

| Article amendments approved unless noted:   | OMPC         | Owensboro   | Daviess Co. | Whitesville |
|---|--------------|-------------|-------------|-------------|
| Revised zoning ordinance  | 08-Sep-1979  | 14-Mar-1980 | 27-Dec-1979 | 07-Apr-1980 |
| Public utility facilities   | 12-Jan-1984  | 06-Mar-1984 | 22-Feb-1984 | ?           |
| General zone & district regulations revised with setback adjustments and detailed provisions for accessory buildings  | 14-May-1987  | 16-Jun-1987 | 24-Jun-1987 | 24-Aug-1987 |
| Excavation in flood plains, amended {3-2(c)(5)}   | 21-Apr-1994  | 07-Jun-1994 | 01-Jun-1994 | not applic. |
| Vehicular access to lots, relocated to Article 13 {3-8}   | 18-Apr-1996  | 21-May-1996 | 22-May-1996 | ?           |
| 2003 Review Committee: Only one principal structure per lot in single-family zones unless a Planned Residential Development {3-2(c)(1)}; excavation permit requirement made same countywide {3-2(c)(5)} 15' side yard setback min. for single-family uses extended to R-4DT zone {3-5(a)(3)}; public utility may authorize building in easement subject to criteria {3-5(c)(1)}; cellular antenna towers exempted from height limitations except for KY Airport Zoning or as otherwise specified {3-6(b)(1)}; accessory buildings to not exceed the area of the ground floor of the principal structure on lots under ½ acre, renumbered subsequent subsections {3-6(c)}; sight triangle dimensions on one-way streets adopted as regulation {3-6(f)(1)}; unenclosed covered porches allowed to project into prescribed front yard setback a distance of 8 feet except in planned residential developments {3-7(c)(5)}; Ky. Building Code applied to swimming pool enclosures {3-7(f)}; measurement policies for the height of fences and walls adopted as regulation, height of walls and fences outside of industrial zones in side yards restricted to 6' and in residential zone front yards to 3' except as required by Art. 17 {3-7(g)(1)(2)}; electric fences prohibited in residential or MHP zones {3-7(g)(3)(b)}; restricted construction of private walled structures in yards adjoining arterial, expressway, or major collector streets {3-7(g)(4)}; chimneys allowed to project into required setback a max. of 2' if structure is a min of 3' from property line, renumbered subsequent subsection {3-7(k)}. | 11-Dec-2003  | 02-Mar-2004 | 05-Feb-2004 | 06-Apr-2004 |
| Revision to Section 3-7(g) Walls and Fences relative to heights in residential side and rear street yards   | 10-July-2008 | 19-Aug-2008 | 07-Aug-2008 | ?           |
| Revisions to reference new regulations contained in Article 21 relative to properties within Downtown Overlay Districts   | 10-Sep-2009  | 20-Oct-2009 |             |             |
| Revisions to Section 3-2(c)5 Cut and Fill Permits   | 14-Feb-2013  |             | 21-Mar-2013 | n/a         |
| Revisions to various sections related to encroachments within public utility easements  | 11-May-2017  | 01-Aug-2017 | 01-Jun-2017 | 14-Jun-2017 |

**3-1 INTENT AND PURPOSE.** The purpose of this Article is to establish and describe the following items: general regulations applicable to zones and districts; exceptions and adjustments to site requirements as prescribed for principal buildings in Article 8 of this Zoning Ordinance; regulations for accessory buildings, structures and features in required yards; and general limitations for vehicular access to lots.

**3-2 APPLICATION OF ZONE AND DISTRICT REGULATIONS.** The regulations set by this Zoning Ordinance within each zone and district shall be minimum or maximum limitations, as appropriate to the case, and shall apply uniformly to each class or kind of structure or land, except as hereinafter provided.

**3-2(a) Agricultural Land Use Exemptions.** Notwithstanding any other provision of this Zoning Ordinance, land which is used solely for agricultural use as defined in this Zoning Ordinance shall have no regulations imposed as to building permits, certificates of occupancy, height, yard, or location requirements for agricultural buildings, except that setback lines may be required for the protection of existing and proposed streets and highways and that buildings or structures in a designated floodway or floodplain or which tend to

increase flood heights or obstruct the flow of flood waters may be fully regulated.

