state, or local agency.

b. Setbacks

- i. A fall zone clear of any dwellings on the parcel containing the telecommunication tower (other than equipment enclosures associated with the wireless telecommunication facility) equal to one-half the height of the tower shall be required.
- ii. All accessory structures associated with the cellular antenna tower shall be located as close to the antenna tower as possible and at least 25 feet or the equivalent of the setback of that zoning district, whichever is greater, from any adjoining property in a residential zone or any property used for residential purposes. The Planning Commission shall have the power to reduce the 25-foot setback in cases of demonstrated hardship or where adequate natural screening exists on the cell tower lot itself.

c. Fencing / Screening

- i. The site shall be enclosed by a six (6) foot security fence, with two (2) feet of Constantine wire. Such fence may be located within the front, side or rear yard.
- ii. Visual landscape screening shall be required surrounding the outside of the fence. Such screening buffer shall be at least 20 feet in width, with a double-row staggered planting of evergreen trees planted at 15 feet on center. In any zone, whenever possible, all antenna towers shall be designed and constructed to minimize any potential negative aesthetic, environmental or visual impacts.

d. Miscellaneous Development Standards

- i.** The tower shall be constructed to withstand a minimum wind speed with one-half inch of ice or the basic wind speed, and seismic load capacity standards as determined by Kentucky Building Code. The tower design shall be certified by a registered engineer, licensed in the state.
- ii.** The location of the cellular antenna tower shall not interfere with the traffic circulation, access, storm drainage, required landscaping or other requirements of this chapter and shall not reduce the number of parking spaces below what is otherwise required.
- iii.** All new cellular antenna towers shall be designed and constructed to reasonably accommodate a minimum of three service providers.
- iv.** All option and site lease agreements shall not prohibit the possibility of collocation.
- v.** Monopole and alternative design cellular antenna towers shall be permitted in all zones. Lattice towers and guyed
- vi.** towers may only be located in non-residential zones.
- vii.** In cases where a cellular antenna tower or antenna is located on a portion of a property whose "subdivision" is based on a long-term lease, the lease area shall not take the parent tract below the minimum lot requirement for the zone in which it is located.
- viii.** Prior to construction and/or location of a cellular antenna or tower or associated structure whether on an existing structure or on ground level, any applicable permits must be obtained from the Planning Commission and/or the County Building Department.
- ix.** The site shall be un-staffed. Personnel may periodically visit the site for maintenance, equipment modification or repairs. To accommodate such visits, ingress/egress shall only be from approved points.
- x.** A cellular antenna tower, or alternative antenna tower structure, may be constructed to a maximum height of 325 feet regardless of the maximum height requirements listed in the specific zoning district.

7. Mitigating Design Standards for Cellular Antenna Towers in Residential or Agricultural Zones

- a.** When no adequate alternate site for a cellular antenna tower is available, a site in a residential or an agricultural zone may be permitted.
- b.** The Planning Commission shall consider the following mitigating design standards and may reduce or modify these standards in cases where it can be demonstrated that there is a hardship.
 - i.** The Planning Commission shall have the power to impose additional landscaping requirements, which may include plantings, trees and fencing designed to complement the character of the landscaping in the surrounding residential area.
 - ii.** Design and materials to be used in the accessory building or buildings may be required to be submitted to the Planning Commission for review and approval.
 - iii.** Asphalt or other hard-surface paving shall be provided for driveways and parking.

- iv. In order to protect the public health, safety and welfare, and to encourage the placement of telecommunications facilities in locations other than residential areas there shall be a setback area around the tower equal to one half the height of the tower free of any dwellings on the parcel containing the telecommunication tower (other than equipment enclosures associated with the wireless telecommunication facility) in addition to the fall zone required elsewhere by this chapter.

8. Uniform Application for A Cellular Antenna Tower

Any applicant that proposes to construct a cellular antenna tower for cellular telecommunications services or personal communications services within the county must submit a completed uniform application to the Planning Commission, as mandated by [KRS 100.9865](#). Unless waived by the applicant, all information contained in the uniform application and any updates, except for information that specifically identifies the proposed location of the cellular antenna tower then being reviewed, shall be deemed confidential and proprietary. In accordance with [KRS 100.987](#), the Planning Commission may not approve public requests for the inspection of this information, whether submitted under the commonwealth's Open Records Act, being [KRS 61.870](#) to [KRS 61.884](#), or otherwise, except when ordered to release the information by a court of competent jurisdiction or when the applicant has provided a written waiver of confidentiality.

