



To: City of Fort Thomas, KY Planning Commission

From: Alisa Duffey Rogers, AICP
Frank Twehues, P.E.

Subject: Zoning Ordinance Update
Considerations for February 15, 2023 Meeting

Date: February 8, 2023

▶ As we mentioned at the Planning Commission on January 18, 2023, additional community engagement opportunities are being held following Planning Commission meetings each month. At the community engagement session on January 19, 2023, five community members attended, and the following topics were discussed:

- Difficulties interpreting the Zoning Map;
- The Neighborhood Commercial/Office District;
- Vision for Downtown
- Historic Districts in Fort Thomas
- Neighborhood commercial uses and walkability
- Challenges facing community members attending Planning Commission meetings

To assist community members attending Planning Commission Meetings, we will provide a brief memo outlining some of the topics to be considered by the Planning Commission. This brief memo will accompany the draft Ordinance Sections distributed to the Planning Commission.

▶ At the Planning Commission meeting on February 15, we will present the following Ordinance Sections and potential discussion topics, which are highlighted in yellow text boxes in the text of each draft Section, are listed below each Section title. (Some Sections have no highlighted text boxes.)

- Section 3.0 - River Preservation District and Conservation District Regulations
 - ◆ The Community Plan discusses permitting camping and “glamping” in the RP. This topic requires additional discussion. (Page 2 in Section 3.0)



- Section 3.4 - Multi-Family Residential District Regulations
 - ◆ Should parking garages be a principal use that is conditional or should we require that accessory parking garages have to meet the same setbacks as principal buildings? (Page 3 in Section 3.4)
 - ◆ Should funeral homes have cremation facilities in these districts? (Page 3 in Section 3.4)
 - ◆ Should a minimum parking setback be required particularly adjacent to single-family residential districts? (Page 5 in Section 3.4)
 - ◆ Do you expect additional development/redevelopment on already developed sites or additional R-3/R-5 development? (Page 5 in Section 3.4)

- Section 3.5 - Alexandria Pike Mixed Use District Regulations
 - ◆ Are the uses in the Vehicle & Equipment Category in Schedule 3.5.02 C. appropriate? (Page 3 in Section 3.5)
 - ◆ Should we regulate more or less elements of non-residential building design along Alexandria Pike? (Page 7 in Section 3.5)
 - ◆ Are the Design Review Board roles and responsibilities appropriate? (Page 7 in Section 3.5)

- Section 3.6 - Neighborhood Commercial/Office District Regulations
 - ◆ Should adult/child care centers be permitted in NC/O District? (Page 3 in Section 3.6)
 - ◆ Do you want to permit drive-thru facilities? (Page 3 in Section 3.6)
 - ◆ Should different setbacks be permitted for the auto dealership at Fort Thomas Plaza? (Page 4 in Section 3.6)
 - ◆ Should we regulate more or less elements of non-residential building design in these areas? (Page 7 in Section 3.6)
 - ◆ Are the applicability requirements for the Design Standards appropriate? (Page 7 in Section 3.6)
 - ◆ Should the prohibition against front yard parking be eliminated for the auto dealership at Fort Thomas Plaza? (Page 9 in Section 3.6)

- Section 1.0 - Title, Purpose, and Application [This Section is the introduction for the Unified Development Ordinance (UDO)*.]

- Section 1.2 - Establishment of Districts and Map [This Section establishes all of the zoning districts.]



- Section 1.3 - Powers and Duties [This Section lists the powers and duties for all those charged with administering the UDO.]
- Section 1.4 - Development Plan Review Procedures [This Section outlines the procedures for considering development plans.]
 - ◆ Are the review criteria for Stage I Development Plans appropriate? (Page 8 in Section 1.4)
 - ◆ Are the review criteria for Stage II Development Plans appropriate? (Page 9 in Section 1.4)
- Section 1.5 - Zoning Permits and Certificates of Zoning Compliance [This Section provides the procedures for issuing Zoning Permits, which are the permits needed before construction starts on a site and for Certificates of Zoning Compliance, which is the approval needed to occupy a site/building after construction has been completed.]
- Section 1.6 - Conditional Use Permits [This Section provides the procedure for obtaining a Conditional Use Permit. Conditional Use Permits are necessary to commence a use that is classified as a conditional use in the Permitted Use Schedules.]
- Section 1.7 – Appeals and Variances [This Section describes the process to appeal a decision of the Zoning Administrator as well as gives the procedures for seeking a variance from dimensional standards in the UDO, such as setback regulations.]
- Section 1.8 – Amendments [This Section explains the process to seek a change to the text of the UDO and the Zoning Map.]
- Section 1.9 - Nonconforming Uses, Lots, Structures, & Site Conditions [This Section recognizes that there are lots, structures, and sites that do not conform to the current standards in the UDO because the lots, structures, and sites were developed before the enactment of the current regulations.]
 - ◆ Is 180 days an appropriate time period to prevent the reestablishment of a nonconforming use of land? (Page 4 in Section 1.9)
 - ◆ Should a nonconforming residential use be allowed to expand? (Page 5 in Section 1.9)
 - ◆ Should nonconforming structures be permitted to expand:
 1. When the expansion does not increase the nonconformity?
 2. Along the same plane as the existing nonconformity for single-family detached dwellings? (Page 8 in Section 1.9)



- Section 1.10 – Waivers and Modifications [This Section provides for administrative modifications, in some cases, for regulations in the UDO.]
 - ◆ Should the Ordinance spell out explicitly where waivers are permitted? Is an Equivalency Provision also appropriate? (Page 1 in Section 1.10)
 - ◆ Are administrative or staff modifications to Ordinance standards appropriate? (Page 3 in Section 1.10)
- Section 1.11 - Enforcement and Penalties [This Section provides measures to enforce the UDO as well as penalties for violations of the UDO.]

*A Unified Development Ordinance (UDO) is an ordinance that includes both the Zoning Ordinance and the Subdivision Ordinance. A Subdivision Ordinance governs how parcels can be subdivided.

Unified Development Ordinance Organization of Unified Development Ordinance	
<u>Article I – General Provisions and Administration</u>	
1.0	Title, Purpose, and Application
1.1	Definitions
1.2	Establishment of Districts and Map
1.3	Powers and Duties
1.4	Development Plan Review Procedures
1.5	Zoning Permits & Certificates of Zoning Compliance
1.6	Conditional Use Permits
1.7	Appeals & Variances
1.8	Amendments
1.9	Nonconforming Uses, Lots, Structures, & Site Conditions
1.10	Waivers
1.11	Enforcement and Penalties
<u>Article III – Zoning Districts</u>	
3.0	River Preservation and Conservation Districts
3.1	Single-Family & Two-Family Residential Districts
3.2	Reserved
3.3	Residential Cluster Development Overlay Zone
3.4	Multi-family Residential Districts
3.5	Alexandria Pike Mixed Use District
3.6	Neighborhood Commercial/Office District
3.7	Central Business District
<u>Article V – Regulations Applicable to All Districts</u>	
5.0	General Regulations
5.1	Accessory and Temporary Uses
5.2	Environmental Regulations
5.3	Landscaping, Screening, and Lighting Regulations
5.4	Conditional Use and Restricted Use Regulations
5.5	Off-Street Parking, Loading, and Access Regulations
5.6	Wireless Telecommunication Facilities
5.7	Sign Regulations
<u>Article VII – Subdivision Regulations</u>	
	Procedures for Subdivision Approval
	Subdivision Construction & Design Standards

Changes from existing provisions are noted: Substantive Additions and ~~Deletions~~

SECTION 1.0
Title, Purpose, and Application

1.0.01	Title.	1.0.07	Severability Clause.
1.0.02	Authority and Scope.	1.0.08	Effective Date.
1.0.03	Purpose.	1.0.09	Repeal of Existing Ordinance & Regulations
1.0.04	Jurisdiction.	1.0.10	Transitional Rules.
1.0.05	Applicability.		
1.0.06	Interpretation and Application.		

1.0.01 TITLE.

The ordinances, rules, regulations, procedures, restrictions, standards and the accompanying maps, schedules, figures, illustrations, and diagrams contained therein, in Articles I – VII inclusive, and the appendices thereto, This ordinance shall be effective throughout the City of Fort Thomas, Kentucky, and shall be known, referred to, and recited to as the "OFFICIAL ZONING UNIFIED DEVELOPMENT ORDINANCE OF THE CITY OF FORT THOMAS."

1.0.02 AUTHORITY AND SCOPE.

The Board of Council of the City of Fort Thomas, in pursuance of the authority of Kentucky Revised Statutes (~~KRS 100.201-100.991~~ 100) hereby ordains and enacts into law the following articles, ~~and sections~~ and sub-sections, which constitute the “Official Unified Development Ordinance of the City of Fort Thomas” and are intended to authorize the City to exercise all of the powers to zone and subdivide land and regulate its development to the fullest extent permitted by the Kentucky Revised Statutes and to impose restrictions and adopt regulations, standards and procedures for zoning, planning, subdividing, and developing land within the City.

1.0.03 PURPOSE.

The zoning and subdivision regulations and zoning districts as herein set forth have been prepared in accordance with the adopted *Comprehensive Plan* for the City of Fort Thomas to promote the public health, safety, morals, and general welfare of the City, to facilitate orderly and harmonious development and the visual or historical character of the city, and to regulate the density of population and intensity of land use in order to provide for adequate light and air. In addition, this Ordinance has been prepared to provide for appropriate vehicle off-street parking and loading and/or unloading space, as well as to facilitate fire and police protection, and to prevent the overcrowding of land, blight, danger, and congestion in the circulation of people and commodities, and the loss of life, health or property from fire, flood or other dangers. The zoning regulations and districts and subdivision regulations as herein set forth are also employed to protect ~~highways, and other~~ transportation facilities, public facilities, including schools and public grounds, the central business districts, natural resources and other specific areas in the City of Fort Thomas which need special protection by the City. This Ordinance is intended to achieve, among others, the following additional objectives:

Changes from existing provisions are noted: Substantive Additions and ~~Deletions~~

- A. To establish zoning districts of such classification and number which implement the City's Comprehensive Plan and which permit in each district the most appropriate uses of land to guide the future development of the City.
- B. To accomplish the specific intents and goals set forth in the introduction to the respective Sections.
- C. To regulate and restrict the location, size, height, design, and land coverage of buildings.
- D. To preserve and strengthen the reasonable balance of commercial activities within the City, so long as they are consistent with the City's character and the Comprehensive Plan, in order to serve the convenience of the inhabitants of the City and provide a strong economic and tax base to assure the City's ability to provide essential services to its inhabitants.

1.0.04 JURISDICTION.

~~As~~ This Ordinance dividing the City of Fort Thomas, Commonwealth of Kentucky, into ~~zones~~ Zoning Districts. ~~Zones~~ of such shape and area as are deemed best suited to carry out these regulations. This Ordinance generally governs the use of land within the City limits regulating the location, height, number of stories and size of buildings and other structures; regulating the size of yards and setbacks and other open spaces and the density and distribution of population and the uses of buildings, structures and land ~~use~~ and other purposes. The Ordinance also prescribes penalties for the violations; provides for enforcement; and provides for a Board of Adjustment ~~and repeals all regulations, resolutions, orders, ordinances and/or codes in conflict with this ordinance.~~ This Ordinance applies to all private and public lands, except for those exempted by KRS 100, all uses on those lands and all structures and buildings over which the City has jurisdiction under the laws of the state or pursuant to statutorily established powers.

1.0.05 APPLICABILITY.

- A. General Applicability. The provisions of this Ordinance apply to all buildings, uses, structures (including signs), and land as well as associated activities such as, but not limited to, grading, excavating, occupation, alterations, construction, reconstruction, removal, relocation, and enlargement unless specifically exempted from a requirement by these regulations. If a building or certificate of zoning compliance is required for any of these activities, it must be lawfully obtained prior to commencement of such activity.
- B. No building, or structure, parking lot or regulated open space shall be located, erected, constructed, rehabilitated, reconstructed, moved, converted, or enlarged, nor shall a building, structure or land be used, except in compliance with this Ordinance.

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- C. Existing lots, buildings, structures, and uses of land that do not comply with this Ordinance are subject to the regulations in Section 1.9, Nonconforming Uses, Lots, Structures, and Site Conditions.
- D. The design and layout of a subdivision shall conform to the requirements of this Unified Development Ordinance, and no lot or land for which a plat is required shall be conveyed until the plat has been approved as required herein.
- E. No lot, setback, parking area or other space shall be reduced in area or dimensions so as to make such area or dimension less than the minimum required by this Ordinance. No part of a setback, parking area or other space provided about or for any building or structure for the purpose of complying with the provisions of this Ordinance shall be included as part of a required setback, parking area, or other space required under this Ordinance for another building or structure.

1.0.06 INTERPRETATION AND APPLICATION.

- A. Greater Restriction. The provisions of this Ordinance shall be held to be the minimum requirements for the promotion of the public safety, health, and general welfare. Where this Ordinance imposes a greater restriction upon the buildings, structures or premises, upon heights of buildings or structures or requires larger open spaces than are imposed or required by any other ordinances, the provisions of this Ordinance shall govern.
- B. Permit or License in Violation. Notwithstanding any other provisions of this Ordinance or any other ordinances, rules, codes, permits or regulations of the City of Fort Thomas; if any permit or license is issued in violation of any provision of this Ordinance or purports to authorize the doing of any act not permitted by any provision of the Ordinance, said permit or license shall be void.
- C. ~~All ordinances and parts of ordinances of the City of Fort Thomas in conflict herewith are hereby repealed providing, however, that such repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any such ordinances and parts thereof hereby repealed prior to the effective date of this ordinance.~~ If the provisions of this Ordinance are inconsistent with one another, the more restrictive provision shall control.
- D. Except as specifically provided herein, the provisions of this Ordinance shall not repeal, abrogate, annul or in any way impair or interfere with any existing deed restrictions, ordinances, laws, rules, or permits previously adopted or issued, and shall not be construed as removing or rendering inoperative any deed or land restriction formerly established by restrictive covenants running with the land, easements, or other agreements between parties.

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- E. Compliance Required. Compliance with the requirements established by this Ordinance is required for any building, use, structure (including signs), and land as well as associated activities such as, but not limited to, grading, excavating, occupation, alterations, construction, reconstruction, removal, relocation, and enlargement. The burden of proof of compliance rests with the owner of the land, building, or structure.
- F. Uniformity within Districts. Within each zoning district, the regulations established by this Ordinance shall apply uniformly to each class or kind of use, structure, or land.
- G. Conformity with Other Laws.
 - 1. No building, structure, or land shall be used, occupied, or altered; nor shall any building, structure, in whole or part, be erected, constructed, reconstructed, moved, enlarged, or structurally altered; nor shall any change in use occur in any building, structure, or land, unless in conformity with local, state, and federal laws.
 - 2. Nothing in this Ordinance shall require the City to check for conformity with the laws of other jurisdictions prior to issuing local approval; however, demonstration of compliance may be required as part of the permit approval process. Furthermore, lack of compliance shall be grounds for denying a permit, and failure to remain in compliance shall be deemed a violation of this Ordinance subject to the remedies and enforcement actions specified in Section 1.11, Enforcement and Penalties.

1.0.07 SEVERABILITY CLAUSE.

~~That should~~ **Should** any article, section, subsection, sentence, clause, or phrase of this Ordinance, for any reason, be held unconstitutional or invalid, such decision or holding shall not affect the validity of the remaining portions hereof. It is the intent of the Board of Council of the City of Fort Thomas to enact each section, and portion thereof, individually, and each such section, and portion thereof, individually, shall stand alone, if necessary, and be in force regardless of the determined invalidity of any other section or provision.

1.0.08 EFFECTIVE DATE.

The Unified Development Ordinance and the Official Zoning Map shall take effect and be in full force and effect from and after the earliest date allowed by law.

1.0.09 REPEAL OF EXISTING ORDINANCE AND REGULATIONS.

- A. The Zoning Ordinance of the City of Fort Thomas, Kentucky, previously adopted and as subsequently amended together with the Official Zoning Map, is hereby repealed and superseded to read as set forth in this Unified Development Ordinance adopted by Ordinance _____, passed _____ 2024; provided that nothing in this Ordinance shall be construed to affect any suit or proceeding

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pending in any court, any rights acquired, or liability incurred, any permit issued, or approval granted, or any cause or causes of action arising prior to the enactment of this Ordinance. All ordinances or parts of ordinances and all resolutions or parts of resolutions which are inconsistent because of references contained in the pre-existing Zoning Ordinance shall, as nearly as possible, be construed to reference this Ordinance moving forward.

