

ORDINANCE NO. 113 - 2022

AN ORDINANCE AMENDING ARTICLES 1-11, 3-6, 8-1(n), 8-2(n), 8-3(n), 8-4(n), 8-5(n), 8-6(n), 8-7(n), 8-8(n), 8-9(n), 8-10(b)(6), 8-10(n), 8-11(b)(4), 8-11(n), 8-12(n), 8-12(o), 8-13(n), 8-14(b)(4), 8-14(n), 8-15(n), 8-15(o)(2), 8-16(n), 8-16(o)(2), 8-17(n), 8-18(n), 8-19(n), 8-20(n), 8-21(n), 8-21(o)(4)(h), 8-23(n), 8-24(n), 9-6(f), 10-9(c), 11-7(c), 16, 18, 21-4(c), 23A-4(g), 23A-5(b)(5), 23A-5(i), 23A-6(j), 23A-7(j), 23A-8(j), 23A-9(j), 23A-10(b)(14)(s), 23A-10(i), 23A-10(j)(3), 28-3(g) and (h), 28-4(g) and (h), 28-5(g) and (h), AND 28-6(d) OF THE ZONING ORDINANCE TO CONSOLIDATE ALL PARKING REGULATIONS TO ARTICLE 16 OF THE ZONING ORDINANCE, INCORPORATE PARKING DESIGN STANDARDS, ELIMINATE MINIMUM PARKING REQUIREMENTS, AS WELL AS TO INCREASE TREE CANOPY AND VEHICULAR USE AREA SCREENING REQUIREMENTS FOR PARKING LOTS. (URBAN COUNTY PLANNING COMMISSION).

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WHEREAS, the Lexington-Fayette Urban County Planning Commission considered and adopted text amendments to Articles 1-11, 3-6, 8-1(n), 8-2(n), 8-3(n), 8-4(n), 8-5(n), 8-6(n), 8-7(n), 8-8(n), 8-9(n), 8-10(b)(6), 8-10(n), 8-11(b)(4), 8-11(n), 8-12(n), 8-12(o)(12), 8-13(n), 8-14(b)(4), 8-14(n), 8-15(n), 8-15(o)(2), 8-16(n), 8-16(o)(2), 8-17(n), 8-18(n), 8-19(n), 8-20(n), 8-21(n), 8-21(o)(4)(h), 8-21(o)(5)(i), 8-22(n), 8-23(n), 8-24(n), 9-6(f), 10-9(c), 11-7(c), 16, 18, 21-4(c), 23A-4(g), 23A-5(b)(5), 23A-5(i), 23A-6(j), 23A-7(j), 23A-8(j), 23A-9(j), 23A-10(b)(14)(s), 23A-10(i), 23A-10(j)(3), 28-3(g) and (h), 28-4(g) and (h), 28-5(g) and (h), AND 28-6(d) of the Zoning Ordinance to consolidate all parking regulations to Article 16 of the Zoning Ordinance, incorporate parking design standards, eliminate minimum parking requirements, as well as to increase tree canopy and vehicular use area screening requirements for parking lots. The Planning Commission did recommend approval of the staff alternative text by a vote of 8-0; and

WHEREAS, this Council agrees with the recommendation of the Planning Commission; and,

WHEREAS, the recommendation of the Planning Commission is attached hereto and incorporated by reference herein;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 – That Article 1-11 of the Lexington-Fayette Urban County Government Zoning Ordinance is hereby amended as follows:

**Sec. 1-11. Definitions.**

*Driveway*, FOR RESIDENTIAL – A private paved vehicular access extending on the shortest reasonable path through the front yard or side street side yard to the off-street parking area.

Section 2 – That Article 3-6 of the Lexington-Fayette Urban County Government

Zoning Ordinance is hereby amended as follows:

**Sec. 3-6. Mixed-income housing bonuses.**

Units that are designated as Mixed-Income Housing Units in order to receive either additional density, or additional floor area shall be restricted by the developer exclusively to mixed-income housing for a minimum period of five (5) years. Further, such units shall be identified separately in the Certificate of Land Use Restriction filed for the development where the units are located; and such units shall be subject to a deed restriction in favor of the Lexington-Fayette Urban County Government, which shall restrict the use of the property and shall establish monitoring procedures to ensure that the units remain affordable during the period. Affordable housing units within the defined Expansion Area shall be subject to Article 23A-2(w).

Section 3 – That Articles 8-1(n), 8-2(n), 8-3(n), 8-4(n), 8-5(n), 8-6(n), 8-7(n), 8-8(n), 8-9(n), 8-10(n), 8-11(n), 8-12(n), 8-13(n), 8-14(n), 8-15(n), 8-16(n), 8-17(n), 8-18(n), 8-19(n), 8-20(n), 8-21(n), 8-22(n), 8-23(n), 8-24(n), 23A-4(g), 23A-5(i), 23A-6(j), 23A-7(j), 23A-8(j), 23A-9(j), 23A-10(i), 28-3(g), 28-4(g) and 28-5(g) of the Lexington-Fayette-

Urban County Government Zoning Ordinance are hereby amended as follows:

*Off-Street Parking.* (See Article 16 and 18 for additional parking regulations.)

No minimum requirements.

Conditional Uses: The Board of Adjustment may establish additional requirements, as needed.

Section 4 – That Articles 8-10(b)(6), 8-11(b)(4), 8-14(b)(4), 23A-5(b)(5), and 23A-

10(b)(14)(s) of the Lexington-Fayette Urban County Government Zoning Ordinance are

hereby amended as follows:

Shared parking court, as regulated by Article 16-5(b)(4), where depicted on a certified development plan.

Section 5 - That Article 8-12(o)(12) of the Lexington-Fayette Urban County

Government Zoning Ordinance is deleted.

Section 6 – That Article 8-16(o) of the Lexington-Fayette Urban County

Government Zoning ordinance is hereby amended as follows:

(o) *Special Provisions.*

1. No building to be used principally as a single use or establishment shall exceed 40,000 square feet in floor area unless approved by the Planning Commission prior to December 10, 2013 for at least 40,000 square feet in size. No such structure may exceed 60,000 square feet in size, in any event.
2. A form-based neighborhood business project may be approved by the Planning Commission on any site over one (1) acre in size. For any such project, a final development plan shall be approved by the Planning

Commission prior to issuance of any building permit. The lot, yard, height and setback requirements will be those established by the Commission on the approved development plan, rather than those stated above. In addition to the development plan, an applicant seeking approval of a form-based neighborhood business project shall be required to submit an area character and context study prepared by an architect or urban design professional.

The study will document the architectural and urban design character of the area. It shall demonstrate, through the use of renderings, elevations and similar graphic materials, how the proposed project will enhance and complement the area's character. It will also show its integration with the surrounding neighborhood by using positive design features, such as supplemental landscaping; provision of public space and open space buffers; and improved pedestrian accommodations. These drawings shall be made a part of the Commission's approval, and building permits shall comply with the approved drawings. A form-based neighborhood business project shall not be subject to the square footage limitation of 8-16(o)(1) above.

Section 7 – That Articles 8-21(o)(4)(h) and 8-21(o)(5)(i) of the Lexington Fayette

Urban County Government Zoning ordinance are hereby amended as follows:

**Parking:**

1. For any site that is located on a transit route, there shall be a maximum of four (4) surface parking spaces per one thousand (1,000) commercial square feet.
2. For any site that is not located on a transit route, there shall be a maximum of five (5) surface parking spaces per one thousand (1,000) commercial square feet.
3. Structure parking shall not count toward any maximum parking requirement.

Section 8 – That Article 9-6(f) of the Lexington-Fayette Urban County Government

Zoning Ordinance is hereby amended as follows:

- (f) *Parking Area.* As for the zone in which it is located (See Article 16 and 18 for additional parking regulations).

Section 9 – That Article 10-9(c) of the Lexington-Fayette Urban County

Government Zoning ordinance is hereby amended as follows:

- (c) *Required Parking.* No minimum requirements.

Parking spaces may be located within the access road or driveway, provided that the portion thereof to be used exclusively for such parking is improved in accordance with the requirements of the Division of Engineering. The minimum width of an access road or driveway on which parking is permitted shall be twenty-nine (29) feet for one-side parking and thirty-eight (38) feet for both-side parking.

**Conditional Uses:** The Board of Adjustment may establish additional requirements as needed

Section 10 – That Article 11-7(c) of the Lexington-Fayette Urban County

Government Zoning ordinance is hereby amended as follows:

- (c) *Parking.* No minimum requirements. (See Article 16 and 18 for additional parking regulations)
  - Conditional Uses: The Board of Adjustment may establish additional requirements as needed.

Section 11 – That Article 16 of the Lexington-Fayette Urban County Government

Zoning ordinance is hereby amended as follows:

## **Article 16 GENERAL REGULATIONS FOR VEHICULAR USE AREAS**

### **Sec. 16-1. INTENT.**

The intent of this article is to allow development that provides the off-street parking, loading, and circulation facilities needed to meet demands created by occupants, employees, visitors, customers, and patrons, and to improve local traffic patterns. The standards in this section ensure that all provided off-street parking and vehicular use areas allow for safe and equitable access to developments for all users, including drivers, pedestrians, transit-riders, and cyclists.

