

ORDINANCE NO. _____ - 2025

AN ORDINANCE AMENDING THE LEXINGTON-FAYETTE COUNTY ZONING ORDINANCE AS FOLLOWS: AMENDING ARTICLES 1-11; 6-1; 6-5; 6-7; 9-3; 9-5; 9-6; 9-7; 9-8; 11-6; 11-7; 11-8; 12-7;12-8; 12-9; 12-10; 15-2; 16-6; 16-7; 16-9; 16-12; 18-2; 18-3; 21-4; 21-6; 21-7; 23B-4; 23B-5; 28-3; 28-4; 28-5; AND 28-6; CREATING ARTICLES 16-15, 16-16, AND 21-9; AND DELETING ARTICLE 28-7, ALL IN ORDER TO ADOPT ORDINANCES CLARIFYING OBJECTIVE STANDARDS TO BE MINISTERIALLY APPLIED TO DEVELOPMENT PLAN REVIEW. (URBAN COUNTY PLANNING COMMISSION).

WHEREAS, KRS 100.275, enacted by the Kentucky General Assembly as House Bill 443 during the 2024 regular session, requires that the ordinances, rules, and regulations adopted pursuant to KRS Chapter 100 to govern subdivision plats and development plans shall be in the form of objective standards that shall be applied ministerially; and

WHEREAS, the Lexington-Fayette Urban County Planning Commission considered at meetings on March 27 and April 10, 2025 text amendments to Articles 1-11; 6-1; 6-5; 6-7; 9-3; 9-5; 9-6; 9-7; 9-8; 11-6; 11-7; 11-8; 12-7;12-8; 12-9; 12-10; 15-2; 16-6; 16-7; 16-9; 16-12; 16-15; 16-16; 18-2; 18-3; 21-4; 21-6; 21-7; 21-9; 23B-4; 23B-5; 28-3; 28-4; 28-5; 28-6; and 28-7 of the Zoning Ordinance to delete sections, create sections and amend sections in order to clarify objective standards for development plan review and to provide for an objective ministerial plan review process. The Planning Commission did recommend approval of the modified text amendment by a vote of 8-2; 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, Section 1-11 of the Lexington-Fayette Urban County Government Zoning Ordinance (“Definitions”) be and hereby is amended to delete the definitions of “elderly housing” and “primary entrance” and amend other definitions, in pertinent part, to read as follows:

Sec. 1-11. - Definitions.

For the purpose of this Zoning Ordinance, certain terms are herewith defined. When not inconsistent with the context, words used in the present tense include the future; words in the singular number include the plural; words in the plural number include the singular; the term "person" includes association, firm, partnership, trust, governmental body, corporation, organization, as well as an individual; the term "structure" includes building; the term "occupied" includes arranged, designed or intended to be occupied; the term "used" includes arranged, designed or intended to be used; the term "shall" is always mandatory and not merely directive; the term "may" is permissive; and the term "lot" includes plot or parcel. Other words and terms shall have the following respective meanings:

[...]

Assisted living facility means a residential facility, other than a nursing home, with multiple and separate living units, meal preparation, laundry services, room cleaning, transportation, and/or recreation may also be provided, as well as some medical services, exclusively for the residents of the facility.

[...]

Division of engineering manuals (also known as the engineering manuals, or the manuals) is a set of eight (8) documents to provide standards for the design, review, construction, maintenance and inspection of infrastructure. The engineering technical manuals are construction inspection (also known as the inspection manual), geotechnical, roadway, sanitary sewer and pumping station, stormwater, and structures. In addition to the six (6) technical manuals, a procedures manual for infrastructure development (also known as the procedures manual) establishes the responsibilities and procedures to be used by the Lexington-Fayette Urban County government, the land developer and the project engineer; and a maintenance manual for post-construction stormwater controls that outlines minimum maintenance requirements. These manuals are hereby adopted by the urban county government and incorporated into this Zoning Ordinance by reference. From time to time, the urban county government may revise, modify, or amend the manuals in conformance with the procedure established in the procedures manual. When any of the engineering manuals are cited by this Zoning Ordinance, the current edition, latest revision, shall be referenced.

[...]

Drive-through facility means a facility including, but not limited to, drive aisles, stacking areas, menu boards, order points, and pick-up points which accommodate customers in automobiles for the provision of goods and/or services.

[...]

Environmentally sensitive area means any area, which, due to its natural or physical setting, may have environmental constraints concerning development; such lands shall include, but shall not be limited to, areas of steep slope (over 15%), floodplains, sinkholes, springs, blueline streams, ponds, areas of alluvial soils, improper fill, wetlands, significant areas of tree stands, and aquifer recharge areas.

[...]

Extended-stay hotel means a form of hotel allowing for rental or lease of less than one (1) week, provided such rentals or leases of less than one (1) week shall comprise less than fifty percent (50%) of the total dwelling units within the structure(s).

[...]

Geologic hazard area means an environmentally sensitive area where the environmental constraints are so numerous that development would pose a serious problem to the immediate area or the surrounding areas. Such areas may include, but

are not limited to: areas of excessive floodplain, areas that have potential collapse problems due to caves, cliff areas, etc.

[...]

Home-based business means a gainful occupation or profession carried on in a residence that involves:

- (a) Customers or clients coming to the residence; and/or
- (b) The use of materials or equipment that are potentially disturbing to surrounding properties due to noise, odors, flammability or some other risk factor.

Examples include, but are not limited to, individual music instruction; athletic training; counseling services; and upholstery work.

The term "home-based businesses" shall not include offices for escort services; massage parlors; automobile and small engine repair; medical or dental offices; fortune telling; catering or food-handling requiring a commercial kitchen; and uses, other than upholstery, which are first permitted in the B-4, I-1 or I-2 zone.

[...]

Kenel means commercial business for the sale or temporary boarding or supervision of more than three (3) dogs, but not including the ownership and occasional sale of dogs at, in, or adjoining a private residence. Such uses shall include dog daycare uses.

[...]

Lot line, front, means in the case of a lot abutting upon only one (1) street or alley, the line separating such lot from such street. In the case of any other lot, the owner shall, for the purpose of this Zoning Ordinance, have the privilege of electing any street lot line as the front lot line, provided that the primary entrance to the parcel's principal structure is provided along that lot line.

[...]

Micro-distillery means a distillery that produces fifty thousand (50,000) gallons or less of distilled spirits per calendar year and operated under a Class B License as defined by KRS 243.120.

[...]

Story means the usable portion of a building, other than a cellar or mezzanine, included between the surface of any floor and the surface of the floor next above it; or, if there is no floor above it, then the space between the floor and ceiling next above it. A half-story means the portion of a building between the top floor and a sloping roof, with at least two opposite exterior walls meeting the sloping roof not over three (3) feet above such floor level. This uppermost half-story of a building shall constitute no more than one-half of the square footage of the floor below.

[...]

Stub street means a local or collector, closed-end street that is only acceptable as a temporary street condition. Stubs are similar to cul-de-sacs except that they provide no turnaround circle at their closed end. Stub streets shall only be used when a future continuation is planned.

[...]

Temporary construction trailer means a manufactured structure that is utilized on a temporary basis in connection with on-site construction work. Such structures shall be

subject to the permitting and timing requirements of temporary structures, and are not for use for by the general public.

[...]

Vehicular use area (VUA) means any paved area, which is not exclusive to pedestrian use, containing more than eighteen hundred (1,800) square feet of area or used by five (5) or more of any type of vehicle; whether moving or at rest, including, but not limited to, parking lots; loading and unloading areas; drive-through or drive-up window facilities; and sales and service areas. A driveway is considered part of a vehicular use area when adjacent to public streets or other vehicular use elements. Intervening curbs, sidewalks, or landscaping strips, etc., do not eliminate adjacency of VUA.

Section 2 – That Article 6, Section 6-1(a) of the Lexington-Fayette Urban County Government Zoning Ordinance be and hereby is amended to read as follows:

(a) *Traffic Impact Studies.* All significant developments requiring a Zoning Map Amendment shall submit a Traffic Impact Study. As used herein, the term "significant developments" shall mean any development which will generate more than one hundred (100) new trips and will have a potential impact on areas of congestion bottle-necks and high crash areas as identified by Transportation Planning staff; or alternatively, two hundred (200) or more additional (new) peak trips during the adjacent roadway's peak hour or the development's peak hour. The applicant shall have the responsibility of conducting and paying for the study. The preparer of a Traffic Impact Study shall be listed as pre-qualified by the Kentucky Transportation Cabinet in the service areas of Traffic Engineering or Transportation Planning.

