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**CHAPTER 1151
RESIDENTIAL AND INSTITUTIONAL STANDARDS
AND CONDITIONS**

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SECTION 1151.01 APPLICABILITY.

This Chapter provides standards and conditions that apply to residential, institutional, and public recreational uses in all zoning districts; accessory uses in residential districts; fences, walls and hedges in residential districts; and exceptions to lot area and yard requirements in residential districts. In addition all developments in the City of Kettering, excluding single family developments, shall be evaluated by the Zoning Administrator for compliance with Section 1154.01, Site Planning Guidelines. The Plant Material section of the Environmental Standards Manual shall be used to review all landscaping treatments required in this Chapter.

SECTION 1151.02 VILLAGE HOUSE.

Village House: A Village House is a single family residence which is fully detached from neighboring structures, and is located on a lot in an R-2, R-3 or R-4 district and which does not meet the minimum lot size and yard setback for the district in which it is located.

A village house when permitted as a conditional use is subject to the following conditions and standards.

- A. The yards of village houses that front on streets shall be landscaped with one of the following treatments:
 - 1. Not less than twenty (20) flowering or evergreen shrubs, or
 - 2. Not less than ten (10) flowering or evergreen shrubs, twenty (20) hedge plants and two (2) deciduous trees or evergreen trees.

- B. In addition to the above required landscaping, at least one (1) of the following treatments shall be required in the front yard of a village house:
 - 1. A porch which is roofed but not enclosed and extends across at least three-fourths (3/4) of the front of the house and is no more than six (6) feet in depth.
 - 2. A front yard raised above the grade of the sidewalk by at least twenty-four (24) inches, and four (4) flowering or evergreen shrubs along each street face.
 - 3. An ornamental fence or wall between twenty-four (24) and thirty-six (36) inches in height, and five (5) flowering shrubs or evergreen shrubs per street face.
 - 4. Two (2) deciduous trees and three (3) evergreen or deciduous trees, or six (6) evergreen or deciduous trees.
 - 5. A hedge consisting of shrubs planted on eighteen (18) inch centers and two (2) deciduous or evergreen trees.
 - 6. A berm or raised area averaging eighteen (18) inches above the average grade of the rest of the yard and covering forty percent (40%) of such yard, with four (4) deciduous or evergreen trees and six (6) flowering or evergreen shrubs.

- C. The following table and text specify the minimum standards for a village house.

	<u>Without Garage</u>	<u>With Attached One-Car Garage</u>	<u>With Attached Two Car Garage</u>
Minimum Lot Area =	4,000 sq. ft.	4,600 sq. ft.	5,000 sq. ft.
Minimum Lot Width =	40 ft.	50 ft.	60 ft.
Minimum Yards			
Front =	18 ft.	18 ft.	18 ft.
Side =	4 ft. or 10% of the lot width, whichever is greater	4 ft. or 10% of the lot width, whichever is greater	4 ft. or 10% of the lot width, whichever is greater
Street Side =	9 ft.	9 ft.	9 ft.
Rear =	20 ft.	20 ft.	20 ft.

SECTION 1151.03 LOT-LINE HOUSE.

Lot Line House: A lot line house is a single family, fully detached residence located on an individual lot which is constructed contiguously to one side lot line. A lot-line house when permitted as a conditional use shall be subject to the following conditions and standards.

- A. The adjoining residential property adjoining the side of the lot with zero side yard shall have a yard at least equal to the minimum required side yard for the district in which it is located.
- B. The applicant shall obtain from the adjoining property owner a permanent open space easement over the full length and width of the adjoining side yard as required above for use as a maintenance easement. This easement shall be shown on the plat and incorporated into each deed transferring the property.
- C. Except for one (1) zero side yard, all other yards shall meet the minimum requirements of the district in which the lot is located.
- D. The wall of the dwelling located on the lot line shall have no windows, doors, air conditioning units, or any other types of openings.

- E. The roof of a Lot Line House shall be designed so that runoff from the dwelling shall not be directed to any adjoining lot.
- F. The roof of a Lot Line House shall be designed so that any windowed dormer or skylight shall not face the zero lot line.
- G. The following specifies the minimum standards for a lot line house.

Minimum Lot Area	=	5,000 sq. ft.
Minimum Lot Width	=	50 ft.
Minimum Yards		
Front	=	20 ft.
Rear	=	24 ft.
Side	=	10 ft. or 20 % of the lot width, whichever is greater

SECTION 1151.04 HIGH-RISE APARTMENT DEVELOPMENT.

High rise apartment: Any multi-family structure in excess of the height regulations and unit limitations contained in any other chapter of this Zoning Code, provided, however, that no such high rise apartment shall be higher than one hundred thirty-two (132) feet. All high rise apartments shall conform to the Kettering Building Codes.

High rise apartment when provided for as a permitted use shall comply with the following conditions and standards:

- A. The height limitation of one hundred thirty-two (132) feet shall not apply to elevator or stairway penthouses, water tanks, mechanical equipment and recreational rooms which are the exclusive use of the occupants of the building. Such additional construction above the height limitation shall not exceed twenty-seven (27) feet, nor shall such construction occupy more than one-third (1/3) of the building roof area.
- B. The owner or any person having a beneficial interest in a single tract of land or the agent of the owner or of any person having a beneficial interest in a single tract of land situated in any R-3 or R-4 District and containing not less than two (2) acres, exclusive of dedicated streets, on which tract a high rise apartment development is proposed, shall submit to the Planning Commission for review a preliminary plan for the use and development of such tract for a high rise apartment project.

