



Fort Thomas, KY Unified Development Ordinance

Phase 3 – Edition 2 (1/11/2024)

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Significant changes from the **Phase 2 draft** are noted: **Substantive Additions** and ~~Deletions~~

SECTION 1.0
Title, Purpose, and Application

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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, shall be effective throughout the City of Fort Thomas, Kentucky, and shall be known, referred to, and recited to as the "OFFICIAL 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) hereby ordains and enacts into law the following articles, 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 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:

- 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.

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- 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.

This Ordinance dividing the City of Fort Thomas, Commonwealth of Kentucky, into Zoning Districts 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 and other purposes. The Ordinance also prescribes penalties for the violations; provides for enforcement; and provides for a Board of Adjustment. 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 **Commonwealth** 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~~ **Zoning Permit** 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, structure, or 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.
- 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.

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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. **Conflict.** 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.
- 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 **and each sub-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 **or certificate** approval process. Furthermore, lack of compliance shall be grounds for denying a permit **or certificate**, 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.

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1.0.07 SEVERABILITY CLAUSE.

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, KY 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 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.

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- 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, shall be reviewed wholly under the terms of the Ordinance in effect when the application was submitted. Any re-application for an expired approval shall 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 Map, of this Ordinance.

This Section is new with existing definitions lined out when replaced. Existing definitions are in *italics*, and all other definitions are new.

SECTION 1.1 Definitions and Measurements

1.1.01 Rules of Interpretation.
1.1.02 Glossary of Terms.

1.0.03 Calculations, Measurements, & Illustrations.

1.1.01 RULES OF INTERPRETATION.

- A. Unless the context clear requires otherwise, words, phrases, and terms defined in the OFFICIAL UNIFIED DEVELOPMENT ORDINANCE OF THE CITY OF FORT THOMAS, KY shall be given the defined meaning as set forth below:
1. Words used in the present tense include the future; the singular number includes the plural, and the plural the singular; the word “building” includes the word “structure”; and the word “used” and “occupied” includes “arranged, designed, constructed, altered, converted, rented, leased, or intended to be used.”
 2. The words “shall,” “must,” and “will” are mandatory and not discretionary; the word “may” signifies a permissive requirement; and the word “should” is a preferred suggestion or recommendation and does not express a requirement or a duty.
 3. The word “person” includes a firm, association, organization, partnership, trust, company, corporation, or similar entity, as well as an individual.
 4. The word “lot” includes the words “plot, zoning lot, and parcel.”
 5. The word “municipality” shall mean the City of Fort Thomas, KY.
 6. The word “City” shall mean the City of Fort Thomas, KY.
 7. The words “the Commission” or “Planning Commission” shall mean the City of Fort Thomas, KY Planning Commission.
 8. The words “Board of Council” shall mean the City Council of Fort Thomas, Kentucky.
 9. The words “City Council” shall mean the Board of Council of Fort Thomas, Kentucky.
 10. The words “Design Review Board” shall mean the City of Fort Thomas, KY Board of Design Review.
 11. The words “Board of Design Review” shall mean the City of Fort Thomas, KY Design Review Board.
 12. The words “Tree Commission” mean the City of Fort Thomas, KY Tree Commission.

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13. The words “City Administrator” mean the City Administrator of Fort Thomas, Kentucky.
 14. The words “Board of Adjustment” mean the City of Fort Thomas, KY Board of Adjustment.
 15. The words “Zoning Administrator” mean the Zoning Administrator for the City of Fort Thomas, KY or their designee.
 16. The words “zoning map” shall mean the Official Zoning Map of Fort Thomas, Kentucky.
 17. The words “this Ordinance” shall mean the OFFICIAL UNIFIED DEVELOPMENT ORDINANCE OF THE CITY OF FORT THOMAS, KY.
 18. KRS shall mean the Kentucky Revised Statutes.
 19. Words used in the masculine gender include the feminine gender and vice versa.
 20. The words “used” or “occupied” include the words “intended, designed, or arranged to be used or occupied.”
 21. Whenever a number of days are specified, days shall mean calendar days unless specifically noted otherwise.
- B. Current Versions and Citations. All references to other regulations or manuals in this Ordinance refer to the most current version and citation for those regulations or manuals, unless expressly indicated otherwise. When the referenced regulations or documents have been repealed and not replaced by other regulations or manuals, Ordinance requirements for compliance are no longer in effect.
- C. Text and Graphics. Illustrations, diagrams, and flowcharts are included in this Ordinance to illustrate the intent and requirements of the text. In the case of a conflict between the text and any illustration, diagram, or flowchart, the text controls.
- D. Lists and Examples. Unless otherwise expressly indicated, lists of items or examples that use “including,” “such as,” or similar terms are intended to provide examples only, and must not be construed as being limited to the items or examples listed.
- E. Intent Statements. Within this Ordinance, sections prefaced “Intent” are included. Each Intent statement is intended as an official statement of legislative finding or purpose. The “Intent” statements are legislatively adopted, together with the other provisions of this Ordinance. They are intended as a guide to the administration and interpretation of this Ordinance and shall be treated in the same manner as other aspects of legislative history. However, they are not binding standards.
- F. In their interpretation and application, the provisions of this Ordinance are considered minimal in nature. Whenever the provisions, standards, or requirements of any other applicable Section or sub-section are higher or more restrictive, the latter shall control.

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G. Abbreviations. The following are abbreviations used within this Ordinance:

1. "ADU" is an abbreviation for "accessory dwelling unit."
2. "BTZ" is an abbreviation for "build-to-zone."
3. "DBH" is an abbreviation for "diameter at breast height."
4. "ft" is an abbreviation for "feet."
5. "GFA" is an abbreviation for "gross floor area."
6. "KBC" is an abbreviation for "Kentucky Building Code."
7. "MAX" is an abbreviation for "maximum."
8. "MIN" is an abbreviation for "minimum."
9. "N/A" or "NA" is an abbreviation for "not applicable."
10. "SES" is an abbreviation for "Solar Energy System."
11. "Sq Ft" is an abbreviation for "square feet."
12. "VUA" is an abbreviation for "Vehicle Use Area."

1.1.02 GLOSSARY OF TERMS.

Whenever a defined word appears in the Ordinance, its meaning is as set forth in this Section except that words, phrases, and terms associated with the Sign Regulations are defined in Section 5.7 and the words, phrases, and terms associated with the Lighting Regulations are defined in sub-section 5.3.13. Words not defined in this Ordinance are interpreted in accord with their usual dictionary meaning and customary usage. Capitalized words in the following definitions are defined in this Section.

A

Abut: To physically touch or border upon; or to share a common property line. For the purposes of this Ordinance, abut shall not include properties separated by a publicly dedicated right-of-way unless the context indicates differently.

Accessory Dwelling Unit: See Dwelling Unit, Accessory.

Accessory Structure: A structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal structure that contributes to the comfort, convenience, or necessity of occupants of the Principal Building or Principal Use served.

~~ACCESSORY BUILDING/STRUCTURE OR USE, CUSTOMARY: A "customary accessory building/structure or use" is one which:~~

~~A. — Is subordinate to and serves the principal building or principal use;~~

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~~B. — Is subordinate in area, extent, or purpose, to the principal building or principal use served;~~

~~C. — Contributes to the comfort, convenience, or necessity of occupants of the principal building or principal use served; and~~

~~D. — Is located on the same lot as the principal building or principal use served, with the single exception of such accessory off-street parking facilities as are permitted to be located elsewhere than on the same lot with the building or use served.~~

Adjacent. See Abut.

Adjoin: See Abut.

Agriculture: As defined by KRS 100.111.

~~AGRICULTURE: A tract of at least five (5) contiguous acres for the production of agricultural or horticultural crops, including but not limited to livestock, livestock products, poultry, poultry products, grain, hay, pastures, soybeans, tobacco, timber, orchard fruits, vegetables, flowers, or ornamental plants, including provision for dwellings for persons and their families who are engaged in the agricultural use on the tract, but not including residential building development for sale or lease to the public. (See also KRS 100.111)~~

Air Rights: *The ownership or control of that area of space at and above a horizontal plane over the ground surface of land. This horizontal plane shall be at a height above the existing or proposed development (depending on the individual property in question) which is reasonably necessary or legally required for the full and free use of the ground surface.*

Alley: *Public right-of-ways which normally affords a secondary means of access to abutting property.*

Alteration: For the purposes of interrupting the provisions of this Ordinance concerning the Historic Overlay Districts, see sub-section 36.012, Definitions, of the Code of Ordinances of the City of Fort Thomas, KY.

Alternative Financial Services: A person or business that for compensation engages, in whole or in part, in the business of cashing checks, warrants, drafts, money orders, or other commercial paper serving the same purpose. Alternative Financial Services does not include a state or federally chartered bank, savings association, credit union, or other facility meeting the definition of financial and insurance services. Alternative Financial Services also does not include a retail seller engaged primarily in the business of selling consumer goods, including consumables, to retail buyers that cash checks or issue money orders for a minimum flat fee as a service that is incidental to its main purpose or business. Specifically included are "payday loan" businesses that make loans upon assignments of wages received and businesses that charge a percentage fee for cashing a check or negotiable instrument.

Amenity Area: Means:

- A. With respect to Residential Uses, space outside of a Dwelling Unit provided for the active or passive recreation and enjoyment of the occupants of a Residential Development, which may be for private or communal use.
- B. With respect to Non-Residential Uses, space provided for the active or passive recreation and enjoyment of the public, during the hours which the development is open to the public, which shall be owned and maintained by the owners of the Development.

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Animal Hospital: Any facility maintained by or for the use of a licensed veterinarian in the diagnosis, treatment, or prevention of animal diseases wherein the animals are limited to dogs, cats, or other comparable household pets and wherein the overnight care of said animals is prohibited except when necessary in the medical treatment of the animal.

~~CLINIC, ANIMAL: A building used by medical persons for the treatment of small animals on an out-patient basis only, without animal runs.~~

Apartment(s): See Dwelling, Multi-family.

Applicant: A property owner or any person or entity acting as an agent for the property owner in an application for a development proposal, permit, or approval required or authorized by this Ordinance.

Application: The completed form or forms and all accompanying documents, exhibits, and fees required of an Applicant by the Zoning Administrator or the applicable City staff, department, board, or commission of the City for development review, approval, or permitting purposes.

Artist Studio: A place of work for an artist, artisan, or craftsperson, including persons engaged in the application and/or teaching of fine arts such as, but not limited to drawing, vocal or instrumental music, painting, sculpture, and writing. An artist's studio may include the dwelling unit of the artist.

Artisan Production: The production and assembly of finished products or component parts, typically by hand, and including design, processing, fabrication, assembly, treatment, and packaging of finished products. Typical artisan production trades include, but are not limited to: printmaking; leather products; jewelry and clothing/apparel; metal work; woodworking; furniture; soap making; and glass or ceramic production. Artisan manufacturing differs from other forms of manufacturing as it is substantially limited in the scale of production, may include some retail sales with accompanying showrooms, and is controlled in a manner such that it shall not cause noise, odor, or detectable vibration onto any neighboring property. Artisan industrial shall not include a Micro-Brewery/Distillery/Winery.

Artisanal Workshop: Shops of special trade including the production, compounding, assembly, processing, packaging, or similar treatment of such products as: baked goods, candy, ceramics, pottery, china, weaving and other textile arts, painting, cooperage, woodworking, and other artistic endeavors and similar trades. Retail sales of products made on the premises is allowable when permitted in the applicable Zoning District. An Artisanal Workshop may include the dwelling unit of the artisan when permitted in the applicable Zoning District.

Assembly Hall: An establishment providing meeting space for social gatherings, including but not limited to wedding receptions, graduations, parties, and business or retirement functions. This term includes, but is not limited to, a banquet hall or rental hall.

Attic: *The space between the ceiling beams of the top habitable story and the roof rafters. An attic shall not be considered a story, nor shall it be considered to be habitable.*

Automobile Service Station: A building or other structure or a tract of land where Electric Vehicle Charging Stations are provided and/or gasoline or similar fluid, stored only in underground tanks, is dispensed directly to users of motor vehicles. The following activities are permitted as accessory uses to an automobile service station: the dispensing of oil, greases, antifreeze, and automobile accessories directly to users of motor vehicles; tuning motors, minor wheel and brake adjustment, waxing and

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polishing and other minor servicing and repair to the extent of installation of the items enumerated above; washing of automobiles provided that no chain conveyor, blowers, steam cleaner or other mechanical device is employed. All other activities shall be prohibited, including, but not limited to, upholstering work, auto glass work, painting, welding, tire recapping, auto dismantling and Vehicle Sales/Rental/Service.

Average: The result of dividing the sum of two or more quantities by the number of quantities.

Awning: *A shelter projecting from and supported by the exterior wall of a building.*

B

Bank; Financial Institution: An establishment providing retail banking, credit, and mortgage services as well as fiduciary activities. Banks and Financial Institutions shall not include Alternative Financial Services.

Basement: That portion of a building located wholly or partly underground but having more than 1/2 of its clear floor-to-ceiling height below the average grade of the adjoining ground. A basement shall not be considered a story for the purposes of determining building height, except when it is used or suitable for habitation.

~~BASEMENT: A space having one-half or more of its floor-to-ceiling height above the average level of the adjoining ground and with a floor-to-ceiling height of not less than six and one-half (6 1/2) feet. For the purposes of this ordinance, a basement will be partially below grade, and is considered a story.~~

Berm: An earthen mound designed to provide visual interest on a site, screen undesirable views, and/or decrease noise.