The Urban County Government will cooperate and coordinate with the applicant's team to provide any available data. To the extent that the Urban County Government has done any independent traffic study pertinent to the proposed development, the results of such study shall be made available to the applicant.

Anticipated roadway improvements shall be determined by a review of the Transportation Improvement Program and in consultation with staff from the Divisions of Planning, Traffic Engineering, the Kentucky Transportation Cabinet, and other agencies as deemed appropriate. If the proposed development is within one (1) mile of any county boundary line, then any proposed roadway improvements in the adjoining county shall be included in the study.

The Transportation Planning staff shall review, analyze, and make recommendations on any Traffic Impact study to be submitted as evidence in a rezoning hearing regardless of whether or not such study is required by this Zoning Ordinance.

Section 3 – That Article 6, Section 6-5 of the Lexington-Fayette-Urban County Government Zoning Ordinance be and hereby is amended to read as follows:

Sec. 6-5. - Forwarding of the planning commission's action to the urban county council.

Within fourteen (14) days of the Commission's final action to recommend that a zone map amendment be approved, approved with binding conditions or restrictions, or disapproved, or that a binding condition or restriction amendment be modified, the development plan(s) and/or other plans filed in conjunction with the map amendment shall be certified by the Commission's Secretary as set forth in Section 21-4 herein, or else the final action of the Commission on the zone map amendment shall be null and void. Any further consideration of the zone map amendment shall be treated as a new application and shall be reviewed as set forth herein. Upon certification of the

plan(s), the Commission's Secretary shall forward its report in writing to the Urban County Council. This report shall include at least the application, legal description of the property, notification area map, staff report, minutes of the Planning Commission public hearing, and the findings of fact and conclusions of law and the recommendation of the Planning Commission, including any binding conditions or restrictions to be imposed as set forth in Section 6-7 below.

Section 4 – That Article 6, Sections 6-7(a), (b) and (c)(1) and (2) of the Lexington-Fayette Urban County Government Zoning Ordinance be and hereby are amended, in pertinent part, to read as follows:

Sec. 6-7. - Conditions to granting a zone map amendment.

Pursuant to KRS 100.203(8), the Planning Commission or the Urban County Council may, as a condition to granting a map amendment, restrict the use of the property affected to a particular use, or a particular class of use, or a specified density within those permitted in a given zoning category; impose architectural or other visual requirements or restrictions upon development in areas zoned historic; and impose screening and buffering restrictions upon the subject property. In recognition that the aforementioned powers may be useful in accomplishing the purposes set forth in Section 1-3, but at the same time in recognition that such powers should be thoughtfully and sparingly used, the method whereby such restrictions or conditions may be imposed, modified, removed, amended and enforced is set forth below.

- (a) *Criteria and Terms.* A binding restriction or condition may be imposed whenever one (1) or more of the specifications of this Zoning Ordinance for the proposed zoning category, if exercised by the applicant, would impair the integrity and character of the area in which the subject property is located or adjoining areas, unless restrictions or conditions as permitted in this Article are imposed in addition to those imposed in the Zoning Ordinance. Such restriction or condition may include matters set forth in this section 6-7. No restriction or condition may be imposed which shall deprive the applicant of a reasonable use of the land or create an unnecessary hardship on the applicant.
- (b) *Procedure.* Imposition of binding restrictions or conditions may be considered at any point in the Zoning Map Amendment procedure. However, before the Commission recommends such a restriction or condition or the Urban County Council adopts the same, it shall make findings of fact and conclusions of law which are supported by substantial and competent evidence; which are not arbitrary or capricious; and which demonstrate that the effect of the proposed Zoning Map Amendment on the public health, safety and welfare in the area in which the subject property is located and adjoining areas has been considered. Conditions or restrictions may be amended, modified or removed by the established map amendment procedures established in section 6-4, except that alternate findings to address the modification, removal or amendment shall be considered by the Planning Commission as set forth under Subsection (c) of this section. Only when the Urban County Council holds its own public hearing or reviews the record and the transcript of the Commission hearing may the Council impose a binding restriction or condition not recommended by the Commission, or modify or remove a restriction recommended by the Commission. Any binding restriction or condition finally imposed after completion of the Zoning Map Amendment process shall be included in the Urban County Council ordinance adopting the Zoning Map Amendment, a copy of which the Urban County Council Clerk shall furnish to the Divisions of Building Inspection and Planning.
- (c) *Amendment.* Modification, removal or amendment of conditions or restrictions shall be as follows:
 - (1) *Restrictions or Conditions Adopted by the Urban County Council.* The Urban County Council shall have final authority to consider and act upon

requests for modification, removal or other amendment of a duly imposed binding restriction or condition so designated by the Council at the time of their adoption.

- (a) *Findings Required.* The request may be granted by the Council only if it is found that there has been a major change of an economic, physical or social nature on the subject property or within the area in which the subject property is located, which was not anticipated at the time the binding restriction or condition was imposed, and which has substantially altered the basic character of such area making the restriction or condition inappropriate or improper. The burden shall be on the applicant to establish said finding by a clear preponderance of the evidence.
- (b) *Procedure.* The procedure for review, notice and action on requests to modify, remove or amend an imposed restriction or condition shall be the same as for a zone map amendment. The Council's decision to modify, remove or amend a duly imposed binding restriction or condition shall be final action; and any person or entity claiming to be injured or aggrieved by that action may appeal to Fayette Circuit Court within thirty (30) days after such final action pursuant to KRS 100.347.
- (2) *Neighborhood Character Design (ND-1) Overlay Zone Standards.* The Planning Commission shall have final authority to consider and act upon requests for modification, removal or other amendment of Neighborhood Character Design (ND-1) Overlay Zone standards, which are adopted as map amendment conditions, in accordance with the procedure and requirements set forth in Subsection (c)(1) of this section, except that no Council action shall be required. In the case of a request to modify, remove or amend a Neighborhood Design Character Overlay (ND-1) zone restriction(s), the application shall be reviewed by the Planning Commission for adherence to the requirements set forth in Subsection (c)(2)(a) of this section. In addition, notice shall be given to the members of the Urban County Council, to the Mayor and to the Council Clerk at least fourteen (14) days in advance of the public hearing. Members of the Urban County Council may appear and speak at the public hearing. The Planning Commission's decision to modify, remove or amend a duly imposed binding restriction or condition shall be final action, and any person or entity claiming to be injured or aggrieved by that action may appeal to Fayette Circuit Court within thirty days after such final action, pursuant to KRS 100.347.

[...]

Section 5 – That Article 9, Section 9-3 of the Lexington-Fayette Urban County Government Zoning Ordinance be and hereby is amended to read as follows:

Sec. 9-3. - Permitted uses.

The permitted uses shall be those principal and accessory uses listed in Article 8 for the zone in which the Group Residential Project is located. All other uses are prohibited, except that the following uses shall be permitted in a project approved on a final development plan:

- (a) Schools for academic instruction;
- (b) Places of religious assembly;
- (c) Canteens of less than five hundred (500) square feet in size for the sale of sundries and other incidental items to residents of the Project;
- (d) A sales or rental office of less than one thousand, two hundred (1,200) square feet in size, where contracts or leases can be obtained or executed;
- (e) Up to two (2) clubhouses for each Project; and

- (f) Recreational facilities, with or without game rooms and/or one (1) indoor theater.

Single-family detached units permitted under the R-2, R-3, and R-4 zones, with the exception of the Cottage House Project as defined in Section 9-8, are also prohibited from construction under the provisions of this Article. Such uses shall follow the requirements for subdividing, as required for single-family residential zones.

Section 6 – That Article 9, Section 9-5 of the Lexington-Fayette Urban County Government Zoning Ordinance be and hereby is amended, deleting subsection (b) and sequentially reorganizing subsections, to read as follows:

Sec. 9-5. - Review and approval.

The Division of Planning may approve site plans for a zoning compliance permit, after which the Division of Building Inspection may issue permits for the construction of a Group Residential Project on a lot of five (5) acres or less; provided the proposed Project meets the requirements set forth under Section 9-6. For all other Group Residential Projects on lots of more than five (5) acres, a final development plan shall be filed with the Division of Planning in compliance with the procedures and requirements of Article 21. Projects of five (5) acres or less may also submit a final development plan in order to establish the accessory uses listed in Section 9-3 above. The following procedure shall be followed for approval of Group Residential Projects which require a final development plan:

- (a) *Development Plan Required.* A final development plan for all group residential projects on a lot of five (5) acres or more shall be required and contain the information as required by Article 21; and, in addition, specifying the number and type of dwelling units for each building and use of other structures.
- (b) *Certification of Approval.* The certification of approval for a Group Residential Project development plan shall be as provided in Section 21-4(f).
- (c) *Permits Required.* After certification by the Secretary of the Commission, the Divisions of Planning and Building Inspection may issue permits in conformance with the approved plan upon receipt of a certified copy of the plan.

