

*Livingston County,  
Missouri*

*Zoning Order*

*700 Webster Street  
Chillicothe, MO 64601*

December 28, 2010

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## EXECUTIVE SUMMARY

Missouri law gives Livingston County the authority to regulate land uses and to establish dimensional standards by district. This power is referred to as "zoning." The Zoning Order implements the County's Comprehensive Plan, protects neighborhoods and property, and protects property rights.

This document contains the zoning regulations for Livingston County. Zoning regulations govern the use, density, intensity, design and related standards for new development. This Executive Summary describes how to read the ordinance. Because the Zoning Ordinance covers situations relating to all property within the unincorporated areas of the County, it is not intended to be read from cover to cover. Instead, it is comprehensive in scope.

This Chapter includes a number of items designed to enhance readability and to make it user-friendly. These include:

- **An easy to follow format.** The document flows logically from broad, policy based sections to more technical items. The most intensively used sections (such as the district standards) appear first, with technical items (such as submittal requirements) in Appendices.
- **Better navigation.** The Chapter includes hyperlinked cross-references, and index, and a list of tables and figures to assist the reader in finding information.
- **Plain, understandable language.** The Chapter is written in "plain English," with short sentences and minimal use of "legalese." Where technical terms must be used, they are defined.
- **Clear intent.** Most of the sections have purpose statements that explain their intent.
- **Graphics** are used to illustrate how technical and numeric criteria are applied, to show examples of uses, and to communicate with a broader audience.

The Zoning Order's organization follows these conventions:

- Article 1 (Introduction) includes background material germane to the entire Zoning Order.
- Article 2 establishes the zoning districts and the official zoning map. These sections are needed in order for the Order to be legally enforceable.
- Article 3 establishes regulations specific to each zoning district. This includes the permitted uses, yards, height, other dimensional standards, and any other special regulations for the district.
- Article 4 includes design and improvement standards that apply to all districts. These include rules for yards, building height, and other improvements to property that apply to all of the zoning districts.
- Article 5 establishes supplemental regulations for particular uses. These regulations apply to the uses listed there regardless of what zoning district they are in.
- Article 6 explains how to obtain a zoning permit. It consolidates permitting procedures ranging from legislative decisions (such as rezonings), administrative decisions (such as conditional use permits and variances), and ministerial decisions (building permits).
- Article 7 formally establishes the agencies boards, commissions, and officials involved in the permitting process – such as the Zoning Administrator, Planning Commission, and Board of Adjustment. These sections are not referred to often, but are needed to

EXECUTIVE SUMMARY

- formally establish these agencies.
- Article 8 includes the regulations for legal nonconforming uses and structures. Under Missouri law, a legally established use or structure must be allowed to continue, but the County can establish certain rules and conditions for their continuance.
- Article 9 includes enforcement procedures.
- Article 10 includes language to establish legal status.
- Article 11 is included to administer and interpret the ordinance. It includes the definition of terms and phrases used throughout the ordinance.

Some frequently asked questions are answered below:

1. **How do I determine what use I can make of my property?** Refer to the Official Zoning Map to see what zoning district your property is in. Then, go to the district regulations in Article 3. The permitted uses are listed in the zoning district regulations. If the use is not listed, it is prohibited. Please note that farm buildings and farm structures are generally exempt from this Order, as required by law.
2. **How far does my building have to be from the street or property line?** Again, refer to the zoning district regulations (see #1, above). They establish setbacks from the front, side and rear property lines.
3. **What is the procedure for establishing the use?** If your use is permitted "by right" and complies with this Order, the Zoning Administrator will issue a building permit. If it is a conditional use, the Planning Commission and County Commission must conduct hearings. After the hearings, they will either approve, approve with conditions, or deny the use.
4. **If I disagree with a decision of the Zoning Administrator, what can I do?** You may appeal to the Board of Adjustment.
5. **If my use is not permitted, what can I do?** You may ask the Planning Commission and County Commission to rezone it to a district where your use is permitted or to amend the zoning district text to permit the use.
6. **If I cannot comply with a dimensional regulation because of unique conditions and this causes me hardship, what can I do?** You may ask the Board of Adjustment to approve a variance. Variances are subject to specific standards established by Missouri law, which are explained in Article 6.
7. **How is this document numbered?**


**Table ES-1 Numbering Conventions**

The numbering conventions in this Order are consistent with those used by the Missouri General Assembly. The conventions are as designated in Table ES-1.

Level	Designation	Convention
1	Article	Article 1
2	Section	1.1
3	Subsection	1.
4	Subsection	(1)
5	Subsection	a.

8. **What are the purpose statements? Are they binding?** In addition, the Ordinance

## EXECUTIVE SUMMARY

includes purpose statements and commentaries. These are included simply to assist the reader. They are not legally binding, but may be used to explain and to interpret the ordinance. In order to set the purpose statements apart, they are *italicized* and preceded by a unique icon ()

## ARTICLE 1. INTRODUCTION

### 1.1 *Title*

This Order is known and referred to as the "*Livingston County Zoning Order*." It is referred to in this document as "this Order."

### 1.2 *Jurisdiction*

The jurisdiction of this Order shall apply to all the unincorporated area of Livingston County outside the incorporated limits of municipalities.

### 1.3 *Applicability*

1. This Order applies to all of the following in the unincorporated areas of the County:
  - (1) The use of any land, lot or parcel; and
  - (2) Every building or portion of a building that is erected, altered in a way that increases height and area, added to or relocated; and
  - (3) The use of any building; and
  - (4) Any use that is accessory to a building thereto in Livingston County shall be in conformity with the provision of this Order.
2. Any existing building or structure and any existing use of properties that do not conform to this Order are considered non-conforming. Uses that were legally established may be continued, extended, or changed; subject to the regulations of this Order.
3. This Order does not apply to the raising of crops, livestock, orchards, or forestry or to seasonal or temporary impoundments used for rice farming or flood irrigation. As used in this section, the term "rice farming or flood irrigation" means small berms of no more than eighteen inches high that are placed around a field to hold water for use for growing rice or for flood irrigation.
4. This Order does not apply to the erection, maintenance, repair, alteration or extension of farm buildings or farm structures used for such purposes, unless they are located within an area shown on the flood hazard boundary map.
5. This Order does not apply to the incorporated portions of Livingston County.

### 1.4 *Other Governmental Regulations*

This Order does not excuse compliance with other applicable regulations. All uses, buildings, or structures must comply with all County, State, and Federal regulations in addition to this Order.

## ARTICLE 2. ZONING DISTRICTS GENERALLY

### 2.1. Establishment of Zoning Districts

Pursuant to Section 64.630, RSMo, the following zoning districts are hereby established. These districts are shown on the Official Zoning Map:

Table 2-1 Zoning Districts

District	Reference
Agriculture District (A)	<a href="#">3.2</a>
Rural Residential District (RR)	<a href="#">3.3</a>
Recreational Development District (RD)	<a href="#">3.4</a>
Highway Commercial District (HC)	<a href="#">3.5</a>
Industry District (I)	<a href="#">3.6</a>
Planned Development (PD)	<a href="#">3.7</a>
Floodplain Overlay (F)	<a href="#">3.8</a>
Airport Overlay (AO) districts: Approach zone (AO-A), Transitional zones (AO-T), Horizontal zone (AO-H), Conical zone (AO-C)	<a href="#">3.9</a>

### 2.2. Zoning Map

1. The location and boundaries of the districts established by this Order are set forth on the Official Zoning Map.
2. The Official Zoning Map consists of:
  - (1) sheets and notations; and
  - (2) references and data shown on the sheets and notations; and
  - (3) any geospatial or digital data included as part of the Official Zoning Map and that is available for public inspection.
3. The Official Zoning Map is maintained as an electronic map layer by the Midland GIS. The official copy of the electronic version of the Official Zoning Map shall be recorded onto permanent media to ensure that the electronic information is protected.
4. Any amendments to the Official Zoning Map are recorded on the maps after official publication of amendments.
5. The Official Zoning Maps shall be kept on file in the Zoning Administrator's office as designated by the Livingston County Commission, and a copy shall also be

## ARTICLE 2 ZONING DISTRICTS GENERALLY

### §2.2. Zoning Map

maintained for public inspection in the office of the Livingston County Clerk. An unofficial copy may be distributed with copies of this Order.


6. The Official Zoning Map shall be identified by the signature of the Presiding Commissioner of the County Commission, attested by the County Clerk, and bearing the seal of the County under the following words: "This is to certify that this is the Official Zoning Map of Livingston County, Missouri" (DATE).
7. Regardless of the existence of purported copies of the Official Zoning Map, only the copy that bears the original certificate of authenticity is the final authority as to the current zoning district status.
8. The floodplain district map is considered part of the Official Zoning Map, and has the effect of establishing the boundaries of the "F" Floodplain District. The flood data shall be kept on file in the Office of the County Zoning Administrator and an identical copy shall be available for public inspection at the office of the County Clerk. The Flood Insurance Rate Map (FIRM) shall be one and the same as the maps prepared for Livingston County, Missouri as published by the Federal Emergency Management Agency or its successor agency. Rules for interpreting the floodplain district map are established in § 11.4 of this Order.

## **ARTICLE 3. ZONING DISTRICT STANDARDS**

### **3.1 *Generally***

1. This Article establishes the uses that are permitted in each zoning district, and the standards for height, number of stories, and size of buildings, the percentage of lots that may be occupied, the size of yards, courts and other open spaces, the density of population, the location and use of buildings, structures and land within each district.
2. Uses that are not listed as a permitted main use, conditional use, or permitted accessory use within the applicable zoning district regulations in this Article are prohibited. If a use is not expressly listed as permitted, the Zoning Administrator may render an interpretation that the use is permitted as provided in Article 11.

### 3.2 “A” Agricultural District

 Purpose: to provide a district whose primary purpose is to maintain, conserve and enhance agriculture land and to protect the land from unnecessary urban encroachment.

#### 1. Permitted Uses

The following uses are permitted in the “A” Agricultural District:

Note: farms, farm buildings and farm structures are exempt from this Order. An asterisk (\*) indicates that the use is subject to additional regulations (see Article 1.4).

**Exempt Uses:**

- Farms, Farm Buildings, or Farm Structures, including grain elevators
- Farm Dwellings (includes manufactured homes)
- Farm drainage systems, flood control and watershed structures and erosion control devices\*
- Nursery stock and tree farms, including deciduous and conifer trees, fruit trees and bushes, and ornamental shrubs, trees and flowers
- Other animals than farm livestock, for their pelts, food, pleasure or sport, including rabbits, mink, dogs, cats, ponies, buffalo and deer

**Uses Permitted by Right:**

- Railroad rights-of-way, but not including freight classification yards and buildings
- Regional pipelines, power transmission lines and relay towers
- Single Family and Two-Family Dwellings
- Temporary or seasonal roadside stands
- Fire Stations
- Safety Services

**Conditional Uses:**

- Automobile Service Station
- Campgrounds
- Crematoriums
- Dumping Grounds
- Gun Ranges
- Hazardous waste facilities
- \* Kennel
- Prisons or jails
- Quarry or Mining
- Religious land uses
- Solid waste disposal area
- Solid waste management area
- Multi-Family Dwellings
- Mini Warehouses

**Accessory Uses:**

- Home Occupations
- Others as permitted in [Article 5](#)

For wireless communication facilities, see [§ 5.40](#).

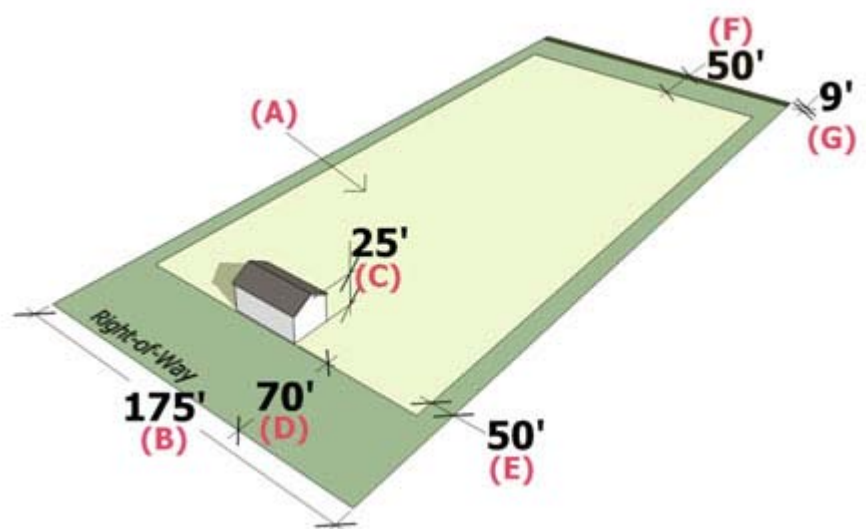
ARTICLE 3. ZONING DISTRICT STANDARDS  
 § 3.2 "A" Agricultural District

2. Dimensional Standards - Generally

The design of lots, buildings and structures in the "A" must conform to the following standards:

## A

### Agriculture District



Dimensional Standards						
(A) Min. Lot Area	(B) Min. Lot Width	(C) Max Height	(D) Min. Front Yard	(E) Min. Side Yard	(F) Min. Rear Yard (principal building)	(G) Min. Rear Yard (accessory building)
5 acres	175'[1]	25'	70'	50'	50'	9'

[1] For corner lots, the front yard applies to each street side.

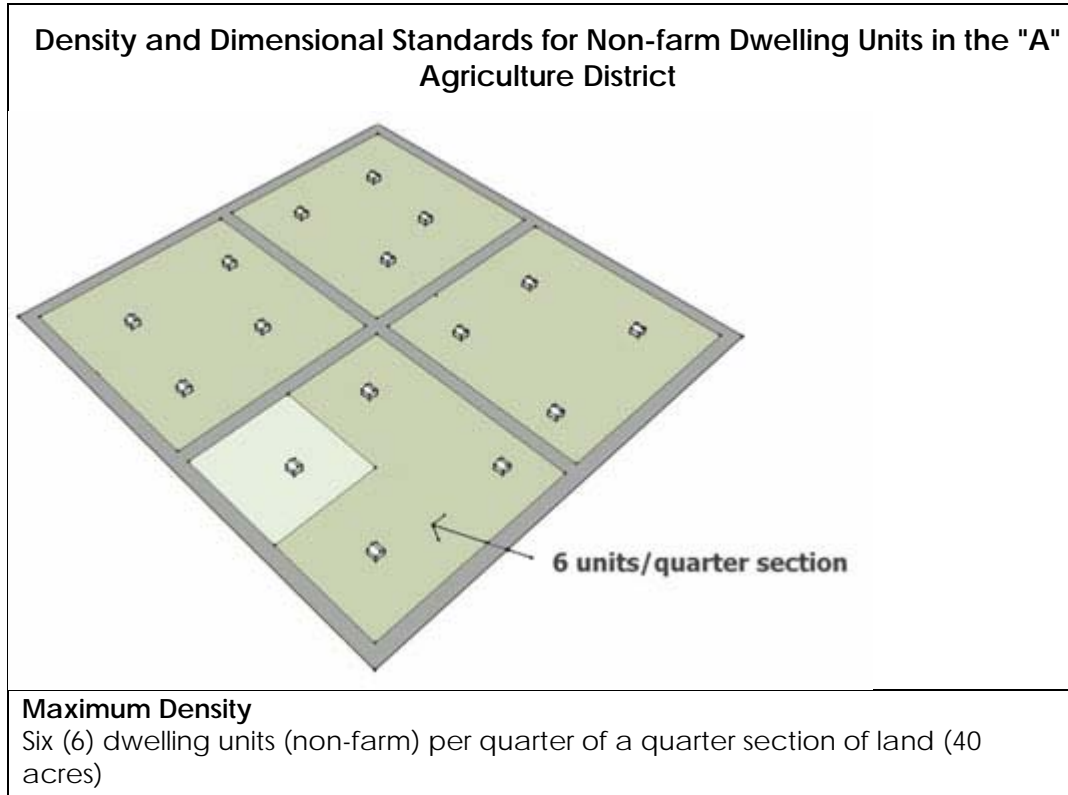
ARTICLE 3. ZONING DISTRICT STANDARDS  
§ 3.2 "A" Agricultural District

Accessory buildings that are attached to the principal building must comply with the requirements of this Section that apply to the principal building. If the accessory building is detached from the principal building, it must not be closer than ten (10) feet to the principal building.

**3. Non-Farm Residential Dwellings**

- (1) Non-farm residential dwellings are subject to the density and dimensional standards in Table 3-2 below and this subsection.
- (2) Non-farm residential dwellings may include single-family dwellings or two-family dwellings.
- (3) Subdivision of land is not permitted.
- (4) For lots of record that were recorded before January 31, 1994 that are smaller than that permitted in Table 3-2, the County may issue a building permit if it meets the criteria of Section 7 of this Order and the minimum requirements of the Missouri Health and Senior Services (DHSS), Department of Natural Resources (DNR), or other applicable state, federal or local agencies. The County may require more than five acres of minimum lot size if the County Health Department determines that it is necessary to meet all soil absorption criteria or other regulations of Livingston County or the DHSS or DNR.
- (5) No dwelling units are permitted in areas classified wetlands or flood plain areas and other areas of poor drainage.
- (6) No dwelling units shall be permitted on land which has a slope of twelve (12) percent or greater, unless the application for a building permit is accompanied by an engineers report showing adequate footings, drainage and grading plans, as interpreted by the Zoning Administrator.
- (7) No dwelling unit shall be permitted that does not meet the Livingston County Health Department Regulations.

ARTICLE 3. ZONING DISTRICT STANDARDS  
§ 3.2 "A" Agricultural District



#### 4. **Manufactured Home Special Regulations**

All Manufactured Homes located in the "A" District:

- (1) Shall submit a site plan indicating the tie down locations and parking areas.
- (2) Shall be skirted with a fire-proof material composed of the same material as the predominant materials used in the exterior walls, or of brick, masonry, or a material of similar durability and appearance.
- (3) Shall contain a minimum of five hundred (500) square feet.
- (4) Shall comply with RSMo Ch. 700 in all respects.

### 3.3 "RR" Rural Residential District

***Purpose:*** To provide suitable areas of low density residential development in areas of existing development which occurs in unincorporated areas and where municipal utilities or an approved community utility system is available or as substantially relates to the land development pattern set forth in the Land Use Plan for Livingston County. The County will not approve a rezoning to an "RR" district unless the property is served by a county approved central water distribution system and a state approved and/or permitted sewage disposal system.

#### 1. Permitted Main Uses

The following uses are permitted in the "RR" Rural Residential District:

**Uses Permitted by Right:**

Single family dwelling  
Two-family dwelling  
Fire Station  
Safety Services

**Accessory Uses:**

Rooming House  
Utility Services  
Others as permitted in [Article 5](#)

**Conditional Uses:**

Manufactured home community  
Multi-family dwelling  
Home Occupations  
Railroad rights-of-way, but not including railroad yards  
Religious land uses  
Wireless Communications Facility (see [§ 5.40](#))

#### 2. Dimensional Standards - Generally

- (1) Lot and building design in the "RR" district must conform to the following standards:

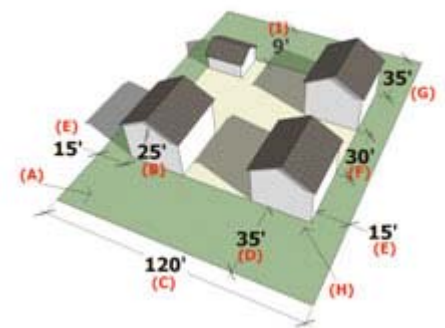
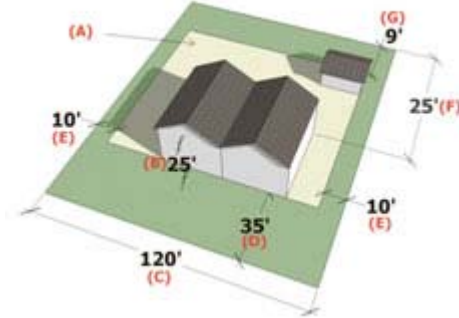
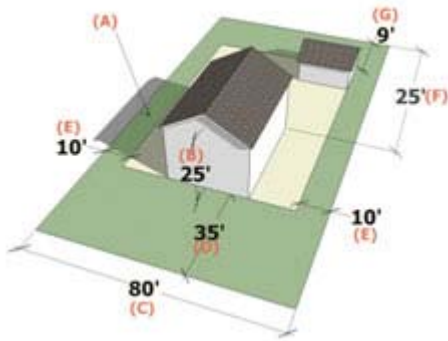
# RR

## Rural Residential District

### Single Family

### Two Family

### Multifamily



(A) Minimum Lot Area: 12,000 square feet	(A) Minimum Lot Area: 18,000 square feet	(A) Minimum Lot Area: 20,000 square feet
(B) Maximum Height: 25'	(B) Maximum Height: 25'	(B) Maximum Height: 25'
(C) Minimum Lot Width: 80'	(C) Minimum Lot Width: 120'	(C) Minimum Lot Width: 120'
(D) Minimum Front Yard: 35' [1]	(D) Minimum Front Yard: 35' [1]	(D) Minimum Front Yard: 35' [1]
(E) Minimum Side Yard: 10'	(E) Minimum Side Yard: 10'	(E) Minimum Side Yard: 15'
(F) Minimum Rear Yard (principal buildings): 25'	(F) Minimum Rear Yard (principal buildings): 25'	(F) Minimum Building Spacing: 30'
(G) Minimum Rear Yard (accessory buildings): 9'	(G) Minimum Rear Yard (accessory buildings): 9'	(G) Minimum Rear Yard (principal buildings): 35'
		(H) Maximum Building Coverage: 40%
		(I) Minimum Rear Yard (accessory buildings): 9'

[1] For corner lots, the front yard applies to each street side.

- (2) No building shall be erected, reconstructed, altered or moved nearer to the street line than the average yard of existing residential buildings on the same side of the street, and that front the street on the same block.
- (3) Each lot that contains at least one multi-family building shall have ingress and egress by means of a public right-of-way.

### 3. General Regulations

All lots in an RR district shall be served by a County approved central water distribution system and have a state approved sewage disposal system.

### 3.4 "RD" Recreational Development District

*Purpose: to provide management policies reasonably consistent with existing residential development and use; to provide for the beneficial use of public waters by the general public, as well as the riparian owners; to provide a balance between the recreational resource and the recreational use; to provide for a multiplicity or recreational uses, and to protect areas unsuitable for residential uses from development.*

#### 1. Permitted Main Uses

The following uses are permitted in the "RD" Recreational Development District:

**Uses Permitted by Right:**

Single Family and Two-Family Dwellings  
Seasonal Dwellings  
Historic or Archeological Sites  
Parks and Playgrounds  
Religious land uses  
Fire Stations  
Safety Services

**Conditional Uses:**

Cluster development  
Manufactured home community  
Multi-Family dwelling  
Wireless Communications Facility (see [§ 5.40](#))

**Accessory Uses:**

Utility Services  
Recreation, refreshment and service buildings accessory to parks and playgrounds  
Others as permitted in [Article 5](#)

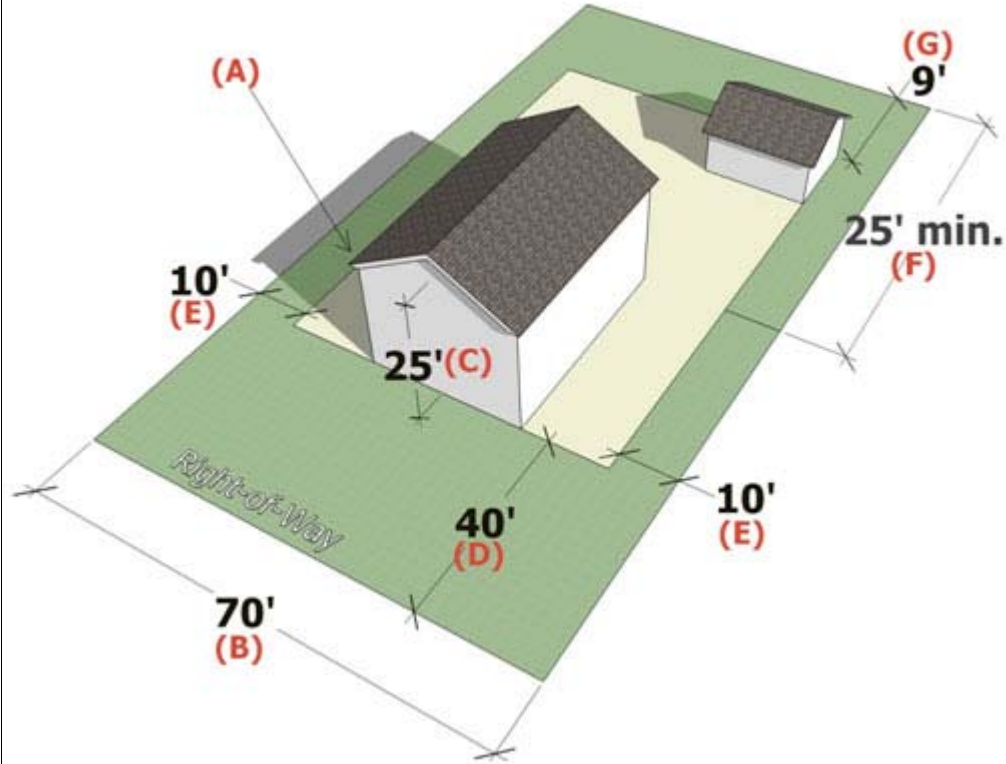
#### 2. Dimensional Standards for "RD" Development District

The design of lots, buildings and structures in the "RD" district must conform to the following standards:

ARTICLE 3. ZONING DISTRICT STANDARDS  
 § 3.4 "RD" Recreational Development District

# RD

## Recreational Development District



Dimensional Standards

(A) Min. Lot Area	(B) Min. Lot Width	(C) Max Height	(D) Min. Front Yard [1]	(E) Min. Side Yard	(F) Min. Rear Yard (principal building)	(G) Min. Rear Yard (accessory building)
10,000 square feet	70'[1]	25'	40'	10'	25'	9'

[1] Minimum front setback from State and Federal Highways is 50'

### 3.5 "HC" Highway Commercial District

*☞ Purpose: the "HC" Highway Commercial District is intended to provide a district allowing for a wide range of services and goods in compact, convenient limited highway access configurations closely related to existing urban areas or major highway access configurations closely related to existing urban areas or major transportation routes. Such development shall be developed at standards that will not impair the traffic-carrying capabilities of abutting roads and highways.*

#### 1. Permitted Uses

The following uses are permitted in the "HC" Highway Commercial District:

**Uses Permitted by Right:**

Armories, convention halls, or exhibition halls  
Athletic clubs (public or private)  
Automobile or motorcycle sales  
Bowling alleys, billiard and pool halls, taverns  
Cabinet or carpenter shops  
Commercial bakeries  
Drive-through  
Farm implement sales, with accessory storage and repair  
Hotel or motel  
Indoor recreation establishments  
Laboratories -- medical and dental  
Monument sales not including processing  
Mortuaries or funeral homes, except crematoriums  
Municipal and government buildings  
Newspaper distribution agencies  
Nurseries, garden stores, and commercial greenhouses  
Offices  
Orthopedic and medical appliance stores, but not including the assembly or manufacturing of such articles  
Pet and animal hospitals  
Plumbing showrooms and shops  
Printing

**Uses Permitted by Right (cont'd):**

Radio and television service and repair shops  
Recording studios  
Recreation equipment and vehicles, boat sales and servicing establishments  
Restaurants  
Restaurants, fast food  
Schools, elementary, middle or high  
Schools, music, dance, and business  
Skating rinks  
Taxidermists  
Utility Services  
Adult Business and Adult Uses  
Wireless Communications Facility (see [§ 5.40](#))

**Conditional Uses:**

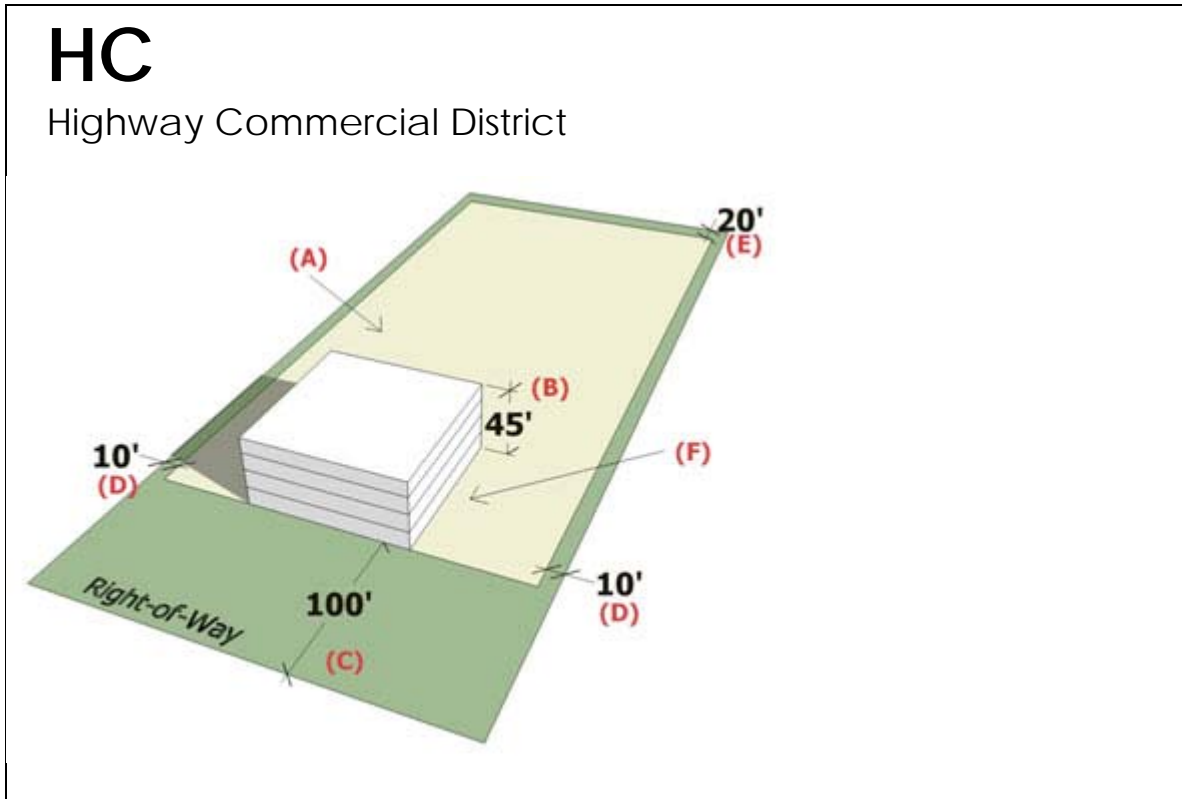
Crematoriums  
Laundries and dry cleaning  
Prisons  
Shopping centers  
Solid waste processing facility (includes transfer stations)  
Upholstering, furniture repair shops

**Accessory Uses:**

As permitted in [Article 5](#)

ARTICLE 3. ZONING DISTRICT STANDARDS  
 § 3.4 "HC" Highway Commercial District

2. Dimensional Standards



Dimensional Standards

(A) Min. Lot Area	Min. Lot Width	(B) Max Height [1]	(C) Min. Front Yard	(D) Min. Side Yard	(E) Min. Rear Yard (principal building)	(F) Max. Building Coverage
5 acres	None	45' or 4 stories	100'	10'	20'	40%

[1] If the lot abuts any other district in which a greater height is allowed, the height regulations of that district may be used. The other district includes any zoning district that lies in an incorporated area of the County, but does not include unzoned land. If the lot abuts an "RA" or "RD" district, the maximum building height is two-and-one-half (2-1/2) stories or thirty (30) feet. This height may be increased to the maximum permitted in this district if a conditional use permit is approved for the additional height.