The applicant shall furnish with the application the following:

1. A topographic map showing the original grading and the proposed grading;
 2. A detailed and dimension plot plan showing proposed building, landscaping and off-street parking;
 3. A rendering of the proposed project;
 4. A drainage plan;
 5. A utility plan showing the location of utilities and the capacity of the utilities to service the needs of the proposed high rise apartment; and
 6. Such other information as may reasonably required by the Planning Commission for the consideration of the matter.
- C. The following regulations shall apply to a high rise apartment project:
1. The plan shall be consistent with this Zoning Code.
 2. The development of the tract according to the plan will not result in interference with the peaceful occupancy of adjacent or nearby properties as a result of generation of traffic beyond the capacity of the available road system, drainage beyond the capacity of the available sanitary and storm water drainage systems, artificial lights which will glare on adjacent properties, or the increase of the noise level which will interfere with the quiet enjoyment of the adjacent properties. It is prima facie evidence that noise violates this requirement if it exceeds the standards contained in Section 1154.02 (B).
 3. There shall be provided one and one-half (1 1/2) off-street parking spaces for each dwelling unit, notwithstanding any other requirements of this Chapter, provided, however, that at least one (1) off-street parking space for each dwelling unit is located in a garage situated under the main building or in a garage, the roof of which is terraced or landscaped. Open automobile parking areas, driveways and service entrances shall not be located closer than thirty (30) feet to any adjoining lot in an R District. Any such parking area, driveway or service entrance shall be screened from any adjoining property in a R District, except for necessary entrances and exits, by a finished masonry wall, six (6) feet in height. However, the Planning Commission, with the approval of Council, shall have the power to modify the screening requirements of this subsection to provide adequate screening for the protection of adjacent properties.

4. On any high rise apartment tract there shall be a minimum of one thousand (1,000) square feet of lot area per dwelling unit proposed.
5. The total ground area occupied or covered by all buildings shall not exceed thirty-five (35) percent of the area of lot, parcels or contiguous assemblage of parcels of land on which such buildings are to be located, nor shall the gross floor area of all buildings exceed three (3) times the area of the land on which it is to be located. The area of a garage or accessory building having less than twenty-five (25) percent of the area of the walls, excluding entrances and exits, above grade, on which the roof is landscaped, terraced or paved for parking, shall not be included in the calculation of the percentage of tract coverage. The front yard shall be a minimum of thirty-five (35) feet. Each side yard and the rear yard shall be a minimum of fifty (50) percent of the height of the building or a minimum of fifty (50) feet, whichever is greater.
6. No dwelling unit in a high rise apartment building in the City shall contain less than the following minimum areas:

<u>Number of Bedrooms</u>	<u>Square Feet</u>
0	Not permitted
1	675
2	900
3	1,300
5	1,700

7. The area of all units shall be the totally enclosed space within the unit of the structure with dimensions measured from the outside face of all outside walls to the center line of all walls separating the unit from adjoining units or from public corridors. Building area and garages or accessory building area shall be measured from the outside face of all walls.
 8. All sites shall abut and have access from an arterial street.
- D. The Planning Commission shall conduct a hearing in the same manner as it does for a zone change application as set forth in Section 1175.09(E) and make a recommendation to City Council. The Council shall conduct a hearing in the same manner as required for a zone change and make a legislative determination of whether or not to approve the preliminary plan.
- E. After the proposed high-rise apartment use and preliminary development plan for it have been approved by the City Council, the applicant may submit an application for approval of the final development plan to the Planning

Commission. The Planning Commission shall approve the final development plan provided that the plan is consistent with the preliminary plan approved by City Council. If the applicant fails to submit the final development within twelve (12) months of the approval of the preliminary development plan, the approval of the preliminary development plan shall automatically expire.

- F. Council shall hold a public hearing on the development plan. Thereafter, Council may approve the plan, may reject the plan or may grant approval on the condition that the plan be modified according to specific terms and conditions enumerated by Council in accordance with the public health, safety and general welfare and the planning policies as reflected in this Zoning Code. Council approval shall be by ordinance. If the Council gives a conditional approval, the developer shall then be required to submit a revised final development plan to Council for approval within sixty (60) days of the action by Council which modified plan shall be deemed to be finally approved unless Council rejects it within thirty (30) days after it has been submitted to Council. If a plan is approved, Council, by ordinance, shall authorize the Zoning Administrator to issue a zoning certificate to permit the proposed high rise apartment project to be developed in conformity with the final plan as approved by Council.
- G. After the final development plan has been approved by Council, no adjustments or rearrangements of buildings, parking areas, drives, entrances, or yards shall be permitted without prior approval by the Planning Commission.
- H. Any person filing an application for review of a high rise apartment, whether existing or proposed, in conformance with this Section shall upon making application pay a filing fee, as established by the City of Kettering. Said fee shall include the cost of reviewing the plans, public notice and all other costs incurred therein to determine conformance with Part Eleven of the Codified Ordinances.

SECTION 1151.05 FAMILY CARE AND GROUP CARE HOMES.