The standards are intended to implement policies that support new development and the revitalization of mixed-use urban areas that encourages pedestrian-oriented development, reduces excessive paved surface areas, and promotes environmental sustainability.

### **Sec. 16-2. General regulations for parking and loading and pedestrian areas.**

- (a) *Parking or Loading Spaces Established Prior to Adoption or Amendment of this Zoning Ordinance.* Any parking or loading spaces established prior to the adoption or amendment of this Zoning Ordinance shall be governed by any certified Development Plan or approved site plan, as acted upon by the Planning Commission or Board of Adjustment.

- (b) *Permit Requirement.* Permits are required for private walkways, parking, loading or unloading areas. Such permits shall not be issued until the applicant has met the design standards jointly promulgated by the Division of Traffic Engineering and the Division of Building Inspection, the storm drainage requirements of the Division of Engineering, and all other requirements of the Zoning Ordinance.

### **Sec. 16-3. Minimum design and maintenance requirements for parking areas.**

Every parcel of land hereafter used as a parking area shall be designed and maintained in accordance with the following requirements:

- (a) Off-street parking areas shall be of useable shape and surface, and shall have convenient ingress and egress. Not less than seventy-five percent (75%) of the total provided parking spaces shall be designed for use by full-size vehicles. Up to twenty-five percent (25%) of the provided parking may be designed and designated for compact vehicles. Aisles and access drives shall be designed so as to provide adequate vehicular maneuvering wholly upon the property being served; and in no case shall off-street parking areas be permitted that encourage or require the backing onto, or maneuvering within, the right-of-way of any public or private street.
- (b) Any lighting used to illuminate off-street parking areas shall be arranged so as to reflect away from any adjoining residential zone or uses and any public or private right-of-way. Free-standing lighting shall be no taller than twelve (12) feet in height.
- (c) Any off-street parking area having more than one thousand, eight hundred (1,800) square feet of area and/or used by five (5) or more vehicles shall be landscaped and screened as required by Article 18, Landscape and Land Use Buffers.

- (d) A "sight triangle" shall be observed at all street intersections or intersections of driveways with streets as required in Article 18, Landscape and Land Use Buffers and Section 3-3 of this Zoning Ordinance.
- (e) All parking areas shall be paved and drained so as to dispose of all surface water within the parking area without carrying said water accumulation over a public sidewalk. Piping the water to a suitable outfall may be required.
- (f) The parking area and driveway shall be paved with concrete, asphalt, brick, grass pavers, or other suitable hard surface materials as approved by the Division of Building Inspection.
  - Loose aggregate or other type of gravel is prohibited, except:
    - (i.) for agricultural land uses,
    - (ii.) as approved by the Board of Architectural Review for the purpose of historic preservation, or
    - (iii.) when approved by the Urban County Forester for the purpose of tree protection.
- (g) Permanent stormwater management, in compliance with the stormwater manuals and accepted by the Division of Engineering, shall be provided for all off-street parking areas containing five (5) or more parking spaces and/or more than one thousand, eight hundred (1,800) square feet. For off-street parking areas of one thousand, eight hundred (1,800) square feet or less, or less than five (5) parking spaces, permanent stormwater retention may be required by the Division of Engineering upon the determination that the lack of such retention would cause or aggravate flooding or other drainage problems on surrounding property.

**Sec. 16-4. Professional Office, or Business (except B-2B) Zone automobile parking area as a conditional use in R-3, R-4 or R-5 zone.**

The establishment and operation of a restricted accessory parking area may be authorized by the Board of Adjustment as a conditional use in such parts of any Planned Neighborhood Residential (R-3) Zone, High Density Apartment (R-4) Zone or High Rise Apartment (R-5) Zone as abut, either directly or across an alley, a Professional Office or Business (except B-2B) Zone or any conforming or non-conforming commercial use in a particular residential zone, subject to the following conditions and requirements:

- (a) The parking area shall be accessory to a use and for that use in conjunction with one (1) or more permitted uses located on an adjoining Professional Office or business (except B-2B) zone, or in connection with one (1) or more existing conforming or non-conforming commercial uses on adjoining premises.
- (b) Such parking shall be situated on premises not less than five thousand (5,000) square feet in area which shall abut at least fifty (50) feet, either directly or across an alley, on a Professional Office or business (except B-2B) zone, or on the premises of the existing conforming or non-conforming commercial use to which the parking area is accessory.
- (c) Each entrance and exit to and from such parking area shall be at least twenty (20) feet distant from any adjacent lot line located in any residential zone.
- (d) The parking area shall be subject to all requirements of this Zoning Ordinance concerning surfacing, lighting, landscaping, screening, and minimum yards and setbacks.
- (e) Any permit issued by the Division of Planning for such parking area may be revoked any time that the aforementioned requirements are not complied with; and any permittee who uses the premises in violation of any of the conditions

specified above, or attached as conditions to such permit by the Board of Adjustment, shall be deemed in violation of this Zoning Ordinance.

**Sec. 16-5. Parking, loading and unloading areas in residential zones.**

- (a) For all single-family detached dwelling units, no space shall be located within any required front yard or side street side yard area.
  - (1) Any private walkway shall be designed in such a way that a vehicle cannot drive on it so as to permit the area to be used as a parking space or vehicular use area. No private walkways shall be built in the street right-of-way without approval of an encroachment permit.
  - (2) The setback from the side and rear lot line shall be two (2) feet for paved areas and driveways.
  - (3) Paving within a required front yard or side street side yard shall be limited to private walkways and residential driveways as defined and regulated herein.
  - (4) Driveway Width – Allowable driveway width shall be based on the lot frontage, regardless of the width of the provided off-street parking area.
    - a. Outside the infill and redevelopment area, where lot frontage is forty (40) feet or more, the maximum driveway width shall be twenty-four (24) feet.
    - b. Inside the infill and redevelopment area, driveway width shall not exceed ten (10) feet.
    - c. Where existing lot frontage is less than forty (40) feet, driveway width shall not exceed ten (10) feet. A driveway width may be widened to fifty (50%) percent of the lot frontage if an approved pervious surface is installed.
    - d. If the width of a garage exceeds the allowable driveway width, the driveway shall be allowed to flare to that width for a distance no less than eighteen (18) feet, beginning at a location no closer to the street than half (½) of the required front yard or side street side yard.
    - e. Shared driveways are allowed (and encouraged for lots with less than forty (40) feet of frontage), but may not exceed a total width of twenty (20) feet. (See Figure 2: Shared Driveways)
  - (5) The design of the parking areas and driveways shall be developed so as to discourage the backing of vehicles onto a public right-of-way.
  - (6) The parking area shall be landscaped and screened as required by Article 18 of this Zoning Ordinance.
  - (7) A permit shall be required for the construction of all parking areas and driveways that fall under the above regulations. The owner must provide the Division of Building Inspection with a plot plan showing the entire lot, the location of the residence, the layout of the parking areas and driveways and all proposed landscaping and screening required, as well as any other information necessary to clearly define the proposed construction as required by the Division of Building Inspection.
  - (8) Within the defined Infill and Redevelopment Area, the maximum number of parking spaces on the lot will be no more than two (2) parking spaces.
  - (9) The maximum amount of paved area, including private walkways, shall not exceed sixty percent (60%) of the total required front or side street side yard.
- (b) For all single family attached dwelling units and multi-family residential (six (6) or fewer dwelling units), driveways, parking areas, and private walkways shall be regulated in accordance with the regulations for single family detached above, except:
  - (1) Single-family attached units shall receive vehicle access only from the front or rear lot line exclusively, not both. End units with a side street side yard may receive vehicle access from that lot line in lieu of front or rear entry.
  - (2) Single-family attached units with vehicle access in the rear shall be served by an alley or public street.

(3) Single-family attached units with all front-loaded garages and driveways must be paired, except where a paired unit cannot be achieved.

(4) Where shared parking courts are provided, or a lot dedicated to providing shared off-street parking for single family attached dwelling units, shall meet the following standards:

- a. Shared parking courts shall be owned and maintained by a common ownership mechanism.
- b. Shared parking courts shall contain a maximum of twelve (12) parking spaces.
- c. Landscaping shall be in accordance with Article 18-3
- d. Parking courts shall be located to the rear or side of the single-family attached units.
  - i. Shared parking courts shall not be the principal use on a corner lot.
  - ii. Shared parking courts shall be adjacent to single-family attached units on at least two sides.
  - iii. When located in the same block frontage as other residential uses, no parking spaces shall be located within the required front yard for the zone.

(c) For multi-family residential (greater than six (6) dwelling units) and Group Residential Projects, driveways, parking areas, and private walkways shall be regulated as follows:

- (1) Vehicular use area (VUA) shall not be located between a principal structure and the street.
- (2) No portion of the front yard or side street side yard, exclusive of driveways or pedestrian walkways, shall be paved or surfaced; and all such front and side street side yards shall be enclosed by a barrier, or landscaped in such a manner, suitable to preclude any such activity as prohibited in this section.