- B. The Subdivision Regulations of the City of Fort Thomas, Kentucky, previously adopted and as subsequently amended, is hereby repealed and superseded to read as set forth in this Unified Development Ordinance adopted by Ordinance _____, passed _____ 2024.

1.0.10 TRANSITIONAL RULES.

- A. Prior Violations.

1. Violations of the previous Zoning Ordinance shall continue to be violations under this Ordinance, unless the development complies with this Ordinance and is no longer considered to be in violation.
2. Violations of this Ordinance shall be subject to the penalties and enforcement provisions in Section 1.11, Enforcement and Penalties of this Ordinance.

- B. Construction in Progress. Any construction started, pursuant to an approved Zoning Permit, before the Effective Date of this Ordinance may be completed as permitted under that Permit, even if it does not fully comply with this Ordinance. If construction is not completed under the original approved permit, or if that permit expires, then any additional or new construction must meet the requirements of this Ordinance.

- C. Approvals Granted Before the Effective Date of this Ordinance. Zoning Permits, Development Plans, variances, Conditional Use Permits, zoning map amendments, final subdivision approvals, and other similar development approvals that are valid on the effective date of this Ordinance, will remain valid until their expiration date. Development must be completed in conformance with valid approvals, even if such building, development, or structure does not fully comply with provisions of this Ordinance. If building is not commenced and diligently pursued in the time allowed under the original approval or any extension granted, then the building, development, or structure must meet the Ordinance standards in effect at the time of re-application.

- D. Applications in Progress Before the Effective Date of this Ordinance. Complete applications for map amendment, text amendment, Development Plans, Zoning Permits, variances, Conditional Use Permits, and other similar development approvals that are pending approval on the effective date of this Ordinance, must

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be reviewed wholly under the terms of the Ordinance in effect when the application was submitted. Any re-application for an expired approval must meet the Ordinance standards in effect at the time of re-application.

- E. **Transition to New Zoning Districts. On the effective date of this Ordinance, land zoned with a zoning district from the previous zoning regulations shall be translated to one of the zoning districts established in Section 1.2, Establishment of Districts and Maps of this Ordinance.**

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**SECTION 1.2
Establishment of Districts and Map**

1.2.01	Establishment of Zoning Districts.	1.2.04	Rules for Interpretation of Zoning District Boundaries.
1.2.02	Use Regulations.	1.2.05	Areas not Included within Zoning Districts.
1.2.03	Official Zoning Map or Maps.		

1.2.01 ESTABLISHMENT OF ZONING DISTRICTS.

- A. ~~For the purpose and intent of this ordinance, the City of Fort Thomas, Commonwealth of Kentucky, is hereby divided into the following zones:~~ **In order to carry out the purposes of this Ordinance, the City is hereby divided into the land use classification districts shown in Schedule 1.2.01, hereafter "zoning districts," designated on the Official Zoning Map by symbols, colors, and boundaries. These districts are categorized into two major classes of districts, standard districts and special districts.**

Schedule 1.2.01 Zoning Districts Established	
STANDARD ZONING DISTRICTS	
ZONING DISTRICT NAME	SYMBOL
RESIDENTIAL DISTRICTS	
Single-Family Residential-One AA Zone	R-1AA
Single-Family Residential-One A Zone	R-1A
Single-Family Residential-One B Zone	R-1B
Single-Family Residential-One C Zone	R-1C
Single-Family Residential-One D Zone	R-1D
<u>Single-Family Residential-Central Business District</u>	<u>R-1-CBD-1</u>
<u>Single-Family Residential-Central Business District</u>	<u>R-1-CBD-2</u>
Two-Family Residential-Two Zone	R-2
Multi-Family Residential-Three Zone	R-3
Multi-Family Residential-Five Zone	R-5
BUSINESS and MIXED-USE DISTRICTS	
General Commercial Zone	GC
Highway Commercial Zone	HC
Professional Office Zone	PO
Light Industrial Park Research Zone	IP
Central Business District	CBD
<u>Alexandria Pike Mixed Use District</u>	<u>AP-MX</u>
<u>Neighborhood Commercial/Office District</u>	<u>NC/O</u>
OTHER DISTRICTS	
River Preservation District	R-P <u>RP</u>
Conservation District	C-O <u>CO</u>

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SPECIAL DISTRICTS	
ZONING DISTRICT NAME	SYMBOL
Residential Cluster Development <u>Overlay</u> District	RCD

B. **Standard Districts in General.** Standard districts are divided into one of the following categories: Residential Districts, Business and Mixed-Use Districts, or Other Districts. Each standard district serves a different purpose and imposes its own set of requirements and restrictions on the use of land in addition to the general requirements and restrictions imposed on all land or uses within the City of Fort Thomas, KY. A standard district may be layered with an overlay district.

C. **Special Districts in General.**

Included this sub-section in case Planned Unit Development District is proposed at some point in the future.

1. **Special districts are a type of district established to implement adopted plans such as the Comprehensive Plan, area plans, and corridor plans, or detailed site plans approved as part of the rezoning process.**
2. **Overlay districts are a type of special district established to provide for certain additional requirements, to permit uses not otherwise permitted in the underlying standard district, to prohibit uses allowed in the underlying standard district, or to establish special development requirements. Thus, where overlay districts exist and there is a conflict between the requirements or uses specified between the overlay and the underlying district, the standards of the overlay district shall prevail. Otherwise, the standards of the underlying district shall also be in effect for any area additionally zoned for an overlay district.**

1.2.02 USE REGULATIONS.

A. **Article III of this Ordinance regulates land use by zoning district classification. A use not listed as a permitted use therein is prohibited unless:**

1. **A finding is made pursuant to sub-section 1.3.02 B. 17., Similar Uses, that the use is substantially similar to a permitted use; or,**
2. **This Ordinance and/or the Official Zoning Map is amended as provided in Section 1.8, Amendments.**

B. **Permitted Uses.** For the purposes of this Zoning Ordinance, the abbreviations found in Article III shall mean the following:

1. **Uses Permitted By Right. A "P" in a cell indicates that the use is allowed by-right as a principal use in the respective district.**

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2. **Conditional Uses. A "C" in a cell indicates that the use is regulated as a conditional use. The use is permitted in the respective district only after an applicant receives a Conditional Use Permit pursuant to Section 1.6.**
3. **Accessory Uses. An "A" in a cell indicates that the use is a permitted accessory use, provided it is clearly incidental and subordinate to a permitted principal, restricted, or conditional use.**
4. **Restricted Uses. An "R" in a cell indicates that the use is permitted by right in the districts in which they are listed, provided that the use complies with the standards in Section 5.4, Conditional Use and Restricted Use Regulations. If compliance with the standards in Section 5.4 is not achievable, the use shall be considered a Conditional Use.**
5. **Blank Cell. A blank cell in a District column indicates that the use is not allowed in that zoning district.**

1.2.03 OFFICIAL ZONING MAP OR MAPS.

- A. The zones are bounded and defined as shown on the map or maps entitled "OFFICIAL ZONING MAPS OF THE CITY OF FORT THOMAS, KENTUCKY" and shall so remain on file in the City Building of the City of Fort Thomas in the Office of the City Clerk.
- B. **The zoning district boundaries shown on the Official Zoning Map are incorporated into the Ordinance by reference, are part of the Ordinance, and shall have the same force and effect as if printed herein.**
- C. Changes on Zoning Map or Maps.
 1. If, in accordance with the provisions of this Ordinance and Kentucky Revised Statutes, changes are made in zone boundaries or other matters portrayed on the Official Zoning Map (or maps), such changes shall be made on the Official Zoning Map (or maps) by the Zoning Administrator promptly after the amendment to this Ordinance has been approved by the Board of Council and the Planning Commission is officially notified by a certified copy of said changes have been made on said map (or maps). In addition, no building, structure, sign, or fence permit shall be approved or issued until the OFFICIAL ZONING MAP (OR MAPS) indicate the proper zoning for the use intended as indicated upon the application for a permit.
 2. No changes of any nature shall be made on the Official Zoning Map (or maps) or matter shown thereon which are not in conformity with the procedures set forth in this Ordinance.
 3. Regardless of the existence of purported copies of the Official Zoning Map

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(or maps), the OFFICIAL ZONING MAP, which shall be located in the office designated by law, shall be the final authority as to the current zoning status of land, buildings, and other structures in the City of Fort Thomas, Commonwealth of Kentucky.

- D. Replacement of Official Zoning Map or Maps. In the event that the Official Zoning Map (or maps) becomes damaged, destroyed, or is deemed necessary to be replaced due to the age of the map or major corrections in location of rights-of-way or subdivisions, the City of Fort Thomas may by ordinance, cause to have prepared and by ordinance, adopt a new Official Zoning Map (or maps) which shall supersede the prior Official Zoning Map, (or maps) but no such corrections shall have the effect of amending the original Zoning Ordinance or any subsequent amendment thereto.

1.2.04 **RULES FOR INTERPRETATION OF ZONING DISTRICT BOUNDARIES.**

Rules for interpretation of zone boundaries shown on the Official Zoning Map (or maps) are as follows:

- A. Boundaries indicated as approximately following the rights-of-way of a street, alley, or other public way shall be construed to follow such rights-of-way lines and when said rights-of-way are officially vacated, the zones bordering such rights-of-way shall be extended out to the centerline of said vacated rights-of-way.
- B. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- C. Boundaries indicated as approximately following political boundary lines shall be construed as following such boundary lines.
- D. Boundaries indicated as approximately following **rights-of-way of** railroad lines shall be construed to be midway between the main tracks **as following such lines.**
- E. Boundaries indicated as approximately following the center lines of streets, streams, rivers, ditches, gullies, ravines, or other bodies or water shall be construed to follow such centerlines.
- F. Boundaries indicated as approximately parallel to features indicated in Rules A through E of this section, shall be construed as parallel to such features. Boundaries indicated as approximate extensions of features indicated in Rules A through E of this section, shall be construed as being extensions of such features. Distances not specifically indicated on the Official Zoning Map (or maps) shall be determined by the scale of the map, (or maps) if an accurate legal description cannot be determined from the original zoning case.
- G. **Boundaries approximately following a topographic elevation, determined by the scale of the map, shall be construed as following such ground elevation lines.**
- H. **Where a district boundary line established in this Ordinance or as shown on the Official Zoning Map divides a lot which was in single ownership at the time of enactment of this Ordinance, the location of such boundary, unless related to fixed points on the property**

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boundary, shall be determined by scale, and each part of the parcel shall comply with the regulations of the District in which it is located.

- I. **All uncertainties and disputes concerning the exact location of zoning district boundaries shall be resolved by the Board of Adjustment according to the rules and regulations that it may adopt.**

1.2.05 AREAS NOT INCLUDED WITHIN ZONING DISTRICTS.

When an area is annexed to or otherwise becomes a part of the City of Fort Thomas, or in any case where property within the corporate limits of Fort Thomas has not been included within a zone, either through error or omission, such property shall be officially included in the "~~C-O~~" Zone **Conservation District (CO)** until otherwise classified.

Within sixty (60) calendar days after an annexed area officially becomes a part of the City of Fort Thomas, or an error or omission is recognized, the Fort Thomas Board of Council shall take action to initiate a ~~zone~~ **zoning district** change review of the area in question, as per ~~Article XVII~~ **Section 1.8, Amendment**, to insure its appropriate zoning classification in conformity with the officially adopted *Comprehensive Plan*.

SECTION 1.3 Powers and Duties

1.3.01	Intent.	1.3.05	Board of Adjustment.
1.3.02	Zoning Administrator.	1.3.06	Design Review Board.
1.3.03	City Engineer.	1.3.07	Tree Commission.
1.3.04	Planning Commission.	1.3.08	Board of Council.

1.3.01 INTENT.

This Section sets forth the powers and duties of the Zoning Administrator, City Engineer, Planning Commission, Board of Adjustment, Tree Commission, Design Review Board, and the Board of Council for the administration, interpretation, and enforcement of this Unified Development Ordinance as granted by the Kentucky Revised Statutes.

1.3.02 ZONING ADMINISTRATOR.

- A. **Zoning Administrator. The Zoning Administrator shall implement, administer and enforce this Ordinance except when such responsibilities have been delegated to others as provided herein.**
- B. **Powers and Duties. The Zoning Administrator shall have the following powers and duties:**
1. **To enforce the provisions of this Ordinance and interpret the meaning and application of its provisions;**
 2. **To issue Zoning Permits as provided by this Ordinance and keep a record of the same with a notation of any special conditions involved;**
 3. **To issue Certificates of Zoning Compliance as provided by this Ordinance and keep a record of the same;**
 4. **To review and act on sign applications, as provided for in Section 5.7, Sign Regulations, according to the procedures, standards, and criteria stated in this Ordinance;**
 5. **To accept, review for completeness, and respond to questions regarding applications upon which the Zoning Administrator is authorized by the provisions of this Ordinance to review, including, but not limited to, amendments to the Ordinance, Development Plan review, conditional uses, variances, appeals, and subdivision plats;**
 6. **To coordinate the City's administrative review of applications required by this Ordinance, including, but not limited to, rezoning applications, Development Plan review, conditional use applications, variances,**

This Chapter is new, but any changes from existing provisions are noted: Substantive Additions and ~~Deletions~~

subdivision plats, and the changes form one nonconforming use to another nonconforming use;

7. **To maintain any records required by this Ordinance including inspection documents, and records of all variances, amendments, conditional uses, development plan review, and similar use determinations;**
8. **To make such records available for the use of the Board of Council, the Planning Commission, the Board of Adjustment, the Design Review Board, Tree Commission, and the public;**
9. **To conduct or cause the inspection of buildings and uses of land to determine compliance with this Ordinance;**
10. **To enforce this Ordinance, investigate and resolve zoning complaints including the authority to order discontinuance of illegal use of land, buildings, structures, signs, fences; of illegal additions, alterations, or structural changes; and any other illegal work or activity being done;**
11. **To determine the existence of any violations of this Ordinance and cause such notifications of violations or stop work orders to be issued, or initiate such other administrative or legal action as needed to address such violations;**
12. **To maintain in current status the "Official Zoning District Map" of the City of Fort Thomas;**
13. **To review, hear, and decide all other matters referred to and upon which the Zoning Administrator is required by this Ordinance;**
14. **To collect all administrative fees associated with the administration of this Ordinance as authorized by law;**
15. The Zoning Administrator shall have the authority to schedule public hearings when public hearings ~~can~~ **will** be held at regular or announced meetings of the Planning Commission;

~~It is further the intent of this ordinance that the duties of the Zoning Administrator in connection with this ordinance shall not include hearing and deciding questions or interpretation and enforcement that may arise. The procedure for such questions shall be as stated in KRS Chapter 100.~~

16. **To provide technical advice and assistance to the Board of Council, the Planning Commission, the Design Review Board, the Board of Adjustment, Tree Commission, other boards and commissions and City officials; and,**

17. **To determine if a proposed use, not specifically listed in or addressed by this Ordinance, is a Similar Use as provided herein. A proposed use may be approved as a Similar Use when the Zoning Administrator determines that it complies with the following criteria:**
 - a. **The proposed use is not explicitly stated as prohibited in the zoning district or this Ordinance;**
 - b. **The proposed use is not listed as a permitted, restricted, or conditional use in another zoning district;**
 - c. **The proposed use is consistent with the Intent statement of, and is most appropriately located in the requested zoning district;**
 - d. **The proposed use has characteristics of, or is much like, a permitted, restricted, or conditional use in the zoning district.**

1.3.03 CITY ENGINEER.

- A. **City Engineer. There is hereby established the position of City Engineer. The City Engineer may be a City employee or a consultant.**
- B. **Powers and Duties. The City Engineer shall have the following powers and duties:**
 1. **To review and comment on developer submittals;**
 2. **To assist other City staff with technical and engineering issues;**
 3. **To meet with staff and developers on an as-needed basis;**
 4. **To assist with technical issues related to development, planning, transportation and general City engineering topics;**
 5. **To review engineering submittals of developer's engineers or city consultants as requested; and,**
 6. **To perform other engineering tasks as designated by City code or as otherwise assigned.**

1.3.04 PLANNING COMMISSION.

- A. **Establishment. The creation and composition of the Planning Commission shall be as set forth in Section 36.040 of the Codified Ordinances of the City of Fort Thomas, Kentucky and as provided for in KRS 100.**
- B. **Powers and Duties. The Planning Commission shall have all general and specific powers, duties, and responsibilities necessary to carry out its functions in accordance with this Ordinance, KRS Chapter 100, Section 36.040 of the Codified**

Ordinances of the City of Fort Thomas, and as follows:

1. **To prepare and submit to Council comprehensive and land use plans and amendments thereto, addressing the future development and capital improvement needs of the City, taking into consideration the existing utilities, convenience, aesthetics, physical needs, densities and the social welfare, health, safety and physical well-being of the residents;**
2. **To consider, investigate, and report upon any special matter or issue within the scope of its jurisdiction and authority, and make recommendations thereon when requested by City Council;**
3. **To investigate, conduct hearings, prepare reports and make recommendations to Council on amendments to this Ordinance and the Official Zoning Map, which the Planning Commission determines are consistent with the purposes thereof and which further the public health, safety, and general welfare of the residents of the City;**
4. **To conduct hearings and decide all matters properly before the Commission;**
5. **To review and act upon Development Plans and Subdivision Plats, submitted pursuant this Ordinance;**
6. **To grant waivers to standards and provisions as authorized by this Ordinance; and,**
7. **To review, hear, and decide any other matters upon which the Planning Commission is required under this Ordinance.**

1.3.05 BOARD OF ADJUSTMENT.

- A. **Establishment.** A Board of Adjustment has been established for the City of Fort Thomas by ordinance 0-3-67 adopted on February 6, 1967, and amending ordinance 0-17-69 adopted October 20, 1969.