9. Application Process

Application for the construction of cellular antenna towers or co-location of cellular antennas for cellular telecommunications services or personal communications services shall be processed as follows.

a. Applicability

- i. Every utility, or a company that is engaged in the business of providing the required infrastructure to a utility, that proposes to construct an antenna tower or co-locate an antenna for cellular telecommunications services or personal communications services, and has officially registered with the Public Service Commission, shall submit a copy of the utility's completed uniform application to the Frankfort/Franklin County Joint Planning Commission within five consecutive days of applying to the Public Service Commission for a certificate of necessity and convenience, as required by [KRS 278.020\(1\)](#).
- ii. For applicants who are requesting co-location, all requirements in these regulations apply, except those that are specifically waived in [Section 3.13.D.9.d. Application Requirements](#).

b. Co-Location

- i. A utility planning to co-locate its antennas on an existing tower or to augment an existing structure to enable it to place its antennas on that structure shall file with the Planning Office its intent to do so, including the name and address of the utility, name of the owner of the structure, the latitude and longitude of the structure and a description of the plan to augment or co-locate, if:
 - (A). The proposed augmentation, if any, of the existing structure shall not increase the height of the structure; and
 - (B). The proposed augmentation, if any, of the existing structure will not result in altering lighting requirements for a structure on which

lighting is not currently required.

- ii. For facilities located on previously approved sites, a representative of the Frankfort/ Franklin County Planning Commission shall review the application for its conformity with these regulations and the regulations contained within this chapter. If the Planning Director determines that the application is in conformity with these regulations and the regulations contained within this chapter, an administrative approval may be granted. This administrative approval shall not be considered final until it is ratified by a vote of the full commission.
- iii. If the Director determines that the application is not in conformity with these regulations and the regulations contained within this chapter, a public hearing, pursuant to Section division [3.13.D.9.c. Notices and Posting](#) below, shall be scheduled.

c. **Notices and Posting**

At least one (1) public hearing on the proposal shall be held, at which time interested parties and citizens shall have the opportunity to be heard. It is the responsibility of the applicant to send and post information about the hearing and certify to the Planning Commission office that the notices and postings have been done.

- i. Notice of the hearing shall be sent by first class mail to the owner of every parcel of property within 500 feet of the tower site's property boundaries, to the owner of every parcel of property adjoining at any point the property form which the applicant proposes to create the tower site, and to the owner of every parcel of property directly across the street from said property. If the property is in a cooperative form of ownership or has co-owners, notice may be in the manner described in [KRS 100.214 \(2\)](#) for such ownership. Notice shall also be sent by the applicant to the Mayor of Frankfort, depending on which jurisdiction the proposed site is located. Such notices shall include the date, place and time of the public hearing, the address and telephone number of the Planning commission's office, and a statement that the recipient has the right to submit testimony to the Planning Commission, either in writing or by appearance at any Committee or Commission meeting scheduled for review of the request. Such notices by first class mail shall be mailed no sooner than the date of acceptance of the application by the Planning Commission and no later than fourteen (14) days in advance of the hearing.
- ii. Notice of the date, time and place of such hearing shall be published at least once but may be published two (2) or more times, in a newspaper of general circulation in the county, provided that one (1) publication occurs not less than seven (7) calendar days nor more than twenty-one (21) calendar days before the occurrence of such hearing.
- iii. Notice of such hearing shall be posted in a visible location on the proposed site of the telecommunications facility and in a visible location on the nearest public road at the same time that notice by first class mail is sent for a minimum of fourteen (14) consecutive days immediately prior to the hearing. The notices shall remain until the Planning Commission issues its final decision or 60 days has passed since acceptance of the request by

ARTICLE 3. USE REGULATIONS
3.13. SPECIAL USE REGULATIONS

the Planning Commission, whichever occurs first. Said posting shall be as follows:

- (A).** Each sign shall be at least two (2) feet by four (4) feet in size;
- (B).** Such signs shall be constructed of durable material and depicting the following information in a minimum of one (1) inch high lettering except for the words "tower" or "Monopole" which shall be printed letters at least four (4) inches high: "(Name of applicant) proposes to construct a telecommunications ("tower" or "monopole") on this site. If you have questions, please contact (name, address, and telephone number of applicant) or the Executive Director, Public Service Commission, 730 Schenkel Lane, P.O. Box 615, Frankfort, KY 40602. (refer to assigned docket number)". Such notices shall include the date, place and time of the public hearing, the address and telephone number of the Planning Commission's office, where additional information regarding the hearing may be obtained.

d. Application Requirements

An application for the construction of a cellular antenna tower on a site not previously approved shall include the following:

