

ABSTRACT

TITLE: RUSSELL SPRINGS ZONING REGULATION

DEVELOPED BY: **Russell Springs Planning Commission**, Coy Harris, Chairman; and Russell Springs City Commission, Brian Walters, Mayor

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SUMMARY: This document has been developed in accordance with the findings of the Russell Springs Comprehensive Plan, which advocated the development of zoning regulations in addition to a program of public improvements as a means for: (1) making Russell Springs more attractive to residential development, and (2) helping the city to develop an appropriate framework of policies and public facilities for future development. The zoning regulation defines the city's planning and zoning mechanisms, then develops provisions for four types of residential zoning districts, two commercial districts, one public and semi-public district, and one industrial district. A "Zoning Map" then defines the areas of the city where the provisions of these districts are to be in effect. Provisions are made for an agricultural district, but no land is actually zoned agricultural – this may be a future zoning designation. Section Two of this regulation provides the centerpiece of the city's zoning policies. This section contains the zoning district provisions noted above, the zoning map, and a system of rules that are effected in all zoning districts, such as rules pertaining to signs, home occupations, and setback from public rights-of-way. This regulation has also been developed in accordance with Chapter 100 of the Kentucky Revised Statutes, which regulates local zoning processes in Kentucky.

RUSSELL SPRINGS ZONING REGULATION, 2005

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SECTION 1. GENERAL PROVISIONS:

A. APPLICATION AND DATE:

(1) **EFFECTIVE DATE:** The following Land Use and Zoning Regulations shall be in effect and shall be enforced by a Planning Commission for the CITY OF RUSSELL SPRINGS, KENTUCKY, as a result of ordinances passed, (date of first reading) _____, (date of second reading) _____.

(2) **TITLE:** This document shall be known and may be cited to as the "Zoning Regulation of the City of RUSSELL SPRINGS Kentucky."

(3) **APPLICATION OF REGULATIONS:** All existing and future structures and uses of premises within the City shall conform to every applicable provision of this Regulation. The zoning districts are established to segregate land-usage and protect homes, businesses and institutions from encroachment by conflicting land-use types or activities. Each zoning district shall be classified as to its permitted activity type, and shall permit only those land-uses listed under the schedule of district classifications as "permitted." The only exceptions to this rule shall be in the case of: (1) conditional uses, and (2) planned unit developments (as specified in a specific paragraph of this regulation, following). Non-conforming uses are either uses that are prohibited within a particular zoning district, or uses that preceded the establishment of the zoning district. In the latter case, such uses are permitted continuance, but when the existing non-conforming use is terminated, it may not be re-established. In addition to the designating zoning districts, and a zoning district classification scheme, regulations shall be established to maximize the health, safety, economy and general amenities of persons living, working or traveling within the city and its zoning districts. No interpretation shall be made which conflicts with the chief intent of this regulation, which is to protect permitted uses in authorized zoning districts, above all else. If a proposed use is not specifically listed as permitted, or reasonably interpreted as permitted by application of usage class, it is not permitted.

(4) **COMPONENTS OF THE ZONING PROCESS:** Basic authority for zoning is granted under the police powers vested the states by the U. S. Constitution, and is passed on to local governmental units in Kentucky by enabling legislation in the form of Chapter 100 of the Kentucky Revised Statutes. This regulation, adopted by THE CITY OF RUSSELL SPRINGS, authorizes a Planning Commission (Section 1, Par. C.1, hereinafter) to maintain and administer Zoning Regulations, as authorized by KRS 100. Other components of the zoning process shall consist of a Board of Adjustment (Section 1, Par. F), and an Administrative Official (Section 1, Par. G). The Planning Commission and Board of Adjustment shall perform executive, legislative and judicial functions as defined herein. The Administrative Official shall issue building permits and enforce the regulations, under the supervision of the Planning Commission and Board of Adjustment.

The Planning Commission and Board of Adjustment shall regularly report its activities to the Mayor and City Commission, and the Administrative Official shall regularly report his activities to the Planning Commission. It shall be the responsibility of the Planning Commission and Board of Adjustment, on behalf of the city, to administer the zoning regulations and to ensure that no one is deprived of the reasonable use and enjoyment of his/her property as provided under Article V of the U. S. Constitution, or of rights of due process as provided under Article XIV. All zoning decisions shall be justified by a valid regulation, and the regulation shall follow the goals, objectives and general principles of a Comprehensive Plan. All components of the planning and zoning process shall be governed by Chapter 100 of the Kentucky Revised Statutes. All regulatory and zoning district amendments shall be approved by the City Commission. Any new zoning regulation developed at any time in response to a new comprehensive plan shall be construed as an amendment to the prior zoning regulation, and to the initial zoning regulation adopted on April 25, 1984. The City Commission may, at its discretion, hear and rule on appeals from a decision of the Planning Commission or Board of Adjustment, but it shall not rule in the "stead" of the Planning Commission or Board of Adjustment. The general method of enforcement shall be via a "Permit Process" as defined in Section 1, Par. D, hereinafter, in which there shall be authorized two different permits – the Building Permit, and the Certificate of Occupancy - and two types of exceptions: the Variance and the Conditional Use Permit.

Zone changes and text amendments are authorized under the provisions of Section 3, and appeals are governed under the provisions of Section 1, Par. H. Penalties for violations are defined in Section 4. Variances and Conditional Use Permits are authorized under the provisions of Section 1, Paragraph H. All decisions shall be specifically authorized by this Regulation, or shall fall within the intent of the Comprehensive Plan, and shall be consistent with Chapter 100 of the Kentucky Revised Statutes, and successive judicial precedent.

B. BEARING:

(1) CONCURRENCE/CONFLICTS WITH OTHER INSTRUMENTS: In case of a conflict between this and other ordinances passed by this jurisdiction, or private deed covenants and restrictions publicly recorded, the most restrictive parts in each shall apply.

(2) SEPARABILITY CLAUSE: Should any section, paragraph, portion, or provision of these regulations be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the regulations as a whole, or any part thereof other than the part so declared.

(3) REPEAL OF CONFLICTING ORDINANCES AND REGULATIONS: All regulations, ordinances or parts thereof in conflict with this Zoning Regulation or inconsistent with its provisions are hereby repealed to the extent necessary to give this regulation full force and effect.

(4) EFFECTIVE DATE: This regulation shall become effective from and after the date of its approval and adoption, and after date of publication of a summary in the newspaper, which date is: _____.