~~**Membership.** The Board of Adjustment shall consist of seven (7) members all of who must be citizen members and not more than two (2) of whom may be citizen members of the Planning Commission.~~

~~**Appointment.** The mayor shall be the appointing authority of the Board of Adjustment, subject to the approval of the Board of Council.~~

~~**Terms.** The term of office for the Board of Adjustment shall be four (4) years.~~

~~**Vacancies.** Vacancies on the Board of Adjustment shall be filled within sixty (60) calendar days by the mayor. If the mayor fails to act within that time, the Planning~~

All of this language is in Section 36.002 of the General Code of Ordinances. No reason to have it in Zoning Ordinance

This Chapter is new, but any changes from existing provisions are noted: Substantive Additions and ~~Deletions~~

~~Commission shall fill the vacancy. When vacancy occurs, other than through expiration of the term of office, it shall be filled for the remainder of that term.~~

~~Oaths. All members of the Board of Adjustment shall, before entering upon their duties, qualify by taking the oath of office prescribed by Section 228 of the Constitution of the Commonwealth of Kentucky before any judge, county judge executive, notary public, clerk of court, or justice of the peace, within the district or county in which they reside.~~

~~Compensation. Reimbursement for expenses or compensation or both may be authorized for members on the Board of Adjustment.~~

~~Removal. Any member of the Board of Adjustment may be removed by the Mayor, for inefficiency, neglect of duty, malfeasance, or conflict of interest. The mayor exercising the power to remove a member from the Board of Adjustment shall submit a written statement to the Planning Commission setting forth the reasons and the statement shall be read at the next meeting of the Board of Adjustment which shall be open to the general public. The member so removed shall have the right of appeal from the removal to the circuit court of the county in which he resides.~~

~~Officers. The Board of Adjustment shall elect annually a chairman, vice chairman, and secretary, and any other officers it deems necessary, and any officer shall be eligible for re-election at the expiration of this term.~~

B. Procedures.

1. The Board of Adjustment shall conduct meetings at the call of the chairman, who shall give written or oral notice to all members of the Board at least seven (7) calendar days prior to the meeting, which notice shall contain the date, time, and place for the meeting, and the subject or subjects which will be discussed.
2. A simple majority of the total membership of the Board of Adjustment, as established by agreement shall constitute a quorum. Any member of the Board of Adjustment who has any direct or indirect financial interest in the outcome of any question before the body shall disclose the nature of the interest and shall disqualify himself from voting on the question.
3. The Board of Adjustment shall adopt bylaws for the transaction of business and shall keep minutes and records of all proceedings including regulations, transaction, findings, and determinations and the number of votes for and against each question, and if any member is absent or abstains from voting, indicating the fact, all of which shall, immediately after adoption, be filed in the office of the Board of Adjustment. A transcript of the minutes of the Board of Adjustment shall be provided if requested by a party, at the expense of the requesting party, and the transcript shall constitute the record.

This Chapter is new, but any changes from existing provisions are noted: Substantive Additions and ~~Deletions~~

4. The Board of Adjustment shall have the right to receive, hold, and spend funds, which it may legally receive from any and every source in and out of the Commonwealth of Kentucky, including the United States Government, for the purposes of carrying out the provisions of ~~K.R.S.~~ KRS Chapter 100.
 5. The Board of Adjustment shall have the power to issue subpoenas to compel witnesses to attend its meetings and give evidence bearing upon the questions before it.
 6. The chair~~man~~ of the Board of Adjustment shall have the power to administer an oath to witnesses prior to their testifying before the board on any issue.
 7. **The** A Board of Adjustment may appoint one (1) or more of its members to act as hearing examiner to preside over a public hearing or public meeting and make recommendations to the board based upon a transcript or record of the hearing.
- C. Powers and Duties. The Board of Adjustment shall have the following powers:
1. To hear and decide on applications for variances. The Board may impose any reasonable conditions or restrictions on any variance it decides to grant;
 2. To hear and decide appeals where it is alleged, by the appellant, that there is an error in any order, requirement, decision, grant, or refusal made by a Zoning Administrator in the enforcement of this ordinance. Such appeal shall be taken within thirty (30) ~~consecutive~~ calendar days;
 3. To hear and decide applications for Conditional Use Permits to allow the proper integration into the community of uses which are specifically named herein, which may be suitable only in specific locations in the **zone zoning district** only if certain conditions are met as specified in KRS 100.237;
 4. To hear and decide, in accordance with the provisions of this Ordinance, requests for interpretation of the official zoning map or for decisions upon other special questions upon which said Board is authorized to act upon;
 5. To hear and decide, in accordance with the provisions of this Ordinance and the adopted *Comprehensive Plan* for the City of Fort Thomas, requests for the change from one nonconforming use to another;
 6. **To issue subpoenas to compel witnesses to attend its meetings and give evidence bearing upon the questions before it. The sheriff shall serve such subpoenas. The Circuit Court may, upon application by the board compel obedience to such court or such subpoena by proceedings of contempt; and,**

This Chapter is new, but any changes from existing provisions are noted: Substantive Additions and ~~Deletions~~

7. **To review, hear, and decide any other matters upon which the Board of Adjustment is required under this Ordinance.**

1.3.06 DESIGN REVIEW BOARD.

- A. **Establishment. The establishment and rules of procedures for the Design Review Board shall be as set forth in Sections 36.010 – 36.011 of the Codified Ordinances of the City of Fort Thomas, Kentucky.**
- B. **Powers and Duties. In addition to those Powers and Duties specified in Section 36.013 of the Codified Ordinances of the City of Fort Thomas, Kentucky, the Design Review Board shall be empowered to:**
 1. **Provide recommendations to the Planning Commission as required by this Ordinance;**
 2. **Consider and decide exemptions, exceptions, and modifications to Required Design Standards; and,**
 3. **Review, hear, and decide any other matters upon which the Design Review Board is required to take action or make recommendations under this Ordinance.**

1.3.07 TREE COMMISSION.

- A. **Establishment. The establishment and rules of procedures for the Tree Commission shall be as set forth in Sections 98.04 – 98.13 of the Codified Ordinances of the City of Fort Thomas, Kentucky.**
- B. **Powers and Duties. In addition to those Powers and Duties specified in Section 98.14 of the Codified Ordinances of the City of Fort Thomas, Kentucky, the Tree Commission shall be empowered to:**
 1. **Provide recommendations to the Planning Commission as required by this Ordinance; and,**
 2. **Review, hear, and decide any other matters upon which the Tree Commission is required to take action or make recommendations under this Ordinance.**

This Chapter is new, but any changes from existing provisions are noted: Substantive Additions and ~~Deletions~~

1.3.08 BOARD OF COUNCIL.

For the purposes of this ~~Zoning~~ Ordinance, the Board of Council shall have the following powers and duties:

- A. To consider and adopt or reject this ordinance, proposed amendments or the repeal of this ordinance, as provided by law;
- B. To establish a schedule of fees and charges associated with this Ordinance; and, ~~as stated in Section 19.0 of this ordinance.~~
- C. To review, hear, and decide all other matters referred to and upon which the Board of Council is required by this Ordinance and the Kentucky Revised Statutes.

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SECTION 1.4
Development Plan Review Procedures

1.4.01	Intent.	1.4.11	Criteria for Reviewing Stage I Development Plans by the Planning Commission.
1.4.02	Development Plan Required.	1.4.12	Criteria for Reviewing Stage II Development Plans.
1.4.03	Overview of Development Plan Process.	1.4.13	Request for Additional Information.
1.4.04	Pre-Application Meeting Encouraged.	1.4.14	Regulations Concerning Air Rights.
1.4.05	Development Plan Review Procedures.	1.4.15	Record Plat Requirements.
1.4.06	Plan Submission Requirements.	1.4.16	Significance of an Approved Plan; Plan Revisions.
1.4.07	Review by Design Review Board.	1.4.17	Expiration of Development Plan Approval.
1.4.08	Review by Tree Commission.		
1.4.09	Action by Planning Commission.		
1.4.10	Minor Alterations by Zoning Administrator.		

1.4.01 INTENT.

The purpose of this Section is to provide a procedure for review of Development Plans on development activity with the potential to influence adjacent lands. Furthermore, this procedure is designed to permit Development Plan flexibility within the constraints and standards of this ~~Zoning~~ Ordinance.

1.4.02 DEVELOPMENT PLAN REVIEW REQUIRED.

The Development Plan review process, as set forth herein, is hereby established to ensure adherence to the standards of this Ordinance. No building shall be erected or structurally altered nor shall any grading take place on any lot or parcel for uses or in zones where a Development Plan review is required, except in accordance with the regulations of this ~~section~~ **Ordinance** and an approved Development Plan as hereinafter required. **Review of Stage I and Stage II Development Plans shall be required in compliance with the following:**

- A. **Development Plan Review Required. A Development Plan that indicates, among other things, the exact location of buildings, landscaping, parking areas, access drives, signs, and outdoor storage and refuse areas shall be required for the following:**
 - 1. **New construction of all permitted by-right, restricted, and conditional uses in the Business, Mixed-Use Districts, Other, and Special Districts;**
 - 2. **New construction of all permitted by-right, restricted, and conditional uses in the Multi-family Districts;**
 - 3. **New construction of all non-residential permitted uses in the R-1 Districts and the R-2 District; and,**

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4. **Any existing or previously approved development meeting the criteria of sub-sections (1) through (3) above that proposes to alter, reconstruct, or otherwise modify a use or site including expanding the floor area of the permitted use; increasing the number of dwelling units in a multi-family development; changing the use which requires an increase in the amount of parking or a change in the site's vehicular circulation; increasing the number of personnel or the scope and extent of the establishment's operations; modification of existing surface water drainage patterns; earth-moving activities; or any other alterations to an existing development where Development Plan requirements are modified.**
- B. Exceptions.
1. **Individually developed single-family detached dwelling units and individually developed two-family dwellings shall not be subject to Development Plan review.**
 2. **A change of occupancy in an existing structure that does not meet the standards in A. 4. above shall be exempt from the Development Plan review procedures.**
 3. **Residential care facilities for persons with disabilities.**
 4. **Pursuant to KRS 100.361 (2), any proposal affecting land use by any department, commission, board, authority, agency, or instrumentality of state government shall not require approval of the local planning unit. However, adequate information concerning the proposals shall be furnished to the Planning Commission by the department, commission, board, authority, agency, or instrumentality of state government.**

1.4.03 OVERVIEW OF DEVELOPMENT PLAN PROCESS.

Development plan reviews should proceed and generally move in phases as follows:

- A. **An optional pre-application meeting with City staff and/or the Planning Commission, as determined by the Zoning Administrator;**
- B. **Stage I Development Plan review by the Design Review Board, when required by this Ordinance;**
- C. **Stage I Development Plan review by the Tree Commission, when required by this Ordinance;**
- D. **Stage I Development Plan review by the Planning Commission; and,**
- E. **Stage II Development Plan review by the Zoning Administrator, when applicable under this Ordinance.**

A flow chart illustrating this overview will be included in Phase 3.

1.4.04 PRE-APPLICATION MEETING ENCOURAGED.

The applicant is encouraged to meet with City staff prior to submitting an application for Development Plan review. The purpose of this meeting(s) is to discuss early and informally with the applicant the purpose and effect of this Ordinance and the criteria and standards contained within. However, no action shall be taken at such a meeting and no opinions, suggestions, or recommendations discussed shall be relied on by the applicant to indicate subsequent approval or disapproval of the Development Plan.

1.4.05 DEVELOPMENT PLAN REVIEW PROCEDURES.

Development Plans, including Stage I and Stage II, shall be reviewed and distributed according to the following procedures:

- A. Review for Completeness. After receiving an application, within seven (7) calendar days, the Zoning Administrator shall review the submitted application for completeness and compliance with the applicable submission requirements. If the application is deemed insufficient, the Zoning Administrator shall notify the applicant of the necessary changes or additional information needed. When the application is deemed complete and the application fee has been paid, the Zoning Administrator shall officially accept the application for consideration of the action(s) requested on the date such determination is made and place it on the applicable agenda, review it, or declare the application a Minor Alteration, as permitted by sub-section 1.4.10.
- B. Burden of Proof. In all cases, the burden is on the applicant to show that an application complies with applicable review or approval criteria.
- C. Distribution of Plans and Consultant Fees. When the Zoning Administrator determines that the application for Stage I or Stage II Development Plan is complete, the Zoning Administrator shall forward the application to the appropriate City departments, the City Engineer, and professional consultants, if applicable for review and comment. Any reports, comments, or expert opinions shall be returned to the Zoning Administrator.

The City may retain consultants to review applications, with the reasonable costs for such consultation being borne by the applicant.

- D. Following review by the Design Review Board and the Tree Commission, as provided for in this Section, the Planning Commission shall hold at least one (1) public hearing ~~meeting~~ on any proposed Development Plan application and said application and required fees shall be submitted one (1) month prior to public hearing ~~meeting~~. Stage I Development Plans shall contain the information as listed in ~~Section 9.20A~~ on the Development Plan Application and shall be submitted to the City a minimum of twenty (20) days prior to the scheduled public hearing ~~meeting~~. Whenever practical, the Zoning Administrator may waive the **requirement for Stage II Development Plan Review** requirements before the public hearing, unless deemed necessary for adequate review. Failure to submit completed plans within

Changes from existing provisions are noted: Substantive Additions and ~~Deletions~~

- this time period may result in cancellation of the scheduled public ~~hearing~~ meeting. All Stage I Development Plans shall be reviewed by the Planning Commission (and the Design Review Board and the Tree Commission when applicable under this Ordinance ~~located within the Central Business District~~) and the factual determination approving or rejecting such plans shall be made in accordance with requirements of this and other applicable sections of this Ordinance, and the adopted *Comprehensive Plan* for the City of Fort Thomas.
- E. Review of Stage II Plans. Upon approval of Stage I plans by the Planning Commission, a Stage II Development Plan shall be submitted to the ~~City Staff~~ Zoning Administrator for review, unless Stage II Development Plan Review has been waived pursuant to 1.4.05 D. Stage II plans will be reviewed by the ~~City Staff~~ Zoning Administrator for compliance with ~~Section 9.20-B~~ this Ordinance and approval or rejection of said plans shall be submitted to the applicant in writing. Amendment or modification from the approved Stage I plan may be subject to a public ~~hearing~~ meeting by the Planning Commission when deemed such to be in the public interest.
- F. Issuance of Zoning Permits and Certificates. If the Stage I or Stage II Development Plan, as applicable, is approved or approved with conditions, the Zoning Administrator shall issue a Zoning Permit pursuant to Section 1.5, Zoning Permits and Certificates of Zoning Compliance. However, the Zoning Permit shall not be issued until:
1. At the Zoning Administrator’s discretion, there shall be executed by the owner or applicant an agreement to construct required physical improvements located within the public rights-of-way or easements or connected to any public facility; and the applicant shall execute and deliver to the City a performance guarantee approved by the City Engineer in the amount of the estimated cost of the required physical improvements as determined by the City Engineer. The agreement and the performance guarantee shall provide for completion of all work within a time specified to be determined by the City Engineer or before occupancy is allowed in any structure, whichever shall occur first.
 2. The approval of the Development Plans or the installation of improvements as required by this Ordinance shall not obligate the City to accept improvements for maintenance, repair, or operation. Acceptance shall be subject to local or state regulations where applicable, concerning the acceptance of each type of improvement.
 3. Before a Certificate of Zoning Compliance may be issued, the property owner shall provide to the Zoning Administrator a statement that all phases of the facility, development, or structure have been constructed in conformance with approved plans, documentation, and specifications.