- i.** All information that the applicant is required to submit to the Public Service Commission, per the requirements of the uniform application. The uniform application shall include a grid map that shows the location of all existing cellular antenna towers and that indicates the general position of proposed construction sites for new cellular antenna towers within an area that includes:
 - (A).** City of Franklin
 - (B).** Franklin County; and
 - (C).** A one-half (1/2) mile area outside of the boundaries of the county's jurisdiction, if that area contains either existing or proposed construction sites for cellular antenna towers;
- ii.** A copy of the applicant's FCC license, or, if the applicant is not an FCC license holder, a copy of at least one letter of commitment from a FCC license holder to locate at least one antenna on the applicant's tower.
- iii.** Clear directions from the county seat to the proposed site, including highway numbers and street names, if applicable with the telephone number of the person who prepared the directions.
- iv.** Radio frequency requirements, as follows:
 - (A).** General coverage area, including overlap ("hand-off") area with other sites.
 - (B).** Specific (targeted) coverage area(s) and required field strength(s).
 - (C).** System specifications of the proposed site and adjoining sites, including:
 - (1).** Number of antennas and sectors
 - (2).** Geographical coordinates of tower location.

- v.** Unless co-locating, certification, supported by evidence, that co-location of the proposed facility with an existing approved tower or facility cannot be accommodated. The applicant's certification shall include a listing of all existing towers and facilities, a description of each existing site, according to the following:

 - (A).** No existing towers or facilities are located within a three (3) mile radius of the proposed tower location.
 - (B).** Existing towers or facilities are not of sufficient height to meet the applicant's engineering requirements.
 - (C).** Existing towers or facilities do not have sufficient structural strength to support the applicant's proposed antenna(s) or related equipment.
 - (D).** The applicant's planned equipment would cause frequency interference with other existing or planned equipment of the tower or facility, or the existing or planned equipment of the tower or facility would cause frequency interference with the applicant's planned equipment, and which cannot be reasonably prevented.
 - (E).** Unwillingness of the owner/owners of the existing tower/towers or facility/facilities to entertain a co-location proposal.
 - (F).** Existing towers are not located within a reasonable distance to provide the necessary coverage.
- vi.** Unless co-locating, certification, supported by evidence, there is no other site which is materially better from a land use perspective within the immediate area for the location of the telecommunications facility. The applicant's certification shall include a listing of potential sites within a one (1) mile radius of the proposed tower location, a description of potential sites, and a discussion of the ability or inability of the sites to host a cellular antenna tower. Potential sites that should be considered (in order from most preferred to least preferred) include existing utility towers, highway rights-of-way (except designated parkways), industrial districts, airports, public facilities, office towers, commercial districts and commercial centers, agricultural districts and residential towers. Desirable locations include water towers, radio, and television towers, tall buildings, signs, steeples, and flag poles. Stealth technology is encouraged. Reasons for not locating on a potential site would include, but not be limited to, the following:

 - (A).** Unwillingness of the site owner to entertain a telecommunications facility;
 - (B).** Economically impractical;
 - (C).** Topographic limitations of the site;
 - (D).** Adjacent impediments that would obstruct adequate cellular telecommunications and/or personal communications transmission;
 - (E).** Physical site constraints that would preclude the sign construction of a telecommunications facility;
 - (F).** Technical limitations of the telecommunications system;

ARTICLE 3. USE REGULATIONS
3.13. SPECIAL USE REGULATIONS

- (G).** Existing potential sites do not provide an acceptable location for requisite coverage for the applicant's communications network;
- vii.** A statement demonstrating that the proposal is in agreement with the adopted Frankfort/Franklin County Comprehensive Plan and is in conformity with these regulations.
- viii.** A site development plan, signed and sealed by a professional engineer registered in Kentucky, drawn to a scale not smaller than one (1) inch equals one hundred (100) feet, showing the following information, where applicable.
 - (A).** The total area of the site in question;
 - (B).** All public and private rights-of-way and easement lines located on or adjacent to the subject property within 500 feet of the proposed tower;
 - (C).** Existing topography, and approximate delineation of any topographical changes shown by contour with intervals not to exceed five feet
 - (D).** Location, height, arrangement, and identification of all structures on or adjacent to the subject property within 500 feet of the proposed tower,
 - (E).** Property owner names of subject property and adjacent properties within 500 feet of the proposed tower;
 - (F).** Uses on the subject property and adjacent properties within 500 feet of the proposed tower;
 - (G).** Location and arrangement of all common open space areas, and methods of ownership and operation and maintenance of such lands shall be identified;
 - (H).** Landscaping features, including identification of existing landscaping, proposed landscaping, proposed walls and fence, and heights;
 - (I).** Location of signs, indicating their orientation, size, and height;
 - (J).** All utility lines and easements:
 - (1).** Water distribution systems, including line sizes, width of easements, type of pipe, location of hydrants and valves, and other appurtenances;
 - (2).** Sanitary sewer system, including pipe sizes, width of easements, gradients, type of pipes, invert elevations, location and type of manholes, the location, type, size of all lift or pumping stations, capacity, and process of any necessary treatment facilities, and other appurtenances;
 - (3).** Storm sewer and natural drainage system, including pipe and culvert sizes, gradients, location of open drainage courses, width of easements, location and size of inlets and catch basins, location and size of retention and/or sedimentation basins;
 - (4).** Other utilities (e.g., electric, telephone, etc.) including