Family care and group care homes when permitted as conditional uses are subject to the following conditions and standards.

- A. Purpose

This section regulates residential care facilities for individuals who are unable to live in their own home or with their family, are unsuited for foster home placement, or when foster home placement is unavailable, and who are not in need of institutional care or treatment.

B. Definitions

1. Family Care Home is a residential facility which provides room and board, and personal care and supervision for eight (8) or fewer resident mentally retarded, developmentally disabled, physically handicapped; convalescing mentally ill and who have not been previously convicted of a felony involving violence, or persons over 60 years of age who are able to be integrated into a familial setting and who do not require institutional care or treatment. This category is licensed by or has accountability to a governmental agency for the clientele served. This category does not include nursing homes or hospitals as defined in Chapter 1133 Definitions, or homes for foster children.
2. Group Care Home is a residential facility which provides resident services to more than eight (8) individuals who are mentally retarded, developmentally disabled, physically handicapped, over 60 years of age, or any number of individuals who are convalescing, mentally ill or undergoing rehabilitation or treatment and are provided services to meet their individual needs and who have not been previously convicted of a felony involving violence. This category is licensed by or has accountability to a governmental agency for the clientele served. This category does not include nursing homes or hospitals as defined in Chapter 1133 or foster children, or facilities which administer treatment as their primary function to in-patients, out-patients or on a day care basis.
3. Accountability: A governmental agency is legally responsible for the welfare of the clientele of a family or group care home and as such can exercise control over the operator of such facilities in order to insure that the provisions of this Section are being met and that adequate operational and occupancy standards are being maintained.

C. Permitted Uses

Family and Group Care Homes, as defined above, shall be permitted only as Conditional Uses in the following Zoning Districts:

1. Family Care Homes - RE(a), RE(b), R-1, R-2, R-3 and R-4 Districts; and
2. Groups Care Homes - R-3 and R-4 District.

D. Application Requirements

The applicant for a conditional use permit to operate a family or group care home shall submit the following information in written form:

1. Information explaining the need for the facility, the clientele to be served, and the financial resources that will be used to operate the facility.
2. Identification of similar facilities presently located in the area, including the names of individuals who may be contacted in regard to the operation of such facilities.
3. Identification of community facilities and social services that will be used by the clientele of the family or group care home, including an indication from the administrator of such facilities and services that the clientele of the family or group care home can be accommodated.
4. All required licenses or evidence of ability to obtain such licenses. Prior to the issuance of a final certificate of occupancy, the applicant shall provide evidence that a valid license has been issued or is obtainable for the proposed conditional use on the subject property. When a license is not required of the applicant by a governmental agency, a written affidavit shall be presented as part of the application by the governmental agency to which that applicant has accountability stating that a license is not required. The affidavit shall further state and describe the procedures that have been established in lieu of licensing to insure that the provisions of this Section are carried out and the types of controls that the governmental agency can exercise in this regard.
5. A copy of the operational and occupancy standards that will be used in the facility.
6. Site plans, drawings or illustrations, showing the location of all structures, floor plans, exterior elevations, off-street parking, ingress and egress, landscaping and screening areas, recreation and open space facilities. Such plans and drawings shall include evidence that the proposed use of the site will be compatible with the present physical character of the neighborhood and will not disrupt the neighborhood from the standpoint of noise, lights, congestion or traffic generation.
7. A detailed plan of services and programs to be offered the clientele of the facility, including the nature of care to be provided and the types of services to be offered, and the individuals or agencies who will be responsible for administering such care and services.

8. Evidence of accountability; i.e., that a government or agency is legally responsible for the welfare of the clientele of a family or group care home, and as such, can exercise control over the operator of such facility in order to insure that the provisions of this section are being met and that required operational and occupancy standards are being maintained.

E. Facility Requirements

1. The facility shall meet the minimum lot area, width and yard requirements for a single-family detached residential use in the district in which it is located.
2. Every room occupied for sleeping purposes within the home shall contain a minimum of eighty (80) square feet of habitable floor area for one occupant, and when occupied by more than one individual, shall contain at least sixty (60) square feet of habitable floor area for each occupant. No such facility shall use living rooms, dining rooms, entry ways, closets, corridors, outside porches or cellars as sleeping rooms.
3. The family or group care home shall provide not less than twenty-five (25) square feet per person of suitable indoor recreation area and not less than seventy-five (75) square feet of outdoor recreation open space per person, exclusive of required front and side yard and parking areas, consolidated in a useful configuration and location provided on the site.
4. No exterior alterations of the structure shall be made which depart from the residential character of the building. All new structures shall be compatible in residential design with the surrounding neighborhood, as determined by the Board of Zoning Appeals.
5. All exterior lighting fixtures shall be shaded wherever necessary to avoid casting direct light upon any adjoining property located in a residential district.
6. Off-street parking shall be provided on a one-to-one ratio to the number of autos operated out of the facility.
7. No family or group care home shall be located within a one-quarter (1/4) mile radius of another family or group care home facility in a given neighborhood.

8. Unless modified by this section, the facility shall comply with all other applicable laws, regulations, codes and ordinances prior to the issuance of an occupancy permit.