Changes from existing provisions are noted: Substantive Additions and ~~Deletions~~

1.4.06 PLAN SUBMISSION REQUIREMENTS.

Submittal requirements have been omitted since changing submittal requirements should not necessitate a zoning amendment.

- A. **For the submission requirements for Stage I and Stage II Development Plans, see Development Plan Application, which is available in the Office of the Zoning Administrator.**
- B. All Development Plans shall be prepared by a qualified, registered licensed architect or professional engineer, and land surveyor as indicated ~~in Section 9.20 A and B~~ on the Development Plan Application. All public improvements shall be designed **in conformance with all applicable City standards** and **shall be designed and** prepared by a licensed professional engineer.

1.4.07 REVIEW BY DESIGN REVIEW BOARD.

- A. **No application for a Stage I Development Plan shall be approved by the Planning Commission, until the Development Plan has been reviewed by the Design Review Board when such review is required, except as otherwise provided for in this Ordinance.**
- B. **For parcels located outside of the Central Business District (CBD), the Design Review Board shall make a recommendation to the Planning Commission after reviewing the Development Plan to determine if such application complies with the review criteria and standards set forth in the applicable Sections of this Ordinance. The Design Review Board shall make one of the following recommendations:**
1. **The Design Review Board may recommend approval of the Development Plan if the proposed plan is determined to be appropriate and in conformance with the review criteria and standards outlined in this Ordinance;**
 2. **The Design Review Board may recommend approval the Development plan subject to specific conditions not included on the plan as submitted, to ensure that the development conforms to the standards, intent, and purposes of this Ordinance;**
 3. **The Design Review Board may recommend denial of the application if the plan is not found to comply with the specifications of this Ordinance. The Design Review Board shall indicate the reasons for recommending denial.**
- C. **Parcels zoned CBD shall be reviewed and considered pursuant to Sections 36.010 – 36.011 of the Codified Ordinances of the City of Fort Thomas, Kentucky.**

1.4.08 REVIEW BY TREE COMMISSION.

- A. In conformance with Section 98.10 of the City of Fort Thomas, Kentucky Code of Ordinances, no application for a Stage I Development Plan shall be approved by the Planning Commission, until the Development Plan has been reviewed by the Tree Commission, except as otherwise provided for in this Ordinance.
- B. The Tree Commission shall make a recommendation to the Planning Commission after reviewing the Development Plan to determine if such application complies with Section 98.10 of the City of Fort Thomas, Kentucky Code of Ordinances and any applicable Sections or provisions of this Ordinance. The Tree Commission shall make one of the following recommendations:
1. The Tree Commission may recommend approval of the Development Plan if the proposed plan is determined to be appropriate and in conformance with the review criteria and standards outlined in this Ordinance and with Section 98.10 of the City of Fort Thomas, Kentucky Code of Ordinances;
 2. The Tree Commission may recommend approval the Development plan subject to specific conditions not included on the plan as submitted, to ensure that the development conforms to the standards, intent, and purposes of this Ordinance and with Section 98.10 of the City of Fort Thomas, Kentucky Code of Ordinances;
 3. The Tree Commission may recommend denial of the application if the plan is not found to comply with the specifications of this Ordinance and with Section 98.10 of the City of Fort Thomas, Kentucky Code of Ordinances. The Tree Commission shall indicate the reasons for recommending denial.

1.4.09 ACTION BY PLANNING COMMISSION.

- A. The Planning Commission shall review the Development Plan according to the criteria in sub-section 1.4.11 or sub-section 1.4.12, as applicable.
- B. Following its review of the recommendations from the Design Review Board and the Tree Commission, the Planning Commission shall consider the Stage I or Stage II Development Plan, as applicable, and shall:
1. Approve the Development Plan as submitted; or
 2. Approve the Development Plan subject to specific conditions not included in the plan as submitted, such as, but not limited to, improvements in the spatial relationships and layout of structures; open space arrangement; on-site control of access to streets; or such features as fences, walls and plantings to further protect and improve the proposed and surrounding developments; or

Changes from existing provisions are noted: Substantive Additions and ~~Deletions~~

3. **Deny the Development Plan when the application does not demonstrate that the required standards have been met.**
- C. **The Planning Commission may also postpone action on the Development Plan when providing guidance to the applicant regarding alterations to the proposed Development Plan that may address the concerns expressed by the Planning Commission.**
- D. **The City shall promptly furnish the applicant with its written report on the of the Planning Commission’s decision on the Development Plan.**
- E. **Failure of the Planning Commission to Act. Failure of the Planning Commission to act within sixty (60) days from the date the application was deemed complete, or an extended period as may be agreed upon, shall be deemed a denial of the application.**
- F. **Re-application after Denial. The Zoning Administrator shall accept no re-application for a Development Plan unless the re-application is based on a revised application that addresses the reasons for the denial of the initial application. A re-application shall comply with all the requirements of this Section. If an application is denied as a result of sub-section 1.4.09 E., the Zoning Administrator may accept a re-application for Development Plan review that has not been revised from the previous submittal.**

1.4.10 MINOR ALTERATIONS APPROVED BY ZONING ADMINISTRATOR.

When a minor alteration is proposed to an approved Development Plan or an existing building, structure or site arrangement on a zoning lot otherwise subject to Development Plan review pursuant to this Section, the Zoning Administrator may approve the application as specified in this sub-section.

- A. **For the purposes of this Section, a minor alteration shall include:**
 1. **Small, incidental alterations of existing off-street surface parking lots or areas;**
 2. **Small, incidental construction of accessory structures;**
 3. **Incidental additions or alterations to principal buildings on large zoning lots; and,**
 4. **Minor design modifications that will have no discernible impact on neighboring properties, the public, or those intended to occupy or use the proposed development.**
- B. **The Zoning Administrator shall review the proposal to determine that the proposal is not contrary to and complies with all applicable regulations in this Ordinance and will not result in any material adverse impact to the site or surrounding areas.**

Changes from existing provisions are noted: Substantive Additions and ~~Deletions~~

C. After reviewing the application, the Zoning Administrator shall:

1. Approve the Development Plan as submitted; or,
2. Deny the Development Plan when the application does not demonstrate that the required standards have been met. If the minor alteration is denied by the Zoning Administrator, the applicant may appeal the decision to the Board of Adjustment in accordance with Section 1.7. Neither a denial nor an unsuccessful appeal to that denial prevents the applicant from seeking Development Plan approval from the Planning Commission.

1.4.11 CRITERIA FOR REVIEWING STAGE I DEVELOPMENT PLANS BY THE PLANNING COMMISSION.

The Planning Commission shall review a Stage I Development Plan to determine if such application complies with the review criteria set forth below. The Planning Commission shall take into consideration the comments and recommendation of staff and consultants. In order to approve a Stage I Development Plan, the Planning Commission shall determine that:

- A. The plan is consistent with the *Comprehensive Plan* and any other applicable Municipal plans for the orderly development of the City;
- B. The appropriate use and value of property within and adjacent to the area will be safeguarded;
- C. The development will result in a harmonious grouping of buildings within the proposed development and in relationship to existing and proposed uses on adjacent property;
- D. The preliminary design and layout will be reasonably able to comply with municipal ordinances, standards and specifications when the Stage II Development Plan and Construction Documents are completed;
- E. The development will preserve and be sensitive to the natural and environmental characteristics of the site in a manner that complies with the applicable regulations set forth in this Ordinance;
- F. Safe and efficient pedestrian circulation patterns are provided within the development and to adjacent property;
- G. Adequate public services, parking, and open spaces are provided;
- H. Adequate lighting for safe and convenient use of the streets, walkways, driveways, and parking areas is provided;
- I. Points of ingress and egress to the development are designed to control and minimize traffic congestion and interference with traffic on adjacent streets and generated by adjacent properties and developments; and,

Is this review criteria appropriate?

Changes from existing provisions are noted: Substantive Additions and Deletions

J. The proposed conceptual landscaping is designed consistent with the intent of Section 5.3, Landscaping, Screening and Lighting Regulations, and the site landscaping and screening will:

1. Maintain existing trees when possible;
2. Buffer and screen adjacent incompatible uses;
3. Reduce the visual impact of large areas of pavement with trees and other natural plant material; and,
4. Provide appropriate trees and plant materials considering the mature size and shape thereof, climate and weather conditions of the City and compatibility with the buildings and site.

1.4.12 CRITERIA FOR REVIEWING STAGE II DEVELOPMENT PLANS.

When reviewing Stage II Development Plans, the Zoning Administrator or the Planning Commission, as applicable, shall review the Development Plan to determine if such application complies with the review criteria set forth below. The Zoning Administrator or the Planning Commission, as applicable, shall take into consideration the comments and recommendation of staff and consultants when reviewing the application. In order to approve a Stage II Development Plan, the Zoning Administrator or the Planning Commission, as applicable, shall determine that:

Is this review criteria appropriate?

- A. The plan is consistent with any plan for the orderly development of the City and, when applicable, conforms in all respects to any previously approved or conditionally approved Development Plans and the regulations of this Ordinance;
- B. The appropriate use and value of property within and adjacent to the area will be safeguarded;
- C. The development will result in a harmonious grouping of buildings within the proposed development and in relationship to existing and proposed uses on adjacent property;
- D. Adequate provision is made for safe and efficient pedestrian and vehicular circulation within the site and to adjacent property;
- E. The development will have adequate parking and open spaces;
- F. The development will preserve and be sensitive to the natural characteristics of the site in a manner that complies with the applicable regulations set forth in this Ordinance;
- G. The development will provide adequate lighting for safe and convenient use of the streets, walkways, driveways, and parking areas;

Changes from existing provisions are noted: Substantive Additions and Deletions

- H. Points of ingress/egress to the development shall be controlled and designed in such manner as to minimize conflicts with adjacent properties and developments;
- I. Adequate provision is made for emergency vehicle access and circulation. Adequate provision is made for fire hydrants and firefighting water supply;
- J. The proposed signs, if applicable:
 - 1. Are of an appropriate size, scale, and design in relationship with the principal building, site, and surroundings; and,
 - 2. Adequately identify the use; and
 - 3. Are located to maintain safe and orderly pedestrian and vehicular circulation.
- K. Site lighting is designed to minimize direct light, glare, and excessive glow, which unreasonably interferes with the use and enjoyment of adjacent property;
- L. The landscape plan will adequately:
 - 1. Enhance the principal building and site;
 - 2. Maintain existing trees to the extent possible;
 - 3. Buffer adjacent incompatible uses, where applicable;
 - 4. Break up large expanses of pavement with natural material; and,
 - 5. Provide appropriate plant materials considering the ultimate mature size and shape of plants relative to the buildings and site, and the climate of the area, including typical weather conditions.
- M. Adequate provision is made for storm drainage within and through the site so as to maintain, as far as practicable, usual and normal swales, water courses and drainage areas, and shall comply with the applicable regulations in this Ordinance, and any other design criteria established by the City or any other governmental entity which may have jurisdiction over such matters; and,
- N. If the project is to be carried out in progressive stages, each phase shall be so planned that the foregoing criteria are complied with at the completion of each phase.

1.4.13 REQUEST FOR ADDITIONAL INFORMATION.

In their review of an application, the Planning Commission; the Tree Commission; the Design Review Board; and the Zoning Administrator and/or the City Engineer may request that the applicant supply additional information deemed necessary to adequately review and evaluate the proposed development.

Changes from existing provisions are noted: Substantive Additions and ~~Deletions~~

1.4.14 REGULATIONS CONCERNING AIR RIGHTS.

Any proposed use of air rights as defined herein shall be in the form of a Development Plan (as regulated in ~~this Section 9.19 of this ordinance~~ the Ordinance) submitted to the Planning Commission, for its review.

1.4.15 RECORD PLAT REQUIREMENTS.

The applicant shall submit a Record Plat, prepared, stamped and sealed by a licensed land surveyor, and in conformance with the ~~Stage II approved~~ Development Plans plans. If the Record Plat is submitted in sections, an index shall be developed showing the entire plan area. The particular number of the section, and the relationship of each adjoining section, shall be clearly shown by a small key map on each section submitted. The Record Plat shall conform to the applicable requirements of the subdivision regulations, unless specifically waived by the Planning Commission.

1.4.16 SIGNIFICANCE OF AN APPROVED PLAN; PLAN REVISIONS.

- A. All Development Plans approved shall be binding upon the applicants, their successors and assigns and shall limit the development to all conditions and limitations established in such plans. The approved Development Plan may be transferred to another person, corporation, or group of individuals or corporations. A request for such a transfer or change of ownership shall be presented to the Zoning Administrator and granted only if the new ownership entity satisfies the administrative, financial, legal and all other performance guarantees approved with the original Development Plan.
- B. All construction and development under any building permit shall be in accordance with the approved Development Plan. Any departure from such plan shall be cause for revocation of the Zoning Permit and/or Building Permit, and the property owner or other responsible parties are subject to penalties as prescribed by this Ordinance.
- C. Modification after Approval.
 1. Changes in an approved Development Plan shall be resubmitted for approval in accordance with this Section.
 2. Approval of a modification or amendment to a previously approved Development Plan under the terms and provisions of this Section shall not extend or alter the one (1) year time limitation established by sub-section 1.4.17, which time shall continue to be measured from the date of approval of the original Development Plan.

Changes from existing provisions are noted: **Substantive Additions** and Deletions

1.4.17 EXPIRATION OF DEVELOPMENT PLAN APPROVAL.

Approved Development Plans shall be valid for twelve (12) months. If substantial construction is not completed during this period, the Development Plan is no longer valid, and shall be re-submitted for review and approval by the Planning Commission. A twelve (12) month extension may be granted by the Planning Commission if the applicant provides the Planning Commission with sufficient information as to why substantial construction has not commenced on the project. If, after the commencing of a project, substantial construction lapses for a period exceeding eighteen (18) months, the Development Plan is no longer valid and shall be resubmitted for review and approval.

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Changes from existing provisions are noted: **Substantive Additions** and Deletions

SECTION 1.5 Zoning Permits and Certificates of Zoning Compliance

1.5.01	Intent.	1.5.03	Certificate of Zoning Compliance
1.5.02	Zoning Permit Required.		Required.

1.5.01 INTENT.

This Section sets forth the basic parameters for permits and certificates required for administrative applications submitted for consideration pursuant to this Ordinance. These permits and certificates shall not be issued until the detailed procedures in Section 1.4, Development Plan Review Procedures, have been satisfied, as applicable. Additionally, prior to the issuance of permits and certificates pursuant to this Section, any application for a variance, appeal, or conditional use shall also be subject to the applicable procedures, standards, and criteria in Article I, General Provisions and Administration.