C. THE PLANNING PROCESS AND THE DIVISION OF POWERS:

(1) PLANNING COMMISSION; BASIC GOVERNING PROVISIONS: The Planning Commission for this jurisdiction shall consist of FIVE members appointed in accordance with KRS 100.141 through 100.157, all of whom shall be citizen members (non-elected officials). The commission shall have the authority to convene and nominate membership for the Board of Adjustment, and to recommend replacement of its membership. It shall also have the authority to review applicants for the position of Administrative Official, and to recommend replacement of the same. The Planning Commission shall be the supreme supervisory body for planning and land-use regulatory matters, as provided by Chapter 100 of the Kentucky Revised Statutes, and as such it shall develop and review all proposed changes and amendments to this regulation. The authority of the Planning Commission on all matters except "Conditional Uses" and "Variances" is final and binding except in the case of appeal, wherein the appellant may redress the Legislative Body and then the courts. However, the approval of the Legislative Body shall be required for any map or text amendment to this regulation. The Planning Commission shall refer, with appropriate comments to the "Board of Adjustment" (defined hereinafter), all appeals from decisions made by the "Administrative Official" and all requests for "Variances" and "Conditional Use Permits" - unless a request for a Variance or Conditional Use Permit also accompanies a zone change request (also referred to herein as a Map Amendment Application), in which SOLE case the Planning Commission may grant a Map Amendment and a Conditional Use Permit and/or Variance concurrently. It shall, however, be bound in such cases by the provisions of this Regulation - specifically Section 1, Paragraph F, relating to the review/approval of such instruments - wherein the words "Planning Commission" may be substituted for "Board of Adjustment." The Planning Commission shall ensure that all parties are advised of their rights of due process and appeal.

(2) PLANNING COMMISSION MEMBERS; APPOINTMENT AND TERM OF OFFICE: In accordance with the provisions of Chapter 100 of the Kentucky Revised Statutes, the members of the Planning Commission shall be appointed by the Chief Elected Official, with the approval of the Legislative Body. The term of office shall be governed by KRS 100.133, which requires that "the term of office of members first appointed shall be staggered so that a proportionate number serve one (1), two (2), three (3), and four (4) years respectively." These provisions shall establish a system in which at least one planning commission (re)appointment occurs each year. The second and succeeding (re)appointments shall be for a period of four years. Also, as required by KRS 100.147, all vacancies on the

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100,
Page 5

Planning Commission shall be filled within sixty days by the appointing authority, the Mayor. If the authority fails to act within sixty days, the Planning Commission shall itself fill the vacancy, as specifically required by KRS 100.147. All members of the Planning Commission shall be citizen members. [This requirement excludes the following from membership: (1) holders of a public office that is normally filled by vote of the people within or outside the jurisdiction of the planning unit, (2) appointed officials of government, or (3) any employee of a city or county government.]

(3) **PLANNING COMMISSION MEETINGS:** The Planning Commission shall conduct at least six regular meetings annually, as required by KRS 100.163, and more if necessary, with at least seven days written prior notice of the meeting. The Planning Commission shall annually elect a Chairman, and such other officers as it deems necessary. It shall adopt by-laws and keep minutes and records of all proceedings as required by KRS 100.167. A simple majority of a quorum shall be required to conduct business. Any member of the Planning Commission or Board of Adjustment who has any direct or indirect financial interest in the outcome of any question before the body shall disclose the nature of the interest, and shall disqualify himself/herself from voting on the question. Furthermore, he/she shall not be counted for the purpose of a quorum, as required by KRS 100.171. All officers shall be eligible for re-election to the Planning Commission Office held. Reimbursement and compensation may be authorized for members. Matters of reimbursement/compensation shall be defined in the annual budget of the jurisdiction, before it may be presumed authorized. In accordance with KRS 100.177, if the Planning Commission receives public appropriations, or if it is independently budgeted by fees or other sources, it shall annually when so budgeted publish a financial statement pursuant to the requirements set forth in KRS Chapter 424.

(4) **OATH OF OFFICE:** All members of the Planning Commission as well as members of the Board of Adjustment shall, before entering their duties, qualify by taking the oath of office prescribed by Section 228 of the Constitution of the Commonwealth of Kentucky before any judge, county judge/executive, notary public, clerk of a court or justice of the peace within the district or county in which he resides, as required by KRS 100.151.

(5) **REMOVAL:** Members may be removed for inefficiency, neglect of duty, malfeasance, or conflict of interest, as provided in KRS 100.151.

(6) **PLANNING SHALL BE THE BASIS OF ZONING:** A key contribution of comprehensive planning is that it is designed to establish and clarify what is in the public interest. The location and boundaries of the zoning districts of Russell Springs shall, as a matter of top priority, be attuned to the public interest. Furthermore, all decisions made with respect to the enforcement and amendment of this zoning regulation shall protect the public interest as a matter of top priority. The zoning districts established by this Regulation and the respective uses and activities permitted in those districts are based upon the findings of public interest developed in the comprehensive planning process. These were used to develop the Land Use Plan depicted on Page ____ of this regulation (also called the Map of Zoning Districts). The Planning Commission shall, therefore:

- a. Not issue a Building Permit or an amendment to the zoning regulation for the development of any project that conflicts with or violates the intent of the Land Use Plan for a specific district in question, or that violates the intent or criteria of the Comprehensive Plan as a whole. However, if a proposed use or development is not in conflict with the public interests as expressed in the plan, and would not degrade, interfere with, or endanger adjacent uses, it may be considered as a possible zoning amendment. Public opinion shall always be considered as one expression of the public interest, in addition to that defined by objective process in the Comprehensive Plan.
- b. Not issue a Building Permit in conflict with the Transportation Plan of the Comprehensive Plan – as the Transportation Plan is attuned to the Land Use and overall Comprehensive Plan (and public interest).
- c. Not render any decision that is in conflict with the Comprehensive Plan, or that violates the general land-use, street or infrastructure development standards of the Comprehensive Plan, the Subdivision Regulations or the Zoning Regulations. These regulations – which shall be synchronized – are to be regarded as the minimum standard for commercial, residential, public or industrial development.

- d. Develop specific criteria for rendering decisions that are based on the Comprehensive Plan. Those criteria shall be contained generally within this zoning regulation, and specifically within the respective schedules for district regulations. However, the planning commission shall recognize that planning and zoning is an active and ongoing process wherein regulations must always be adapted to a changing environment. Where there is a need for change, the planning commission should not hesitate to render findings of fact and proceed to amend either the Comprehensive Plan, the Zoning Regulation, or the Subdivision Regulation.