F. Findings of the Board of Zoning Appeals

In its review of each proposed family care or group care home, the Board of Zoning Appeals shall make a finding as to whether or not:

1. The home is in fact a facility licensed by or with accountability to a governmental agency and that sufficient controls can be exercised to insure continued compliance to the provisions of this Section.
2. The home is in fact a needed facility.
3. The home will be designed, adapted, constructed, operated and maintained so as to be harmonious with the existing or officially planned uses of the general vicinity and that such use will not change the essential character of the neighborhood and that the facility will not reduce real estate values in its vicinity.
4. The home will not be hazardous or disturbing to existing or officially planned future neighborhood uses from the standpoint of noise, lights, congestion, or traffic generation which would be incompatible with the neighborhood environment.
5. The home will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer and schools.
6. The home will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on public streets.
7. The facility will promote the public health, safety or general welfare of the community.

In its findings, the Board of Zoning Appeals may grant conditional use approval or one-year temporary conditional use approval which shall be reviewed at the end of one year and may be made permanent thereafter. The Board shall make written findings.

G. Report to the Board of Zoning Appeals

Prior to the Board of Zoning Appeals hearing on the proposed facility, a written report shall be required from the Zoning Administrator in regard to each item stated in the above subsections.

SECTION 1151.06 CEMETERIES.

Cemeteries when permitted as a conditional use are subject to the following conditions.

A. Location

Cemeteries shall be permitted only if they are adjoining or an extension of existing cemeteries and if they have access to an arterial street.

B. Setbacks

All structures are to be located no closer than twenty-five (25) feet from any property line.

SECTION 1151.07 COMMUNITY AND RECREATION CENTERS, LIBRARIES AND MUSEUMS, PLACES OF WORSHIP, PUBLIC OFFICES AND BUILDINGS.

Community and recreation centers, libraries and museums, places of worship, public offices and buildings when permitted as conditional uses shall be subject to the following conditions and standards.

A. They shall have a minimum lot area of one (1) acre, except for public police or fire services, for which there shall be no minimum lot area.

B. All structures and active outdoor recreation uses shall be set back a minimum of fifty (50) feet from any residential property, however, any outdoor recreation area with night lighting shall be set back one hundred (100) feet from any residential property.

C. Such uses may not be conducted as a private gainful business.

D. All sites shall abut and have access only from an arterial or collector street.

SECTION 1151.08 DAY-CARE CENTERS.

Day-care centers are permitted as accessory uses to institutions and are permitted as conditional principle uses in residential districts.

Child day-care centers shall be subject to the following conditions and standards.

A. Definitions

1. Child Day Care Center is any place in which child day-care is provided, with or without compensation, for 13 or more children at any one time; or any place that is not the permanent residence of the licensee or administrator in which child day-care is provided, with or without compensation for 7 to 12 children at any one time. In counting children for the purposes of this definition, any children under 6 years of age who are related to a licensee, administrator, or employee and who are on the premises shall be counted.
2. Adult Day Care Center - RESERVED

B. Facility Requirements

1. Child day-care centers for seven (7) or more children shall have a minimum lot area of seventy-five hundred (7,500) square feet, or five hundred (500) square feet per child, whichever is greater.
2. There shall be provided a minimum of one hundred (100) square feet of fenced outdoor play area per child for the maximum number of children as determined by the standards contained in Section 1151.08A.
3. Required Access, Loading and Unloading
 - a. An on-site drop-off area shall be provided sufficient to accommodate four (4) automobiles for facilities with twenty (20) or fewer children plus one (1) additional vehicle drop off area shall be provided for each additional ten (10) children served.
 - b. All sites shall adjoin and have access only from an arterial or collector street.
4. All outdoor play areas shall be enclosed by a six (6) foot high wall, solid wood fence, or chain link fence planted with a continuous evergreen screening.

5. Use of outdoor play areas shall be limited to between the hours of 8:00 a.m. and 8:00 p.m.
6. When the child day-care center is the principle use, the exterior appearance shall be similar to that of the eight (8) most proximate residential structures on the same street in regard to height, bulk, width, set back, landscaping, and off-street parking visible from the street.

SECTION 1151.09 EDUCATIONAL INSTITUTIONS

Educational institutions, when permitted as conditional uses, shall be subject to the following conditions and standards.

- A. Each elementary school shall have a minimum lot area of two (2) acres.
- B. Each junior high and high school shall have a minimum lot area of five (5) acres.
- C. Each college or university, when established as the principle permitted use, shall have a minimum lot area of ten (10) acres.
- D. Each educational institution shall have access only from an arterial or collector street.

SECTION 1151.10 NURSING HOMES.

Nursing homes, when permitted as conditional uses, shall be subject to the following conditions and standards.

- A. All nursing homes shall have a minimum lot area of one (1) acre.
- B. All structures shall be located at least forty (40) feet from any adjoining residential property.
- C. All sites shall abut and have access only from an arterial or collector street.

SECTION 1151.11 HOSPITALS.

Hospitals when permitted as conditional uses shall be subject to the following conditions and standards.