the type of service and the width of easements;

- (K). Location of all off-street parking, loading and/or unloading, and driveway areas, including typical cross sections, the type of surfacing, dimensions, and the number and arrangement of off-street parking and loading and/or unloading spaces;

- (L). **Circulation System**

- (1). Pedestrian walkways, including alignment, grades, type of surfacing, and width;

- (2). Streets, including alignment, grades, type of surfacing, width of pavement and right-of-way, geometric details, and typical cross sections;

- (M). Provisions for control of stormwater detention/retention, erosion, hillside slippage and sedimentation, indicating the temporary and permanent control practices and measures which will be implemented during all phases of clearing, grading, and construction;

- (N). Demonstration of the failure characteristics of the tower and that the site, setbacks, and separation from other uses is of adequate in terms of distance.

- ix. Certification that a geotechnical investigation report was performed by a professional engineer registered in Kentucky that includes borings, foundation design recommendations, and a finding as to the proximity of the proposed site to flood hazard areas (the utility may file findings prepared by a land surveyor as to the proximity of the proposed site to flood hazard areas).

- x. Certification that the applicant notified property owners and governmental officials as described in [Section 3.13.D.9.c. Notices and Postings](#), and that notices were posted, as described in [Section 3.13.D.9.c. Notices and Postings](#). The names and addresses of those notified shall be given to the Planning Commission.

- e. **Evaluation**

- i. The Frankfort/Franklin County Planning Commission shall, within 60 days commencing from the date that the application is received by the Frankfort/Franklin County Planning Commission, or within a date specified in a written agreement between the Frankfort/Franklin County Planning Commission and the applicant, make its final decision to approve or disapprove the uniform application. The Frankfort/Franklin County Planning Commission shall submit to the Public Service Commission, along with its action, the basis for its decision, along with suggestions which, in its opinion, better accomplishes the objectives of the Comprehensive Plan and this chapter. If the Frankfort/Franklin County Planning Commission fails to issue a final decision within 60 days, and if there is no written agreement between the Frankfort/Franklin County Planning Commission and the utility to a specific date for the Frankfort/Franklin County Planning Commission to issue a decision, it is presumed that the Frankfort/Franklin County Planning Commission has approved the utility's uniform application. In the case that the Commission should deny an application,

the applicant would have 30 days to appeal from the time of the Planning Commission's "final action".

- ii. Whenever the Planning Commission may deny an application, it must do so in writing. According to [47 U.S.C. § 332\(c\)\(7\)\(B\)\(iii\)](#), the Commission's written denial must be separate from the written record (i.e., separate from the Planning Commission minutes), must describe the reasons for denial and must contain a "sufficient explanation of the reasons for the denial to allow a reviewing court to evaluate the evidence in the record that supports those reasons".
- iii. The evaluation of the application shall include, but not be limited to, the following criteria:
 - (A). The Frankfort/Franklin County Planning Commission will deny a uniform application to construct a cellular antenna tower based on an applicants' unwillingness to attempt to co-locate additional transmitting or related equipment on any new or existing towers;
 - (B). Agreement with the various elements of the Frankfort/Franklin County Comprehensive Plan and, where applicable, any other adopted plans;
 - (C). Extent to which the proposal is consistent with the purposes of these regulations;
 - (D). Adequacy of the proposed site, considering such factors as the sufficiency of the size of the site to comply with the established design standards listed in [Section 3.13.D.6. Design Standards](#) and [Section 3.13.D.7. Mitigating Design Standards for Cellular Antenna Towers in Residential or Agricultural Zones](#) of this chapter;
 - (E). Extent to which the proposal responds to the impact of the proposed development on adjacent land uses, especially in terms of visual impact. The Commission shall have substantial evidence, presented at a public hearing in order to deny an application based upon visual impact; and
 - (F). Extent to which the proposed facility is integrated with existing structures or the extent to which the proposed cellular antenna tower uses stealth technology.

f. Amendments

Any amendments to the site development plans, except for minor adjustments as determined by the Frankfort/Franklin County Planning Commission, or its duly authorized representative, shall be made in accordance with the procedure required by [Section 3.13.D.9.c. Notices and Posting](#) above, subject to the same limitations and requirements as those under which such plans were originally approved.