1.5.02 ZONING PERMIT REQUIRED.

~~No public or private building or other structure shall be erected; moved; added to; structurally altered or otherwise materially modified; or changed from one permitted use to another, nor shall any grading take place on any lot or parcel of ground without a permit issued by the Zoning Administrator. No Zoning Permit shall be issued except in conformity with the provisions of this Ordinance, except after written orders from the Board of Adjustment.~~

A. A Zoning Permit demonstrating intent to comply shall be required prior to any activity occurring on a lot or parcel, including but not limited to the following:

1. **New structures;**
2. **Additions/expansions of existing structures;**
3. **Accessory structures;**
4. **Clearing, grading, drainage and all other land disturbance;**
5. **Change of use (including change in legally non-conforming uses);**
6. **Site modifications including landscaping, parking, lighting, etc.;**
7. **Fences, driveways, decks;**
8. **Home occupations;**
9. **Temporary uses; and,**
10. **Any other human-caused change on a property, whether improved or unimproved.**

B. A Zoning Permit shall be issued under the following circumstances:

1. **An application for single-family detached dwellings and two-family dwellings or uses accessory thereto has been reviewed and approved by the Zoning Administrator.**
2. **A residential care facility for persons with disabilities has been reviewed**

Changes from existing provisions are noted: Substantive Additions and ~~Deletions~~

and approved by the Zoning Administrator.

3. **An application for any other permitted use not described in sub-section B. 1. and 2. above, has been reviewed and approved according to the Development Plan review procedures set forth in Section 1.4, Development Plan Review Procedures or reviewed and approved pursuant to any other applicable procedures set forth in this Ordinance.**

C. Applications.

Submittal requirements have been omitted since changing submittal requirements should not necessitate a zoning amendment.

1. **Applications for Zoning Permits are available in City Hall. A completed application form accompanied by all other applicable submission requirements and fees shall be submitted to the Zoning Administrator.**
2. A field survey performed by a registered professional land surveyor/engineer may be required by the Zoning Administrator at any time during construction to verify lot lines, building locations, and/or building setbacks distances.

D. Permit Conformity. No Zoning Permit shall be issued except in conformity with the provisions of this Ordinance, except after written orders from the Board of Adjustment.

E. Issuance of Zoning Permit. After thorough study of the submitted information **to determine compliance with this Ordinance**, the Zoning Administrator shall either approve or disapprove the application (when required by this Ordinance -- e.g., Development Plan submitted required -- Planning Commission, approval or disapproval shall also be required). If disapproved, one (1) copy of the submitted plans shall be returned to the applicant marked "Disapproved" and shall indicate the reasons for such disapproval thereon. Such disapproval shall be attested by the Zoning Administrator's signature. The other copy, similarly marked, shall be retained by the Zoning Administrator.

F. Failure to Comply. Failure to obtain a Zoning Permit shall be a violation of this Ordinance and punishable under Section ~~16.9~~ **1.11** of this Ordinance.

G. Expiration of Zoning Permit.

1. If a building permit, ~~as~~ **when** required ~~herein~~, has not been obtained within ninety (90) ~~consecutive~~ calendar days from date of issuance of Zoning Permit, said Zoning Permit shall expire and be canceled by the Zoning Administrator and a building permit shall not be obtainable until a new Zoning Permit has been obtained.

If a Building Permit has been obtained, but substantial construction is not begun within one (1) year from date of approval thereof, or if construction has begun but has lapsed, the Zoning Permit shall expire and be canceled by the Zoning Administrator and construction shall not then proceed until a new

Changes from existing provisions are noted: Substantive Additions and ~~Deletions~~

Zoning Permit shall be issued. A new Zoning Permit shall be issued only if the proposed development is in complete accord with all provisions of this Ordinance.

2. In cases where a Zoning Permit has been issued and no building permit is required, applicants must complete the permitted activity within 180 days from the date of issuance of the Zoning Permit. If the permitted activity is not completed, the Zoning Permit shall expire, and a new zoning permit must be obtained. A one-time extension of 180 days may be granted by the Zoning Administrator upon request by the applicant.
- H. Building Permit Required. In addition to a Zoning Permit, no public or private building or other structure shall be erected, moved, added to, or structurally altered without a Building Permit issued by the ~~Building Inspector~~ City of Fort Thomas, KY or Campbell County, as applicable. No Building Permit shall be issued except in conformity with the provisions of this Ordinance, except after written orders from the Board of Adjustment.

1.5.03 CERTIFICATE OF ZONING COMPLIANCE REQUIRED.

A Certificate of Zoning Compliance is a document issued by the Zoning Administrator that certifies that a project, as constructed, complies with the terms and requirements of this Ordinance and the Zoning Permit previously issued. The Certificate of Zoning Compliance certifies that the building may be occupied and/or the property used when the applicant has submitted documentation that all inspections and approvals authorizing the use and/or occupancy of the building and/or property have been secured and that the building and site will only be used and/or occupied for the use or uses authorized in the Zoning Permit.

- A. Certificate of Zoning Compliance shall be applied for and issued as follows:
 1. Occupancy of a Building. A Certificate of Zoning Compliance shall be required before a building that has been constructed, or an existing building that has been altered, moved, changed in use, changed in tenancy, or changed as to off-street parking or loading requirements may be occupied. A Certificate of Zoning Compliance shall only be issued after the completion of the erection or alteration, or change in use of the building and the building is found, upon inspection, to conform to the provisions of this Ordinance, any other applicable City regulation; policies and specifications; and the Zoning Permit previously issued, if applicable.
 2. Occupancy of Land. A Certificate of Zoning Compliance shall be required before occupancy of the land or where use of the land has been changed to a use different from the prior use. A Certificate of Zoning Compliance shall be issued when it is determined, upon inspection, that the use conforms to the provisions of this Ordinance.

Changes from existing provisions are noted: Substantive Additions and Deletions

3. Change in Use of Nonconforming Building or Use. A Certificate of Zoning Compliance shall be required whenever a nonconforming building, structure, or land is changed to another nonconforming use, and shall not be issued until the Board of Adjustment has approved the change in accordance with the provisions of Section 1.9, Nonconforming Uses, Lots, Structures, and Site Conditions.

- B. The use and/or development of a building or land shall be inspected by the Zoning Administrator upon application for a Certificate of Zoning Compliance to determine conformity to all provisions of this Ordinance, the Zoning Permit, and the approved Development Plan when applicable.

- C. Action by Zoning Administrator. The Zoning Administrator shall evaluate the application and approve or deny it. In evaluating the application, the Zoning Administrator may consult with any department, agency, public body, official, company, or individual necessary to determine whether the application complies with the regulations of this Ordinance. Following the Zoning Administrator's evaluation and inspection, the Zoning Administrator shall:
 1. Approve. The Zoning Inspector shall issue a Certificate Zoning of Compliance upon finding that the building, structure or use, as proposed, complies with the provisions of this Ordinance and the previously issued Zoning Permit, if applicable, if the performance guarantees have been provided, as required.

 2. Deny. If it is determined by the Zoning Administrator that the proposed building, structure or use would violate one or more provisions of this Ordinance or does not comply with the previously issued Zoning Permit, then the Certificate of Zoning Compliance shall not be issued. Upon disapproval of any application, the Zoning Administrator shall notify the applicant in writing of the reasons for disapproval.

 3. Temporary Certificate of Zoning Compliance. Pending the issuance of a permanent Certificate of Zoning Compliance, a temporary certificate may be issued, to be valid for a period not to exceed (6) six months from its date, pending the completion of any required improvements, provided a performance guarantee has been provided to the City from a banking institution of sufficient amount to cover the estimated cost of materials and labor and in a form acceptable to the Law Director.

- D. Records. A record of all applications and certificates issued shall be kept on file in the office of the Zoning Administrator, and copies shall be furnished, upon request, to any person having a proprietary or tenancy interest in the building or land affected.

SECTION 1.6 Conditional Use Permits

1.6.01	Intent.	1.6.03	Determination.
1.6.02	Preapplication Meeting Encouraged.	1.6.04	Procedures

1.6.01 INTENT.

The purpose of this Section is to provide procedures for the consideration a Conditional Use Permit, which is required before a conditional use shall commence, pursuant to KRS 100.237.

1.6.02 PREAPPLICATION MEETING ENCOURAGED.

The applicant is encouraged to meet with the Zoning Administrator prior to submitting an application for a Conditional Use Permit to discuss the requirements of the conditional use regulations and the submittal procedure for issuance of a Conditional Use Permit. The matters discussed by the Zoning Administrator and applicant are to provide guidance to the applicant and facilitate the submittal process. The Zoning Administrator does not have the authority to approve or deny a Conditional Use Permit.

1.6.03 DETERMINATION.

The Board of Adjustment may authorize a conditional building and use to be located within any ~~zone~~ **zoning district** in which the particular conditional use is permitted by the use regulations of this Ordinance, if the evidence presented by the applicant is such as to establish beyond any reasonable doubt:

- A. That the proposed building and use at the particular location is necessary or desirable to provide a service or facility which will contribute to the general well-being of the neighborhood or the community;
- B. That such building and use will not under the circumstances of the particular case be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity;
- C. That the proposed building and use will comply with any regulations and conditions specified in this Ordinance for such building and use.

1.6.04 PROCEDURES.

In accordance with KRS 100.237, the Board of Adjustment shall have the power to hear and decide applications for Conditional Use Permits to allow the proper integration into the community of uses ~~which~~ **that** are specifically named herein which may be suitable only in specific locations in the ~~zone~~ **zoning district** only if certain conditions are met:

Changes from existing provisions are noted: **Substantive Additions** and ~~Deletions~~

- A. The Board of Adjustment may approve, modify, or deny any application for a Conditional Use Permit. If it approves such Permit, it may attach necessary conditions such as time limitations, requirements that one or more things be done before the request can be approved, or conditions of a continuing nature. Any such conditions shall be recorded in the Board's minutes and on the Conditional Use Permit, along with a reference to the specific section in the zoning regulation listing the conditional use under consideration. In addition, said Conditional Use Permit shall be recorded in the office of the county clerk and one copy of said Permit attached to the deed for the property for which it is issued. The Board shall have power to revoke Conditional Use Permits, ~~or variances~~ for noncompliance with the condition thereof. Furthermore, the Board shall have a right of action to compel offending structures or uses removed at the cost of the violator and may have judgment in personam for such cost.
- B. Granting of a Conditional Use Permit does not exempt the applicant from complying with all of the requirements of this Ordinance, the building code, housing code, and other regulations of the City of Fort Thomas. **Modification of a Conditional Use Permit resulting from compliance with the building code, housing code, and other regulations of the City of Fort Thomas shall be considered pursuant to KRS 100.237 (2).**
- C. In any case where a Conditional Use Permit has not been exercised within twelve (12) consecutive calendar months from date of issuance, if no specific time limit has been set, such Conditional Use Permit shall not revert to its original designation unless there has been an additional public hearing.

“Exercised” as set forth in this **sub**-section, shall mean that binding contracts for the construction of the ~~main~~ **principal** building or other improvements have been let; or in the absence of contracts that the ~~main~~ **principal** building or other improvement is under construction to a substantial degree, or that prerequisite conditions involving substantial investment shall be under contract, in development, or completed. When construction is not a part of the use, exercised shall mean that the use is in operation in compliance with the conditions as set forth in the permit.

Changes from existing provisions are noted: **Substantive Additions** and ~~Deletions~~

- D. The Zoning Administrator shall review all Conditional Use Permits, except those for which all conditions have been permanently satisfied, at least once annually and shall have the power to inspect the land or structure where the conditional use is located in order to ascertain that the landowner is complying with all of the conditions which are listed on the Conditional Use Permits. If the landowner is not complying with all of the conditions listed on the Conditional Use Permit, the Zoning Administrator shall report the fact in writing to the chairman of the Board of Adjustment. The report shall state specifically the manner in which the landowner is not complying with the conditions on the Conditional Use Permit, and a copy of the report shall be furnished to the landowner at the same time it is furnished to the chairman of the Board of Adjustment. The Board shall hold a hearing on the report within a reasonable time, and notice of the time and place of the hearing shall be furnished to the landowner at least one week prior to the hearing. If the Board of Adjustment finds that the facts alleged in the report of the Zoning Administrator are true and that the landowner has taken no steps to comply with them between the date of the report and the date of the hearing, the Board of Adjustment may authorize the Zoning Administrator to revoke the Conditional Use Permit and take the necessary legal action to cause the termination of the activity on the land which the Conditional Use Permit authorizes.
- E. Once the Board of Adjustment has completed a Conditional Use Permit and all the conditions required are of such type that they can be completely and permanently satisfied, the Zoning Administrator, upon request of the applicant, may, if the facts warrant, make a determination that the conditions have been satisfied, and enter the facts which indicate that the conditions have been satisfied and the conclusion in the margin of the copy of the Conditional Use Permit which is on file with the county clerk, as required in KRS 100.344.
- F. Noticing. **Written notice of the consideration of a Conditional Use Permit shall be given pursuant to KRS 100.237.**
- G. **If Development Plan review is required pursuant to Section 1.4 for the use or activities associated in the application for a Conditional Use Permit, the Board of Adjustment may hear and finally decide on the Development Plan application in conformance with the Development Plan Review Procedures in Section 1.4.**

SECTION 1.7 Appeals and Variances

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| <p>1.7.01 Appeals of Administrative Decisions.</p> <p>1.7.02 Variances.</p> <p>1.7.03 Appeals from the Final Actions of the Planning Commission, Board of Adjustment, or Legislative Body.</p> | <p>1.7.04 Appeals from the Final Actions of the Design Review Board.</p> |
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1.7.01 APPEALS OF ADMINISTRATIVE DECISIONS.

Per KRS 100.257 and KRS 100.261, appeals to the Board of Adjustment may be taken by any person or entity claiming that there is an error in, or that they are injuriously affected or aggrieved by, an official action, order, requirement, interpretation, grant, refusal, or decision of the Zoning Administrator. The board of adjustment shall have the power to hear and decide cases where it is alleged by an applicant that there is error in any order, requirement, decision, grant, or refusal made by an administrative official in the enforcement of the zoning regulation. Such appeal shall be taken within thirty (30) days.

A. Procedures.

1. **An appeal shall be made within 30 calendar days after the applicant or its agent receives notice of the action of the Zoning Administrator, by filing a notice of appeal with the Board of Adjustment, that specifies the grounds of the appeal and gives notice of the appeal to any and all parties of record.**
2. **The applicable fee required by the Board of Adjustment shall accompany the notice of appeal at the time it is filed with the Zoning Administrator.**
3. **The Zoning Administrator shall transmit all records pertaining to the decision that is being appealed.**
4. **The Board of Adjustment shall hear the appeal within 60 calendar days and give public notice in accordance with KRS Chapter 424 as well as written notice to the applicant and the Zoning Administrator at least one calendar week prior to the hearing.**
5. **The affected party may appear at the hearing in person or by attorney and all shall be given an opportunity to be heard.**
6. **The Board shall decide on the appeal within 60 calendar days from the date the appeal was filed with the Zoning Administrator and the Board.**
7. **In determining that an appeal may be granted, the Board must find that there was an error in, or that the applicant was injuriously affected or aggrieved by, an order, requirement, interpretation, grant, refusal, or decision of the Zoning Administrator.**

Changes from existing provisions are noted: **Substantive Additions** and ~~Deletions~~

- B. Stay of Proceedings. An appeal to the Board of Adjustment for a Zoning Administrator’s decision stays all proceedings in furtherance of the action appealed from, unless the Zoning Administrator from whom the appeal is taken, certifies to the Board of Adjustment, after the notice of appeal is filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed other than by a court of record on application, or on notice to the Zoning Administrator from whom he appeal is taken and on due cause shown.
- C. Decisions of the Board of Adjustment. In exercising the aforementioned powers, the Board of Adjustment may, so long as such action is in conformity with the terms of this Ordinance, reverse or affirm wholly or partly, or may modify the order, requirements, decision, or determination as ought to be made, and to that end shall have powers of the Zoning Administrator, from whom the appeal is taken.

A simple majority of the total membership of the Board of Adjustment, as established by regulation or agreement, shall be necessary to reverse any order, requirement, decision or determination of the Zoning Administrator, or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance, ~~or to effect any variation in the application of this Ordinance.~~

The details of the decision of the Board shall be forwarded to the Zoning Administrator.

1.7.02 VARIANCES.

The Board of Adjustment shall have the power to hear and decide variances pursuant to and in compliance with the applicable sections of KRS 100 and this Section.