D. GUIDELINES FOR PERMITS:

(1) **BUILDING PERMITS:** After the effective date indicated on the preceding page, all new residential, commercial, public and industrial construction shall require a building permit prior to the initiation of construction, and a Certificate of Occupancy (Permit) following completion of construction and before the building is occupied. The same shall also be required for any remodeling activity that expands base floor area to any extent, as well as activities relating to the placement or replacement of any structure. The Building Permit shall constitute an affirmation that the development plans of the use in question have been reviewed and have been found to be in compliance with the standards of this regulation. It shall not therefore be issued unless and until development plans are at complete harmony with this regulation

- a. *Issuance Required:* Except as provided for accessory uses, no building or other structure shall be erected, emplaced, moved, added to, or structurally altered without a building permit therefor, issued by the Administrative Official. No Building Permit shall be issued by the Administrative Official except in conformity with the literal provisions of this Regulation.
- b. *Items that must be included in the application for Building Permit:* All applications for Building Permits shall include plats and plans drawn to a reasonable scale depicting {1} the precise location and dimensions of existing and proposed buildings, additions, garages, and driveways, {2} the location and dimensions of side yards, back yards, and front yards, {3} the location of public rights-of-way and easements, {4} the location of adjoining properties, {5} the location of public utility lines including electricity, water, sewer and natural gas, and {6} the location of utility service lines when extended onto the property for which the application is being made. Footer location will generally establish the location of exterior walls, but not necessarily the location of porches. Solid, thick lines shall be used to depict footers and outer walls, while dashed lines shall be used to depict the location of porches and overhangs. Determination of what constitutes a reasonable scale shall be made by the Administrative Official, but the obvious requirement is a drawing large enough to legibly depict all of the foregoing information. The immediate concern of the building permit application is to determine if the building or structure, as emplaced, conforms to the required setback, the required front and back yard depths, the required side yard width, the minimum floor area and other dimensional criteria. The Administrative Official shall assist applicants as necessary in developing the required drawings, noting that graph paper generally represents a good media on which to scale-off drawings.
- c. *What the Building Permit shall consist of:* The building permit shall consist of: {1} a completed building permit application, (2) one copy of any plans drawn or otherwise accepted by the Administrative Official, {3} a copy of the Schedule of District Regulations for the zone in which the applicant proposes to build, and {4} any specific instructions by the Administrative Official based on the requirements of Paragraph N of Section 2, this regulation. The front page shall be the completed building permit form and it shall be marked either as approved or disapproved. If disapproved, it shall include the reasons for disapproval and any specific recommendations for change. A complete copy of the building permit as well as a copy of the original plans or drawings shall be retained by the

Administrative Official, and shall be used to ensure that actual development or construction conforms to the approved plans.

- d. *Expiration:* If the work described in any Building Permit has not begun within six (6) months from the date of issuance thereof, said permit shall be revoked by the Administrative Official and written notice thereof shall be given to the persons affected. If the work described in any Building Permit has not been substantially completed within two (02) years of the date of issuance thereof, said permit shall expire and shall be revoked by the Administrative Official and written notice thereof shall be given to the persons affected, together with notice that work as described in the cancelled permit shall not proceed unless and until a new Building Permit has been obtained.
- e. *Exclusions:* When a Conditional Use Permit is being issued, a Building Permit is not required, *per se*, because it is intended that the Conditional Use Permit ultimately function as an authorization for building (with stipulated conditions as provided for in this regulation). The fee for a Conditional Use Permit is higher, recognizing that it is the product of a more exhaustive process, including public hearings, and that it is designed to incorporate the Building Permit application as a portion thereof. Also, when the Planning Commission obtains proof and certifies that a tract of land is being used for agricultural purposes, it shall not impose its permit requirements on an agricultural building or an agricultural pursuit being proposed in connection with that land. However, the general setback requirement of this regulation shall apply, as well the other provisions of the Agricultural Zone as specified in the Schedule of District Regulations for the Agricultural Zone.

(2) CERTIFICATES OF OCCUPANCY: No building within any commercial, general, industrial, public, or residential zone shall be initially occupied, converted to another use, or expanded without the issuance of a Certificate of Occupancy, which shall be a certification that development actually occurred in accordance with the approved plats and plans. Since the criteria for approval of plats and plans is contained within this regulation, the Certificate of Occupancy also certifies that the building and/or development receiving the certificate is consistent with the zoning regulation.

(3) COORDINATION WITH SUBDIVISION REGULATIONS: In all cases where the ownership of land is divided for the purpose of eventual development of lots of any kind - residential, commercial, or industrial - the provisions of the city's Subdivision Regulations, including any and all amendments thereto, shall apply in addition to the provisions of Zoning.

(4) COORDINATION WITH BUILDING CODES: In all cases involving the construction of a building - whether for residential, commercial, or industrial purposes and without regard to densities therein, the builder shall be required to comply with applicable state building codes, and particularly Article 1500.3 of the Kentucky Building Code before a Certificate of Occupancy will be granted to the builder or owner (as applicable).

(5) APPROVED WATER SUPPLY AND SEWAGE DISPOSAL FOR BUILDINGS: It shall be unlawful and a violation of this regulation to construct any building in which people might work, congregate or live that does not have a proper city water supply and adequate sewage disposal facilities. Wherever water and sewer mains are within 500 feet, an applicant for a building permit shall be required to connect to such mains. In every other case, individual water supply and sewage disposal facilities must meet requirements set by the County Health Officer. The County Health Officer's certificate approving proposed and completed water and sewerage facilities must accompany applications for Building Permits and Certificates of Occupancy. If or when, as applicable, an existing sewer line falls within 1,200 feet of a proposed subdivision, the plat for that subdivision shall not be approved unless the property is connected by the developer to the city sewer system. All subdivisions, regardless of distance from public waterlines, shall be provided with City Water Service. These provisions shall also apply to any commercial, industrial, public or semi-public building.

(6) **HEALTH AND SAFETY HAZARDS:** Maintenance of a health or safety hazard is hereby declared to be a violation of this regulation. The term "health or safety hazard" shall be liberally interpreted because it is in the public interest to prevent situations from developing where human lives are unduly exposed to danger, and where thoughtful alternatives are available which would mitigate or eliminate that danger. The Administrative Official shall, therefore, not issue a Building Permit for any activity or building that, in his/her opinion or the opinion of the county health officer, will present, at any time, a danger of accident or a hazard for disease or injury. Before such proposed activity or building is approved, it shall include appropriate safeguards, and these shall be reflected in the permit application and accompanying plat. Such things as intersections or access points where pullouts and turning movements would be plagued by insufficient sight distance shall constitute a safety hazard. Examples of safety hazards shall include buildings located too close to a road, cuts/fills that are vertical, drives and access ways that are narrow and sight-restricted, and improper provisions for waste storage and sanitation.

(7) **SCREENING HEDGE:** A screening hedge may be authorized to establish a barrier between potentially conflicting land usages where such a barrier would mitigate potential conflicts and ensure greater privacy for the land-use type likely to incur the greatest negative impact. A screening hedge shall be constructed of evergreens such as spruce, hemlock, white pine, euonymus and/or other evergreens that typically grow to provide dense cover and effective screening. Attractive combinations of trees, shrubs and fences may also be used to achieve the screening effect. Screening trees and shrubs shall be planted so as to provide for complete screening within six years from the date of planting, and shall be spaced no closer than six (06) feet and no farther than ten (10) feet apart. Actual spacing shall be dictated by the type of evergreen being planted. The responsibility for maintaining and caring for the trees and shrubs shall be vested perpetually in the owner of the property for which the screening hedge was required, and the maintenance responsibility for the hedge shall follow ownership. A screening hedge shall be routinely fertilized and trimmed, so as to maintain an attractive appearance. Where a screening hedge is required, the Administrative Official may defer to the agreed-upon wishes of both affected parties as to type.