10. Existing Telecommunication Facilities

Telecommunications facilities in existence on the date of the adoption of this subchapter which comply with this chapter ("existing telecommunications facilities") are subject to the following provisions.

- a. Existing telecommunication facilities may continue in use for the purpose now used but may not be expanded or replaced without complying with this chapter, except as further provided in this section.

- b. Existing telecommunications facilities which are hereafter damaged or destroyed due to any reason or cause may be repaired and restored to their former use, location and physical dimensions subject to obtaining a building permit therefor, but without otherwise complying with this chapter.
- c. The owner of any existing telecommunications facility may replace, repair or rebuild and/or expand such
- d. telecommunications facility to accommodate co-located antennas or facilities, or to upgrade the facilities current engineering, technological or communications standards by obtaining a building permit therefor and without having to conform to the provisions of this chapter (including, but not limited to, provisions of this chapter regarding notice to local zoning authorities or posting of signs) or to otherwise request local zoning approvals, so long as such facilities height is not increased.
- e. Any such replacement, repair, reconstruction or enlargement shall not violate the design standards described in [Section 3.13.D.9.b. Co-Location](#) above beyond that existing at the date of the adoption of this chapter.
- f. Any legally permitted and constructed telecommunications tower shall be exempt from these regulations, except when discontinued for a period of 12 months. In such cases, the applicant or utility shall be required to follow the procedures listed herein.

11. Maintenance and Removal

- a. Included in any contract with an owner of property upon which a cellular antenna tower is to be constructed, a provision that specifies, in the case of abandonment, a method that the utility will follow in dismantling and removing a cellular antenna tower including a timetable for removal.
- b. To ensure the removal of all improvements at any abandoned telecommunications facility, any applicant filing a request under these regulations shall, at the time of the submittal, deposit with the Frankfort/Franklin County Planning Commission, and to the benefit of the Frankfort/Franklin County Planning Commission, a letter of credit, a performance bond or other security acceptable to the Frankfort/Franklin County Planning Commission in the amount equal to the cost of demolition and removal of the facility. An applicant having multiple telecommunications facilities within the Frankfort/Franklin County Planning Commission's jurisdiction may deposit a single guarantee in the amount equal to the cost of demolition and removal of the one facility it owns which would cost the most to demolish and remove until such time as the number of its multiple facilities exceeds four such facilities. At such time as the approved number of the applicant's multiple facilities exceeds four such facilities, the applicant shall increase the amount on deposit to an amount equal to the cost of the most costly demolition and removal, plus 25% of the cost of demolition and removal of the applicant's other existing facilities. Any guarantee submitted shall be irrevocable and shall provide for the Frankfort/ Franklin County Planning Commission to collect the full amount of the guarantee if the applicant fails to maintain the guarantee.
- c. If the use of any cellular antenna or cellular antenna tower or alternative cellular antenna tower structure is discontinued, the owner shall provide the Frankfort/Franklin County Planning Commission with a copy of the notice to the FCC of intent to cease operations within 30 days of such notice to the FCC. If the cellular antenna or cellular antenna tower or alternative cellular antenna tower structure will not be reused, the owner shall have 180 days from submittal of the FCC notice to the Frankfort/Franklin County Planning Commission to obtain a

ARTICLE 3. USE REGULATIONS
3.13. SPECIAL USE REGULATIONS

demolition permit and remove the antenna or tower that will not be reused. If the cellular antenna or cellular antenna tower or alternative cellular antenna tower structure is to be reused, the owner shall have no more than 12 months from submittal of the FCC notice to the Frankfort/Franklin County Planning Commission in which to commence new operation of the antenna or tower to be reused. Upon failure to commence new operation of the antenna or cellular antenna tower or alternative cellular antenna tower, the structure shall be presumed abandoned, and the owner shall obtain within 90 days of the expiration of the 12-month period, a demolition permit and remove the antenna or tower that is presumed abandoned within 60 days of obtaining the demolition permit. If the owner fails to remove an antenna or tower in the time provided by this subsection, the Frankfort/Franklin County Planning Commission may, on grounds of public safety, health and welfare, cause the demolition and removal of the antenna or tower and recover its costs of demolition and removal.

12. Severability

If any clause, section or other part of this subchapter shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this subchapter shall not be affected thereby but shall remain in full force and effect.