ARTICLE 3. ZONING DISTRICT STANDARDS  
§ 3.4 "HC" Highway Commercial District

3. **General Regulations**

All lots in an "HC" district shall be served by a County approved central water distribution system and have a state approved sewage disposal system.

4. **Access**

Vehicular access to a use permitted in the "HC" district may not cross property in any Rural Residential District (RR) or Recreational Development District (RD).

### 3.6 "I" Industry District

*Purpose: the "I" Industry District is intended to provide a district that will allow compact, convenient industry adjacent to existing urban areas in the county and at standards that will not impair traffic-carrying capabilities of abutting roads and highways. The DISTRICT will provide locations which provide adequate essential utilities and insure a functional relationship among various types of land use.*

#### 1. Permitted Uses

The following uses are permitted in the "I" Industry District, subject to the performance standards set forth in this Section.

**Uses Permitted by Right:**

Automobile service stations and garages that store, repair, and service motor vehicles  
Bottling plants  
Building material and sales  
Bus stations, bus terminals, bus turn-arounds (off-street), bus garages and bus lots  
Contractors', architects', and engineers' offices, shops, and yards, such as building, cement, electrical, heating, ventilating, and air-conditioning, masonry, painting, plumbing, refrigeration, and roofing  
Farm implement sales, storage and repair  
Fire stations  
Fuel, containerized or bulk  
Ice, sales and storage  
Grain elevators  
Greenhouses -- wholesale  
Laundries and dry cleaning  
Nurseries, garden stores, and commercial greenhouses  
Mail order houses  
Police stations  
Printing  
Production, processing, cleaning, servicing, testing, or repair, of materials, goods, or products that conform to the performance standards established in the applicable zoning district  
Publishing  
Radar installation and towers  
Railroad passenger stations  
Railroad rights-of-way  
Restaurants  
Safety Services

**Uses Permitted by Right (cont'd):**

Telephone exchanges, telephone transmission equipment buildings and micro-wave relay towers  
Truck and freight transportation (also known as cartage)  
Utility Services  
Watchkeeper's units  
Warehousing and storage  
Wireless Communications Facility (see [§ 5.40](#))

**Conditional Uses:**

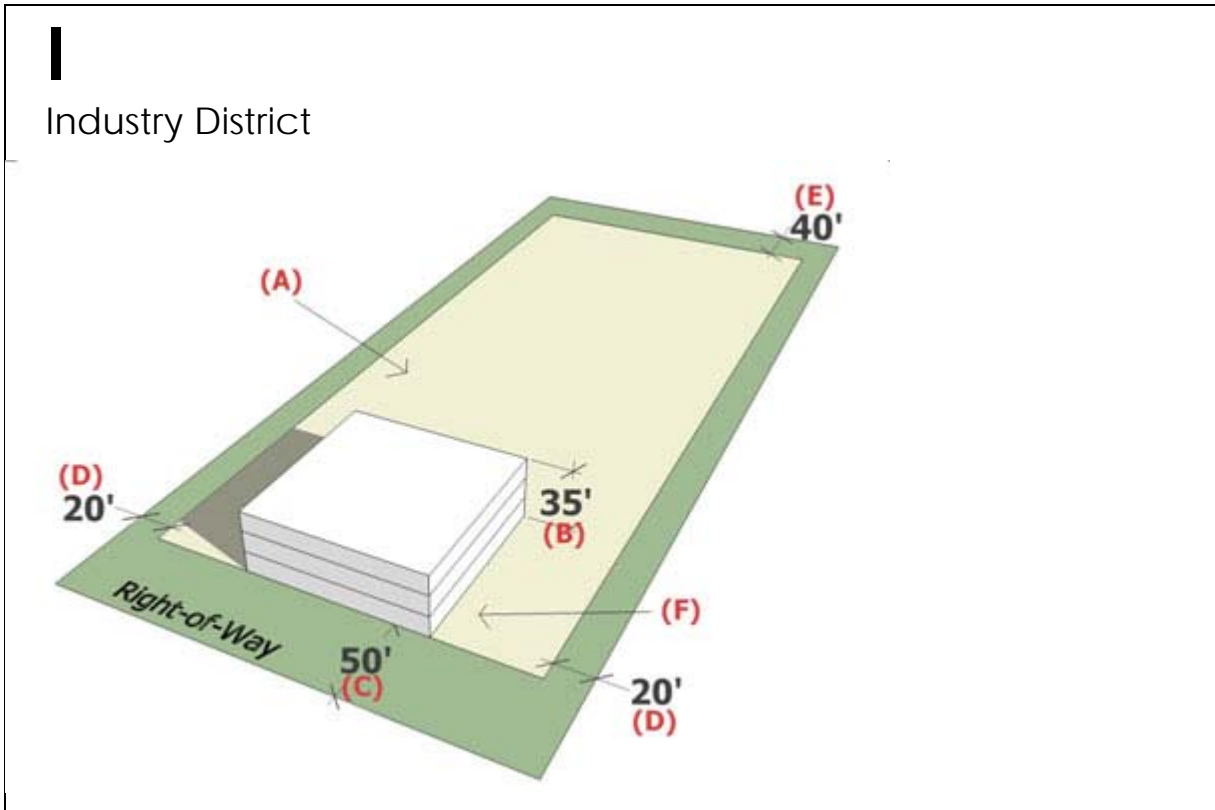
Airports and commercial heliports, including aircraft landing fields, runways, flight strips, and flying schools, together with hangers, terminal buildings, and other accessory facilities  
Adult Business and Adult Uses  
Automobile testing grounds and tracks  
Car refuse facility  
Dumping Grounds  
Freight terminals (air, railroad and water)  
Infectious waste processing facility  
Manufacturing, processing and any other use which in the opinion of the Planning Commission are in the same general character as listed in uses permitted  
Quarry or Mining  
Railroad switching and classification yards, including accessory repair facilities  
Temporary Equipment Placement and Operation\*

**Accessory Uses:**

As permitted in [Article 5](#)

ARTICLE 3. ZONING DISTRICT STANDARDS  
 § 3.6 "I" Industry District

2. Dimensional Standards



Dimensional Standards

(A) Min. Lot Area	Min. Lot Width	(B) Max Height	(C) Min. Front Yard [1]	(D) Min. Side Yard	(E) Min. Rear Yard (principal building)	(F) Max. Building Coverage
3 Acres	None	35' or 3 stories	50'[1]	20' [2]	40'	40%

[1] Within existing developed areas, the front yard requirements may be adjusted to coincide with average yards occurring on either side of the proposed building within three hundred (300) feet of the side lot lines. However, no building shall be located less than thirty-five (35) feet from a right-of-way line.

[2] Side setback is 30' when adjacent to any "A", "RA", or "RD" zoned property.

The foregoing lot size, width and depth requirements shall not apply to lots of record in the County Recorder's office which were a public record prior to the enactment of this zoning order or amendment thereto. However, no other lot or parcel of land less than Three (3) acres shall be allowed as a building site.

ARTICLE 3. ZONING DISTRICT STANDARDS  
§ 3.6 "I" Industry District

3. **Performance Standards**

*☞ Purpose: this subdivision provides standards to insure that uses in the "I" Industry District are established and maintained with proper appearance from streets and adjoining properties and minimize impacts on adjoining properties.*

(1) Generally

Uses subject to these standards shall not be injurious or offensive to the occupants of adjacent premises by reason of the emission or creation of noise, vibration, smoke, dust, or other particulate matter, toxic materials, odors, fire or explosion hazards, or glare.

(2) Landscaping and Screening

- a. All required yards for any structure shall include any combination of the following:
  - i. open landscaped and green areas, or
  - ii. areas that are left in a natural state.
- b. If any yards are landscaped, landscaping treatment must include lawn, trees, shrubs, or similar plantings.
- c. All yards shall be properly maintained in a sightly and well-kept condition.
- d. A "buffer planting screen" is a landscaped area that consists of any combination of berms, trees, grass, fences, or shrubbery that adequately screens the subject property from view at the property line, and reduces visual clutter. A buffer planting screen is required for the following:
  - i. Yards adjoining any of the residence districts shall be landscaped with buffer planting screens.
  - ii. All junk yards, salvage yards, and open storage yards shall include a buffer planting screen along front property lines, or any property line that abuts any district other than the "I" Industry District.
- e. Plans for yard landscaping and buffer planting screens shall be submitted for approval as a part of the application for rezoning. The plans shall be approved by the Zoning Administrator and all landscape plantings shall be approved before any building permit is issued for the subject property.

ARTICLE 3. ZONING DISTRICT STANDARDS

§ 3.6 "I" Industry District

(3) Nuisance Factors

Emission or creation of noise, odors, heat, glare, vibration, smoke, and toxic or noxious fumes shall conform to standards established by the Missouri Department of Natural Resources.

(4) Exterior Lighting

Any lights used for exterior illumination shall be diffused or directed away from adjoining properties and public streets.

(5) Hazard

Every use established, enlarged, or remodeled after the effective date of this Order shall be operated with reasonable precautions against fire and explosion hazards as established by state or federal law.

(6) Waste Material

No waste material shall be discharged into the public storm sewer system or the sanitary sewer system unless the applicant holds a valid permit for such discharge from the County Health Department or Missouri Department of Natural Resources. If the waste is of a solid form rather than fluid, the storage area shall be located and fenced so as not to cause a public nuisance.

(7) Water Pollution

All uses and activities shall conform to water pollution standards and/or controls in effect at the time of the adoption of this Order and those adopted at a later date by the Missouri Department of Natural Resources and other applicable agencies.

(8) Compliance

In order to insure compliance with the performance standards set forth above, the County Commissioners may require the owner or operator of any Permitted or Conditional Use to perform at owner's expense, such investigations and tests as may be required to show adherence to the performance standards. Such investigations and tests as are required to be made shall be carried out by an independent testing organization as may be selected by the County.

4. **General Regulations**

All lots in an "I" district shall be served by a County approved central water distribution system and have a state approved sewage disposal system.

ARTICLE 3. ZONING DISTRICT STANDARDS  
§ 3.6 "I" Industry District

5. **Access**

Vehicular access to a use permitted in the "I" district may not cross property in any Rural Residential (RR) or Recreational Development (RD) District.

### **3.7 "PD" Planned Development**

*☞ Purpose: this subdistrict is intended to provide design flexibility to ensure proper relationship to transportation facilities, compatibility with surrounding uses, and innovative or exceptional site design, building design, or landscaping. This district provides an alternative to the basic residential, commercial and industrial districts to give landowners a broader range of possibilities with regard to uses, site planning and building design. A PD is established through the rezoning process. This provides a case by case review to customize the conditions of approval to the unique needs of the County, surrounding neighborhoods and the applicant. Discretionary review by the Planning and Zoning Commission and County Commission is provided to ensure that the areas will not be subject to blight in future years. Because a PD rezoning is a legislative decision, the County Commission has no obligation to approve a PD district, and retains the discretion to approve those applications that satisfy the criteria established in these district regulations.*

#### **1. Main Uses**

A PD District may contain any use or combination of uses listed in the order approving the PD rezoning.

#### **2. Dimensional and Development Standards**

- (1) The minimum and/or maximum height, yard, and lot coverage requirements must be established in the development plan that is approved along with the "PD" rezoning.
- (2) Unless there is Planning Commissionan appropriate physical barrier, uses of a lesser intensity, or a buffer of open space, or appropriate landscaping must be included along the perimeter of the development site.
- (3) The order that approves the PD rezoning may contain any additional regulations, exceptions, or procedures considered necessary to achieve the innovative aspects of the project, or to minimize potential adverse impacts which could result from the creation of the district.

#### **3. Criteria for Approving a PD Rezoning**

The Planning Commission and County Commission shall consider the following in making their decision for approval, approval with conditions, or denial of a PD District:

- (1) The proposed PD District is compatible with present development in the area, and will not have a significant, adverse effect on the surrounding area;
- (2) The proposed PD District is consistent with the public health, safety and

ARTICLE 3. ZONING DISTRICT STANDARDS  
§ 3.7 "PD" Planned Development

welfare, as well as efficiency and economy in the use of land and its resources;

- (3) The proposed PD District is consistent with the overall direction, intent and policies of the Comprehensive Plan;
- (4) The proposed PD District provides for a creative and innovative design which could not otherwise be achieved under the zoning regulations in Sections 3.1 through 3.20;
- (5) The exceptions from the zoning regulations requested in the proposed PD are warranted by virtue of innovative design and amenities incorporated in the PD District.

**4. Procedure**

- (1) Application

An application for rezoning to the "PC" district must include a preliminary development plan in addition to a standard rezoning application. Four (4) copies and one (1) transparency of a preliminary development plan must be submitted. The preliminary development plan must include the following information:

- a. A schematic drawing, drawn to a minimum scale of one inch equals two-hundred feet (1" = 200'), showing the general relationship contemplated among all uses and existing physical features.
- b. A written statement setting forth the source of water supply, method of sewage disposal, means of drainage, grading plans, commercial uses, anticipated lot layouts, landscaped area, areas to be devoted to various uses per net acre and per gross acre contemplated by the applicant.
- c. A schematic plan of the entire development, showing proposed streets, driveways, sidewalks, pedestrian ways, off-street parking and loading, location and approximate dimensions of structures, utilization of structures, including activities associated with each major landscaping features, drawings and/or elevations clearly establishing the scale, character and relationship of buildings, streets, and open space. Such development plans shall include maps and information on the surrounding area within four hundred (400) feet of said development.
- d. A boundary survey or a certified boundary description by a registered engineer or licensed surveyor.

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§ 3.7 "PD" Planned Development

- e. A tabulation of land area to be devoted to various uses.
- f. A time schedule for the commencement and completion of construction for each phase of the development. The time schedule is enforceable as provided in subsection 3, below.
- g. At the option of the developer, a development agreement consistent with RSMo § 70.220. A development agreement must provide, at a minimum:
  - i. the materials provided by the development plan, as described in subsections (1) through (6), above, and
  - ii. at the option of the applicant, a period of time during which the zoning, subdivision, or other regulations governing development of the property will be vested, which time period must not exceed ten (10) years; and
  - iii. any obligations or commitments by the applicant to provide public infrastructure, including the sources of financing and the time period during which the infrastructure will be provided; and
  - iv. any additional requirements agreed to by the developer and the County relating to the development, design, phasing, or other aspects of development.

(2) Completeness Review

The Zoning Administrator will determine whether the application is complete and may recommend any additional information prior to presentation to the Planning Commission.

(3) Review by Planning Commission and County Commission

- a. The application will be processed as a rezoning as provided in Article 6 of this Order.
- b. The Planning Commission will recommend approval, conditional approval or denial of the "PC" rezoning and preliminary development plan.
- c. The County Commission will approve, conditionally approve, or deny the the "PC" rezoning and preliminary development plan.
- d. The application for rezoning to a "PC" district, the preliminary development plan, and (if applicable) a development agreement will be approved concurrently.

ARTICLE 3. ZONING DISTRICT STANDARDS  
§ 3.7 "PD" Planned Development

- e. The order approving a rezoning must include any conditions for approval of a final development plan (see subsection d, below) as needed to comply with the purpose and intent of this district, or as agreed to by the County and the applicant.

(4) Final Development Plan


- a. After the rezoning and preliminary development plan are approved, the applicant must submit a final development plan.
- b. The final development plan must comply with any conditions for approval attached to the rezoning and preliminary development plan and, if applicable, any development agreement submitted and approved with the preliminary development plan.
- c. The final development plan will be approved by the Zoning Administrator.
- d. The Zoning Administrator must approve the final development plan within sixty (60) days if it conforms to the criteria established in subsection d(2), above.
- e. No building permit shall be issued for the subject property until a final development plan is approved by the Zoning Administrator.

5. **Sunsetting**

*☞ Purpose: the purpose of this section is to provide reasonable assurances to landowners as to the stability of the zoning decision, to maintain consistency with the surrounding neighborhood, and to ensure that the property will not become sterile from lack of proper use.*

The applicant shall include a schedule for the commencement and completion of construction for all phases of the proposed development. If the applicant fails to construct, or begin construction of the development in accordance with the schedule, the County Commission may declare the development agreement null and void, and rezone the property to another zoning district.

### **3.8 “F” Floodplain Overlay District**

 Purpose: The Floodplain Overlay District is created (“F”) to protect the public, property, and for the conservation of wetlands and flowways.

#### **1. Generally**

The regulations of this Section are in compliance with the National Flood Insurance Program Regulations as published in Title 44 of the Code of Federal Regulations. This Order shall take precedence over conflicting Ordinances or part of Ordinances. The Governing Body of the County of Livingston may, from time to time, amend this Order to reflect any and all changes in the National Flood Disaster Protection Act of 1973.

#### **2. Official Map**

The Governing Body of the County of Livingston hereby designates the current Flood Hazard Boundary Map/Flood Insurance Rate Map, and amendments, as the official map to be used in determining those areas of special flood hazard. This Section creates a floodplain district for the purpose of recognizing the special hazards to life and property caused by the potential for flooding.

#### **3. Permits Required**

##### **(1) Applicability**

No person, firm or corporation shall erect, construct, enlarge or improve any building or structure in the County or cause the same to be done without first obtaining a separate development permit for each building or structure.

Within Zone(s) “F” on the official zoning map, or on the Flood Insurance Rate Maps (FIRM), separate development permits are required for all new construction, substantial improvements and other developments, including the placement of manufactured homes.

##### **(2) Application**

To obtain a permit, the applicant must file an application with the Planning Commission therefore in writing on a form furnished for that purpose. Every such application shall:

- a. Identify and describe the work to be covered by the permit for which an application is made.
- b. Describe the land on which the proposed work is to be done by Section, Township, and Range, or similar description that will readily identify and definitely locate the proposed building or work.

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- c. Indicate the use or occupancy for which the proposed work is intended.
- d. Be accompanied by plans and specifications for proposed construction.
- e. Be signed by the permittee or his authorized agent who may be required to submit evidence to indicate such authority.
- f. Within designated flood prone areas, be accompanied by elevations (in relation to a mean sea level) of the lowest floor (including basement) or in the case of floodproofed non-residential structures, the elevation to which it has been floodproofed. Documentation or certification of such elevations will be maintained by the Zoning Administrator.
- g. Give such other information as reasonably may be required by the Zoning Administrator.

(3) Review

The Zoning Administrator shall review all development permit applications to determine if the site of the proposed development is reasonably safe from flooding and that all necessary permits have been received as required by Federal or State Law.

4. **Performance Standards**

The Zoning Administrator, in reviewing all applications for new construction, substantial improvements, prefabricated buildings, placement of manufactured homes and other development(s) will apply the criteria in subsections (1) through (5), below.

(1) Generally

The Zoning Administrator will obtain, review and reasonably utilize, if available, any regulatory flood elevation data and floodway data available from Federal, State, or other sources, until such other data is provided by the Federal Emergency Management Agency (FEMA) in a Flood Insurance Study. Within areas designated as Zone A on the official zoning map or on flood hazard maps (FIRM) prepared by FEMA, the following performance standards in subsections (2) through (5), below, must be met.

(2) All New Construction and Substantial Improvements

- a. Fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or

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§ 3.8 "F" Floodplain Overlay District

provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding. The bottom of all openings shall be no higher than one foot above the grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

- b. Construction materials shall be resistant to flood damage.
- c. Construction methods and practices shall be used that will minimize flood damage.
- d. New structures shall be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
- e. New structures shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(3) Residential Construction

New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above the base flood elevation.

(4) Non-Residential Construction

New construction or substantial improvement of any commercial, industrial or other non-residential structure shall either have the lowest floor, including basement, elevated to the level of the base flood elevation or, together with attendant utility and sanitary facilities, be floodproofed so that below such a level the structure is watertight with walls substantially impermeable to the passage of water and with structure components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the Zoning Administrator.

(5) Manufactured Homes

- a. All manufactured homes shall be anchored to resist flotation, collapse, or lateral movement. Manufactured homes must be anchored in accordance with State laws, local building codes and FEMA guidelines.
- b. If over-the-top frame ties to ground anchors are used, the following specific requirements (or their equivalent) shall be met:

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§ 3.8 "F" Floodplain Overlay District

- i. Over-the-top ties be provided at each of the four corners of the manufactured home with two additional ties per side at the intermediate locations and manufactured homes less than 50 feet long requiring one additional tie per side.
  - ii. Frame ties must be provided at each corner of the home with five additional ties per side at intermediate points and manufactured homes less than 50 feet long requiring four additional ties per side.
  - iii. All components of the anchoring system must be capable of carrying a force of 4,800 pounds.
  - iv. Any additions to manufactured homes must be similarly anchored.
- c. All manufactured homes that are placed within Zones A1-30, AH, and AE on the County's FIRM must:
- i. be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood elevation; and
  - ii. be securely anchored to an adequately anchored foundation system in accordance with the provisions of subsection b, above.

**5. County Commission Review**

The Livingston County Commission shall review all subdivision applications and other proposed new developments, including Manufactured home communities or subdivisions, and shall make findings of fact and assure that:

- (1) All such proposed developments are consistent with the need to minimize flood damage.
- (2) Subdivision proposals and other proposed new developments (including proposals for Manufactured home communities and subdivisions), greater than five (5) acres or fifty (50) lots, whichever is lesser, include within such proposals regulatory flood elevation data in areas designated Zone F.
- (3) Adequate drainage is provided so as to reduce exposure to flood hazards.
- (4) All public utilities and facilities are located so as to minimize or eliminate flood damage.

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6. **Water and Sewer Systems**

New and replacement water and sewer systems shall be constructed to eliminate or minimize infiltration by, or discharge into floodwaters. On-site waste disposal systems will be designed to avoid impairment or contamination during flooding.

7. **Watercourses**

The Livingston County Commission will insure, in reviewing applications that are subject to subsection 5, above, that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained. The County will notify, in riverine situations, adjacent communities and the State Coordinating Office prior to any alteration or relocation of a watercourse, and submit copies of such notifications to the Federal Emergency Management Agency. Moreover, the County will work with appropriate State and Federal agencies in every way possible in complying with the National Flood Insurance Program in accordance with the Nation Flood Disaster Protection Act of 1973, and any amendments thereto.

8. **Disclaimer of Liability**

The "F" Floodplain Overlay District provides a reasonable approach to flood control based on present information. As additional information becomes available, the extent of the various boundaries shall be so altered to maintain this reasonableness. This Section does not imply that areas beyond the District limits will be free from flooding; nor shall this Section, or Districts established herein, create a liability on the part of, or cause action against Livingston County or any office or employee thereof, for any flood damage that may result from reliance upon this Section.

### **3.9 "AO" Airport Overlay Districts**

*☞ Purpose: In accordance with the standards set forth in Title 14, Code of Federal Regulations, Part 77, Subpart B- Notice of Construction or Alteration, Sections 77.11, 77.13, 77.15, 77.19 and Subpart C- Obstruction Standards, Sections 77.21, 77.23 and 77.25, or in successor federal regulations, the zones created in this section are intended to protect the general health, safety and welfare by insuring that development will not cause interference with air traffic using the utility runways for visual and non-precision instrument approaches at the Chillicothe Municipal Airport in the County of Livingston.*

1. **Short Title**

This Order shall be known as the Livingston County Airport Height Overlay Zones Order and may be cited as the Chillicothe Municipal Airport Height Overlay Zones Order.

2. **Definitions**

The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subdivision, except where the context clearly indicates a different meaning:

*Air Navigation Obstruction* means any structure, tree, terrain, condition or effect which obstructs the airspace required for the flight of aircraft in landing or taking off at the airport or which otherwise impedes the takeoff or landing of aircraft.

*Airport* means the Chillicothe Municipal Airport in Livingston County, Missouri.

*Airport Elevation* means the highest point of an airport's usable runway measured in feet from sea level. The airport elevation of the Chillicothe Municipal Airport is 782.8 feet.

*Airport Height Zone Map* means the Livingston County Airport Height Overlay Zones Map, which designates the boundaries and elevations of height zoning associated with the Chillicothe Municipal Airport.

*Airport Manager* means the managing director of the Chillicothe Municipal Airport.

*Approach Surface* means a surface above the approach zone longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface at the same slope as the approach zone height limitation set forth in subdivision 4 of this section.

*Conical Surface* means a surface above the conical zone extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet and at the same elevation as the conical zone height limitation set forth in subdivision 4 of this section.

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§ 3.9 "AO" Airport Overlay Districts

*Conditions and/or Effects* means any material or substance capable of refracting and reflecting light, reflecting, impeding and absorbing electronic signals and obscuring vision.

*Extended Runway Centerline* means the continuation of the runway centerline beyond the runways.

*FAA* means the Federal Aviation Administration or any successor agency established by the United States government.

*Hazard to Air Navigation* means an air navigation obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.

*Height* means height as measured at mean sea level elevation unless otherwise specified.

*Horizontal Surface* means the surface above the horizontal zone existing at the same elevation as the horizontal zone height limitation set forth in subdivision 4 of this section.

*Nonconforming Height, Condition or Effect* means any structure, tree, terrain, condition or effect that does not conform to the requirements prescribed in this section.

*Person* means any individual, firm, corporation, company, association, joint stock association or body politic, and includes any trustee, receiver, assignee or other similar representative thereof.

*Primary Surface* means a surface longitudinally centered on a runway that extends 200 feet beyond each end of the hard surface of the runways, and at an established width of 500 feet laterally from the runway centerline. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

*Runway* means a defined area on an airport prepared for landing and take-off of aircraft along its length.

*Structure* means any object of whatever material and design installed or constructed by man, including but not limited to buildings, smokestacks communication towers, and antennas.

*Transitional Surface* means the surfaces above the transitional zones extending outward at 90 degree angles to the runway centerline and the runway centerline extended as a slope of seven feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces at the same slope as the transitional zones height limitations set forth in subdivision 5 of this section.

*Tree* means any object of natural growth.

### 3. **Airport Height Zones**

In order to carry out the provisions of this section, there are hereby created overlay zones, superimposed over the existing base zones, being more specifically zones of airspace that do not affect the uses and activities of the base zones except as provided for in subdivisions 4 and 5 of this section. Such zones are shown on the Livingston County Airport Height Overlay Zones Map, dated September 29, 2003, which is hereby adopted as part of the Official Zoning Map,

ARTICLE 3. ZONING DISTRICT STANDARDS  
§ 3.9 "AO" Airport Overlay Districts

and is incorporated by reference and made a part of this section. An area located in more than one (1) of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows:

- (1) Approach zone. The approach zone abuts the end of the primary surface of each runway and extends a horizontal distance of 5,000 feet along the centerline of the runways. Where the approach zone abuts the primary surface, the width of the approach zone coincides with the 500 foot width of the primary surface and then uniformly expands to a width of 2,000 feet.
- (2) Transitional zones. The transitional zones are the areas beneath the transitional surfaces.
- (3) Horizontal zone. The horizontal zone is established by swinging arcs of 5,000 feet radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.
- (4) Conical zone. The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward for a horizontal distance of 4,000 feet.

**4. Height Limitations Within the Airport Height Zones**

Except as otherwise provided in this section, no structure shall be erected, altered, or maintained, and no tree shall be allowed to grow in any zone created in this section to a height in excess of the applicable height limit established for such zone. Such applicable height limitations are hereby established for each of the zones created in this section as follows:

- (1) Approach zone. The height limitation in the approach zone slopes 20 feet outward for each one (1) foot upward beginning at the end of and at the same elevation of the primary surface, and extending the full horizontal distance of 5,000 feet along the extended runway centerline.
- (2) Transitional zones. The height limitation in the transitional zones slopes seven (7) feet outward for every one (1) foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of 150 feet above the airport elevation which is 932.8 feet above mean sea level. In addition to the foregoing, there are established height limits sloping seven (7) feet outward for every foot upward beginning at the sides of and at the same elevation as the approach surface, and extending to where they intersect the conical surface.
- (3) Horizontal zone. The height limitation in the horizontal zone is established at 150 feet above the airport elevation or at a height of 932.8 feet above mean sea level.
- (4) Conical zone. The height limitation in the conical zone slopes 20 feet outward for each one (1) foot upward beginning at the periphery of the horizontal zone and at an elevation of 150 feet and extending to a height of 350 feet above the airport elevation.

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- (5) Excepted height limitations. Nothing in the section shall be construed as prohibiting the construction or maintenance of any structure or tree to a height of up to 50 feet above the surface of the land.