**Sec. 16-6. Vehicular use area, pedestrian facilities, and loading and unloading areas permitted in non-residential and mixed-use zones**

(a.) Locational Standards for any P-1, B-1, B-3, B-5P, B-6P, CC, MU-1, MU-2 or MU-3, zones as well as any Supportive Uses in the ED zone:

- (1.) On a corner lot, vehicular use areas shall not be in the front yard.
- (2.) On all other lots a maximum of two (2) bays of surface parking with a single drive aisle, or a vehicular use area of up to sixty (60) feet in depth as measured perpendicular to the street, whichever is greater, shall be permitted between the building and the street, except otherwise prohibited by a maximum setback.

(3.) Connection Standards:

- a. Internal pedestrian walkways shall be required and meet the following standards:
  - i. A minimum of five (5) feet wide
  - ii. Extend from the vehicular access point to the building entrance(s).
  - iii. Directly connected to all adjacent rights-of-way.
- b. For projects with two or more buildings, internal vehicular and pedestrian walkways shall be provided between vehicular use areas.
- c. Primary internal drives shall connect to established internal drives on adjacent properties to create cross-access and thru connections.

(b.) Locational Standards for any B-2, B-2A, B-2B zone:

- (1.) There shall be no vehicular use areas located in the front yard or side street side yard.

(2.) Connection Standards:

- a. Internal pedestrian walkways shall be required and meet the following standards:
  - i. A minimum of five (5) feet wide
  - ii. Extend from the vehicular access point to the building entrance(s).
  - iii. Directly connected to all adjacent rights-of-way.
- b. For projects with two or more buildings, internal vehicular and pedestrian access shall be provided between vehicular use areas.
- c. Primary internal drives shall connect to established internal drives on adjacent properties to create cross-access and thru connections.

(c.) Locational Standards for any B-4, I-1, I-2, or ED zone:

(1.) There shall be a maximum of two (2) bays of surface parking with a single drive aisle, or a vehicular use area of up to one hundred twenty (120) feet in depth as measured perpendicular to the street, whichever is greater.

(2.) Connection Standards:

- a. Internal pedestrian walkways shall be required and meet the following standards:
  - i. A minimum of five (5) feet wide where there is no vehicular curb overhang. A minimum of seven (7) feet where there is vehicular curb overhang.
  - ii. Extend from the vehicular access point to the building entrance(s).
  - iii. Directly connected to all adjacent rights-of-way.
- b. For projects with two or more buildings, internal vehicular and pedestrian access shall be provided between vehicular use areas.
- c. Primary internal drives shall connect to established internal drives on adjacent properties to create cross-access and thru connections.

**Sec. 16-7. Parking, loading and unloading areas permitted in required front or side street side yard in zones other than residential zones.**

In any zone other than a residential zone, or an industrial zone adjoining an Agricultural Rural (A-R), Agricultural Buffer (A-B) or Agricultural Natural (A-N) zone across a public or private street right-of-way, off-street parking, loading or unloading areas may be permitted within the required front or side street side yard if there is sufficient depth between the street right-of-way line and the building line or other barrier to accommodate all parking and maneuvering without the necessity of backing over the street right-of-way line. All portions of front yards and side street side yards, including driveways, shall be enclosed by a barrier or landscaped in accordance with the landscaping requirements for vehicular use areas set forth in Article 18 of this Zoning Ordinance.

**Sec. 16-8. Special access, surface, and location requirements for garages, parking lots, automobile service stations, and vehicle sales lots.**

(a) *Required Distance Between Service Stations/Garages/Automobile Repair Shops/Automobile and Vehicle Refueling Stations and Residential Zones and/or Institutional Uses.* No building, structure or premises intended or designed to be used as a community garage; an automobile repair shop; a service station; an automobile and vehicle refueling station or a parking lot or structure, whether a principal or a conditional use on a property, shall be used, erected or altered, which has an entrance or exit for vehicles in the same block front and within two hundred (200) feet of the property boundary of any school; public playground; place of religious assembly; hospital; public library; convalescent home; nursing home or personal care facility or orphanage. No such entrance or exit, except for a community garage, shall be located within twenty (20) feet of any residential zone; nor shall any structure used for an automobile repair shop or service station, or any part of a parking lot or structure, be located within one hundred (100) feet of any property boundary line of any of the aforesaid public or institutional uses. The term



"parking lot," as used herein, does not include off-street parking areas for the public or institutional uses listed above.

- (b) *Required Distance Between Gasoline/Oil Dispensing Facilities and Residential Zones/Uses.* No gasoline pump, oil draining pit, or similar appliance for any purpose shall be located within fifteen (15) feet of any right-of-way line, or within fifty (50) feet of a residential zone, except where such a pump, pit or appliance is within a completely enclosed building and distant at least fifteen (15) feet from any vehicular entrance or exit of such building. Notwithstanding the above provision, no gasoline pump, oil draining pit, or similar appliance for any purpose shall be located within sixty-five (65) feet of a single-family residential zone or within sixty-five (65) feet of a single-family detached residential unit located in any residential zone. However, such 65-foot dimension shall not be applicable to the renovation, reconstruction, redevelopment, or construction of such a service station upon a tract used by such a facility within twelve (12) months prior to the application for a building permit. Except for gasoline service stations, no gasoline pump shall be permitted as an accessory use for another activity unless a site plan showing the following is submitted to, and approved by, the Division of Planning:
  - (1) A safe traffic flow pattern shall exist at all times for vehicles to be serviced with gas, including a safe entrance and exit to the service area, and a traffic flow lane not impeded by parked vehicles or other objects.
  - (2) A safe traffic pattern shall exist for pedestrians to insure that pedestrian flow for other purposes is not routed by the gasoline pumps, thereby exposing such pedestrians to unnecessary hazards.
  - (3) The gasoline pumps shall be operated only by employees of the activity; or if others are permitted to operate them, the facility must comply with Chapter 28 of the Kentucky Fire Prevention Code, specifically Section F-2803.8.2 and Section F-2803.8.3.
- (c) *Required Distances Between Automobile and Vehicle Refueling Stations Dispensing Compressed Natural Gas and/or Liquid Natural Gas and Other Uses.* In addition to the requirements of this section (above), no stationary dispensing equipment for compressed natural gas or liquid natural gas associated with an automobile and vehicle refueling station may be located within:
  - (1) Ten (10) feet of any sidewalk, walkway, parking lot or property line;
  - (2) Fifteen (15) feet of any electrical source or any overhead electric utility line;
  - (3) Fifty (50) feet of a right-of-way line, a building on another lot, or the nearest rail of any railroad line;
  - (4) Sixty-five (65) feet of a residential zone; and
  - (5) Not less than fifty (50) feet of a fire hydrant.
- (d) *Requirements for Vehicle Sales Lots.* Every parcel of land hereafter used as an automobile, truck, mobile home, boat, trailer, or camper sales lot, or as an automobile service station shall be subject to the requirements of this Zoning Ordinance concerning surfacing, lighting, landscaping and screening, and minimum yards and setbacks, and shall be considered, in the application thereof, as the equivalent of a parking area for more than five (5) vehicles, regardless of its size.
- (e) *Community Garages as Conditional Uses.* Community garages permitted as a conditional use in a R-3 and R-4 zone shall not be within eighty (80) feet of any right-of-way line or in a R-3 zone be within twenty-five (25) feet of any other lot line; or in a R-4 zone be within twenty (20) feet of any lot line, except the rear lot line of an adjoining Professional Office, Business or Industrial Zone.

**Sec. 16-9. Stacking area.**

For any use which utilizes a drive-in or drive-through window or service area, a vehicular stacking area shall be provided for a minimum of five (5) vehicles. Such vehicular stacking area shall not include any spaces located at the windows or service areas, shall be provided wholly on the property and shall not include any right-of-way. Where menu boards or other stopping points are utilized before moving to the window or service area, the vehicular stacking area shall not include the space at the stopping

point nor the spaces between that stopping point and the window or service area. The vehicular stacking area shall be subject to all yard, paving, landscaping and other requirements of a vehicular use area, as contained in Article 18.

**Sec. 16-10. Effect of pedestrian-oriented business district.**

For any such district created under Code of Ordinances Article 18, Chapter XIII, the provisions of the district will take precedence over any related provisions contained in the Zoning Ordinance.

**Sec. 16-11. Parking Structures.**

(a) *General Standards:*

- (1) Gated vehicular entrances shall be recessed from the front building plane fifteen (15) feet.
- (2) There shall be a delineated pedestrian access point(s) into the parking structure. Pedestrian walkways shall meet the following standards:
  - a. A minimum of five (5) feet wide.
  - b. Directly connected to all adjacent rights-of-way.
- (3) Transparent windows or openings shall be provided for a minimum of sixty (60%) percent of the ground level, except where residential uses are located.
- (4) Ground floor activation shall include one of the following along every street frontage:
  - a. Façade articulation that includes a change in exterior material type, style or finish such that materials vary for every eighty (80) feet of length or fraction thereof, or;
  - b. At least thirty (30%) percent of the ground floor façade includes commercial land uses or dwelling units, or;
  - c. An accessible useable open space of a minimum depth of twenty (20) feet along twenty (20%) percent of the ground floor. Open space includes plazas with seating, playgrounds, parks, porches, patios, or similarly programmed spaces. Landscaping not designed to be used by people are not included.