Block: *A parcel of land within a subdivision that is bounded by streets or bounded by streets and the exterior boundary of the Subdivision. For this definition, an Alley is not considered a Street, but part of the Block.*

Brewpub: A restaurant that prepares handcrafted natural beer as an accessory use intended for consumption on the premises. Production capacity shall be limited to not more than 5,000 barrels per year.

Buffer or Buffer Yard: A combination of physical space and vertical elements, such as plants, berms, fences, or walls, the purpose of which is to separate and screen incompatible land uses from each other. ***See sub-section 1.1.03, Calculations, Measurements, and Illustrations, for an illustration of a Buffer Yard.***

~~BUFFER AREA/YARD: Area so planned and/or zoned which acts as a buffering or separation area between two (2) or more uses or structures not compatible, due to design, function, use, or operation.~~

Buildable Area: The portion of a lot or site, exclusive of required yard areas, setbacks, landscaping, or open space within which a structure may be built. ***See sub-section 1.1.03, Calculations, Measurements, and Illustrations, for a calculation of Buildable Area.***

~~BUILDABLE AREA: Any portion of area within the defined construction limits of a project that is essential for the purpose of constructing improvements thereon.~~

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Building: Any structure having one or more floors and a roof supported by columns or walls, which is completely enclosed and is designed or intended for the shelter or protection of persons, animals, or property.

- A. **Building, Accessory:** A subordinate building detached from, but located on the same lot as, the principal or main building, the use of which is incidental and accessory to the principal building or use and which is constructed subsequent to the principal building or main use of the land.
- B. **Building, Principal:** *The building on a lot used to accommodate the primary use to which the premises are devoted.*

~~BUILDING: A structure enclosed within exterior walls or firewalls for the shelter, housing, support, or enclosure of persons, animals, or property of any kind~~

Building Façade: See Façade.

Building Frontage: Any façade of a building which is parallel to or at an angle of 45 degrees or less to any adjacent public street.

Building Height: *The vertical distance measured from average elevation of the finished grade adjoining the building to the highest point of the roof surfaces, excepting chimneys, spires, steeples, cupolas and other ornamental or functional projections. See sub-section 1.1.03, Calculations, Measurements, and Illustrations, for an illustration of measuring Building Height. For exceptions to the Height Limits, see sub-section 5.0.12.*

Building Line: A line that is tangent to the building's facade that is parallel to the front, side, and/or rear lot lines. *See sub-section 1.1.03, Calculations, Measurements, and Illustrations, for an illustration of determining the Building Line.*

Building Inspector: *The official or officials appointed by the City of Fort Thomas to administer and enforce the building codes.*

Building Permit: *A permit issued by the City of Fort Thomas building inspector authorizing the construction or alteration of a specific building, structure, sign, or fence.*

Building Setback Line: A line parallel to the front, side, and/or rear lot line and set back from the lot line a distance to provide the required minimum setback, as specified in this Ordinance. See Setback Line.

~~BUILDING SETBACK LINE: A line parallel to the front, side, and/or rear lot line and set back from the lot line a distance to provide the required minimum yard space, as specified in this ordinance.~~

Building Site: *Any lot that meets all of the provisions of the legislative body's ordinances, regulations, and codes for building on said site.*

Build-to-Zone (BTZ): The area on a lot, measured parallel from the front and/or corner side lot line, where a structure shall locate within the minimum and maximum range of setback provided. The building facade shall be located within the build-to zone. Facade articulation, such as window or wall recesses and projections are not counted as the building façade line, which shall begin at the applicable façade wall. *See sub-section 1.1.03, Calculations, Measurements, and Illustrations, for an illustration of determining the Build-to-Zone.*

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C

Caliper: The American Association of Nurseryman standard for trunk measurement of nursery stock. Caliper of the trunk shall be taken six (6) inches above the ground up to and including four-inch caliper size, and twelve (12) inches above the ground for a caliper size greater than four (4) inches.

Carport: A roofed structure not more than 75 percent enclosed by walls for the purpose of providing shelter for one or more motor vehicles, which is accessory to a Dwelling Unit or units.

Campground. A plot of ground upon which two or more campsites are located, established, or maintained for occupancy by Camping Units as temporary living quarters for recreational, education, or vacation purposes.

Camping unit. Any Tent, cabin, Recreation Vehicle or similar established or maintained and operated in a campground as temporary living quarters for recreation, education, or vacation purposes.

Car Wash: A building or enclosed area that provides facilities for washing and cleaning motor vehicles, which may use production line methods with a conveyor, blower, or other mechanical devices and/or which may employ hand labor.

Cellar: *A space with less than one-half of its floor to ceiling height above the average finished grade of the adjoining ground or with a floor-to-ceiling height of less than six and one-half (6 1/2) feet. They may be used only for mechanical equipment accessory to the principal structure or for uninhabitable space such as a recreation, storage, or parking area. For the purposes of this ordinance, a cellar is not considered a story.*

Cellular Related Definitions: See Section 5.6 - Wireless Telecommunication Facilities

Cemetery: Land used for the burial of the human or animal dead and dedicated for cemetery purposes, including columbarium, mausoleums, and mortuaries when operated in conjunction with and within the boundary of such cemetery. This term shall not include Crematoriums or Cremation Facilities.

Certificate of Appropriateness: See sub-section 36.012, Definitions, of the Code of Ordinances for the City of Fort Thomas, KY.

Certificate of Zoning Compliance: An official statement asserting that a given building, other structure or parcel of land is in compliance with the provisions of all existing codes, or is a lawfully existing nonconforming building or use and, hence, may be occupied and used lawfully for the purposes designated thereon. See Section 1.5, Zoning Permits & Certificates of Zoning Compliance.

City Attorney: The individual(s) or their designee appointed by the City of Fort Thomas, KY to provide legal services pursuant to this Ordinance. This term is synonymous with Law Director.

City Engineer: The individual(s) or their designee appointed by the City of Fort Thomas, KY to provide engineering services pursuant to this Ordinance.

City Staff: Those employees including contract employees of the City of Fort Thoms, KY assigned to support and/or administer this Ordinance.

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Civic Public Space: Publicly accessible spaces in the form of Plazas, Squares, and Greens.

Commercial Recreation Facility, Indoor: A facility primarily used for the indoor conduct of, or participation in, recreational activities, and secondarily for the viewing of such activities. This term includes, but is not limited to, an indoor driving range, volleyball court, bowling alley, ice- or roller-skating rink, billiard hall, video game center, archery or shooting range, soccer field or basketball court. This term does not include a Health Club.

Community Center: A building or group of buildings operated by a public or nonprofit group or agency and used for recreational, social, educational, or cultural activities that are open to the general public.

Commercial Kitchen: A kitchen that is required because of the nature of the cooking or food preparation activities to have commercial food heat-processing equipment, such as compensating hoods, grease filters, kitchen hoods, and similar types of equipment, which is not located in a private residence. In such facilities, food is processed or otherwise prepared, primarily for off-site consumption and/or sales and may operate as a shared facility where multiple individuals or businesses lease shared space or may be used by a single operator.

Comprehensive Plan: The current, adopted comprehensive plan for the City of Fort Thomas, Kentucky.

~~COMPREHENSIVE (MASTER) PLAN: A guide for public and private actions and decisions to assure the development of public and private property in the most appropriate relationships. It shall contain, as a minimum, the following elements:~~

- ~~A. A statement of goals and objectives, principles, policies, and standards;~~
- ~~B. A land use plan element;~~
- ~~C. A transportation plan element; and~~
- ~~D. A community facilities plan element.~~

~~It may include any additional elements such as, without being limited to, community renewal, housing, flood control, pollution, conservation, natural resources, and others.~~

Concealed Lighting: *An artificial light source intended to illuminate the face of a sign, the direct source of which is shielded from public view and surrounding properties.* This term is synonymous with concealed light source.

Conditional Use: See Use, Conditional.

Conditional Use Permit: *Legal authorization to undertake a conditional use, issued by the zoning administrator pursuant to authorization by the Board of Adjustment, consisting of two parts:*

- A. A statement of the factual determination by the Board of Adjustment which justifies the issuance of the permit; and*
- B. A statement of the specific conditions which must be met in order for the use to be permitted.*

Condominium: Real estate, portions of which are designated for separate ownership and the remainder

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of which is designated for common ownership solely by the owners of those portions. Real estate is not a condominium unless the undivided interests in the common elements are vested in the unit owners.

Conference Center: A facility used for conferences and seminars, with accommodations for sleeping, food preparation and eating, recreation, entertainment, resource facilities, meeting rooms, fitness and health center, and retail stores and services primarily for conference center guests.

Conforming Use: See Use, Conforming.

Congregate Care Facility: A residential facility that provides for the needs of individuals who are elderly or disabled. The facility may consist of residential dwelling units or rooms designed specifically for the elderly or disabled, and may have common social, recreational, dining and/or food preparation facilities. The facility may be for independent living and/or may provide the residents with a range of personal and medical assistance including nursing care.

Construction, Substantial: *Completion of a building foundation.*

Contour: An imaginary line connecting all points with the same elevation above or below a fixed base point whose elevation is known.

County: Campbell County, KY.

Country Club: A club organized and operated primarily for social and outdoor recreation purposes, including incidental accessory uses and structures.

Court: *An open, unoccupied space other than a yard, on the same lot with a building and which is bounded on two (2) or more sides by the building.*

Craft Workshop: See Artisan Workshop.

Crematorium. A facility that burns human or animal dead to ashes.

Cremation Facilities: See Crematorium.

Cul-de-sac: *The area at the terminus of a street that is widened for the purpose of turning of vehicles.*

Cultural Institution: A public or private facility that provides for the display, performance, or enjoyment of heritage, history, or arts. This includes, but is not limited to, facilities that preserves scientific or artistic objects, including a museum, art gallery, aquarium, or planetarium, but does not include movie theaters.

Curb Cut: *Any interruption, or break in the line of a street curb in order to provide vehicular access to a street. In the case of streets without curbs, curb cuts shall represent construction of any vehicular access which connects to said street.*

D

Day Care Center, Adult or Child: An establishment regularly providing adult or childcare services for more than 4 adults or children in a non-residential setting. The term shall not include childcare facilities operated by religious organizations while religious services are being conducted.

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~~DAY CARE FACILITY: Child care facility, or dwelling unit, where full or part-time care is provided, day or night, to at least four (4) children not related to the operator of the child day care facility by blood, marriage, or adoption. Care is provided away from their own home and is designed to supplement, but not substitute for, the parent's responsibility for the child's protection, development and supervision, when it is necessary or desirable for the parent or child to be out of the home for all or part of the day or night. The term shall not include child care facilities operated by religious organizations while religious services are being conducted, or kindergarten programs that are part of a public or private educational school system.~~

~~ADULT DAY CARE: Facility or space for adult health care to provide, during specified daytime hours, continuous supervision of the patient to assure that health care needs are being met, supervision of self-administration of medications, personal care services, self-care training, and social and recreational activities. This program shall serve persons of all ages who may be frail, moderately handicapped, slightly confused or have incapacitating chronic conditions, who need organized health care during the day.~~

Decibel: *A unit of measurement of the intensity (loudness) of sound. Sound level meters which are employed to measure the intensity of sound are calibrated in "decibels".*

Density: *A limitation or restriction on the total number of dwelling units permitted per acre. Density regulates the proximity of dwellings permitted per acre by creating minimum requirements for lot area, lot width, and setbacks.*

Developer: The legal or beneficial owner or owners of a lot or any land included in a proposed development including the holder of an option or contract to purchase, or other persons having enforceable proprietary interests in such land.

Development. The construction of a new building or other structures on a Zoning Lot, the relocation of an existing building on another zoning lot, or the use of open land for a new Use. Also means any man-made change to improved or unimproved real estate, including but not limited to parking, fences, pools, temporary uses, clearing of land, mining, dredging, filling, grading, paving, excavation, or drilling operations.

Development Plan: *Written and graphic material for the provision of a development, including any or all of the following: location and bulk of buildings and other structures, intensity of use, density of development, streets, ways, parking facilities, signs, drainage of surface water, access points, a plan for screening or buffering, utilities, existing manmade and natural conditions, and all other conditions agreed to by the applicant.*

Development Standards: A numerical maximum or minimum requirement set for each zoning district and regulating the development of building sites. Such standards include but are not limited to building setbacks, street frontage, and lot sizes.

District: See Zoning District.

Drinking Establishment: An establishment devoted primarily to the dispensing of alcoholic beverages for consumption on the premises. While such use may also provide food sales, more than 50% of its annual gross food and beverage sales income is derived from the sales of alcoholic beverages. This use may include a Live Entertainment Venue when allowed by the applicable Zoning District.

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Drip Line: *A line connecting the tips of the outermost branches of a tree projected vertically onto the ground.*

Drive-thru facility: Any portion of a building from which business is transacted, or is capable of being transacted, directly with customers located in a motor vehicle during such business transactions. The term "drive-thru" shall also include "drive-up" and "drive-in" but shall not include a Car Wash, Vehicle Fueling Station, and Automobile Service Station.

Driveway: A private access road, the use of which is limited to persons residing, employed, or otherwise using or visiting the parcel on which it is located.

Driveway Approach: The area from the street pavement to a Zoning Lot that provides vehicular access to a driveway or the area from the alley pavement that provides vehicular access to a garage that opens to an alley.

Dwelling: One or more rooms providing complete living facilities for one family, including kitchen facilities or equipment for cooking or provisions for same, and including a room or multiple rooms for living, sleeping, bathing, and eating. Also known as a "dwelling unit."

Dwelling Unit: See Dwelling.