**5. Construction Notice Requirements Related to the Chillicothe Municipal Airport**

In order to comply with Subdivision 4 *Airport Height Zones* and Subdivision 5 *Height Limitations Within The Airport Height Zones*, in relation to and in accordance with the provisions of this Zones Order, as well as Federal Aviation Regulation (FAR) Part 77- *Objects Affecting Navigable Airspace*, this section is established to require notice of construction or alteration to any object(s) that potentially affects the navigable airspace of the Chillicothe Municipal Airport.

- (1) The contents of this section are based upon FAR Part 77, Subpart B- Notice of Construction or Alteration, Section 77.13 (a) (2)- Construction or Alteration Requiring Notice.
  - a. A notice, in the form of an application or permit, directed to the City of Chillicothe and Livingston County Planning Agencies is required for any proposed construction or alteration that would be of greater height than an imaginary surface extending outward and upward at the following slope:
    - i. 100 to 1 for a horizontal distance of 20,000 feet from the nearest point of the nearest runway of the Chillicothe Municipal Airport where the existing runway and future runway is greater than 3,200 feet in length.
    - ii. Notice of construction or alteration to any object(s) that potentially affects the navigable airspace of the Chillicothe Municipal Airport must be supplemented by a completed and submitted Federal Aviation Administration (FAA) Form 7460-1 (2-99), Notice of Proposed Construction or Alteration as part of the application or permit directed to the City of Chillicothe and Livingston County Planning Agencies.

**6. Use Restrictions**

- (1) Conditions and effects. Notwithstanding any other provisions of this section, no use may be made of land or water within any zone established by this section in such a manner as to create conditions or effects that:
  - a. Produce smoke, steam or dust that interferes with the use of the airport.
  - b. Create electronic interference with communication facilities, landing or navigational aids, radar installations or other electronic equipment used in the operation of the airport or aircraft in the vicinity.
  - c. Emit light which makes it difficult for pilots to distinguish between

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airport lights and other lights, results in glaring in the eyes of pilots using the airport, impairs visibility in the vicinity of the airport, or otherwise endangers the landing, taking off or maneuvering of aircraft.

- d. Create bird strike hazards, or
  - e. Otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.
- (2) Overhead transmission lines. Installation of overhead transmission lines or transformer stations in the airport height zones which are located a longitudinal distance of 4,000 feet outward from the ends of the runway, and 2,000 feet laterally from the runway centerlines, is prohibited.

**7. Nonconforming Uses**

- (1) Regulations not retroactive. The regulations prescribed by this section shall not be construed to require the removal, lowering or other changes or alterations of any structure or tree not conforming to the regulations in this section as of the effective date of the order from which this section derives, or otherwise interfere with the continuance of legal nonconforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of the order from which this section derives.
- (2) Marking and lighting. Notwithstanding the preceding provision of this subdivision, the owner of any existing nonconforming structure or tree, or a structure that is presently being altered or constructed, is hereby required to permit the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary by the Airport Manager/Airport Sponsor- City of Chillicothe- to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated, and maintained at the expense of the City of Chillicothe.

**8. Permits**

- (1) Future uses. Except as specifically provided in a, b, and c of this subsection, no material change shall be made in the use of land and no structure shall be erected, altered, planted or otherwise established in an airport zone as defined herein, unless a permit therefore shall have been applied for and granted on a form made specially for that purpose. Each such application shall indicate the purpose for which the permit is desired with sufficient particularity to permit it to be determined whether the resulting use, structure, or tree would conform to the regulations prescribed in this Order.
- a. In the area lying within the limits of the horizontal zone and conical zone, no permit shall be required for any tree or structure less than 75 feet in height above the ground, unless, because of terrain,

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- land contour, or topographic features, such tree or structure would extend above the height limits prescribed for such zones.
- b. In areas lying within the limits of the approach zones but at a horizontal distance of not less than 4,200 feet from each end of the runway, no permit shall be required for any tree or structure less than 75 feet in height above the ground, except when such tree or structure would extend above the height limit prescribed for such approach zones.
  - c. In the areas lying within the limits of the transition zones beyond the perimeter of the horizontal zone, no permit shall be required for any tree or structure less than 75 feet in height above the ground, except when such tree or structure, because of terrain, land contour, or topographic features, would extend above the height limit prescribed for such transition zones.

Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, or alteration of any structure, or growth of any tree in excess of any of the height limits established by this Order except as set forth in Subdivision 5, Item 5.

- (2) Existing uses. Before any existing nonconforming height, condition or effect may be replaced, substantially altered or repaired, rebuilt or allowed to grow higher, within any airport height zone, a permit must be secured authorizing such replacement, change or repair through an application on a form made specially for that purpose. No such permit shall be granted that would allow the establishment or creation of an air navigation obstruction, or permit a nonconforming use or structure to be made or become higher or become a greater hazard to air navigation than it was on the effective date of the order codified in this section or than it is when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted.
- (3) Abandonment of nonconforming structure or use; dangerous structures. Whenever the Planning & Zoning Board of Adjustment determines that a nonconforming height, condition or effect has been abandoned, or more than 80 percent tom down, physically deteriorated, or decayed, no permit shall be granted that would allow such nonconforming height, condition or effect to exceed the applicable height limit or to otherwise deviate from the zoning regulations set forth in this Order.
- (4) Variances. In addition to the requirements set forth for obtaining variances in Article 6.6 of the Zoning Ordinance, the following requirements shall also apply:
  - a. Any individual desiring to erect or increase the height of any structure, or permit the growth of any tree, or use property, not in accordance with the regulations described in this Order, may apply to the Planning & Zoning Board of Adjustment for a variance from such regulations.
  - b. The application for variance shall be accompanied by a determination from the FAA as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace.
  - c. Such variances shall be allowed where it is duly found that a literal

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application or enforcement of the regulation will result in unnecessary hardship and relief granted, will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the spirit of this Order.

- d. No application for variance to the requirements of this Order may be considered by the Planning & Zoning Board of Adjustment unless a copy of the application has been furnished to the City of Chillicothe for advice as to the aeronautical effects of the variance. If the City of Chillicothe does not respond to the application within fifteen (15) days after receipt, the Planning & Zoning Board of Adjustment may act on its own to grant or deny the application.
- (5) Obstruction Lighting and Marking. Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this Order and be reasonable in the circumstances, so conditioned as to require the owner/operator of the structure or tree in question to install, operate, and maintain at the owner's expense, such markings and lights as may be necessary. If deemed proper by the Board of Adjustment, this condition may be modified to require the owner to permit the City of Chillicothe at its own expense, to install, operate, and maintain the necessary markings and lights in accordance with FAA Advisory Circular (AC) 70/7460-1J, Obstruction Marking and Lighting.

**9. Enforcement**

It shall be the duty of Planning & Zoning Board to administer and enforce the regulations prescribed in this Order. Applications for permits and variances shall be made to the Planning & Zoning Board upon a form published for that purpose. Applications required by this Order to be submitted to the Planning & Zoning Board shall be promptly considered and granted or denied. Application for action by the Planning & Zoning Board shall be forthwith transmitted by the Chairman/ Director of the Planning & Zoning Board.

**10. Appeals to the Planning & Zoning Board of Adjustment**

- (1) Any person aggrieved, or any taxpayer affected, by any decision of the Planning & Zoning Board made in the administration of the Order, may appeal to the Planning & Zoning Board of Adjustment.
- (2) All appeals hereunder must be taken within a reasonable time as provided by the rules of the Planning & Zoning Board of Adjustment, by filing with the Director/Chairman a notice of appeal specifying the grounds thereof. The Director/Chairman shall forthwith transmit to the Planning & Zoning Board of Adjustment all the papers constituting the record upon which the action appealed from was taken.
- (3) An appeal shall stay all proceedings in furtherance of the action appealed from unless the Director/Chairman certifies to the Planning &

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Zoning Board of Adjustment, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would in the opinion of the Planning & Zoning Board of Adjustment cause imminent peril to life or property. In such case, proceedings shall not be stayed except by the order of the Planning & Zoning Board of Adjustment on notice to the Director/ Chairman and on due cause shown.

- (4) The Planning & Zoning Board of Adjustment shall fix a reasonable time for hearing appeals, give public notice and due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney.
- (5) The Planning & Zoning Board of Adjustment, in conformity with the provisions of this Order, reverse or affirm, in whole or in part, or modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as may be appropriate under the circumstances.

**11. Judicial Review**

Any person aggrieved, or any taxpayer affected, by any decision of the Planning & Zoning Board of Adjustment, may appeal to the appropriate court of competent jurisdiction as provided in Chapter 64, Missouri Revised Statutes, as well as Article 6.5 of the Livingston County Zoning Regulations.

**12. Penalties**

Each violation of this Order or of any regulation, order, or ruling promulgated hereunder shall constitute a misdemeanor under State law and each day a violation continues to exist shall constitute a separate offense.

**13. Conflicting Regulations**

Where there exists a conflict between any of the regulations or limitations prescribed in this Order and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, and the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail.

**14. Severability**

The sections, subdivisions, paragraphs, sentences, clauses and phrases of this Order are severable, and if any phrase, clause, sentence, paragraph, subdivision, or section of this Order shall be declared unconstitutional or otherwise invalid by the valid judgment or decree of any Court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases,

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clauses, sentences, paragraphs, subdivisions, or sections of this Order since the same would have been enacted by the County Commission without the incorporation in this Order of any such unconstitutional or invalid phrase, clause, sentence, paragraph, subdivision, or section.

## ARTICLE 4. DESIGN AND IMPROVEMENT STANDARDS

### 4.1 *Generally*

#### 1. Nuisances

- (1) This section applies to all structures and lots that include structures that are permitted by this Order. This section does not apply to buildings, structures or lots that are exempt from this Order.
- (2) All structures and lots that are subject to this section shall be kept free from unreasonable growth, debris or rubbish.
- (3) The failure to correct such conditions after being so directed in writing by the Zoning Administrator shall be cause for revocation of the existing permit and removal of the structure.

#### 2. Health and Safety

No Structure shall be permitted that shall in any way endanger the health or of safety or the general public.

### 4.2 *Height Regulations*

1. When the average slope of a lot is greater than one (1) foot rise or fall in seven (7) feet of horizontal distance from the established street elevation at the property line, one (1) story in addition to the number permitted in the district in which the lot is situated shall be permitted on the downhill side of any building.
2. Height limitations set forth elsewhere in this Order may be increased as follows:

**Table 4.1-1 Increases in Height Limits**

<b>By one hundred (100) percent for the following:</b>	<b>With no limitation for the following:</b>
Monuments	Church spires, belfries or domes which do not contain usable space
Flag Poles	Water Towers
Cooling Towers	Chimneys or smokestacks
Grain Elevators	Forest fire watch towers

### 4.3 Yard and Area Regulations

#### 1. Generally; Measurements

- (1) Measurements shall be taken from the nearest point of the wall of a building to the lot line in question.
- (2) Front, side and rear yards are measured and regulated as set forth in Table 4.2-1, below.
- (3) No lot shall be so reduced that the area of the lot or required yard is smaller than that prescribed in the applicable zoning district regulation.

**Table 4.2-1 Yard Measurements and Development**

	Measurement	Permitted Uses, Structures or Development
<b>Front Yard</b>	The horizontal distance from the front property line to the nearest part of any building or structure on the lot.	Open and unoccupied except for mailboxes, flagpoles, basketball goals, driveways, parking areas, and permitted encroachments as described in subsection 2, below.
<b>Side Yard</b>	From side lot line to the principal building, and extending from the front lot line to the rear lot line	Open and unoccupied except for driveways, parking, and permitted encroachments as described in subsection 2, below.
<b>Rear</b>	From the rear lot line to the rear lines of the principal building, for the full width of the lot.	Open and unoccupied except for accessory buildings and permitted encroachments as described in subsection 2, below.

#### 2. Encroachments

The following may encroach into a required yard:

- (1) Cornices, canopies or eaves may extend into the required front yard a distance not exceeding four (4) feet, six (6) inches.
- (2) Fire escapes may extend into the required front yard a distance not exceeding four (4) feet, six (6) inches.
- (3) A landing place or uncovered porch may extend into the required front yard to a distance not exceeding six (6) feet, if the landing place or porch has its floor no higher than the entrance floor of the building. An open railing no higher than three (3) feet, six (6) inches may be placed around such a place.

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§ 4.3 Yard and Area Regulations

- (4) The above enumerated architectural features may also extend into any side or rear yard to the same extent, except that no porch, terrace or outside stairway shall project into the required side yard distance.
- (5) A well, fence or hedge may occupy part of the required front, side or rear yard.

**3. Corner or Double Frontage Lots**

- (1) On double frontage or corner lots, the required front yard shall be provided on both streets.
- (2) The required front yard of a corner lot shall not contain any wall, fence or other structure, tree, shrub or other growth which may cause danger to traffic on a private or public road by obscuring the view.
- (3) The required front yard of a corner lot shall be unobstructed above a height of thirty (30) inches above the road intersection elevation in a triangular area, two sides of which are the lines running along the side road lines between the road intersection and a point fifty (50) feet from the intersection, and the third side of which is the line between the latter two points.

**4. Steep Slopes**

There shall be a required building line setback of five (5) feet from any slope in a required yard having a downward grade greater than sixty (60) percent so that a structure may not abut a bluff line or steep slope but may run contiguous to the same.

**5. Materials Storage**

The open storage of materials in any required front, side or rear yard is prohibited in any Highway Commercial (HC), Industry (I), or Planned Development (PD) District. Any other outside storage shall be located or screened so as not to be visible from any Agriculture (A), Rural Residential (RR) or Recreational Development (RD) District.

**4.4 Parking and Loading Regulations**

**1. Applicability**

- (1) This section applies to all parking areas that are constructed or maintained in the areas subject to this Order (see [§ 1.3](#)).
- (2) The parking space requirement for a use not specifically mentioned herein shall be the same as required for a use of similar nature, as determined by

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 § 4.4 Parking and Loading Regulations

the Board of the County Commissioners and the County Planning Commission.

2. **Required Number of On-Site Parking Spaces**

- (1) The minimum number of required on-site parking spaces for each use on a lot or parcel is as established in Table 4.3-1, below.
- (2) In computing the number of such parking spaces required, the following rules shall govern:
  - a. "Floor space" means the gross floor area of the specific use.
  - b. Where fractional spaces result, the parking spaces required shall be construed to be the nearest whole number.
- (3) In addition to the above requirements, company vehicles normally kept on the premises shall be provided an additional space.

**Table 4.4-1 Parking Spaces Required (minimum)**

<i>Use</i>	<i>Parking (note: "sf" = square feet of gross floor area, unless otherwise indicated)</i>
<b>Residential &amp; Accommodations</b>	
Campgrounds	1 space for each recreational vehicle and/or camping space
Manufactured home communities	2 per dwelling unit
Multi-family dwellings	2 per dwelling unit
Rooming House	2 per dwelling unit
Seasonal Dwellings	2 per dwelling unit
Single Family Dwellings	2 per dwelling unit
Two-family dwellings	2 per dwelling unit
Watchkeeper's units	2 per dwelling unit
<b>Agriculture</b>	
Farm drainage systems, flood control and watershed structures and erosion control devices meeting all County, State and Soil Conservation District Minimum Regulations	not applicable
Farms, Farm Buildings, or Farm Structures, including grain elevators	not applicable
Forest and game management areas	not applicable
Nursery stock and tree farms, including deciduous and conifer trees, fruit trees and bushes, and ornamental shrubs, trees and flowers	not applicable
Other animals than farm livestock, for their pelts, food, pleasure or sport, including rabbits, mink, dogs, cats, ponies, buffalo and deer	not applicable
<b>Commercial</b>	
Athletic clubs (public or private)	20 spaces plus 1 additional space per 500 sf
Automobile service stations and garages that store, repair, and service motor vehicles	4 spaces plus 2 additional spaces per service bay
Automobile or motorcycle sales	1 space per 500 sf
Bakeries, Commercial	1 space per 500 sf
Billiard and pool halls	1 space per 75 square feet of customer area
Bowling alleys	5 per bowling lane
Cabinet or carpenter shops	1 space per 500 sf

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<i>Use</i>	<i>Parking</i> <i>(note: "sf" = square feet of gross floor area, unless otherwise indicated)</i>
Commercial feedlots	not applicable
Drive-through	See parking requirements for Main Use.
Farm implement sales, with accessory storage and repair	1 space per 500 sf
Greenhouses – wholesale	1 space per 1,000 sf
Home Occupations	not applicable
Hotel or motel	1 space per rental sleeping unit
Indoor recreation establishments	20 spaces plus 1 additional space per 50 sf
Laboratories -- medical and dental	1 space per 500 sf
Laundries and dry cleaning	1 space per 100 sf of customer area
Mail order houses	1 space per 500 sf
Monument sales not including processing	1 space per 500 sf
Newspaper distribution agencies	1 space per 500 sf
Nurseries, garden stores, and commercial greenhouses	1 space per 1,000 sf
Offices	1 space per 500 sf
Orthopedic and medical appliance stores, but not including the assembly or manufacturing of such articles	1 space per 500 sf
Pet and animal hospitals	1 space per 500 sf
Plumbing showrooms and shops	1 space per 500 sf
Printing	1 space per 500 sf
Radio and television service and repair shops	1 space per 500 sf
Recreation equipment and vehicles, boat sales and servicing establishments	1 space per 500 sf
Restaurants	1 space per 75 square feet of customer area
Restaurants, fast food	20 spaces plus 1 additional space per 50 sf
Retail sales of merchandise	1 space per 100 sf of customer area
Service establishments	1 space per 100 sf of customer area
Shopping centers	1 space per 100 sf of customer area
Skating rinks	1 space per 75 square feet of customer area
Taverns	1 space per 75 square feet of customer area
Taxidermists	1 space per 500 sf
Temporary or seasonal roadside stands	not applicable
Upholstering, furniture repair shops	1 space per 500 sf
<b><i>Industrial and Employment-Based</i></b>	
Automobile testing grounds and tracks	1 space per 1,000 sf
Bottling plants	1 space per 1,000 sf
Crematorium	1 space per 1,000 sf
Fuel, containerized or bulk	1 space per 1,000 sf
Ice, sales and accessory storage	1 space per 1,000 sf
Manufacturing, processing and any other use which in the opinion of the Planning Commission are in the same general character as listed in uses permitted	the greater of 1 space per each 2 employees on a major shift or 1 space per 1,000 sf
Recording studios	1 space per 1,000 sf
Publishing	1 space per 1,000 sf
Production, processing, cleaning, servicing, testing, or repair of materials, goods, or products that conform to the "I" district performance standards	1 space per 1,000 sf
Quarry or Mining	not applicable
Temporary Equipment Placement and Operation	1 space per 1,000 sf
Warehousing and storage	the greater of 1 space per each 2 employees on a major shift or 2 spaces per each 2,000 sf
<b><i>Construction</i></b>	
Building material and sales	1 space per 1,000 sf
Contractors', architects', and engineers' offices, shops, and yards, such as building, cement, electrical, heating, ventilating, and air-conditioning, masonry, painting, plumbing, refrigeration, and roofing	1 space per 1,000 sf

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<i>Use</i>	<i>Parking</i> <i>(note: "sf" = square feet of gross floor area, unless otherwise indicated)</i>
<b><i>Transportation &amp; Utilities</i></b>	
Airports and commercial heliports, including aircraft landing fields, runways, flight strips, and flying schools, together with hangers, terminal buildings, and other accessory facilities	1 space per 1,000 sf
Bus stations, terminals, turn-arounds (off-street), garages and lots	not applicable
Car refuse facility	not applicable
Dumping Grounds	not applicable
Freight terminals (air, railroad and water)	1 space per 1,000 sf
Hazardous waste facilities	not applicable
Infectious waste processing facility	not applicable
Junk yard	not applicable
Non hazardous sanitary landfills or waste incinerators for the disposal of household, institutional, commercial, or industrial wastes	not applicable
Parking lots or parking garages	not applicable
Radar installation and towers	not applicable
Radio and television studios, stations and towers, transmitting and receiving	1 space per 1,000 sf
Railroad passenger stations	not applicable
Railroad rights-of-way, including freight classification yards and buildings	not applicable
Railroad rights-of-way, not including freight classification yards and buildings	not applicable
Railroad switching and classification yards, including accessory repair facilities	1 space per 1,000 sf
Regional pipelines, power transmission lines and relay towers	not applicable
Solid waste disposal area	1 space per 1,000 sf
Solid waste management area	not applicable
Solid waste processing facility (includes transfer stations)	not applicable
Telephone exchanges, telephone transmission equipment buildings and mirco-wave relay towers	not applicable
Truck and freight transportation (also known as cartage)	1 space per 1,000 sf
Utility Service	not applicable
<b><i>Institutional &amp; Public Assembly</i></b>	
Armories, assembly halls, convention halls, or exhibition halls	1 space per 4 seats in main gathering area
Cemeteries	not applicable
Historic or Archeological Sites	not applicable
Fire stations	1 space per 1,000 sf
Golf Courses	not applicable
Gun Ranges	A minimum of five (5) spaces plus 1 space per firing position
Mortuaries or funeral homes, except crematoriums	1 space per 1,000 sf
Municipal and government buildings	1 space per 500 sf
Parks and Playgrounds	not applicable
Police stations	1 space per 500 sf
Prisons or jails	1 space per 500 sf
Schools, music, dance, and business	1 space per 100 sf
Schools, public or parochial	2 per classroom
Religious land uses	1 space per 4 seats in chapel or main gathering area
<b><i>Incidental (permitted accessory to a permitted use)</i></b>	
Off-street parking and loading	not applicable
Signs	not applicable
Private garages	not applicable

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 § 4.4 Parking and Loading Regulations

3. **Minimum Size Regulations**

- (1) The minimum dimensions of parking spaces and aisles are as required in Table 4.4-2.
- (2) All loading space shall be sufficient to meet the requirements of each use and shall provide adequate space for storage and maneuvering of the vehicles they are designed to serve.

Table 4.4-2 Minimum Parking Dimensions	
Feature	Dimension
Parking space width	8.5 feet
Parking space depth	20 feet
Aisle width	15 feet

The diagram illustrates a top-down view of a parking lot. A white car is parked in a space. The width of the parking space is indicated by a dimension line labeled '8.5''. The depth of the aisle between the rows of parking spaces is indicated by a dimension line labeled '15''. The parking spaces are represented by vertical lines, and the aisles are the spaces between them.

4. **Reduction and Use of Parking and Loading Space**

On-site parking facilities existing at the effective date of this Order shall not subsequently be reduced to an amount less than that required under this Order for a similar new building or use. On-site parking facilities provided to comply with this Order shall not subsequently be reduced below the requirements of this Order. Such required parking or loading space shall not be used for storage of goods or for storage of vehicles that are inoperable or for sale or rent.

5. **Surfacing and Drainage**

On-site parking areas shall be improved with a durable surface. Such area shall be so graded and drained as to dispose of all surface water accumulation within the area. These requirements shall also apply to open sales lots for cars, trucks, and other equipment.

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**6. Location**

- (1) Required on-site parking space shall be provided on the same lot as the principal building or use, except as provide in subsection (3) below.
- (2) Required off-street parking spaces may not be separated, through sale of the lot or other means, from the property containing the Main Use for which the parking area is required.
- (3) Combined or joint parking facilities may be provided for one (1) or more buildings or uses in a Highway Commercial (HC), Industry (I) or Planned Development (PD) District, if the total number of spaces equals the sum of the requirements for each building or use.
- (4) On-site parking and loading facilities are subject to the front yard, side yard and rear yard regulations for the use district in which parking is located, except that:
  - a. In a Highway Commercial (HC), Industry (I) or Planned Development District, no parking or loading shall be located:
    - i. within ten (10) feet of any property line that abuts a road, or highway right-of-way, or
    - ii. within any Agriculture (A), Rural Residential (RR), or Recreational Development (RD) District.
  - b. In the Industry (I) District, no parking or loading space shall be located:
    - i. within ten (10) feet of any property line that abuts a highway right-of-way line, or
    - ii. within any Agriculture (A), Rural Residential (RR), or Recreational Development (RD) District.

**7. Buffer Fences and Planting Screens**

- (1) On-site parking and loading areas that abut or are located within fifty (50) feet of a Rural Residential (RR) or Recreational Development (RD) District shall be screened by a fence or a planting buffer screen.
- (2) Plans of such screen or fence shall be submitted for approval as a part of the required site plan or plot plan, and such fence or landscaping shall be installed as a part of the initial construction.

**8. Access**

- (1) Each parking space shall be served by an access drive.

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- (2) Parking and loading space shall have access from a public right-of-way.
- (3) The number and width of access drives shall be so located as to minimize traffic congestion and abnormal traffic hazards.

9. **Lighting**

Lighting shall be reflected away from the public right-of-way and nearby or adjacent Agriculture (A), Rural Residential (RR), or Recreational Development (RD) Districts.

10. **Required Site Plan**

Any application for a building permit shall include a site plan or plot plan drawn to scale and dimensioned, showing the on-site parking and loading space to be provided in compliance with this Order.

## **4.5 Excavation**

1. **Applicability**

- (1) This section applies to any Excavation, as defined in subsection (2), below.
- (2) "Excavation," as used in this section, means any establishment or enlargement of the following:
  - a. any artificial excavation of the earth that is dug, excavated, or made by the removal from the natural surface of the earth of soil, sand, gravel, stone or other matter or made by tunneling or breaking or undermining the surface of the earth; and
  - b. any extraction of materials and minerals; and
  - c. any impoundment of waters.
- (3) This section does not apply to:
  - a. Excavations that are ancillary to other construction or installation that occurs contemporaneously with or immediately following the excavation, and that covers the excavation when completed. This exemption does not apply unless a permit is issued for the construction or installation; and
  - b. excavation that is ancillary to the construction of essential services or a farming operation; and

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- c. excavations that do not exceed five-hundred (500) square feet of surface area or two (2) feet in depth.

**2. Conditional Use Permit Required**

An Excavation is prohibited unless it is authorized by a Conditional Use Permit. (Refer to [§ 6.3](#) for conditional use permit procedures.) In addition to the materials normally required for a conditional use permit application, an application to authorize an excavation activity must include:

- (1) The applicant's name and address; and
- (2) a full description of the location of the land where the pit is or is to be or where the impounded waters are or are to be maintained; and
- (3) a full description of the location on such land of the pit, excavation or impounded waters; and
- (4) when required by the State of Missouri, an approval by the State to impound such waters or to make such excavation as described in the application; and
- (5) the purpose of the pit or excavation or the quantity of water impounded; and
- (6) the highways, roads, or other public ways in the County upon and along which any material for removal is to be hauled or carried; and
- (7) the estimated time when building or removing will begin and be completed.

**3. Map or Plat**

The County Commissioners may require a map or plat of the proposed pit or excavation to be made and filed before the conditional use permit is approved. The map or plat must show the confines or limits of the excavation, and a plan indicating the topography and overall condition of the site after extraction is completed. A similar map or plat may be required in regard to the proposed container for the impounded waters.

**4. Conditions of Permit**

The County Commissioners may require applicant or owner to do the following as a condition of conditional use permit approval:

- (1) Properly fence any pit or excavation;
- (2) Slope the banks and otherwise properly guard and keep any pit or

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excavation in such condition as not to be dangerous from caving or sliding banks;

- (3) Properly drain, fill or level any pit or excavation, after crested, so as to make the same safe and healthful as the Commission shall determine;
- (4) Keep any pit, excavation or impounded waters within the limits for which the particular permit is granted;
- (5) Remove excavated material from any pit or excavation, away from the premises, upon and along such highways, streets or other public ways as the Board shall order and direct;
- (6) Provide, for the purpose of retaining impounded waters, a container of sufficient strength and durability and maintain such container in safe and proper condition; and
- (7) Grade site after excavation is completed so as to render it usable, seeding where required to avoid erosion and a barren landscape.

**5. Bond May Be Required**

- (1) The County Commissioners may require the applicant or the owner or user of the property on which the Excavation is located to post a bond, in such form as the Commission shall determine with sufficient surety running to the County.
- (2) The bond must be conditioned to:
  - a. pay the County the amounts established in subsection (3), below; and
  - b. comply with all the requirements of this section and the conditions of the conditional use permit.
- (3) The bond amount must be sufficient to cover the following:
  - a. any extraordinary cost and expense of repairing, from time to time, any highways, streets, or other public ways where such repair work is made necessary by the special burden resulting from hauling and removing materials associated with an Excavation; and
  - b. pay any expense the County may incur by reason of doing anything required to be done by any applicant.
- (4) The amount of such cost and expense must be determined by the County Engineer. If no County Engineer, the cost and expense must be certified by a registered engineer that is retained by the Applicant.

ARTICLE 4. DESIGN AND IMPROVEMENT STANDARDS

§ 4.6 Land Alteration for Quarrying, Strip Mining, or Excavating of Minerals or Topsoil

**4.6 Land Alteration for Quarrying, Strip Mining, or Excavating of Minerals or Topsoil**

**1. Applicability**

- (1) This section applies to any Land Alteration. For purposes of this section, a "Land Alteration" means any excavation, grading and/or filling of any land within the County:
  - a. would result in a substantial alteration of existing ground contour, or
  - b. would change existing drainage, or
  - c. would cause flooding or erosion, or
  - d. would deprive an adjoining property owner of lateral support, and would remove or destroy the present ground cover resulting in less beneficial cover for present and proposed development, uses and enjoyment of any property in the County, or
  - e. requires a permit from the Missouri Department of Natural Resources for any alteration which includes any filling, dredging, channeling, or any other work in beds of public water.
- (2) This section does not apply to any Land Alteration by the County, a Township, or the Missouri Department of Transportation that is within or that abuts an existing or proposed road or thoroughfare.

**2. Scope**

A Land Alteration Permit shall be valid for a period of one (1) year from the date of issue.