**Sec. 16-12. Bicycle Parking and Storage.**

- (a) Where vehicle parking is provided, bicycle parking facilities shall be provided and shall meet the following standards:
  - (1) Bicycle parking shall be provided at a rate of one (1) space for every ten (10) vehicular spaces or fraction thereof;
  - (2) Bicycle parking facilities shall be securely anchored;
  - (3) Short-term bicycle parking facilities shall be located within fifty (50) feet from the entrance;
  - (4) Long-term bicycle parking facilities shall be constructed with at least one of the following features:
    - a. A bicycle locker or similar structure manufactured for the purpose of securing and protecting a standard size bicycle, or;
    - b. A secured and dedicated bicycle parking area provided either inside the principal building on the lot, or in a building located elsewhere on the lot.

**Sec. 16-13. Loading and Unloading Areas.**

*Loading and Unloading Spaces Required.* In any zone, every non-residential building or part thereof, hereafter erected, with a floor area of ten thousand (10,000) square feet or more, there shall be provided and maintained on the same premises with such building at least one (1) off-street loading space plus one (1) additional off-street loading space for each twenty thousand (20,000) square feet or fraction thereof of floor area so used in excess of twenty thousand (20,000) square feet.

**Sec. 16-14. Parking Demand Mitigation Studies.**

All significant developments requiring a Zone Map Amendment shall submit a Parking Demand Mitigation Study. As used herein, the term "significant developments" shall mean any new construction in excess of five thousand (5,000) square feet of lot coverage. A study shall not be required for new construction of single family residential and multi-family residential with 6 or fewer dwelling units, or for any construction in the B-2, B-2A, B-2B and B-6P zones. The applicant shall have the responsibility of providing the study. The information from the study shall provide guidance to determine the necessary parking facilities. Those facilities shall be approved by the Planning Commission and reflected on the associated development plan per Article 21-6.

(a) The study shall be submitted to identify the necessary provision of vehicular and bicycle parking spaces based on the unique locational and end-user/tenant mix for the development. Such a study shall be prepared by a qualified professional well-suited to addressing the quantity of parking for the property, including a Professional Engineer, AICP Planner, CCIM Real Estate Professional, or substantially similar qualification. The Parking Demand Mitigation Study shall include:

- 1) Review of national best practices for parking calculations for the project, including the current ITE Manual Parking ranges or the ranges produced by the ITEParkGen Report.
  - 2) The anticipated parking demand for the project;
  - 3) How the anticipated parking demand will be satisfied on-site or off-site;
  - 4) The methods and strategies to be implemented in order to reduce vehicle trips by site users;
  - 5) The methods and strategies to be implemented in order to promote transportation options by site users; and
  - 6) The projected mode share by site users from the utilization of the Study's strategies.
- (b) Strategies for parking mitigation can include, but are not limited to, the following:
- 1) Shared or joint parking arrangements;
  - 2) Mixed-use developments that promotes live/work arrangements;
  - 3) Support for car-share and bike-share services and facilities;
  - 4) Dedicated areas for drop off/pick up areas along public right-of-way;
  - 5) Parking cash-out programs or unbundled parking/market rate pricing;
  - 6) Roadway improvements adjacent to the site that will help encourage transportation options;
  - 7) Parking management partnerships with LexPark.

Section 12 – That Article 18 of the Lexington-Fayette Urban County Government

Zoning Ordinance is hereby amended as follows:

**Article 18 LANDSCAPE AND LAND USE BUFFERS**

**Sec. 18-1. Intent.**

The intent of this Article is to improve the appearance of vehicular use areas (VUAs) and property abutting public rights-of-way; to require buffering between incompatible land uses; and to protect, preserve and promote the aesthetic appeal, character and value of the surrounding neighborhoods; to promote public health and safety through the reduction of noise pollution, air pollution, visual pollution, air temperature, and artificial light glare.

**Sec. 18-2. Sites affected.**

- (a) **New Sites.** No new site development, building, or structure shall hereafter be constructed or vehicular use area created or used unless landscaping is provided as required by the provisions of this Article.
- (b) **Existing Sites.** No building, structure, or vehicular use area (VUA) shall be expanded, moved, or removed and/or reconstructed unless the minimum landscaping required by the provision of this Article is provided for the property to the extent of its alteration or expansion, but not for the entire property.
- (c) **Change of Use.** No use shall be changed to another use for which the Zoning Ordinance requires additional parking over and above that required for the previous use, unless vehicular use area perimeter landscaping as required by this Article is provided for such additional parking. The provisions of this section shall be effective regardless of whether or not new construction is necessary to meet the parking requirements for the new uses. Where new construction will not be necessary to meet the parking requirements, such additional required parking shall be deemed to be on the perimeter for as much as possible of the existing vehicular use area. Where the previous use had no required parking, perimeter landscaping shall be provided for the entire vehicular use area serving the new use. Interior landscaping shall not be required where only the use of the property is changed and no new construction or reconstruction is proposed.
- (d) **Change of Zone.** No use of an existing building, structure, or vehicular use area shall be commenced subsequent to a change in zoning unless property perimeter landscaping as required herein has been provided.

**Sec. 18-3. Where landscape materials required.**

This section describes the minimum requirements that shall be met in regard to interior and perimeter landscaping for vehicular use areas, perimeter landscaping for incompatible land use areas, and landscaping for service areas.

- (a) **Perimeter Landscaping Requirements.** Unless otherwise provided, landscape materials shall be installed to provide a minimum of fifty percent (50%) winter opacity and a seventy percent (70%) summer opacity, between one (1) foot above finished grade level to the top of the required planting, hedge, fence, wall, or earth mound within four (4) years after installation. The required landscaping shall be provided along the property perimeter in designated landscape buffer areas (LBAs) as shown in the chart in Subsection (a)(1) of this section or adjacent to the vehicular use area as shown in the chart in Subsection (a)(2) of this section. A "Planting Manual" and a "Plant Materials List" shall be maintained by the Division of Planning and available in the offices of the Division of Environmental Services, to provide more detailed information on the acceptable plant material.

*(1) Property Perimeter Requirements.*

|    | A.                          | B.  | C.  | D.   |
|----|-----------------------------|---|---|--|
|    | When the following...       | Adjoins the following...                  | A minimum buffer area <sup>1</sup> of this average width (with three feet as the least dimension) is required. <sup>3 4</sup> | Which will contain this material, to achieve opacity required. <sup>5 8</sup>  |
| 1. | Any M-1P zone.              | Any property in any zone other than M-1P. | Ten feet adjacent to all common boundaries, including street frontage.  | One tree/40 feet of linear boundary, OFT <sup>2</sup> , from Group A, B, or C of Plant List plus continuous six feet high planting, hedge, fence, wall or earth mound. |
| 2. | Any office or business zone | Any residential zone.                     | 15 feet adjacent to all common  | One tree/40 feet of linear boundary, OFT,  |

|    |  |  |   |   |
|----|--|--|---|---|
|    | (except P-2).  |  | boundaries (located behind the building line) except street frontage <sup>7</sup> .   | from Group A or B only, plus, 1) a double row of six feet high hedge or 2) a six feet high fence, wall or earth mound.  |
| 3. | Any industrial or P-2 zone.  | Any residential, office, or business zone.   | 15 feet adjacent to all common boundaries except street frontage <sup>7,9</sup> .   | Same as 2D.   |
| 4. | Any double frontage lot (as defined by the Subdivision Regulations) in any zone except A-U, A-R, A-N and A-B unless the lot is used for a vehicular sales facility or a service station. | Any state maintained freeway or arterial street not providing direct access to the property. | 20 feet for residential zones and ten feet for all other zones adjacent to freeway or arterial.   | One tree/30 feet, OFT, Group A or B, plus continuous six (6) feet high planting, hedge, wall, fence (not to exceed eight feet in height at street grade) or earth mound. Such plantings are to be shown on a unified plan for the development.  |
| 5. | Any zone except agricultural and industrial zones.   | Railroads (except spur tracks and along sight triangles)                                     | Same as 6C, adjacent to railroad boundaries.  | Same as 2D.   |
| 6. | Utility substation, junk yards, landfills, sewage plants, sewage pump stations, transfer stations or similar uses.   | Any property boundary, including street rights-of-way.                                       | 15 feet adjacent to all boundaries, except only five feet for utility substations and sewage pump stations measured adjacent to the enclosure. <sup>7</sup> | Same as 2D.   |
| 7. | Any R-1T, R-3, R-4 or R-5 zone except when developed as buildings for single-family or two-family occupancy.   | Any R-1A, R-1B, R-1C, R-1D, or R-2 zone.   | Six feet adjacent to all common boundaries except street frontage.  | One tree/40 feet of linear boundary, OFT <sup>2</sup> , from Group A, B, or C of Plant List plus a continuous six feet high planting, hedge, fence, wall, or earth mound.   |
| 8. | Any business, office, or industrial zone.  | Any A-R zone.  | 15 feet adjacent to all common boundaries except street frontage.   | One tree/40 feet of linear boundary, OFT <sup>2</sup> , of native species from Group a of Plant List plus continuous six feet high planting or hedge or, 1) one evergreen tree/15 feet of linear boundary, OFT, planted 15 feet o.k.; or 2) one tree/20 feet of linear boundary, OFT, that is a combination of 50 percent deciduous, native species trees from Group A and 50 percent evergreen trees or small flowering trees. |

|     |  |  |   |  |
|-----|--|--|---|--|
| 9.  | Any residential, business, office, or industrial zone. | Urban Service Area boundary.                           | Five feet adjacent to all common boundaries except street frontage. <sup>6</sup>        | Same as 1D, except use only native tree species from Group A.  |
| 10. | Any cemetery use, whether private or public.           | Any property boundary, including street rights-of-way. | 50 feet adjacent to all boundaries, as shown on a development plan or subdivision plan. | One tree/40 feet of linear boundary, OFT, from Group A or one tree/30 feet from Group B, plus continuous six feet high planting, or hedge, in addition to a wall or fence a minimum of three feet in height. |