Section 7 – That Article 9, Sections 9-6(b), (c)(1), (g), (h), (i) and (j) of the Lexington-Fayette Urban County Government Zoning Ordinance be and hereby are amended by deleting subsection (g), adding a new subsection (j), and sequentially reorganizing subsections, to read in pertinent part as follows:

Sec. 9-6. - Group residential projects minimum design standards.

All Group Residential Projects, with the exception of Cottage Housing Projects, shall conform to the following minimum design standards:

[...]

- (b) **Maximum Floor Area Ratio and Lot Coverage.** For Projects in the R-3, R-4 or R-5 zone, the total floor area of all buildings shall not exceed the maximum floor area permitted in the zone in which the Project is located. When additional open space is provided in excess of the minimum required by Subsection (h) of this section, the applicant may exceed the maximum floor area ratio by one percent (1%) for each one percent (1%) of additional usable open space that is provided. The maximum floor area shall not exceed, by more than ten percent (10%), the maximum floor area otherwise permitted in the zone. The maximum lot coverage shall be as provided in the zone in which the Project is located. For Projects located in the R-1T zone, the

total lot coverage shall not exceed twenty-five percent (25%). There shall be no maximum floor area ratio for Group Residential Projects in the R-1T zone.

(c) Yard requirements. The minimum width of required yards shall be as follows:

(1) Front Yard. Frontage along any public or private street shall constitute a front yard. The front yard shall be established as follows:

Zone	Minimum Distance
R-1T	10 feet
R-2	10 feet
R-3	20 feet
R-4	20 feet
R-5	20 feet

[...]

(g) Open Space. See Article 20 for open space regulations.

(h) Plans containing private streets shall conform to the requirements of the Subdivision Regulations concerning private streets.

(i) Maintenance of Common Spaces. Where the design of the Group Residential Project indicates a need or desire to subdivide property and to provide for common spaces, a Home Owners' Association, or other mechanism for the provision of maintenance, improvement, and operations for all common spaces, including streets; parking areas; open space, etc.; shall be required to be established by the applicant. The applicant's responsibility to create such a mechanism shall be noted on the development plan of the Group Residential Project. A requirement that each property owner be individually responsible for maintenance of the common space abutting the lot shall not be considered as acceptable for fulfilling the requirements of this section.

(j) Density of Use. For projects that include one hundred (100) or more dwelling units, a minimum of two (2) commercial access points shall be provided. For projects that include more than six hundred (600) dwelling units, a minimum of three (3) commercial access points shall be provided. Such commercial access point shall be unobstructed.

(k) Other Requirements. Except as modified herein, the Project shall conform to the requirements of this Zoning Ordinance for the zone in which it is located.

Section 8 – That Article 9, Section 9-7(b) of the Lexington-Fayette Urban County Government Zoning Ordinance be and hereby is amended to read as follows:

(b) Bonus Floor Area. The maximum floor area shall not exceed one hundred twenty-five percent (125%) of the otherwise permitted maximum floor area in the zone in which the Project is located, provided the required usable open space has not been granted a dimensional variance.

Section 9 – That Article 9, Section 9-8(a) of the Lexington-Fayette Urban County Zoning Ordinance be and hereby is amended to read as follows:

(a)Review and approval. Development Plan Required. No development shall occur until a final development plan has been approved and certified. In addition to all requirements for development plans contained in Article 21, the number and type of dwelling units for each building and use of other structures shall be included.

Section 10 – That Article 11, Section 11-6 of the Lexington-Fayette County Zoning Ordinance be and hereby is amended to read as follows:

Sec. 11-6. - Locational standards.

A B-5P zone may be established only upon land having a minimum of five hundred

(500) feet of frontage on a street designated as an arterial and abutting a limited access highway interchange.

Section 11 – That Article 11, Sections 11-7(c) and (e) of the Lexington Fayette County Zoning Ordinance be and hereby are amended to read as follows:

Sec. 11-7. - Minimum design standards.

[...]

- (c) Parking. No minimum requirements. (See Articles 16 and 18 for additional parking regulations).

[...]

- (e) Lot, Yard, and Height Requirements. Lot and yard requirements shall be as for the Corridor Business (B-3) zone, except for the lot coverage requirement. There shall be no height restriction except when a side or rear yard adjoins a residential zone, then a 3:1 height-to-yard ratio.

[...]

Section 12 – That Article 11, Section 11-8 of the Lexington Fayette County Zoning Ordinance be and hereby is amended to read as follows:

Sec. 11-8. - Procedure.

The procedure for obtaining a Zoning Map Amendment to the B-5P zone shall be the same as provided in Article 6.

Section 13 – That Article 12, Section 12-7 of the Lexington Fayette County Zoning Ordinance be and hereby is amended to read as follows:

Sec. 12-7. - Locational standards.

A community commercial center shall abut, front on and have its principal access to and from an arterial or collector street. A regional commercial center shall abut, front on, and have its principal access to and from a street designated as an arterial.

Section 14 – That Article 12, Sections 12-8(c), (e), (f), (g)(5), and (h)(1) of the Lexington Fayette County Zoning Ordinance be and hereby are amended, deleting subsections (c)(3) and (h) and sequentially reorganizing subsections, to read in pertinent part as follows:

Sec. 12-8. - Minimum design standards.

[...]

- (c)Screening.

- (1) No residential dwelling shall be developed so that the rear of the structure abuts an arterial or collector street unless the dwelling is located not less than two hundred (200) feet from the arterial or collector street.
- (2) Any commercial center which directly adjoins any single-family residential zone shall be required to provide a buffer yard of six (6) feet in width, with one (1)

tree for every thirty (30) feet of linear boundary from Group A, B, or C of the Plant List, as referenced by Article 18 of this Zoning Ordinance; plus a six-foot-high fence, wall or earth mound. The responsibility for such a buffer shall be the B-6P property, although the buffer may be shared as provided in Article 18.

[...]

(e)Maximum Parking. Notwithstanding any other requirements of this Zoning Ordinance:

(1)For any commercial center 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 commercial center 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)For any commercial center containing residential use(s), the residential use(s) there shall be a maximum of one (1) surface parking space per dwelling unit.

(4)Structure parking shall not count toward any maximum parking requirement.

(f)Loading Areas. Notwithstanding any other requirements of this Zoning Ordinance, there shall be provided one (1) off-street loading space for each twenty thousand (20,000) square feet, or fraction thereof, of aggregate floor space of all buildings in the center. At least one-third (1/3) of the space required shall be sufficient in area and vertical clearance to accommodate trucks of the tractor-trailer type. Such loading facilities shall be permanently and fully screened. The exact type and nature of such screening shall be determined by Article 18.

(g) Lighting. Exterior lighting shall be regulated by Article 30 and restricted as follows:

[...]

(5)Any light fixture intended to illuminate a parking area shall not exceed twenty-five (25) feet in height, shall be shielded or equipped with cutoffs and shall meet all requirements of Article 30.

(h) Transit Facilities.

(1) For all commercial centers located along a transit route, a minimum of one (1) transit shelter with seating shall be provided on such route, and shall have sidewalk connections a minimum of five (5) feet in width to both the internal and perimeter pedestrian circulation systems. Such transit shelter shall not be required when an existing transit shelter is present within ¼ mile of the development along the same side of the roadway, and connected to the development with a continuous sidewalk network.

Section 15 – That Article 12, Section 12-9 of the Lexington Fayette County Zoning Ordinance be and hereby is amended to read as follows:

Sec. 12-9. - Design standards for "big-box" retail establishments.

It is in the best interest of Lexington-Fayette County to minimize the possible "blighting" effect that abandoned shopping centers and large retail establishments can have on the larger area or neighborhood in which they are located. By imposing additional standards in the form of design standards for such centers, these effects can be minimized, and future redevelopment and reuse of vacant retail buildings encouraged through proper facility design, without expenditure of public funds. For this reason, the Planning Commission has adopted the following design standards for commercial centers containing a single "big-box" establishment larger than eighty thousand (80,000) square feet in size (referred to as principal building below):

(a) For every hundred (100) feet of linear wall along the primary wall plane of the

principal building and any additional buildings attached to the principal building, there shall be a corresponding inset, offset, projection or reveal a minimum of three (3) feet in dimension.