(8) **STORAGE/DISPOSAL OF GARBAGE AND REFUSE:** Storage of garbage shall be indoors and out of sight, or in protected containers along the rear of buildings, or within enclosed courtyards along the sides of buildings. There shall be no visibly strewn garbage, refuse or junk within any building or yard, and none shall be visible within dumpsters and authorized storage containers.

E. PLATS, GENERAL:

Plats shall be required for all new buildings and structures as well as remodeling efforts in which there is an enlargement in the outside dimensions of the building. Plats shall also be required for any project involving the subdivision of land into three or more lots. They shall include roadway cross-section, access and egress lanes, parking arrangements, building locations, and overall drainage characteristics. The plat shall be sufficiently detailed to allow the developer to demonstrate compliance with these regulations, and shall show topographic contours. Plats shall be prepared at an appropriate scale to be determined by the Administrative Official, but a scale of approximately one inch equals 10 feet shall generally be deemed satisfactory for small buildings, while a scale of one inch equals one hundred feet or less shall generally be deemed satisfactory for subdivisions.

F. EXCEPTIONS AND APPEALS/BOARD OF ADJUSTMENT:

(1) **GOVERNING PROVISIONS, GENERAL DUTIES, POWERS AND MEMBERSHIP:** In addition to a Planning Commission, a Board of Adjustment shall be formed in accordance with KRS 100.217. The general governing provisions for the Board, including term of office, bylaws and maintenance of records shall be the same as those for the Planning Commission, except that: (a) no specific requirement shall exist as to the number of regular meetings, annually, and (b) the Board of Adjustment shall consist of only three members. All three members of the Board of Adjustment shall be citizen members, and not more than one of those members may also be a citizen member of the Planning Commission. The Board of Adjustment's function is primarily "judicial." It shall rule on appeals from decisions of the Administrative Official, and it shall have the authority to conduct an Administrative Review of decisions or actions taken by the Administrative Official. Other than appeals and administrative reviews, the Board's

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powers also extend to the awarding of "Conditional Use Permits" and "Variances." Because it must base its decisions relevant to Conditional Use Permits and Variances on applications for the same taken by the Administrative Official, the Board may design those applications in accordance with the criteria of this regulation.

(2) HOW THE BOARD OF ADJUSTMENT FITS INTO THE PLANNING PROCESS: The Board of Adjustment has very specialized powers and duties relating to the permit process. It is not a body to which appeals can be made from a decision of the Planning Commission. It shall not review any decision made by the Planning Commission - the reason for this being that the Board of Adjustment is, in fact, a subordinate body to the Planning Commission. The Chairman of the Board of Adjustment may call meetings of the Board, but any such "call" shall also include notice of said meeting to the Chairman of the Planning Commission and the Mayor. Likewise, all decisions of the Board of Adjustment shall be immediately reported to the Chairman of the Planning Commission and the Mayor. The Board shall consider that it is the Planning Commission's responsibility to maintain the Comprehensive Plan, the Zoning Regulations, the Subdivision Regulations, and all enforcement activities. Problems with respect to any of those entities can only be remedied by action of the planning commission, and ultimately the city commission. If any question arises during the Board's deliberations as to the proper interpretation of a regulation, the question shall be referred to the Planning Commission for its ruling prior to the Board taking action.

(3) ADMINISTRATIVE REVIEWS: If and when it is alleged that the Administrative Official has made errors in his/her interpretation of the Zoning Regulation, where malfeasance is alleged, or at any time for just cause so stated, the Board of Adjustment may perform an Administrative Review of the Zoning Administrator's decisions and activities. An Administrative Review may also be held where it is alleged by an applicant that there is an error in any order, requirement, decision, grant, or refusal made by the Administrative Official in the enforcement of the zoning regulation. No allegation(s) or complaint(s), however, shall be considered by the Board of Adjustment unless rendered in writing and duly signed by a party of record. Upon receipt of such allegations, the Chairman of the Board of Adjustment shall call a meeting to render decisions based on the facts, and shall inform the Chairman of the Planning Commission and the Mayor of the pending deliberations prior to assembling the Board. After official deliberation, the findings and decision(s) of the Board shall be delivered in writing to the Chairman of the Planning Commission and the Mayor. An Administrative Review is an investigative proceeding initiated by the City relating to actions of the Administrative Official. It may result from a complaint or charges-alleged against an Administrative Official as well as alleged error, malfeasance or other just cause. Such complaint or charges may have been made to a city official, or may have surfaced during an appeals process. If it is alleged during an appeal, all Administrative Review proceedings must be initiated within 30 days, as is the case in an appeals process.

(4) APPEALS: An appeal, in contrast to an administrative review, is initiated by an individual appellant, and not the City. Appeals to the Board of Adjustment may be taken by any person or entity claiming to be injuriously affected or aggrieved by an official action, order, requirement, interpretation, grant, refusal, or decision of any zoning enforcement officer. Such appeal shall be taken within thirty (30) days after the appellant or his agent receives notice of the action of the official, and the appeal shall begin by filing with the Administrative Official and the Mayor a written notice of appeal specifying the grounds thereof, and giving notice of such appeal to any and all parties of record. The Administrative Official shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken, and he/she shall be treated as and be the respondent in such further proceedings. At the public hearing on the appeal held by the Board, any interested person may appear and enter his/her appearance, and all shall be given an opportunity to be heard. During deliberation on an appeal, the Board may scrap a building permit that the Administrative Official has awarded or a fine that he/she has levied, or it may award a building permit that the Administrative Official has declined to award, or it may levy a fine that he/she has failed to levy. It may also undertake other appropriate measures regarding Variances or Conditional Use Permits.

(5) APPEALS TO THE CIRCUIT COURT: The City Commission shall be the final resting place for all appeals before proceeding thereafter to the courts. The City Commission may elect to hear an appeal, or it may elect not to hear an appeal. Whatever the case, an aggrieved party may appeal a decision of the Board of Adjustment or the City Commission to the Circuit Court, and, as provided for in KRS 100.347, such appeal must be made within 30 days after any final decision of the *Board of Adjustment*. This 30-day time-period is traced-to and begins at the date/time of

the final decision of the Board of Adjustment, and not the date of consideration, if any, given to the appeal by the City Commission.