1. Grass or ground cover shall be planted on all portions of the landscape buffer area not occupied by other landscape material.
  2. OFT means "or fraction thereof." Unless otherwise specified, trees do not have to be equally spaced, but may be grouped.
  3. To determine required area of landscape buffer area, multiply required averaged width by length of common boundary. Using item 1C as an example, the ten-foot average required width times an assumed 100 feet of common boundary equals 1,000 square feet of required landscape area. Thus, if some sections of the landscape buffer area are only three feet in width, other sections will have to be greater than ten feet in width in order to attain the required one thousand (1,000) square feet of landscape area.
  4. Five feet shall be the least dimension for any P-1, B-1, B-2, B-2A, B-2B, B-3, B-4, I-1, or I-2 zone with three feet as the least dimension for any other zone.
  5. A continuous planting of evergreen trees 15 feet o.c. Shall be deemed to meet the requirements for trees and a continuous planting provided the trees meet the requirements of Section 18-4(c) and an opacity of 70 percent is achieved.
  6. No map amendment request, major subdivision plan, or development plan shall be approved by the Planning Commission except in compliance with this section. However, the Planning Commission shall not require such landscaping adjoining the Urban Service Area boundary where any of the following conditions exist: major railroad lines, major water bodies (not including streams or farm ponds), publicly owned parks or open space, public property with a low intensity of use, or existing urban development along the Urban Service Area boundary.
  7. The 15-foot Landscape Buffer Area (LBA) may be reduced to five feet when used in conjunction with a six-foot high wall or fence.
  8. In situations where a slope occurs along a boundary, the required landscaping shall be placed (in relation to the slope) where it will most effectively screen the more intensive use from the adjoining property.
  9. In conjunction with the required development plan in a P-2 zone, the Planning Commission may permit portions of required perimeter planting to be reallocated to areas interior to the site. This shall be permitted for areas where the Commission finds that such solid screening is not necessary or desirable to screen the P-2 uses from adjoining properties or right-of-way. For example, where such uses as open space areas, outdoor recreation areas, large open yards, and the like adjoin the abutting rights-of-way or adjoining properties, the Commission should consider utilizing the reallocation provision of this section.
- (2) Vehicular Use Area Perimeter:**
- (a)** A vehicular use area perimeter buffer shall be located between vehicular use areas containing 1,800 sq. ft. of area and/or used by five or more of any type of vehicle and any adjacent streets and adjacent properties excluding required sight clearances at driveways and ingress/egress locations. A vehicular use area perimeter buffer shall not be required when a vehicular use area is contiguous to a required property perimeter buffer and the screening intent of this Article is met.
  - (b)** Vehicular Use Area Perimeter Requirements shall be required as follows:
    - (1) The vehicular use area perimeter buffer shall be located along the perimeter of a vehicular use area and maintain a minimum average width of eight (8) feet, as measured from the outer edge of the vehicular use area. The buffer shall contain:
      - (i) A continuous hedge, fence, wall, or earthen mound, except

where trees require breaks.

(a) Hedges shall be composed of a double staggered row of evergreen shrubs, deciduous shrubs, and/or warm season grasses with a minimum planting height of 30 inches and planted three feet on-center.

(1) Up to 25 percent may be deciduous.

(2) Plant material other than groundcover shall be located at least three (3) feet from the back edge of the curb where cars overhang.

(b) Fences or walls shall be opaque and shall be a minimum of four (4) feet in height.

(ii) One (1) canopy tree (Group A or B) per twenty-five (25) linear feet of the total perimeter of the parking area.

(a.) Trees shall be located at least six (6) feet from the back edge of the curb where cars overhang.

(b.) In areas where overhead utilities prevent the use of canopy trees (Group A or B), understory trees (Group C) may be substituted.

(3) *Who Provides Landscape Buffer Area.* The landscape buffer area and material required adjacent to any vehicular use area under Subsection (a)(2) of this section shall be provided by the person in charge of or in control of the property whether as owner, lessee, tenant, occupant or otherwise (hereinafter referred to as "owner"), unless the authority building the street has fully met all requirements on the street right-of-way. When adjacent to other common boundaries, the landscape buffer area and materials:

(a) May be placed on either adjoining parcel, or astride the boundary, if both are owned and being processed by the same owner; or

(b) Shall be placed on the property with the vehicular use area when adjoining parcels have different owners; or

(c) May be placed astride the boundary of adjoining parcels having different owners if a written agreement, signed by both owners, is filed with the Division of Environmental Services as a public record; or

(d) Shall not be required along the common boundary if the requirements of this Article have been fully complied with on the adjoining property, in fulfillment of the requirements of this ordinance. A note indicating the maintenance of the shared boundary shall be included on the approved landscape plan.

(4) *Requirement Conflicts.* Whenever a parcel or activity falls under two (2) or more of the landscape requirements listed, the most stringent requirements will be enforced.

(5) *Landscape in Easements.* The required landscape buffer area may be combined with a utility or other easements as long as all of the landscape requirements can be fully met, otherwise, the landscape buffer area shall be provided in addition to, and separate from, any easement. Trees to be planted in utility easements containing overhead lines shall be only those specified in the Plant List. Cars or other objects shall not overhang or otherwise intrude upon the required landscape buffer area more than three (3) feet, and wheel stops or curbs will be required.

(6) *Street Trees in the Right-of-Way.* Trees required as a part of the vehicular use area perimeter landscaping may be placed on the right-of-way adjoining such vehicular use area when approved by the Division of Environmental Services. Where street trees required by the Subdivision Regulations have already been planted in the right-of-way, such trees may be substituted for an equal number of vehicular use area perimeter trees. Written permission from the authority having jurisdiction over the right-of-way shall be submitted by the developer prior to the approval of a landscape plan which utilizes the right-of-way for vehicular use area perimeter landscaping. The Division of Environmental Services shall permit the required vehicular use area perimeter trees to be located in the right-of-way only if there is sufficient area for such trees to grow to maturity.

- (7) *Existing Landscape Material.* Existing landscape material which is proposed to be used to fulfill landscape requirements shall be shown on the required plan, and any material in satisfactory condition may be used to satisfy these requirements in whole or in part when, in the opinion of the Division of Environmental Services such material meets the requirements and achieves the objectives of this Article. Existing healthy trees from Group "A" or "B" of the Plant List may be substituted for trees required for property or vehicular use area perimeter landscaping, or for interior landscaping by using the following criteria: a six-inch to twelve (12)-inch caliper tree surrounded by a minimum of one hundred fifty (150) square feet of landscape area may be substituted for two (2) new trees of the required minimum size; a twelve (12)-inch to twenty-four (24)-inch caliper tree surrounded by a minimum of two hundred fifty (250) square feet of landscape area may be substituted for three (3) new trees of the required minimum size; a twenty-four (24)-inch or greater caliper tree surrounded by a minimum of three hundred (300) square feet of landscape area may be substituted for four (4) new trees of the required minimum size.
- (8) *Landscaping at Driveway and Street Intersections.* To ensure that landscape materials do not constitute a driving hazard, a "sight triangle" will be observed at all street intersections or intersections of driveways with streets as required by Section 3-2 herein.
- (9) *Joint Driveways and Common Vehicular Use Areas.* Vehicular use area screening shall not be required between a vehicular use area and the adjoining property where a property line divides a driveway used for common access to two (2) or more properties nor when a final development plan for the properties has been approved by the Planning Commission.
- (b) *Interior Landscaping for Vehicular Use Areas.* Any open vehicular use area containing five thousand (5,000) or more square feet of area, or fifteen (15) or more vehicular parking spaces, shall provide interior landscaping in addition to the previously required perimeter landscaping. Interior landscaping shall be peninsular or island types. Where a vehicular use area is altered or expanded to increase the size to five thousand (5,000) or more square feet of area, or fifteen (15) or more vehicular parking spaces, interior landscaping for the entire vehicular use area shall be provided and not merely to the extent of its alteration or expansion.
- (1) *Minimum Interior Landscape Area.* The minimum interior landscape area shall be ten (10%) percent of the total vehicular use area, excluding loading, unloading, and storage areas in a Wholesale and Warehouse Business (B-4), Light Industrial (I-1), Heavy Industrial (I-2), or Economic Development (ED) zone.
- (2) *Minimum Interior Vehicular Use Area Tree Canopy.* Tree canopy equal to or exceeding thirty percent of the total vehicular use area shall be provided, including loading, unloading, and storage areas in a Wholesale and Warehouse Business (B-4), Light Industrial (I-1), Heavy Industrial (I-2), or Economic Development (ED) zone. In areas where overhead utilities prevent the use of canopy trees (Group A or B), understory trees (Group C) may be substituted. Mature trees shall have a clear trunk of at least eight (8) feet above the ground. Clustering is permitted within the interior landscape areas.
- (3) *Alternative Tree Locations for loading/unloading zones or storage areas in the Wholesale and Warehouse Business (B-4), Light Industrial (I-1), Heavy Industrial (I-2), or Economic Development (ED) zones --* where required tree canopy cannot be accommodated within the required vehicular use area interior landscape areas the remaining trees shall be planted elsewhere on the site.
- (4) *Location for Interior Landscape Areas*
- a. A maximum distance of ninety (90) feet between interior landscape areas.
- b. At the end of every row of parking there shall be an interior landscape area.