Dwelling Unit, Accessory: A self-contained, smaller, secondary dwelling unit located on the same lot as the larger principal dwelling that contains a living/bedroom space, a kitchen, and a bathroom.

Dwelling, Multi-family: A structure designed for three (3) or more dwelling units, occupied by 3 or more families living independently of each other where the units are separated by party walls with varying arrangements of entrances, and which does not meet the definition of attached single-family dwelling units. This term includes the conversion of non-residential buildings to residential use. See Figure 1.1-1 for an example of a Multi-family Dwelling.



Figure 1.1-1 - Multi-Family Dwellings

~~A residential building used and/or arranged for rental occupancy, or cooperatively owned by occupants, having three (3) or more dwelling units, as separate housekeeping units. This type of dwelling shall be inclusive of apartment buildings and group house dwellings.~~

Dwelling, Single-family Attached: *A dwelling unit, which is attached to one or more dwelling units, each of which has independent access to the outside of the building at the ground level and that has no less than two (2) exterior walls fully exposed and not in common with the exterior walls of any other unit.*

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Dwelling, Single-family Detached: *A dwelling standing by itself and containing only one (1) dwelling unit, separate from other dwellings by open space, but shall not include mobile homes.* See Figure 1.1-2 for an illustration of Single-Family Detached Dwellings.

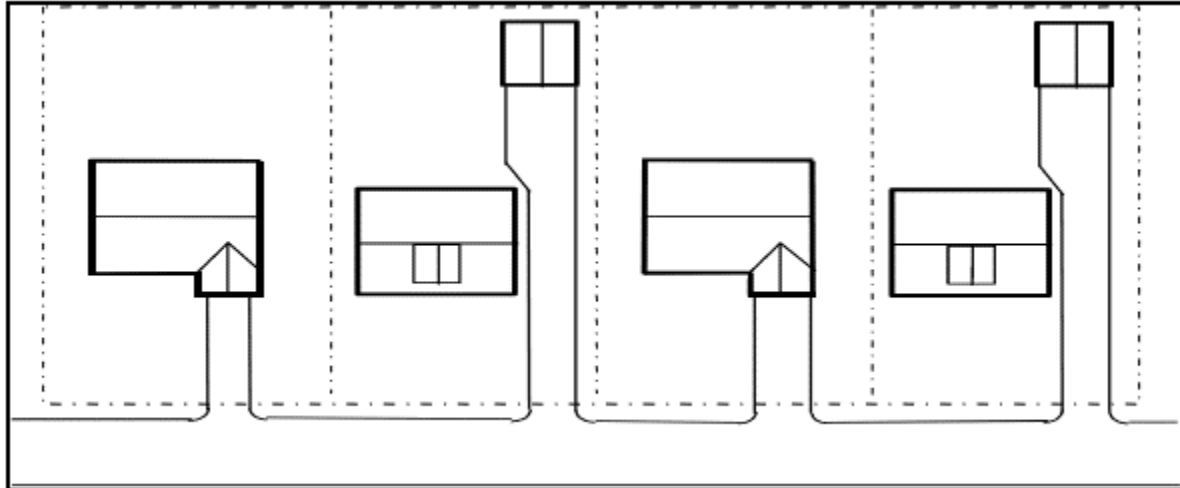


Figure 1.1-2 - Single-Family Detached Dwellings

Dwelling, Two-Family: *A residential building designed, arranged, or used exclusively by two (2) families, living independently of each other.* See Figure 1.1-3 for an example of Two-Family Dwellings.



Figure 1.1-3 – Example of a Two-Family Dwelling

E

Easement: *A right, distinct from the ownership of the land, to cross property with facilities such as, but not limited to, sewer lines, water lines, and transmission lines, or the right, distinct from the ownership of the land, to reserve and hold an area for drainage or access purposes.*

Electric Vehicle Charging Station: A public or private parking space that is served by battery charging station equipment that has as its primary purpose the transfer of electric energy by conductive or inductive means to a battery or other energy storage device in an electric vehicle. An electric vehicle

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charging station equipped with Level 1 or Level 2 charging equipment is a permitted accessory use to any principal permitted, restricted, or conditional use.

Elevation: *A geometrical projection of a building on a vertical plane*

Engineer: *A qualified registered professional engineer in good standing with the Kentucky Board of Registration for Professional Engineers and Land Surveyors.*

Essential Services: *The erection, construction, alteration, or maintenance by public utilities or municipal or other governmental agencies of underground or overhead gas, electrical, steam or water transmission or distribution systems, collection, communication, supply or disposal systems; including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, traffic signals, hydrants, and other similar equipment and accessories reasonably necessary for furnishing adequate service or for the public health, safety, or general welfare. This definition is not meant to include buildings.*

Experiential Retail Establishment: An establishment providing small-scale entertainment services, as opposed to products, to the general public that is less than 7,000 square feet in gross floor area.

F

Façade: That portion of any exterior elevation on the building extending from grade to the top of the parapet, wall, or eaves and the entire width of the building elevation.

Façade, Street Level: The Façade at the Street Level that faces the Public Realm.

Family: Any number of individuals related by blood, marriage, adoption, Foster Children or legal guardianship plus not more than 2 additional persons who need not be related by blood, marriage or adoption, or not more than 3 unrelated individuals living and cooking together and functioning as a Single Housekeeping Unit as their common home for the time, as distinguished from a group occupying a boarding house, lodging house, Hotel, fraternity house, sorority house, or similar group living arrangements.

~~**FAMILY:** An individual or two (2) or more persons related by blood or marriage, or group of not more than three (3) persons (excluding servants) who need not be related by blood or marriage, living together in a single housekeeping unit as their common home for the time, as distinguished from a group occupying a boarding house, lodging house, hotel, club, fraternity or sorority house.~~

Family Child-Care Home: A private home that is the primary residence of an individual who provides full or part-time care day or night for six (6) or fewer children who are not the children, siblings, stepchildren, grandchildren, nieces, nephews, or children in legal custody of the provider.

Fence: *A hedge or structure planted or constructed so as to form a barrier which defines, limits, protects, obstructs, or enhances an entire lot or any portion thereof. The placement of any fence with a continuous length of ten (10) feet or more, or any three hedges, structures, or combinations thereof, of any length, which forms a barrier as defined, shall constitute a fence.*

Fence, Ornamental: A fence constructed for its beauty or decorative effect and when viewed at a right angle, has not less than seventy-five percent (75%) of the area of its vertical plane, the area within a

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rectangular outline enclosing all parts of the fence in its plane, open to light and air. Ornamental fences include:

- A. “Rail fence” or “split-rail fence” means a fence constructed of narrow, whole or split, wooden timbers placed horizontally between upright supporting posts; and,
- B. Wrought iron fences, decorative steel fences, and aluminum fences.

Financial Institution: See Bank.

Floor Area, Gross: *The sum of the gross horizontal area of the several floors of a dwelling unit or units exclusive of porches, balconies, and garages, measured from the exterior faces of the exterior walls or from the centerline of walls or partitions separating dwelling units.*

For uses other than residential, the gross floor area shall be measured from the exterior faces of the exterior walls or from the centerlines of walls or partitions separating such uses and shall include all floors, lofts, balconies, mezzanines, cellars, basements, and similar areas devoted to such uses.

The gross floor area shall not include floors used for parking spaces when such parking pertains to a residential, commercial, or office used in the same structure.

Floor Area, Net: *The sum of the net horizontal area of the several floors of any building exclusive of porches, balconies, garages, and all areas used in common by the occupants of the building, including hallways, stairways, closets, display windows, cellars, mechanical rooms, rest rooms, and dead storage areas. Net floor area shall be measured from the interior faces of all walls.*

Food Truck: A motorized or towed, self-contained, readily movable vehicle, which is designed and equipped to sell to the general public, beverages and/or food that is prepared or stored on the premises.

Footcandle: See Sub-Section 5.3.13, Lighting Regulations.

Foster Child: A person under eighteen (18) years of age who is placed in a dwelling unit by an institution or agency licensed or approved by the Commonwealth of Kentucky to place children in foster care.

Freestanding Drive-thru Facility: A facility whose only use is transacting business with customers located in a motor vehicle during such business transaction.

Frontage Line: All lot lines that abut a public street. A Corner Lot or a Through Lot has 2 or more frontage lines.

Fronting Street: In the Traditional Business District, Rob Roy and Memorial Parkway are fronting streets.

Full Cutoff Fixture: See Sub-Section 5.3.13, Lighting Regulations.

Funeral home: A building or part thereof used for human funeral services. Such building may contain space and facilities for:

- A. Embalming and the performance of other services used in preparation of the dead for burial;
- B. The performance of autopsies and other surgical procedures;
- C. The storage of caskets, funeral urns, and other related funeral supplies;

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- D. The storage of funeral vehicles; and,
- E. Accessory facilities for cremation, when permitted in the applicable Zoning District.

Where a funeral home is permitted, a funeral chapel shall also be permitted.

G

Garage: A building, or part thereof, used or intended to be used for the parking and storage of vehicles.

Garage, Detached: A roofed and enclosed structure that is detached from the principal dwelling(s) and designed to accommodate one or more motor vehicles. See Figure 1.1-4 for an Illustration of a Detached Garage.

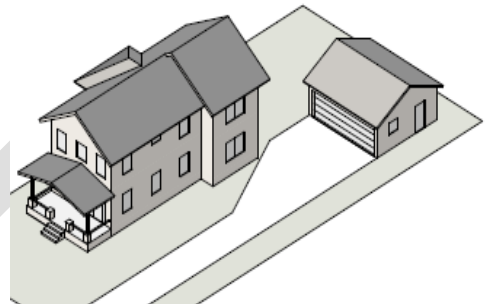


Figure 1.1-4 – Illustration of a Detached Garage

Garage, Side-Loaded: A garage, which is attached to the principal dwelling, whose vehicular entrance faces a side lot line that is not along a side street. See Figure 1.1-5 for illustrations of a Side-loaded Garage.



Figure 1.1- 5 – Example and Illustration of Side-loaded Garages

Garage, Street-Facing: A garage, which is attached to the principal dwelling, the door of which is parallel (or approximately so) to the front setback line. An attached garage on a corner lot is deemed to be front-loaded if its door faces the front lot line as determined by the Zoning Administrator. See Figure 1.1-6 for an example of a Street-facing Garage.



Figure 1.1-6 - Example of Street-facing Garage

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~~GARAGE, PRIVATE: An accessory building or portion of a principal building not exceeding eight hundred (800) square feet in area, per dwelling unit, designed, intended and used for the storage of motor driven vehicles owned, used and registered in the name of the occupants of the dwelling unit for which said private garage is intended, except a garage space within a principal building may be increased at a ratio equal to one half (1/2) the gross finished floor area. Not more than one (1) of the vehicles shall be a commercial vehicle and this vehicle shall not be more than ten thousand (10,000) pounds and ten (10) feet in height and thirty (30) feet in length. This definition shall not include a public garage.~~

Garage/Yard Sale: All general sales, open to the public, conducted from or on residential premises in any residential zoning district, as established in this Ordinance, for the purpose of disposing of personal property, including but not limited to all sales entitled “garage,” “lawn,” “yard,” “attic,” “porch,” “room,” “backyard,” “patio,” “estate,” or “rummage” sale.

Grade: *The average level of the finished surface of the ground adjacent to a sign or to the exterior wall of the building to which a sign is affixed.*

Green: A publicly accessible open space for unstructured recreation, spatially defined by landscaping rather than building frontages and facades.

Guarantee: See Performance Guarantee.

H

Habitable or Habitable Space: A space in a building for living, sleeping, eating, or cooking.

Habitable Roof: A rooftop area intended for use as an outdoor Amenity Area that may be surrounded by guardrails, parapet walls, or similar features. A Habitable Roof shall not be counted in the calculation of Maximum Height except as provided for in Section 5.4, Conditional and Restricted Use Regulations. See Figure 1.1-7 for an example of a Habitable Roof.



Figure 1.1-7 – Example of a Habitable Roof

Health Club: An establishment for the conduct of indoor sports and exercise activities, along with related locker and shower rooms, offices, and classrooms. This term shall not include Indoor Commercial Recreation.

Home Occupation: An occupation for gain or support that is conducted in the home, which is incidental to the use of the building or structure as a dwelling unit. A home occupation is clearly accessory and secondary to the use of the dwelling unit for residential purposes.

~~HOME OCCUPATION: An accessory use customarily conducted entirely within a dwelling, as permitted herein and further meeting all requirements specified in Section 9.11 of this ordinance.~~

Homeowners’ Association: An organization of homeowners or property owners of lots or land in a particular subdivision, condominium, or planned development. The owners’ association is responsible

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for maintaining and enhancing the shared private infrastructure (e.g., stormwater, streets, and sidewalks) and common elements such as recreation areas.

Hospital: A facility providing medical, psychiatric, or surgical service for sick or injured persons primarily on an in-patient basis and including ancillary facilities for outpatient and emergency treatment, diagnostic services, training, research, administration, and services to patients, employees, or visitors.

~~**HOSPITAL PERSONS:** A building used by a group of professional medical persons for the healing arts or treatment of persons on a generally in-patient or boarding basis.~~

Hotel: A building or group of buildings in which sleeping accommodations are offered to the public and intended primarily for rental for temporary occupancy by persons on an overnight basis. Hotels or motels may include an associated eating establishment, conference facilities, and on-site recreational amenities. Hotel, motel, resorts, lodges, and similar overnight lodging uses are to be considered synonymous uses. This term shall not include Short-Term Rental Properties.