(6) PUBLIC HEARINGS: The Board of Adjustment is required by KRS 100.237 to hold a public hearing when an application is made for a conditional use permit for land located within or abutting any residential zoning district. Before it holds any such hearing, it must give due, written notice of the hearing to an owner of every parcel of property adjoining the property for which the application applies, and to the Mayor of Jamestown or the County Judge-Executive if adjoining property lies in Jamestown or in unincorporated territory. Written notice shall be given by first class mail with certification by the Board's Secretary that the notice was mailed. When a public hearing is to be held by the Board of Adjustment, it shall fix a reasonable time for hearing the appeal and give public notice in accordance with KRS chapter 424, as well as written notice to the appellant and the administrative official at least one (1) week prior to the hearing, and shall decide the matter within sixty (60) days after the date on which the hearing is convened. The affected party may appear at the hearing in person or by attorney. Previously filed instruments are public records and copies shall be given to the appellant at his request.

G. THE ADMINISTRATIVE OFFICIAL:

(1) GENERAL DUTIES – ISSUANCE OF BUILDING PERMITS AND CERTIFICATES OF OCCUPANCY, REPORTING, AND SERVICE AS THE ENFORCEMENT ARM OF THE PLANNING COMMISSION: An Administrative Official (often called "Zoning Administrator," or "Building Inspector," or "Enforcement Officer") shall be hired to administer the day-to-day activities of zoning, as well as housing and building regulations. He/she shall issue building permits and certificates of occupancy in accordance with the literal terms of the regulation, but shall not have the power to permit any construction, or to permit any use or change in use that does not conform to the literal terms of the zoning regulation. He/she shall also maintain an orderly filing system and a complete record of his/her daily activities as well as Building Permits and Certificates of Occupancy awarded – which shall constitute an open record for public inspection. The Administrative Official shall be the primary contact point between citizens of the planning unit and the city planning and zoning process, and shall conduct his/her duties with diplomacy, concern for the implementation of the Comprehensive Plan, and concern for individual property rights. The Administrative Official shall function as the "enforcement arm" of the Planning Commission, and an "observer and recorder" of all construction and developmental activities within the city. He/she shall regularly drive the streets and observe development, particularly development for which there is no building permit has been awarded. He/she shall regularly attend meetings of the Planning Commission and Board of Adjustment and provide input. On a quarterly basis, he shall develop reports indicating the number of building permits applied for, building permits approved, the total number of buildings and structures constructed and their dollar value, the violations, the fines imposed, and the corrective actions required of violators, and these shall be provided to the Planning Commission and Mayor.

(2) THE ACTIONS OF THE ADMINISTRATIVE OFFICIAL ARE SUBJECT TO APPEAL AND REVIEW BY THE BOARD OF ADJUSTMENT: His/her actions are subject to appeal by aggrieved parties, and any such appeal shall be reviewed by the Board of Adjustment, which is a "judicial body" that has specific oversight over the permit process. The Board of Adjustment may also initiate administrative reviews of actions of the Administrative Official, as described in Paragraph F, Subparagraph (3).

(3) THE ADMINISTRATIVE OFFICIAL MUST LITERALLY INTERPRET THE ZONING REGULATION, ACTIVELY ENFORCE ZONING, AND PENALIZE VIOLATORS: The Administrative Official shall only act within the *literal* guidelines of the Zoning Regulation. If there is any uncertainty or ambiguity in that regulation, the Administrative Official shall consult the Planning Commission for an interpretation of the regulation before taking action, and shall abide by its advice or interpretation. The Administrative Official shall not only award building permits, but shall ensure compliance with all regulatory criteria during development. If the zoning regulation requires, for example, a building setback of at least 30 feet, the Administrative Official shall not permit a building setback of 29 feet, but he/she may permit a setback of 31 feet. In short, the zoning regulation is a law that must be enforced to the letter, and it is the minimum standard permitted. If the Administrative Official finds that no building permit has been issued and that a person or entity has begun or continues to build, a restraining order may be obtained

upon application to the proper court of record, and as provided for in KRS 100.267, which asserts: "the lack of a building permit shall establish a prima facie case for the issuance of the restraining order." It shall be noted that such a person or entity is in violation of the provisions of this regulation requiring a building permit prior to initiation of building or construction activity, and is subject to fines as specified in Section 4. A restraining order may be used to stop construction and effect discontinuance of illegal activities. After filing an application for a restraining order, the Administrative Official shall advise the Director of Public Services of the same, and the Director of Public Services shall thereupon terminate the access of the party in violation to all available city services, including water and sewer. At an appropriate time as determined in consultation with the City Attorney, the Administrative Official may initiate proceedings to effect demolition or removal of the illegal structure(s). When it is clear that violation of a regulation has occurred, the zoning regulation (and KRS 100) proscribes fines that must be levied and requires that they be levied against violators. The Administrative Official must enforce the law and fine violators. The authorized fines are described in Section 4 of this regulation.

(4) DUTIES WITH RESPECT TO ZONING AMENDMENTS, AND APPEALS OF DECISIONS OF THE PLANNING COMMISSION OR BOARD OF ADJUSTMENT: The Administrative Official may also be required to deal with requests for map and/or text amendments, or with appeals of decisions concerning map and/or text amendments. If the Administrative Official receives either, he/she shall notify the Planning Commission Chairman of this in writing, and in the case of a request for a map or text amendment he shall assist the Chairman in coordinating the appearance of the party making the request before a meeting of the Planning Commission. In the case of an appeal of a decision of the planning commission, he shall accompany the Planning Commission Chairman to the next regular meeting of the City Commission, where such appeal shall be heard. Likewise, if he/she receives an appeal of a decision of the Board of Adjustment, he/she shall notify the Board, whose Chairman shall accompany him/her to the next regular meeting of the City Commission, where such an appeal shall be heard.

(5) DUTIES WITH RESPECT TO VARIANCES AND CONDITIONAL USE PERMITS: The Administrative Official shall have no authority to issue a Variance or Conditional Use Permit, but where circumstances may warrant he may appropriately advise potential applicants of their right to pursue the same. The Administrative Official shall be empowered to take applications for Variances and Conditional Use Permits, but shall then refer all such applications to the Board of Adjustment for their decision. He may issue and sign the Variance and Conditional Use forms, but shall make no interpretation of the same and shall implement the literal directives of the Board of Adjustment in regard to these exceptions.