- c. Every other row of double-loaded parking requires a continuous interior landscape area.

(5) Interior Landscape Area without Trees

- a. Minimum Area - Seventy-two (72) square feet as measured from front of curb.
- b. Plant Material Required - Low shrubs, ground cover, herbaceous cover or native warm season grass to cover at least seventy-five (75%) percent at maturity.
- c. Vehicle Overhang – Plant material other than groundcover shall be located at least three (3) feet from the back edge of curb, where vehicles overhang.

(6) Interior Landscape Area with Trees

- a. Minimum Area – One Hundred and forty-four (144) square feet per tree as measured from front of curb.
- b. Minimum Top Soil Depth – Three (3) feet.
- c. Plant Material Required - At least one canopy tree from Group A or Group B; In areas where overhead utilities prevent the use of canopy trees (Group A or B), understory trees (Group C) may be substituted. Trees shall be under planted with low shrubs, ground cover, herbaceous cover or native warm season grass to cover at least 75% at maturity.
- d. Vehicle Overhang – Trees shall be located at least four (4) feet from the back edge of curb, where vehicles overhang.

(7) Landscaping for Service Structures. All service structures shall be fully screened except when located in an R-1, R-2, B-4, I-1 or I-2 zone or when located more than thirty-five (35) feet above the established grade. Service structures in the B-4, I-1 or I-2 zone shall be fully screened when located within one hundred (100) feet of any zone except B-4, I-1 or I-2. For the purpose of this Article, service structures shall include propane tanks, air-conditioning units and condensers, electrical transformers and other equipment or elements providing service to a building or a site.

- (a) *Location of Screening.* A continuous planting, hedge, fence, wall, or earth mound shall enclose any service structure on all sides unless such structure must be frequently moved, in which case screening on all but one (1) side is required. The average height of the screening material shall be one (1) foot more than the height of the enclosed structure, but shall not be required to exceed eight (8) feet in height. Whenever a service structure is located next to a building wall, perimeter landscaping material, or vehicular use area landscaping material, such walls or screening material may fulfill the screening requirement for that side of the service structure if that wall or screening material is of an average height sufficient to meet the height requirement set out in this section. Whenever service structures are screened by plant material, such material may count towards the fulfillment of required interior or perimeter landscaping. No interior landscaping shall be required within an area screened for service structures.
- (b) *Protection of Screening Material.* Whenever screening material is placed around any trash disposal unit or waste collection unit which is emptied or removed mechanically on a regularly occurring basis, a fixed barrier to contain the placement of the container shall be provided within the screening material on those sides where there is such material. The barrier shall be at least eighteen (18) inches from the material and shall be of sufficient strength to prevent possible damage to the screening when the container is moved or emptied.

The minimum front opening of the screening material shall be twelve (12) feet to allow service vehicles access to the container.

- (8) *Screening of Outdoor Storage Areas.* All outdoor storage areas in the I-1 and I-2 zones shall be screened by a solid wall or fence not less than six (6) feet in height.
- (9) Innovative Design Landscape Plan. Interior landscaping requirements for vehicular use areas may be modified on a development plan without a variance in accordance with an Innovative Design Landscape Plan. An Innovative Design Landscape Plan shall be prepared and sealed by an architect, landscape architect or engineer licensed to practice in the State of Kentucky.

The plan may include, but is not limited to:

  - a. Green infrastructure elements above and beyond existing requirements,
  - b. Provisions for solar or alternative energy production,
  - c. Vegetated areas that do not meet one or more of the above regulations, but still achieve the basic objectives of these regulations.

The plan shall be reviewed and approved by the Landscape Review Committee; and a finding shall be made by the Planning Commission and noted on the Final Development Plan. Such finding shall state that the proposed interior landscaping for the vehicular use area utilizes innovative landscape design elements to promote public health and safety through the reduction of noise pollution, air pollution, visual pollution, air temperature, and artificial light glare in accordance with Article 18-1.

**Sec. 18-4. Landscape materials.**

The landscaping materials shall consist of the following, and are described in more detail in the Planting Manual and Plant Materials List available at the Division of Planning and the Division of Environmental Services.

- (a) *Walls and Fences.* Walls shall be constructed of natural stone, brick or other weatherproof materials arranged in a linear, serpentine, or other alignment; while fences shall be constructed of wood or other weatherproof, durable materials generally used in the exterior construction of buildings. Fence posts shall be structurally stable based on the material used, and shall have a maximum spacing of 8' on center (o.c.). If wood is used, the posts shall be 4" x 4" minimum. Posts shall be set in or anchored to crowned concrete footers at least six (6) inches larger in each direction than the post it supports. The base of the footer shall be at least twenty-four (24) inches below finished grade. If wood is used for any member, it shall be softwood treated with water-borne preservative to the American Wood Preservers Institute standard LP-2 for above ground use or LP-22 for ground contact use, or all heart redwood, or all heart cedar. All cut surfaces of pressure treated lumber shall be waterproofed. If another material is used, it shall be weatherproof. Slats are to be minimum one-half (½) inch in thickness and are to be placed on the outside of the fence unless the design is two-sided (shadow-box, etc.). All hardware is to be galvanized or otherwise rust-proofed. Wood horizontal members shall be installed bark-side up. Chain link fencing may not be used to meet the requirements of this Article. Chain link fencing may be installed in the required landscape area only if it is in addition to the required continuous planting, hedge, fence, wall or earth mound. All walls or fences shall have a minimum opacity of eighty (80) percent. Walls and fences allowed to meet the requirements of this Article shall not be used for the erection or display of any sign or other advertising device. Height limitations for walls and fences are regulated by zone and land use in Article 15-4(b).
- (b) *Earth Mounds.* Earth mounds shall be physical barriers which block or screen the view similar to a hedge, fence, or wall. Mounds shall be constructed with proper and adequate plant material to prevent erosion. A difference in elevation between areas requiring screening does not constitute an earth mound.

- (c) *Plants.* All plant materials shall be living plants (artificial plants are prohibited) and shall meet the following requirements:
- (1) *Quality.* Plant materials used in conformance with provision of this Zoning Ordinance shall conform to the standards of the American Association of Nurserymen and shall have passed any inspections required under State regulations. Bare root plants, with the exception of shrubs and hedges, vines and ground covers shall be prohibited.
  - (2) *Deciduous Trees.* (Trees which normally shed their leaves in the Fall) - Shall be species having an average mature crown spread of greater than fifteen (15) feet in Fayette County and having trunk(s) which can be maintained over five (5) feet of clear wood in areas which have visibility requirements. Trees having an average mature spread of crown less than fifteen (15) feet may be substituted by grouping of the same so as to create the equivalent of a fifteen (15) crown spread. A minimum of ten (10) feet overall height or a minimum caliper (trunk diameter, measured 6 inches above ground for trees up to 4 inches caliper) of at least one and three-fourths (1<sup>3</sup>/<sub>4</sub>) inches immediately after planting shall be required. Trees of species whose roots are known to cause damage to public roadways or other public works shall not be planted closer than fifteen (15) feet to such public works, unless the tree root system is completely contained within a barrier for which the minimum interior container dimensions shall be five feet square and five feet deep and for which the construction requirements shall be four (4) inches thick, reinforced concrete. Columnar variety trees of any species may only be permitted upon the express approval of the Division of Environmental Services in accordance with Section 18-6. Any columnar variety tree shall be shall be considered as a small tree and be granted new canopy credit of 100 square feet according to Article 26-5(e).
  - (3) *Evergreen Trees.* Evergreen trees shall be a minimum of five (5) feet high with a minimum caliper of one and one-half (1<sup>1</sup>/<sub>2</sub>) inches immediately after planting.
  - (4) *Shrubs and Hedges.* Shall be at least twelve (12) inches with three (3) canes for Section 18-3(a)(2), lines 3 and 5, at least two (2) feet with three (3) canes for all other lines of Section 18-3(a)(2), and three (3) feet with four (4) canes for Section 18-3(a)(1) in average height when installed. After approval by the Division of Environmental Services and with the exception of the 12-inch plants, shrubs and hedges may be pruned to one-half (½) the height in accordance with accepted horticultural practices. All plants shall conform to opacity, mature height, and other requirements within four (4) years after the date of the final approval of each planting or replanting. Privet (*Ligustrum* species) cannot meet the opacity requirements and may not be used to satisfy the requirements of this Article. The height of the planting shall be measured from the level of the surface of the vehicular use area at the edge closest to the screening.
  - (5) *Vines.* Shall be at least twelve (12) or fifteen (15) inches high at planting, and are generally used in conjunction with walls or fences.
  - (6) *Grass or Ground Cover.* Grass of the fescus (*Gramineak*) or Bluegrass (*Poaceae*) family shall be planted in species normally grown as permanent lawns in Fayette County, and may be sodded, plugged, sprigged, or seeded; except in swales or other areas subject to erosion, where solid sod, erosion reducing net, or suitable mulch shall be used, nurse-grass seed shall be sown for immediate protection until complete coverage otherwise is achieved. Grass sod shall be clean and free of weeds and noxious pests or diseases. Ground cover such as organic material shall be planted not more than fifteen (15) inches on center and in such a manner as to present a finished appearance and have seventy-five (75) percent of complete coverage after two (2) complete growing seasons. In certain cases, ground cover also may consist of rocks, pebbles, sand, and similar approved materials.
  - (d) *Maintenance and Installation.* All landscaping required by this Article shall be installed and maintained by the owner in compliance with the standards specified in Section 4 of the Planting Manual and the American National Standards (ANSI A300) and, as applicable, the requirements specified in Lexington-Fayette Urban County Government Ordinances No. 1-91 and No.