**3-2(b) Public Utility Facilities Excepted; Acquisitions, Disposals and Changes, Referral to Commission; Effect - KRS 100.324.** Public utilities operating under the jurisdiction of the energy regulatory commission and utility regulatory commission or the bureau of vehicle regulation or federal power commission and common carriers by rail shall not be required to receive the approval of the OMPC for the location or relocation of any of their service facilities. Service facilities include all facilities of such utilities and common carriers by rail other than office space, garage space, and warehouse space when such space is incidental to a service facility. The energy regulatory commission and utility regulatory commission and the bureau of vehicle regulation shall give notice to the OMPC of any hearing which effects locations or relocations of service facilities within the planning area of Daviess County.

**(1) Nonservice Facilities Must Comply with Zoning Ordinance.** The nonservice facilities excluded in this section must be in accordance with the regulations of this Zoning Ordinance.

**(2) Service Facility Information Requested by OMPC.** Upon request of the OMPC, the public utilities referred to in this section shall provide the OMPC with information concerning service facilities which have been located on and/or relocated on private property.

**(3) Agreement of Public Facility Proposals with Comprehensive Plan.** All proposals for acquisitions or disposition of land for public facilities, or changes in the character, location, or extent of structures or land for public facilities, excluding state and federal highways and public utilities and common carriers by rail mentioned in this section, shall be referred to the OMPC to review in the light of its agreement with the Comprehensive Plan and the OMPC shall within sixty (60) days from the date of its receipt review the project and advise the referring body whether the project is in accordance with the Comprehensive Plan, whether it approves or disapproves of the project, and it shall state the reasons for disapproval in writing and make suggestions for change which will in the OMPC's opinion better accomplish the objectives of the Comprehensive Plan. A majority of the entire membership of the legislative body may override the disapproval of the OMPC.

**3-2(c) Buildings, Structures and Land Use Must Conform to Zoning Regulations.** No building, structure, or land shall hereinafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered except in conformity with all of the regulations specified in this Zoning Ordinance for the zone and district in which it is located unless otherwise specifically permitted in this Zoning Ordinance.

**(1) No More than One Principal Structure Per Lot.** There shall be no more than one principal structure and its accessory structures on any lot or parcel of land unless otherwise specifically permitted in this Zoning Ordinance or unless a development plan is approved by the OMPC as provided by Article 16 of this Zoning Ordinance. In R-1A, R-1B, R-1C, and R-1T zones, there shall be only one principal structure and its accessory structures on any lot or parcel of land, unless a Planned Residential Development is approved by the OMPC as provided by Article 10 of this Zoning Ordinance.

**(2) Site Requirements.** No building or other structure shall hereafter be erected or altered (a) to exceed the height, bulk or floor area ratio; (b) to accommodate or

house a greater number of families; (c) to occupy a greater percentage of lot area; (d) to have narrower or smaller rear yards, front yards, side yards, or other open spaces; or (e) to have less perimeter and interior lot landscaping for vehicular use area and noncompatible land uses than required by the provisions of this Zoning Ordinance Site requirements within the Downtown Overlay Districts shall comply with Article 21 of this ordinance.

**(3) Site Requirements Must Be Met for Each Building or Land Use.** No part of a yard, open space, off-street parking, loading space or other special use area required about or in connection with any building or land for the purpose of complying with this Zoning Ordinance, shall be included as part of a yard, open space, off-street parking, loading space or other special use area similarly required for any other building or land unless otherwise specifically permitted in this Zoning Ordinance. Site requirements within the Downtown Overlay Districts shall comply with Article 21 of this ordinance.

**(4) Permitted and Prohibited Uses.** Only those uses specifically named as principal, accessory or conditional uses or those uses substantially similar to principal, accessory or conditional uses are permitted in each zone or district. All uses specifically named as prohibited and all uses not specifically named which lack substantial similarity to permitted uses are prohibited. See Article 21 for prohibited uses within Downtown Overlay Districts.

**(5) No Excavation, Cut or Fill Without Permit.** No excavation, cut or fill of earth or debris shall hereafter be undertaken unless a permit is issued by the Zoning Administrator for such excavation, cut, or fill. (*City of Owensboro*) No excavation, cut or fill of earth or debris shall hereafter be undertaken unless a permit is issued by the local government engineer for such excavation, cut, or fill. (*Unincorporated Daviess County*) As an exception to the foregoing, excavation, cut or fill related to agricultural uses, for public utilities, and in approved subdivisions and developments may be undertaken without such permits, if it occurs entirely outside of areas of special flood hazard and if it would not affect any stream where base flood data has not been provided. Areas subject to potential flooding shall require development permits as specified in Article 18 of this Zoning Ordinance.