H. EXCEPTIONS - VARIANCES AND CONDITIONAL USE PERMITS:

(1) VARIANCES: The Board of Adjustment *shall not* grant a Variance of any type *unless* the language of the Zoning Regulation would reasonably permit the Variance to be issued. No Variance may alter the relevant density requirements of a zone – for example, a Variance cannot be issued to permit yards of "Single-Family" tracts to be developed at the standards of an "apartment" zone. A Variance cannot circumvent the zoning system, but it can be issued to permit a very slight alteration of dimensional criteria (such as setback or yard requirements) where such criteria would otherwise impose severe economic hardships for the applicant and might unduly prohibit the development of a tract, wherein the tract is generally in conformance with the zoning criteria. Variances may be granted to avoid unnecessary restriction where no public interest is involved, where a proposed project is preponderantly in compliance with zoning, and when the literal enforcement of dimensional criteria might cause the landowner needless harm. The Board shall also consider in awarding Variances, that a Variance runs with the land and is transferable to any future owner of the land, but that it cannot be transferred by the applicant to a different site. Before awarding a Variance, the Board must also specifically FIND AND RECORD each of the follow items:

- a. That the requested Variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone;
- b. That the strict application of the provisions of the regulations would deprive the applicant of the reasonable use of his/her land or would create an unnecessary hardship;

- c. That such special circumstances are not the result of actions of the applicant taken subsequent to adoption of zoning;
- d. That reasons have been specified why the Variance will not adversely affect the public health, safety and welfare, and that those reasons are valid; and
- e. That the proposed project will not alter the essential character of the general vicinity and will not cause a public nuisance.

(2) **CONDITIONAL USE PERMITS:** The Board shall have the power to hear and decide applications for Conditional Use Permits to allow the proper integration into the community of uses which are specifically named in the Zoning Regulations which may be suitable only in specific zones or locations, and under specific circumstances and conditions. The Board may approve, deny or modify any application for a conditional use permit. If it approves such permit it may attach necessary conditions such as time limitations, or requirements that one or more thing be done before a request can be initiated, or conditions of a continual nature which are in accord with the Comprehensive Plan and the public interest – such as the periodic repainting of median stripes along an access road. Any such conditions shall be recorded in the Board's minutes and on the Conditional Use Permit, along with a reference to the specific section in the zoning regulation listing the conditional use under consideration. The Board shall have the authority to revoke Conditional Use Permits for noncompliance with the conditions thereof. Furthermore, the Board shall have a right of action to compel offending structures or uses removed at the cost of the violator and may have judgment in personam for such cost.

Granting of a Conditional Use Permit does not exempt the applicant from complying with all of the requirements of building, housing and other regulations. In any case where a conditional use permit has not been exercised within the time limit set by the Board, or within one (1) year, if no specific time limit has been set, such Conditional Use Permit shall be suspended, and shall not thereafter be exercised by the grantee until there has been a public hearing and a reauthorization of the permit by the Board of Adjustment. "Exercised," as set forth in this section, shall mean that binding contracts for the construction of the main building or other improvement have been let; or in the absence of contracts that the main building or other improvement is under construction to a substantial degree, or that substantial investment has been made, or that financing for the development has been authorized and the grantee is under contract for repayment. When construction is not a part of the use "exercised" shall mean that the use is in operation in compliance with the conditions as set forth in the permit.

No Conditional Use Permit may be awarded as a vehicle to circumvent Zoning. A Conditional Use Permit shall be regarded as a way to "fit" into the community, and into a specific zoning district, a use that may otherwise be unacceptable – and that might otherwise constitute a public nuisance, a safety or health hazard, a source of visual or noise pollution, or a source of conflicts with adjoining land usages. The Conditional Use Permit is a permit to build that attaches "conditions" to the use or development that will square it with the interests of the community and the zone in which it is to be built. Such conditions shall include periodic review to ensure that a "conditional use" remains compliant with the conditions that were attached to the Conditional Use Permit. A Conditional Use Permit is a privilege bestowed upon an applicant by the Board of Adjustment, and is not automatically a right.

(3) **USES WHICH ARE ALWAYS "CONDITIONAL USES" UNDER THE PROVISIONS OF THIS REGULATION:** Certain uses can always produce problems, and may constitute either an asset to the community or an unwarranted public nuisance or health hazard, depending upon the manner of development and/or management. Such uses shall thus be authorized only as conditional uses under the provisions of this regulation – *uses so designated are: a. apartment complexes, b. trailer parks, c. commercial shopping centers, d. multi-unit commercial complexes, e. flea markets, f. industrial or storage buildings and properties; and g. areas of outdoor storage/resale.* It is not intended that these should be the only conditional uses; instead it should be noted that each respective schedule of zoning district regulations may provide a list of additional conditional uses applicable only to that zone. Assessment of conditional use permit fees shall be as provided in Section 4, Paragraph B(6).

(4) **USES THAT MAY BE APPROVED BY CONDITIONAL USE PERMIT WITHIN ANY ZONING DISTRICT:** Certain uses and structures are of significant importance to the health, safety and welfare of the entire community and may thus be approved by conditional use permit within any zoning district. However, unwise development of such uses or structures could be harmful to community and neighborhood interests and they are thus required to meet higher standards that eliminate risks and provide reasonable compatibility in any zone. *Uses so designated are: a. utility and transmission lines and pipes, b. radio, television and telephone transmission structures, c. utility structures and public service buildings, d. government buildings and uses, e. churches, f. public libraries, g. bed and breakfast operations, and f. home occupations (see also Section 2, Paragraph N(2)v.* All such uses must be *noise-free, odor-free, and either invisible, for practical purposes, to the surrounding neighborhood, or significantly buffered therefrom by distance and/or vegetation.* While such uses may be authorized, they shall be designed and emplaced in such a way as to provide minimum interference, visually and functionally, with the surrounding neighborhood, the zone in question, and nearby buildings and dwellings. Assessment of conditional use permit fees shall be as provided in Section 4, Paragraph B(6).

(5) **PROCEDURES FOR MAINTAINING OR DISPENSING OF A CONDITIONAL USE:** The Administrative Official shall review all Conditional Use Permits, except those for which all conditions have been permanently satisfied, at least once annually and shall have the power to inspect the land or structure where the conditional use is located in order to ascertain that the landowner is complying with all of the conditions which are listed on the Conditional Use Permit. If the landowner is not complying with all conditions listed on the Permit, the Administrative Official shall report the fact in writing to the Chairman of the Board of Adjustment, and a copy of the same report shall be furnished to the landowner at the same time that it is furnished to the Chairman of the Board of Adjustment. The report shall state specifically the manner in which the landowner is not complying with the conditions on the Conditional Use Permit. The Chairman of the Board of Adjustment shall then call a meeting of the Board, and notice of the time and place of the hearing shall be provided to the landowner at least one (1) week prior to the hearing. If, upon reviewing the report, the Board of Adjustment finds the facts alleged in the report of the Administrative Official to be true and that the landowner has taken no steps to comply with the terms of the Permit between the date of the report and the date of the hearing, the Board may authorize the Administrative Official to revoke the Conditional Use Permit and to take the necessary legal action to cause the termination of the activity on the land which the Conditional Use Permit authorizes.