34-92 (Man o' War Boulevard), No. 134-89 (Old Frankfort Pike), No. 133-89 (Georgetown Road), No. 213-83 and No. 266-87 (Richmond Road), No. 42-98 (Downtown Street Trees), and No. 85-2008 (Newtown Pike), all available in the offices of the Division of Environmental Services; or any other future amendments to these ordinances. Any landscape material that fails to meet the minimum requirements of this Article at the time of installation shall be removed and replaced with acceptable materials. The person in charge of, or in control of, the property, whether as owner, lessee, tenant, occupant, or otherwise, shall be responsible for the continued proper maintenance of all landscaping materials and shall keep them in a proper, neat and orderly appearance, free from refuse and debris, at all times. All unhealthy or dead plant materials shall be replaced within one (1) year, or by the next planting period, whichever comes first; while other defective landscape material shall be replaced or repaired within three (3) months. Sizes for the above-mentioned replacements shall be as provided in Subsection (c)(2) of this section. Topping trees or the severe cutting of limbs to stubs larger than three (3) inches in diameter within the tree crown to such a degree as to remove the normal canopy shall not be considered proper or permitted for the maintenance of trees as required by this Article. Except as provided above, the removal of landscape materials requires the approval of the Division of Environmental Services. When trees are removed, other than as permitted above, such trees shall either be replaced with the necessary number two and one-half (2½)-inch caliper trees to equal the total caliper of trees removed, or with trees of the same caliper as those that were removed. All replacement trees shall be planted in the original location unless an alternate location is approved by the Division of Environmental Services. Violation of these installation and maintenance provisions shall be grounds for the Division of Building Inspection to refuse a building occupancy permit, or for the Division of Environmental Services to require replacement of landscape material or institute legal proceedings to enforce the provisions of this Article.

#### **Sec. 18-5. Plan submission and approval.**

Whenever any property is affected by these landscape requirements, the property owner or developer shall submit a landscape plan to the Division of Environmental Services. For any property where a vehicular use area for twenty (20) or more vehicles or six thousand (6,000) or more square feet is provided, the landscape plan shall be prepared and sealed by an architect, landscape architect or engineer licensed to practice in the State of Kentucky. For any property, where a vehicular use area for fifty (50) or more vehicles is provided, the landscape plan shall be prepared and sealed by a landscape architect licensed to practice in the State of Kentucky. The requirements of this Article shall be followed in approving or disapproving any landscape plan required by this Article. Landscape plans also may be submitted as part of any development plan required by the Planning Commission. Such "combination plans," however, shall be first submitted to the Division of Environmental Services for its approval or disapproval of the landscape portion of the plan.

(a) *Plan Content.* The contents of the plan shall include the following:

- (1) Plot plan, drawn to an easily readable scale, showing and labeling by name and dimensions, all existing and proposed property lines; easements; buildings and other structures; vehicular use areas (including parking stalls, driveways, service areas, square footage, etc.); water outlets and landscape material (including botanical name and common name, installation size, on center planting dimensions where applicable, and quantities for all plants used);
- (2) Existing and proposed contours at two-foot intervals;
- (3) Typical elevations and/or cross-sections as may be required;
- (4) Title block with the pertinent names and addresses (property owner, person drawing plan, and person installing landscape material), scale, date, north arrow (generally orient plan so that north is to top of plan), and zone;
- (5) Requirements or an approved tree protection plan applicable to the site, per Article 26, Tree Protection Standards.

- (b) *Building Permit and Certificate of Occupancy.* Where landscaping is required, no building permit shall be issued until the required landscaping plan has been submitted and approved; and no Certificate of Occupancy shall be issued until the landscaping is completed as certified by an on-site inspection by the Division of Environmental Services. If the required landscaping has not been completed and a Temporary Certificate of Occupancy is issued under Section 5-4(a) of this Zoning Ordinance, a full cash bond or irrevocable letter of credit from a banking institution with offices in Fayette County shall be posted at that time. The amount of the bond or letter of credit shall be based upon the cost of the proper installation of the uninstalled landscape material shown in the submitted plan, with the cost certified by a landscape contractor. The amount of the bond or letter of credit shall also include an inflation factor and/or administrative contingency cost of no more than twenty-five percent (25%) of the base cost, as determined by the Division of Environmental Services, to complete the work in the event of the foreclosure of the bond or letter of credit.
- (c) *Posting of a Full Cash Bond or Irrevocable Letter of Credit.* After a full cash bond or irrevocable letter of credit has been posted, the landscaping material required in the approved landscaping plan shall be installed within three (3) months after the date of posting the full cash bond or irrevocable letter of credit. A one-month extension of the planting period may be granted by the Division of Environmental Services upon a demonstration by the property owner or developer that such an extension is warranted because of adverse weather conditions or unavailability of required plant materials. No more than three (3) such one-month extensions may be granted. The full cash performance bond or irrevocable letter of credit shall be called if the required landscaping has not been installed by the end of the approved planting period, and the Division of Environmental Services shall apply the proceeds of the bond or letter of credit to have the work completed.

**Sec. 18-6. Planting manual and plant materials list.**

Developers shall refer to the Planting Manual and Plant Materials List, which are available at the offices of the Division of Planning and the Division of Environmental Services for minimal requirements to use in meeting the provisions of this Article. Any materials that are not on the Plant Materials List shall be considered on an individual basis to determine the suitability of the specific plant in the proposed location. A plant not on the Plant Materials List shall be permitted only upon the expressed approval of the Division of Environmental Services.

**Sec. 18-7. Variances.**

Any landscape plan submitted to, and disapproved by the Division of Environmental Services because it does not meet the requirements of this Article, may be appealed within sixty (60) days of such action to the Board of Adjustment.

- (a) *Landscape Review Committee.* To aid the Board of Adjustment in the performance of the duties imposed by this Article, there is hereby created a Landscape Review Committee.
- (b) *Membership.* The Landscape Review Committee shall consist of five (5) members, to be appointed by the action of the Board of Adjustment. One member shall be a nurseryman or horticulturist, one (1) shall be a landscape architect, one (1) shall be a member of the Lexington Homebuilder's Association, one (1) shall be a member of the Urban County Tree Board and one (1) shall be a member of the Board of Adjustment. The term of the Board of Adjustment member shall be the same as his Board of Adjustment appointment. For others, at the initial appointment, one (1) shall be appointed for four (4) years, one (1) for three (3) years, one (1) for two (2) years, and one (1) for one (1) year. Subsequent appointments shall be for four (4) years.
- (c) *Organization and Meetings.* The Landscape Review Committee shall elect a chairman and any other officers deemed necessary, and keep official minutes of its meetings and recommendations. The Division of Planning shall perform staff service for the committee. Meetings shall be held at regularly scheduled times, or at the call of the chairman, or by joint action of two (2) members. In

any case, notification shall be given to all members at least six (6) days prior to any meeting. A quorum shall consist of three (3) members, and official recommendations may be decided by the vote of two (2) members when a quorum is present.

(d) *Reviewing Variance Requests.* The committee, in its review of said recommendations on variance requests, shall base its recommendations on all of the following criteria:

- (1) The requested variance arises from special circumstances which to do generally apply to land in the general vicinity or in the same zone.
- (2) The strict application of the provisions of this Zoning Ordinance would deprive the applicant of a reasonable use of the land or would create unnecessary hardship on the applicant.
- (3) Such special circumstances are not the result of actions of the applicant subsequent to the adoption or amendment of this Zoning Ordinance.
- (4) Reasons that the variance will adversely affect the public health, safety and welfare, and will not alter the essential character of the general vicinity, and will not cause a hazard or a nuisance to the public.
- (e) *Recording.* Whenever the committee makes a recommendation, such recommendation shall be forwarded to the Board of Adjustment, the Division of Environmental Services, and be properly described in the committee's minutes.

**Sec. 18-8. Enforcement.**

Violations of this Article 18 are subject to the penalty provisions in Section 5-8 and may be enforced through the issuance of a civil citation pursuant to Section 5-9.