**3. Procedure**

- (1) A Land Alteration is prohibited unless it is authorized by a Conditional Use Permit. (Refer to [§ 6.3](#) for conditional use permit procedures.)
- (2) In addition to the materials normally required for a conditional use permit application, an application to authorize a Land Alteration must include:
  - a. A permit fee for each application. The permit fee shall be determined in the fee resolution that is adopted by the Planning Commission.

ARTICLE 4. DESIGN AND IMPROVEMENT STANDARDS

§ 4.6 Land Alteration for Quarrying, Strip Mining, or Excavating of Minerals or Topsoil

- b. Legal description of the land to be altered.
- c. Nature of proposed alteration, rough grade estimates and future use of property.
- d. Starting date and approximate completion date of the operation.
- e. The names of all owners of the land to be altered.
- f. The names and addresses of all owners and occupants of the adjoining land that may be affected by said land alterations.

**4. Map or Plat**

The Planning Commission may require a map or plat of the proposed area of land alteration to be filed with the application before the conditional use permit is approved. The map or plat must show the confines or limits of the Land Alteration.

**5. Conditions of Permit**

The land alteration work shall be subject to the following conditions:

- (1) The smallest amount of bare ground shall be exposed for as short a time as feasible.
- (2) Methods to prevent erosion and trap sediment shall be employed.
- (3) Fill shall be stabilized to accepted engineering standards.
- (4) The person responsible for the proposed land alteration shall agree to replace cover that has been removed by seeding or sodding. The cover must be replaced within thirty (30) days after completion of grading. Where construction of homes or buildings is being done over an extended period of time, the Zoning Administrator or the County Commission may require replacement of ground cover on part of the area before the entire project is completed. If climatic conditions are such that any area of ground is subject to erosion, the Zoning Administrator or County Commission shall order appropriate protection to be applied to that area of ground.
- (5) If it becomes necessary to create a condition, grade, or drainage that is not in the interest of health or safety, the landowner or applicant must immediately correct the dangerous situation created and to fence the area from the general public during the period of danger.

ARTICLE 4. DESIGN AND IMPROVEMENT STANDARDS

§ 4.6 Land Alteration for Quarrying, Strip Mining, or Excavating of Minerals or Topsoil

6. **Enforcement**

The Zoning Administrator may, in addition to any or all other remedies available for violation of this Order, declare the premises a public nuisance. After a public hearing held upon ten (10) days notice by registered mail to the last known address of the owner or owners of the property, the Zoning Administrator may proceed to have the necessary work done to bring the land to reasonable standards of health and safety and assess all of the costs and expenses thereof against said property.

7. **Bonding**

The County may require from the person securing a Land Alteration conditional use permit adequate proof of bonding in the form of a performance bond. The performance bond must be sufficient in value to cover:

- (1) the expense of the completion of the development plan, and
- (2) to bring the area of the Land Alteration to a safe grade and elevation, and
- (3) to provide safe and adequate drainage of the site.

## ARTICLE 5 SUPPLEMENTAL USE REGULATIONS

### 5.1 *Applicability*

This Article applies to all zoning districts created pursuant to this Order.

### 5.2 *Accessory Uses, Buildings and Structures*

#### 1. Permitted Accessory Uses, Buildings and Structures

- (1) Accessory uses, buildings or structures that are permitted in any of zoning districts or incidental to any of the uses are set forth in Table 5.1-2, below.
- (2) No accessory use, building or structure is permitted unless it is listed in Table 5.1-2 or determined to be customarily incidental to the permitted Main Use or Building by the Zoning Administrator.
- (3) No underground gasoline storage permitted in any A, RA, or RD district.

**Table 5.1-2 Accessory Uses, Buildings or Structures**

(A) Accessory Use	(B) Zoning Districts or Uses
Garages or Carports (noncommercial)	All Zoning Districts
Greenhouses (noncommercial)	A, RR, RD, PD
Home Occupations	A, RR, RD, PD
Off-Street Parking and Driveways	All Zoning Districts.
Antennas or Towers (Subject to Telecommunication Facilities Regulations of Article 5))	All Zoning Districts
Fallout or tornado shelters	All Zoning Districts
Satellite Dishes	All Zoning Districts
Signs (subject to the Sign Regulations of Article 5)	All Zoning Districts.
Storage Buildings (noncommercial)	All districts.
Swimming Pools	A, RR, RD, PD, HC
Stables/Private	A, RR, RD, PD
Storage Buildings	All Zoning Districts
Tennis Courts (subject to the provisions of this Section)	All Zoning Districts
Any other Building or Use customarily incidental to the permitted Main Use or Building (see subsection (2), above)	All Uses and Zoning Districts

2. **Accessory Buildings and Structures**

(1) Attached

An accessory building that is attached to the principal building shall be made structurally a part of the principal building and shall comply in all respects with the requirements of this Order applicable to the principal building.

(2) Detached

- a. A detached accessory building shall not be closer than five (5) feet to the principal building, except as otherwise provided in this Order.
- b. A detached accessory building shall not be located in any required front or side yard.
- c. In an RR or RD district, a detached accessory building:
  - i. may not exceed one (1) story or twelve (12) feet in height; and
  - ii. may not occupy more than thirty (30) percent of the area of any rear yard; and
  - iii. shall be located at least fifty (50) feet from any rear lot line.

### 5.3 Adult Businesses and Adult Uses

*Purpose and Findings: the purpose of this Section is to provide standards to regulate the time, place and manner of the operation of adult use facilities in order to minimize the negative secondary effects associated with such facilities. The specific purposes of this Section are to:*

- Establish reasonable and uniform regulations that will reduce possible adverse secondary effects that adult uses may have upon the residents of the County and preserve the integrity of existing commercial areas of the County and of residential areas which are in close proximity to such commercial areas.*
- To protect the rights conferred by the United States Constitution to adult uses in a manner that ensures the continued and orderly development of property within the County and diminishes those undesirable negative secondary effects that recognized studies have shown to be associated with the development and operation of adult uses.*
- To serve a legitimate governmental interest of reducing possible secondary adverse effects, while allowing for alternative means of communication and free expression.*
- To promote the health, safety and welfare of the County.*

#### 1. Definitions

In addition to the definitions contained in Article 11, the following words and phrases are defined below for the purposes of this Section. If any of these definitions conflict with Article 11, these definitions shall prevail:

**Adult Arcade:**

Any business establishment or concern to which the public is permitted or invited and where coin or slug operated or electronically, electrically or mechanically controlled amusement devices, still or motion picture machines, projectors, videos or other image-producing devices are maintained to show images on a regular or substantial basis, where the images so displayed are considered "adult material" as defined by this Section.

**Adult Bookstore:**

An establishment having as a substantial or significant portion of its stock in trade adult material, or an establishment with a segment or section devoted to the sale or display of such material.

(1) An establishment shall be deemed to have a "substantial or significant portion of its stock in trade" at least twenty percent (20%) of the stock of the business or twenty percent (20%) of the floor area that houses the adult business is adult material. However, if the adult business is housed in a building or structure that includes more than one business, then the "floor area" shall mean and refer to only that portion of the building which is leased or otherwise demised to the adult business.

(2) An establishment shall also be deemed to have a "substantial or

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significant portion of its stock in trade" if at least twenty percent (20%) of the gross receipts of the business or use are derived from the sale of "adult material" (as defined below).

**Adult Business or Adult Use:**

(1) Any business establishment or concern which as a regular and substantial course of conduct operates as an adult bookstore, adult theater, adult arcade, adult cabaret or adult nightclub, figure modeling studio, adult dance studio, adult entertainment studio, erotic dance studio, adult hotel, or massage establishment; or

(2) Any business establishment or concern which as a regular and substantial course of conduct offers, sells or distributes adult oriented merchandise or sexually oriented merchandise, or which offers to its patrons "adult materials" or other products, merchandise, services or entertainment characterized by an emphasis on matters depicting, describing, or relating to "specified sexual activities" or "specified anatomical parts."

**Adult Cabaret or Adult Nightclub:**

A business establishment or concern which features live performances by dancers or similar entertainers in the nude.

**Adult Dance Studio:**

Any business establishment or concern which provides for members of the public a partner for dance where the partner appears nude, or where the dance is distinguished or characterized by the emphasis on matter depicting, or describing or relating to "specified sexual activities" or "specified anatomical areas."

**Adult Entertainment Studio:**

Any premises to which the public, patrons or members are invited or admitted and which are so physically arranged as to provide booths, cubicles, rooms, compartments or stalls separate from the common areas of the premises, wherein an entertainer provides entertainment to a member of the public, a patron or a member, when such entertainment is held, conducted, operated or maintained for a profit, direct or indirect. An adult entertainment studio includes, without being limited to, any premises that is physically arranged and used as such, whether advertised or represented as an entertainment studio, rap studio, exotic dance studio, encounter studio, sensitivity studio, modeling studio or any other term of like import. Adult entertainment studio shall not include theaters, concert halls, or similar establishments where entertainment is performed for groups of four or more.

**Adult Hotel:**

A hotel which is used for presenting on a regular and substantial basis "material" which is distinguished or characterized by the emphasis on matter depicting or describing or relating to "specified sexual activities" or "specified anatomical areas" through closed circuit or cable television or through video tape recorder

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where video tapes are provided by the hotel/motel. For purposes of this subsection, a "Hotel" means any building or other structure which is kept, used, maintained, advertised or held out to the public as a place where sleeping accommodations are offered for pay primarily to transient guests and in which four or more rooms are used for the accommodation of such guests, regardless of whether such building or structure is designated as a motel, cabin camp, tourist cabin, or other type of lodging unit. Evidence that a sleeping room in a hotel has been rented and vacated two or more times in a period of time that is less than ten (10) hours creates a rebuttable presumption that the establishment is an adult hotel as that term is defined in this Section.

**Adult Oriented Merchandise:**

Sexually oriented implements, paraphernalia, or novelty items, such as, but not limited to: dildos, auto sucks, sexually-oriented vibrators, benwa balls, inflatable orifices, anatomical balloons with orifices, simulated and battery operated vaginas, and similar sexually-oriented devices which are designed or marketed primarily for the stimulation of human genital organs or sado-masochistic activity or distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas."

**Adult Material:**

A material that is distinguished or characterized by their emphasis on matter which is distinguished or characterized by its emphasis on matter depicting, describing, or relating to "Specified Sexual Activities" or "Specified Anatomical Areas."

**Adult Theater:**

A theater or other commercial establishment with or without a stage or proscenium which is used for presenting, on a regular and substantial basis, "material" which is distinguished or characterized by an emphasis on matter depicting, or describing, or relating to "specified sexual activities" or "specified anatomical areas."

**Adult Use:**

See "Adult Business," above.

**Arcade Booth:**

Any enclosed or partially enclosed portion of an establishment in which an adult arcade is located, or where a live performance is presented, on a regular or substantial basis, where the material presented is distinguished or characterized by an emphasis on matter depicting, or describing, or relating to "specified sexual activities" or "specified anatomical areas."

**Commercial Zoning District:**

Any property within the County that is zoned HC (Highway Commercial) on the County's official zoning map adopted pursuant to [Section 2.2](#) of this Order.

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**Dancer:**

A Performer who dances or otherwise performs for an erotic dance studio and who seeks to arouse or excite the patrons' sexual desires.

**Employee:**

Any and all persons, including independent contractors, who work in or at or render any services directly related to the operation of an adult entertainment studio.

**Entertainer:**

Any person who provides entertainment within an adult entertainment studio as defined in this section, whether or not a fee is charged or accepted for entertainment and whether or not entertainment is provided as an employee or an independent contractor.

**Entertainment:**

Any exhibition, performance, display or dance of any type, removal of articles of clothing or appearing unclothed, pantomime, modeling, or any other personal service offered for amusement.

**Erotic Dance Studio:**

A fixed place of business which emphasizes and seeks, through one or more dancers or performers, to arouse or excite the patron's sexual desires.

**Figure Modeling Studio:**

Any establishment or business which provides for members of the public, the services of a live human model for the purpose of reproducing the human body, wholly or partially in the nude, by means of photograph, painting, sketching, drawing, or other pictorial form.

**Highway Commercial Zoning District:**

Any property within the County that is zoned "HC" (Highway Commercial District) on the County's official zoning map adopted pursuant to Section 2.2 of this Order.

**Massage Establishment:**

Any establishment having a fixed place of business where massages are administered for pay, including but not limited to massage parlors, sauna baths and steam baths. This definition shall not be construed to include a hospital, nursing home or medical clinic or the office of a physician, surgeon, chiropractor, osteopath or duly licensed physical therapist or barbershops or beauty salons in which massages are administered only to the scalp, face, neck or shoulders. This definition shall also exclude health clubs which have facilities for physical exercise, such as tennis courts, racquetball courts or exercise rooms, and which do not receive their primary source of revenue through the administration of massages. For purposes of this Section, a "massage establishment" shall not

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include the following:

- (1) Establishments which routinely provide massage services by a licensed physician, a licensed chiropractor, a licensed massage therapist, a licensed osteopath, a licensed practical nurse or a registered professional nurse.
- (2) Electrolysis treatment by a licensed operator of electrolysis equipment.
- (3) Continuing instruction in martial or performing arts or in organized athletic activities.
- (4) Hospitals, nursing homes, medical clinics or medical offices.
- (5) Barbershops or beauty parlors which offer massage to the scalp, the face, the neck, or shoulders only.

**Massage:**

Any method of pressure on, friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of external soft parts of the body with the hands or with the aid of any mechanical apparatus or appliance, with or without such supplementary aids as rubbing alcohol or oils.

**Masseur or Masseur:**

A "masseur" means a male person, and a "masseuse" means a female person, who practices massage.

**Material:**

Relative to adult businesses, "material" shall mean and include, but not be limited to, accessories, books, magazines, photographs, prints, drawings, paintings, motion pictures, pamphlets, videos, slides, tapes, or electronically generated images or devices including computer software, or any combination thereof.

**Nude:**

Any state of undress in which the whole or part of any human genitals, pubic region, buttock or female breast, at a point below the top of the areola, is less than completely and opaquely covered.

**Obscene:**

Any material or performance is obscene if the average person applying contemporary community standards would find that such material or performance, taken as a whole, appeals to the prurient interest; that the material or performance has patently offensive representations or descriptions of ultimate sexual acts, normal or perverted; and that the material or performance, taken as a whole, lacks serious literary, educational, artistic, political or scientific value.

**Operator:**

Any person, partnership, or corporation operating, conducting or maintaining an

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adult use or adult business as defined in this Section.

**Park:**

Any public or private land designated and reserved for public recreational use by a public agency or a private homeowners association.

**Patron:**

Any person who is a guest, member or customer on or in an adult business.

**Performer:**

Any person who is an employee or independent contractor of the adult business, or any person who, with or without any compensation or other form of consideration, performs live entertainment for patrons of an adult business and who seeks to arouse or excite the patrons' sexual desires.

**Person:**

Any individual, firm, partnership, corporation, company, association, joint stock association, or body politic, including any trustee, receiver, assignee, or other similar representative thereof.

**Religious Institution:**

A facility used primarily for religious assembly or worship and related religious activities.

**Residential Zone:**

Any property within the County which is designated as a "RR" (Rural Residential District) or "RD" (Recreational Development District) on the County's official zoning map adopted pursuant to Sections 2.2 of the Livingston County Zoning Ordinance.

**School:**

Any institution of learning, whether public or private, which offers instruction in those courses of study required by the Missouri State Board of Education or which is maintained pursuant to standards set by the Missouri State Board of Education. This definition includes a nursery school, kindergarten, elementary school, junior high school, senior high school, dancing schools, riding academies, and trade or vocational schools.

**Specified Anatomical Areas:**

"Specified Anatomical Areas" shall mean:

- (1) Less than completely and opaquely covered:
  - a. human genitals, pubic region;
  - b. buttock, or
  - c. female breast below a point immediately above the top of the

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areola; or

- (2) Any device or covering, when exposed to view, which simulates the female breast below a point immediately above the top of the areola, human genitals, pubic region or buttock; or
- (3) Human or simulated male genitals in a discernible turgid state, even if completely and opaquely covered.

**Specified Sexual Activities:**

“Specified Sexual Activities” shall mean:

- (1) Human genitals in a state of sexual stimulation or arousal; and/or
- (2) Acts of human masturbation, sexual intercourse or arousal; and/or
- (3) Use of human or animal ejaculation, sodomy, oral copulation, coitus or masturbation; and/or
- (4) Masochism, erotic or sexually-oriented torture, beating, or the infliction of pain; and/or
- (5) Human excretion, urination, menstruation, vaginal or anal irrigation; and/or
- (6) Fondling or other erotic touching of human genitals, pubic region, buttock, or female breast.

**Tavern:**

any premises on which alcoholic or cereal malt beverages are sold or served for consumption on the premises pursuant to a license or permit issued by the State of Missouri, Livingston County or any other political subdivision or agency of the State of Missouri.

**2. Location Standards**

- (1) Subject to the limitations of this Section, adult businesses may be located in any Highway Commercial District of the County as herein defined.
- (2) It is unlawful to establish any such adult business if the location is:
  - a. Within a one-thousand (1,000) foot radius of a Residential Zone. The distance between a proposed use and a Residential Zone shall be measured from the nearest exterior wall of the facility housing the adult use or proposed adult use to the nearest property line included within the Residential Zone, measured along a straight line extended between the two points.

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- b. Within a one-thousand (1,000) foot radius of any School or Park. The distance between the proposed use and a School or Park shall be measured from the nearest exterior wall of the facility housing the adult use or proposed adult use to the nearest property line of the school or park site, along a straight line extended between the two points.
- c. Within a one-thousand (1,000) foot radius of a Religious Institution. The distance between the adult use or proposed adult use and a religious institution shall be measured from the nearest exterior wall housing the adult use or proposed adult use along a straight line extended to the nearest exterior wall of the facility housing the Religious Institution.
- d. Within a one-thousand (1,000) foot radius of any other adult business. The distance between the adult use or proposed adult use and another adult business shall be measured from the nearest exterior wall housing the adult use or proposed adult use along a straight line extended to the nearest exterior wall of the facility housing the other adult business.
- e. Within a one-thousand (1,000) foot radius of any tavern. The distance between the adult use or proposed adult use and a tavern shall be measured from the nearest exterior wall housing the adult use or proposed adult use along a straight line extended to the nearest exterior wall of the facility housing the tavern.

**3. Hours of Operation**

- (1) No adult use or adult business shall be open earlier than twelve o'clock (12:00) p.m. or later than twelve o'clock (12:00) a.m. No adult use or adult business shall be open on any Sunday. It is unlawful for any operator or employee of an adult business to allow such adult business to remain open for business, or to permit any employee to engage in a performance, solicit a performance, make a sale, solicit a sale, provide a service, or solicit a service, between the hours of 12:00 a.m. and 12:00 p.m. of any day or on any Sunday.
- (2) All adult uses or adult businesses shall be open to inspection at all reasonable times by any law enforcement officer, the Zoning Administrator, or such other persons as the Zoning Administrator may designate in the normal course of his duties.

**4. Lighting Requirements**

Any lights used for exterior illumination shall be diffused or directed away from adjoining properties and public streets.

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5. **Signs**

All adult uses or adult businesses shall comply with the following sign requirements in addition to the requirements of Article 5.31 of the Livingston County Zoning Order.

- (1) No merchandise or pictures of the products or entertainment on the premises shall be displayed in window areas or any area where they can be viewed from the sidewalk in front of the building. Neither the performance nor any photograph, drawing, sketch or other pictorial or graphic representation of a performance displaying any portion of the breasts below the top of the areola or any portion of the pubic hair, buttocks, genitals, and/or anus may be visible outside of the adult use or adult business.
- (2) Window areas shall not be covered or made opaque in any way. No signs shall be placed in any window. A one square foot sign may be placed on the door to state hours of operation and admittance to adults only.

6. **Access Provision**

The operator shall not permit any doors on the premises to be locked during business hours. The operator shall ensure that any room or area on the premises shall be readily accessible at all times and shall be open to view in its entirety for inspection by any law enforcement officer.

7. **Minors' Access**

- (1) No employee, owner, operator, responsible managing employee, manager or permittee of an adult business shall allow any person below the age of nineteen (19) years upon the premises or within the confines of any adult business.
- (2) X rated movies. X rated movies or video tapes shall be restricted to persons over nineteen (19) years of age. If an establishment that is not otherwise prohibited from providing access to persons under 19 years of age sells, rents, or displays videos that have been rated "X" or rated "NC 17" by the motion picture rating industry ("MPAA"), or which have not been submitted to the MPAA for a rating, and which consist of images which are distinguished or characterized by an emphasis on depicting or describing "specified sexual activities" or "specified anatomical areas", said videos shall be located in a specific section of the establishment where persons under the age of nineteen (19) shall be prohibited and shall not be visible from outside the premises or from areas within the premises where persons under the age of nineteen (19) are allowed.
- (3) Other Adult Materials. Access to adult materials shall be restricted to persons over nineteen (19) years of age.

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8. **Closed Booths**

No one shall maintain any arcade booth or individual viewing area unless the entire interior of such premises wherein the picture or entertainment that is viewed is visible upon entering into such premises; and further, that the entire body of any viewing person is also visible immediately upon entrance to the premises without the assistance of mirrors or other viewing aids. No partially or fully enclosed booths/individual viewing area or partially or fully concealed booths/individual viewing area shall be maintained. No arcade booth shall be occupied by more than one patron at a time. No holes shall be permitted between arcade booths or individual viewing area.

9. **Required Notice**

A sign shall be conspicuously displayed in the common area of the premises, and shall read as follows:

THIS ADULT BUSINESS IS REGULATED BY THE LIVINGSTON COUNTY ZONING ORDINANCE. ENTERTAINERS ARE:

- (1) Not permitted to engage in any type of sexual conduct;
- (2) Not permitted to expose their sex organs;
- (3) Not permitted to demand or collect all or any portion of a fee for entertainment before its completion.

10. **Regulation of Viewing Areas**

Every adult use or adult business shall be physically arranged in such manner that the entire interior portion of the booths, cubicles, rooms or stalls wherein entertainment is provided is visible from a common area of the premises. Visibility shall not be blocked or obscured by doors, curtains, drapes, or any other obstruction whatsoever. All viewing areas within the adult business shall be visible from a continuous and accessible main aisle in a public portion of the establishment, and shall not be obscured in any manner by any door, curtain, wall, two-way mirror or other device which would prohibit a person from seeing into the viewing area from the main aisle. A manager shall be stationed in the main aisle, or a video monitor shall be established at a location from which the inside of all of the viewing areas are visible at all times, in order to enforce all rules and regulations. All viewing areas shall be designed or operated to permit occupancy of either one (1) person only, or more than ten (10) persons. The operator shall be responsible for and shall provide that any room or area used for the purpose of adult entertainment shall be readily accessible at all times and shall be opened to view in its entirety for inspection by the Zoning Administrator or a law enforcement officer at all reasonable times. "Viewing area" shall mean any area in which a person views performances, pictures, movies, videos, or other presentations.

**11. Private Performances**

Any area in which a private performance occurs shall:

- (1) Have a permanently open entranceway at least three (3) feet wide and at least six (6) feet high, which entranceway is not capable of being closed or partially closed by any curtain, door, or other partition which would be capable of wholly or partially obscuring any person situated in the area; and
- (2) Have a wall to wall, floor to ceiling partition of solid construction without any holes or openings, which partition may be completely or partially transparent, and which partition separates the employee from the person viewing the display.

**12. On Site Manager; Security Measures**

No person shall engage in, conduct or carry on, or permit to be engaged in, conducted or carried on the operation of an adult business unless each and all of the following requirements are met:

- (1) All adult businesses shall have a person who shall be at least 19 years of age and shall be on the premises to act as manager at all times during which the business is open. The adult business shall register any and all individual(s) designated as the on-site manager with the Zoning Administrator by the owner to receive all complaints and be responsible for all violations taking place on the premises.
- (2) The adult business shall provide a security system that visually records and monitors all parking lot areas, or in the alternative, uniformed security guards to patrol and monitor the parking lot areas during all business hours. A sign indicating compliance with this provision shall be posted on the premises. The sign shall not exceed two (2) by three (3) feet and shall at a minimum be one (1) foot by one and a half feet.

**13. Clothing**

All employees of adult businesses, other than performers while performing, shall, at a minimum while on or about the licensed premises, wear an opaque covering which covers their specified anatomical areas.

**14. Dancing and Performing**

In order to reduce the opportunity for prostitution and narcotics transactions, to prevent patrons and dancers/performers from engaging in sexual fondling and caressing, and to reduce the likelihood of drug and sex transactions, the following additional regulations shall apply to the operation of any adult cabaret, adult dance studio, erotic dance studio, or figure modeling studio:

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(1) Separation Distances Between Entertainers and Patrons.

No person shall perform live entertainment for patrons of an adult business except upon a permanently fixed stage or platform which is at least two (2) feet above the level of the floor, separated by a distance of at least ten (10) feet from the nearest area occupied by patrons and surrounded with a three (3) foot high barrier. No patron shall be permitted within six (6) feet of the stage while the stage is occupied by a performer.

(2) Contact between Entertainers and Patrons Prohibited

When patrons are present at the establishment, no dancer or performer shall fondle or caress any patron and no patron shall fondle or caress any dancer or performer. This prohibition does not extend to incidental touching. Patrons shall be advised of the separation and no touching requirements by signs placed on the barrier. If a patron disregards this requirement, employees of the establishment shall advise the patron of this requirement.

(3) Tipping

No patron shall directly pay or give any gratuity to a dancer or performer in conjunction with a performance. For purpose of this provision, 'directly pay or give' shall mean the placement of a gratuity by a patron on any portion of a dancer's or performer's person or clothing." No dancer or performer shall solicit any pay or gratuity from any patron.

(4) Unlawful Sexual Acts

No operator, entertainer, or employee shall permit to be performed, offer to perform, or perform sexual intercourse or oral or anal copulation with a customer or manual or other contact stimulation of the genitalia of a customer. No operator, entertainer, or employee shall encourage or permit any person upon the premises to touch, caress or fondle the breasts, buttocks, anus or genitals of any other person. No operator, entertainer, or employee shall be unclothed or in such attire, costume or clothing, so as to expose to view any portion of the sex organs of said operator, entertainer, or employee with the intent to arouse or gratify the sexual desires of the operator, entertainer, employee, or customer.

15. **Massage establishments**

- (1) No owner, operator, responsible managing employee, manager, or licensee in charge of or in control of any massage establishment shall permit any person in any area within the massage establishment which is used in common by the patrons or which can be viewed by patrons from such an area (excluding bathrooms, dressing rooms, or any room utilized for dressing purposes), unless the person's specified anatomical areas are

ARTICLE 5 SUPPLEMENTAL USE REGULATIONS  
§ 5.3 Adult Businesses and Adult Uses

fully covered. In addition, no owner, operator, responsible managing employee, manager or licensee in charge of or in control of a massage establishment shall permit any person to be in any room with another person unless all persons' specified anatomical areas are fully covered.

- (2) No owner, operator, responsible managing employee, manager or licensee in charge of or in control of a massage establishment shall permit any masseur, masseuse, or employee to be on the premises of a massage establishment during its hours of operation while performing or available to perform any task or service associated with the operation of a massage business, and no masseur/masseuse or employee shall be on the premises of a massage establishment during its hours of operation while performing or available to perform any task or service associated with the operation of a massage business, unless the masseur/masseuse or employee is "fully covered." For purposes of this subsection, "fully covered" means a state of dress in which the covering shall be of an opaque material and shall be maintained in a clean and sanitary condition, and which extends from a point not to exceed four (4) inches above the center of the knee cap to the base of the neck.
- (3) No masseur/masseuse or employee, while performing any task or service associated with the massage business, shall be present in any room with another person unless the person's specified anatomical areas are fully covered.
- (4) Rooms in which massage is to be practiced or administered shall have at least fifty (50) square feet of clear floor area and shall maintain a light level of at least forty (40) footcandles as measured three (3) feet above the floor. Such rooms shall be equipped with cabinets for the storage of clean linen and chemicals and approved receptacles for the storage of soiled linen. Such rooms shall contain a door incapable of being locked from the exterior or interior. Such door shall contain a transparent window pane no less than twelve (12) inches wide and twelve (12) inches long, such that an unobstructed view of the room is provided from a hallway or other common access area which is immediately adjacent to the room.

**16. Violations**

Any person who violates any provision of this Article 5 will be subject to the provisions of Article 9 of the Livingston County Zoning Ordinance.

**17. Applicability to Other Regulations**

The provisions of this Section are not intended to provide exclusive regulation of the regulated adult uses. Such uses shall comply with any and all applicable regulations imposed in other articles of the Livingston County Zoning Ordinance, other County Ordinances or Orders and state and federal law.

### **5.4 Automobile Service Stations**

Facilities for chassis and gear lubrication are permitted accessory to an Automobile Service Station only if enclosed in a building.

### **5.5 - 5.9 Reserved**

### **5.10 Gun Ranges**

1. **Standards for Gun Ranges.**

No building permit for a gun range shall be issued or renewed except in compliance with the following standards and criteria:

- (1) The minimum lot size requirement shall be twenty-five (25) acres.
- (2) No Shooting Area shall be located closer than one-hundred fifty (150) feet to the property line or lot line.
- (3) No Shooting Area shall be located closer than one-thousand (1,000) yards from the following: any occupied permanent dwelling other than that of the owner or lessee of the site or the employee of said owner, lessee, or gun range business; any residential district boundary; or any recorded subdivision.
- (4) No Shooting Area shall be located closer than one-thousand (1,000) yards from the right-of-way of a public road or highway in the direction of shooting, or five hundred (500) feet from the right-of-way of a public road or highway away from the direction of shooting.
- (5) The firing of rifles from and within the Shooting Area shall be directed away from all residences, residential district boundaries, and recorded subdivisions located within two and one-half (2.5) miles of the Gun Range. The firing of shotguns and pistols from and within the Shooting Area shall be directed away from all residences, residential district boundaries, and recorded subdivisions located within one (1) mile of the Gun Range.
- (6) The Gun Range shall be identified from all directions with conspicuous "Danger Gun Range" signs.
- (7) There shall be a barrier, impenetrable to any ammunition fired on the range, which shall extend from the ground surface to a distance above and to each side of the targets equal to one (1) foot for each ten (10) yards to the most remote shooting stand, but in no case less than four (4) feet.