- (b) Customer entrances are required along all exterior walls facing a public or private street or access easement constructed to serve as frontage. Where this involves more than two sides of a principal building, this shall only apply to two (2) sides of such building.
- (c) Loading docks, trash collection areas, and outdoor storage of materials shall not be located within the front yard.
- (d) Sidewalks a minimum of five (5) feet in width are required along the full length of any exterior wall featuring a customer entrance or an off-street parking lot, and along sides of the lot that abut a public or private street.
- (e) Walkways and sidewalks must be covered with awnings or other weather protection at all customer entrances, provided at least twenty percent (20%) of the sidewalk along the exterior wall is covered in front of the entrance.
- (f) Sidewalks a minimum of five (5) feet in width shall be provided to connect the customer entrance locations to the public or private right-of-way. A maximum of one (1) crosswalk is allowed to make the connection.

Section 16 – That Article 12, Sections 12-10(b) and (c) of the Lexington Fayette County Zoning Ordinance be and hereby are amended to read as follows:

Sec. 12-10. - Procedure.

[...]

(b) Final Development Plan Required. The procedure for a Final Development Plan shall be the same as provided in Article 21.

(c) Building Permit Required. No building permit shall be issued until a final development plan has been approved and certified to the Division of Planning, after which a permit for construction may be issued by the Division of Building Inspection. The approved final development plan shall limit and control the issuance of all building and occupancy permits, and shall restrict the construction, location, and use of all land and structures to all conditions set forth in the plan. Amendments to the plan can be made only as permitted in Article 21, Development Plans.

Section 17 – That Article 15, Sections 15-2(a)(3) and (b) of the Lexington Fayette County Zoning Ordinance be and hereby are amended, deleting subsection (b)(2) and sequentially renumbering subsections, to read in pertinent part as follows:

Sec. 15-2. - Yards.

(a) *Front Yards.*

[...]

(3) *Yard on Street Side on Lot Adjoining or Facing a Residential Zone.* On a lot in any nonresidential zone sharing the same block front with a lot in any residential zone, the depth of the minimum required front yard shall equal the required front yard depth for that residential zone, or as contained in the small lot provisions for the residential zone.

[...]

(b) *Side Yards.*

(1) *Side Yards Decreased for Narrow Lot.* For each foot by which an existing

lot of record at the time of enactment of this Zoning Ordinance is narrower than fifty (50) feet, and where the owner of record does not own any adjoining property, one and one-half (1½) inches may be deducted from the required least width of any side yard for buildings not exceeding two and one-half (2½) stories in height. In no case may a side yard be narrower than three (3) feet at any point. For any lot within the designated Infill and Redevelopment Area, the special provisions for the Infill and Redevelopment Area contained in Article 8 shall take precedence.

- (2) *Additional Yard Requirements for Certain Multifamily Structures.* In addition to other yard requirements, whenever the principal entrance to a multifamily structure, or the entrance to the individual dwelling units therein, faces on and opens directly onto the side yard portion of the building, that side yard width shall not be less than the front yard requirement, or thirty (30) feet, whichever is greater. No parking shall be permitted within the side yard space required under this provision.
- (3) *Side Street Side Yard.* On a corner lot in any zone, the required least width of the side street side yard shall equal either the minimum front yard required for that zone or the existing alignment on the lot immediately adjoining, whichever is less. Notwithstanding the above, no such yard shall be required to exceed thirty (30) feet in a residential, business, or industrial zone.
- (4) *Side Yard Exceptions for Attached Dwellings.* In the case of attached dwelling units, the entire structure shall be considered as a single building with respect to side yard requirements.
- (5) *Side Yards Not Parallel to the Building.* Where the side wall of a building is not parallel with the side lot line or is broken or otherwise irregular, the average width of the side yard shall not be less than the otherwise required least width. At no point shall the side yard be narrower than one-half (½) the otherwise required side yard; nor shall it be narrower than three (3) feet, in any case.
- (6) *Side Yard for an Addition to an Existing Building.* On any lot in a residential zone, where the principal structure does not meet the minimum required side yard for that zone, if the side yard is legally non-conforming, additions to the principal structure may be made which have the same side yard as the original structure. In no case shall the addition be closer than three (3) feet to the adjoining lot line.

[...]

Section 18 – That Article 16, Sections 16-6(a)(3), (b)(2) and (c)(2) of the Lexington Fayette County Zoning Ordinance be and hereby are amended to read as follows:

Sec. 16-6. Vehicular use area, pedestrian facilities, and loading and unloading areas permitted in nonresidential 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:

[...]

(3) 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. Walkways shall be 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 walkways shall be provided between vehicular use areas.
- c. Where internal pedestrian walkways are required to cross a drive aisle at a distance of greater than twenty-four (24) feet, raised pedestrian crossing shall be utilized. A minimum vertical deflection of six (6) inches shall be utilized as part of the raised pedestrian crossing.
- d. Parking islands where utilized as part of a pedestrian pathway within a parking lot, shall be grade separated by a minimum six (6) inch curb. Pavement markings shall not be utilized as a substitute.
- e. 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:

[...]

(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. Walkways shall be 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. Parking islands where utilized as part of a pedestrian pathway within a parking lot, shall be grade separated by a minimum six (6) inch curb. Pavement markings shall not be utilized as a substitute.
- d. 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, 1-1, I-2, or ED zone:

[...]

(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. Parking islands where utilized as part of a pedestrian pathway within a parking lot, shall be grade separated by a minimum six (6) inch curb. Pavement markings shall not be utilized as a substitute.
- d. Primary internal drives shall connect to established internal drives on adjacent properties to create cross-access and thru connections.

Section 19 - That Article 16, Section 16-7 of the Lexington Fayette County Zoning

Ordinance be and hereby is amended to read as follows:

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 a minimum of twenty-five (25) feet of 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.

Section 20 – That Article 16, Section 16-9 of the Lexington Fayette County Zoning Ordinance be and hereby is amended to read as follows:

Sec. 16-9. Drive-Through Facilities and Drive-Up Windows

- (a) A vehicular stacking area shall be provided for any drive-up window or drive-through facility. Such vehicular stacking area shall not include any right-of-way, shall be provided wholly on the property, and shall not interfere with the use of any parking spaces provided. The minimum number of required stacking spaces within the vehicular stacking area shall include the space at the initial point of service, including but not limited to, a window, menu board, service area or other stopping point. Each stacking space shall be twenty-two (22) feet in length. The vehicular stacking area shall not include the area between the initial point of service and any subsequent window, service area or other stopping point.

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 when vehicular traffic entering the drive-thru and traffic within an adjacent drive aisle are moving in opposite directions in order to provide separation between the drive-through lane and other drive aisles on the site.

- (1) For drive-up windows, a minimum of three (3) stacking spaces shall be provided.
- (2) For quick-service food and beverage services, accessory to a restaurant, a minimum of six (6) stacking spaces shall be provided for the first drive-through lane. For any subsequent drive-through lane a minimum of three (3) stacking spaces shall be provided.
- (3) For quick-service food and beverage services without indoor service or seating, and provision of retail products, including packaged food and beverages, a minimum of six (6) stacking spaces shall be provided per drive-through lane.
- (4) For banks, and pharmacies a minimum of three (3) stacking spaces shall be provided for the first drive-through lane, with no additional stacking spaces required for multiple lanes.
- (5) For self service car-wash facilities, a minimum of two (2) stacking spaces shall be provided per bay.
- (6) The number of required stacking spaces may only be modified or waived by the Planning Commission on a final development plan based on the recommendations of an Operational Plan if the Planning Commission makes a finding that modifying the minimum stacking requirements will not impede traffic circulation on-site, negatively impact adjoining properties or land uses, nor create a public safety hazard.
- (7) An Operational Plan shall include the following:
 - a. A site plan with an applicable tracking path simulation (e.g. AutoTURN) for the design vehicle of the drive-through facility;
 - b. The required stacking area;
 - c. The drive-through width; and

- d. The pedestrian circulation.
- (b) General Standards for Drive-Up Windows - Drive-up windows, including the stacking area, shall be screened from any adjoining residential use or zone, public park, place of religious assembly, school, or childcare facility by a 6-foot tall, solid fence in addition to any VUA or property perimeter screening required by Article 18.
- (c) General Standards for Drive-Through Facilities shall meet the requirements established for Drive-Up Windows, in addition to the following:
 - (1) Drive-through lanes shall be a minimum of ten (10) feet and a maximum of twelve (12) feet in width.
 - (2) A minimum of one direct pedestrian walkway a minimum of five (5) feet in width shall be provided that allows pedestrians to access the building from the right-of-way without crossing drive-through lanes.
 - (3) All components of the drive-through facilities, including but not limited to menu boards, stacking lanes, ordering points, and other objects associated with the drive-through shall be located to the side or rear of the building.
 - (4) If a bail out lane for unobstructed exit capability is provided, it must be a minimum width of 10 feet and run parallel to the drive-through lane. If such bail out lane is also an interior access drive providing access to parking spaces, the bail out lane is limited to a one-way traffic pattern following the direction of the drive-through lane.
 - (5) Pedestrian walkways shall be clearly visible and emphasized by enhanced paving or markings where they intersect drive-through lanes.