- A. Hospitals shall have a minimum site size of ten (10) acres or fifteen hundred (1,500) square feet per bed, whichever is greater.
- B. No building shall be located closer than one hundred fifty (150) feet to any adjoining residential property and no open vehicular use area shall be closer than fifty (50) feet to any adjoining residential property.
- C. Any open vehicular use area closer than one hundred fifty (150) feet to any adjoining residential property shall be screened on each side adjoining residential property by a finished masonry wall six (6) feet in height.
- D. All sites shall abut and have access only from an arterial or collector street.
- E. The owner or agent of the owner of any tract of land of ten (10) acres or more in any residential district may submit to the Board of Zoning Appeals an application to approve a plan for the use and development of such tract of land for a hospital or the expansion of an existing facility. The applicant shall furnish a site plan, elevations, landscaping plan, and a study of the impact of the proposal upon traffic in the vicinity and such other information as may reasonably be requested by the Board of Zoning Appeals for the purpose of fairly evaluating the plan. The Planning Commission shall prepare a written report of recommendations to the Board of Zoning Appeals.
- F. After receipt of the recommendation from the Planning Commission, the Board of Zoning Appeals shall schedule the hearing in accordance with the provisions of this ordinance for conditional uses (Section 1175.12) and may authorize a zoning certificate to be issued, even though the buildings do not conform in all respects to the height regulations contained in other chapters of this Zoning Code, if any of the reasons for granting of variances set forth in Section 1175.11 are present, or if in the judgment of the Board of Zoning Appeals, the increase in medical facilities to be provided by the plan will substantially advance the level of health care in the City of Kettering and thereby promote the public health, safety and general welfare.

SECTION 1151.12 MEMBERSHIP RECREATIONAL CLUBS.

Membership recreational clubs, when permitted as conditional uses, shall be subject to the following conditions and standards.

- A. All membership recreational clubs shall have a minimum lot area of one (1) acre.

- B. Membership recreational clubs shall be used only for the enjoyment of members and their families and guests of members of the association or club under whose ownership or jurisdiction the facility is operated.
- C. All structures and active outdoor recreation areas shall be set back a minimum of fifty (50) feet from any residential property; however, any outdoor recreation use with night lighting shall be set back one hundred (100) feet from any adjoining residential property.
- D. Accessory facilities such as snack bars, restaurants and bars may be permitted only if they occupy integral parts of a main structure, and there is no display of goods or advertising visible, off the premises.
- E. Loud speakers, juke boxes, public address systems and electric amplifiers shall be permitted in outdoor pool or recreation areas only if their use is solely for the members of the facility and does not create a public nuisance for nearby persons or properties.
- F. The entire outdoor pool area, including the area used by bathers, shall be walled or fenced with a security fence or wall at least six (6) feet in height and maintained in good condition to prevent uncontrolled access by children.
- G. Exterior lighting shall be shaded whenever necessary to avoid casting direct light upon any adjacent property or upon any adjacent public street.
- H. Access to a membership sports or recreation club shall be only from an arterial or collector street.

SECTION 1151.13 PUBLIC OUTDOOR RECREATIONAL FACILITIES

Public outdoor recreational facilities when permitted as conditional uses shall be subject to the following conditions and standards.

- A. No building, playing field or active outdoor recreation area shall be located closer than fifty (50) feet to any residential property, except if an outdoor recreation area is lit at night, such area shall be set back at least one hundred (100) feet from any residential property.
- B. When any public outdoor recreation use or parking area is located less than one hundred fifty feet (150) feet from any residential property, a continuous planting screen not less than six (6) feet in height shall be provided.

SECTION 1151.14 EXCEPTIONS TO LOT AREA AND YARD REQUIREMENTS.

The lot area and yard requirements contained in each residential district classification shall be modified as follows:

A. Front Yard Exceptions and Modifications.

1. In any Residential District, if more than fifty percent (50%) of the lots are developed in a block face, then the minimum front yard setback distance for any lot in that same block face shall be the average of the actual front yard setback distance of the two lots abutting (one on each side) the lot on which there is proposed to be constructed a structure or an addition to any structure ("Proposed Construction Lot"). In no event, however, shall the minimum front yard setback of any lot in any Residential District be less than twenty (20) feet.
 - a. For the purposes of this item 1, above, of this Subsection A, the following shall apply:
 - i. The actual front yard setback distance shall be the distance between the front property line and the closest foundation line of any building on the lot, or any projection thereof, excluding any foundation of or projection by any building part or portion in compliance with Subsection C of this same Section.
 - ii. In the event no building is constructed upon an abutting lot, the actual front yard setback shall be the minimum front yard setback distance required by this Zoning Code for lots in the same zoning district as the Proposed Construction Lot and not subject to these exception and modification provisions.
 - iii. In the event there is only one lot abutting the Proposed Construction Lot, then the minimum front yard setback for the Proposed Construction Lot shall be the average of the actual front yard setback distance of the one lot that does abut the Proposed Construction Lot and the minimum front yard setback distance required by this Zoning Code for lots in the same zoning district

as the Proposed Construction Lot and not subject to these exception and modification provisions.

- iv. A developed lot shall mean a lot upon which a structure or building has been constructed.
 - v. 'Block face' shall mean that part of a block in which the lots are contiguous and are not interrupted by the intersection of a street.
2. All lots in a residential district fronting on an arterial street shall have a front yard depth of not less than thirty-five (35) feet measured from the existing street right-of-way line.

B. Rear Yard and Side Yard Exceptions and Modifications.

1. If the rear yard of a corner lot adjoins the side lot line of another lot in a residential district, the street side yard of the corner lot shall have a width of not less than fifty percent (50%) of the minimum required front yard of such adjoining lot.