**3-3 CONVERSION OF BUILDINGS.** The conversion of any building or buildings, either residential or nonresidential, so as to accommodate an increased number of dwelling units or families or to accommodate another permitted use shall be permitted only within a zone in which a new building for similar occupancy would be permitted under this Zoning Ordinance. The resulting occupancy shall comply with the requirements governing new construction in such zone with respect to building codes, parking supply, and landscape buffers. If the conversion involves no expansion of principal building volume or no conversion of an accessory building into a principal building, the resulting occupancy shall be exempt from the following requirements: minimum lot size, maximum floor area, lot coverage, dimensions of yards, and minimum open space. Any conversion that involves changes other than those stated above shall be subject to all site requirements stated above, and such further requirements as may be specified hereinafter applying to such zone.

**3-4 SUBDIVISION COORDINATION REQUIRED.** In all cases where the ownership of land is divided for the purpose of eventual development of lots, the provisions of the Subdivision Regulations shall apply in addition to the provisions of this Zoning Ordinance.

**3-4(a) No New Nonconforming Yards or Lots.** No yard or lot existing at the time of adoption of this Zoning Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein, unless approved as a special exception by the OMPC. Yards or lots created after the adoption of this Zoning Ordinance shall meet at least the minimum requirements established by this Zoning Ordinance.

**3-4(b) Water Supply and Sewage Disposal Requirements.** It shall be unlawful to construct any building unless the associated water supply and sewage disposal facilities meet the requirements of the health department. Wherever water and sewer mains are accessible, buildings shall be connected to such mains. The health department's certificate approving proposed or completed water and sewage facilities must accompany application for building permits and certificates of occupancy.

**3-5 ADJUSTMENTS TO PRINCIPAL BUILDING YARD REQUIREMENTS PRESCRIBED IN ARTICLE 8.** Yard requirements for principal buildings shall conform to the dimensions prescribed in Article 8 of

this Zoning Ordinance unless adjusted by the provisions of the following subsections.

**3-5(a) Adjustments to Yards Adjoining Streets.**

**(1) Yard Adjoins Freeway or Expressway.** For any yard that adjoins a freeway or expressway, the minimum setback requirement for principal buildings shall be twenty feet (20') from the edge of the freeway or expressway right-of-way.

**(2) Yard Adjoins Alley.** For any yard that adjoins an alley, setback requirements shall apply as if the alley did not exist and the property lines on either side of the alley were a common line between two adjoining properties. Setbacks in yards adjoining alleys within the Downtown Overlay Districts shall comply with the requirements contained in Article 21 of this ordinance.

**(3) Yard Adjoins Street Other Than Freeway, Expressway or Alley.** For any side or rear yard that adjoins a street other than a freeway, expressway or alley, the minimum setback requirement for principal buildings shall equal the front yard setback requirement for a street of such classification and zone; except that in single-family residential and townhouse zones and single-family residential uses within R-4DT zones; side yards along local streets may be reduced to fifteen feet (15') where lots are back-to-back. Setbacks in yards adjoining streets within the Downtown Overlay Districts shall comply with the requirements contained in Article 21 of this ordinance.

**3-5(b) Adjustments to Yards Adjoining More Restrictive Zones.**

**(1) Side Yard Adjoins More Restrictive Zone.** When the side yard of a subject lot in any zone adjoins the side or rear yard of a lot in a more restrictive zone, the side yard requirement for the subject lot shall equal the more restrictive side yard requirement of the adjoining zone. Setbacks within the Downtown Overlay Districts shall comply with the requirements contained in Article 21 of this ordinance.

**(2) Rear Yard Adjoining More Restrictive Zone.** When the rear yard of a subject lot in any zone adjoins the side or rear yard of a lot in a more restrictive zone, the rear yard requirement for the subject lot shall equal the more restrictive rear yard requirement of the adjoining zone. Setbacks within the Downtown Overlay Districts shall comply with the requirements contained in Article 21 of this ordinance.

**3-5(c) Adjustments to Yards Designated On Plats of Record.**

(1) **Public Utility Easements.** Principal buildings, accessory buildings and signs shall not be erected in public utility easements, unless otherwise specifically permitted pursuant to Article 5 of this Zoning Ordinance.