~~Hotel: A building occupied as the more or less temporary abiding place for travelers and transient guests who are lodged with or without meals and in which there are sleeping rooms and with no provisions made for cooking in any individual room or a group of rooms occupied by a person or persons and with no provisions made for cooking in any of the rooms as specified.~~

Human Scale: Features of a building or built environment that are sized and configured in accordance with the typical human frame. Human-scale development is most often configured for observation and recognition by people who are walking.

I

Improvements: Physical changes made to raw land, and the structures placed on or under the land's surface, in order to make the land more usable for activities. Typical Improvements in these regulations would be grading, street pavement, curbs, gutters, drainage ditches, storm and sanitary sewers, and utility lines of all types.

Institutions for Human Medical Care: A facility providing physical or mental health services, including but not limited to Hospitals and Congregate Care Facilities.

J

Junk: *Scrap brass, scrap copper, scrap iron, scrap lead, scrap tin, scrap zinc, and all other scrap metals and the alloys, and bones, rags, used cloth, used rope, used rubber, used tinfoil, used bottles, old or used machinery of any type, used tools, used appliances, used fixtures, used utensils, used lumber, used boxes or crates (fabricated of any material), used pipe or pipe fittings, used conduit or conduit fittings, inoperative motor vehicles, used tires and other manufactured goods that are so worn, deteriorated or obsolete as to make them unusable in their existing condition or which are subject to being dismantled.*

Junk Yard: *An open area where any waste, used or second hand materials are bought, sold, exchanged, stored, baled, packed, disassembled, or handled, including but not limited to scrap iron and other metals, paper, rags, rubber tires and bottles. A "junk yard" includes an auto wrecking yard or the storage or*

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keeping of one (1) or more inoperative motor vehicles unless where otherwise specifically permitted but does not include uses established entirely within enclosed buildings.

K

Kennel: *Any lot or premises used for the sale, boarding, or breeding of dogs, cats or other household pets. Kennel shall also mean the keeping, on any lot or in any building, three or more of an individual type household pet which are over the age of four (4) months. A kennel shall also mean any premises upon which ten (10) or more such household pets are being, or have been raised, or kept for sale, during any twelve (12) month period regardless of the age of those household pets. For the purposes of this Ordinance, a household pet includes: a.) those pets which are most common, such as dogs and cats, or b.) those pets which are deemed in this City to be tame and domesticated or which are commonly accepted in this City as a pet kept in or near a residence or as may wander the lot area.*

L

Landmark Tree: *Any tree designated and identified as such by Tree Commission pursuant to the standards set forth herein.*

Landscaped area: An area that is permanently devoted to and maintained for the growing of trees, shrubs, grass, or other plant material.

Light Pollution: Any measurable exterior artificial illumination that strays beyond a property line both horizontally at grade and vertically to the building height limitation.

Legislative Body: The Board of Council is the legislative body for the City of Fort Thomas, KY.

Library: A facility in which literary, musical, artistic or reference materials, such as, but not limited to, books, manuscripts, computers, recordings, or films are kept for use or loaning to patrons of the facility but are not normally offered for sale.

Live Entertainment Venue: An establishment used for the presentation of live or recorded music and may include other performances, including but not limited to plays; motion pictures; or other similar performances.

Livestock: *Domestic animals of types customarily raised or kept on farms for profit or other productive purposes.*

Live/Work Unit: A unit where there is a dual primary use that is shared between a Residential Use and a commercial or production use allowed in that Zoning District.

Loading and/or Unloading Space, Off-street: An area located completely outside of any public right-of-way and on the same lot with a building or contiguous to a group of buildings, for the temporary parking of vehicles entering the premises for loading or unloading merchandise or materials.

~~LOADING AND/OR UNLOADING SPACE: A surfaced space within the main building or on the same lot providing for the temporary standing, loading, and/or unloading of trucks; said space having a minimum dimension of forty eight (48) feet in length, twelve (12) feet in width, and fourteen (14) feet in height,~~

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~~except as herein provided; and connected with an accepted deeded public right-of-way which affords ingress and egress for vehicles.~~

Lot: *A parcel of land or any combination of several Lots of Record, occupied or intended to be occupied by a Principal Building or a building group, as permitted herein, together with their Accessory Buildings or Uses and such access, Yards, Setbacks, and Open Spaces required under this Ordinance.*

Lot Area: *The total area of a horizontal plane bounded by the Front, Side, and Rear Lot Lines, but not including any area occupied by Rights-of-Way, flood plains, the waters of any lake, river, creek, or major drainage ditch. See sub-section 1.1.03, Calculations, Measurements, and Illustrations, for an illustration of measuring Lot Area.*

Lot Coverage: That portion of a lot, which when viewed directly above, which would be covered by a building or structure, parking and loading areas and other surfaces that are impermeable or substantially impervious to water. ***See sub-section 1.1.03, Calculations, Measurements, and Illustrations, for an illustration of determine Lot Coverage.***

Lot Depth: The horizontal distance from the midpoint of the front lot line to the midpoint of the rear lot line, or to the rear most point of the lot where there is no rear lot line.

~~LOT, DEPTH OF: The distance measured in the mean direction of the side lot lines from the midpoint of the front lot lines to the midpoint of the rear lot lines.~~

Lot Frontage: That portion of the lot extending along the street right-of-way.

Lot Line: The boundary line defining the limits of the lot. Lot line is synonymous with Property Line. ***See sub-section 1.1.03, Calculations, Measurements, and Illustrations, for an illustration to determine Lot Lines.***

- A. **Lot Line, Front:** *The common boundary line of an interior lot (other than a double frontage lot) and a street right-of-way line, or the common boundary line of a corner lot (other than a double frontage lot) and that street right-of-way line toward which the principal or usual entrance to the main building situated on such lots most nearly faces, or the common boundary line of a through lot and any adjacent road or street right-of-way line. On a corner lot only one street line shall be considered as a front lot line; provided that where the length of a shorter street lot line is less than ninety (90) percent of the length of the longer street lot line, the shorter street lot line shall be considered the front lot line. Where the shorter line is more than ninety (90) percent of the longer line, either line may be considered the front line.*
- B. **Lot Line, Rear:** *The boundary line of a lot which is most nearly opposite the front lot line of such lot. In the case of a triangular or wedge-shaped lot, for measurement purposes only, a line ten (10) feet in length within the lot parallel to and at the maximum distance from the front lot line. In the case of a corner lot, providing that all requirements for yard space are complied with, the owner may choose either side not abutting a street as the rear lot line, even though it is not opposite the front lot line. Once the choice has been made, it cannot be changed unless all requirements for yard space can be complied with.*
- C. **Lot Line, Side:** *Any boundary line of a lot other than a front lot line or rear lot line.*

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Lot of Record: A lot that is part of a Subdivision, according to a specific recorded plat or survey, the map of which has been officially accepted and recorded in the office of the Campbell County Clerk, Commonwealth of Kentucky.

~~LOT OF RECORD: A designated fractional part or subdivision of a block, according to a specific recorded plat or survey, the map of which has been officially accepted and recorded in the office of the Campbell County Clerk, Commonwealth of Kentucky.~~

Lot Types: Terminology used in this Ordinance with reference to Corner Lots, Interior Lots, Flag Lots, Double Frontage Lots, and Triple Frontage Lots is as follows:

- A. Lot, Corner: A "corner lot" is a lot situated at intersection of two streets or on a curved street on which the interior angle of such intersection or curved street does not exceed one hundred thirty-five (135) degrees.
- B. Lot, Double Frontage: A lot other than a corner lot that has frontage on more than one (1) street. A Double-Frontage lot is synonymous with through lot.
- C. Lot, Flag: A lot which abuts a deeded and accepted public right-of-way via a narrow strip of land which connects that portion of the lot containing the required lot width to the public right-of-way. The narrow strip of land is referred to as a panhandle or stem.
- D. Lot, Interior: A lot other than a corner lot with only one (1) frontage on a deeded and occupied public right-of-way.
- E. Triple/ Multi-frontage Lot. A lot abutting more than two non-alley street Rights-of-Way.

See sub-section 1.1.03, Calculations, Measurements, and Illustrations, for an illustration of Lot Types.

Lot Width: The horizontal distance between the side lot lines, measured at right angles to the lot depth at the front Setback Line.

~~LOT WIDTH, MINIMUM: Width shall mean the effective width and shall be measured at right angle to the side lot line and shall not be the diagonal street frontage where side lot lines are not at right angles to the street. Likewise, on a cul-de-sac, the width shall be measured on the tangent line at right angles to the circle's bisecting radius line at the building front setback line.~~

Lot, Zoning: A "zoning lot or lots" is a single tract of land located within a single block which (at the time of filing for a building permit) is designated by its owner or developers as a tract to be used, developed, or built upon as a unit, under single ownership or control. Therefore, a "zoning lot or lots" may or may not coincide with a lot of record.

M

Manufacturing, Light: An establishment engaged in the indoor manufacturing, assembly, fabrication, packaging or other industrial processing of finished parts or products, primarily from previously prepared materials, or the indoor provision of industrial services, where there are few external effects across property lines. This term includes, but is not limited to, a business engaged in the processing, fabrication, assembly, treatment or packaging of food, packaging of beverages, textile, leather, wood, paper, chemical, plastic or metal products, but does not include industrial processing from raw materials. This term shall not include Micro-Brewery/Distillery/Winery.

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Marinas. See Pleasure Board Harbors.

Measurement: *All measurements of land shall be made on the horizontal as has long been the accepted practice by the surveying and engineering professions. No slope measurements may be used to determine land dimensions or areas.*

Medical/Dental Clinic: A facility providing medical, psychiatric, or surgical service for sick or injured persons exclusively on an out-patient basis, including emergency treatment, diagnostic services, surgical care, training, administration, and services to outpatients, employees, or visitors. The term “Medical/Dental Clinic” includes immediate care facilities, where emergency treatment is the dominant form of care provided at the facility. Such facilities shall not provide overnight care or serve as a base for an ambulance service.

Membership Club: A facility for an incorporated or unincorporated association of persons organized for a common purpose to pursue common goals, interests, or activities and usually characterized by certain membership qualifications, payment of fees and dues, regular meetings, and a constitution and by-laws.

Mezzanine: *An intermediate or fractional story between the floor and ceiling or a main story, used for a purpose accessory to the principal use. A mezzanine is usually just above the ground floor and extending over only part of the main floor.*

Micro-brewery/Distillery/Winery: An establishment engaged in the production, packaging, distribution, or sales (whether at retail or wholesale) of malt beverages, wine, or spirits for distribution, retail, or wholesale both on and off-premise. A microbrewery is a facility that produces less than 15,000 barrels of beer per year and sells the majority of the beer it produces for off-site resale and consumption. A micro-winery produces less than 100,000 gallons of wine per year. A micro-distillery produces less than 15,000 gallons of alcoholic spirits per year. Accessory uses may include the serving of food for on-site consumption, a taproom, seating areas, ancillary sales of related merchandise, event space, and warehouse space for stored product.

Minimum Building Setback Line: *A line parallel to the front, side, and/or rear lot line and set back from the lot line a sufficient distance as specified in this ordinance, to provide the required minimum Setback space.*

Mobile Home: As defined by KRS 219.320 (4).

~~Mobile Home: Any coach, cabin, mobile home, house trailer, house car or other vehicle or structure intended for or capable of human dwelling or sleeping purposes, mounted upon wheels or supports, or supported and/or capable of being moved by another vehicle. For the purpose of this ordinance, the removal of wheels and/or the permanent or semi-permanent attachment of a foundation to said house trailer shall not change its classification.~~

Multi-family Dwelling: See Dwelling, Multi-family.

N

Nonconformity: A lot, use of land, building, site conditions, use of buildings, or use of buildings and land in combination lawfully existing at the time of enactment of this Ordinance or its amendments, which do

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not conform to the current regulations of the district or zone in which it is situated or other regulations in this Ordinance.

- A. **Nonconforming Lot:** A lawfully established lot, not held in common with any other lot, that does not meet the Lot Area, Lot Width, Frontage, other dimensional standards of this Ordinance.

~~NONCONFORMING LOT: A lot which was lawfully created but which does not conform to the minimum area or dimensional requirements specified for the zone in which it is located.~~

- B. **Nonconforming Sign:** See Section 5.7, Sign Regulations.
- C. **Nonconforming Site Condition:** A feature of a developed lot, parcel, or site, such as landscaped area, parking, or lighting, that does not conform to the provisions of this Ordinance, but was lawful at the time the lot, parcel, or site was last developed or redeveloped.
- D. **Nonconforming Structure:** A Building or Structure existing lawfully when this Ordinance, or any amendment thereto, became effective, but which does not conform to the current regulations governing buildings and structures in this Ordinance.
- E. **Nonconforming Use:** A Use of land or Structures that was lawfully established in accordance with Use regulations in effect at the time of its establishment but that is no longer allowed by the Use regulations of the Zoning District in which it is now located.

~~NONCONFORMING USE OR STRUCTURE: An activity or a building, sign, fence, structure, or a portion thereof, which lawfully existed before the adoption or amendment of this ordinance, but which does not conform to all of the regulations contained in this ordinance or amendments thereto which pertain to the zone in which it is located.~~

Noxious Odors: *Any matter or material that yields an odor which is offensive in any way to a person with reasonable sensitivity. (Existing definition for Odorous Matter.)*

O

Occupied Space, Required: The minimum depth of space, as measured from the front or Primary Street facade into the building required to be designed as occupied space or interior building space regularly occupied by the building users. Occupied Space does not include storage areas, utility space, or parking.

Offices-Administrative/Professional: An establishment within which specific services are conducted with other businesses, individuals, organizations, or corporate customers, generally on a contractual basis, and not involving the retail sales of merchandise on the premises for walk-in traffic from the street.