Section 13 – That Article 21-4(c) of the Lexington-Fayette Urban County

Government Zoning Ordinance is hereby amended as follows:

- (c) *Review.* The Division of Planning and concerned agencies shall review the development plan, and then meet together as a Technical Committee to try to resolve all differences and to make recommendations to the Commissioner's Subdivision Committee. The Subdivision Committee will review all recommendations, and then forward their recommendations to the Commission. These Committee meetings shall be open to the developer and to any interested citizen, however, each Committee may impose rules which control participation by non-members in attendance. The developer may secure recommendations from the staff at any of the review checkpoints, and proceed to make plan changes so that revised plans may be submitted to the remaining review groups.
1. The Subdivision Committee shall have the authority to require an applicant to prepare a traffic impact study for significant developments per Article 6-1(a).
  2. The Subdivision Committee shall have the authority to require an applicant to prepare a Parking Demand Mitigation Study for significant developments per Article 16-14.

Section 14 – That Article 28-3(h) of the Lexington-Fayette Urban County

Government Zoning Ordinance is hereby amended as follows:

- (h) *Special Provisions.* Special provisions shall be as follows:
1. No less than fifteen percent (15%), nor more than eighty-five percent (85%), of the floor area of any structure shall be required to be residential uses.
  2. Only one (1) principal structure shall be permitted per MU-1 site.
  3. All residential uses shall be required to be in the same structure as nonresidential uses.
  4. Within the Infill and Redevelopment Area, at least sixty percent (60%) of the front building wall shall be required to be built at the zero-foot setback line. When the Planning Commission requires additional sidewalk or pedestrian

- areas the edge of the pedestrian area shall be construed as the zero-foot setback. Where a sight distance triangle is required, the sight distance line shall be construed as the zero-foot setback; and for buildings facing on two (2) streets, only the longest front building face shall be subject to this requirement.
5. Signage shall be as permitted and restricted under Section 17-11(e) for a P-1 zone.

Section 15 – That Article 28-4(h) of the Lexington-Fayette Urban County Zoning

Ordinance is hereby amended as follows:

(h) *Special Provisions*: Special provisions shall be as follows:

1. No less than fifteen percent (15%), nor more than eighty-five percent (85%), of the floor area of any structure shall be required to be residential uses, except where multiple principal structures are involved. In such cases, mixing within a single structure shall not be required after the fifteen percent (15%) minimum mix of residential to nonresidential uses has been achieved in multiple-use structures. Once the MU-2 project has reached ten thousand (10,000) square feet of commercial use, additional commercial square footage will not be required.
2. For any MU-2 project located on a site recommended for "Professional Services" in the Comprehensive Plan, uses first permitted in the P-1 zone shall be required on at least seventy-five percent (75%) of the nonresidential floor area of the project. For any MU-2 project located on a site recommended for MD, HD, or VHD in the Comprehensive Plan, the project shall meet at least the minimum required residential density and the maximum amount of commercial floor area shall be limited to a maximum of fifty percent (50%) instead of eighty-five percent (85%) as listed in Subsection (h) 1 of this section, above.
3. Within the Infill and Redevelopment Area at least forty percent (40%) of the front building wall(s) shall be required to be built at the zero-foot setback line. Where the Planning Commission requires additional sidewalk or pedestrian areas the edge of the pedestrian area shall be construed as the zero-foot setback. Where a sight distance triangle is required, the sight distance line shall be construed as the zero-foot setback; and for buildings facing on two (2) streets, only the longest front building face shall be subject to this requirement. However, the Planning Commission may increase the zero-foot setback line where it makes a finding that the strict application of the zero-foot setback would be inappropriate for the property, creating an environmental problem; vehicular, pedestrian or bike traffic problems; or a development incompatible with the surrounding neighborhood.
4. Signage within the MU-2 zone shall be as permitted and restricted under Section 17-11(n) of this Zoning Ordinance.

Section 16 – That Article 28-5(h) of the Lexington-Fayette Urban County

Government Zoning ordinance is hereby amended as follows:

(h) *Special Provisions*: Special provisions shall be as follows:

1. No less than fifteen percent (15%), nor more than eighty-five percent (85%), of the floor area of any structure shall be required to be residential uses, except where multiple principal structures are involved. In such cases, mixing within a single structure shall not be required after the fifteen percent (15%) minimum mix of residential to nonresidential uses has been achieved in multiple-use structures. Once the MU-3 project has reached fifteen thousand (15,000) square feet of commercial use, additional commercial square footage will not be required.
2. For any MU-3 project located on a site recommended for "Professional Services" in the Comprehensive Plan, uses first permitted in the P-1 zone shall be required on at least seventy-five percent (75%) of the nonresidential



floor area of the project. For any MU-3 project located on a site recommended for MD, HD, or VHD in the Comprehensive Plan, the project shall meet at least the minimum required residential density and the maximum amount of commercial floor area shall be limited to a maximum of fifty percent (50%) instead of eighty-five percent (85%) as listed in Subsection (h) 1 of this section, above.

3. Within the Infill and Redevelopment Area at least forty percent (40%) of the front building wall(s) shall be required to be built at the zero-foot setback line. Where the Planning Commission requires additional sidewalk or pedestrian areas, the edge of the pedestrian area shall be construed as the zero-foot setback. Where a sight distance triangle is required, the sight distance line shall be construed as the zero-foot setback; and for buildings facing on two (2) streets, only the longest front building face shall be subject to this requirement. However, the Planning Commission may increase the zero-foot setback line where it makes a finding that the strict application of the zero-foot setback would be inappropriate for the property, creating an environmental problem; vehicular, pedestrian or bike traffic problems; or a development incompatible with the surrounding neighborhood.
4. Signage within the MU-3 zone shall be as permitted and restricted under Section 17-11(o) of this Zoning Ordinance.

5. An Entertainment Mixed use Project may be permitted by the Planning Commission for a tract of land with a minimum of ten (10) acres, and recommended by the adopted Comprehensive Plan for mixed use or a nonresidential land use, upon the approval of a preliminary development plan and a final development plan as provided in Article 21 herein. In its approval of such a development plan, the Commission shall find that the location is both appropriate for the use, and compatible with neighboring land uses. The parcel shall be subject to the MU-3 zone regulations above and the following requirements:

(a) Subdivision of land in an Entertainment Mixed use Project is permitted, subject to the following regulations:

1. There shall be no minimum lot size, lot frontage, yard or open space, nor maximum lot coverage or height requirements for each subdivided lot; however, all said requirements for the approved final development plan shall be applicable to the subdivision.
2. Each subdivided lot shall have access to adjacent streets or joint parking areas, as provided by appropriate easements shown on the final development plan and the final record plan.

(b) At least twenty-five percent (25%) of the combined floor area of all buildings constructed within an Entertainment Mixed use Project shall be located on the second or higher floor.

(c) Where multiple principal structures are proposed within an Entertainment Mixed use Project:

1. Mixing within a single structure shall not be required within the first forty percent (40%) of floor area for commercial use, or after the fifteen percent (15%) minimum mix of residential to nonresidential uses has been achieved in multiple-use structures. Once the project has reached fifteen thousand (15,000) square feet of commercial use, additional commercial square footage will not be required.
2. The front building wall of at least fifteen percent (15%) of all buildings shall be required to be built at the zero-foot setback line.

(d) Buildings within an Entertainment Mixed use Project may be a maximum of eighty (80) feet in height, regardless of location, provided a 1:1 height-to-yard ratio is maintained from any residential zone.

(e) In addition to the uses otherwise permitted above in the MU-3 zone, the following uses shall also be permitted in an approved Entertainment Mixed use Project:

1. As Principal Permitted Uses:
  - a. Restaurants, cocktail lounges and nightclubs, with entertainment, dancing, and/or sale of malt beverages, wine or alcoholic beverages.
  - b. Motels, hotels and extended-stay hotels.



- c. Indoor amusements, such as billiards or pool halls, skating rinks, theaters, or bowling alleys.
  - d. Athletic club facilities.
  - e. Drive-in restaurants, provided that all outside food service shall be at least one hundred (100) feet from any residential zone.
  - f. Animal hospitals or clinics, including offices of veterinarians, provided that such structures or uses, not including accessory parking areas, shall be at least one hundred (100) feet from any residential zone.
  - g. Grandstands associated with horse race tracks with allotted race meets, including simulcast facilities, accessory restaurants and/or the serving of alcoholic beverages provided that such structures or uses, not including accessory parking areas, shall be at least one hundred (100) feet from any residential zone.
2. As Accessory (clearly incidental and subordinate) Uses:
- a. Outdoor patios, when accessory to any permitted restaurant.
  - b. Conference centers, banquet facilities and convention facilities, when accessory to a hotel or motel.
3. As Conditional Uses:
- a. Self-service car washes.
  - b. Gasoline pumps available to the public without an employee on site.

Section 17 – That Article 28-6(d) of the Lexington-Fayette Urban County Zoning ordinance is hereby amended as follows:

- (c) *Location and Assignment of Provided Off-Street Parking.* At least fifty percent (50%) of provided parking spaces shall be located so as to not project between any front building face and any adjoining street, except an alley. The Planning Commission may require designation of certain spaces for use of residents only on the development plan.

Section 18 – That this Ordinance shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL: October 27, 2022



MAYOR

ATTEST:

  
CLERK OF URBAN COUNTY COUNCIL

PUBLISHED: November 3, 2022-1t

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