- A. Procedures.
1. Applications. **Applications for variance shall be submitted on forms supplied by the Zoning Administrator. Applications shall be signed by the property owner or his/her agent and filed with the Zoning Administrator in accordance with this Ordinance and accompanied by the required fee. Applications shall be accompanied by supporting material listed on the application. Failure to submit all required material may result in delay of the application review.**
 2. Public Hearing.
 - a. The Board of Adjustment shall fix a reasonable time for **the public** hearing ~~the appeal~~ and give public notice in accordance with KRS Chapter 424, as well as written notice to the appellant and the Zoning Administrator at least ~~two weeks prior to a hearing for a Conditional Use Permit,~~ and one (1) calendar week prior to any ~~other~~ hearing, and shall render a decision on all requests within sixty (60) consecutive

Changes from existing provisions are noted: **Substantive Additions** and ~~Deletions~~

calendar days. The affected party may appear at the hearing in person or by attorney.

- b. ~~At the public hearing on the appeal held by the Board, an interested person may appear and enter his appearance, and all shall be given an opportunity to be heard.~~

B. **Variance Criteria.** Findings necessary for granting variances:

1. Before any variance is granted the Board must find that the granting of the variance will not adversely affect the public health, safety or welfare, will not alter the essential character of the general vicinity, will not cause a hazard or a nuisance to the public, and will not allow an unreasonable circumvention of the requirements of the zoning regulations.
2. In making these findings, the Board shall consider whether:
 - a. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity, or in the same zone;
 - 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; and,
 - c. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

C. **Conditions.** In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this ordinance and punishable under **Section 1.11** of this Ordinance.

D. **Decisions of the Board of Adjustment.** A simple majority of the total membership of the Board of Adjustment, as established by regulation or agreement, shall be necessary to effect any variation in the application of this Ordinance.

E. **Contradictions.** The Board of Adjustment shall not possess the power to grant a variance to permit a use of any land, building, or structure which is not permitted by this Ordinance in the zone in question, or to alter density requirements in the ~~zone~~ **zoning district** in question.

F. **A Variance Runs with the Land.** A variance applies to the property for which it is granted and not to the individual who applied for it. A variance also runs with the land and is transferable to any future owner of land, but it cannot be transferred by the applicant to a different site.

Changes from existing provisions are noted: Substantive Additions and ~~Deletions~~

1.7.03 APPEALS FROM THE FINAL ACTIONS OF THE PLANNING COMMISSION, BOARD OF ADJUSTMENT, OR LEGISLATIVE BODY.

Any appeal from Planning Commission, ~~or~~ Board of Adjustment, or the Legislative Body action ~~may~~ shall be taken in the following manner:

- A. Any person or entity claiming to be injured or aggrieved by any final action of the Board of Adjustment shall appeal from the action to the Circuit Court of the county in which the property, which is the subject of the action of the Board of Adjustments, lies. Such appeal shall be taken within thirty (30) ~~consecutive~~ calendar days after the final action of the Board of Adjustment. All final actions which have not appealed within thirty (30) calendar days shall not be subject to judicial review. The Board of Adjustments shall be a party in any such appeal filed in the circuit court.
- B. Any person or entity claiming to be injured or aggrieved by any final action of the Planning Commission shall appeal from the final action to the circuit court of the county in which the property, which is the subject of the commission's action, lies. Such appeal shall be taken within thirty (30) calendar days after such action. Such action shall not include the commission's recommendations made to other governmental bodies. All final actions, which have not been appealed within thirty (30) calendar days, shall not be subject to judicial review. Provided, however, any appeal of a Planning Commission action granting or denying a variance or conditional use permit as provided in K.R.S. 100 shall be taken pursuant to this subsection. In such case, the thirty (30) day period for taking an appeal begins to run at the time the legislative body grants or denies the map amendment for the same development. The planning commission shall be a party in any such appeal filed in the circuit court.
- C. Any person or entity claiming to be injured or aggrieved by any final action of the legislative body of the city, relating to a map amendment, shall appeal from the action to the circuit court of the county in which the property, which is the subject of the map amendment, lies. Such appeal shall be taken within thirty (30) calendar days after the final action of the legislative body. All final actions, which have not been appealed within thirty (30) days, shall not be subject to judicial review. The legislative body shall be a party in any such appeal filed in the circuit court.
- D. The owner of the subject property and applicants who initiated the proceeding shall be made parties to the appeal. Other persons speaking at the public hearing are not required to be made parties to such appeal.
- E. For the purposes of this Ordinance, final action shall be deemed to have occurred on the calendar date when the vote is taken to approve or disapprove the matter pending before the body.

1.7.04 APPEALS FROM THE FINAL ACTIONS OF THE DESIGN REVIEW BOARD.**Appeals from the Design Review Board shall be taken in the following manner:**

- A. **Appeals from Required Design Standards. Any appeal from the Design Review Board for a final action granting exemptions, exceptions, or modifications from the Required Design Standards in Article III, Zoning Districts, shall be taken in the following manner:**
1. **Any person or entity claiming to be injured or aggrieved shall appeal from the action to the Circuit Court of the county in which the property, which is the subject of the action of the Design Review Board, lies. Such appeal shall be taken within thirty (30) calendar days after the final action of the Design Review Board. All final actions which have not appealed within thirty (30) calendar days shall not be subject to judicial review. The Design Review Board shall be a party in any such appeal filed in the circuit court.**
 2. **The owner of the subject property and applicants who initiated the proceeding shall be made parties to the appeal.**
 3. **For the purposes of this Ordinance, final action shall be deemed to have occurred on the calendar date when the vote is taken to approve or disapprove the matter pending before the body.**
- B. **Appeals from the Issuance of Certificate of Appropriateness. Any appeal from the Design Review Board for a final action on a Certificate of Appropriateness shall be in accordance with Sections 36.010-36.015, Design Review Board, of the City of Fort Thomas, Kentucky Code of Ordinances.**

Changes from existing provisions are noted: **Substantive Additions** and ~~Deletions~~

SECTION 1.8 Amendments

1.8.01	Declaration of Public Policy.	1.8.05	Examination of Applications.
1.8.02	Limitation on all Proposed Amendments.	1.8.06	Disposition of Applications.
1.8.03	Public Hearing Required; Notice Given.	1.8.07	Submission of Development Plan as Condition of Zoning Map Amendment.
1.8.04	Application for Amendments.		

1.8.01 DECLARATION OF PUBLIC POLICY.

- A. Amendment to the Official Zoning Map. This Ordinance, and as herein used the term Ordinance shall be deemed to include the official zoning map or maps, may be amended, to correct a manifest error in the Ordinance, or, because of changed or changing conditions in a particular area or in the City generally, to rezone an area or to extend the boundary of an existing ~~zone~~ **zoning district** in accordance with the adopted *Comprehensive Plan* for the City of Fort Thomas or to change the regulations and restrictions thereof, only as necessary to the promotion of the public health, safety or general welfare. An amendment to the **official** zoning map may be initiated by the Board of Council, the Planning Commission or by an owner of the property in question.
- B. Amendment to the Zoning Text. An amendment to the text of this Ordinance may be initiated by the Board of Council or the Planning Commission.

1.8.02 LIMITATIONS ON ALL PROPOSED AMENDMENTS.

All proposed amendments to this Ordinance regardless of how or by whom initiated, shall be subject to the following limitations:

- A. ~~Administrative Examination~~ Planning Commission Procedures. No amendment to this Ordinance shall be adopted until the amendment has been examined by the Planning Commission as hereinafter set forth and pursuant to KRS Chapter 100.
- B. Findings for a Map Amendments. Before any map amendment is granted, the Planning Commission and the Board of Council must find that the amendment is in agreement with the adopted *Comprehensive Plan* for the City of Fort Thomas, or, in the absence of such a finding, that one or more of the following apply and such finding shall be recorded in the minutes and records of the Planning Commission and the Board of Council:
1. That the existing zoning classification given to the property was inappropriate and that the proposed zoning classification is appropriate;

Changes from existing provisions are noted: **Substantive Additions** and ~~Deletions~~

2. That there have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in the adopted *Comprehensive Plan* and which have substantially altered the basic character of such area.
- C. Uniformity of ~~Zone~~ Zoning Regulations. No amendment to this Ordinance shall be adopted whereby the regulations and restrictions established thereby are not uniform for each ~~zone~~ **zoning district** having the same classification and bearing the same symbol or designation on the official zoning map.

1.8.03 PUBLIC HEARING REQUIRED; NOTICE GIVEN.

No amendment, ~~including but not limited to, changes of zoning~~ to this Ordinance, **whether map or text**, shall become effective until after a public hearing has been held by the Planning Commission in relation thereto at which hearing parties in interest and citizens shall have an opportunity to be heard. Where a map amendment originates with the Board of Council or the Planning Commission, notice of the public hearing shall be given at least thirty (30) days in advance of the hearing by first-class mail to an owner of every parcel of property proposed to be changed. Notice of a public hearing in all other cases shall be provided in accordance with KRS Chapters 100 and 424 respectively.

1.8.04 APPLICATION FOR AMENDMENTS.

- A. By Whom Made:
1. The Planning Commission, Board of Council, owner, or other authorized representative (with verification of owner's consent) may apply for a zoning map amendment.
 2. The Planning Commission or Board of Council may apply for a text amendment to this Ordinance.
- B. Filing of Application. All applications for amendments to this Ordinance shall be filed, in writing, with the Zoning Administrator, to be transmitted to the Planning Commission on forms furnished by the Zoning Administrator. The fee required for applying for such amendment shall be as provided in **the City's adopted Fee Ordinance**. ~~Section 19.0 of this ordinance.~~

1.8.05 EXAMINATION OF APPLICATIONS.

Upon receipt of ~~an~~ **a complete** application, **as defined by KRS 100.211**, for an amendment, ~~properly and fully completed as herein set forth~~, the Zoning Administrator shall submit the application to the Planning Commission, which after examination of the application, may require, if considered necessary, that the applicant furnish additional information of a pertinent and reasonable nature.

Changes from existing provisions are noted: Substantive Additions and ~~Deletions~~

1.8.06 DISPOSITION OF APPLICATIONS.

- A. Planning Commission. Upon receipt of an application for an amendment from the Zoning Administrator, the Planning Commission shall **consider the application in compliance with KRS 100 and shall** hold at least one (1) public hearing on the proposed amendment. The Planning Commission shall forward written notice of its findings and recommendations concerning the application to the Board of Council.
- B. Board of Council.
1. Text Amendment. **It shall take an affirmative vote of a majority of the Board of Council to adopt a proposed text amendment.**
 2. Map Amendment. **Pursuant to KRS 100.211:**
 - a. **It shall take a majority of the entire Board of Council to override the recommendation of the Planning Commission and it shall take a majority of the entire Board of Council to adopt a zoning map amendment whenever the Planning Commission forwards the application to the City Council without a recommendation of approval or disapproval due to a tie vote.**
 - b. **Unless a majority of the entire Board of Council votes to override the Planning Commission’s recommendation, such recommendation shall become final and effective and if a recommendation of approval was made by the Planning Commission, the ordinance of the Board of Council adopting the Map Amendment shall be deemed to have passed by operation of law.**

1.8.07 SUBMISSION OF DEVELOPMENT PLAN AS CONDITION FOR ZONING MAP AMENDMENT.

Any request for a zoning map amendment excluding those submitted by the Board of Council (other than for a zone change for land under city ownership that the city intends to develop) to any ~~commercial (i.e., NSC, GC, HC, PO, COR, etc.)~~ **Business, Mixed-Use, Other, Special or** multi-family residential **zoning district** zone (i.e., R-3, RCD, R-5), or industrial zone (~~IP~~), shall be made in accordance with all applicable requirements of this Ordinance, including the following:

- A. Application and Processing. Application for a zoning map amendment shall be processed as follows:
1. Application for a zoning amendment shall be filed with the Zoning Administrator as required by Section **1.8** ~~17.3, B~~, and shall include a Stage I Development Plan in accordance with the applicable requirements of Section

Changes from existing provisions are noted: **Substantive Additions** and ~~Deletions~~

~~1.4 9.20, B,~~ of this Ordinance. The Zoning Administrator may waive the submission of data involving detailed engineering study until such time as the zoning amendment has been granted.

2. The Planning Commission shall hold a public hearing on the proposed application and review said application with regard to the required elements of the Development Plan, and other applicable requirements of this section. Upon holding such a hearing, the Planning Commission shall make one of the following recommendations to the Board of Council: approval, approval with condition(s), or disapproval. The Planning Commission shall submit, along with their recommendations, a copy of the Development Plan and the basis for their recommendation.
3. The Board of Council shall take final action upon a proposed zoning map amendment within ninety (90) **calendar** days of the date upon which the Planning Commission takes its final action upon such proposal.
4. If the requested amendment is approved, the Board of Council shall forward a copy of the approved Development Plan to the Zoning Administrator or the city's duly authorized representative, for further processing and enforcement in accordance with the applicable requirements of this Ordinance.
5. If the detailed engineering data required under **Section 1.4 9.20, B,** had been waived by the Zoning Administrator in the initial submission of the Development Plan, then such data shall be submitted for review in accordance with the Stage II Development Plan requirements of Section ~~9.20~~ **1.4** before a permit may be issued for construction.
6. The Zoning Administrator, in reviewing the Stage II Development Plan, may authorize minor changes from the approved Development Plan, provided that the adjustments do not: substantially affect the spatial relationship of structures, change land uses, increase overall density, alter circulation patterns (vehicular and pedestrian), decrease the amount and/or usability of open space or recreation areas, or affect other applicable requirements of this ordinance. However, any major changes, as defined below, shall require Planning Commission review.
 - a. Greater than ten percent (10%) increase in the total impervious surface area, or floor area, as previously approved for the entire proposed development,
 - b. An increase in the number of approved residential units,
 - c. Changes in the perimeter boundaries of the land included in the total proposed development which requires subdivision approval,

Changes from existing provisions are noted: Substantive Additions and ~~Deletions~~

- d. A change greater than ten percent (10%) in the amount of land in the total proposed development designated for a specific use of the land, or
 - e. Changes that reduce the distance between any internal paved surfaces or building and adjacent residentially zoned land by more than ten percent (10%).
- B. Amendments. Any amendments to plans, except for the minor changes which may be permitted by the Zoning Administrator as noted above, shall constitute a major change, and shall only be made in accordance with the procedure required by this Ordinance, subject to the same limitations and requirements as those under which such plans were originally approved.
- C. Expiration. The zoning map amendment shall be subject to the time constraints as noted below. Upon expiration of said time period and any extensions thereto, the Board of Council or Planning Commission may initiate a public hearing, to be conducted by the Planning Commission, in accordance with the requirements of KRS Chapter 100, for the purpose of determining whether said zoning map amendment should revert to its original designation. A public hearing may be initiated if substantial construction has not been initiated within a period of twelve (12) consecutive months from the date of approval of the Development Plan by the Board of Council, provided that an extension may be permitted upon approval of the Board of Council or Planning Commission, if sufficient proof can be demonstrated that the construction was delayed due to circumstances beyond the applicant's control, and that prevailing conditions have not changed appreciably to render the approved Development Plan obsolete. In any case, if the time constraints contained herein expire and extension has not been granted by the Board of Council or Planning Commission, said Development Plan approval shall be null and void.

Changes from existing provisions are noted: Substantive Additions and ~~Deletions~~

SECTION 1.9 Nonconforming Uses, Lots, Structures, & Site Conditions

1.9.01	Intent.	1.9.06	Nonconforming Site Conditions.
1.9.02	General Provisions.	1.9.07	Nonconforming Parking Facilities.
1.9.03	Nonconforming Lots of Record.	1.9.08	Nonconforming Signs.
1.9.04	Nonconforming Uses.	1.9.09	Existing Use Deemed Conditional Use;
1.9.05	Nonconforming Structures Excluding Signs.		Permit Required for Change.