Office, Medical/Dental: A facility that provides diagnoses, minor surgical care, and outpatient care only but does not offer overnight or emergency care. A Medical/Dental Office is operated by doctors, dentists, or similar practitioners licensed by the Commonwealth of Kentucky.

Open Space: Any parcel or area of land or water, essentially unimproved and set aside, dedicated, designated, or reserved for public or private use or enjoyment or for the use and enjoyment of owners, occupants, and their guests.

Open Space, Common: Land within or related to a development, not individually owned or dedicated for public use, that is designed and intended for the common use or enjoyment of the residents or users of

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the development and their guests and that may include such complementary structures and improvements as are necessary and appropriate.

Open Space Recreation Area: Any recreational facility developed for athletic fields, tennis courts, swimming pools, skate parks, disc golf, golf course and other similar outdoor facilities.

Ornamental Fence: See Fence, Ornamental.

Outdoor Dining: An establishment or use where food and/or drinks are prepared inside the establishment and consumed outside the principal building in an area adjacent to the principal building.

Outdoor Display/Sales: Merchandise placed in an outdoor area that is open to the general public, when the merchandise on display is removed from its shipping packaging and is representative of merchandise that is available for purchase inside the building and/or is available for purchase by the general public directly from the display area.

Outdoor Storage: The storage of goods, materials, merchandise or vehicles in an area outside of a building or structure except for merchandise placed in an area for outdoor display.

Overlay Zoning District: A Zoning District designation that is applied over one or more previously established conventional or conditional zoning district designations. Overlay districts modify the existing zoning district provisions by either adding additional regulations or providing greater flexibility in deviations from the existing applicable standards. Typically, when overlay district standards conflict with the underlying conventional or conditional zoning district standards, the overlay zoning district standards control.

Owner: The legal or beneficial owner of land, including but not limited to a mortgagee or vendee in possession, receiver, executor, trustee, or long-term or commercial lessee, or any other person or entity holding proprietary rights in the property or having legal power of management and control of the property

P

Parking Assessment: An analysis of the minimum number of off-street parking spaces necessary to serve a proposed use type.

Parking, Off-site: Off-street parking spaces that are not located on the same lot as the principal use.

Parking Lot/Area, Off-Street: An outdoor paved area made up of marked parking spaces where self-propelled motor vehicles may be stored for the purpose of temporary off-street parking and which are available for public use either free, for compensation or as an accommodation for clients, tenants, or customers. Also known as or referred to in this Ordinance as a parking area. This term does not include Vehicle Sales/Rental/Service establishments and areas used for the outdoor storage of vehicles.

~~PARKING AREA, OFF STREET: An open, surfaced area other than the rights-of-way of a street, alley, or place, used for temporary parking of motor vehicles of self-propelled motor vehicles and available for public use either free, for compensation, or as an accommodation for clients, tenants, or customers.~~

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Parking Area Paved: *An open area of ground covered with cement or asphaltic surface used for parking of vehicles; to include driveways but exclusive of streets or alleys located within a public right-of- way.*

Parking, Shared: Joint use of a parking area by more than one Use.

Parking Space: A paved Parking Area, enclosed in the Principal Building or in an Accessory Building, or unenclosed, exclusive of driveways, permanently reserved for the temporary parking of one (1) operative automobile. The Parking Area shall be connected with a deeded and accepted public right-of- way by a surfaced driveway, which affords ingress and egress for vehicles.

~~PARKING SPACE: A surfaced area, enclosed in the main building or in an accessory building, or unenclosed, having an area of not less than one hundred and sixty two (162) square feet, except where permitted under Article XIII, exclusive of driveways, permanently reserved for the temporary parking of one (1) operative automobile. The parking area shall be connected with a deeded and accepted public right-of- way by a surfaced driveway, which affords ingress and egress for vehicles.~~

Parking Structure: A structure or portion thereof composed of one or more levels or floors used exclusively for the parking or storage of motor vehicles. A Parking Structure may be totally below grade (as in an underground parking garage) or either partially or totally above grade with those levels being either open or enclosed.

Particulate Matter: *Any material suspended in the atmosphere, except non-combined water that at standard conditions exists as a liquid or finely divided solid.*

Pawn Shop: A type of used merchandise store in which merchandise is offered as collateral for obtaining loans and wherein such merchandise is offered for sale in recompense for default of loan repayment. This term shall not include a Bank, Financial Institution, or an Alternative Financial Service establishment.

~~PARKING BUILDING OR GARAGE: A building or portion thereof designed, intended, and used exclusively for the temporary parking of self-propelled motor vehicles and may be publicly or privately owned and/or operated and may be for remuneration, free or privately utilized.~~

Performance Guarantee: A financial deposit to ensure that all Improvements, facilities, or work required will be completed in conformance with the approved plan.

Performance Standards: *Criteria established to control building enclosure, landscaping, noise, odorous matter, exterior lighting, vibration, smoke, particulate matter, gasses, radiation, storage, fire, and explosive hazards, and humidity, heat, or glare generated by or inherent in, uses of land or buildings.*

Personal Service Establishment: An establishment providing services that are of a recurring and personal nature to individuals. This term includes, but is not limited to, a barber shop, beauty salon, shoe repair shop, seamstress, tailor, fortune teller, tanning salon, and a massage services by licensed masseurs/masseuses. This term shall not include a laundromat, Health Club, repair shop for household items, or Tattoo/Piercing Establishments.

Places of Worship: A building, together with its accessory buildings and uses, where persons regularly assemble for religious worship and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship. Places of worship may include, but are not limited to, churches, mosques, houses of worship, chapels, synagogues, and temples.

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The term “Place of Worship” does not include uses, such as Schools (public/private) elementary/secondary or Day Care Center, Adult or Child.

Playground: An active recreational area with a variety of facilities including equipment for younger children as well as court games.

Play Equipment: *Portable equipment designed for primary use by children, such as, but not limited to, swing sets, playhouses, tree houses, trampolines, etc.*

Plat (or Subdivision Plat): A map or delineated representation of the subdivision of lands, being a complete exact representation of the Subdivision and other information in compliance with the requirement of all applicable sections of Article VII, Subdivision Regulations. See Section 7.1, Subdivision Definitions for definitions of major and minor Subdivision.

Plat, Final: See Section 7.1, Subdivision Definitions.

Plat, Identification: See Section 7.1, Subdivision Definitions.

Plat, Preliminary: See Section 7.1, Subdivision Definitions.

Plat, Record: A plat of survey with Municipal approval, which complies with all statutory requirements for filing as a permanent record with Campbell County, KY.

Plaza: A publicly accessible open space that is primarily paved and oriented towards group assembly and activities. The space is typically defined by building facades.

Pleasure Boat Harbor: A facility for launching, mooring, berthing, storing, or securing watercraft for primarily recreational use. A Pleasure Boat Harbor provides services to recreational watercraft and occupants thereof, including sanitary and other minor servicing and repair to watercraft while in the water and the sale of fuel and supplies. A Pleasure Boat Harbor may provide food, lodging, goods, beverages, recreation, and entertainment as accessory uses. This classification includes public docks and yacht and boat clubs. This term is synonymous with Marinas.

Porch, Open: *A covered or roofed platform at the entrance to a house with support posts or columns and open handrails/guardrails, where required.*

Porte Cochere. A permanent roof extending off the building façade that allows a vehicle to park under and passengers to access the dwelling. See Figure 1.1-8 for an example of a Porte Cochere.

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Figure 1.1-8 - Example of a Porte Cochere

Post Office: An office or station of a government postal system at which mail is received and sorted, from which it is dispatched and distributed, and/or at which stamps are sold, patrons receive assistance mailing packages and letters or other similar services are rendered.

Practicable: Doable, feasible.

Primary Street: See Street, Primary.

Property Line: See Lot Line.

Project Boundary: The boundary defining the tract(s) of land that is included in a proposed Development.

Protective Tree Barrier: *A barrier constructed to protect the Root System or trunk of a tree from damage during construction or from equipment or soil or material deposits.*

Public Boat Landing or Launching Facilities. Facility to launch and retrieve recreational watercraft, utilizing a trailer, into or from a body of water. Such facilities may include parking lots, a courtesy dock to assist in launching, toilets, refuse containers, and lighting.

Public Building: *Any building open to the general use, participation, benefit or enjoyment of the public or operated for the public's benefit and owned and/or operated by a city, county, state, or federal government, or by a public utility corporation or municipal district or authority.*

Public Facility: A government facility owned by the City of Fort Thomas or another entity, whether publicly or privately owned, for public safety services, police or fire protection, ambulance services, street maintenance, water treatment plants or pumping stations, sewage treatment, disposal or pumping plants, municipal parking facilities, bikeway trailheads and plazas, administrative facilities/offices or any other such facility to provide public services or facilities that are deemed reasonable or necessary to protect or enhance the public health, safety and welfare.

Public Hearing: An official meeting called by Board of Council, the Planning Commission, or the Board of Adjustment, duly noticed, which is intended to inform and obtain public comment or testimony, prior to the governing body rendering a decision.

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Public Meeting: A gathering of City officials and interested members of the public to discuss an action of the City or consider a development application. Unlike a public hearing, no prior public notification is required for a public meeting, and the acceptance of testimony from meeting attendees is at the discretion of the review authority conducting the public meeting.

Public Park: A tract of land, designated and used by the public, for active and/or passive recreation.

Public Realm: Land, buildings, and structures owned by the government or a governmental entity that is made available for use by all persons. The Public Realm includes the areas within the Right-of-Way (including Streets and Sidewalks) and Public Parks.

Public Right-of-Way: A strip of land or the air space above it taken, dedicated, or otherwise recorded as an irrevocable right-of-passage for use as a public way. In addition to the roadway, it normally incorporates the curbs, lawn strips, Sidewalks, water and sewer lines, lighting, and drainage facilities, and may include special features (required by the topography or treatment) such as grade separation, landscaped areas, viaducts, and bridges and the air space above the surface. May also be known as a “publicly dedicated right-of-way.”

Q

Quorum: The minimum number of Board of Council, board, or commission members that must be present in order to conduct official business or take official action.

R

Railroad Rights-of-Way: *A strip of land within which the railroad tracks and auxiliary facilities for track operation are normally located, but not including freight depots or stations, loading platforms, train sheds, warehouses, car or locomotive shops, or car yards.*

Record Plat: See Plat, Record.

Recreational Dockage Facilities: A commercial establishment providing boat hauling or launching facilities, rental of covered or uncovered boat slips or dock space or enclosed dry storage space.

Recreational Vehicle: A vehicle which is built on a single chassis; 400 square feet or less when measured at the largest horizontal projection; designed to be self-propelled or permanently towable by a light duty truck; and designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational camping, travel, or seasonal use.

Recreational Vehicle Park: Any lot or parcel or land upon which two or more sites are located, established, or maintained for occupancy by Recreational Vehicles for a fee as temporary living quarters for recreation or vacation purposes. See Campground.

Required Occupied Space: See Occupied Space, Required.

Rehabilitation: The act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features which convey its historical, cultural, or architectural values.

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Residential Care Facility for Persons with Disabilities: A residence operated and maintained by a sponsoring private or governmental agency to provide services in a homelike setting for persons with disabilities, per KRS 100.982

~~RESIDENTIAL CARE FACILITY: Residence operated and maintained by sponsoring private or governmental agency to provide services in a home-like setting for persons with disabilities.~~

Residential Cluster Development (RCD): *A large scale, unified land development which permits a clustering of attached and detached single-family residential dwellings, with common recreation/open spaces, through flexible regulations which encourage creative design to preserve the natural features, foliage, and other characteristics of the site.*

Residential Development: Buildings for residence such as but not limited to Attached and Detached Single-family Dwellings, Multi-family Dwellings, Apartments, condominiums, and their associated outbuildings such as Garages, storage buildings, and gazebos and customary Home Occupations.

Residential Use: See Use, Residential.

Research and Development Facility: Research, development, and testing laboratories that do not involve the mass manufacture, fabrication, processing, or sale of products.

Restaurant: An establishment that prepares and serves food and beverages to the public. This use may include table, counter, and take-away either individually or some combination thereof. Delivery service shall only be a permitted as an accessory use.

Resubdivision: *A subdivision which is actually a resubdivision of a previously recorded plat, representing a revision of the old lots, but where no new Improvements are to be constructed or extended.*

Retail Establishment: An establishment engaged in the selling of goods or merchandise to the general public for personal or household consumption, and rendering services incidental to the sale of such products. Such an establishment is open to the general public during regular business hours and has display areas that are designed and laid out to attract the general public. In determining a use to be a retail use, the proportion of display area vs. storage area and the proportion of the building facade devoted to display windows may be considered. Examples of businesses within this definition include hardware store, jewelry store, clothing store, grocery store, gift shops, and novelty stores.

Riding Academy: An establishment where horses are boarded and cared for, and where instruction in riding, jumping, and showing is offered, and where horses may be hired for riding.

Right-of-Way: See Public Right-of-Way.

Root System: *Tree roots within the drip line perimeter.*

S

School (public/private) College/University. An establishment primarily engaged in furnishing academic, or academic and technical, courses and granting associate degrees, certificates, or diplomas below the baccalaureate level, and/or degrees at baccalaureate or graduate levels. The requirement for admission is at least a high school diploma or equivalent general academic training. Instruction may be provided in

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diverse settings, such as the establishment's or client's training facilities, educational institutions, the workplace, or the home, and through diverse means, such as correspondence, television, the Internet, or other electronic and distance-learning methods. The training provided by these establishments may include the use of simulators and simulation methods.