If the rear yard of a corner lot adjoins the rear lot line of another lot in a residential district, the street side yard of the corner lot need only meet the minimum required side yard for the district in which it is located.

2. In computing the depth of a rear yard which adjoins an alley, it shall be permissible to include one-half (1/2) of the width of that alley as a portion of the required rear or side yard.
3. Buildings having frontage on two (2) non-intersecting public streets shall use the procedure set forth in Subsection (A) above to determine the average rear yard requirement, but in no case shall the rear yard of a double frontage lot be less than the minimum required front yard setback on such street frontage.

C. Projections Into Required Yards.

1. Front yards and street side yards shall be permitted to have the following intrusions or overhangs:
 - a. Bay windows, balconies, chimneys, cornices, canopies, eaves, gutters and other architectural features may project a distance not to exceed two (2) feet, six (6) inches.

- b. Front porches and uncovered stairs and landings may project a distance not to exceed eight (8) feet into a front yard or four (4) feet into a street side yard, provided that, unless such porch, stair or landing is open on three (3) sides except for railings or banisters or walls not greater than three (3) feet in height, the aggregate width of such projections shall not exceed one-third (1/3) of the length of the wall upon which they are located.
2. Interior side yards and rear yards shall be permitted to have the following listed intrusions or overhangs.
 - a. Covered porches, patios and carports and uncovered patios, decks and terraces are permitted to be located within three (3) feet of the rear lot line or interior side lot line. If located closer than eight (8) feet to a lot line, such structures, or parts thereof, shall be screened by an evergreen hedge or self-supporting fence not less than four (4) feet in height.

SECTION 1151.15 PERMITTED ACCESSORY USES AND STRUCTURES.

- A. The following accessory uses and structures are permitted in each residential district:
 1. Carports subject to the provisions of Section 1151.14(C)(2) Interior Side Yards and Rear Yards, and private garages.
 2. A structure for storage incidental to a permitted use subject to the provisions of Section 1151.15B.
 3. A guest house or rooms for guests in an accessory building, provided such facilities are not used as rental units or for permanent occupancy. A guest house or rooms is also subject to the provisions of Section 1151.15B.
 4. The off-street parking of a recreational vehicle, boat or boat-trailer, pickup camper or coach, motorized dwelling, or tent trailer as regulated in Section 1173.03, Off-Street Parking Standards.
 5. A private swimming pool, exclusive of pools less than one-and-one-half (1 1/2) feet in depth and portable swimming pools with a diameter less than twelve (12) feet or with an area of less than one hundred (100) square feet, shall be allowed in any residential district, subject to the following conditions and requirements:

- a. The pool is solely for use of the occupants and guests of the principal structure of the property on which it is located.
 - b. The pool may not be located closer than ten (10) feet to any property lines, measured from the water line. Accessory buildings shall maintain the minimum side yard required.
 - c. The swimming pool, or the entire rear yard of the property on which it is located, shall be walled or fenced to prevent uncontrolled access by children from the street or from adjoining properties. Said fence or wall shall be six (6) feet in height and maintained in good condition with a gate and lock.
6. Tennis courts and other similar playing courts may be located in any rear yard within three (3) feet of any property line. Such courts may be fenced with a chain link fence up to ten (10) feet in height located around the perimeter of the court, however, any fence over six (6) feet in height shall be located a minimum of ten (10) feet from any lot line and shall be planted with shrubs in sufficient quantities to screen and filter the view of the fence from neighboring properties.
7. Any other use determined by the Zoning Administrator to be customarily incidental, related or subordinate to the residential use and similar in character to those uses outlined above.
8. Satellite earth stations and dish antennae are permitted subject to the following conditions:
 - a. No outdoor dish antenna shall be constructed in any front or side yard but may be constructed to the rear of the residence.
 - b. No outdoor dish antenna including its concrete base slab or other structure shall be constructed less than eight (8) feet from any property line or easement.
 - c. No outdoor dish antenna shall be placed on the roof of any structure on a residential lot.
 - d. No part of any outdoor dish antenna shall exceed a height of fifteen (15) feet from the ground or be higher than the principal building, whichever is less.
 - e. No dish antenna shall be constructed without appropriate evergreen landscaping, berming or fencing to reasonably conceal the dish antenna from view of occupants of neighboring

property or users of streets. The Screening Section of the Environmental Standards Manual shall be used to review all landscaping berming or fencing treatments required by this Section.

- f. No dish of an outdoor dish antenna shall exceed twelve (12) feet in diameter.
- g. All outdoor dish antennae shall be designed to withstand a wind force of seventy-five (75) miles per hour without the use of supporting guy wires.
- h. All structural supports for outdoor dish antennae shall be constructed of a corrosion resistant material.
- i. In order to promote electrical safety, the following regulations apply to dish antennae:
 - 1. No dish antenna shall be located beneath or in proximity to any electrical power lines in such a manner as to create a safety hazard.
 - 2. Each outdoor dish antenna shall be connected to an approved grounding rod which is permanently positioned in the earth to serve as an electrical conductor through which electrical current may safely pass and dissipate.
 - 3. Wiring between an outdoor dish antenna and a building shall be placed underground.

9. Home Occupations

Home occupations are permitted subject to the following conditions.