1.9.01 INTENT.

The purpose of this Section is to recognize the existence of uses, buildings, lots, structures, and site conditions that lawfully existed at the time of this Ordinance's enactment, or amendment thereto, but which now do not conform with one or more of the regulations contained in this Ordinance. Nonconforming uses of structures and/or land are considered by this Ordinance to be generally incompatible with the provisions applicable in the district in which such uses are located. Regulations for the continuance, maintenance, repair, restoring, moving and discontinuance of nonconforming uses, nonconforming buildings/structures, nonconforming site conditions, and nonconforming lots are established in order to achieve the following purposes:

- A. To permit the continuance but control of nonconforming uses so as to minimize any adverse effects the uses might have on the adjoining properties and development;
- B. To continue the maintenance and repair of nonconforming uses;
- C. To restrict the rebuilding of nonconforming uses, if substantially destroyed;
- D. To require conformity if a nonconforming use is discontinued, to bring about eventual conformity of all uses in accordance with the objectives of the *Comprehensive Plan* and this Ordinance of the City;
- E. To establish regulations for the development of sites containing nonconforming site conditions;
- F. To establish regulations for the development of nonconforming lots; and,
- G. To establish regulations for the use, restoration, reconstruction, and expansion of structures that do not conform to the standards set forth in this Ordinance.

Changes from existing provisions are noted: Substantive Additions and ~~Deletions~~

1.9.02 GENERAL PROVISIONS.

- A. The lawful use of a dwelling, building or structure and of land or premises that is existing and lawful on the effective date of this Ordinance, or any amendments thereto, may be continued although such does not conform to the Ordinance.
- B. The completion, restoration, reconstruction, extension or substitution of a nonconforming use shall be subject to the requirements and conditions set forth in this Section.
- C. This Section shall apply to a building, structure, land, use, or other site condition that becomes nonconforming as a result of amendment to this Ordinance or the Official Zoning Map.
- D. A lot, use, building, structure, or site condition that does not comply with a zoning requirement and for which a variance has been granted is not nonconforming.
- E. Zoning Permit Required. No nonconforming structure, use, lot or site condition shall be renewed, changed, or extended until a Zoning Permit has been issued by the Zoning Administrator in accordance with the provisions of Section 1.5, Zoning Permits and Certificates of Zoning Compliance.
- F. Map Amendment. An applicant with property that has any nonconformity may request a zone change. If a zone change is granted, all other nonconformities, such as site conditions shall be remedied to the maximum extent practicable as a condition of approval.
- G. Variances, Conditional Uses, Appeals, and Changes to Nonconforming Uses. An applicant with property that has any nonconformity may request a variance, conditional use, appeal, or change from one nonconforming use to another nonconforming use in conformance with Article I, General Provisions and Administration. If a request is granted, all other nonconformities, such as site conditions must be remedied to the maximum extent practicable as a condition of approval.
- H. Nonconforming Land, Structure or Use made to Conform. Where any nonconforming land, structure, or use in part or in whole is made to conform to the regulations for the zone in which it is located, the part or whole which has been made to conform ~~may~~ **shall** not thereafter be changed in such manner as would be nonconforming.

Changes from existing provisions are noted: Substantive Additions and ~~Deletions~~

1.9.03 NONCONFORMING LOTS OF RECORD.

A legal nonconforming lot is defined in Article 1.1, Definitions. A lot shall not be reduced below the minimum lot area and minimum lot width, except as otherwise permitted in this Ordinance. A lot established after the passage of this Ordinance that does not conform to regulations of the district in which it is situated shall be considered an illegal nonconforming lot and is a violation of this Ordinance.

- A. Any lot of record, which does not meet the requirements of this Ordinance, shall be considered a nonconforming lot of record.
- B. If two (2) or more unimproved lots or combinations of lots and portions of lots with continuous frontage in single ownership, are of record at the time of passage or amendment of this Ordinance, and if all or part of the lots do not meet the requirements for lot width and area as established by this Ordinance, the lands involved shall be considered to be an undivided parcel for the purposes of this Ordinance, and no portion of the parcel shall be used or sold which does not meet lot width and area requirements established by this Ordinance, nor shall any division of the parcel be made which leaves remaining any lot with width or area below the requirements stated in this Ordinance.
- C. Where a single nonconforming lot of record exists ~~having a lot area less than~~ **that fails to comply with the minimum lot area or other dimensional requirements** required by the particular ~~zone~~ **zoning** district wherein said lot is located, development may be permitted on the lot provided: the lot is located on an existing and improved public street; the lot is of separate ownership from all adjacent and contiguous parcels; the adjacent and contiguous parcels exist as developed building lots or dedicated street right-of-ways precluding acquisition of additional area to achieve conformity; and development proposed on the lot is in conformance with all other requirements of this Ordinance. Where a dimensional variance from any minimum ~~yard~~, setback, etc. is necessary to develop on said lot, an application for dimensional variance shall be submitted for review and approval by the Board of Adjustments in accordance with ~~Article XVIII~~ **Section 1.7** of this Ordinance.

1.9.04 NONCONFORMING USES.

A legal nonconforming use is defined in Article 1.1, Definitions. A use established after the passage of this Ordinance that does not conform to regulations of the district in which it is located shall be considered an illegal nonconforming use and is a violation of this Ordinance. Legal nonconforming uses of land or structures may continue only in accordance with all the following provisions.

- A. Continuance. Except as herein provided, the lawful use of any ~~public or private~~ structure or land existing at the time of the adoption of this Ordinance may be continued although such use does not conform to the provisions of this Ordinance; ~~however, no nonconforming use may be enlarged or extended unless and until the use is brought into conformance with all provisions of this Ordinance.~~

Changes from existing provisions are noted: Substantive Additions and Deletions

- B. Expansion Prohibited. A nonconforming use shall not be expanded except as permitted by this Section. Expansion shall include an intensification of use, a physical expansion that results in increased capacity, square footage, or activity associated with the use, increasing an accessory use, an extension of the hours of operation or number of days of activity and any similar change in activity or location.
- C. Relocation Restricted. A nonconforming use shall not be moved from one location on a site to another location on the same site unless approved by the Board of Adjustment upon application and demonstration by the property owner that the relocation of the use will not increase the adverse impacts of such use on the public, will not adversely affect adjacent properties, and will not have the effect of making the nonconformity more permanent.
- D. Reestablishment Restricted. A legal nonconforming use, when discontinued or abandoned, shall not be resumed if the following provisions apply:

Is 180 days appropriate for a nonconforming use of land?

1. When a nonconforming use of land ceases for a continuous period of 180 calendar days. (This applies regardless of whether the nonconforming use of land is the primary use of the property or accessory to a separate legal conforming use.)
2. When a nonconforming use of a building designed or arranged for that use ceases for a continuous period of twelve (12) calendar months. (This applies regardless of whether the nonconforming use is the primary use of the property or accessory to a separate legal conforming use.)

~~Except as noted, any one of the following acts or conditions shall immediately terminate the right to maintain nonconforming land, uses or structures: A nonconforming use is discontinued or abandoned for a period of twelve (12) consecutive calendar months. As used herein, “discontinued or abandoned” means that the owner or responsible party for the use of the property cannot document or demonstrate clear intent to continue using the property for the nonconforming use and that they had augmented that intent by making every reasonable effort to continue to have the property so used. Intent can be demonstrated by providing documentation or evidence that the owner has made reasonable, continuous effort to have the property rented or sold for the nonconforming purpose, or that the property has been vacant and/or unused as a result of legal proceedings.~~

3. As used herein in this sub-section D, ~~“discontinued or abandoned”~~ “ceases” means that the owner or responsible party for the use of the property cannot document or demonstrate clear intent to continue using the property for the nonconforming use and that they had augmented that intent by making every reasonable effort to continue to have the property so used.

Changes from existing provisions are noted: Substantive Additions and ~~Deletions~~

Intent can be demonstrated by providing documentation or evidence that the owner has made reasonable, continuous effort to have the property rented or sold for the nonconforming purpose, or that the property has been vacant and/or unused as a result of legal proceedings.

4. **The Board of Adjustment may grant a one-time extension for reestablishment of the nonconforming use of a building of up to an additional 180 calendar days (in addition to the 12 months provided for in sub-section 2. above).**
- E. **Structural Alterations Restricted. No structural changes shall be permitted in any structure occupied by a nonconforming use except as follows:**
1. **No structural alterations or changes to the exterior of the building that would increase the nonconforming use.**
 2. **Structural changes ordered by an authorized official to ensure the safety of the structure shall be permitted.**
 3. **Maintenance and repairs to keep a structure in sound condition shall be permitted.**
 4. **Structural changes necessary to convert the nonconforming use to a conforming use shall be permitted.**
 5. **For any existing nonconforming residential use, structures may be enlarged or altered provided no additional dwelling units are created. Any enlargement or alterations shall follow all setback requirements for the R-1C district. New accessory structures may be constructed provided they meet the requirements of the R-1C District and this Ordinance.**
 6. **Expansion of a nonconforming use into portions of a structure that, at the time the use became nonconforming, were already erected and arranged or designed for such nonconforming use is permissible.**
- F. **Damage or Destruction. If the total cost to repair the damage to a building or structure in which a nonconforming use is conducted exceeds 60% or more of the replacement cost or fair market value of the building or structure, the building or structure shall not be reoccupied unless the use is permitted in the zoning district.**
- G. **Change of Use.** A nonconforming use shall not be changed to another nonconforming use without the specific approval of the Board of Adjustment, as provided ~~herein~~ **in this Ordinance.**
1. The Board of Adjustment shall have the power to hear and decide on applications to convert or change an existing nonconforming use to another nonconforming use, subject to the following:

Should an exception be made for nonconforming residential uses?

Changes from existing provisions are noted: **Substantive Additions** and ~~Deletions~~

- a. A written application for a change from one nonconforming use to another (including the required fee ~~as per Section 19.0 of this ordinance~~) and a ~~site plan~~ **Development Plan**, if applicable, subject to the applicable requirements of Section ~~9.19 1.4~~, shall be submitted to the Board.
- b. Notice of public hearing shall be given in accordance ~~with Section 18.2 of this Ordinance~~ **with KRS Chapter 424 as well as written notice to the appellant.**
- c. The public hearing shall be held. Any person may appear in person, by agent, or by attorney.
- d. Prior to granting a change from one nonconforming use to another, the Board of Adjustment shall find that the new nonconforming use is in the same or more restrictive classification of use as the prior nonconforming use. In the determination of the same or more restrictive classification of use, the applicant shall establish and the board of adjustment shall find:
 - i. That the new nonconforming use shall generate less vehicular traffic (automobile and truck) than the prior nonconforming use;
 - ii. That the new nonconforming use is of a nature which will emit less noise and air pollution than the prior nonconforming use;
 - iii. That the new nonconforming use will be more in character with the existing neighborhood than the prior nonconforming use, in that it is more in conformance with the adopted comprehensive plan, and also, more in conformance with the uses permitted in the zone in which the use is located, than the prior nonconforming use.
- e. Any change of nonconforming use granted by the Board of Adjustment shall conform to the requirements of this Ordinance, including, but not limited to, parking requirements, sign regulations and ~~yard~~ **setback** requirements, and all other pertinent ordinances of the legislative body.
- f. The Board of Adjustment shall not allow the enlargement or extension of a nonconforming use beyond the scope and area of its operation at which time its use became nonconforming.
- g. The Board of Adjustment, in granting a change of nonconforming uses, may attach such conditions thereto as it may deem necessary and proper; and the action, limitations, and conditions imposed, if

Changes from existing provisions are noted: **Substantive Additions** and ~~Deletions~~

any, shall be in writing, directed to the applicant, with a copy to be furnished to the zoning administrator.

- h. The change of nonconforming use, as may be granted by the board of adjustment, applies to the property for which it is granted and not to the individual who applied and, therefore, cannot be transferred by the applicant to a different property.
- i. In the case where the change of nonconforming use has not occurred within one (1) year after the date of granting thereof, the change of nonconforming use permit shall be null and void and reapplication to the board of adjustment shall have to be made.

H. **Abandonment of a Non-conforming Accessory Use. An accessory use shall cease after the principal non-conforming use to which it is accessory has been abandoned.**

I. **Intermittent or Seasonal Uses.** Activities or uses that operate intermittently, seasonally or for periods of less than sixty (60) days shall not obtain nonconforming status or be considered nonconforming.

1.9.05 NONCONFORMING STRUCTURES EXCLUDING SIGNS.

A legal nonconforming structure is defined in Article 1.1, Definitions. A structure established after the passage of this Ordinance that does not conform to regulations of the district in which it is situated shall be considered an illegal nonconforming structure and is a violation of this Ordinance. Legal nonconforming structures may continue only in accordance with all the following provisions.

- A. **Continuance.** Except as herein provided, any ~~public or private~~ nonconforming structure may be occupied, operated, and maintained in a state of good repair, but no nonconforming structure shall be enlarged or extended beyond the scope and area of the operation at the time the regulation which created the nonconformity was adopted, **except as provided in this Section.**
- B. **Repairs and Maintenance.** ~~On any building devoted in whole or in part to any nonconforming use,~~ **To allow the continuation of a nonconforming structure,** work may be done on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring, or plumbing, to an extent not exceeding ten percent (10%) of the assessed value of the building, provided that the cubic content of the building, as it existed at the time of passage or amendment of this ordinance, shall not be increased, unless otherwise noted herein.
- C. **Restoration.** Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring, to a safe condition, of any building, structure, or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of official.

Changes from existing provisions are noted: Substantive Additions and Deletions

- D. Changes for Conversion Permitted. Structural changes necessary to convert an associated nonconforming use to a conforming use shall be permitted provided such changes do not increase the nonconforming aspect of such structure.
- E. Movement Restricted. A nonconforming structure shall not be moved unless afterward it conforms to the standards of the zoning district in which it is located.
- F. Removal or destruction of a nonconforming structure as a result of owner's actions: intentional act; negligent act; or, failure to maintain and repair. In the event the removal or destruction is not a result of the owner's actions described herein, then the structure may be reconstructed, provided the owner makes application to reconstruct within six (6) months of the date of removal or destruction, but the structure shall not be enlarged, extended or moved.
- G. A nonconforming structure, which is designed for and devoted solely to uses permitted by the district in which it is located, may be expanded in a manner which does not increase the nonconforming aspect of such structure.
- H. Certain Enlargements Permitted. In any zoning district, any single-family detached dwelling that has a nonconforming side setback may construct a horizontal or vertical addition that may likewise extend into the required side setback, as long as it is set back the same distance from the lot line as the existing nonconforming setback. Board of Adjustment approval is required for any case that has a side setback less than five feet, even if a proposed addition is not extending any further into the required side setback.

Should non conforming structures be permitted to expand in these ways?

1.9.06 NONCONFORMING SITE CONDITIONS.

A legal nonconforming site condition is defined in Article 1.1, Definitions. Nonconforming site features include only those features not otherwise addressed as a nonconforming lot or structure as addressed in this Section, and include but may not be limited to physical characteristics of development that exceed allowable maximum standards (e.g. impervious surface, number of accessory buildings, etc.), and those that lack or fall short of required minimum standards (e.g. off-street parking and loading spaces, buffer width, landscaping, lighting standards, etc.). A feature added or changed after the passage of this Ordinance that does not conform to regulations of the district in which it is situated or this Ordinance shall be considered an illegal nonconforming site condition and is a violation of this Ordinance. Legal nonconforming site conditions may be continued subject to the following limitations.

- A. Increase in Nonconformity Prohibited. No action shall be taken which increases the degree or extent of the nonconformity. Any enlargement, reduction, or extension of any site condition shall conform to all current requirements of this Section and this Ordinance.
- B. Continuation Permitted. For development existing (or for which a vested right has

Changes from existing provisions are noted: Substantive Additions and Deletions

been established) before the effective date of current regulations, nonconforming site conditions created by a change in regulations may continue to exist.

- C. **Nonconforming Site Conditions Existing at Time of Development Plan Review. If a nonconforming site condition(s) exists when a revised development plan is required pursuant to Section 1.4, then such site condition(s) shall be brought into compliance with applicable regulations, unless the Planning Commission determines that such conformance cannot be reasonably achieved because of existing site conditions. Existing site conditions include, but are not limited to, the existing lot configuration and patterns of surrounding development; inability of the applicant to acquire additional property; location of the existing structures on the site in question; the location of parking and access on the site under review, and the location of utilities both on and off-site. In such case, the Planning Commission shall approve a Development Plan that reduces the existing nonconforming site features(s) to the maximum extent practicable.**

1.9.07 NONCONFORMING PARKING FACILITIES.

Off-street parking facilities, which are accessory to a building or other use, and fail to comply with the requirements of Section 5.5, Off-Street Parking and Loading Requirements, shall comply with the requirements of sub-section _____, Nonconforming Parking Facilities.