School (public/private) Elementary/Secondary: A public or private facility that provides a curriculum of primary, elementary, secondary or college preparatory academic instruction in accordance with the requirements of KRS. Such uses include, but are not limited to, kindergartens, elementary schools, junior high schools, and high schools. This definition shall not be deemed to include Day Care Center, Adult or Child or School (public/private) College/University.

~~SCHOOLS, PAROCHIAL: An institution or a place for instruction or education belonging to and maintained by a religious organization.~~

~~SCHOOLS, PRIVATE: An institution or a place for instruction or education belonging to and maintained by a private organization.~~

~~SCHOOLS, PUBLIC: An institution or place for instruction or education belonging to the public and established and conducted under public authority in the various districts, counties, or cities and maintained at the public expense by taxation, and open with or without charge to the public for their attendance. This does not include schools owned and/or conducted by private parties though said schools may be open to the public generally and though tuition may be free. Schools in the aforementioned category of public schools shall include all public college or kindergarten, elementary, junior high, high schools, junior colleges, college and universities, but no others.~~

School, Specialty/Personal Instruction: A facility primarily teaching usable skills that prepare students for jobs within a specific trade or a facility or providing instruction on social and religious customs and activities, performing arts and/or sports. Such facilities may include but are not limited to beauty schools, dance instruction centers, cooking schools, and martial arts studios. This term does not include a Health Club.

Screening Area: An area set aside to remain vacant of buildings and to be planted and landscaped to separate and screen incompatible land uses from each other.

~~Screening Area: An area set aside to remain vacant of buildings and to be planted and landscaped to reduce the blighting effect of certain land uses on adjacent property.~~

Semi-public Building: Buildings occupied by Uses operated by recognized religious, philanthropic, educational, or other charitable institutions on a nonprofit basis and in which goods, merchandise, and services are not provided for sale on the premises.

Service Facilities of Public Facilities: *Service facilities include all facilities of public utilities operating under the jurisdiction of the Public Service Commission, or the Department of Motor Transportation, or Federal Power Commission, and common carriers by rail, other than office space, garage and warehouse space and include office space, garage space and warehouse space when such space is incidental to a service facility.*

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Setback: A required distance from a lot line or development boundary for a principal or accessory building and some site features or conditions. Setbacks shall be determined in accordance with ***sub-section 1.1.03, Calculations, Measurements, and Illustrations***.

Setback Line: A line that is positioned within a lot and away from a specified lot line by a distance equal to the specified minimum required setback within the District. Principal and accessory structures shall not be erected or placed on the exterior side of any setback line except where expressly permitted in this Ordinance. ***See sub-section 1.1.03, Calculations, Measurements, and Illustrations, for an illustration explaining Yards vs. Setback/Setback Lines.***

Sexually Oriented Business: *Means an adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, adult motion picture, picture theater, adult theater, escort agency, nude model studio, or sexual encounter center.*

Shop House. Any Dwelling, part of which is designed, adapted, or used for business purposes. See Live/Work Unit.

Shopping Center: A commercial development under unified control consisting of three or more separate Retail Establishments, Experiential Retail Establishments, Personal Service Establishments, Restaurants, Drinking Establishments, Offices, and similar Office/Professional Service; Entertainment/Recreation; Retail/Personal Service uses that is designed, planned, and constructed on an integrated and coordinated basis.

Short-Term Rental Properties: The accessory use of any residential dwelling unit that is advertised for rent for transient occupancy by guests for less than 30-consecutive days. A Short-Term Rental shall be clearly incidental and subordinate to the use of a Dwelling Unit for residential purposes. This definition shall not include Hotels.

~~SHORT TERM RENTAL: The accessory use of any residential dwelling unit that is advertised for rent for transient occupancy by guests for less than 30 consecutive days. A Short Term Rental shall be clearly incidental and subordinate to the use of a dwelling unit for residential purposes. This definition is specific to this section and other entities, such as "hotels," "motels," and "bed and breakfasts," are defined elsewhere in this code.~~

Shrub: A woody plant, smaller than a tree, consisting of several small stems emerging from the ground, or small branches near the ground. Shrubs may be deciduous or evergreen.

Sidewalk: A paved area usually running parallel to the street for the purposes of pedestrian travel and to facilitate pedestrian access to adjacent streets and land.

Signs: See Section 5.7, Sign Regulations.

Single Housekeeping Unit: A living arrangement in a single dwelling unit with common use and access to all living and eating areas, bathrooms, and food preparation and serving areas within the dwelling unit.

Site Improvements: Constructed utilities, roads, driveways, parking areas, landscaping, sidewalks, or structures on a site.

Solar Energy System (SES): A device, including its components and subsystems, that collects solar energy

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for electricity generation, consumption, or transmission, or for thermal applications. SESs are in turn divided into the following three types:

- A. Ground Mounted Solar Energy System means an SES that is structurally mounted to the ground and does not qualify as an Integrated SES.
- B. Integrated Solar Energy System means an SES where the solar materials are incorporated into the building materials, such that the building and solar system are reasonably indistinguishable, or where the solar materials are used in place of traditional building components, such that the SES is structurally an integral part of the house, building, or other structure. An Integrated SES may be incorporated into, among other things, a building façade, skylight, shingles, canopy, light, or parking meter.
- C. Rooftop Solar Energy System means an SES that is structurally mounted to the roof of a house, building, or other structure and does not qualify as an Integrated SES.

Square: A publicly accessible open space that is primarily landscaped and oriented towards passive recreation. The space is typically defined by building frontages or facades.

Stable: A building in which horses are sheltered; may be accessory to a residential or other use or a freestanding principal use. Stables may include both indoor and outdoor riding areas. Stables may be for personal or commercial use.

Stacking Space: A portion of the vehicular use area on a site that is dedicated to the temporary storage or “standing” of vehicles engaged in Drive-Thru use of the site or development.

Story: That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between such floor and the ceiling next above it. ***See sub-section 1.1.03, Calculations, Measurements, and Illustrations, for an illustration of Stories and Half-Stories.***

~~Story: That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between such floor and the ceiling next above it. For purposes of this ordinance, a basement shall be counted as a story.~~

Story, Half: *A space under a sloping roof which has the line of intersection of the roof and wall face not more than three feet above the floor level, and in which space the possible floor area with head room of five feet or less occupies at least 40% of the total floor area of the story directly beneath. This space shall be considered Habitable. See sub-section 1.1.03, Calculations, Measurements, and Illustrations, for an illustration of Stories and Half-Stories.*

Step-back: A recess of an upper story facade a set distance behind the facade of the story below. See Figure 1.1-9 for an example of a building with a Step-back.

Stop Work Order: An order issued by the City to a landowner or developer to cease and desist all land-disturbing or development activity on a site pending resolution of a problem or conflict.



Figure 1.1-9 - Example of a Building with a Step-Back

This Section is new with existing definitions lined out when replaced. Existing definitions are in *italics*, and all other definitions are new.

Street: *A public thoroughfare, constructed within the boundaries of an officially deeded and accepted public right-of-way, which affords principal means of access to abutting property.*

- A. *Street, Arterial: Public thoroughfares that serve the major movements of traffic within and through the community as identified in the adopted Comprehensive Plan for the City of Fort Thomas.*
- B. *Street, Collector: Public thoroughfares which serve to collect and distribute traffic primarily from local residential to arterial streets.*
- C. *Street, Expressway: A divided arterial highway for through traffic with full or partial control of access and generally with grade separations at major intersections.*
- D. *Street, Freeway: A divided multi-lane highway for through traffic with all cross roads separated in grades and with full control of access.*
- E. *Street, Local: Facilities which are designed to be used primarily for direct access to abutting properties and leading into the collector street system.*

Street Level: The first Story or level in a Building or Structure. For the purpose of this Ordinance, Street Level will generally be considered to be the Story or level of a building or structure that interfaces directly with the Public Realm.

Street Level Façade: See Façade, Street Level.

Street, Primary: For the purposes of the Central Business District and the associated Sub-Districts and the Traditional Business District, Fort Thomas Avenue is designated as a Primary Street.

Structure: Anything constructed or erected, the use of which requires fixed location on the ground or attachment to something having fixed location on the ground including, but not limited to, buildings; sheds; detached garages; freestanding signs; manufactured homes; and other similar items. Patios, parking lots, or other similarly paved surfaces shall not be deemed structures.

~~Anything constructed or erected, the use of which requires more or less permanent location in or on the ground or attachment to something having a permanent location in or on the ground, including buildings, mobile homes, walls, signs, and fences, but not including earthworks, ditches, canals, dams, reservoirs, pipelines, telephone or telegraph or electric power lines, driveways, or curbs.~~

Substantial Construction: See Construction, Substantial.

Subdivision: The division of a parcel of land into two or more lots or parcels for the purpose, whether immediate or future, of sale, lease, or building development, or if a new street is involved, any division of a parcel of land; providing that a division of land for agricultural uses into lots or parcels of five acres or more and not involving a new street shall not be deemed a subdivision. The term includes Resubdivision and when appropriate to the context, shall relate to the process of subdivision or to the land subdivided; any division or redivision of land into Parcels of less than one acre occurring within 12 months following a division of the same land shall be deemed a Subdivision within the meaning of these regulations. See Section 7.1 for additional Subdivision related definitions.

Swimming Pool, Outdoor: *Any structure or device of any kind that is intended for swimming purposes, including but not limited to: any pool or tank of any material or type of construction, or any depression or excavation in any natural or constructed material, or any dike or berm of any material or type of construction; including all appurtenances to such structure or device and all appliances used in connection*

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therewith; which structure or device is intended to cause, or would cause if completely filled, the retaining of water to a greater depth than eighteen (18) inches at any point. Any such structure or device shall be deemed to be included within the meaning of the term "structure" as used in this ordinance. Outdoor swimming pools shall be deemed to consist of the following classes: private, semi-public, public and commercial, as follows:

- A. **Private:** *When consisting of an accessory structure appurtenant to a one-family or a two-family dwelling and used only as such by persons residing on the same lot and their private guests (as distinguished from groups of any kind) with no payment of any kind or in any form charged or received for such use.*
- B. **Semi-public:** *When consisting of an accessory structure appurtenant to a multiple dwelling, hotel, motel, church, school, or private club, or country club, and used only as such by persons who reside or are housed on the same lot or who are regular members of such church, club, country club, or regular attendants at such school and by individual guests (as distinguished from groups of any kind) of the foregoing with no payment of any kind or in any form from being charged or being received for such use.*
- C. **Public:** *A swimming pool maintained and operated by a municipality or other unit of government for the general public, whether or not an admission fee is charged.*
- D. **Commercial:** *A swimming pool operated for profit, open to the public upon payment of an hourly, a daily, weekly, monthly, annual, or other fee.*

T

Tattoo/Piercing Establishments: An establishment that practices one or more of the following:

- A. Places designs, letters, figures, symbols, or other marks upon or under the skin of any person, using ink or other substances that result in the permanent coloration of the skin by means of the use of needles or other instruments designed to contact or puncture the skin.
- B. Creation of an opening in the body of a person for the purpose of inserting jewelry or other decoration.

This definition does not include permanent makeup/cosmetics.

Tent: *Any structure or enclosure, the roof of which and/or one-half (1/2) or more of the sides are constructed of silk, cotton, canvas, fabric, or a similar light material.*

Theater, Indoor: A building or part of a building devoted to showing motion pictures or for dramatic, dance, musical, or other live performances.

Trade/Vocational School: A school established to provide for the teaching of industrial, clerical, or managerial skills. This definition applies to schools that are owned and operated privately for profit and that do not offer a complete educational curriculum.

Transition Line: A horizontal line that defines the ground story and extends the full width of a facade expressed by:

- A. A material change;
- B. A trim/molding line; or,

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- C. A continuous projection such a balcony.

Trailer: Any coach, boat trailer, house trailer, house car or other vehicle or intended for or capable of temporary human dwelling or sleeping purposes or containment of any items for storage or transport therein, mounted upon wheels or supports, or supported and/or capable of being moved by its own power or transported by another vehicle. For the purpose of this Ordinance, the removal of wheels and/or the permanent or semi-permanent attachment of a foundation to said house trailer shall not change its classification.

~~TRAILER: Any coach, cabin, mobile home, boat trailer, house trailer, house car or other vehicle or structure intended for or capable of human dwelling or sleeping purposes or containment of any items for storage or transport therein, mounted upon wheels or supports, or supported and/or capable of being moved by its own power or transported by another vehicle. For the purpose of this ordinance, the removal of wheels and/or the permanent or semi-permanent attachment of a foundation to said house trailer shall not change its classification.~~

Transition Line: A line prescribed at a certain level of a Building for the major part of the width of a Facade, expressed by a variation in material or by a limited projection such as a molding or balcony.

Tree: Any living, self-supporting woody, or fibrous plant, usually having a single woody trunk, and having a diameter of not less than two (2) inches measured at a point four (4) feet above the ground.

Tree Commission: *The Tree Commission of the City of Fort Thomas.*

Two-Family Dwelling: See Dwelling, Two-Family.

U

Urgent Care: See Medical/Dental Clinic.

Use: The purpose for which land, a building or structure is arranged, designed, intended, maintained or occupied; or any occupation, activity or operation carried on in a building or structure or on land.