Section 21 - That Article 16, Section 16-12 of the Lexington Fayette County Zoning Ordinance be and hereby is amended, deleting subsection (a)(3) and sequentially renumbering subsections, to read in pertinent part as follows:

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) 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.
- (b) Where bicycle parking is provided externally, such parking shall be located adjacent to the building and within twenty (20) feet of a building main entrance. Bicycle parking shall be located so the bicycles do not impede the pedestrian through movement when parked.
- (c) Where bicycle parking facilities are provided within a parking structure, the storage area shall be within ten (10) feet of one (1) or more of the following: an external pedestrian access, stairway tower, and/or an elevator tower.
- (d) 50% or greater of the required bicycle parking for multi-family developments shall be covered and either located adjacent to the dwellings or in a secure location internal to the structure. The bicycle parking shall be divided equally by total number of units per building and then multiplied by the number of buildings in order to serve the development equally.
- (e) Each bicycle rack shall accommodate a minimum of 2 bicycles.

Section 22 - That a new section of Article 16, Section 16-15 (“Commercial Access Standards”), of the Lexington Fayette County Zoning Ordinance be and hereby is created to read as follows:

Sec. 16-15. Commercial Access Standards.

Commercial access to a property shall be governed by the following standards and in concert with the adopted Land Subdivision Regulations. Commercial access shall defined as access for the following land uses: multi- family residential; professional services, and banks; institutional uses; schools for academic instruction; businesses for retail sales and eating and drinking establishments; places of religious assembly; commercial parking lots or structures; indoor or outdoor recreation and athletic facilities; hotels of any type; nursing homes, personal care facilities, rehabilitation homes and assisted living facilities; community centers and private clubs; light and heavy industrial; warehouses and storage; and other businesses not specifically identified above.

- (a) Proposed commercial entrances shall aligned with existing curb cuts or existing street features on the opposite side of the street. If entrance locations cannot align, then the proposed commercial entrance shall be a minimum distance away from any other entrance based upon the following:

Posted Roadway Speed	Distance Between Commercial Entrances
25 MPH	100 feet
35 MPH	150 feet
45 MPH or greater	200 feet

- (b) Proposed commercial entrances, except for right-in/ right-out access points, shall be a minimum width of twenty (20) feet and a maximum width of thirty (30) feet, measured at the right-of-way line.

Driveway width, apron flare and curb radius must meet all Fire Code or LFUCG Division of Fire standards.

- (c) A minimum fifteen (15) foot curb radius shall be provided for commercial entrances, shared access points and for any entrance from an arterial street. A maximum curb radius of thirty-five (35) feet shall be provided and must be supported by tracking path simulation (e.g. AutoTURN).
- (d) Entrance spacing along frontage roads shall meet local road access spacing, with a maximum of two (2) access points.
- (e) Proposed commercial entrances shall be a minimum of one hundred (100) feet from any at-grade railroad crossing right-of-way.
- (f) Where a median exists in the right-of-way, entrances shall be aligned with median openings.
- (g) Appropriate storage and taper lengths, pavement markings (including raised pavement markings) for left turn lanes and monolithic median noses shall comply with design standards established by the Traffic Engineering Manual and LFUCG Standard Drawings.
- (h) No parking spaces shall be permitted to back directly into a public or private street right-of-way. Existing parking lots shall be revised to meet current standards when there is a zone change or addition made to a principal structure of more than thirty percent (30%) of the floor area.
- (i) When a site is redeveloped, existing entrances shall be removed, replaced or relocated unless they are in compliance with LFUCG Standard Drawing 307 for entrance apron design and width.
- (j) Commercial entrances shall be located a minimum of three (3) feet from the property line or more to allow the corresponding apron flare to remain inside the projected property line and be in compliance with LFUCG Standard Drawing 307-1 or 307-2.
- (k) Existing damage or damage caused during construction activity to existing right-of-way shall be repaired or replaced in concert with permitted construction activities, per Article 5 of the Zoning Ordinance.
- (l) Gated primary entrances for a private street shall be prohibited. Gates shall meet

the performance and operation guidelines of the Division of Fire and Emergency Services.

- (m) Gated access points for “exit only” or “emergency access only” shall be located a minimum of thirty (30) feet from the curb to ensure vehicles can see the gate before entering. A “do not enter” sign shall be posted on the gate.
- (n) Any proposed modification to existing LFUCG or KYTC signaling equipment must be reviewed and approved by the Division of Traffic Engineering. Grade changes adjacent to existing LFUCG signaling equipment will require replacement to current LFUCG Traffic Engineering Standards.

Section 23 – That a new section of Article 16, Section 16-16 (“Solid Waste Access Standards”), of the Lexington Fayette County Zoning Ordinance be and hereby is created to read as follows:

Sec. 16-16. Solid Waste Access Standards.

Refuse collection is provided by the Lexington-Fayette Urban County Government in accordance with the standards and procedures of Chapter 16 of the Code of Ordinances. Dumpsters and other solid waste areas shall be located, screened and maintained in accordance with the requirements of the Chapter 16 of the Code of Ordinances.

Section 24 – That Article 18, Section 18-2(b) of the Lexington Fayette County Zoning Ordinance be and hereby is amended to read as follows:

(b)Existing Sites. Any development that expands, moves, removes, or reconstructs the building, structure, or vehicular use area (VUA) by thirty (30%) percent or more of a previously approved development plan by the Planning Commission shall comply with the provisions of this Article. Changes of less than thirty (30%) percent of the site shall comply with the provision of this Article only for the portions of the site being altered or modified.

Section 25 – That Article 18, Section 18-3 of the Lexington-Fayette County Zoning Ordinance be and hereby is amended, deleting Section 18-3(b)(9) and amending Sections 18-3(b)(4) and (b)(7), in pertinent part, to read as follows:

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

[...]

(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.

[...]

(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 of a minimum of eight (8) feet in width when trees are provided or five (5) feet when no trees are provided.

[...]

- (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, dumpsters, 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 shall 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. Screening for dumpsters and other solid waste service areas shall be installed and maintained in accordance with Chapter 16 of the Code of Ordinances.
 - (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 shall be provided in accordance with the requirements of Chapter 16 of the Code of Ordinances.

Section 26 – That Article 21, Section 21-4 of the Lexington Fayette County Zoning Ordinance be and hereby is amended to read as follows:

Sec. 21-4. - Development plan procedures.

The following shall be the procedure for consideration of any development plan.

- (a) *Pre-Application Meeting.* Prior to application for a final development plan, the owner/developer may request to meet with the appropriate staff members of the Division of Planning to discuss the proposed plan. The purpose of the pre-application meeting is to discuss the requirements, procedures and issues related to the proposed development to alleviate possible conflicts by early recognition of existing conditions, current standards, necessary infrastructure and adopted plans.
- (b) *On-Site Meeting.* Prior to the submission of a development plan, the owner/developer shall contact the Urban Forester who will determine if an on-site meeting with the developer's design professional and/or other pertinent Urban County Government staff is necessary.
- (c) *Filing.* To formally request action on the development plan, the developer shall complete the required application information, and submit a current deed for the

subject property, copies of the plan, associated plans and studies as required by the Zoning Ordinance and pay the filing fee as required by the Commission's adopted filing and fee schedules with the Division of Planning.

(d) *Review.* The Division of Planning shall facilitate the review of all development plans through the following steps:

(1) *Technical Review Committee.* The Division of Planning and concerned agencies shall review the development plan, and then meet together as a Technical Review Committee (TRC) to ensure the plan meets all requirements established by the Zoning Ordinance, the Land Subdivision Regulations, and other adopted rules and regulations; as well as resolve all differences or conflicts. Development plans that meet all ordinance requirements, manuals, regulations and rules may be approved by the Technical Review Committee and no further action by the Planning Commission will be required. The Technical Review Committee shall have a maximum of thirty (30) days to review a development plan. If the development plan meets all requirements within that timeframe, it shall be approved and certified by the Secretary of the Planning Commission in conformance with subsection (e) and (f) herein. If the development plan does not meet all requirements, it may be postponed until revisions are made to meet all requirements or the developer files a waiver request in compliance with Subsection 21-9. In the event a development plan has been postponed for a period of one (1) year from the initial application date, the plan shall become indefinitely postponed and will no longer be considered active. A development plan can be re-activated upon written notice to the Division of Planning and submission of materials in conformance with subsection (c) above.