(6) **CIRCUMSTANCES UNDER WHICH A CONDITIONAL USE MAY BECOME A PERMITTED USE:** Once the Board of Adjustment has completed a Conditional Use Permit and all conditions required are of such type that they can be completely and permanently satisfied, the Administrative Official, upon the request of the applicant, may, if the facts warrant, make a determination that the conditions have been satisfied and note said conclusion of satisfaction in the margin of the copy of the Conditional Use Permit which is on file. Thereafter, said use, if it continues to meet the other requirements of the zoning regulation, will be treated as a permitted use.

(7) **A PUBLIC HEARING IS REQUIRED PRIOR TO APPROVAL OF A CONDITIONAL USE PERMIT, AND PROPER NOTIFICATION OF AFFECTED PARTIES MUST PRECEDE THAT HEARING.** When an application is made for a conditional use permit for land located within or abutting any residential zoning district, written notice shall be given at least fourteen (14) days in advance of the public hearing on the application to the applicant, Administrative Official, the Mayor, the City Clerk, the Planning Commission Chairman, and the owner of every parcel of property adjoining the property to which the application applies. Written notice shall be by first class mail with certification by the Board's Chairman or Secretary that the notice was mailed. It shall be the duty of the applicant to furnish to the Board the name and address of an owner of each adjoining parcel. Records maintained by the Property Valuation Administrator may be relied upon conclusively to determine the identity and address of said owner. In the event such property is in condominium or cooperative forms of ownership, then the person notified by mail shall be the president or chairperson of the owner group that administers property commonly owned. A joint notice may be mailed to two (2) or more co-owners of an adjoining property who are listed in the property valuation administrator's records as having the same address. If adjoining property is not part of the Russell Springs Planning Unit, fourteen (14) days advance written notice of the hearing shall be given to the Mayor of Jamestown, if the property

is in Jamestown, or to the Russell County Judge-Executive, if said property is in an unincorporated area.

(8) WHAT CONDITIONS SHALL BE ESTABLISHED IN A CONDITIONAL USE PERMIT: The Board of Adjustment, before approval of a Conditional Use Permit, shall make a finding that is empowered under this Regulation describing how the granting of the permit will not adversely affect the public interest, and describing the conditions by which the use will be placed in compliance with all relevant zoning provisions. Those conditions shall be appended to the Conditional Use Permit and shall become a part thereof. The conditions shall include, but shall not necessarily be limited to, the following:

- (a) Satisfactory provisions for ingress and egress to property and proposed structures thereon, with particular reference to automotive and pedestrian safety, convenience, traffic control, and access in case of fire or catastrophe. No passageway for public use shall be narrower than twenty (20) feet or so poorly situated with respect to sight distance at access/egress points as to provide unreasonable safety for those entering, leaving, and otherwise using the facility.
- (b) Provisions for off-street parking and loading areas, providing for reasonable safety of pedestrians and motorists and the separation of parking and loading areas from pedestrian and vehicular traffic.
- (c) Provisions eliminating the adverse effects of any noise, glare, odor or continual activity on adjacent properties. Such provisions shall normally include screening and buffering, attractively and neatly provided for the selection of types that are similar in color to surroundings, durable, and of appropriate dimensions, character, and maintenance requirements.
- (d) Provisions for screening and buffering of refuse service areas, ensuring that these do not create health hazards or provide adverse odors.
- (e) Provisions for adequate utilities, with adequate fire flow, sewage disposal and electrical current.
- (f) Provisions in a sign permit application ensuring that any signs are not of such a size, coloration, or glare as to be incompatible or inharmonious with adjacent properties and the district as a whole.
- (g) Provisions ensuring that setback, side yards and other open spaces will be constructed and maintained in accordance with the zoning requirements of the zone in which the development is to be located.
- (h) Provisions as noted by the Planning Commission or Board of Adjustment ensuring compatibility of the proposed development with adjacent and nearby properties, and with the zoning district and community as a whole.
- (i) Provisions guaranteeing that usages other than those approved will not be introduced into the property for which the Conditional Use Permit is awarded. These and all provisions in Section 1, Paragraph H(8) shall be reviewed annually by the Administrative Official to ensure compliance.

SECTION 2. ZONES AND PHYSICAL PLACEMENT:

It is the intent of this regulation to effect a system of Zoning. This system shall consist of a text, herein, and a "Map of Zoning Districts." This map shall govern the placement of all land use types and structures. It shall be the final determining factor for what can be placed where; however, this map is not a land survey instrument, and the planning commission may therefore adjust zoning district boundaries as needed to ensure that "intended boundaries" and "actual boundaries" are one and the same. This text shall govern zoning administration and enforcement, and ties

intimately to the Map of Zoning Districts through "Schedules of District Regulations" contained within the text. These schedules shall relate to *dimensional criteria*, as well as *permitted*, *conditional* and *accessory uses*, which shall, in turn, be governed by the general text.

A. GENERAL PURPOSE OF ZONING DISTRICTS:

Zoning Districts are established, hereby, in order to classify, regulate, and restrict the use and location of buildings designed for specified uses, to regulate and determine the area of yards, courts, and other open spaces surrounding buildings, and to realize the general public purposes as set forth in the Comprehensive Plan.

B. CHIEF COMPONENTS OF ZONING PROCESS: MAP AND SCHEDULE OF DISTRICT REGULATIONS:

(1) MAP PURPOSE: In implementation of the Comprehensive Plan, the boundaries of zoning districts are hereby established as shown on the Map of Zoning Districts presented on page 16. Said zoning map, its notations and references are hereby made a part of this Regulation. The official map is and shall remain a part of this zoning regulation. An "official wall copy" of the Map of Zoning Districts shall be made and placed in city hall. An "official electronic copy" of this map shall be made and maintained, and used to facilitate updates and amendments.

(2) MAP IDENTIFICATION: The official zoning map shall always be identified by the signature of the mayor and the attestation of the city clerk, and shall bear the seal of the City under the following words: "*This is to certify that this is the Official Zoning Map for the City of Russell Springs, Kentucky, adopted by the Russell Springs City Commission on _____, 20 ____.*" Official copies of said map shall state the following: "*This is a certified copy of the Official Zoning Map for the City of Russell Springs, Kentucky, adopted by the Russell Springs City Commission on _____, 20 ____.*"

(3) MAP CHANGES DUE TO AMENDMENT: If, in accordance with the provisions of this Regulation and the Kentucky Revised Statutes, changes are made in the zoning districts, the district boundaries or other matters portrayed on the Official Zoning Map (Map of Zoning District Boundaries), such changes shall be made on the Official Zoning Map promptly after the amendment has been approved by the Legislative Body, and the following notation shall then be made upon the official map: "By Official action of the City Commission, this map was amended as authorized by ordinance number _____, and the changes consist of the following: _____." This entry shall be signed by the Mayor and attested by the City Clerk. The Amending Ordinance shall provide that such changes or amendments shall not become effective until they have been duly entered upon the Official Zoning Map. In addition, each amendment to the zoning district boundaries shall be individually noted on a copy of the City's Lot Line Map with the boundaries of the change clearly circumscribed by a felt-tip pen, and said map shall be filed with the Amending Ordinance in the City Clerk's Office. The City Clerk shall then deliver certified copies of the amendment to the Mayor, Planning Commission Chairman, and applicant(s).