- A. **Use Accessory:** A use located on the same Zoning Lot with the Principal Use of building or land, but incidental and subordinate to the Principal Use of the Building or land.
- B. **Use, Ancillary:** A Use that provides necessary support for the operation of a Principal Use.
- C. **Use, Conditional:** Per KRS 100.111, a Use which is essential to or would promote the public health, safety, or welfare in one (1) or more zones, but which would impair the integrity and character of the zone in which it is located, or in adjoining zones, unless restrictions on location, size, extent, and character of performance are imposed in addition to those imposed in the zoning regulation.
- D. **Use, Conforming:** The use of a structure or land that conforms to the Permitted Uses under the zoning classifications of a particular area.

~~CONFORMING USE: Any lawful use of a building, structure, lot, sign or fence which complies with the provisions of this ordinance.~~

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- E. **Use, Non-Residential:** Lands, buildings, or structures or portions thereof used, or designed or intended for use for other than Residential Use and includes, but is not limited to, an office, retail, industrial, or institutional use.
- F. **Use, Permitted:** A use that is authorized by this Ordinance as a Use Permitted by Right, a Conditional Use, a Restricted Use, or an Accessory Use.
- G. **Use Permitted by Right:** A permitted use that is approved administratively when it complies with the standards and requirements set forth in this Ordinance, the approval of which does not require a Public Hearing.
- H. **Use, Principal:** The primary or main Use or activity of a Building or Lot.
- I. **Use, Prohibited:** A Use identified in this Ordinance as a prohibited use is banned from that Zoning District(s) and shall only be permitted upon amendment of this Ordinance, as provided for in Section 1.8, Amendments.
- J. **Use, Residential:** Land, Buildings, or Structures or portions thereof used, designed, or intended to be used principally (or primarily) as Dwelling Units.
- K. **Use, Restricted:** A use that 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 and Restricted Use Regulations. If compliance with the Restricted Use requirements is not possible, the Use shall be deemed a Conditional Use and shall be considered pursuant to Section 1.6, Conditional Use Permit.
- L. **Use, Temporary:** A Use that is established for a fixed period of time with the intent to discontinue such use upon the expiration of such time and does not involve the construction or alteration of any permanent structure.

Utility: *Has the meaning as defined in KRS 278.010 (3).*

Utility Substation/Distribution Facility, Indoor: A facility contained entirely within a building, which performs either of the following functions:

- A. Aids in the transmission or distribution of gas, electricity, steam or water, or landline telephone communications.
- B. Is used as a distribution center, including but not limited to a water pumping station, water reservoir, transformer station, landline telephone exchange, or building for radio, television, but not including a yard or building for storage, maintenance, or repair service.

Utility Substation/Distribution Facility, Outdoor. A facility, other than a transmission tower and not contained entirely within a building, which performs either of the following functions:

- A. Aids in the transmission or distribution of gas, electricity, steam, water, or landline telephone communications.
- B. Is used as a distribution center, including but not limited to a transformer station, landline telephone exchange, or building for radio, television.

V

Variance: Per KRS 100.111, a departure from dimensional terms of this Ordinance pertaining to the height, width, length, or location of structures, and the size of yards/setbacks and open spaces where such departure meets the requirements of KRS 100.241 to 100.247.

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Vehicle Fueling Station: A building or other structure or a tract of land intended and used primarily for the retail sale of gasoline or other motor vehicle fuels and oils into vehicles as well as Electric Vehicle Charging Stations. Automobile fueling stations may also include the sale of prepackaged food and beverages and other convenience type items.

Vehicle Sales/Rental/Service Facility: Any building or land used for the display, sale, or long-term lease (one-year or longer) of new or used motor vehicles in operable condition and including, but not limited to, cars, passenger trucks, off-road vehicles, and motorcycles. Vehicle Sales/Rental/Service may include any vehicle preparation, warranty, or repair work conducted as an Ancillary Use.

Vehicular Use Area (VUA): The entire paved area that encompasses all parking spaces, loading areas, waiting spaces, and the access drives that provide access to those spaces but that does not include the entry drive or driveway with no direct access to a parking space, waiting space, or loading space.

Veterinary Clinic: See Animal Clinic.

W

Wireless Telecommunication Facilities: See Section 5.6 - Wireless Telecommunication Facilities

X

Reserved

Y

Yard: An open space on the same lot with a principal building that lies between the principal building and the nearest lot line, unoccupied and unobstructed by any portion of the structure from the ground upward, except for accessory uses, structures or buildings as expressly permitted in this Ordinance. ***See sub-section 1.1.03, Calculations, Measurements, and Illustrations, for an illustration explaining Yards vs. Setbacks.***

- A. **Yard, corner side.** On a corner lot, the yard between the principal building and the side lot line adjacent to the street and extending from the front yard to the rear lot line.
- B. **Yard, front.** The area across the full width of the lot between the front of the principal building and the front line of the lot.
- C. **Yard, rear.** The area across the full width of the lot between the rear of the principal building and the rear line of the lot.
- D. **Yard, side.** The area between the main building and the side line of the lot extending from the front wall to the rear wall of the main building.

Z

Zoning Administrator: *The official or officials appointed by the City of Fort Thomas for carrying out the provisions and enforcement of this Ordinance.*

This Section is new with existing definitions lined out when replaced. Existing definitions are in *italics*, and all other definitions are new.

Zoning Permit: A permit issued by the Zoning Administrator authorizing the construction or alteration of a building or structure and/or use of a lot or structure in accordance with this Ordinance.

Zoning District: An area within the City limits for which the regulations and requirements governing use are uniform as defined by Section 1.2, Establishment of Districts and Map. This term is synonymous with “zone” and “sub-zoning district.”

Zoning Map: An accurate map depicting the City of Fort Thomas, KY, and indicating the boundaries of the zoning districts established by this Ordinance.

1.1.03 CALCULATIONS, MEASUREMENTS, & ILLUSTRATIONS.

This sub-section provides an explanation of dimensional standards found in this Ordinance, defines how to measure each requirement, and provides other standards and reference information as necessary. Standards in this sub-section may be modified by other applicable sections of this Ordinance, and standards listed in other sections of this Ordinance shall govern if there is a conflict. The illustrations in this sub-section are intended to support the Ordinance text, and do not contain all Ordinance details and standards.

A. General Rules of Measurement.

1. Straight Lines. Unless otherwise stated in this Ordinance, distances specified in this Ordinance are to be measured as the length of an imaginary straight line joining two points.
2. Fractions. Any fraction greater than or equal to 0.5 will be rounded up to nearest whole number. Any fraction less than 0.5 will be rounded down to nearest whole number.
3. Irregular Shapes. In cases where an irregular shape complicates the application of these standards, the Zoning Administrator shall determine the applicable dimensional, setback, or other standards in accordance with the standards and rules in this Section and this Ordinance. The Determination of the Zoning Administrator may be appealed as provided for in Section 1.7 - Appeals and Variances.
4. Separation. See Figure 1.1-10 - Separation Illustration
 - a. Lot to Lot. When the provisions of this Ordinance require separation between two or more lots, or a lot and another feature, separation shall be measured by drawing straight lines from the nearest point of one lot line to the nearest point of the lot line subject to the separation requirement.

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- b. Use Type to Use Type. When the provisions of this Ordinance require one use type to be separated from another use type, separation shall be measured by drawing straight lines from the nearest point of the wall of one existing or proposed principal structure to the nearest point of the wall of another existing or proposed structure subject to the separation requirement.

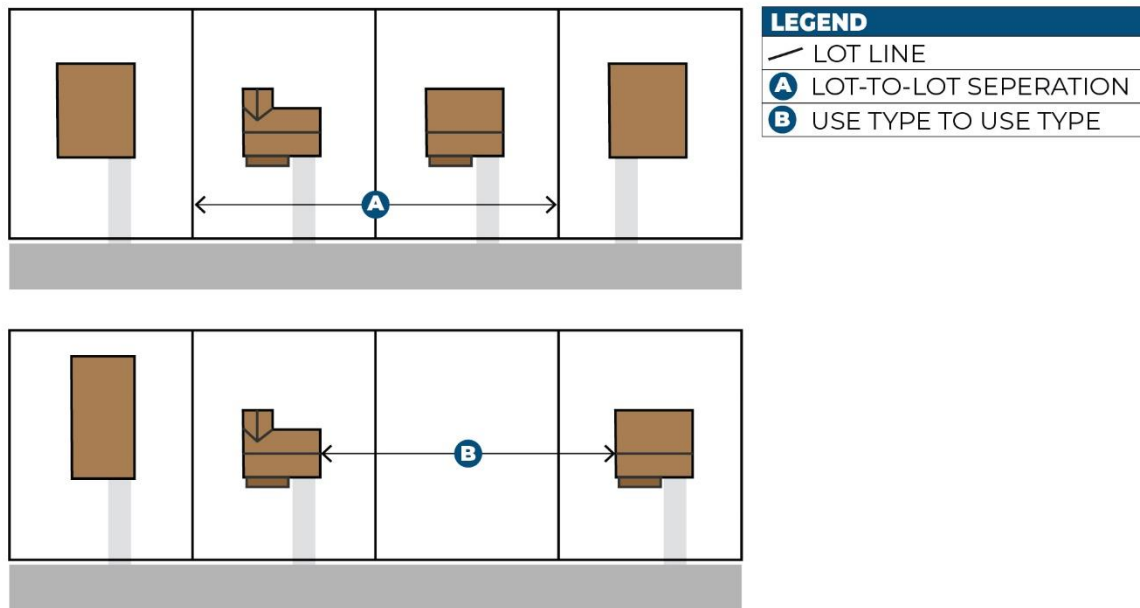


Figure 1.1-10 - Separation Illustration

5. Distances.

- a. Distances Measured Horizontally. When determining distances for setbacks and structure dimensions, all distances are measured along a horizontal plane from the appropriate line, edge of building, structure, storage area, parking area or other object. These distances are not measured by following the topography of the land.
- b. Measurements are Shortest Distance. When measuring a required distance, such as the minimum distance between a structure and a lot line, the measurement is made at the closest or shortest distance between the two objects except as noted in sub-section c. below - Measurements Involving a Structure.
- c. Measurements Involving a Structure. Measurements involving a structure are made to the closest part of the structure. Open porches not exceeding 15% of the width of the structure, bay windows up to 12 feet in length, chimneys, and eaves are not included in the measurement.

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B. Lot Characteristics.

1. Lot Coverage. Lot coverage is the ratio of total ground floor area of all buildings/structures and other impervious surfaces on a lot to the area of the lot expressed as a percentage. Figure 1.1-11 illustrates the type of structures and surfaces on a lot that would be included when calculating Lot Coverage.

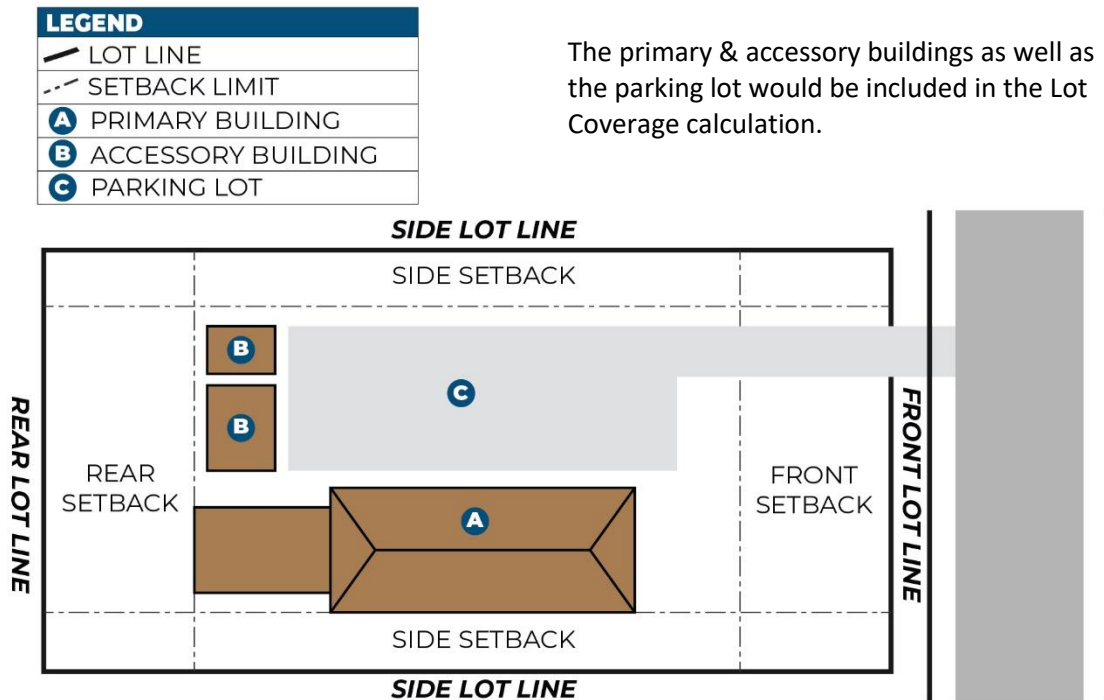


Figure 1.1-11 - Buildings and Surfaces Included in Lot Coverage

2. Lot Measurements. See Figure 1.1-12 - Lot Measurement.
 - a. Lot Area, Minimum. The minimum amount of required land area, measured horizontally, that must be included within the lines of a lot. Lands located within any private easements are included within the Lot Area.
 - b. Lot Width. The width of a lot is measured at right angles to its depth at the edge of the Front Setback Line.
 - c. Lot Depth. The horizontal distance from the midpoint of the front lot line to the midpoint of the rear lot line. In case of irregularly shaped lots, the mean depth shall be used.