1.9.08 NONCONFORMING SIGNS.

A sign, lawfully existing at the time this Ordinance, or any amendment thereto, became or becomes effective, but which fails to conform to the sign regulations of the district in which it is located or this Ordinance is a nonconforming sign. Nonconforming signs shall be regulated in accordance with sub-section _____.

1.9.09 EXISTING USE DEEMED CONDITIONAL USE; PERMIT REQUIRED FOR CHANGE.

Any lawfully existing use that, at the time of its establishment, was not classified as a conditional use, but which now, because of the passage of this Ordinance, or amendment thereto, is listed as a conditional use in the district in which it is located, shall be deemed without further action to be a conditional use, not a nonconforming use. Any change, modification, enlargement or alteration of such use, site conditions or signs, or change in operations shall only be permitted upon review and approval by the Planning Commission according to the procedures for conditional uses set forth in Section 1.6.

SECTION 1.10 Waivers and Modifications

<p>1.10.01 Intent.</p> <p>1.10.02 Waivers.</p> <p>1.10.03 Flexible Administrative Modification Rules.</p>	<p>1.10.04 Development Plan Modifications for Some Public & Semipublic Uses.</p>
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1.10.01 INTENT.

The purpose of this Section is to provide some flexibility in the administration of this Ordinance. Such flexibility is necessary given the environmental and topographic conditions in the City of Fort Thomas as well as the constraints inherent in developing and redeveloping in mature communities.

1.10.02 WAIVERS.

- A. General. The Planning Commission may waive certain standards and minimum requirements where expressly permitted to do so in this Ordinance. Waivers may include modifications to or reductions from standards and minimum requirements.

Should the Ordinance spell out explicitly where waivers are permitted? To provide additional flexibility, an Equivalency Provision could also be included in this Section. See the text box on page 4.

- B. Application Requirements. When requesting a waiver from the Planning Commission, the applicant should indicate the requested waiver on the Development Plan application and include a Statement of Justification that addresses, as applicable, the following items:
1. Demonstration that the waiver will not adversely affect adjacent property owners; and,
 2. Demonstration that the waiver will not violate the *Comprehensive Plan*, but further its Vision, Goals, and Objectives; and,
 3. The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant; and,
 4. Either:
 - a. The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); or,

This is a new Section, but changes to existing provisions are noted: **Substantive Additions** and Deletions

- 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.
- C. **Findings Necessary for Granting of Waiver.** The Planning Commission may approve the requested waiver of standards upon a finding that:
1. The applicant has demonstrated that the waiver will not adversely affect adjacent property owners; and,
 2. The applicant has demonstrated that the waiver will not violate the *Comprehensive Plan*, but will furthers its Vision, Goals, and Objectives; and,
 3. The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant; and,
 4. Either:
 - a. The applicant has incorporated other design measures that exceed the minimums of the district 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.
- D. **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 considered as binding elements.

1.10.03 FLEXIBLE ADMINISTRATIVE MODIFICATION RULES.

The Zoning Administrator may, from time to time, approve administrative modifications from measurable and quantifiable standards of this Ordinance subject to the following limitations:

- A. The standard for which the modification can be granted must be a quantifiable and measurable standard set forth in the Ordinance. Such standards may include, but are not necessarily limited to, height requirements and limitations, setback requirements, screening or buffer requirements, planting requirements, spacing requirements, and other similar measurable and quantifiable standards. These modifications shall not apply to lot area and density requirements.
- B. The Zoning Administrator shall grant such modification only after the requesting party has demonstrated that such minor deviation was a result of an unintended error or unique conditions of the property, does not and will not violate the spirit and harmony of this Ordinance, and does not and will not adversely affect the rights of other property owners in any material manner.

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- C. The minor administrative modification may not deviate by more than 10 percent of any of the standards for which the modification is given.
- D. The Zoning Administrator, in considering the administrative modification request, may approve, approve with conditions, deny, or determine that an application is required to the Board of Adjustment for their consideration. If the administrative modification is denied by the Zoning Administrator, the applicant may appeal the decision to the Board of Adjustment in accordance with Section 1.7. Neither a denial of an administrative waiver nor an unsuccessful appeal to that denial prevents the applicant from seeking a variance to the standard.

Are administrative modifications appropriate?

1.10.04 DEVELOPMENT PLAN MODIFICATIONS FOR SOME PUBLIC & SEMIPUBLIC USES.

- A. **In addition to the waivers permitted under sub-section 1.10.02**, the Planning Commission may authorize a ~~variation~~ **waiver** because of extraordinary or unique topographical, or other environmental conditions, from strict compliance with the area and height regulations for certain permitted uses, specifically publicly owned and/or operated parks, playground and community ~~recreational~~ centers, ~~public and parochial schools~~ schools (public/private) elementary/secondary, ~~police, fire~~ **public facilities** and other municipal uses, which are required to meet the conditional **or restricted** use requirements **in Section 5.4, Conditional Use and Restricted Use Regulations**, as follows:
 1. More than one building may be permitted on a single **zoning** lot;
 2. The minimum lot width at minimum building setback line, minimum side ~~yard~~ **setback** requirements, minimum rear ~~setback yard depth~~, and maximum building height may be modified by the Commission;
 3. **In addition to the application requirements in sub-section 1.10.02 B.**, a detailed report prepared by a licensed professional engineer or architect ~~must~~ **shall** be included specifically stating the proposed exceptions to the area and height regulations and the need for same.
- B. **In conformance with sub-section 1.10.02**, the Planning Commission may alter the area or height requirements as specifically indicated above to the extent deemed just and proper so as to relieve difficulty or hardship for environmental conditions, provided such relief may be granted without impairing the intent and purposes of ~~the~~ **Zoning this** Ordinance; however, all other portions of this and any other applicable ordinances of the City of Fort Thomas shall be strictly adhered to and all access roads, other than parking lots or service drives, must be public streets. Any ~~modification~~ **waiver** thus granted shall be entered in the minutes of the Planning Commission setting forth the reasons which, in the opinion of the Commission, justified the

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modification, **and the Planning Commission shall make the findings necessary for granting of a waiver listed in sub-section 1.10.02.**

- C. **As required in sub-section 1.10.02,** a Development Plan is required if the owner wishes any ~~variation~~ **waiver** from strict compliance. If the development is approved, it shall be subject to such conditions as the Commission may include. The Commission shall establish a time limit within which development must be initiated. It may prescribe a sequence in which order of development must take place and such additional conditions as are necessary, in its opinion, to assure completion of the proposed development in accordance with the ordinance then a Zoning Permit will be issued by the Commission. When a Zoning Permit has not been initiated within the time limit established by the Commission in the permit, the Commission may, by majority vote, revoke such permit at any time thereafter, providing that the permittee is sent notice thereof by registered mail at his last address of record at least thirty (30) **calendar** days prior to such action.

EQUIVALENCY PROVISION.

In reviewing an application, the Planning Commission may find that a development plan either adheres to or is equivalent to the requirements of the Zoning Ordinance.

- (a) The Planning Commission may consider features of a development plan to be equivalent to a requirement in the Zoning Code if:
- (1) The development plan substantially complies with the specific requirements and the purposes, intent, and objectives of the zoning district;
 - (2) Through imaginative and skillful design in the arrangement of buildings, open space, streets, access drives and other features shown on the plans, the proposal results in a development with features equivalent to or greater than the municipal standards and requirements; and
 - (3) The development has no significant adverse impact upon the surrounding property or upon the health, safety or general welfare of the City residents.
- (b) The applicant shall submit a written statement to the Planning Commission explaining how the equivalency requirements of this Section have been satisfied. The Planning Commission shall make a written finding stating and explaining how the proposal has satisfied the equivalency criteria. The Planning Commission may approve the application, including modifications from the municipal standards herein, if the application otherwise complies with municipal standards, specifications, ordinances and requirements of the Zoning Ordinance.
- (c) Approval of equivalent requirements is not a variance. This section allows the applicant to satisfy a requirement in a manner not anticipated by the City.

Changes from existing provisions are noted: Substantive Additions and ~~Deletions~~

SECTION 1.11 Enforcement and Penalties

1.11.01	Intent.	1.11.06	Complaints Regarding Violations.
1.11.02	Enforcement by Zoning Administrator.	1.11.07	Inspection of Property.
1.11.03	Violation Considered a Nuisance.	1.11.08	Enforcement Actions.
1.11.04	Construction & Use as Approved.	1.11.09	Penalties.
1.11.05	Violations.		

1.11.01 INTENT.

The intent of this Section is to provide measures for the enforcement of this Ordinance where there is noncompliance and to keep records of actions in regard to the enforcement of the Ordinance.

1.11.02 ENFORCEMENT BY ZONING ADMINISTRATOR.

A Zoning Administrator (official or officials appointed by the City of Fort Thomas, Commonwealth of Kentucky, for carrying out the provisions and enforcement of this Ordinance) shall administer and enforce this Ordinance. ~~He~~ **The Zoning Administrator** may be provided with assistance of such other persons as the City of Fort Thomas directs.

1.11.03 VIOLATION CONSIDERED A NUISANCE.

Any building or structure erected, altered, moved, razed or converted, or any use of land or premises carried on in violation of any provision of this Ordinance may be declared to be a nuisance.

1.11.04 CONSTRUCTION AND USE AS APPROVED.

Zoning Permits and Certificates of Zoning Compliance issued by the Zoning Administrator on the basis of approved plans and applications authorize only the use and arrangement set forth in such approved plans and applications, or amendments thereto. Use, arrangement, or construction contrary to that authorized shall be deemed a violation of this Ordinance.

1.11.05 VIOLATIONS.

It shall be unlawful to:

- A. **Use or occupy any land or place; build, erect, alter, remodel, restore, or rebuild thereon any building or structure; permit any building or structure to remain on such land; or use, occupy, or operate such building or structure, in any way or for any use or purpose that is not permitted by the provisions of this Ordinance; and**
- B. **Use or occupy any parcel of land; use or occupy a new building; or enlarge, substitute, or otherwise change the use, occupancy, or configuration of any land or building, without having received a Zoning Permit or Certificate of Zoning Compliance, as applicable, indicating compliance with the provisions of this Ordinance from the Zoning Administrator; and**

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- C. Aid, assist, or participate with any person in placing, building, erecting, altering, remodeling, restoring, or rebuilding any building or structure that is not permitted by the provisions of this Ordinance; and
- D. Violate or fail to perform any condition, stipulation, or safeguard set forth in any permit, certificate, or approval issued pursuant to this Ordinance, or continue to use or occupy the premises or building as previously authorized by such permit, certificate, or approval beyond the duration limit therein stated; and
- E. Continue construction, renovation, or improvements contrary to a Stop Work Order or Notice of Violation, unless permitted to continue by the Zoning Administrator when necessary to protect property or the health, safety, and welfare of the City; and
- F. Refuse to permit the Zoning Administrator to enter any premises in the City to investigate a reported violation of the provisions of this Ordinance; and
- G. Knowingly make any materially false statement of fact in an application to the Zoning Administrator for Development Plan approval, a Zoning Permit, or Certificate of Zoning Compliance, or in the plans or specifications submitted to the Zoning Administrator in relation to such application; and
- H. Remove a Stop Work Order posted by the Zoning Administrator; and
- I. Regarding signage:
 - 1. To install, create, erect, or maintain any sign in a way that is inconsistent with any plan or permit governing such sign or the lot on which the sign is located.
 - 2. To install, create, erect or maintain any sign requiring a permit without such a permit.
 - 3. To fail to remove any sign that is installed, created, erected, or maintained in violation of this Ordinance, or for which the Sign Permit has lapsed.

1.11.06 COMPLAINTS REGARDING VIOLATIONS.

Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a written complaint, stating the facts and basis of the violation, with the ~~Code Enforcement Officer~~ Zoning Administrator of the City of Fort Thomas.

1.11.07 INSPECTION OF PROPERTY.

The Zoning Administrator shall inspect any building erected, altered, moved, razed or converted, or any use of land or premises carried on in alleged violation of any of the provisions of this Ordinance including any alleged failure to comply with any conditions placed upon an application or approval at the time of approval.

Changes from existing provisions are noted: Substantive Additions and ~~Deletions~~

1.11.08 ENFORCEMENT ACTIONS.

Any violation or attempted violation of this Ordinance or of any condition or requirement adopted pursuant hereto may be restrained, corrected, or abated, as the case may be, by injunction or other appropriate proceedings pursuant to state law. The remedies of the City shall include, but are not limited to the following.

- A. Notice of Violation. If the Zoning Administrator finds that any of the provisions of this Ordinance are being violated, he shall notify, in writing, the person responsible for such violation and order the action necessary to correct it. If, within thirty (30) days or a specified number of consecutive days, as designated herein, the violation has not been corrected, a second written notice shall be sent to the person responsible informing him that as of a specified date he shall be considered to be in violation of this Ordinance and liable to be penalized as per sub-section 1.11.09 ~~Section 16.9~~ of this Ordinance. A second notice shall provide one-half (1/2) the number of days provided in the original notice for the violation to be remedied.
- B. Stop Work Order. **Subsequent to a determination that construction work is being done contrary to this Ordinance, or if the work being performed is causing any situation that threatens the health, safety or welfare of the surrounding property owners, their respective properties, or of the general public passing through or near the construction area, the Zoning Administrator may issue a stop work order and post it conspicuously on the premises involved. Removal of a stop work order, except by the order of the Zoning Administrator, shall constitute a punishable violation of this Ordinance.**
- C. Remove and Reconstruct Order. **The Zoning Administrator may issue a remove and reconstruction order requiring removal of work that does not conform to the approved submittal, plan, or City requirements and reconstruction thereof.**
- D. Certificate Revocation.
 1. **The Zoning Administrator may issue a notice to revoke a certificate, permit, or approval issued in reliance upon false, incorrect or inaccurate information on the application.**
 2. **The certificate, permit, or approval shall be revoked by written notice served either by personal delivery or by certified mail, return receipt requested, to the applicant, holder thereof, or owner of the property; or, failing such service, the notice of revocation shall be posted conspicuously upon the premises.**
- E. Order for Discontinuance and Removal of Violation. **If the Zoning Administrator finds that a property is in violation of any provision of this Ordinance,** the Zoning Administrator shall have the authority to order discontinuance of illegal use of land, buildings, structures, signs, fences or additions, alterations, or structural changes thereto, discontinuance of any illegal work being done, or shall take any other action

Changes from existing provisions are noted: Substantive Additions and ~~Deletions~~

authorized by this Ordinance to insure compliance with or to **remedy or to** prevent violation of its provisions. **After service of the order upon the owner and/or occupant or posting on the premises, no work shall be done except to correct the violation or comply with the violation notice.**

- A. **Forfeiture of Financial Guarantees. The forfeiture of a financial guarantee deposited by the developer or applicant or executed by the developer or applicant and guarantor, to the City in accordance with the terms thereof for failure to complete the project or any guaranteed portion thereof; failure to comply with City specifications for improvements dedicated to public use; or failure to perform or complete other work in compliance with the terms and conditions of the guarantee.**

All the remedies provided herein shall be cumulative. To the extent that state law may limit the availability of a particular remedy set forth herein for a certain violation or a part hereof, the remedy shall remain available for other violations or other parts of the same violation.

1.11.09 PENALTIES.

Each violation of the Zoning Ordinance shall constitute a civil offense. If a citation of violation is not contested, the civil fine shall be One Hundred Dollars (\$100) for the first offense, and shall be Two Hundred Dollars (\$200) for the second offense. If a citation of violation is contested the civil fine shall be Two Hundred Dollars (\$200) for the first offense and Four Hundred Dollars (\$400) for the second offense.

Furthermore, any repeated violation of any provision of _____ TREE CONSERVATION AND RESTORATION REQUIREMENTS of this Ordinance by any person, firm, organization, or corporation shall be grounds for the revocation or suspension by the Building Inspector **or the Zoning Administrator** of any permit for the grading, construction, remodeling, or demolitions of any site, building, or structure on a site so involved. Upon the revocation or suspension, the person, firm, organization, or corporation shall not be granted any new permit for the site in question for a period of one (1) year from the date of said revocation or suspension.