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§ 5.10 Gun Ranges

- (8) Shooting hours shall be limited from 9:00 A.M. to sundown provided, however, that for a gun range used for training purposes, and where not more than twelve (12) students in addition to supervisory personnel are on the premises, shooting hours may extend from 9:00 A.M. to two hours after sundown.
  
- (9) In order to promote safety and to provide a sound barrier, a fence or berm shall be installed, or a row of trees or shrubbery shall be planted, within one-hundred fifty feet (150') of all property lines facing the direction of shooting. Said fence, berm, or trees/shrubbery shall have a height of not less than eight (8) feet. If trees or shrubbery are used, only a dense and hardy plant species as listed herein shall be used. The requirements of this subsection (9) may be waived by the Zoning Administrator for gun ranges located entirely within an enclosed structure consisting of concrete or masonry walls which are impenetrable to any missile fired on the range. The planting and maintenance of trees and/or shrubbery shall be subject to the following requirements:

Plant Species	Spacing*	Number* *
Shadblow Serviceberry ( <i>amelanchier canadensis</i> )	50	4
Alleghany Serviceberry ( <i>amelanchier laevis</i> )	25	6
American Hornbeam ( <i>carpinus caroliniana</i> )	50	4
Frosted Hawthorn ( <i>crataegus pruinosa</i> )	35	6
Prairie Crabapple ( <i>malus ioensis</i> )	35	5
American Linden ( <i>tilia americana</i> )	100	3
Blackhaw Viburnum ( <i>viburnum prunifolium</i> )	35	5
American Filbert ( <i>corylus americana</i> )	12	10
Gray Dogwood ( <i>cornus racemosa</i> )	12	10
Silky Dogwood ( <i>cornus amomum</i> )	12	10
Indigobrush Amorpha ( <i>amorpha fruticosa</i> )	20	5
Common Ninebark ( <i>physocarpus opulifolius</i> )	12	10
Fragrant Sumac ( <i>rhus aromatica</i> )	20	5
Prairie Rose ( <i>rosa setigera</i> )	20	5
* Specifies the maximum linear footage between each plant.** Specifies the number of plants to be planted and maintained per one-hundred (100) linear feet.		

- (10) No rifle shall be permitted within any Gun Range located within two and one-half (2.5) miles of any incorporated municipality.

2. **Building Permit Application Requirements**

No building permit for a gun range shall be issued unless the building permit application complies with this Subdivision and the requirements of Article 6.20 of this Order. In addition to the requirements of Article 6.20 of this Order, the plan accompanying a building permit application for a gun range shall include the following information:


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§ 5.10 Gun Ranges

- (1) The location and boundaries of all shooting areas. The shooting areas as shown on the plan shall indicate the location and distance of all firing ranges, targets, trap houses, skeet houses and other structures, including all directions of firing in all of the areas in which shooting will occur.
- (2) A site location map showing the location of all residences, residential district boundaries, and recorded subdivisions within two and one-half (2.5) miles of the proposed gun range.
- (3) For a gun range used as a training school, a roster of supervisory personnel shall be provided as part of the building permit application. An updated roster shall be provided to the Zoning Administrator upon request.

**3. Building Permits**

- (1) In addition to the requirements of Section [6.2](#) of this Order, no tract, parcel or other land may be used for a Gun Range without a valid building permit.
- (2) A building permit authorizing the establishment of a gun range may be revoked if the applicant fails to comply with any applicable standards of this Order or the restrictions set forth in the approved plan accompanying the building permit application.

**5.20 Manufactured Home Communities**

 Purpose: this Section promotes health, safety, order, convenience and general welfare, by enforcing minimum standards for the location, use of and arrangement of Manufactured home communities.

**1. Applicability**

This section applies to any establishment, construction, alteration, extension, or expansion of a Manufactured home community in the unincorporated areas of Livingston County.

**2. Permits**

- (1) An applicant must obtain a Building Permit from the Zoning Administrator before commencing any activity listed in subsection 1, above.
- (2) All applications for a conditional use permit or a building permit to establish a Manufactured home community shall contain:

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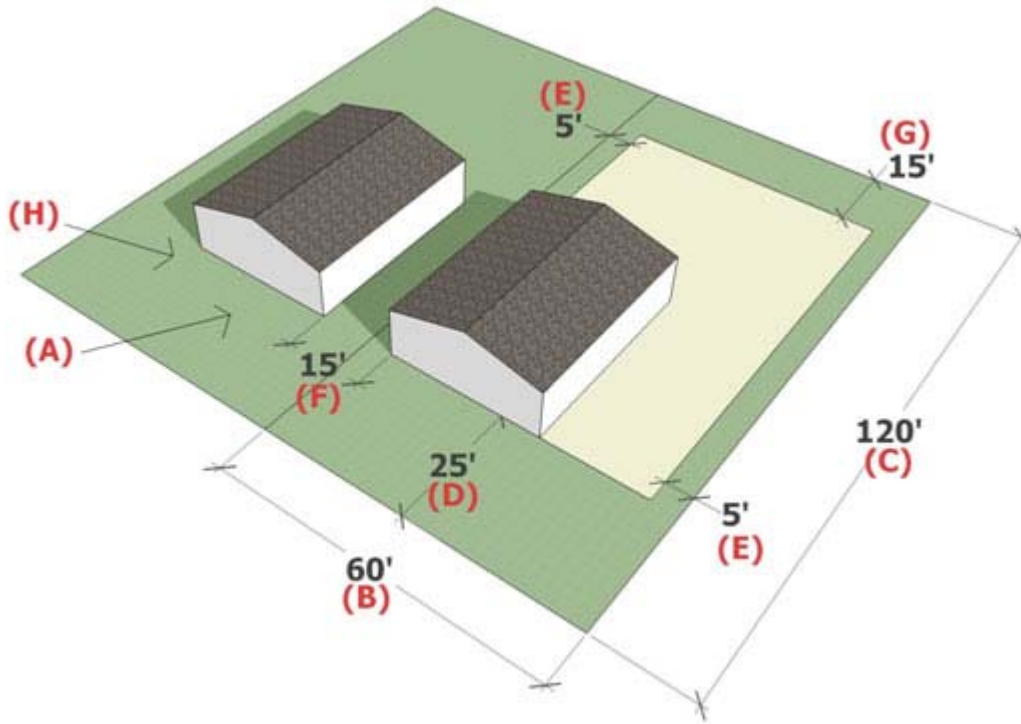
### § 5.20 Manufactured Home Communities

- a. The area and dimensions of the tract of land;
- b. The number, location, and size of all manufactured home spaces;
- c. The location of water and sewer lines and riser pipes;
- d. Plans and specifications of the water supply and refuse and sewage disposal facilities;
- e. Plans and specifications for all permanent buildings constructed or to be constructed within the Manufactured home community; and
- f. The location and details of lighting and electrical systems;
- g. The location and width of all driveways, roadways and walkways.
- h. Must show that they are in compliance with Chapter 700, RSMo.

### 3. **Dimensional Standards**

- (1) Lot and building design for a Manufactured Home Community must conform to the following standards:

## Manufactured Home Rental Spaces



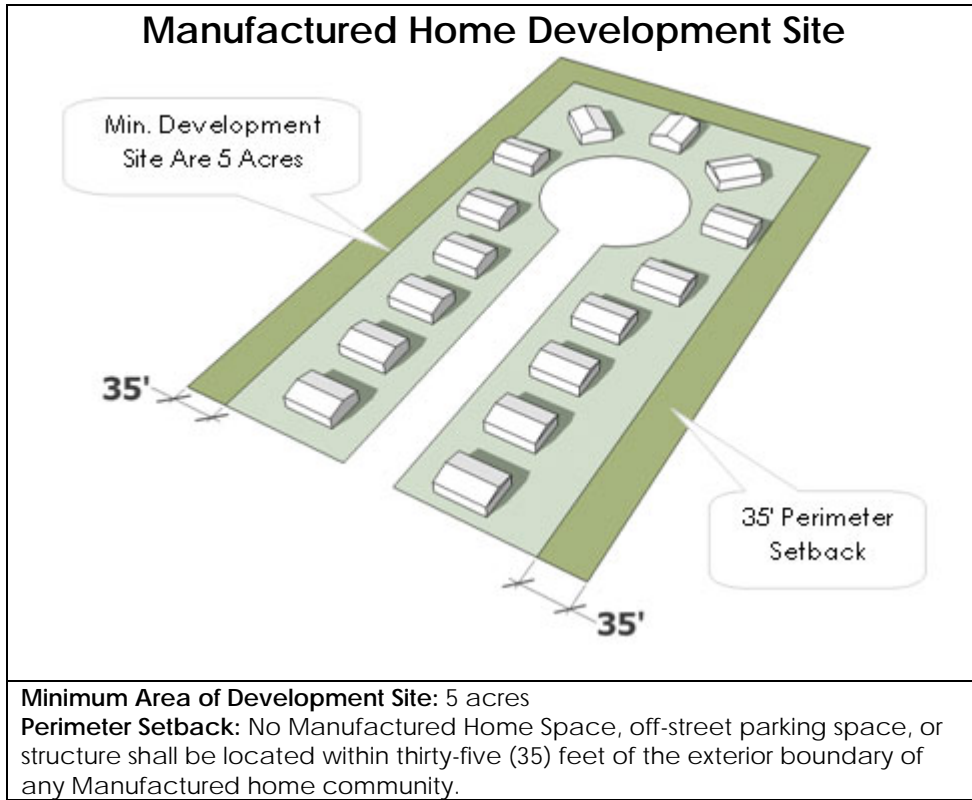
Dimensional Standards

(A) Min. Space Area	(B) Min. Space Width	(C) Min. Space Depth	(D) Min. Front Yard [1]	(E) Min. Side Yard	(F) Min. Spacing between Manufactured Homes	(G) Min. Rear Yard [2]	(H) Max. Space Coverage
7,200 square feet	60'	120'	25'	5'	15'	15'	25%

[1] Front setbacks are measured from the curb of interior streets or drives

[2] Rear setbacks are measured from the rear edge of the Manufactured Home Space to the Manufactured Home

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§ 5.20 Manufactured Home Communities



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§ 5.20 Manufactured Home Communities

- (2) Manufactured home community sites that access public streets shall conform to all yard, side yard and rear yard requirements of the zoning district in which said site is located.

**4. Parking, loading, storage and access**

- (1) Street access to or from a Manufactured home community is not permitted into or upon single family residential area local streets.
- (2) The Manufactured Home pad shall have a longitudinal grade of less than four (4) percent and traverse crown or grade to provide adequate surface drainage.
- (3) The stand or pad shall be compacted and surfaced with a material which will prevent the growth of vegetation while supporting the maximum anticipated loads during all seasons.
- (4) Off-street parking areas shall be surfaced in accordance with the street surface standards below.
- (5) All required off-street parking space shall be located not further than two hundred (200) feet from the unit or units for which they are designated.
- (6) Travel trailers, campers, snowmobiles, boats and recreation and travel equipment shall be parked in the off-season in designated areas, maintained by the management.

**5. Streets and walkways**

- (1) Public access to a Manufactured home community shall be so designated as to permit a minimum number of ingress and egress points to control traffic movement, and to keep undesirable traffic out of the park.
- (2) Ingress and egress to a Manufactured home community shall be divided but may be parallel and adjacent with a curb or island separation.
- (3) Streets or drives shall be graded to their full width to provide proper grades for pavements and sidewalks to have adequate surface drainage to the storm sewer system. The improvement shall extend continuously from existing improved streets to provide access to each lot and to provide connections to existing or future streets at the boundaries of the Manufactured Home Community.
- (4) All roads and streets shall have a durable surface and conform to the County road standards.
- (5) A walkway shall be provided between patio and off-street parking.

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§ 5.20 Manufactured Home Communities

**6. General Site Requirements and Design Standards**

- (1) Artificial lighting shall be maintained during all hours of darkness in all utility buildings.
- (2) Artificial lighting shall be maintained over the entire occupied Manufactured home community during all hours of darkness sufficient to control vandalism.
- (3) No tents shall be used for sleeping or living quarters.
- (4) No public address system shall be used except for emergency purposes (i.e., tornado, fire, air raid, etc.)
- (5) Dogs or small animals shall be confined to each Manufactured Home Space.
- (6) All structures shall be kept in good repair or be removed.

**7. Site Requirements and Design Standards for Manufactured home communities**

- (1) Each Manufactured Home lot shall be permanently staked and numbered. Permanent identification markers for each lot shall be clearly visible from the street.
- (2) All Manufactured Home lots shall be fronted on an approved roadway or street.
- (3) Each Manufactured Home lot shall have the privilege of constructing a car port, cabana or storage building upon approval of the Zoning Administrator.
- (4) Each Manufactured Home site shall be provided with a storage structure of at least five hundred (500) cubic feet in volume.
- (5) All Manufactured Homes shall be skirted.

**8. Responsibilities of the Management (Manufactured home communities)**

The following requirements apply to Manufactured home communities:

- (1) The person to whom a license for a Manufactured home community is issued shall operate the park in compliance with this Order.

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§ 5.20 Manufactured Home Communities

- (2) The owner or management shall provide adequate supervision to maintain the park, its facilities and equipment in good repair and in a clean and sanitary condition.
- (3) The owner or management shall notify park occupants of all applicable provisions of this Order and inform them of their duties and responsibilities under this Order.
- (4) The owner or management of the Manufactured Home Community must keep a register containing a record of all Manufactured Home owners and occupants located within the park. The register shall contain the following information:
  - a. The name and address of each Manufactured Home occupant;
  - b. The name and address of the owner of each Manufactured Home;
  - c. The make, model, year, and license number of each Manufactured Home and motor vehicle;
  - d. The state, territory, or county issuing such license;
  - e. The date of arrival and departure of each Manufactured Home;
- (5) The owner or management shall keep the register available for inspection at all times by law enforcement officers, public health officers, and other officials whose duty necessitates acquisition of the information contained in the register. The register record for each occupant registered shall not be destroyed for a period of three (3) years following the date of departure of the registrant from the park.

9. **Service Building and Other Community Service Facilities**

- (1) This subsection applies to service buildings, recreation buildings, and other community service facilities such as:
  - Management offices, repair shops, and storage areas;
  - Sanitary facilities;
  - Laundry facilities;
  - Indoor recreation areas;
  - Commercial uses supplying essential goods or services for the exclusive use of park occupants.
- (2) Cooking shelters, barbecue pits, fireplaces, and incinerators shall be located, constructed, maintained and used to minimize fire hazards and smoke nuisances both on the property on which used and on neighboring property. No open fire shall be left unattended. No fuel shall be used and no material burned which emits dense smoke or objectional odors.

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§ 5.20 Manufactured Home Communities

**10. Utility Requirements**

The following requirements apply to Manufactured home communities:

- (1) All Manufactured Homes and utility buildings shall be connected to a municipal water and sewer system approved by the Livingston County Health Department and/or by the State Department of Health.
- (2) All plans for disposal of surface water shall be approved by the Livingston County Soil & water Conservation District.
- (3) All utilities shall be underground including electrical except for those essential for street lighting.
- (4) The storage of the following shall be in containers approved by the State Fire Marshall:
  - a. fuel for cooking and/or heating, and
  - b. all pipes, lines or tubes with connections.
- (5) No obstruction shall be permitted that impedes any or all inspections of utilities or living units.
- (6) The proposed method of refuse, garbage, waste and trash collection and disposal shall be indicated on the application for conditional use permit or building permit approval.
- (7) Fire extinguishers shall be of a size and location as approved by the State Fire Marshall.

**11. Site Plan Requirements**

- (1) Five (5) copies of a site plan of the proposed Manufactured Home Community shall be submitted along with any application for conditional use permit or building permit approval.
- (2) The site plan shall be drawn to scale and showing:
  - a. Legal description and size of proposed site.
  - b. Location and size of all Manufactured Home sites, dead storage areas, roadways, parking sites, yard dimensions (mock-up of court or park).
  - c. Location and size of all patios and sidewalks.
  - d. Plans for sanitary sewer disposal, surface drainage, water systems, electrical service, heating service, telephone service.

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§ 5.20 Manufactured Home Communities

- e. Plans for garbage and refuse collection and disposal.
- f. Location and size of all streets and/or highways in and abutting the Manufactured Home Community.
- g. Location and size of all means of ingress and egress from the Manufactured home community.
- h. Road or street construction plans and/or specifications.
- i. Plans for any and all structures.

### **5.21 Multi-Family Dwellings**

Multi-family dwellings when permitted by conditional use shall conform to the following requirements:

- 1. Where public or community sanitary sewer and water are not available:
  - (1) a maximum of four (4) units are permitted per building, and
  - (2) the minimum lot size is five (5) acres.
- 2. If public sanitary sewer and water are available:
  - (1) the minimum lot size is five (5) acres.

### **5.30 Schools**

No school building shall be located within fifty (50) feet of any lot line of a residential use. For purposes of this section, a "school building" means any building that is intended or useable for occupancy by students or school staff for educational or recreational purposes. The Zoning Administrator may waive this requirement if he finds that it is preempted by state law, or if the school is entitled to intergovernmental immunity.

### **5.31 Sign Regulations**

- 1. **General provisions**
  - (1) This Section applies to any sign within the zoning jurisdiction of Livingston County.
  - (2) This Chapter does not apply to the copy or message of signs.
  - (3) No sign is to any limitation based on the content of the message contained on the sign. Any sign authorized by this Section may contain

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§ 5.31 Sign Regulations.

any non-commercial copy in lieu of any other copy.

**2. Permits**

- (1) Signs in other than areas zoned "A" (Agriculture) shall not be erected or constructed until the Zoning Administrator issues a building permit.
- (2) Fees The Planning Commission may establish application and annual licensing fees by resolution, as provided in RSMo § 64.540.
- (3) A building permit is required, but no building permit fee will be charged, for the following:
  - a. Non-commercial signs;
- (4) All permits for erection of signs shall expire ninety (90) days after issuance thereof.

**3. Location**

- (1) No sign except as erected by an official unit of government for the direction of traffic or necessary public information is permitted within the right-of-way of any public road.
- (2) No sign shall be closer than one-thousand (1,000) feet to another sign except directional signs at intersections.

**4. Size**

- (1) This subsection applies to all signs, except temporary signs and non-commercial signs.
- (2) The surface area of signs must not be less than the amount required by Column (A) of Table 5.31-1, or larger than the amount indicated in Column (B) of Table 5.31-1.
- (3) For purpose of this subsection, the "surface area" of a sign is the entire area within a single, continuous perimeter enclosing the extreme limits of the actual sign surface. It does not include any structural elements outside the limits of such sign and not forming an integral part of the display. Only one side of a double-face V-type sign structure will be used in computing the total surface area.

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 § 5.31 Sign Regulations.

Table 5.31 -1

	(A)	(B)
Location	Minimum Surface Area (square feet)	Maximum Surface Area (square feet)
Interstates or Freeways	72	600
Other Public Roads	24	600

**5.32 to 5.39 Reserved**

**5.40 Telecommunications Facilities**

*☞ Purpose: the purpose and intent of this Section is to -*

- *Promote the health, safety and general welfare of the public by regulating the siting of wireless communications facilities;*
- *Minimize the impacts of wireless communications facilities on surrounding areas by establishing standards for location, structural integrity, and compatibility;*
- *Encourage the location and collocation of wireless communications equipment on existing structures thereby minimizing visual, aesthetic and public safety impacts, effects upon the natural environment and wildlife, and to reduce the need for additional antenna-supporting structures;*
- *Accommodate the need and demand for wireless communications services;*
- *Encourage coordination between providers of wireless communications services in Livingston County;*
- *Respond to the policies embodied in the Telecommunications Act of 1996 in such a manner as not to unreasonably discriminate between providers of functionally equivalent personal wireless service or to prohibit or have the effect of prohibiting personal wireless service in Livingston County;*
- *Establish predictable and balanced regulations governing the construction and location of wireless communications facilities, within the confines of permissible local regulation;*
- *Establish review procedures to ensure that applications for wireless communications facilities are reviewed and acted upon within a reasonable period of time;*
- *Provide for the removal of discontinued antenna-supporting structures; and*
- *Provide for the replacement or removal of nonconforming antenna-supporting structures.*

**1. Applicability**

- (1) Except as provided in subsection (b) below, this Section will apply to the installation, construction, or modification of the following wireless communications facilities:
  - a. existing and proposed antenna-supporting structures, unless the

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§ 5.40 Telecommunications Facilities

- b. structure is a legal nonconforming use;
- b. replacement antenna-supporting structures;
- c. broadcast antenna-supporting structures;
- d. collocated and combined antennas on existing antenna-supporting structures;
- e. roof-mounted antenna-supporting structures;
- f. surface-mounted antennas;
- g. stealth wireless communications facilities.

(2) This Section does not apply to the following:

- a. regular maintenance of any existing wireless communications facility that does not include the placement of a new wireless communications facility;
- b. any existing or proposed antenna-supporting structure with an height of thirty-five (35) feet or less;
- c. any wireless communications facility erected as a temporary use. A "temporary use" means the erection of a wireless communications facility for a period of no longer than 90 continuous days. A Temporary Permit is required for the placement and operation of a wireless communications facility under this subsection. The Zoning Administrator shall determine the duration of the permit and shall attach conditions to assure that the establishment, maintenance, or conducting of the wireless communications facility will not, under the circumstances of the particular case, be unreasonably detrimental to the persons residing or working in the area adjacent to such use, or to the public welfare, or injurious to the property or improvements in the area adjacent to such use. A filing fee shall be charged for each application in an amount determined by the Planning Commission.
- d. any wireless communications facility that is not visible from the exterior of the building or structure in which it is mounted;
- e. wireless communications facilities erected upon the declaration of a state of emergency by a federal, state, or local government. However, no wireless communications facility will be exempt pursuant to this paragraph unless a written determination of public necessity for the facility is made by the Zoning Administrator. No wireless communications facility is exempt from the provisions of this Section beyond the duration of the state of emergency, and such facility must be removed or approved pursuant to this Section within ninety (90) days of the termination of the state of emergency; and
- f. Amateur radio ("HAM radio") facilities.

## 2. Definitions

In addition to the definitions contained in Article 11, the following words and phrases are defined below for the purposes of this Section. If any of these definitions conflict with Article 11, these definitions shall prevail:

### **Ancillary Appurtenances:**

Equipment associated with a wireless communications facility including, but not limited to: antennas, attaching devices, transmission lines, and all other equipment mounted on or associated with a wireless communications facility. Ancillary appurtenances do not include equipment enclosures.

### **Antenna:**

Any apparatus, or group of apparatus, designed for the transmitting and/or receiving of electromagnetic waves that includes, but is not limited to, telephonic, radio or television communications. An "antennas" includes any omni-directional (whip) antenna, sectorized (panel) antenna, microwave dish antenna, multi or single bay (FM & TV) antenna, yagi antenna, or parabolic (dish) antenna. An "antenna" does not include a satellite earth station.

### **Antenna, dish:**

A parabolic, spherical, or elliptical antenna intended to receive wireless communications.

### **Antenna, flush-mounted:**

An antenna that is attached flush to an antenna-supporting structure, without the use of sidearms or other extension devices.

### **Antenna, panel:**

A directional antenna designed to transmit and/or receive signals in a directional pattern that is less than three hundred and sixty (360°) degrees and is not a flush-mounted or dish antenna.

### **Antenna, surface-mounted:**

An antenna that is attached to the surface or façade of a building or structure other than an antenna-supporting structure.

### **Antenna, whip:**

A cylindrical, omni-directional antenna designed to transmit and/or receive signals in a three hundred and sixty (360) degree pattern.

### **Antenna-supporting structure:**

A vertical projection, including a foundation, designed and primarily used to support one (1) or more antennas or which constitutes an antenna itself. Antenna-supporting structures do not include stealth wireless communications facilities, but does include roof-mounted antenna-supporting structures that extend above the rooflines by more than twenty (20) feet, or that have an height of greater than fifty (50) feet. Antenna-supporting structures are not considered

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to be utility equipment.

**Antenna-supporting structure, replacement:**

The construction of an antenna-supporting structure intended to replace an antenna-supporting structure in existence at the time of application.

**Collocation:**

A situation in which two or more providers place an antenna on a common antenna-supporting structure, or the addition or replacement of antennas on an existing structure. The term collocation includes combined antennas, but does not include roof-mounted or surface-mounted wireless communications facilities, or the placement of any personal wireless service antenna on an amateur radio antenna within a residential district.

**Equipment enclosure:**

An enclosed structure, cabinet, or shelter used to contain radio or other equipment necessary for the transmission or reception of wireless communications signals, but not primarily to store equipment or to use as habitable space.

**Guyed:**

A style of antenna-supporting structure consisting of a single truss assembly composed of sections with bracing incorporated. The sections are attached to each other, and the assembly is attached to a foundation and supported by a series of guy wires that are connected to anchors placed in the ground or on a building.

**Height:**

The height of a wireless communications facility, measured as the vertical distance from the average of the highest and lowest point of the lot to the highest point of the wireless communications facility. Height includes all antennas and other ancillary appurtenances.

**Lattice Tower:**

A support structure constructed of vertical metal struts and cross braces forming a triangular or square structure which tapers from the foundation.

**Light Trespass**

Any light emitted by an outdoor luminaire that shines directly beyond the property on which the luminaire is installed, or indirectly shines beyond the property on which the luminaire is installed at a brightness (illuminance) that exceeds 0.1 foot-candles at the property line.

**Monopole:**

A style of free-standing antenna-supporting structure that is composed of a single shaft that is attached to a foundation. This type of antenna-supporting structure is designed to support itself without the use of guy wires or other stabilization devices. These structures are mounted to a foundation that rests on or in the

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ground or on a building's roof.

**Personal wireless service:**

Commercial mobile services (which include cellular, personal communication services, specialized mobile radio, enhanced specialized mobile radio, and paging), unlicensed wireless services, and common carrier wireless exchange access services, as defined in the Telecommunications Act of 1996.

**Satellite earth station:**

An antenna:

1. that is designed to receive direct broadcast satellite service, including direct-to-home satellite services, that is one meter or less in diameter; or
2. that is designed to receive video programming services via multipoint distribution services, including multichannel multipoint distribution services, instructional television fixed services, and local multipoint distribution services, and that is one meter or less in diameter or diagonal measurement; or
3. an antenna that is designed to receive television broadcast signals.

**Shared use plan:**

A plan that includes the information required by Subdivision 4, paragraph 4.

**Roof-mounted:**

Directly attached or affixed to the roof of any building or structure other than a tower. This type of installation is sometimes called a freestanding roof-mounted antenna.

**Stealth Facility:**

Systems, components and materials used in the construction of a wireless communications facility (WCF) that mask, camouflage, or conceal the WCF to make it less visually intrusive to the surrounding property. "Stealth" includes construction techniques that disguise the WCF so that it appears as another natural or artificial objects that exists in the surrounding environment or which is architecturally integrated into a building or other structure. They may include, but are not limited to, architecturally screened roof mounted antennae, façade-mounted antenna as design features, clock towers, flagpoles, church crosses, or "tree" poles (e.g. momopines).

**Tower:**

A monopole, lattice tower, free standing tower or other structures that are designed to support antennas.

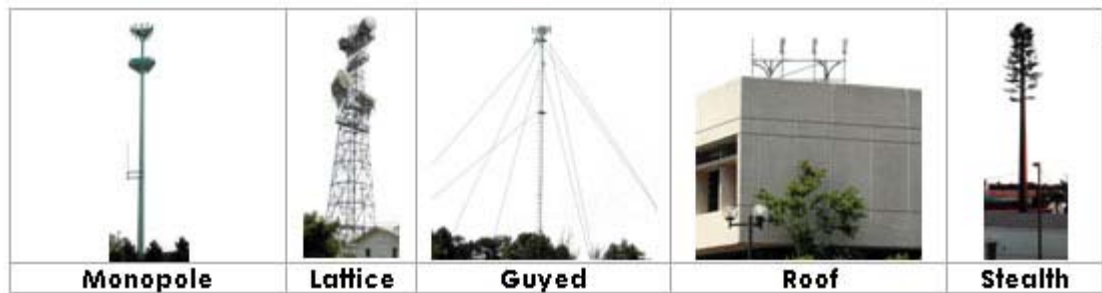
**Wireless communications facility:**

Any staffed or unstaffed facility used for the transmission and/or reception of wireless communications, usually consisting of an antenna or group of antennas,

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transmission lines, ancillary appurtenances, and equipment enclosures, and may include an antenna-supporting structure. The following structures or combinations of structures are considered to be wireless communications facilities: antenna-supporting structures (including replacements and broadcast), collocated antennas, roof-mounted structures, surface-mounted antennas, and stealth wireless communications facilities, but not including amateur radio facilities.

**Types of Telecommunications Towers and Structures**



**3. Development Review and Permitted Uses**

- (1) No wireless communications facility is permitted except in accordance with the development review process indicated in this subsection, based on the applicable zoning district and height of the proposed facility. Regardless of the development review process required, the applicant must comply with all applicable submission, procedural, and substantive provisions of the Livingston County Zoning Ordinance.

Zoning Districts	Height of Proposed Facility		
	36-75 feet	76-100 feet	100 feet or more
<i>F</i>	Prohibited	Prohibited	Prohibited
<i>A</i>	Building permit	Conditional use permit	Conditional use permit
<i>RR, RD</i>	Conditional use permit	Conditional use permit	Conditional Use Permit
<i>HC, I</i>	Building permit	Building permit	Building permit

- (2) All collocations, roof-mounted, and surface-mounted facilities must receive a building permit.

**4. Development Review**

- (1) Building Permit.  
 Where, pursuant to Subsection 3, a building permit is required, the application will be reviewed for compliance with this chapter by the Zoning Administrator. The Zoning Administrator will render a final decision of approval, denial, or approval with conditions. Within thirty (30) days of the Zoning Administrator's decision, appeal may be made to the Board of

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Adjustment pursuant to Section 6.50.