No changes of any nature shall be made to the Official Zoning Map or its certifications and attestations except in conformity with the procedures set forth in this Regulation and Chapter 100 of the Kentucky Revised Statutes. Any unauthorized change of whatever kind by any person or persons shall be considered a *violation* of this Regulation and is punishable as provided herein. Electronic copies of the Official Zoning Map may be made bearing the certification: "Electronic Copy of the Official Zoning Map of the City of Russell Springs," these may be distributed to the general public, or used to print copies. The electronic copy shall be maintained and updated as needed, and shall be kept current with the Official Zoning Map, but it shall not be regarded as an "Official Zoning Map" unless it is duly certified as such in writing by the City Clerk and the Chairman of the Planning Commission. Large wall maps in city hall that read "Certified Copy of the Official Zoning Map", also bearing the attestation of the City Clerk and the Planning Commission Chairman may be regarded as an "Official Zoning Map," along with the original file copy of the "Official Zoning Map," which shall be permanently filed in the Office of the City Clerk. A true official map shall always require the attestation of the city clerk and the Chairman of the Planning Commission. Only the official map or certified copies of the same shall be used in official proceedings to determine zoning district boundaries, or to award permits.

(4) MAP CHANGES DUE TO ANNEXATION: When territory is in the process of being annexed, the Comprehensive Plan and Official Zoning Map may be amended to incorporate and establish zoning and other land use regulations for the property proposed for annexation prior to the adoption of the ordinance of annexation. If the city elects to follow this procedure, the Planning Commission shall hold a Public Hearing after the adoption of the ordinance stating the city's intention to annex and prior to final action upon the ordinance of annexation. This hearing shall be for the purpose of formulating public recommendations as to zoning and other land use regulations which shall be used by the Planning Commission in adopting an amendment to the comprehensive plan, and to formulate zoning or other land use regulations which shall be effective for the properties upon their annexation. Notice setting forth the time, date, location, and purpose of the public hearing shall be published as required by KRS Chapter 424 and shall be given to the owners of all properties within the area proposed for annexation and to adjoining property owners in accordance with KRS 100.212(2). The city legislative body shall take final action upon the planning commission's recommendations prior to adoption of the ordinance of annexation and shall include in the ordinance of annexation a map showing the zoning or other land use regulations that will be effective for the annexed property. If the city elects not to follow the procedure provided for in this section prior to the adoption of the ordinance of annexation, the newly annexed territory shall remain subject to the same land use restrictions, if any, as applied to it prior to annexation until those restrictions are changed by zoning map amendments or other regulations. Between the time of annexation and adoption of zoning amendments classifying annexed areas, all annexed properties shall be considered to be in the "Single Family Residential" Zone, and the most stringent requirements either of zoning or of established deed covenants shall be enforced.

(5) MAP REPLACEMENT: In the event that the Official Zoning Map becomes damaged, destroyed, or lost, the Russell Springs City Commission may by ordinance adopt a new Official Zoning Map, which shall replace and supersede the prior Official Zoning Map. In such an event, the "Electronic Copy of the Official Zoning Map" shall be reviewed and suitably printed and shall be certified by the City Clerk and the Planning Commission Chairman as the Official Zoning Map. Notwithstanding the foregoing, if the electronic map is not suitably current, errors and omissions may be corrected in the ordinance of adoption. The new Official Zoning Map shall contain the following caption: *"This is to certify that this is the Official Zoning Map for the City of Russell Springs, Kentucky, adopted by the Russell Springs City Commission on _____, 20____."*

(6) MAP INTERPRETATION: Where uncertainty exists about the boundaries of any of zoning districts as shown on the Official Zoning Map, the following rules shall apply:

- (a) Boundaries, indicated as approximately following the centerlines of streets, highways, or alleys shall be construed as actually following such center lines.
- (b) Boundaries shown as roughly following platted lot lines shall be construed as following such lot lines.
- (c) Boundaries indicated as approximately following the city limits shall be construed as following such city limits as they existed on the date that the zoning map was constructed.
- (d) Boundaries indicated as following electrical transmission lines shall be construed as following the easement boundary of those lines, or if unclear, a perpendicular line extending from the end of the overhang of the main supporting poles to the ground.
- (e) Boundaries shown following a shore or stream centerline shall be construed as moving with any natural changes in the stream alignment.
- (f) Where specific survey calls exist, the scale of the official zoning map may be used to determine boundaries.
- (g) Where physical or cultural features on the ground are at variance with those shown on the Official

Zoning Map, or in the event that other circumstances not covered by this paragraph are found to exist, the Planning Commission shall interpret the boundaries at its discretion, entering its findings and rationale in the record.

- (h) Where a district boundary line divides a lot that was in single ownership at the time of passage of this Regulation, the Board of Adjustment may permit, conditionally, the extension of the regulations for either portion of the lot beyond the district boundary line to the remaining lot portion.

(7) SCHEDULE OF DISTRICT REGULATIONS: All districts are established to meet the purposes set forth in the Schedule of District Regulations and all district boundaries are effectuated by the Map of Zoning Districts, presented on the following page. In case of conflict between District Schedules and other regulatory provisions herein, the provisions of the Schedule shall govern. Schedules of District Regulations begin on the page immediately following the map:

C. YARDS AND UNIFORM SETBACK:

Dimensional criteria form an important component of zoning, and two of the most important dimensional criteria of this zoning regulation are "setback" and "yard." This regulation hereby effects a uniform minimum setback for all zoning districts such that: (a) no building or structure, or portion thereof, shall be built or emplaced within 30 feet of the right-of-way of any public road or way, and (b) in the event that the right-of-way boundaries cannot be determined, no building or structure, or portion thereof, shall be built or emplaced within 50 feet of the centerline of the abutting roadway. The front yard of a lot shall be construed as that part of a lot between a public right-of-way paralleling the front of a house and the front entrance to said house. A lot located at the intersection of two or more streets, roads or ways shall be construed as having a front yard facing each street regardless of the location of the front entrance to the house, or a total of two front yards, both of which shall meet the minimum setback established in this paragraph, as well as the front yard criteria established in the Schedules of District Regulations. It is also the intent of this regulation that structures should not encroach upon lot lines, and a minimum setback of five (5) feet shall be established between any side or back lot line and the closest outer wall of any built or emplaced structure. Further yard criteria shall be established in the Schedules of District Regulations, following, and shall vary from district to district. See also Section 2, Paragraph N(2)f.