(2) *Planning Commission Subdivision Committee.* Development plans may require further review by the Planning Commission's Subdivision Committee and the full Planning Commission under the following criteria and circumstances:

- (a) Additional guidance or recommendations may be required from boards and commissions as stipulated by other ordinances or agreements such as, but not limited to, the Royal Springs Aquifer Wellhead Protection Committee, or the Paris Pike Corridor Commission. Such recommendations and conditions shall be incorporated into the development plan. Relief from such recommendations and conditions may be granted by the Planning Commission at a public meeting.
- (b) The developer requests a waiver to the requirements established by the Zoning Ordinance, the Land Subdivision Regulations, and other applicable adopted rules and regulations. Allowable waivers are further regulated by Subsection 21-9.
- (c) The Division of Planning refers a development plan because a strict application of the requirements established by the Zoning Ordinance or other adopted rules and regulations would pose a specific threat to public health, safety or welfare in the affected area.
- (d) The development plan filed in conjunction with a map amendment request that requires further evaluation relative to the adopted Comprehensive Plan or a Small Area Plan.
- (e) The preliminary development plan associated with a map amendment request has expired and a new plan is necessary.

The Subdivision Committee will review all recommendations, and then forward their recommendations to the full Planning Commission for final action. 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.

(e) *Commission Action.*

No development plans shall be considered for action by the Commission until they have been reviewed by, and recommendations made by the Subdivision Committee. All development plans shall be approved or disapproved within ninety (90) days of the date they are formally filed with the Division of Planning, unless the developer agrees to a longer time period. However, in the case of a development plan filed in conjunction with a map amendment request, the Planning Commission may postpone the development plan until after the Urban County Council has made its decision on the map amendment request. For cases such as these, the Commission shall either approve or disapprove the development plan within sixty (60) days of the date of Council action on the map amendment request unless the developer agrees to a longer time period.

The Commission will review the Subdivision Committee's recommendation and then act for approval, conditional approval with conditions noted, postponement, or disapproval. The Commission may modify or disapprove the development plan if it finds the plan does not comply with the requirements of this Zoning Ordinance, and when applicable, the Land Subdivision Regulations or if it finds there are existing or potential flood, drainage, traffic, topographic, health, safety, nuisance or other similar problems relating to the development of the subject property or affected area. In addition to these items, development plans which seek to amend the original development plan or its approved amendments shall also be subject to the provisions of Section 21-7(e) hereinbelow. Reasons for action of postponement or disapproval shall be fully incorporated in the Commission's minutes. The following actions by the Commission shall have the meanings so stated:

- (1) *Approval.* Means the development plan is ready to be certified by the Commission's Secretary with no further corrections or revisions of the plan required by the developer.
- (2) *Conditional Approval.* Means the development plan cannot be certified by the Commission's Secretary until the developer has complied with the conditions of approval set forth in the Planning Commission's action on the plan.
- (3) *Postponement.* Means that the Commission has deferred action until some future Commission meeting in order that certain clarifications can be made in regard to the development plan. No completely new re-submittal is required of the developer as is the case for disapproval.
- (4) *Disapproval.* Means disapproval of the plan. To request new review and action, the developer must file a new application along with a filing fee, plan copies, and other material as required under Subsection (b) of this section.

(f) *Certification of Approval.* Within fourteen (14) days of the Commission's approval for all development plans filed in conjunction with a map amendment, and for all other development plans, within one (1) year of the Technical Review Committee or Commission's approval, unless a time extension has been granted previous to the expiration date, the following steps shall be completed, or else the approval becomes null and void:

- (1) The developer shall fully comply with any conditions of approval placed on

the plan by the Commission and submit the completed original tracing of the plan including the signed owner's certification to the Division of Planning;

- (2) The plan shall be certified by the Commission's Secretary if it is in conformance with all requirements. Required copies of the certified plan shall be made by the Division of Planning at the developer's expense. In conjunction with any request by the developer for a time extension of no greater than one (1) year, the Commission may require changes in the development plan when applicable ordinances and regulations have been changed.

(g) *Timing Restrictions.* The following timing restrictions shall be applicable to development plans:

- (1) Final development plans shall be submitted for Commission consideration within two (2) years of the date of Commission action on a preliminary development plan, otherwise, the preliminary development plan shall be deemed as disapproved. A new preliminary development plan shall be required to be submitted and reviewed by the Planning Commission.
- (2) The developer shall be required to obtain building permits for all structures shown on a final development plan within five (5) years of the date of action on the development plan. Once expired, a new final development plan filing shall be required.

Section 27 – That Article 21, Section 21-6 of the Lexington Fayette County Zoning

Ordinance be and hereby is amended to read as follows:

Sec. 21-6. - Contents and format of development plans.

All development plans shall be prepared on Mylar or other material capable of clear reproduction using ozalid print process. Plans shall be legible and of a size and scale (generally not exceeding one (1) inch equals one hundred (100) feet) which enables clear presentation of required information. Required plan information shall be as follows:

- (a) Contents of preliminary development plan. A preliminary development plan shall contain the following information:
 - (1) A title block containing the plan name, development plan type, name and address of developer and plan preparer; written and graphic scale.
 - (2) The boundary of the subject property denoted with a solid line and bearings and distances, and its record plan designation (if available the record plan name or owner's name of all adjacent property. The boundary of all adjacent property shall be denoted with dashed lines.
 - (3) A vicinity sketch, oriented in the same direction as the design scheme, at a scale of one (1) inch equals two thousand (2,000) feet, labeled with roadways and identifying the subject property.
 - (4) Topography with contour intervals not greater than five (5) feet.
 - (5) Location, arrangement, and dimensions of existing and proposed driveways, walkways, pedestrian crossings, parking areas and arrangement of spaces (including reserved parking, display areas, and compact spaces), point of ingress and egress (including all gates restricting vehicular access), traffic calming elements, access points for construction vehicles, and other vehicular and pedestrian rights-of-way or easements (as required by Article 16).
 - (6) Location and cross-sections of any proposed or existing streets within or

abutting the subject property, access points for all adjacent land, and stub connections that adjoin any portion of the subject property (both vehicular and pedestrian).

- (7) Location, arrangement, and dimensions of existing and proposed screening, landscaping and buffering, (as required by Article 18), recreational and other open space areas (as required by Article 20).
 - (8) Location, size, height, floor area, area arrangement and use of proposed and existing buildings, walls over three feet in height, fences, and canopies over drive aisles.
 - (9) Storm drainage areas, floodplains, alluvial soils, conceptual drainage controls and stormwater retention and any other designated environmentally sensitive or geologic hazard area.
 - (10) Existing easements for utilities or other purposes, including dimensions and labels.
 - (11) A tree inventory map and notes as required by Article 26.
 - (12) Location of any existing burial grounds (including private family cemeteries) on the subject property and all adjoining property, and provisions for their protection, maintenance and accessibility.
 - (13) A statistical summary of all pertinent site data, including site area in square feet and acres, zoning, building coverage and floor area, parking quantities, open space by type (total, common, usable and vegetative, tree canopy, etc). Additional site statistics may be required based on the requirements of the zoning category. Statistical summary table shall meet the standards of the Division of Planning.
 - (14) Proposed and existing addresses for each lot, building and/or unit, and front yard and exterior building line(s).
 - (15) The approved conditional zoning, variances, waivers, conditional use permits or other binding restrictions for the subject property.
- (b) Preliminary Development Plans shall contain the following general notes stating the following:
- (1) No grading, stripping, excavation, filling or other disturbance of the natural ground cover shall take place prior to approval of an erosion control plan. Such plan must be submitted in accordance with Chapter 16 of the Code of Ordinances.
 - (2) No building permits shall be issued unless and until a final development plan is certified by the Secretary of the Planning Commission.
 - (3) All buildings, paving, signs, fences, walls and retaining walls that are depicted, described or required on this Development Plan shall require a separate review and building permit from the Division of Building Inspection prior to construction.
 - (4) The location of the fire hydrants, fire department or fire service features, if required, shall be approved by the Division of Fire, Water Control Office.
 - (5) An owner's certification, signed and witnessed as follows: "I (We) do hereby certify that I am (we are) the only owner(s) of the property shown hereon, do fully agree to all graphic and textural representations shown hereon, and do adopt this as my (our) development plan for the property."