(2) Conditional use permit

Where, pursuant to Subsection 3, a conditional use permit is required, the application will be reviewed as provided in this section. If the conditional use permit is not approved, approved with conditions, or denied within sixty (60) days after the submittal of a complete application, the application shall be deemed approved. The applicant may agree to an extension of this time limit. Within sixty (60) days of the decision, appeal may be made to the Board of Adjustment pursuant to Section 6.50.

(3) Final Decision

Any decision by Livingston County to deny an application for a proposed wireless communications facility must be in writing and supported by substantial evidence contained in a written record.

(4) Shared Use Plans

Where this Section requires a shared use plan, the shared use plan must include the following:

- a. a signed statement from the antenna-supporting structure owner agreeing to allow future collocations (including combined antennas) on the facility, where reasonable and structurally feasible, including those initiated by providers other than the applicant or provider signing the application.
- b. a written evaluation of the feasibility of accommodating future collocations, which evaluation must address the following, as appropriate:
  - i. structural capacity of the proposed antenna-supporting structure;
  - ii. radio frequency limitations impacting the ability to accommodate collocations;
  - iii. geographical search area requirements;
  - iv. mechanical or electrical compatibility;
  - v. any restrictions imposed upon the facility by the FCC that would preclude future collocations; and
  - vi. additional relevant information as required by Livingston County.

This section does not require a shared use plan to relinquish the applicant's right to exclude others from its property, or to accept

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collocations at below market lease rates. However, the applicant may voluntarily include such provisions in a shared use plan.

**5. Submission requirements**

- (1) In addition to the submissions required for a building permit, the information required by Table 5.40-1 must be provided with an application for any wireless communications facility submitted pursuant to this Section. The application must be signed by the property owner, applicant, and a provider who will place antennas on the proposed wireless communications facility.
- (2) The Zoning Administrator may modify the submission requirements set forth above where it is determined that certain information is not required or useful in determining compliance with the provisions of the zoning ordinance. A decision to modify certain submission requirements must be in writing and made a part of the application file.
- (3) If the property owner is not a provider, the application must include letter signed by the property owner giving the applicant permission to act on behalf of the property owner and to apply to construct a wireless communications facility.

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**Table 5.40-1 Telecommunication Facility Application Submittal Checklist**

<i>Note: an asterisk (*) means that the information is required; a dash (--) means that the information is not required.</i>					
Antenna-Supporting	Collocations	Roof-mounted	Surface-mounted	Stealth Facilities	Required Submissions
*	*	*	*	*	A complete application on a form provided by the department.
*	*	*	*	*	A signed statement from the facility's owner or owner's agent stating that the radio frequency emissions comply with FCC standards for such emissions.
*	--	*	--	*	Proof that the proposed antenna-supporting structure has been designed so that, in the event of structural failure, the facility will collapse within the boundaries of the lot on which it is located.
*	--	--	--	*	A license (and for broadcast structures, a construction permit) issued by the FCC to transmit radio signals in Livingston County.
*	*	--	--	--	The name, address, and telephone contact information for the owner of any proposed or existing antenna-supporting structure; and a statement that such information will be updated annually or upon a change of ownership after the application is approved.
*	*	--	--	*	A stamped or sealed structural analysis of the proposed wireless communications facility prepared by an engineer registered in the state of Missouri that indicates the proposed and future loading capacity of the facility.
*	--	--	--	*	One original and two (2) copies of a survey of the lot completed by a registered land surveyor which shows all existing uses, structures, and improvements.
*	--	--	--	*	Renderings of the proposed wireless communications facility, equipment enclosures, and ancillary appurtenances as they would look after construction.
*	--	*	--	*	Proof of FAA compliance with Subpart C of the Federal Aviation Regulations Part 77, Objects Affecting Navigable Airspace.
*	--	*	*	*	Shared use plan.

**6. Standards**

The standards for the establishment of all proposed wireless communications facilities are as indicated by type of facility in Subdivision 7 through Subdivision 11, below. Where height requirements set forth in this Subdivision 3 conflict with those set forth in the applicable zoning district, those set forth in this Section govern.

## 7. Antenna Supporting Structures

### (1) Setbacks

- a. Antenna-supporting structures, equipment enclosures, and ancillary appurtenances must meet the minimum setback requirements for the zoning district in which they are proposed and this section.
- b. Antenna-supporting structures must be set back a distance equal to their height from the lot line of any lot that contains a residential use or that is within a residential zoning district. However, guy wire anchors need only comply with the provisions of paragraph a., above.
- c. Antenna-supporting structures must be set back a distance equal to its height or three hundred (300) feet from a public road. The Zoning Administrator may modify the 300 foot setback if the applicant demonstrates that the antenna-supporting structure can withstand the wind load for the design storm event applicable to Livingston County as provided in the most recent version of ANSI/TIA/EIA-222, *Structural Standards for Steel Antenna Towers and Antenna Support Structures*, which document is hereby incorporated by reference.
- d. If more than one of the above setback requirements applies to an antenna-supporting structure, the more restrictive will govern.
- e. Upon approval by the Zoning Administrator, setback requirements for replacement antenna-supporting structures may be reduced by an amount not to exceed fifty percent (50%) of that required by this chapter. However, in no case may a replacement structure be placed any closer to a lot line than the antenna-supporting structure it is replacing. No waiver will be granted pursuant to this paragraph unless the applicant demonstrates that the existing structure cannot be replaced in compliance with this section without a waiver.

### (2) Height

- a. Except as provided below, the height of any antenna-supporting structure may not exceed one-hundred and forty-nine (149) feet.
- b. Proposed broadcast antenna-supporting structures that have received a construction permit from the FCC may be constructed in accordance with the following:
  - i. AM broadcast antenna-supporting structures may not exceed two-hundred and fifty (250) feet in height.

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- ii. Except as provided in a. above, the height of a broadcast antenna-supporting structure may not exceed five-hundred (500) feet.

(3) Lighting

- a. No lights, signals, or other illumination are permitted on any antenna-supporting structure or ancillary appurtenances unless the applicant demonstrates that lighting is required by the FAA or the FCC.
- b. Site lighting may be placed in association with an approved equipment enclosure, but must include any shielding that is necessary to prevent light trespass. Site lighting must remain unlit except when authorized personnel are present.

(4) Accommodation of future collocations.

- a. Antenna-supporting structures must be designed to accommodate future collocation.
- b. As a condition of approval under this Section, the applicant must submit a shared use plan.

(5) Proliferation minimized

- a. *Generally.*  
No antenna-supporting structure is permitted unless the applicant demonstrates that the proposed antenna cannot be accommodated on an existing building or structure or by construction of a stealth facility.
- b. *Letters of coordination.*  
The applicant must provide documentation that the following notice was mailed, via certified mail, to all providers or, where applicable, owners of existing antenna-supporting structures, and that the applicant was unable to secure a lease agreement with a provider to allow the placement of the proposed antennas on an existing structure or building within the geographic search area.

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"Pursuant to the requirements of the Livingston County Zoning Ordinance, [name of applicant] plans to construct an antenna-supporting structure of (number of) feet in height for the purpose of providing (type of wireless service). Please inform the Livingston County Zoning Administrator and us if either of the following applies:

1. you intend to place additional wireless communications facilities within two (2) miles of our proposed facility; or
2. you know of an existing building or structure that might accommodate the antennas associated with our proposed facility.

Please provide us with this information within ten (10) days following the receipt of this letter.

Sincerely, (applicant, wireless provider)"

The Zoning Administrator will maintain a list of known service providers and owners. Letters of coordination must be mailed at least twenty (20) days prior to the application for a building permit or conditional use permit (whichever is required first) and must request a response from the recipient within ten (10) days of receipt.

*c. Siting priorities.*

In order to justify the construction of an antenna-supporting structure, the applicant must demonstrate that higher ranking alternatives in the following hierarchy, beginning with i., do not constitute feasible alternatives. Such demonstration must be made by submission of a statement of position, qualifications, and experience by a licensed radio frequency engineer.

- i. collocated or combined antennas
- ii. surface-mounted antennas
- iii. roof-mounted antenna-supporting facility
- iv. stealth wireless communications facility

*d. Additional evidence.*

As appropriate, the following evidence may also be submitted to demonstrate compliance with this section:

- i. that no existing wireless communications facility within the geographic search area meets the applicant's radio frequency engineering or height requirements;

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- ii. that no building or structure within the geographic search area has sufficient structural strength to support the applicant's proposed antennas; or
- iii. that there are other limiting factors that render collocated, surface-mounted, roof-mounted or stealth facilities unsuitable or unreasonable.

(6) Color

Antenna-supporting structures and ancillary appurtenances, including transmission lines, must maintain a galvanized gray finish or other contextual or compatible color as determined by the Livingston County Commission, except as otherwise required by the FAA or FCC.

(7) Fencing

A fence not less than eight (8) feet in height from finished grade must be installed so as to enclose the base of the antenna-supporting structure and associated equipment enclosures. Access to the antenna-supporting structure must be controlled by a locked gate.

(8) Signage

- a. No signs may be placed on antenna-supporting structures, ancillary appurtenances, equipment enclosures, or on any fence or wall except as required by this section.
- b. If high voltage is necessary for the operation of proposed wireless communications facilities, "High Voltage-Danger" and "No Trespass" warning signs not greater than one (1) square foot in area must be permanently attached to the fence or wall at intervals of not less than forty (40) feet and upon the access gate.
- c. A sign not greater than one (1) square foot in area must be attached to the access gate that indicates the following information:
  - i. federal registration number, if applicable;
  - ii. name of owner or contact person; and
  - iii. an emergency contact number.

**8. Collocations**

(1) Height.

Collocations may not increase the height of an antenna-supporting structure.

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- (2) Color.  
All collocated antennas and ancillary appurtenances must maintain a galvanized gray finish or other contextual color that is compatible with the environment or the building to which they are attached.

**9. Roof Mounted Antenna Supported Structures**

- (1) Location and placement.  
Roof-mounted antennas may be placed only on commercial, institutional, industrial, and multi-family buildings at least thirty-five (35) feet in height.
- (2) Height.
  - a. The roof-mounted antenna, attachment device, equipment enclosure and/or any ancillary appurtenance may not extend above the roofline of the building upon which it is attached by more than twenty (20) feet.
  - b. Roof-mounted wireless structures with an height of greater than fifty (50) feet are considered antenna-supporting structures subject to Subdivision 7.
- (3) Construction.  
Roof-mounted structures must have a monopole type construction.
- (4) Color.  
Roof-mounted structures, ancillary appurtenances, and equipment enclosures must maintain a galvanized gray finish or other contextual color that is compatible with the environment or the building to which they are attached.
- (5) Signage.  
No signs may be placed on any roof-mounted structure, ancillary appurtenances, or equipment enclosures.
- (6) Screening and placement.  
Roof-mounted structures must be screened by a parapet or other device, so as to minimize their visual impact as measured from the lot line of the subject property. Roof-mounted facilities must be placed as near the center of the roof as possible.

**10. Surface Mounted Antennas**

- (1) Color.  
Surface-mounted antennas and associated ancillary appurtenances must maintain a color that is the same as the surface to which it is attached,

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unless another color is more compatible within the context of the proposed facility and the surrounding environment.

(2) Screening and placement.

Surface-mounted antennas must be placed no less than fifteen (15) feet from the ground and, where proposed for placement on a building, must be placed so that no portion of the antenna is less than three (3) feet below the roofline.

**11. Stealth Wireless Telecommunications Facilities**

(1) Setbacks.

- a. Stealth wireless communications facilities, ancillary appurtenances, and equipment enclosures must meet the minimum setback requirements for the zoning district in which they are proposed.
- b. Setback requirements for stealth facilities may be reduced by the Zoning Administrator if it is determined that such a waiver is necessary to reduce the visual impact or enhance the compatibility of the proposed facility on adjacent properties and the surrounding community.

(2) Height.

The height of a proposed stealth facility must be limited to that which is consistent with the scale and aesthetic qualities of the proposed facility, and that which blends and is consistent with the character of the surrounding community. However, in no case may the height of any stealth facility exceed one-hundred and forty-nine (149) feet.

(3) Aesthetics.

- a. No stealth facility may have antennas or ancillary equipment that is readily identifiable from the public domain as wireless communications equipment.
- b. Stealth facilities must be designed so they are reasonably consistent with the surrounding built or nature environment. In order to determine compliance with this requirement, the Zoning Administrator will consider the following criteria:
  - i. height;
  - ii. the compatibility of the proposed facility with surrounding built and nature features;
  - iii. scale;

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- iv. color;
- v. extent to which the proposed facility blends with the surrounding environment;
- vi. extent to which the proposed facility has been designed to reasonably replicate a non-wireless facility (e.g., a silo, flagpole, or tree); and
- vii. extent to which the proposed facility is not readily identifiable as a wireless communications facility.

**12. Expert Review**

- (1) Where due to the complexity of the methodology or analysis required to review an application for a wireless communications facility, the Zoning Administrator may require a technical review by a third party expert.
- (2) The expert review may address the following:
  - a. the accuracy and completeness of submissions;
  - b. the applicability of analysis techniques and methodologies;
  - c. the validity of conclusions reached;
  - d. whether the proposed wireless communications facility complies with the applicable approval criteria set forth in this section; and
  - e. other matters deemed by the director to be relevant in determining whether a proposed wireless communications facility complies with the provisions of this section.
- (3) Based on the results of the expert review, the Zoning Administrator may require changes to the applicant's application or required submissions.
- (4) The Planning Commission, by resolution recommending approval of this Section, determines that the application shall require a review fee as established in the By-Laws of the Planning and Zoning Commission of Livingston County, Article VIII (hereinafter the "By-Laws"). The review fee must be collected and earmarked as provided in the By-Laws.

**13. Discontinuance**

- (1) Notice of discontinuance.  
In the event all legally approved use of an antenna-supporting structure or antenna has been discontinued for a period of one-hundred and eighty (180) days, the Zoning Administrator may make a preliminary determination of discontinuance. In making such a determination, the

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Zoning Administrator may request documentation and/or affidavits from the property owner regarding the structure's usage, including evidence that use of the structure is imminent. Failure on the part of a property owner to provide updated contact information for the owner of the antenna-supporting structure for two (2) consecutive years will be presumptive evidence of discontinuance. At such time as the Zoning Administrator reasonably determines that an antenna-supporting structure or antenna has been discontinued, the Zoning Administrator will provide the property owner with a written notice of discontinuance by certified mail.

(2) Declaration of discontinuance.

Failure on the part of the property owner to respond to the notice of discontinuance within ninety (90) days, or to adequately demonstrate that the structure is not discontinued, will be evidence of discontinuance. Based on the foregoing, or on any other relevant evidence before the Zoning Administrator, the Zoning Administrator may make a final determination of discontinuance, whereupon a declaration of discontinuance will be issued to the property owner by certified mail.

(3) Removal of facility.

Within one-hundred and twenty (120) days of a declaration of discontinuance, the property owner must either (a) reactivate the use of the structure as a wireless communications facility or transfer ownership of the structure to another owner who will make such use of the facility, or (b) dismantle and remove the facility. If the property owner fails to comply:

- a. The property owner shall be subject to a civil penalty of \$200 per day that the violation continues; and
- b. In order to settle any actual enforcement proceeding, or an impending enforcement proceeding of which the property owner is notified, the property owner may provide an estimate of the costs to dismantle the facility and shall remit funds or a binding performance guarantee to cover such costs to the County.

### **5.50 Utility Services**

No structure used for utility services shall be located within fifty (50) feet of any residential lot line.

### **5.51 Waste Disposal**

1. **Applicability**

This section applies to the establishment, vertical or horizontal expansion, or

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§ 5.51 Waste Disposal

development of any:

- (1) dumping ground,
- (2) solid waste disposal area or landfill,
- (3) solid waste management area,
- (4) solid waste processing facility,
- (5) incinerator,
- (6) solid waste transfer station,
- (7) hazardous waste facility,
- (8) car refuse facility,
- (9) demolition landfill, or
- (10) junk yard.

**2. Application**

Applications for conditional use permits involving the activities subject to this section must include the following in addition to the information that is normally required:

- (1) Three (3) copies of a Site Development Plan, prepared by a registered professional engineer or land surveyor, which contains the information required below:
  - a. north arrow, scale and date; and
  - b. extent of area to be filled or developed; and
  - c. location, width, and elevation of all easements and rights-of-way within or adjacent to the proposed facility site; and
  - d. location of all existing or proposed structures on the site; and
  - e. location of all areas on the site subject to flooding inundation; and
  - f. location of all water courses on the site including direction of flow and normal fluctuation of flow; and
  - g. existing topography at a contour interval of two feet, based on mean sea level datum; and
  - h. typical cross-sections showing extent of excavation, placement of overburden or borrow material, water table elevations and extent of fill; and
  - i. proposed fencing or screening plan including placement of gates, parking, service, and operations areas; and
  - j. an operating plan for the facility describing hours of operation, materials to be processed, volumes, odor control, control of smoke, fumes, vibration, and any phases of operation peculiar to

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§ 5.51 Waste Disposal

the proposed project; and

- (2) the location, type, materials, plant species, and planting density for any screening and/or landscaping; and
- (3) terms of operation or restrictive covenants for the proposed operation.
- (4) Rehabilitation Plan:

A rehabilitation plan, including:

- a. a statement of planned future use of the site, including detailed methods of accomplishment.
- b. a map, drawn to the same scale as the Site Plan, showing final property contours and topography, landscaping and ground cover, proposed drainage and any structures remaining after the cessation of land filling, incineration, or solid waste transfer activities.
- c. a phased plan of property rehabilitation related to the operations plan showing who is responsible, what methods will be used, and timing of rehabilitation activities including groundwater monitoring and completion dates.

**3. Bonding**

The County shall require a performance bond sufficient in value to cover:

- (1) the expense of completing the development plan, or
- (2) to bring the completed project into conformance with applicable state and/or federal environmental laws or regulations.

**4. Host Fee**

The County may require a "host fee" or development impact fee to be paid by the operator of a solid waste management facility or hazardous waste management facility permitted to operate within Livingston County. The host fee will bear a reasonable relationship to the annual cost to the county and the impacted township for road maintenance, accelerated bridge repairs, together with reasonable compensation to County residents for hosting the solid waste management facility. Such fee shall be collected per the terms of a written development agreement between the facility owner or operator and the County.

## ARTICLE 6. PROCEDURES

### 6.1 *Generally*

#### 1. **Notice to Landowners of Zoning Changes**

No use of any parcel of land included in the zoning order, the official zoning map, the Livingston County Flood Insurance Rate Map (FIRM), and any accompanying regulations shall be changed without a public hearing and the person or body which conducts the hearing shall give notice, at least fifteen (15) days before the hearing, by certified mail to all owners of any real property located within one thousand (1,000) feet of the parcel of land for which the change is proposed (RSMo Ch. 64.645).

#### 2. **Expiration of Permits for Failure to Act**

- (1) Every permit issued under this Order becomes invalid unless:
  - a. the work on the site authorized by the permit is commenced within twelve(12) calendar months after its issuance, or
  - b. if the work authorized on the site by such permit is suspended or abandoned for a period of twelve (12) calendar months after the time the work is commenced.
- (2) The Zoning Administrator may grant, in writing, one or more extensions of time, for periods of not more than 180 days each. The extension shall be requested in writing and justifiable cause demonstrated.

#### 3. **Revocation**

- (1) Upon application by the Zoning Administrator, County Commission, Planning Commission, or an aggrieved party, the Board of Adjustment may revoke any permit granted pursuant to this Order if it determines that:
  - a. there was a material misrepresentation of fact or that false information was supplied to the County in connection with the permit application, and
  - b. the misrepresentation or falsehood induced the granting of said permit.
- (2) A rezoning may not be revoked. However, if the Zoning Administrator makes the findings described above for a rezoning, the Planning Commission may initiate an application to rezone the property to its

ARTICLE 6. PROCEDURES  
§ 6.1 Generally

former classification.

**4. Limitations of Subsequent Applications**

- (1) When a final decision is made relating to a permit or a rezoning, no other or further application for a permit or rezoning with reference to the affected property shall be considered for a period of one (1) year following the date of the action.
- (2) A "final decision" means an action by the agency with jurisdiction over the application that:
  - a. approves, approves with conditions, or denies the application, or
  - b. if the decision in subsection "a" is appealed or a variance is requested, a decision by the Board of Adjustment to approve, approve with conditions or to deny the variance or appeal, including appeals relating to the application, including appeals to the Circuit Court, and courts with appellate jurisdiction.
- (3) An application may be considered within the waiting period established in subsection (1) if:
  - a. either of the following occurs, and presented, either of which would justify action before the expiration of the waiting period as determined in subsections below:
    - i. conditions affecting such property materially change, or
    - ii. a substantially different application is filed;
    - iii. the Planning Commission initiates an application to rezone based on Section 3(2) above.
  - b. The agency with jurisdiction over the application must allow the application to be filed by at least a four-fifths (4/5) majority of the members present and voting unless a different requirement is established by its rules of procedure.

## **6.2 Building Permits**

### **1. Building Permits**

- (1) A building permit shall be obtained prior to erecting, installing, altering, converting, remodeling, moving or demolishing any building or structure or part thereof in Livingston County outside the corporate limits of cities.
- (2) The following are exempt from this section:
  - a. agricultural structures, and
  - b. portable structures.
- (3) No permit shall be issued where a proposed development does not comply with the planning of future road construction. The County Commission shall provide the landowner any known information relating to future road construction.
- (4) All remodeling that involves any change of human habitation disposal systems shall be by a permit and may be inspected by the Zoning Administrator or agent of the County Health Department.
- (5) The activities subject to a building permit must comply with this Order , any Livingston County Health Department regulations, and any applicable state law.

### **2. Application**

- (1) Application for a building permit shall be made by the owner or General Contractor.
- (2) The application shall be filed with the Zoning Administrator. The Zoning Administrator shall prepare application forms consistent with this Section.
- (3) The building permit application shall be accompanied by a plan drawn to scale showing:
  - a. the dimensions of the lot to be built upon, and
  - b. the size and location of the proposed building or use, and
  - c. the size and location of accessory buildings to be erected, and
  - d. state approved on-site sewage system .
- (4) Applications for any kind of building permit shall contain any other information required by the Zoning Administrator for the proper enforcement of this Order.

ARTICLE 6. PROCEDURES  
§ 6.2 Building Permits

**3. Standards**

- (1) The Zoning Administrator shall issue the building permit only after determining that the building and site plans, together with the application, comply with the terms of this Order.
- (2) The Zoning Administrator shall determine the suitability of the proposed development relative to the soil conditions of the proposed site. This determination must be based on:
  - a. the Livingston County Soil Survey maps as prepared by the most recent edition of the Soil Conservation Service, U.S. Department of Agriculture, which is hereby incorporated by reference; or
  - b. if requested by the applicant, more recent or accurate site data based upon soil boring and sampling. The soil boring and sampling procedure and apparatus shall comply with generally accepted engineering practice. The registered design professional shall have a fully qualified representative on the site during all boring and sampling operations.

**4. Scope**

- (1) A building permit issued under the terms of this Order shall be valid for one (1) year from the date of issuance.
- (2) If construction has not been completed within one (1) year, the Zoning Administrator may approve an extension where he finds that the application is making reasonably diligent efforts to proceed with construction. No such extension shall exceed five (5) years.
- (3) In the case of involuntary loss through catastrophe such as fire, wind, or similar events, no fee shall be charged in these instances for a permit to rebuild.

**5. Fees**

Building permit fees and other fees as may be established by resolution of the Planning Commission shall be collected and deposited in a manner consistent with the Planning Commission's fee resolution.

## **6.3 Conditional Use Permits**

*☞ Purpose: the purpose of a conditional use is to permit a use that would not be appropriate generally but which may be allowed with appropriate restrictions.*

### **1. Application**

An application for a conditional use permit shall be filed with the Zoning Administrator on a form prescribed by the County Planning Commission. The application shall include the following: (1) the name(s) and address(es) of the applicant, owner of the site and architect, professional engineer and contractor employed by the applicant, (2) a site plan consistent with the requirements of Subdivision 4.1 of this Section. Incomplete applications or applications containing errors or omissions of fact may be rejected by the Zoning Administrator, the Planning Commission or the County Commission.

### **2. Procedure**

- (1) At least one public hearing shall be held before approving any conditional use permit. Such public hearing may be continued from time to time and additional hearings may be held. The receipt and consideration of evidence at said hearings shall comply with the requirements of § 536.070, RSMo.
- (2) The Zoning Administrator shall:
  - a. Set a date for the hearing on the conditional use permit application and give notice of the time and place of such hearing by publication in a newspaper of general circulation in the town, municipality, or other area concerned, and in the official newspaper of the county, at least fifteen (15) days before the hearing.
  - b. Give written notice of the time and place of the hearing on the conditional use permit application to all property owners of record within one thousand (1,000) feet of the affected property.
    - i. For the purpose of giving mailed notice, the applicant shall supply the names and addresses of all property owners requiring notification as prescribed in paragraph 2.b. above.

### **3. Review**

- (1) Site Plan  
The site plan shall include, but is not limited to, neighboring land and water uses, existing and proposed structures, architectural plans, driveway locations, parking areas, highway access, traffic generation and circulation, drainage, waste disposal, sewage disposal systems, water supply systems, watershed protection and flood prevention, water quality,

ARTICLE 6. PROCEDURES  
§ 6.3 Conditional Use Permits

shoreland cove, wildlife habitat, ground surface elevation, basement and first floor elevations, utility elevations, historic and probable future floodwater elevations, areas subject to inundations by floodwaters, depths of inundation, flood proofing measures, soil type (by location and depth), slope and boundaries, and plans for proposed structures giving dimensions and elevations pertinent to the determination of the hydraulic capacity of the structure or its affects on flood flows.

(2) Conditions

Conditions may be recommended by the Zoning Administrator or the Planning Commission and imposed by the County Commission which affect the proposed use, landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing, location, size and number of signs, performance standards, planting screens, operational control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards, additional parking, and any other conditions deemed necessary to comply with the criteria set forth in Subdivision 5 hereto. Said conditions may be recommended by the Planning Commission and required by the County Commission and changes made in such conditions when they find such changes are necessary in order to comply with and fulfill the purposes and intent of this Order.

(3) Referral to Soil and Water Conservation District

Site plans shall be referred to the Livingston Soil and Water Conservation District, when requested by the Planning and Zoning Commission, to determine the adequacy of the soils in the area for the proposed conditional use based on its limitations and capabilities.

(4) Transfer of Conditional Use Permit

No conditional use permit may be transferred to a successor in interest to the applicant until an application to transfer said conditional use permit has been reviewed by the Planning and Zoning Commission and approved by the County Commission.

4. **Criteria**

In addition to the standards set forth in the applicable zoning district regulations, no conditional use may be recommended for approval by the Planning Commission or approved by the County Commission unless the applicant therefore demonstrates compliance with the following standards:

- (1) The proposed conditional use shall be in compliance with all regulations of the applicable zoning district, the provisions of paragraphs 1 through 9 of this Subdivision, and the applicable standards set forth in Sections 4 and 5 of this Order.

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- (2) The proposed conditional use shall be in conformance with the character of the neighborhood, within the same zoning district, in which it is located. In making such a determination, consideration shall be given to the location, type and height of buildings or structures and the type and extent of landscaping and screening on the site.
- (3) Adequate utilities, access roads, drainage, fire protection, and other necessary facilities shall be provided.
- (4) Adequate measures shall be taken to provide ingress and egress so designed as to minimize traffic hazards and to minimize traffic congestion on the public roads.
- (5) The proposed use shall not be noxious or offensive by reason of vibration, noise, odor, dust, smoke or gas.
- (6) The proposed use shall not be injurious to the use and enjoyment of the property in the immediate vicinity for the purposes already permitted nor substantially diminish or impair the property values within the neighborhood.
- (7) The establishment of the proposed use shall not impede the orderly development and improvement of surrounding property for uses permitted within the zoning district.
- (8) The establishment, maintenance, or operation of the proposed use shall not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare.
- (9) The public interest and welfare supporting the proposed conditional use shall be sufficient to outweigh the individual interests which are adversely affected by the establishment of the proposed use.

5. **Action and Authorization**

- (1) No conditional use permit shall be issued until the application therefore has received a recommendation from the Planning Commission and has been approved by the County Commission.
- (2) Following the closing of the public hearing, the Zoning Administrator shall report the findings and recommendations of the Planning and Zoning Commission to the County Commission at their next regularly scheduled meeting.
- (3) Within ninety (90) days of receiving the findings and recommendation of the Planning and Zoning Commission, the County Commission shall approve, deny or refer for reconsideration the application. Said action by the County Commission shall be taken by a vote of not less than a majority of its members. The applicant for the conditional use permit shall be notified in writing of the Commissions' action.

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§ 6.3 Conditional Use Permits

- (4) Lack of a quorum at any meeting of the Planning Commission or County Commission shall not constitute a waiver of the requirements of this Order.

6. **Fees**

No application for approval of a conditional use shall be processed unless and until the applicant has paid all appropriate fees as established by the Planning Commission pursuant to Section 64.540, RSMo.

7. **Compliance**

- (1) No use permitted under the terms of any conditional use permit shall be established and conducted except in conformance with the terms of such permit and of any condition designated in connection therewith.
- (2) All conditional use permits shall be reviewed on an annual basis or when it is brought to the attention of the Planning and Zoning Commission that the applicant is deviating from any conditions or uses approved for such conditional use permit. Any deviation from the conditions or uses approved shall be considered reasons for cancellation of the conditional use permit.

**6.4 Amendments/Rezoning**

1. **Authority**

Whenever the public necessity, convenience, general welfare or good land use require such amendment, the County Commission may order, amend, extend or add to the regulations of this Order in accord with the applicable provisions of Missouri Regional Statutes Chapter 64. Such amendment or modification shall be the subject of a public hearing held in conformance with RSMo Ch. 64.645 (1986).