- a. There shall be no exterior evidence of the conduct of the home occupation.
- b. The home occupation shall be clearly incidental and subordinate to the home's use for residential purposes, and not more than twenty-five percent (25%) of the total floor area of the principal structure shall be used in the conduct of the home occupation.
- c. No accessory structure may be used for the activity involved in the home occupation.

- d. Only members of a family residing on the premises where the home occupation transpires may work in the home occupation.
- e. The conduct of a home occupation shall not reduce or render unusable areas provided for required off-street parking for the dwelling unit.
- f. Traffic generated by a home occupation shall not exceed on any continual basis the average vehicle trip ends normally expected for a residence in a residential neighborhood. The City of Kettering Environmental Standards Manual shall be used to establish average vehicle trip ends for a residential property.

10. Convents and Rectories.

Convents and rectories are permitted subject to the following conditions.

a. Minimum Floor Area

Every room occupied for sleeping purposes within the facility shall contain a minimum of eighty (80) square feet of habitable floor area for one occupant and when occupied by more than one individual shall contain at least sixty (60) square feet of habitable floor area for each occupant. No such facility shall use living rooms, dining rooms, entry ways, closets, corridors, outside porches or cellars as sleeping rooms.

b. Minimum Lot Area. Width and Yard Requirements

The facility shall meet the minimum lot area, width and yard requirements for a single-family detached residential use in the district in which it is located.

c. Exterior Appearance

The exterior appearance shall be similar to that of the eight (8) most proximate residential structures on the same street in regard to height, bulk, width, set back, landscaping, and off-street parking visible from the street. No exterior sign shall be displayed, but one religious symbol or emblem may be displayed on the exterior of the structure or in the front yard of the structure.

11. Day Care Centers are permitted as an accessory use to institutions as regulated by 1151.08.

12. The Keeping of Non-Human Creatures

- a. The only animals, fish, fowl, amphibians, insects, reptiles or other non-human creatures that may be raised, bred or intentionally kept on any lot in a residential district are those referred to in subparagraph b, c and d below.
- b. Dogs, cats and other household pets, as defined in Chapter 1133, Definitions, may be kept or fed on a premises provided such creatures satisfy the following conditions:
 1. They are not maintained for any commercial purpose.
 2. They may not be maintained in such numbers to constitute a kennel as defined in Chapter 1133, Definitions.
- c. Horses or ponies may be kept on a premises subject to the provisions of Section 1151.15 A. 13 - Private Stables.
- d. Beekeeping may occur on a premises subject to the provisions of Section 1151.15 A. 14 - Beekeeping.

13. Private Stables

A private stable is permitted as an accessory use to a principal residential building subject to the following conditions.

- a. Each stable, grazing area, cage or holding pen used to contain any horse or pony shall be located a minimum distance of two hundred (200) feet from any adjacent residential lot.
- b. Each private stable, including cages, holding pens, and grazing areas shall be located on a property with a minimum lot size of five (5) acres.
- c. The number of horses or ponies on a given premises shall not exceed the maximum number of such animals that can be adequately cared for in a safe and sanitary manner without unreasonable adverse impact upon the enjoyment or value of any adjacent residential lot, as determined by the Zoning Administrator.

14. Beekeeping

The keeping of honeybees in residential areas is permitted under the following conditions:

- a. The lot must have a minimum size of 7,500 square feet. Three hives may be located on any such lot; and additional hives may be added at the rate of one (1) per 5,000 square feet of lot area over the 7,500 square foot minimum.
 - b. Hives shall not be located within twenty-five (25) feet of any property line subject to the following exceptions: they may be as close as ten (10) feet from any property line when the hive is situated eight (8) feet or more from adjacent ground level or is situated less than six (6) feet above adjacent ground level and behind a solid fence or hedge six (6) feet in height, parallel to any property line within twenty-five (25) feet of the hive and extending at least twenty (20) feet beyond the hive in both directions.
 - c. A colony of bees means one or more hives on a particular lot. All colonies must be registered with the Montgomery County Agricultural Extension Agent.
 - d. The maintenance of each colony shall meet the following conditions:
 - (1) Colonies shall be maintained in movable frame hives.
 - (2) Adequate space shall be maintained in the hive to prevent overcrowding and swarming;
 - (3) Colonies shall be requeened following any swarming or aggressive behavior.
15. Antennas and Equipment on Existing Structures related to a Telephone Communication System solely as an accessory use to a conditional use located in a residential zoning district, subject to the standards in 1167.17 E.

B. Standards for Accessory Uses and Structures

1. An accessory building may be erected detached from the principal building, however, no detached accessory building shall be erected in

- any required yard except a rear yard, nor occupy more than thirty-five (35) percent of the area of the required rear yard.
2. A detached accessory building shall not exceed fifteen (15) feet in height or the height of the principle structure, whichever is less.
 3. A detached accessory building shall be at least six (6) feet from any dwelling situated on the same lot.
 4. A detached accessory building not integrally joined to another accessory building shall be located at least six (6) feet from such other accessory structure.
 5. A detached accessory building shall be at least three (3) feet from all lot lines.
 6. On a corner lot adjoining in the rear or the side lot line of a lot in an R District, any accessory building or part thereof within twenty-five (25) feet of the common lot line shall not be closer to the side street lot line than the least depth of the front yard required on such other lot fronting the side street. In no case shall any part of such accessory building be closer to the side street lot line than the least width of the side yard required for the principal building to which it is accessory.
 7. Any accessory building, if not located in the rear yard, shall be an integral part of or connected with the principal building to which it is accessory, and shall be so placed as to meet all yard requirements for a principal building of the same heights and other dimensions as such accessory building.
 8. No accessory use or structure in any residential district, except an off-street parking area subject to the provisions of Section 1173.03 off street Parking Standards, shall be permitted nearer to any front lot line than sixty (60) feet, unless such use or structure is contained within or constitutes an integral part of the principal building. However, if the owner of a corner lot, with approval of the Zoning Administrator, designates the long street lot line as the front lot line, then the requirement of this section shall apply to establish the permitted distance or an accessory building from only the shorter street lot line.