- (6) A Commission's certification to be signed by the Secretary of the Commission if and when the plan is fully approved by the Planning Commission, as follows: "I do hereby certify that this development plan was approved by the Urban County Planning Commission at its meeting held on (date)."
- (7) An alternative Commission's certification shall be used when the plan meets all requirements of the Zoning Ordinance and has not been acted on by the Planning Commission, as follows: "I do hereby certify that this development plan complies with all provisions of the Zoning Ordinance."

(c) Contents of final development plan. All information required for preliminary development plans as required under Subsections (a) and (b) of this section, above; except that that the plan information shall be of an exact nature, rather than approximate or general. In addition, the following information shall be required:

- (1) Environmentally sensitive and geologic hazard areas, as defined in Article 1-11, shall also be depicted on a supplemental environmental plan sheet;
- (2) Contour intervals shall be two (2) feet;
- (3) A tree protection plan, data block, and tree protection areas as required by Article 26;
- (4) A lighting plan as required by Article 30; and
- (5) Proposed easements for utilities or other purposes, including dimensions and labels.

Section 28 – That Article 21, Sections 21-7(b) and (e) of the Lexington Fayette

County Zoning Ordinance be and hereby are amended to read as follows:

Sec. 21-7. - Amendments to development plans.

Amendments to an approved development plan shall follow the steps established below. All development plan amendments shall meet the requirements established by the adopted Zoning Ordinance, the Land Subdivision Regulations, and other applicable adopted rules and regulations.

Amendments which fully meet the requirements set forth hereinafter for minor amendments may be approved and certified by the Commission's Secretary without further action by the Commission.

[...]

(b) Procedures for Minor Amendments. Shall be as follows:

- (1) *Filing.* The developer shall file the following materials with the Division of Planning: a reproducible plan prepared on Mylar or other material capable of reproduction; three (3) black line prints of the plan; a current deed for the subject property; and a filing fee in the amount determined by the Commission's adopted fee schedule.
- (2) *Review.* The Division of Planning shall review the plan for compliance with all applicable requirements and ordinances and shall consult with the Divisions of Building Inspection, Traffic Engineering, Engineering, and others as appropriate to ensure proper plan review. Upon determination that all requirements have been met, the Commission's Secretary shall certify the plan as approved. If any question arises as to compliance, the Division of Planning shall refer the proposed amendment to the Technical Review Committee or the full Commission, however, the plan shall follow the process established in

subsection 21-4 above.

- (3) *Certification.* Upon certification of approval by the Commission's Secretary, the Division of Planning shall have copies of the plan prepared and distributed to other public agencies at the expense of the developer, and return the original plan tracing to the developer.

[...]

(e)Major Amendment Procedures. The procedure for a major amendment to a development plan shall be the same as for the original submission as specified in Section 21-4 above. However, in addition to the standards listed in Section 21-4(d), the Commission may also disapprove or modify the requested amendment if it finds that such amendments will adversely affect the public health, safety and welfare.

Section 29 – That a new section of Article 21, Section 21-9 (“Waivers’), of the Lexington Fayette County Zoning Ordinance be and hereby is created to read as follows:

Sec. 21-9 – Waivers

The Planning Commission may consider waivers to modify, ~~reduce~~ or eliminate certain standards and minimum requirements established by the Zoning Ordinance which cannot be addressed through a dimensional variance. Use, conditional use, density, lot coverage and F.A.R. standards shall not be modified by this process. Waivers to the Land Subdivision Regulations, Engineering Manuals or other adopted regulations shall follow the specific waiver or appeal procedures established therein and shall take precedence over the procedures established in this section. Only site, building and structure design elements are subject to the waiver provisions of the Zoning Ordinance. Regulations that prohibit certain structures or activities (e.g. freestanding signs prohibited in certain zones), and other non-design related standards (e.g. limit on hours of operation) may not be waived.

(a) Application Submission Requirements - Applications for waiver shall be submitted by the property owner or his/her agent and filed with the Division of Planning in accordance with these regulations. Applications shall be accompanied by appropriate supporting material and by the appropriate filing fee. The list of required supporting materials shall be available from the Division of Planning. Applications for waivers will not be accepted until all required materials and filing fees are submitted. At a minimum, the following materials shall be submitted with all applications for waiver:

- (1) A justification document which addresses as applicable the following items:
- a. The waiver will not compromise public health, safety, and welfare; and
 - b. The extent of waiver of the regulation is the minimum necessary to reasonably afford relief to the applicant; and
 - c. Either:
 - i. The applicant has incorporated other design measures that exceed the minimums of the zone and compensate for non-compliance with the requirements to be waived (net beneficial effect); or
 - ii. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

(2) Unless determined by the Planning Director to be unnecessary, a site plan or development plan of sufficient detail to demonstrate to the Planning Commission the character and objectives of the proposed waiver and the potential impacts of the waiver on the community and its environs.

(b) Notice Requirements - Following receipt of a completed application, staff of the Commission shall provide notice of the request for modification or waiver to adjacent

property owners on the proposal now under consideration for waiver. Addresses shall be obtained using current available data from the Property Valuation Administrator. Such notice shall be given no less than ten (10) calendar days prior to the meeting at which the request is to be considered.

(c) Public Hearing - The Planning Commission shall hold a public hearing in order to consider a requested waiver. Requests for a waiver may extend review periods when associated with a development plan, but the waiver shall be approved or disapproved within ninety (90) days of the date it is formally filed with the Division of Planning, unless the owner or agent agrees to a longer period of time.

(d) Findings Necessary for Granting of Waiver or Modification

The Planning Commission may approve waivers of standards upon a finding that:

(1) The waiver will not compromise public health, safety, and welfare; and

(2) The extent of waiver of the regulation is the minimum necessary to reasonably afford relief to the applicant; and,

(3) Either:

a. The applicant has incorporated other design measures that exceed the minimums of the zone and compensate for non-compliance with the requirements to be waived (net beneficial effect); or

b. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

(e) Additional Conditions - The Commission may impose additional conditions or restrictions intended to mitigate the impact of the modification or waiver. These conditions or restrictions shall be noted on the plan and are only able to be modified by the Planning Commission.

Section 30 – That Article 23B, Section 23B-4 of the Lexington Fayette County Zoning Ordinance be and hereby is amended, deleting (a) and sequentially reorganizing subsections, to read as follows:

Sec. 23B-4. Content and format for final development plans within the Expansion Areas.

Final development plans required pursuant to this Article shall meet, at a minimum, all information as required for a final development plan as set forth under Section 21-6. In addition, the following shall be a required part of the final development plan and shall be submitted at the time of the application:

(a) Infrastructure Statement. This document shall set forth a project description including engineering and construction cost estimates prepared by a professional engineer for the public and/or private expenditures for system improvements that the developer proposes to construct, and for construction, or other development activity which will be in place prior to or in conjunction with the development. This document will demonstrate that the proposal complies with the "Infrastructure Element" of the adopted Expansion Area Master Plan. Any proposed or executed development agreement that is required or anticipated by the developer as set forth under Section 23C-7 hereinbelow shall also be a part of this statement. At the time of the application, the developer shall distribute copies of the Infrastructure Statement to the Chief Administrative Officer, the Commissioner of Public Works, the Commissioner of Finance, and the Commissioner of General Services. Such officials shall review the proposed statement and provide their comments to the Division of Planning during the review process.

(b) Other Information on the Final Plan. The final development plan shall indicate

the developer's restrictions for lot sizes (minimum and, where appropriate, maximum); yard and setback restrictions; coverage restrictions; height limitations; floor area ratios; project lighting; or similar restrictive techniques to be established within the development or defined areas within it so as to achieve the purposes of the Expansion Area Master Plan and to prevent or minimize potential adverse effects upon properties within and in the vicinity of the proposed development.

- (c) DTR Related Information. For any final development plan which proposes units permitted under a DTR, a copy of the Certificate of DTR shall be filed as a part of the application.

Section 31 – That Article 23B, Section 23B-5 of the Lexington Fayette County Zoning Ordinance be and hereby is amended to read as follows:

Sec. 23B-5. Review procedures.

Final development plans required under this Article shall follow the development plan procedures as set forth in Section 21-4, except that an Infrastructure Plan shall be required. Approval of the development plan will require staff certification that the plan is in compliance with the Infrastructure Element of the Expansion Area Master Plan.

Section 32 – That Article 28, Sections 28-3(a), (e) and (g) of the Lexington Fayette County Zoning Ordinance be and hereby are amended, deleting subsections (a)(3) and (g) and sequentially renumbering subsections, to read in pertinent part as follows:

Sec. 28-3. - Mixed use 1: Neighborhood Node Zone (MU-1).