2. **Application**

- (1) An application for amendment, extension or addition to the regulations of this Order shall be filed with the Zoning Administrator by one of the following:
  - a. A petition from a resident or residents living within the jurisdiction of this Order.
  - b. A member of the Planning Commission.
  - c. A member of the County Commission.
- (2) The application shall be filed at least twenty (20) days prior to the applicable hearing.

ARTICLE 6. PROCEDURES  
§ 6.4 Amendments/Rezoning

- (3) An application shall be referred to the Planning Commission for study and report. The County Commission may not act on the application until it has received the recommendations of the Planning Commission.
- (4) Required information accompanying application to change the wording of this Order shall contain the following:
  - a. Stated reason for change requested.
  - b. Statement on compatibility to the County Comprehensive Plan.
  - c. Text of portion of the existing ordinance to be amended.
  - d. Proposed amended text and statements outlining any other effects that the amendment may have in other areas of this Order.
  - e. Additional information as may be requested by the Planning Commission or County Commission.
- (5) Required information accompanying application to change district boundaries shall contain the following:
  - a. The names, addresses and signatures of the petitioner or petitioners; and
  - b. A specific description of the area proposed to be rezoned; and
  - c. the names and addresses of all owners of property lying within such area; and
  - d. a description of the property owned by each property owner in the area; and
  - e. The present district classification of the area and the proposed district classification; and
  - f. Proposed use of the land (a statement of the type, extent, and area); and
  - g. An analysis of why the requested rezoning is compatible with the Comprehensive Plan; and
  - h. a statement of conditions warranting a change in zoning; and
  - i. Map, plot plan, or survey plot of property to be rezoned, showing location, dimensions, zoning of adjacent properties, and existing uses and buildings of adjacent properties within one thousand (1000) feet; and

ARTICLE 6. PROCEDURES  
§ 6.4 Amendments/Rezoning

- j. Additional information as may be requested by the Planning Commission or County Commission.

**3. Procedure**

- (1) Upon receipt of a complete application and other requested material for an amendment or rezoning, the Planning Commission shall hold a Public Hearing in a location to be prescribed. Such public hearings may be continued from time to time and additional hearings may be held. All such hearings shall be held at the regularly scheduled Planning Commission meeting after the requirements of proper notice are complied with.
- (2) Notice of the time, place and purpose of any public hearings shall be given by publication in a newspaper of general circulation in the town, municipality, or other area concerned, and in the official newspaper of the County, at least fifteen (15) days before the hearing.
- (3) For district boundary changes or zoning use changes, paragraphs (1) and (2) of this Subdivision shall apply, plus written notice of public hearings shall be sent by certified letter to all property owners of record within one thousand (1,000) feet of the affected property.
- (4) For the purpose of giving mailed notice, the applicant shall supply the names of people within the jurisdiction of the application (refer to paragraph (3), above).
- (5) All proposed changes in zoning use district boundaries or amendments to this Order, when requested by the Planning Commission, may be reviewed by the NRCS, County Engineer, or County Department of Health to determine the adequacy of soils, public facilities, or other factors to accommodate the change requested.
- (6) In areas shown on the County Land Use Map where joint planning review processes are specifically outlined, the Planning Commission may refer the proposed amendment request to another designated agency or municipality for their review, comments and recommendations prior to the public hearing.

**4. Action and Authorization**

- (1) After the public hearing is closed, the Planning Commission shall request the Zoning Administrator report its findings and recommendations on the proposed amendment or rezoning to the County Commission at their next regularly scheduled Commission meeting.
- (2) The County Commission shall take action on the proposed amendment within sixty (60) days following receipt of the recommendations by the

ARTICLE 6. PROCEDURES  
§ 6.4 Amendments/Rezoning

Planning Commission. The applicant shall be notified in writing of the Commission's action.

- (3) If a proposed change in the zoning use district boundaries is denied by the County Commission, no request for the same district change on the same property will be considered for at least one (1) year.

5. **Fees**

No application for approval of a text amendment or rezoning shall be processed unless and until the applicant has paid all appropriate fees as established by the Planning Commission pursuant to Section 64.540, RSMo.

6. **Effective Date**

The amended Ordinance shall become effective immediately upon adoption by the County Commission, by publication or any other requirement as provided by law.

**6.5 Appeals**

1. **Applicability**

Any person aggrieved by any officer, department, board or bureau of a town, municipality, county, or state may file an appeal with the Board of Adjustment. An appeal may be filed from any order, requirement, decision, or determination made by any administrative official charged with enforcing any ordinance and perform such other duties as required by this Order consistent with RSMo Ch. 64.

2. **Initiation**

Appeals shall be taken to the Board of Adjustment by filing an application with the County Clerk. The appeal shall be taken within a period of not more than three months from the order, requirement, decision, or determination subject to review. The appeal shall be filed in the manner provided by the rules of the Board of Adjustment.

3. **Decision**

- (1) The Board of Adjustment shall hear and decide appeals.
- (2) The Board of Adjustment will hear the appeal and provide notice in accordance with its rules of procedure.
- (3) The Board of Adjustment may reverse or affirm wholly or partly, or may modify the order, requirements, decision, or determination appealed and may make such order, requirement, decision or determination as ought to be made.

ARTICLE 6. PROCEDURES  
§ 6.5 Appeals

- (4) In considering an appeal, the Board of Adjustment has all the powers of the officer from whom the appeal was taken. For example, the Board of Adjustment may issue or direct the issuance of a permit if the permit was denied by the administrative official.
- (5) The reasons for the Board's decision shall be stated in writing.

4. **Criteria**

The Board of Adjustment may grant the appeal if it finds that there is error of law in the order, requirement, decision or determination that is subject to the appeal.

5. **Scope**

- (1) An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Adjustment that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property.
- (2) If an appeal is granted, the applicant must comply with any conditions imposed by the decision of the Board of Adjustment in addition to any conditions of this Order or the administrative official that were not affected by the Board's decision.

*Example: the Zoning Administrator approves a building permit for a gun range. The accompanying plan shows a shooting area and the landscape buffer. The Zoning Administrator approves the landscaping, but requires part of the shooting area to be moved to comply with the 150' property line setback. The applicant appeals to the Board of Adjustment, claiming that the Zoning Administrator's measurement of the setback was erroneous and that the plan already meets the setback. The Board of Adjustment agrees, and reverses the Zoning Administrator. In its order, the Board of Adjustment requires as a condition that the property owner install the shooting area inside the area shown on the plan. The property owner must also install the landscaping as shown on the plan, because the landscaping was not affected by the Board's order.*

6. **Judicial Review**

A petition to review the Board of Adjustment's decision may be filed with the Circuit Court of Livingston County as provided in RSMo § 64.660.

## **6.6 Variances**

### **1. Applicability**

The Board of Adjustment has the exclusive power to order the issuance of variances from the terms of any requirement of this Order, subject to the standards established in RSMo § 64.660.

### **2. Initiation**

An application for a variance must be filed with the County Clerk. The application shall be filed in the manner provided by the rules of the Board of Adjustment.

### **3. Decision**

- (1) The Board of Adjustment shall hear and decide appeals for variances.
- (2) The Board of Adjustment will hear the variance appeal and provide notice in accordance with its rules of procedure.
- (3) The Board of Adjustment may reverse or affirm wholly or partly, or may modify the order, requirements, decision, or determination for which a variance is requested, and may make such order, requirement, decision or determination as ought to be made.
- (4) In considering a variance, the Board of Adjustment has all the powers of the officer from which a variance is requested. For example, the Board of Adjustment may issue or direct the issuance of a permit if the permit was denied by the administrative official.
- (5) The reasons for the Board's decision shall be stated in writing.

### **4. Criteria**

The Board of Adjustment may grant a variance where:

- (1) the strict application of any requirement of this Order would result in peculiar and exceptional difficulties to or exceptional and demonstrable undue hardship upon the owner of the property, and
- (2) the conditions described in subsection (1) result in an unreasonable deprivation of use as distinguished from the mere grant of a privilege, and
- (3) the conditions described in subsections (1) and (2) occur because of exceptional narrowness, shallowness, shape of topography or other extraordinary or exceptional situation or condition of a specific piece of

ARTICLE 6. PROCEDURES  
§ 6.6 Variances

property; and

- (4) the variance will relieve the demonstrable difficulties or hardships; and
- (5) the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in this Order and the Official Zoning Map.

5. **Scope**

If a variance is granted, the applicant must comply with any conditions imposed by the decision of the Board of Adjustment in addition to any conditions of this Order or the administrative official that were not affected by the Board's decision.

6. **Judicial Review**

A petition to review the Board of Adjustment's decision may be filed with the Circuit Court of Livingston County as provided in RSMo § 64.660.

## **ARTICLE 7. ADMINISTRATION**

### **7.1 Zoning Administrator**

#### **1. Establishment**

The Livingston County Commission hereby establishes the position of Zoning Administrator. The Zoning Administrator is designated as the enforcement officer for purposes of RSMo § 64.650. The Livingston County Commission may appoint a person or designate an existing official as the Zoning Administrator. The Clerk of the County Commission is appointed to act as custodian of all necessary county planning records, plats and maps.

#### **2. Duties and Powers**

The Livingston County Zoning Administrator has the following powers:

- (1) To administer the Zoning Order.
- (2) To issue building permits, certificate of occupancy and any other permits as required by the terms of this Order.
- (3) To process all applications, documents and actions required by this Order.
- (4) To act as an advisor to all boards and committees.
- (5) To inspect construction and development as necessary to insure compliance with the standards of this Order.

### **7.2 Planning Commission**

1. The Livingston County Commission hereby establishes the Livingston County Planning Commission (the "Planning Commission").
2. The appointment, membership, and terms of the Planning Commission are as established in RSMO § 64.520.
3. The Planning Commission shall create and adopt rules for the transaction of its business as provided in RSMo § 64.540.
4. All members of the Livingston County Planning Commission shall serve as such without compensation, except as provided below. An attendance fee as reimbursement for expenses, not to exceed two (2) meetings per

ARTICLE 7. ADMINISTRATION  
§ 7.2 Planning Commission

month, may be paid to the appointed, non-elected members of the Planning Commission. The attendance fee is a minimum of \$25 per meeting for each such member.

5. The County Commission may by order assign additional duties and responsibilities to the Planning Commission.
6. The Planning Commission may adopt a schedule of administrative fees as per RSMo Ch. 64.540. Such administrative fee schedule shall be adopted by rule of the Planning Commission. No development permit shall be issued unless any required administrative fee is paid.

### **7.3 Board of Adjustment**

1. A Board of Adjustment is hereby established and vested such authority as is hereinafter provided by Missouri Statutes 64.660 through 64.870.
2. The appointment, membership, and terms of the Board of Adjustment are as established in RSMO § 64.660.
3. The Board of Adjustment shall adopt rules of procedure as provided in RSMo § 64.660.
4. The Board of Adjustment shall consider appeals and variances as provided in Sections 6.50 and 6.60 of this Order.

ARTICLE 8. NONCONFORMITIES  
 § 8.1 Applicability - What is a Nonconformity?

## ARTICLE 8. NONCONFORMITIES

*☞ Purpose and Findings: This Article protects uses, lots, structures and situations that were lawful before this Order was passed or amended. This section also guards against the expansion or extension of nonconforming situations in order to implement this Order. The fundamental purpose is to balance the rights of property owners with the County's planning policies in a manner that conforms to federal and Missouri law.*

*This Order permits legal nonconformities to continue, but does not encourage their survival. Nonconformities are incompatible with permitted uses of the zoning districts involved and the standards of this Order.*

### 8.1 Applicability

1. This Article applies to any of the following (referred to collectively as "nonconformities"):

<i>Situation</i>	<i>Description</i>
<b>Nonconforming use</b>	A use that is not permitted in the applicable zoning district. This includes:  (1) uses that are prohibited in the district,  (2) uses that would require a conditional use permit, other permit, or compliance with additional standards under this Order, but which did not require these items when they were established.
<b>Nonconforming lots</b>	Lots that do not comply with the required minimum lot area. If the other land under common ownership, and the combined lot area meets the required lot area, the lot is not considered a nonconforming lot.
<b>Nonconforming structures</b>	A building or structure that does not comply with the height, setback, or other dimensional standards of the zoning district.
<b>Nonconforming situations</b>	A development that does not comply with a standard of this Order not covered above. This includes non-compliance with parking, excavation, or supplemental use regulations other than use or dimensional standards.

2. In order to qualify as a nonconformity, nonconforming use, lot, structure or situation, the use -
  - (1) must have been lawful when it was established; and

ARTICLE 8. NONCONFORMITIES

§ 8.1 Applicability - What is a Nonconformity?

- (2) must have operated lawfully after it was established; and
  - (3) must have been maintained continuously after it was established.
3. In applying for a certificate of nonconformity or appealing an administrative decision that conflicts with a nonconformity, the applicant has the burden of demonstrating the elements of subsection 2, above.

**8.2 Generally**

**1. Continuance**

A lawful nonconformity may be continued, subject to the requirements of this Article.

**2. Enlargement, Expansion or Extension**

- (1) Generally nonconformities shall not be enlarged upon, expanded or extended. Examples of enlargement, expansion extension include:
- a. adding building floor area, either veritically or horizontally, or
  - b. expanding the area of operations, or
  - c. placing signs intended to be seen from off the premises, or
  - d. adding other uses that are prohibited in the district, or
  - e. similar activities that have the effect of increasing the intensity of the nonconforming activities, extending the useful life of the nonconformity, or increasing the degree of nonconformity.
- (2) Nonformities shall not be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

**3. Permits in Progress**

To avoid undue hardship, nothing in this Order shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Order and upon which actual construction has been diligently carried on. "Actual construction" includes the placing of construction materials in permanent position and fastened in a permanent manner.

ARTICLE 8. NONCONFORMITIES  
§ 8.2 Generally (Nonconformities)

4. **Discontinuance**

If a nonconformity is discontinued or its normal operation stopped for a period of one (1) year, the use shall conform to the regulations of the zoning district.

5. **Restoration**

(1) A non-residential building that is damaged by fire, explosion, act of God, or the public enemy to the extent of more than fifty (50) percent of its value shall not be restored except in conformity with the regulations of this Order.

(2) A single-family dwelling that is damaged by fire, explosion, act of God, or the public enemy may be restored regardless of the extent of damage or type of nonconformity.

6. **Normal Maintenance**

Nothing in this Article prohibits any necessary, non-structural repairs and incidental alterations which do not extend or intensify a nonconformity. Nothing in this Order shall prevent the placing of a structure in safe condition when the structure is declared unsafe by the County Zoning Administrator.

7. **Changes and Substitutions**

A nonconformity shall not be restored after it is eliminated.

8. **Hazards**

The Zoning Administrator may order the discontinuance of a nonconformity that is considered a hazard to traffic, sanitation, pollution, flooding, or that otherwise poses a danger to health and safety. The Zoning Administrator and the applicant may agree to a schedule for phasing out any such nonconforming condition.

**8.3 Nonconforming Uses**

1. If no structural alterations are made, a non-conforming use of a building may be changed to another non-conforming use of the same or more restricted classification. This applies even if the property is rezoned.

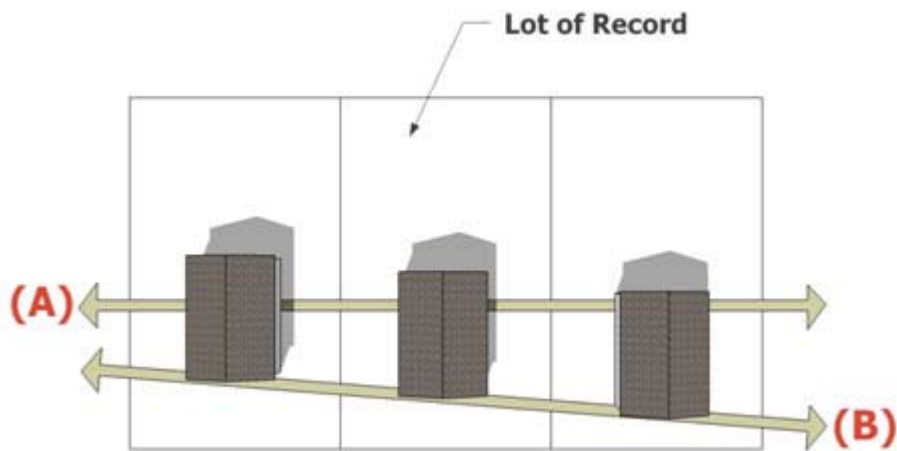
2. The Zoning Administrator may permit the substitution of a more restrictive non-conforming use for the existing non-conforming use. If this occurs, the prior existing use loses its status as a legal non-conforming use and the substituted use becomes subject to all the conditions required by the Zoning Administrator.

### 8.4 Nonconforming Yards

If there is a non-conforming front yard on a building adjacent to a lot of record, the front yards required by this Zoning Order for that lot of record are determined as follows:

#### 1. Nonconforming Yards on Both Adjacent Lots

If the front yards on both adjacent lots are nonconforming, the front yard is determined by a straight line drawn between the front yard setback lines of the two (2) adjacent buildings.

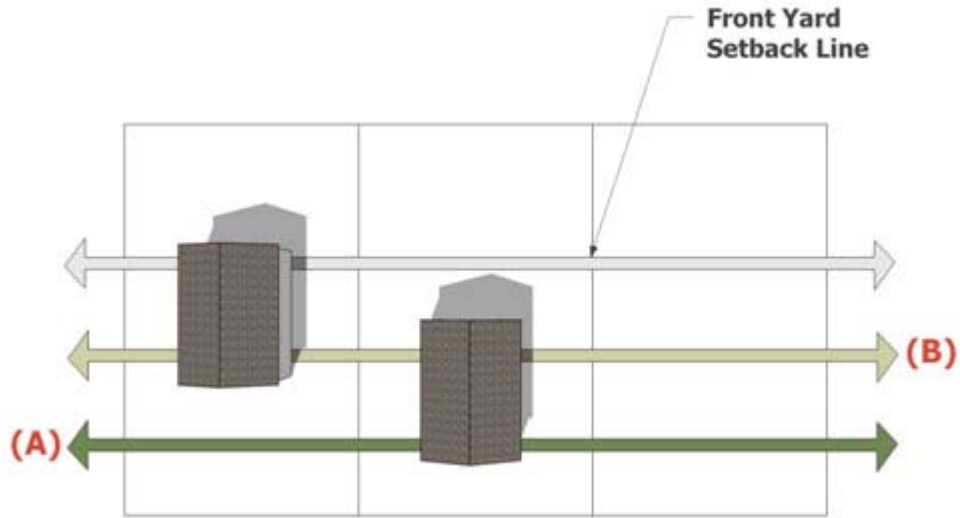


*Illustration: "A" is the front yard setback line required by the zoning district. "B" is a line connecting the nonconforming setback lines. "B" applies in lieu of the normal front yard setback.*

#### 2. Nonconforming Yards on One Adjacent Lot

If the lot on the other side is vacant, the yard for the lot of record shall be the setback of the non-conforming building plus one-half the difference between the setback of the non-conforming building and the setback required by this Order.

ARTICLE 8. NONCONFORMITIES  
§ 8.4 Nonconforming Yards



*Illustration: "A" is the front yard setback line required by the zoning district. "B" is a line that is half the distance between the nonconforming setback line next to the lot of record, and the normal setback line. "B" applies in lieu of the normal front yard setback.*

## 8.5 Nonconforming Lots

A nonconforming lot may be used for any permitted or conditional use in the zoning district in which the lot is located. The use shall comply with the bulk and area regulations as specified in the highest residential district having the same or less lot width.

## **8.6 Particular Nonconformities**

### **1. Non-conforming Uses in the "F" Floodplain District**

Nonconformities within the "F" Floodplain District may be continued, subject to the terms of this if:

- (1) The nonconformity will not have an unduly adverse effect on flood flows, velocities or stages associated with the 100-year flood.
- (2) Any addition or modification to a nonconformity within the floodplain shall:
  - a. conform to the provisions of the "F" Floodplain district, and
  - b. shall not increase the degree of obstruction to flood modifications and additions to be protected to the flood protection elevation by an approved use of flood proofing measures.

### **2. Residential Alterations**

Alterations may be made to a residential building containing non-conforming residential units when they will improve the livability of such units, but they shall not increase the number of dwelling units in the building.

### **3. Non-conforming Signs**

- (1) Signs on the premises of a non-conforming building or use may be continued, but the signs shall not be increased in number, area, height or illumination.
- (2) New signs not to exceed thirty-five (35) square feet in aggregate sign area may be erected only upon the complete removal of all other signs existing at the time of the adoption of this Order. Illuminated signs are permitted. Flashing signs or rotating signs are not permitted.
- (3) No sign erected before the passage of this Order shall be rebuilt, altered or moved to a new location without being brought into compliance with the requirements of this Order.
- (4) If a non-conforming sign structure is discontinued or its normal operation stopped for a period of six (6) months, the structure shall be removed by the owner or lessor at the request of the Zoning Administrator.

## **ARTICLE 9. VIOLATIONS, PENALTIES AND ENFORCEMENT**

### **9.1 *Violations and Penalties***

Any person, firm or corporation who violates any provision of this Order, fails to comply with any provision of this Order, or who makes any false statement in any document required to be submitted under the provisions of this Order, is guilty of a misdemeanor. Upon conviction, the penalty of such violations is a fine not to exceed three hundred dollars (\$300.00) per day and/or imprisonment of up to exceed ninety (90) days. Each day that a violation continues is a separate offense.

### **9.2 *Enforcement***

1. This Order may be enforced in any manner authorized by state law, included under RSMo § 64.690.
2. When any work has been stopped by the Zoning Administrator for any reason whatsoever, it shall not again be resumed until the reason for the work stoppage has been completely corrected.

## **ARTICLE 10. LEGAL STATUS**

### **10.1 *Validity***

Should any Section or Provision of this Order be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the Order as a whole or any part thereof other than the part so declared to be invalid.

### **10.2 *Repealer***

This Order repeals any and all conflicting orders, ordinances, and/or resolutions of the County Commission.

## ARTICLE 11. RULES AND DEFINITIONS

### ***11.1 Interpretation***

#### **1. Generally**

- (1) In interpreting and applying the provisions of this Order, they shall be held to be the minimum requirements for the promotion of the public health, safety, comfort, convenience and general welfare.
- (2) Where this Order imposes greater restrictions than those of any statute, other ordinance or regulations, this Order controls.

#### **2. Word Usage**

For the purpose of this Order, certain terms or words herein shall be interpreted as follows unless the context clearly indicates otherwise:

- (1) The word "person" includes a firm, association, organization, partnership, trust, company or corporation as well as an individual.
- (2) The word "shall" is mandatory, and not discretionary, the word "may" is permissive.
- (3) Words used in the present tense include the future; and words used in the singular include the plural, and the plural the singular.
- (4) The word "lot" includes the words "piece", "parcel" and "plot".
- (5) The word "building" includes "structure" of every kind, regardless of similarity to buildings.
- (6) The phrase "used for" includes the phrases "arranged for", "designed for", "intended for", "maintained for" and "occupied for".
- (7) The masculine gender includes the feminine and neuter.
- (8) All stated and measured distances shall be taken to the nearest integral foot. If a fraction is one-half ( $\frac{1}{2}$ ) foot or less, the integral foot next below shall be taken.

## 11.2 Definitions

<b>100-Year Flood</b>	The condition of flooding having a one percent chance of annual occurrence.
<b>Administrator</b>	The zoning administrator/enforcer for Livingston County.
<b>Accessory Building</b>	A subordinate building or a portion of a principal building which is located on the same lot as the principal building and the use of which is clearly incidental to the use of the principal building.
<b>Accessory Use</b>	A use that is subordinate to the Main Use on a lot and used for purposes customarily incidental to those of the main use.
<b>Adult Businesses and Adult Uses</b>	See § 5.3
<b>Agricultural</b>	The use of land for the production for commercial purposes and on the farm use of farm livestock and livestock products, other animals and other animal products, poultry products and all crops, including but not limited to the following: 1. Farm livestock and livestock products (domestic animals kept for use on the farm or raised for sale or profit, including dairy and beef cattle, swine, sheep, goats, horses, milk, cheese, butter and meat.) 2. Other animals; except farm livestock, for their pelt, pleasure or sport, including rabbits, mink, dogs, ponies, buffalo and deer. 3. Domestically raised fowl for food and pleasure, including chickens, turkeys, ducks, geese and game birds. 4. Field crops, including corn, milo, sorghum, sunflowers, wheat, oats, rye, barley, hay, potatoes and beans. 5. Fruit, including apples, plums, apricots, peaches, grapes, cherries and berries. 6. Horticultural specialties including ornamental shrubs, trees and flowers. 7. Vegetables, including tomatoes, snap beans, cabbage, carrots, beans and onions.
<b>Agricultural Building or Structure</b>	For the purposes of this Order, an "agricultural building and structure" shall imply any building or structure existing or erected on land use principally for agricultural purposes, with the exception of dwelling units.
<b>Air Navigation Obstruction</b>	Any structure, tree, terrain, condition or effect which obstructs the airspace required for the flight of aircraft in landing or taking off at the airport or which otherwise impedes the takeoff or landing of aircraft. (Reference: Airport Overlay District, <a href="#">§ 3.41</a> )
<b>Airport</b>	For purposes of the Airport Overlay (AO) District (§ 3.41), "airport" means the Chillicothe Municipal Airport in Livingston County, Missouri. (Reference: Airport Overlay District, <a href="#">§ 3.41</a> )

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<b>Airport Elevation</b>	The highest point of an airport's usable landing area measured in feet from sea level. The airport elevation of the Chillicothe Municipal Airport is seven hundred eighty-two and one-half (782.5) feet. (Reference: Airport Overlay District, <a href="#">§ 3.41</a> )
<b>Airport Height Zone Map</b>	The Livingston County Airport Height Overlay Zones Map, which designates the boundaries and elevations of height zoning associated with the Chillicothe Municipal Airport. (Reference: Airport Overlay District, <a href="#">§ 3.41</a> )
<b>Airport Manager</b>	The managing director of the Chillicothe Municipal Airport. (Reference: Airport Overlay District, <a href="#">§ 3.41</a> )
<b>Animal Manure</b>	Poultry, livestock or other animal excreta or mixture with feed, bedding or other materials.
<b>Animal Wastes</b>	Animal manure which is stored, transported or disposed of as unwanted waste material and which poses a potential hazard to the land, air or waters of the State. This shall not include animal manure used as fertilizer.
<b>Approach Surface</b>	A surface above the approach zone longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface at the same slope as the approach zone height limitation set forth in Airport Overlay District, <a href="#">§ 3.41</a> .
<b>Automobile service station</b>	A building, structure, lot or parcel in which the Main Use is the retail or dispensing of fuel, lubricants, tires, batteries, accessories, and supplies, including installation and minor services customarily incidental to these activities.
<b>Building</b>	Any structure for the shelter, support or enclosure of persons, animals, chattel or property of any kind; and when separated by party walls without openings, each portion of such buildings so separated shall be deemed a separate building.
<b>Building, Agricultural</b>	All buildings, other than dwellings, which are incidental to a farming operation.
<b>Building Height</b>	The vertical distance from the average of the highest and lowest point of that portion of the lot covered by the building to the highest point of the roof, to the deck of mansard roofs, and to the mean height between eaves and ridge for gable, hip and gambrel roofs.
<b>Building Setback Line</b>	A line within a lot or other parcel of land parallel to a public road or street or highway right-of-way line defining a portion of the lot between said setback line and said property line on which buildings or structures may not be placed.
<b>Building, Temporary</b>	A structure that has no electrical or water connections, no permanent foundation, is built on skids and can be moved when empty with a farm tractor.

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<b>Campgrounds</b>	Areas for the temporary accommodation of tourists or travelers in private motorized vehicles such as recreational vehicles or in park models. This includes private campgrounds, RV parks, mobile home campgrounds, or tourist camps. Sites that include manufactured homes or mobile homes are classified separately as a Manufactured Home Community or a Manufactured Home Subdivision.
<b>Car Refuse Facility</b>	<p>Any area:</p> <p>used for the disposal, recycling, reprocessing, burning, or collection prior to being offered for recycling or processing, of lead-acid batteries, motor oil, used motor oil, tires, waste tires, or other by-products of motor vehicles; or shredding, cutting, chipping or otherwise altering to facilitate recycling, resource recovery or disposal of tires.</p> <p>The terms used in this definition are defined in RSMo § 260.200, which is hereby incorporated by reference.</p>
<b>Commercial message or commercial copy</b>	Any sign wording, logo, or other representation that, directly or indirectly, names, advertises, or calls attention to a business, product, service, or other commercial activity.
<b>Comprehensive Plan</b>	The policies, statements, goals, and interrelated plans for private and public land and water use, transportation, and community facilities including recommendations for plan execution, documented in texts, ordinances and maps which constitute the guide for the future development of the county or any portion of the county.
<b>Conditional Use</b>	A use which, because of unique characteristics, cannot be classified as a permitted use in any particular district. After due consideration, in each case, of the impact of such use upon neighboring land and of the public desirability for the particular use at the particular location, a "Conditional Use Permit" may or may not be granted. If granted, the County Commission may attach conditions and guarantees upon the conditional use permit deemed necessary for the protection of the public interest.
<b>Conical Surface</b>	A surface above the conical zone extending outward and upward from the periphery of the horizontal surface at the same slope and elevation as the conical zone height limitation set forth in Airport Overlay District, <a href="#">§ 3.41</a>
<b>Conditions and/or Effects</b>	For purposes of the Airport Overlay District regulations ( <a href="#">§ 3.41</a> ), any material or substance capable of refracting and reflecting light, reflecting, impeding and absorbing electronic signals and obscuring vision.