(2) **Building Setback Lines.** When the building setback lines designated on a plat of record conflict with the requirements of this Zoning Ordinance, principal buildings shall conform to the more-restrictive setback requirements, or to the more restrictive build to lines in the case of properties regulated by Article 21. When the building setback lines designated in private restrictions conflict with the requirements within the Downtown Overlay District, private restrictions are encouraged to be released so that the principal building may comply with the requirements contained in Article 21 of this ordinance, or a variance must be sought.

**3-5(d) Adjustments to Yards for Existing Alignment of Buildings Along a Street.** For any yard that adjoins a street other than a freeway, expressway or alley, the required setback for a new, separate principal building may be reduced to

(1) the average of the actual setbacks of the existing principal buildings that are located nearest both sides of the proposed building site, and in the same block front; or

(2) the average of the prescribed minimum requirement and the actual setback of the existing principal building that is located nearest one side of the proposed building site, and in the same block front.

(3) In any case not excepted herein below, the proposed building setback shall be at least ten feet (10') from the edge of the street right-of-way, and shall not violate the setback line designated on a record plat. The ten-foot limitation does not apply in the B-2 Central Business Zone or to planned residential development projects as permitted by Article 10 of this Zoning Ordinance.

(4) Any intersecting street other than an alley shall constitute the end of the block front.

(5) For buildings within the Downtown Overlay Districts, adjustments for yards for a separate principal building shall comply with the regulations contained within Article 21 of this ordinance.

**3-5(e) Adjustments to Yards for Additions to Legally Nonconforming Buildings.** When an existing principal building adjoins any legally nonconforming yard, additions may be made to the building in such yard, subject to the following limitations.

(1) Such addition shall be located no closer to the lot line than the part of the original principal building foundation that is closest to the lot line.

(2) Such addition shall be located at least ten feet (10') from the edge of any street right-of-way, including alleys, and at least three feet (3') from any lot line adjoining property in a residential zone, and shall not violate the setback line designated on a record plat.

(3) For additions to legally nonconforming buildings within the Downtown Overlay District, adjustments to yards shall comply with the requirements contained within Article 21 of this ordinance.

**3-6 GENERAL PROVISIONS FOR ACCESSORY BUILDINGS, STRUCTURES AND FEATURES.** The provisions of this section shall regulate the location, height and size of all buildings, structures and features that are accessory to principal buildings or land uses.

**3-6(a) Use Limitations.** Unless provision is specifically made elsewhere in this Zoning Ordinance, the following use limitations shall apply.

(1) In residential and manufactured housing park zones, accessory buildings shall not be used for or involved with the conduct of any business, trade or industry.

(2) In any zone, no accessory structure or building shall be used in whole or in part for human occupancy.

(3) In any zone, temporary structures and accessory buildings may be allowed for the storage of equipment during construction.

**3-6(b) Height.** Accessory buildings, structures and features shall not exceed the height limitations for principal buildings for the zones in which they are located.

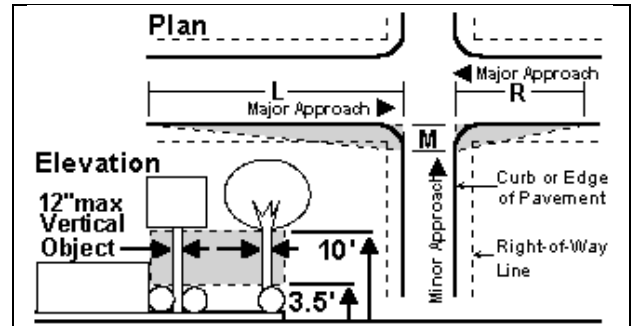
**(1) Exceptions to Height Limitations.** The height limitations of this Zoning Ordinance shall not apply to church spires, belfries, cupolas and domes not intended for human occupancy; monuments, water towers, observation towers, transmission towers, windmills, chimneys, smoke stacks, derricks, conveyors, flag poles, light poles, masts, aerials and cellular antenna towers except as restricted by Kentucky Airport Zoning Commission regulations or other Articles of this Zoning Ordinance.

**3-6(c) Size Limitations.** On lots less than one-half (1/2) acre in size, accessory structures shall not exceed the square footage of the ground floor of the principal building located on the lot, unless a variance is granted by the Owensboro Metropolitan Board of Adjustment. In all cases, maximum lot coverage shall not be exceeded.

**3-6(d) Lot Coverage.** Accessory buildings, structures and features, together with principal buildings, shall not exceed maximum lot coverage for the zones in which they are located. Lot coverage within the Downtown Overlay Districts shall comply with the regulations contained within Article 21.