Mixed use 1: "Neighborhood Node Zone (MU-1)" is hereby created and regulated as follows:

- (a) *Location Criteria.* MU-1 shall only be permitted on parcels which meet all of the following criteria:
1. The parcel must contain a combined total frontage of at least one hundred (100) feet of the intersection of two (2) streets, one (1) of which has the functional classification of arterial or collector, and must be located inside the Urban Service Area boundary.
 2. The parcel must contain at least five thousand (5,000) square feet and may not exceed a maximum of one-half (½) acre.

[...]

(e) Prohibited Uses. The following uses shall be prohibited in an MU-1 zone:

1. The following principal uses, in the B-1 zone: automobile service - stations; parking structures; outdoor miniature golf or putting courses; circuses and carnivals on a temporary basis; indoor theaters; arcades, including pinball and electronic games; pawnshops.
2. The following accessory use in the B-1 zone: drive-through facilities.
3. All B-1 conditional uses.
4. All uses listed as prohibited in the B-1 zone.

[...]

(g) 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 additional sidewalk or pedestrian areas are provided, 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).

Section 33 – That Article 28, Sections 28-4(a), (d), and (g) of the Lexington Fayette County Zoning Ordinance be and hereby are amended, deleting subsections (a)(3) and (g) and sequentially reorganizing subsections, to read in pertinent part as follows:

Sec. 28-4. - Mixed use 2: Neighborhood Corridor Zone (MU-2).

Mixed use 2: "Neighborhood Corridor Zone (MU-2)" is hereby created and regulated as follows:

(a) Location Criteria. MU-2 shall only be permitted on parcels that meet all of the following criteria:

1. The parcel must be located within the Urban Service Boundary and have at least one hundred sixty (160) feet of frontage on one (1) of the following streets: Tates Creek Road/High Street; Nicholasville Road/South Limestone; Southland Drive; South Broadway/Harrodsburg Road; Maxwell Street/Versailles Road; Old Frankfort Pike/Manchester Street; Midland Avenue/Winchester Road; Main Street/Richmond Road/Leestown Road; Georgetown Street; Georgetown Road; Newtown Pike; Russell Cave Road; Virginia Avenue; Bolivar Street; South Upper Street; Vine Street; Red Mile Road; North Broadway; Man O' War Boulevard; Citation Boulevard; or North Limestone Street.
2. The parcel must contain at least one-half (½) acre and may not exceed a maximum area of four (4) acres.

[...]

(d)Conditional Uses: The following shall be conditional uses in the MU-2 zone:

1.Drive-through facilities, as permitted in Article 8-16(d)5. -

2. Temporary structures designed for use or occupancy for sixty-one (61) to one hundred eighty (180) days per 12-month period on a single property, calculating said period by cumulative consideration of the use of any and all such structures on a single property.

[...]

(g)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. 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. When additional sidewalk or pedestrian areas are provided, 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.
3. Signage within the MU-2 zone shall be as permitted and restricted under Section 17-11 (n) of this Zoning Ordinance.

Section 34 – That Article 28, Sections 28-5(a), (c), (e), (f), and (g) of the Lexington Fayette County Zoning Ordinance be and hereby are amended, deleting subsections (a)(3), (e)(2), and (g), and sequentially reorganizing subsections, to read in pertinent part as follows:

Sec. 28-5. - Mixed use 3: Mixed use Community Zone (MU-3).

Mixed use 3: "Mixed use Community Zone (MU-3)" is hereby created and regulated as follows:

- (a) *Location Criteria.* MU-3 shall only be permitted on parcels that meet all of the following criteria:

1. The parcel must be located within the Urban Service Area and have at least one hundred sixty (160) feet of frontage on one (1) of the following streets: Bates Creek Road/High Street; Nicholasville Road/South Limestone; Southland Drive; South Broadway/Harrodsburg Road; Maxwell Street/Versailles Road; Old Frankfort Pike/Manchester Street; Midland Avenue/Winchester Road; Main Street/Richmond Road/Leestown Road; Georgetown Street; Georgetown Road; Newtown Pike; Russell Cave Road; Virginia Avenue; Bolivar Street; South Upper Street; Vine Street; Red Mile Road; North Broadway; Man O' War Boulevard; Citation Boulevard; or North Limestone Street.
2. The parcel must contain at least three (3) acres.

[...]

- (c) Accessory Uses. The following shall be accessory uses in the MU-3 zone:

1. The accessory uses permitted in the P-1 and B-1 zones, including drive-through facilities, except as prohibited under Subsection (e) of this section, below.

[...]

- (e) Prohibited Uses. The following uses shall be prohibited in an MU-3 zone:

1. The following principal uses in the B-1 zone: outdoor miniature golf or putting courses; circuses and carnivals on a temporary basis.
2. The following B-1 conditional uses; self-service car washes; animal hospitals or clinics, except as permitted herein.
3. All uses listed as prohibited in the B-1 zone, except as permitted herein.

- (f) Lot, Yard, and Height Requirements. Lot, yard, and height requirements shall be as follows:

1. Floor Area Ratio: Maximum 2.0.
2. Maximum Building Height: Eighty (80) feet if a building is located at the intersection of a street classified as an arterial with another arterial or collector street; seventy (70) feet for all other buildings.
3. Front Yard: No limitation for first or second story; any third or additional floors shall be set back at least fifteen (15) feet if located adjacent to a residential zone, including any that may be separated by a street right-of-way fifty (50) feet or less in width; see also Subsection (g)(3) of this section, below.
4. Each Side Yard: For one- and two-story structures, ten (10) feet; for three-story structures and higher, ten (10) feet, unless adjacent to a residential zone; then, a 1:1 height-to-yard ratio.
5. Rear Yard: Ten (10) feet unless adjacent to a residential zone, then a 1:1 height-to-yard ratio.
6. Open Space: See Article 20 for open space regulations.
7. Lot Coverage: Maximum fifty percent (50%).

(g) 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. 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. When additional sidewalk or pedestrian areas are provided, 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.
3. Signage within the MU-3 zone shall be as permitted and restricted under Section 17-11(o) of this Zoning Ordinance.
4. An Entertainment Mixed use Project may be permitted only by the Planning Commission for a tract of land with a minimum of ten (10) acres, 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, 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.
3. For the overall project area, open space shall be governed by Article 20. Open space may be clustered across multiple lots to facilitate

the common use of the land.

- (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, extended-stay hotels, and hosted or un-hosted short-term rentals as regulated in Section 3-13.
 - 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.

County Zoning Ordinance be and hereby are amended, deleting subsections (g) and (i), and sequentially reorganizing subsections, to read in pertinent part as follows:

Sec. 28-6. - Provisions applicable to all mixed use zones.

Provisions applicable to all mixed use zones shall be as follows:

(a) *Development Plan Required.* All applications for a zone map amendment shall require the accompanying submission of a preliminary development plan. No development or occupancy of any existing structure for mixed use shall occur until a final development plan has been approved and certified. In addition to all requirements for development plans contained in Article 21, the developments within these zones shall comply with provisions of Subsections (b) through (g) of this section, below.

(b) *Pedestrian Accommodation.* Pedestrian accommodation shall be as follows:

- (1) At least one (1) primary street level entrance to a building that faces any public street shall be oriented toward the public street.
- (2) For at least one (1) location adjoining the street, a pedestrian entryway, including landscaping elements, has been provided to the site.
- (3) Where two (2) or more buildings are proposed, they shall be arranged in a manner that provides a centralized open space area, such as a plaza, courtyard or similar feature.
- (4) Sidewalks shall be provided along each road frontage, with connections provided to each principal structure, parking area, and open space area.
- (5) A six-foot minimum unobstructed pedestrian walkway shall be provided to accommodate landscaping, street trees, street furniture, sidewalk cafes or other obstacles.
- (6) For any development within the Downtown Streetscape Master Plan Area, the development shall adhere to the provisions of that plan.

[...]

(g) Increased Setback for Building Height Differences. In cases where the proposed mixed use structure(s) have a height differential of greater than ten (10) feet from immediately adjoining residential structures, a minimum 1:1 height-to-yard ratio for the adjoining side yard shall be provided.

Section 36 – That Article 28-7 of the Lexington-Fayette Urban County Zoning Ordinance be and hereby is deleted.

Section 37 – That this Ordinance shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL:

MAYOR

ATTEST:

CLERK OF URBAN COUNTY COUNCIL
PUBLISHED:

0440-25:TWJ:4901-9216-6703, v. 1