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<b>Corner Lot</b>	A lot situated at the junction of and fronting on two or more roads or highways.
<b>County</b>	Livingston County, Missouri.
<b>Demolition landfill</b>	A solid waste disposal area used for the controlled disposal of demolition wastes, construction materials, brush, wood wastes, soil, rock, concrete and inert solids insoluble in water. (Source: RSMo § 260.200)
<b>Depth of Lot</b>	The mean horizontal distance between the mean front street line and the mean rear lot line. The greater frontage of a corner lot is its depth, and its lesser frontage is its width.
<b>Depth of Rear Yard</b>	The mean horizontal distance between the rear building line and the rear lot line.
<b>Development</b>	Any man-made change to improved or unimproved real estate, including, but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.
<b>Development Permit</b>	Any building permit; conditional use permit; preliminary subdivision plat; final subdivision plat or other plat approval; preliminary site plans; final site plans; rezoning; or any other official action of the county or other state or local government commission, board, agency, department or official having the effect of permitting development of land located within the geographic area subject to the provisions of this Order. A "development permit" does not include a rezoning.
<b>Disposal System</b>	A system for disposing of sewage, industrial waste and other wastes, and includes sewer systems and treatment works.
<b>District</b>	A section of the County for which the regulations governing the height, area, use of buildings and premises are the same.
<b>Dredging</b>	The process by which soils, mostly in the form of silt, or other surficial materials which are transported by surface water as a product of erosion into a body of water are removed for the purpose of deepening the body of water.
<b>Dumping Ground</b>	Any area on which ashes, garbage, refuse or rubbish are disposed. The terms "ashes," "garbage," "refuse" and "rubbish" have the meanings assigned in RSMo § 64.460.
<b>Dwelling, Farm</b>	A dwelling located on a lot or parcel that is used as a farm, and in which the resident of the dwelling either owns, operates or is employed on the same lot or parcel.
<b>Dwelling, Non-Farm</b>	A dwelling that is not a Farm Dwelling.
<b>Dwelling, Multi-Family</b>	A residence designed for/or occupied by three or more families, either wholly (attached) or partially a part of a larger structure (detached), with separate housekeeping and cooking facilities

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for each.

<b>Dwelling, Two Family</b>	A residence designed for/or occupied by two families only, with separate housekeeping and cooking facilities for each.
<b>Dwelling, Single Family</b>	A free standing (detached) dwelling unit that is designed for and or occupied by one family only. A single-family dwelling includes any modular home.
<b>Dwelling Unit</b>	Two or more rooms within a structure which are arranged, designed or used as living quarters for one family only. Individual bathrooms and complete kitchen facilities, permanently installed shall be included for each dwelling. A Manufactured Home with the above accommodations, located in areas approved for Manufactured Homes shall be considered a dwelling unit. A house trailer, camper-trailer, camper bus or tent are not considered dwelling units.
<b>Easement</b>	A grant by a property owner for the use of a strip of land for the purpose of constructing and maintaining utilities, including, but not limited to, sanitary sewer, water mains, electric lines, telephone lines, storm sewer or storm drainage ways, and gas lines.
<b>Erosion</b>	The process by which the ground surface is worn away by action of wind or water.
<b>Essential Services</b>	Overhead and underground electrical, gas, steam or water transmission or distribution systems and structures, or collection, communication supply or disposal systems and structures used by public utilities or governmental departments or commissions or as required for protection of the public health, safety, or general welfare, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, and accessories in connection therewith, but not including buildings. For the purpose of this Order, the word "building" does not include "structures" for essential services.
<b>Excavation</b>	The act by which soil, earth, sand, gravel, rock, or any similar material is cut into, dug, quarried, uncovered, removed, displaced, relocated, or bulldozed and shall include the conditions resulting therefrom.
<b>Extended Runway Centerline</b>	The continuation of the runway centerline beyond the runways. (Reference: Airport Overlay District, <a href="#">§ 3.41</a> )
<b>FAA</b>	The Federal Aviation Administration or any successor agency established by the United States government. (Reference: Airport Overlay District, <a href="#">§ 3.41</a> )
<b>Family</b>	One or more persons occupying a single housekeeping unit and using common cooking facilities.

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<b>Family, Immediate</b>	Persons related by blood, marriage, or other legal instrument.
<b>Farm or Farm Use</b>	<p>An area that is used for the raising of crops, livestock, orchards, or forestry. "Farm Uses" includes uses that are accessory to the raising of crops, livestock, orchards, or forestry, including:</p> <ul style="list-style-type: none"><li>• livestock and/or poultry manure storage systems or other systems of manure storage that are of like and similar nature that prevents feed lot runoff if they comply with all Missouri Department of Natural Resources (DNR) for the control of waste from Commercial Feedlots, Poultry Lots and Other Animal Lots and are authorized by a valid permit issued by DNR; and</li><li>• Farm drainage systems, flood control and watershed structures and erosion control devices that meet all County, State and Soil Conservation District minimum regulations.</li><li>• "Farm Use" does not include any of the following:<ul style="list-style-type: none"><li>• the extraction of minerals,</li><li>• manure storage systems that are not accessory to the raising of livestock on the same lot,</li><li>• the sale of crops, livestock, produce, plants, or trees to the general public on the site,</li><li>• the sale of farm equipment,</li><li>• kennels, or</li><li>• the storage of materials or equipment for farm operations on another site, lot, or parcel; or</li></ul></li><li>* any other use that does not involve the raising of crops, livestock, orchards, or forestry on the lot or parcel.</li></ul>
<b>Farm Building</b>	Any building or structure that is principally used as a Farm. A Farm Building does not include any Farm Dwelling.
<b>Fill</b>	Any act by which soil, earth, sand, gravel, rock, or any similar material is deposited, placed, pushed, pulled, or transported and shall include the condition's potential pollution hazard
<b>Fire Station</b>	A building or structure that is devoted to fire fighting and fire protection activities and that may house apparatus, equipment and the fire protection or emergency personnel while on duty. Accessory activities may include the storage and maintenance of fire trucks on the same lot or parcel, and that are used for service calls that originate in that building or structure.

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<b>Flood</b>	A general and temporary condition of partial or complete inundation of normally dry land areas from: (1) The overflow of inland or tidal waters. (2) The unusual and rapid accumulation or runoff of surface waters from any source.
<b>Flood Frequency</b>	The average frequency, statistically determined, for which it is expected that a specific flood stage or discharge may be equaled or exceeded.
<b>Flood Plain</b>	The areas adjoining a watercourse which has been or hereafter may be inundated by water from flooding.
<b>Flood Proofing</b>	Any combination of structural and non-structural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
<b>Floor Area</b>	The sum of the gross horizontal areas of the several floors of a building measured from the exterior walls, including basements and attached accessory building.
<b>Garage, Private</b>	A garage which is erected as an accessory building.
<b>Garage, Public</b>	Any premises, except those described as a private garage, used for the storage or care of power-driven vehicles, or where any such vehicles are equipped for operation, repair or are kept for remuneration, hire or sale.
<b>Gun Range</b>	Any tract or parcel of land such as a skeet range, trap range, shooting range, rifle range, pistol range, firearms training facility, or any other tract or parcel of land that is used for the purpose of organized shooting, shooting events, or shooting practice using rifles, shotguns or pistols. (See also "Shooting Area") A "Gun Range" does not include informal shooting practice by the owner or lessee of the site, which is not for compensation, and which is not open to the general public.
<b>Hazard to Air Navigation</b>	An air navigation obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace. (Reference: Airport Overlay District, <a href="#">§ 3.41</a> )
<b>Hazardous waste facility</b>	Any property that is intended or used for hazardous waste management including, but not limited to, storage, treatment and disposal sites. "Hazardous Waste" has the meaning established in RSMo § 260.360.
<b>Height</b>	The vertical distance from grade plane to the average height of the highest roof surface of a building or the highest surface of a structure.

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For purposes of this definition, the "grade plane" means the average finished ground level adjoining the building at exterior

walls or a non-building structure at its exterior surfaces. Where the finished ground level slopes away from the exterior walls, the grade plane is established by the lowest points within the area between the building or structure and the lot line or, where the lot line is more than 6 feet from the building or structure, between the building and a point 6 feet from the building or structure.

For purposes of the Airport Overlay District regulations ([§ 3.41](#)), "height" is measured at mean sea level elevation unless otherwise specified.

<b>Highway</b>	Any public thoroughfare or vehicular right-of-way with a Federal or State numerical route designation; any public thoroughfare or vehicular right-of-way with a Livingston County numerical route designation.
<b>Historic or Archaeological Sites</b>	Any "certified historic structure" or "eligible property" that is located in a certified historic district, as defined in RSMo § 253.545.
<b>Home Occupation</b>	Any occupation of a service character which is clearly secondary to the main use of the premises as a dwelling and does not change the character thereof or have any exterior evidence of such secondary use unless the nature of same would adversely affect the area by reason of noise, congestion, inadequate parking, dust, fumes or other objectionable features as determined by the Zoning Administrator
<b>Horizontal Surface</b>	The surface above the horizontal zone existing at the same elevation as the horizontal zone height limitation set forth in Airport Overlay District, <a href="#">§ 3.41</a>
<b>Incinerator</b>	Any device, apparatus, equipment or structure used for destroying, reducing or salvaging by fire any material or substance including but not limited to refuse, rubbish, garbage, trade waste, debris or scrap or a facility for cremating human or animal remains.
<b>Industrial Waste</b>	Any liquid, gaseous or solid waste substance resulting from any process of industry, manufacturing trade or business, or from the development of any natural resource.
<b>Junk Yard</b>	Land or buildings where waste, discarded or salvaged materials are brought, sold, exchanged, stored, cleaned, packed, disassembled or handled, including, but not limited to, scrap

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metal, rags, paper, rubber products, glass products, lumber products and products resulting from the wrecking of automobiles or other vehicles, provided further that the storage of ten (10) or more inoperative motor vehicles for a period in excess of three (3) months shall also be considered a junk yard.

<b>Kennel</b>	Any structure or premises on which four (4) or more dogs over four (4) months of age are kept for sale, breeding, profit, etc.
<b>Land Alteration</b>	The extraction, grading or filling of land involving movement of earth, and materials in excess of five hundred (500) cubic yards in all areas.
<b>Land Use</b>	All activities, occupations, practices, and utilization of land space, including water, subsurface and air space.
<b>Lot</b>	A parcel of land, whether subdivided or otherwise legally described as of the effective date of this Order, or approved by the County Commission as a lot subsequent to such date and which is occupied or intended for occupancy by one principal building or Main Use together with any accessory building and such open space as required by this Order and having its principal frontage upon a street.
<b>Lot Area</b>	The gross lot area is the area of a horizontal plane bounded by the front, side and rear lot lines, but not including any area occupied by the waters of a duly recorded lake, river, floodplain zone or floodway.
<b>Lot Depth</b>	The lot depth is the mean horizontal distance between the side lot lines of a lot, measured within the lot boundaries.
<b>Lot Width</b>	The lot width is the mean horizontal distance between the side lot lines of the lot, measured within the lot boundaries.
<b>Lot Line</b>	A property boundary line of any lot held in separate ownership except that where any portion of the lot extends into the abutting alley or street, the lot line shall be deemed to be the street or alley line.
<b>Lot, Corner</b>	A lot situated at the junction of an abutting two or more intersecting streets; or a lot at the point of deflection in alignment of a single street, the interior angle of which is one hundred thirty five (135) degrees or less.
<b>Principal building</b>	A building or structure or, where the context so indicates, a group of buildings or structures, in which the Main Use of a lot or parcel is conducted. This includes any buildings that are attached to the principal structure by a covered structure.
<b>Main Use</b>	The main use of land or structures, as distinguished from a secondary or accessory use. A "main use" is also referred to as a "Main Use."
<b>Maintenance and</b>	Includes reroofing, residing, new or repair of windows, doors, floors

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<b>Minor Repairs</b>	and eavetroughs, repainting and stuccoing of exterior, interior redecorating, foundation or basement repair, new heating, air-conditioning and plumbing equipment or repair of present equipment; each of which may be done in total, or in part, except the structure shall not be altered or extended in any way unless a building permit is obtained.
<b>Manufactured Home</b>	A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For flood plain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes the term "manufactured home" does not include park trailers, travel trailers and other similar vehicles.
<b>Manufactured home community or Subdivision</b>	A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
<b>Manure Storage System</b>	Any lagoon, pond, basin, or similar facility that is designed or used to store manure.
<b>Mine or Mining</b>	Includes any strip mine or excavation of minerals or top soil. Strip mine means an activity that involves removing the overburden lying above natural deposits of coal, rock or minerals and mining directly from the natural deposits exposed by strip mining, and includes mining of exposed natural deposits over which no overburden lies.
<b>Mobile Home</b>	A living unit designed for year round occupancy constructed at a factory or assembly point, moved to site in one (1) or more sections. Not to be misconstrued with trailers, campers, bus(es) or modular homes.
<b>Manufactured Home Space</b>	A parcel of land approved as a plot for Manufactured Homes, each lot occupied, under separate ownership.
<b>Modular Home</b>	A non-mobile housing unit that is basically fabricated at a central factory and transported to a building site where final installations are made, permanently affixing the module to the site. A modular home shall be congruous to a one family dwelling.
<b>Motel</b>	A building or group of buildings used primarily for the temporary residence of motorists or travelers.
<b>Non-commercial copy</b>	Any sign copy other than commercial copy. This includes copy that does not advertise products, goods, businesses or services and that expresses an opinion or other point of view.

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<b>Nonconforming Height, Condition or Effect</b>	Any structure, tree, terrain, condition or effect that does not conform to the requirements prescribed in this section. (Reference: Airport Overlay District, <a href="#">§ 3.41</a> )
<b>Nonconforming use</b>	A use lawfully in existence on the effective date of this Order and not conforming to the regulations for the district in which it is situated.
<b>Official Zoning Map</b>	The map that accompanies this Order that shows the boundaries of the zoning districts, which map is incorporated herein by this reference.
<b>Obstruction (Waterway or Navigation)</b>	Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel rectification, culvert, building, wire, fence, stockpile, refuse, fill, structure or regulatory flood hazard which may impede, retard or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water, or that is placed where the flow of water might carry the same downstream to the damage of life or property.
<b>Permit</b>	See "Development Permit."
<b>Park Model</b>	A recreational vehicle that meets the American National Standard Institute standard A119.5 (1988) for park trailers, is built on a single chassis, has a gross trailer area of not more than four hundred square feet when set up, is designed for seasonal or temporary living quarters, and may be connected to utilities necessary for operation of installed features and appliances.
<b>Person or Persons</b>	Any individual, firm, partnership, corporation, company, association, joint stock association or body politic, includes any trustee, receiver, assignee, or other similar representative thereof.
<b>Plot</b>	One (1) or more contiguous parcels of land under single ownership or control, designated by its owner, at the time of filing an application for a building permit, as a tract to be used, developed or built upon as a unit. It may or may not coincide with the deed description thereof filed for record or otherwise, and it may be subsequently subdivided into two (2) or more plots, provided all such plots for which a building permit or certificate of occupancy is requested, shall be accurately drawn on the application therefor.
<b>Premises</b>	The property conveyed in a deed; hence, a piece of land or real estate; sometimes, a building.
<b>Primary Surface</b>	A surface longitudinally centered on a runway that extends two hundred (200) feet beyond each end of the runways, and a width of five hundred (500) feet. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. (Reference: Airport Overlay

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District, [§ 3.41](#))

<b>Public Water</b>	No lake or pond or flowage of less than twenty-five (25) acres in size and no river or stream having a total drainage area of less than two (2) square miles need be regulated by the County Commission for the purposes of these regulations. A body of water created by a private user for a designated private use authorized by the Commission shall be exempt from the provisions of this Order.
<b>Quarry or Mining</b>	An excavation in bedrock open to the surface excavated for the purpose of removing rock, minerals or metallic ores.
<b>Regulatory Flood Elevation</b>	The water surface elevation of the 100-year flood.
<b>Religious Land Use</b>	Buildings, structures, or land areas that are principally used for the exercise of religion. These include uses such as churches, chapels, temples, and synagogues, with normal accessory buildings for education and living quarters, convents and parish houses.
<b>Resort</b>	A development consisting of building, camping spaces, parking areas, recreation areas, for lease or rent for temporary residence or less, on one tract of land, under one ownership for the purpose of vacationing, relaxation or recreation.
<b>Resource recovery facility</b>	A facility in which recyclable and recoverable material is removed from the waste stream to the greatest extent possible, as determined by the Missouri Department of Natural Resources (DNR) pursuant to DNR standards, for reuse or remanufacture. (Source: RSMo § 260.200)
<b>Restaurant</b>	An establishment serving food and beverages where all service takes place within an enclosed building or accessory outdoor eating or food dispensing areas. This definition does not include a "Fast Food Restaurant," which is defined separately below.
<b>Restaurant, Fast Food</b>	An establishment where food is prepared in whole or in part in advance of the order, food is sold in disposable containers, customers order food at the place of preparation, and customers carry the food themselves to tables or to their parked vehicles. The following types of facilities are considered fast food restaurants: (1) restaurants that are engaged in the preparation of food intended to be consumed primarily off the premises, (2) restaurants that have a drive-through window, or (3) restaurants in which at least fifty percent (50) percent or more of the gross floor area of the establishment is devoted to food preparation, storage and related activities which space is not accessible to the general public.
<b>Road</b>	A public right-of-way affording primary access by pedestrians and vehicles to abutting properties, whether designated as a

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street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, place or however otherwise designated.

<b>Rooming House</b>	Keeping of not more than four (4) boarders or roomers by a family that resides in a Dwelling Unit.
<b>Runway</b>	A defined area on an airport prepared for landing and take-off of aircraft along its length. (Reference: Airport Overlay District, <a href="#">§ 3.41</a> )
<b>Safety Services</b>	A building or structure that is devoted to (1) police protection, criminal and civil law enforcement, police, traffic safety, and other activities related to the enforcement of the law and preservation of order, or (2) ambulance or rescue services. Accessory activities may include the storage and maintenance of squad cars, trucks or ambulances on the same lot or parcel, and that are used for service calls that originate in that building or structure. The phrase "safety service" does not include a hospital, medical clinic, jail, detention facility, or correctional facility.
<b>Sanitary Landfill</b>	A method of disposing of solid wastes on land without creating nuisances or hazards to public health or safety, by utilizing the principles of engineering to confine the solid waste to the smallest practical area, to reduce it to the smallest practical volume, and to cover it with a layer of earth at the conclusion of each day's operation or at such more frequent intervals as may be necessary.
<b>Setback</b>	The horizontal distance between a building and a highway, road center line, property line, or other feature as provided in this Order. The area within the setback is referred to as a "Yard."
<b>Sewage</b>	The water-carried waste products from residences, public buildings, institutions or other buildings, including the excrementitious or other discharge from the bodies of human beings or animals, together with such ground water infiltration and surface water as may be present.
<b>Sewer System, Community</b>	A sanitary sewer system comprised of lateral and/or trunk sewer lines connecting a house, building or structure with and consisting in part of a sewage treatment facility, owned by a homeowners association or other group, organization, company or cooperative other than a governmental agency. Such system must be approved by the County Commission and the State Health Department. Such system may consist of a common or community septic system when the number of units so attached and soil conditions, topography, water table, and sub-soil structure so permits.
<b>Sewer System, Municipal</b>	A sanitary sewer system comprised of lateral and/or trunk sewer lines connecting a group of buildings or an area to a central treatment plant owned and operated by such municipality or

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Sewer District under a Joint Powers Agreement or other appropriate statute, law, or ordinance.

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<b>Shooting Area</b>	the area or areas in which shooting will occur within a Gun Range, and which includes within its boundaries all firing ranges, targets, trap houses, skeet houses and/or other structures in which shooting originates and/or toward which shooting is directed. The "shooting area" does not include any buildings within a gun range in which shooting will not occur, including but not limited to buildings used solely for educational purposes; any fences, berms, or shrubbery outside of the areas in which shooting will occur; or any parking areas within a Gun Range.
<b>Shopping Center</b>	A planned retail and service area designed, constructed and developed as a unit, characterized by a concentrated grouping of stores and compatible uses located to serve several neighborhoods or a large regional area.
<b>Sign</b>	A name, identification, description, display illustration or device which is affixed to or represented directly or indirectly upon a building, structure or land in view of the general public and which directs attention to a product, place, activity, person, institution or business.
<b>Sign, Commercial</b>	A sign that contains a commercial message or commercial copy.
<b>Sign, Flashing</b>	Any illuminated sign on which such illumination is not kept stationary or constant in intensity and color at all times when such sign is in use.
<b>Sign, Illuminated</b>	Any sign which has characters, letters, figures, designs or outlines illuminated by electric lights or luminous tubes as a part of the sign.
<b>Sign, Non-Commercial</b>	A sign that contains non-commercial copy.
<b>Sign, Rotating</b>	A sign which revolves or rotates on its axis by mechanical means.
<b>Sign, Temporary</b>	A sign that is constructed of cloth, canvas, plastic sheet, cardboard, wall board or similar material, and that is intended to be displayed for a limited period of time.
<b>Soil Survey</b>	A soil map or inventory of the soils of an area and a report of text describing the kinds of soils shown on the map and summarizing what is known about these soils including their classification and capabilities.

ARTICLE 11. RULES AND DEFINITIONS  
§ 11.2 Definitions

<b>Solid Waste</b>	Garbage, refuse and other discarded solid materials, including, but not limited to, solid and semi-solid waste materials resulting from industrial, commercial, agricultural, governmental and domestic activities. "Solid Waste" does not include hazardous waste, recovered materials, overburden, rock, tailings, matte, slag or other waste material resulting from mining, milling or smelting;
<b>Solid waste disposal area</b>	Any area used for the disposal of solid waste from more than one residential premises, or one or more commercial, industrial, manufacturing, recreational, or governmental operations. (Source: RSMo § 260.200)
<b>Solid waste management area</b>	A solid waste disposal area which also includes one or more of the functions contained in the definitions of recycling, resource recovery facility, waste tire collection center, waste tire processing facility, waste tire site or solid waste processing facility in RSMo § 260.200, excluding incineration. (Source: RSMo § 260.200)
<b>Solid waste processing facility</b>	Any facility where solid wastes are salvaged and processed, including:  (a) A transfer station; or  (b) An incinerator which operates with or without energy recovery but excluding waste tire end-user facilities; or  (c) A material recovery facility which operates with or without composting.  (Source: RSMo § 260.200)
<b>Special Flood Hazard Area</b>	The land within a community subject to a one percent or greater chance of flooding in any given year.
<b>State approved sewage disposal system</b>	A system for treating sewage that has all approvals that are required by any state agency that has jurisdiction to approve the system.  <i>Commentary: For the reader's convenience, please note that the Missouri Department of Health and Social Services (DHSS) approves Single family residential on-site wastewater systems,</i>

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 § 11.2 Definitions

*while the Missouri Department of Natural Resources (DNR) approves domestic wastewater systems that discharge into streams, rivers, lakes, etc. and domestic wastewater systems with flows greater than 3,000 gallons per day that discharge into soil absorption systems. Refer to DNR, Who Regulates Wastewater in Missouri? (Water Protection Program fact sheet 3/2008, online at [dnr.mo.gov/pubs/pub1296.pdf](http://dnr.mo.gov/pubs/pub1296.pdf). These regulations may change from time to time, and applicants are advised to consult the current statutes and regulations of DHSS and DNR, or any successor agencies if needed, to determine that applicable regulations.*

<b>Story</b>	That portion of a building included between the surface of any floor and the surface of the next floor above it, or if there is no floor above it, the space between the floor and the ceiling next above it.
<b>Structure</b>	A walled and roofed building that is principally above ground, as well as a manufactured home, and a gas or liquid storage tank that is principally above ground. For purposes of the Airport Overlay District regulations ( <a href="#">§ 3.41</a> ), "structure" means any object of whatever material and design installed or constructed by man, including but not limited to buildings, smokestacks communication towers, and antennas.
<b>Structural Alteration</b>	Any change in the supporting members of a building, such as bearing walls, columns, beams or girders.
<b>Subdivision</b>	Is a described tract of land which is to be or has been divided into three or more lots or plots for the purpose of immediate or future transfer of ownership for the purpose of sale or of building development, including the re-subdivision or replatting of land or lots.
<b>Substantial Improvement</b>	Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either (a) before the improvement is started, or (b) if the structure has been damaged and was being restored before the damage occurred. For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences whether or not that alteration affects the external dimensions of the structure. The term does not, however, include any alteration to comply with existing State or local health, sanitary, building or safety codes or regulations as well as structures listed in National or State Registers of Historic Places.
<b>Telecommunications Facilities</b>	See § 5.40
<b>Transitional Surface</b>	The surfaces above the transitional zones extending outward and upward from the side of the primary and approach surfaces at

ARTICLE 11. RULES AND DEFINITIONS  
§ 11.2 Definitions

the same slope as the transitional zones height limitations set forth in Airport Overlay District, [§ 3.41](#).

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<b>Travel Trailer</b>	A vehicle without motor power used or adaptable for living, sleeping, business, or storage purposes, having no foundation other than wheels, blocks, skids, jacks, horses, or skirting, which does not meet building code requirements and has been or reasonably may be equipped with wheels or other devices for transporting the structure from place to place.
<b>Tree</b>	Any object of natural growth. (Reference: Airport Overlay District, <a href="#">§ 3.41</a> )
<b>Unincorporated Area</b>	The area outside an incorporated city, village, or borough.
<b>Use</b>	The purpose for which land or premises or a building thereon is designated, arranged, or intended, or for which it is or may be occupied or maintained.
<b>Use, Accessory</b>	A use clearly incidental or accessory to the Main Use of a lot or a building located on the same lot as the accessory use.
<b>Utility Service</b>	Any building, structure, pipeline, or similar facility that is used to provide water, sewer, electric, gas, cable, or other public utilities, such as:  water supply buildings, reservoirs  commercial wells  elevated tanks  gas regulator stations  sub-stations for electric, gas, telephone, sewer or water  water works, reservoirs, pumping stations, and filtration plants  similar essential service structures.
<b>Variance</b>	A modification or variation of the strict provisions of this Order, as applied to a specific piece of property in order to provide relief for a property owner because of undue hardship or particular difficulty imposed upon him by this Order. A variance shall normally be limited to height, bulk, density and yard requirements. A modification in the allowable uses within a district shall not be considered a variance.
<b>Watchkeeper's units</b>	Dwelling units located on a non-residential lot or parcel, and that are occupied by an employee of a business on the lot or parcel

ARTICLE 11. RULES AND DEFINITIONS  
§ 11.2 Definitions

in order to provide surveillance of the premises.

<b>Yard</b>	Any space on a lot that is open and unobstructed from the ground to the sky.
<b>Yard, Front</b>	Refer to <a href="#">§ 4.3.1</a> .
<b>Yard, Rear</b>	Refer to <a href="#">§ 4.3.1</a> .
<b>Yard, Side</b>	Refer to <a href="#">§ 4.3.1</a> .

### **11.3 District Boundaries Generally**

1. Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules apply:
  - (1) Boundaries indicated as approximately following the center lines of streets, highways or alleys shall be construed to follow such center lines.
  - (2) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
  - (3) Boundaries indicated as approximately following established municipal limits and county borders shall be construed as following such lines.
  - (4) Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.
  - (5) Boundaries indicated as approximately following the center of rivers shall be construed to follow such center lines.
  - (6) Boundaries indicated as approximately following sections, half sections, quarter sections, eighth sections and government lots shall be construed to follow such lines.
  - (7) Boundaries indicated as parallel to or extensions of features indicated in Subsections a. through f. above shall be so construed.
  - (8) Distances not specifically indicated on the Official Zoning District Map shall be determined by the scale of the map.
2. Where physical or cultural features, such as floodplains, vary from those shown on the Official Zoning District Map, or in other circumstances not covered by Subsection 1, the Zoning Administer may interpret the boundary, subject to the appeal authority of the Board of Adjustment.

### **11.4 Floodplain Boundaries**

ARTICLE 11. RULES AND DEFINITIONS

§ 11.3. District Boundaries Generally

1. The Floodplain District boundaries are based on the available flood data and soil maps for Livingston County. The boundaries of the Floodplain District shall be determined by scaling distances on the zoning map (where there appears to be a conflict between a mapped boundary and actual field conditions). If an inspection is needed as to the exact location of the boundaries of the district as shown on the Official Zoning Map, the Zoning Administrator shall make the necessary interpretation. Where such a conflict is found to exist, flood elevations are the governing factor in location of regulatory floodplain limits.
  
2. The following profiles, maps and other data are used to determine or define the Floodplain District boundaries and are hereby incorporated by reference into this Order :
  - (1) United States Geological Survey (U.S.G.S.) Soil Conservation Service (S.C.S.) Soil Survey Series of Livingston County; and
  
  - (2) Federal Emergency Management Agency (FEMA) Flood Rate Insurance Maps for Livingston County, Missouri.

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**KEN LAUHOFF**  
Commissioner East District  
Extension 209

**TODD RODENBERG**  
Commissioner West District  
Extension 218

**COUNTY COMMISSION**  
660-646-8000



**LIVINGSTON COUNTY COURTHOUSE**  
**700 WEBSTER STREET**  
**CHILICOTHE, MO. 64601**

**EVA DANNER**  
Presiding Commissioner  
Extension 202

**KELLY CHRISTOPHER**  
County Clerk  
Extension 3

**COUNTY CLERK**  
660-646-8000

COMMISSION ORDER 122810

BE IT ORDERED BY THE COUNTY COMMISSION OF LIVINGSTON COUNTY, MISSOURI AS FOLLOWS:

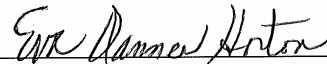
Section 1: This Order shall be known and may be referred to as the Livingston County Planning and Zoning Order of December 28, 2010.

Section 2: The County Commission of Livingston County hereby adopts in full, as if completely re-written, an Order designed to protect the public health, safety, morals, and to foster sound land use planning and to promote other public purposes consistent with RSMo. Chapter 64.


Section 3: A previous order approved by the County Commission and dated January 31, 1994 is hereby repealed to the extent that said Order conflicts with the new Zoning Order.



Section 4: This Order is adopted after meeting the public hearing notification process outlined in RSMo Chapter 64.

PASSED, APPROVED and ADOPTED THIS 28<sup>th</sup> day of December, 2010.

  
\_\_\_\_\_  
Presiding Commissioner

  
\_\_\_\_\_  
Commissioner East District

  
\_\_\_\_\_  
Commissioner West District

Attest  
  
  
\_\_\_\_\_  
County Clerk