**3-6(e) Encroachments.** Accessory buildings, structures, walls, fences, swimming pools, sports courts, and features shall not encroach upon or be located within public rights-of-way, public utility easements, or adjoining lots, unless specifically permitted pursuant to Article 5 of this Zoning Ordinance..

**3-6(f) Sight Triangles for Traffic Visibility.** Notwithstanding any other provisions of this Zoning Ordinance, in any zone, at any street intersection or any driveway intersection, accessory buildings, structures and features erected or installed shall conform with the limitations of the applicable sight distance triangles as shown in the following illustration and table, unless specifically excepted below.



**In Sight Triangle: Only vertical objects 12\"/>**

**Sight Triangles at Intersections**

| Major Approach > | Arterial Street   |                   | Any Other Street  |                   |
|------------------|-------------------|-------------------|-------------------|-------------------|
| Minor Approach > | Street, not Alley | Alley or Driveway | Street, not Alley | Alley or Driveway |
| L =              | 300'              | 200'              | 150'              | 100'              |
| R =              | 150'              | 100'              | 75'               | 50'               |
| M =              | 15'               | 10'               | 15'               | 10'               |

**(1) One-Way Street Exception.** Sight triangles shall not apply on one-way streets at corners where traffic does not approach the intersection. On one way streets, if the major approach traffic comes from the RIGHT, then the LEFT sight triangle dimensions shall be applied to the RIGHT corner.

**(2) Principal Building Exception.** Sight triangles shall not apply to principal buildings located in conformance with building setback requirements of Article 8 and Article 21 or setback adjustments of this article.

**(3) Utility Device Exception.** Authorized utility devices, such as poles, control boxes, traffic signs and signals, etc. are excepted from strict conformance with sight triangles. However, the location of these devices should adhere as closely as possible to such limitations.

**3-7 SPECIFIC PROVISIONS FOR ACCESSORY BUILDINGS, STRUCTURES AND FEATURES.** In addition to the general provisions of Section 3-6, the provisions of this section shall regulate the location, height and size of accessory buildings, structures and features.

**3-7(a) Minor Projections Permitted.** For the purposes of these provisions, a minor projection shall be any part of a structure that does not touch the ground but projects out from the part of the structure that is attached to the ground. A minor projection shall extend no more than two feet (2') over any setback line required for the structure of which it is a part.

**3-7(b) Enclosed Accessory Buildings.** For the purposes of these provisions, an enclosed accessory building shall be any accessory structure or part thereof that is covered by a roof, rigid canopy, rigid awning, or similar watertight, solid element, and that contains walls, doors, windows, screens, or other elements that generally obstruct access from the adjoining yard. Enclosed accessory buildings shall conform to the setback requirements listed below.

**(1) Permitted As For Principal Buildings.** Enclosed accessory buildings may be located anywhere on a lot where principal buildings are permitted.

**(2) Permitted in Rear Yards.** Enclosed accessory buildings may be located in required rear yards. They shall be located no closer than three feet (3') to lot lines adjoining freeways, expressways, alleys, or other lots. They shall conform to setback requirements for principal buildings from lot lines adjoining arterial, collector or local streets.

**(3) Separation from Other Enclosed Buildings.** Each enclosed accessory building shall be located no closer than six feet (6') to a principal building or any other enclosed accessory building on the same lot.

**3-7(c) Unenclosed Accessory Buildings.** For the purposes of these provisions, an unenclosed accessory building shall be any accessory structure or part thereof that is covered by a roof, rigid canopy, rigid awning, or similar watertight, solid element, and, except for buildings from which it may project, is supported only by columns, posts, piers, or similar elements. Unenclosed accessory buildings shall provide free access from the adjoining yard into the covered space at all times. Unenclosed accessory buildings may be freestanding, may be attached to enclosed accessory buildings, may be attached to principal buildings, or may connect separate enclosed buildings to each other. Unenclosed accessory buildings shall conform to the setback requirements listed below.

**(1) Permitted As For Principal Buildings.** Unenclosed accessory buildings may be located anywhere on a lot where principal buildings are permitted.

**(2) Permitted in Rear Yards.** Unenclosed accessory buildings may be located in required rear yards. They shall be located no closer than three feet (3') to lot lines adjoining freeways, expressways, alleys, or other lots.

They shall conform to setback requirements for principal buildings from lot lines adjoining arterial, collector or local streets, unless excepted below.