SECTION 1151.16 FENCES, RETAINING WALLS AND SECURITY DEVICES.

A. Fences and retaining walls are permitted as an accessory use in any residential district subject to the following conditions:

1. No fence may be located in any front yard or closer to the side lot line adjoining a street than the minimum required width for such street side yard unless all the following regulations are met.
 - a. A fence shall not exceed four (4) feet above the adjoining ground at any point of measurement.
 - b. Such fence shall not be closer than three (3) feet to any right-of-way line, or fifteen (15) feet from the curb or edge of pavement, whichever establishes the greatest setback from the centerline of the street.
 - c. Such fence shall be constructed of wood, wrought iron or steel, brick, stone or similar materials. Chain link or wire fences are not permitted.
 - d. Such fence shall meet all visibility requirements as outlined in Section 1173.11, Clear View Required at Intersection.
 - e. All structural supports of any fence as permitted in this subsection shall be erected with such supports on the inside of the area to be enclosed.
 - f. Any fence as permitted in this subsection shall be so constructed as to provide a ratio of solid portion to open portion not to exceed one and three quarters to one (1-3/4:1), the proportion of solid area to open area to be determined by viewing the fence from either side, not from the top.
2. A fence may be located in any rear or interior side yard, provided that
 - a. Except for as provided elsewhere in this subsection, the height of the fence shall not exceed six (6) feet above the adjoining ground at any point of measurement.
 - b. A fence not to exceed ten (10) feet above the adjoining ground at any point of measurement may be permitted surrounding tennis courts in any rear yard, provided the provisions of Section 1151.15(A)(6), Tennis Courts, are met.
 - c. A fence not to exceed eight (8) feet above the adjoining ground at any point of measurement may be permitted along any rear or interior side yard lot line that is a common property line with a property used as a Retail Commercial and Service Use, Road Service and Commercial Entertainment Use, Light Industrial Use or Heavy Industrial, Transportation and Utility Use as those terms are defined in Section 1173.04 (collectively these uses are referred to herein as "Commercial

Uses"). The use of the adjacent property, rather than the zoning district, shall govern as to whether this section shall apply, regardless of the property's jurisdiction. The fence up to eight (8) feet tall may also extend along rear or side lot lines which intersect the lot line in common with the Commercial Use a linear distance of not more than 16 feet from the intersection with the common lot line. No portion of any fence over six feet and not over eight shall be closer to a street right-of-way than the minimum building setback. When the permit is taken out, the color of the fence facing the Commercial Use shall be subject to the review and approval of the Zoning Administrator. All fences over six feet tall along the boundary of a common Commercial Use shall be of a consistent color. The specific color will be muted.

- d. All structural supports of any fence shall be erected with such supports on the inside of the area to be enclosed, except as permitted in the following cases:
 - i. A fence visible from a public right-of-way which is designed with a finished appearance on one side shall be oriented so that the finished side faces such right-of-way.
 - ii. A fence that adjoins the side or rear lot line of another lot may be erected with such supports on the outside of the area to be enclosed if the owners of the said adjoining lot or lots, has provided a signed and notarized letter attesting to their approval of this situation.
3. No barbed wire, other sharp-pointed material or electrically charged material shall be used in the construction of a fence.
4. Any portion of a retaining wall projecting more than one (1) foot above the surface of the ground supported by such wall shall be subject to the applicable requirements in this section regulating fences.

B. Security Devices. Security bars, security shutters, rolling overhead shutters or grilles, or chain link fencing covering doors and windows are prohibited on the exterior of any structure within any Residential District. This regulation does not prohibit the use of decorative screen doors or window coverings which appropriately complement the design of the building.

SECTION 1151.17 SUBSTITUTION OF STANDARDS AND CONDITIONS.

The Zoning Administrator may permit a waiver of standards or conditions in this Chapter upon a showing by an applicant that the standard or condition will cause an undue

hardship on the applicant and that an alternative arrangement is available and feasible whereby the hardship can be relieved while providing the same or greater level of protection imposed by the original standard or condition.

SECTION 1151.18 TEMPORARY USES

The Zoning Administrator may, upon proper application, issue a Temporary Use Permit for any of the temporary uses included in Section 1167.20 Temporary Uses. Such uses may be located on residentially zoned properties provided all other provisions of this Zoning Code are met.

Legislative history: Ord. 3508-91; passed 8/27/91. Ord. 3558-92; passed 7/28/92. Ord. 3717-96; passed July 23, 1996. Ord. 3779-98; passed 5/12/98. Ord. 3868-01; passed 4/10/01.