**(3) Permitted in Business and Industrial Zones in Vehicular Use Areas Adjoining Streets.** In business or industrial zones, unenclosed accessory buildings that shelter vehicular use areas may be located in required yards adjoining streets. No column, post or pier supporting such structure may exceed two feet (2') in diameter or width. No portion of such structure shall be located closer than twenty-five feet (25') to an adjoining lot in any residential zone. All unenclosed accessory buildings within the Downtown Overlay District shall meet the standards of Article 21 with respect to location of any vehicular areas adjoining streets.

**(4) Permitted to Project Over Public Rights-of-Way.** In business and industrial zones, where principal buildings are located three feet (3') or less from lot lines that adjoin street rights-of-way, unenclosed accessory awnings, canopies or marquees may project from such principal buildings over public rights-of-way, subject to provisions of the local building code and Article 9 and Article 21 of this Zoning Ordinance.

**(5) Permitted to Project into Required Front Yards.** Unenclosed covered porches, which are attached to a principal structure, may project into a prescribed front yard setback a distance of not more than eight feet (8'), where the floor level of the unenclosed covered porch is not over three feet (3') above the average finished grade and the floor level does not extend above the level of the first floor of the principal building. In all cases, a minimum of 10 feet from the street right-of-way line shall be maintained. Unenclosed covered attached porches that project into required front yards shall remain open and shall not be enclosed with screening, windows, glass or other building material. Guardrails shall be permitted. The building inspector may require evidence that private deed restrictions are not violated. No unenclosed covered porches may encroach upon or be located within public right-of-way or public utility easements, unless specifically permitted elsewhere in this article. This provision is not applicable to Planned Residential Development projects as provided for in Article 10 of this zoning ordinance, or to Downtown Overlay Districts as provided for in Article 21 of this zoning ordinance.

**3-7(d) Lightweight Covered Structures.** For the purposes of these provisions, a lightweight covered structure shall be any accessory structure that is supported by buildings or by lightweight poles or posts, and is covered by a flexible fabric or latticework. Lightweight covered structures shall conform to the setback requirements listed below.

**(1) Permitted As For Principal Buildings.** Lightweight covered structures may be located anywhere on a lot where principal buildings are permitted.

**(2) Permitted in Rear Yards.** Lightweight covered structures may be located in required rear yards. They shall be located no closer than three feet (3') to lot lines adjoining freeways, expressways, alleys, or other lots. They shall conform to setback requirements for principal buildings from lot lines adjoining arterial, collector or local streets, unless excepted below.

**(3) Permitted in Business and Industrial Zones in Yards Adjoining Streets.** In business or industrial zones, lightweight covered structures may be located in required yards adjoining streets. They shall conform to setback requirements for principal buildings from lot lines adjoining other lots.

**(4) Permitted to Project Over Public Rights-of-Way.** In business and industrial zones, where principal buildings are located three feet (3') or less from lot lines that adjoin street rights-of-way, lightweight covered awnings or canopies may project from such principal buildings over public rights-of-way, subject to provisions of the local building code and Article 9 and Article 21 of this Zoning Ordinance.

**(5) Permitted in Other Zones in Yards Adjoining Streets.** In zones other than business or industrial, lightweight covered structures may be located in required yards adjoining streets. They shall project no more than eight feet (8') from the principal building wall and no closer than ten feet (10') to the edge of the street right-of-way. They shall conform to setback requirements for principal buildings from lot lines adjoining other lots. This provision is not applicable to Downtown Overlay Districts as provided for in Article 21 of this ordinance.

**3-7(e) Outdoor Floors and Stairs.** For the purpose of these provisions, an outdoor floor shall be any pedestrian, ground pavement or floor structure that is not enclosed

within principal or accessory buildings. Outdoor stairs shall be any paved or structural steps that are not enclosed within principal or accessory buildings.

**(1) Up to Three Feet (3') Above Grade.** Where the floor level of outdoor floors or the step level of outdoor stairs is no more than three feet (3') above the adjoining finished grade, such feature may be located in any required yard.

**(2) More Than Three Feet (3') Above Grade, At or Below First Floor Level.** Where the floor level of outdoor floors or the step level of outdoor stairs is more than three feet (3') above the adjoining finished grade, and is at or below the first floor level of the principal building, such feature shall be located no closer than ten feet (10') to the edge of any street right-of-way or closer than three feet (3') to any other lot line. This provision is not applicable in the Downtown Overlay District as provided for in Article 21 of this ordinance.

**(3) More Than Three Feet (3') Above Grade, Above First Floor Level.** Where the floor level of outdoor floors or the step level of outdoor stairs is more than three feet (3') above the adjoining grade, and is above the first floor level of the principal building, such feature shall conform to the setback requirements for principal buildings when attached to principal buildings, and shall conform to the setback requirements for enclosed accessory buildings in all other cases. This provision is not applicable in the Downtown Overlay District as provided for in Article 21 of this ordinance.

**3-7(f) Swimming Pools and Sports Courts.** Swimming pools and sports courts shall conform to the setback requirements applicable to enclosed accessory buildings. Swimming pools and sports courts shall not encroach upon or be located within a public utility easement, unless otherwise specifically permitted pursuant to Article 5 of this Zoning Ordinance. Walls and fences around such features shall conform to the requirements in this Zoning Ordinance and the Kentucky Building Codes.

**3-7(g) Walls and Fences.** Walls and fences may be located in required yards subject to the following limitations. Support posts may exceed the fence height by a maximum dimension of one foot (1') inclusive of any terminating ornamentation or finial. Walls and fences within Downtown Overlay District shall comply with the requirements of Article 21 of this ordinance.

**(1) Height in Industrial Zones.** In industrial zones, a wall or fence in any yard may be of any height, subject to sight triangle visibility requirements. In yards whose grade is higher than the adjoining street grade, fence or wall height may be measured from the main grade of the yard.

**(2) Height Outside of Industrial and Residential Zones.** Outside of industrial and residential zones, a wall or fence of not more than six feet (6') in height may be erected or maintained within any rear or side yard adjoining an arterial, collector or local street, subject to sight triangle visibility requirements. In non-industrial zones other than residential, a wall or fence of not more than six feet (6') feet in height may be erected in any front yard, subject to sight triangle visibility requirements. A wall or fence of not more than eight feet (8') in height may be erected in any other rear yard. A wall or fence of not more than six feet (6') in height may be erected in any non-street side yard. Where walls and fences are located in conformance with setback requirements for principal buildings, they shall conform to the height limitations for principal buildings for the zone in which they are located.

**(3) Height in Residential zones** In residential zones, a wall or fence of not more than three feet (3') in height may be erected in any front yard, except as otherwise required by Article 17 or Article 21 of these regulations. A wall or fence of not more than six feet (6') in height may be erected within any interior side yard. A wall or fence of not more than eight feet (8') in height may be erected or maintained within any interior rear yard or rear yard adjoining an alley. A wall or fence of not more than four feet (4') in height may be erected or maintained in any rear or side yard adjoining an arterial, collector or local street, unless a variance is granted by the Owensboro Metropolitan Board of Adjustment. On lots with more than one street frontage, the front yard shall be determined as along the street designated by the property address. Where corner residential lots are back to back and oriented so that rear yards abut, fences and walls within street side yards may be increased to a maximum of six feet (6') and fences and walls within street rear yards may be increased to eight feet (8'). Where corner residential lots are back to back and oriented so that rear and side yards abut, the four foot (4') maximum fence height in street side and rear yards shall apply. Where walls and fences are located in conformance with setback requirements for principal buildings, they shall

conform to the height limitations for principal buildings for the zone in which they are located. In yards whose grade is higher than the adjoining street grade, fence or wall height may be measured from the main grade of the yard.

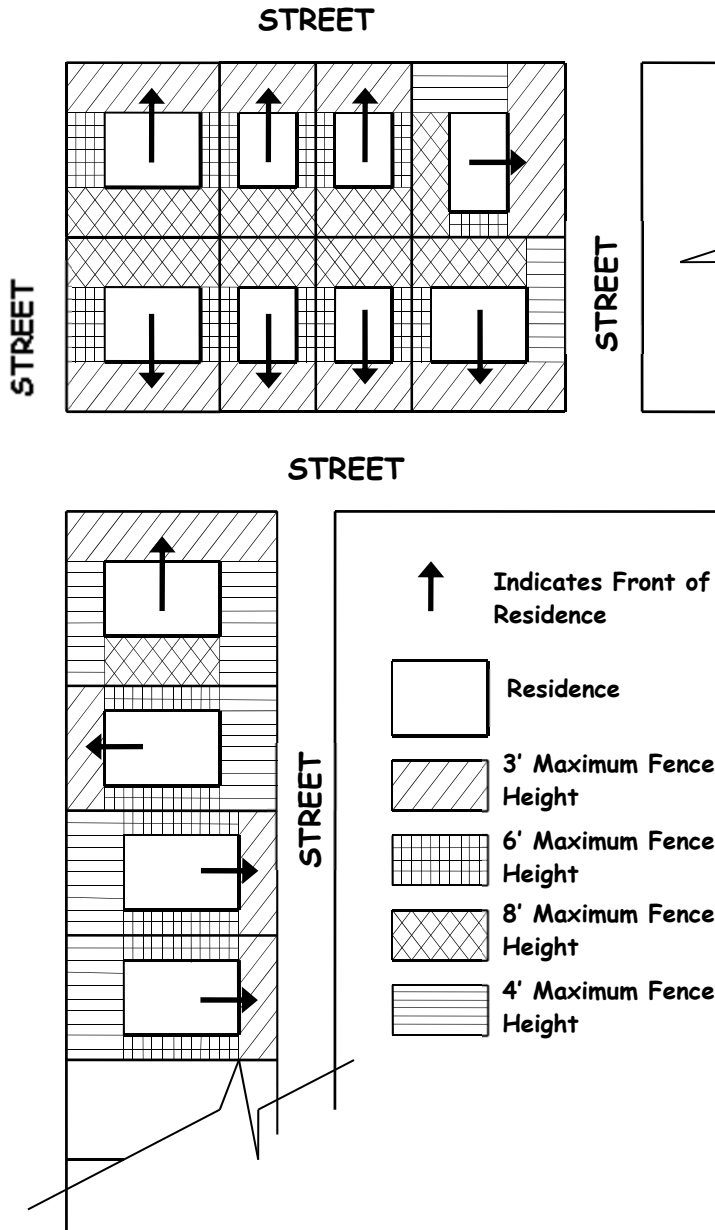
**(4) Prohibited in Residential and MHP zones.**

- (a) Barbed Wire.** Barbed wire on walls and fences shall be prohibited in residential or MHP zones, but shall be permitted in all other zones. Barbed wire may be installed upon walls or fences that are accessory to legally nonconforming commercial or industrial uses in any zone. Barbed wire along any boundary adjoining residential or MHP zones shall be at least six feet (6') above ground level. Fences in the Downtown Overlay District shall conform to provisions in Article 21.
- (b) Electrical Fences.** Electrical fences shall be prohibited in residential or MHP zones. Electrical fences shall also be prohibited in the Downtown Overlay district.

**(5) Required Landscape Buffers.** Article 17 of this Zoning Ordinance may impose additional requirements or limitations on walls and fences erected to satisfy perimeter landscaping requirements. In yards adjoining arterial, expressway, or major collector streets, private walled structures shall not be erected within parking and landscaping setbacks (roadway buffers) required by Section 13.622.



**3-7g (3) ILLUSTRATED- Walls and Fence Heights in Residential Zones**



storm water through yards, even if no formal easements exist for storm water runoff.

**3-7(h) Satellite Dish Antennas.** Satellite dish antennas that are accessory to principal buildings or land uses on a lot shall conform to the setback and height requirements applicable to enclosed accessory buildings; except that in business and industrial zones, satellite dish antennas may also be located in required yards adjoining streets, where no portion of such antenna shall be located closer than twenty-five feet (25') to an adjoining lot in any residential zone. In any zone, accessory satellite dish antennas may be ground- or roof-mounted and shall comply with applicable structural requirements of the local building code. Satellite dish antennas that are mounted on towers and/or are owned by public utilities shall comply with provisions of this Zoning Ordinance regulating communication towers.

**3-7(i) Signs.** Signs shall comply with the provisions of Articles 8 , 9 , and 21 of this Zoning Ordinance.

**3-7(j) Vehicular Use Areas.** Parking areas and other vehicular use areas and their accessory features shall comply with the provisions of Articles 8, 13 , 17, and 21 of this Zoning Ordinance.

**3-7(k) Permitted into any Required Yard.** Chimneys may extend a maximum of twenty-four inches (24") into any required yard, provided they are located a minimum of three feet (3') from all lot lines.

**3-7(l) Other Accessory Structures and Features.** Accessory structures or features not specifically named above in this section may be required to comply with the stated requirements for similar, specifically named accessory structures or features.

**3-8 VEHICULAR ACCESS TO LOTS.** Refer to Article 13 of this Zoning Ordinance.

**6) Public Utility Easements.** Walls and fences shall not be erected within or encroach upon a public utility easement, unless otherwise specifically permitted pursuant to Article 5 of this Zoning Ordinance. Walls and fences shall not obstruct the natural flow of surface