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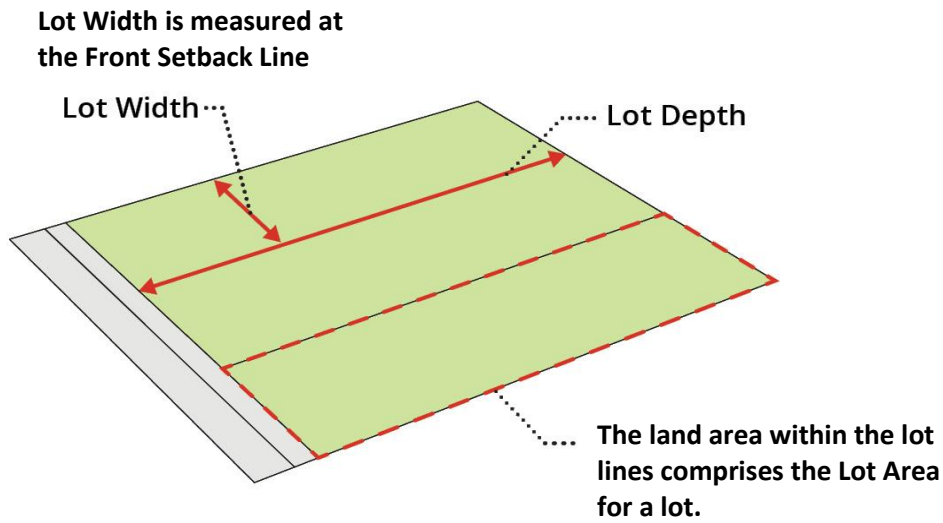


Figure 1.1-12 - Lot Measurement

3. **Lot Lines.** A lot line is a line of record bounding a lot which separates one lot from another lot or separates that lot from a public or private street or any other public space. See Figure 1.1-13 – Illustration of Lot Lines when determining Lot Lines.

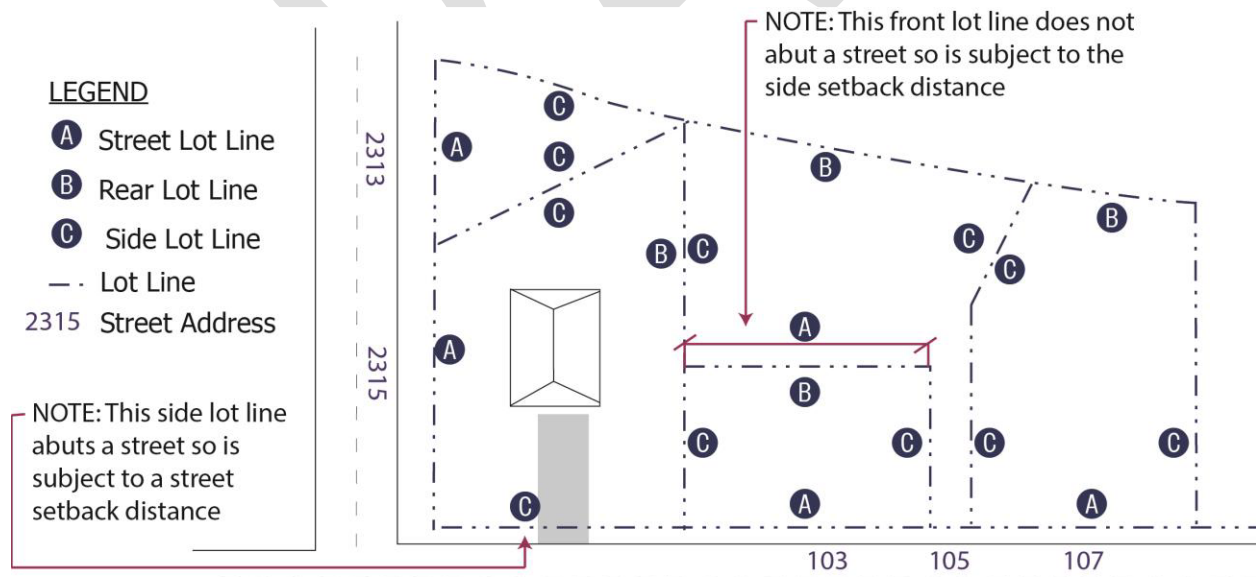


Figure 1.1-13 - Illustration of Lot Lines

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4. Lot Types. Sub-section 1.1.02 – Glossary of Terms defines Lot Types. Figure 1.1-14 illustrates these Lot Types. This Figure also illustrates a Condominium lot. See sub-section 5.0.11 B. 2 – Lots Serving Condominiums for additional detail regarding Condominium lots.

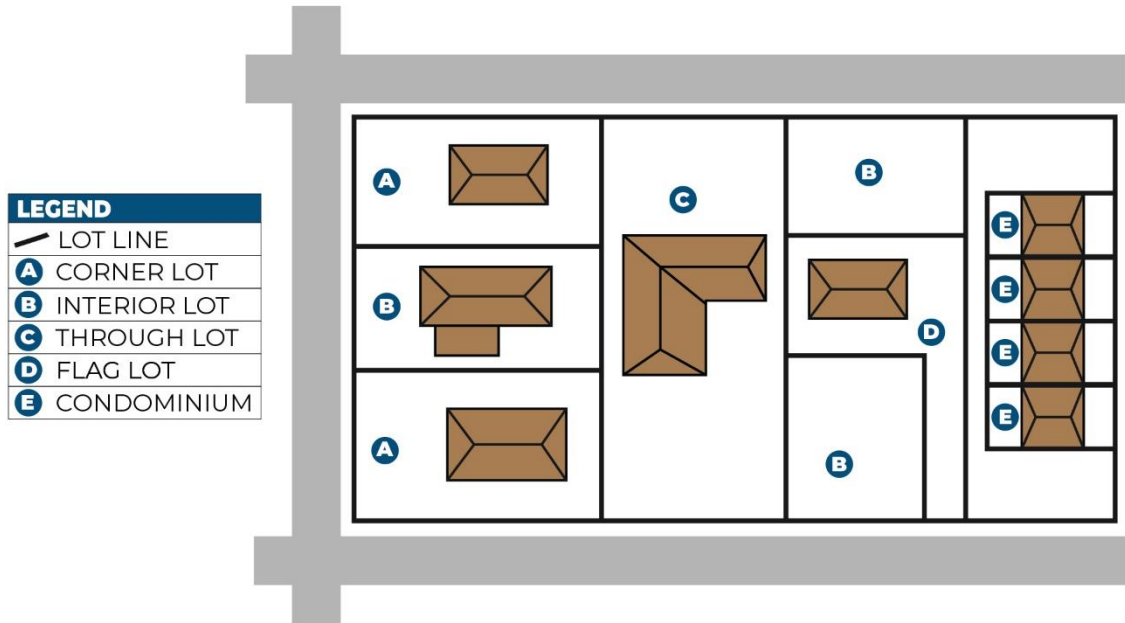


Figure 1.1-14 - Lot Types

C. Structure Placement Considerations (Buildable Area, Building Line, Build-to-Zone, Setbacks).

1. Determining Buildable Area. The required front, side, and rear setbacks for individual lots established by the applicable zoning district within which a lot is located shall be measured from the front, side, or rear property line inward toward the center of the lot. Once the required setback areas of a given lot have been established, the remaining area of the lot which is not included in any required front, side, or rear lot shall be known as the buildable area within which the permissible structure(s) shall be placed. See Figure 1.1-15 below which illustrates the Buildable Area on an Interior lot.

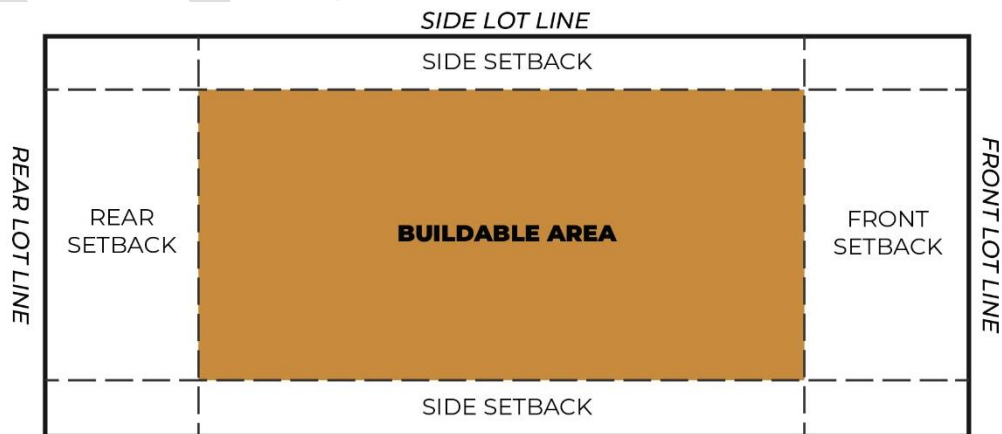


Figure 1.1-15 - Buildable Area on an Interior Lot

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2. **Building Line.** The Building Line is an imaginary linear extension of the building wall parallel to the specified lot line or the street right-of-way line. Figure 1.1-16 is an example of a rear building line that indicates how the Building Line differs from the Rear Setback Line.

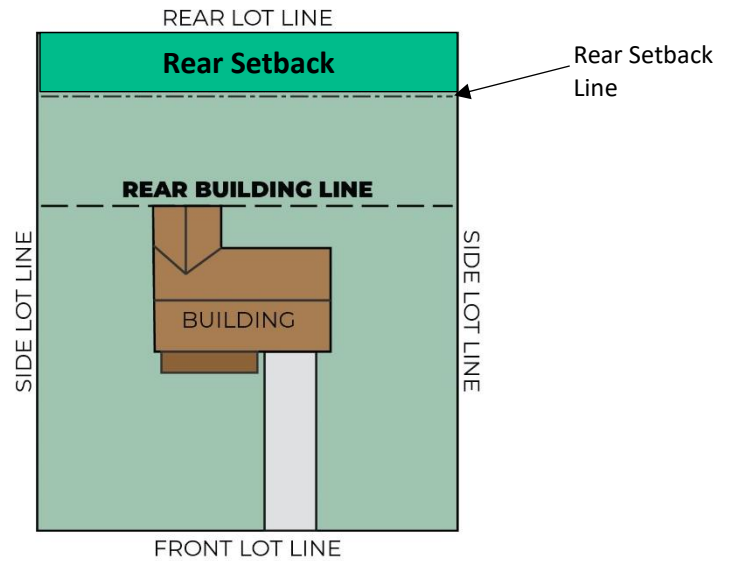


Figure 1.1-16 - Building Line

3. **Build-to-Zone (BTZ).** The Build-to-Zone requirement specifies the percentage of lot width that must contain a building located between the minimum and maximum front setbacks. The build-to-zone requirement is intended to help create vibrant and pedestrian-friendly mixed-use and commercial corridors by bringing building facades to the street. The requirement varies for each zone district and context. See Figure 1.1-17 for an illustration of the Build-to-Zone.

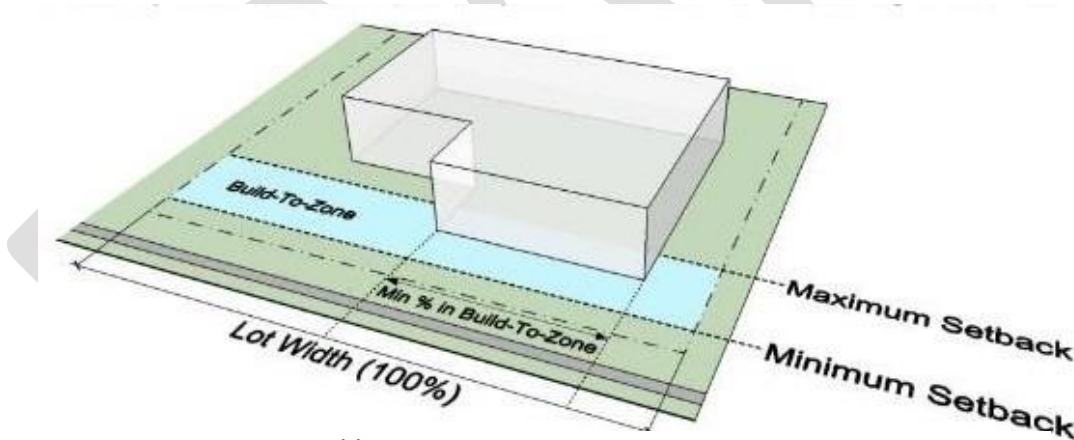


Figure 1.1-17 - Build-to-Zone

4. **Building Setbacks, Front Setback Averaging.** (Figures illustrating the following will be inserted in Phase 4.)
 - a. In the R-1AA, R-1A, R-1B, R-1C, R-1D, R-2, R-3, and R-5 Districts:
 - i. **Increasing the Require Front Setback.** Where the average depth of existing front setbacks within three hundred (300) feet of the lot in question and within the same block front, is greater than the minimum front setback prescribed in Section 3.1, the required minimum front setback on such lot shall be modified to be the average depth of said existing front setbacks provided; however, that the depth of the front

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setback on any such lot shall not be greater than sixty (60) feet. In instances where more than one building can be constructed within the three hundred (300) feet, the minimum front setback required shall be determined by uniform successive setbacks in order to establish a gradual adjustment of front setback requirements. No front setback shall be less than the average depth of existing front setbacks on the lots abutting on each side.

- ii. Decreasing the Required Front Setback. No front setback shall be required to exceed the average depth of existing front setbacks on the same side of the street within three hundred (300) feet, when fifty-one percent (51%) or more of lots within that distance are improved with residential buildings having less than the required minimum front setback.
 - b. In the R-1-TC1 and R-1-TC2 Districts, the minimum front setback shall be the average setback of adjacent principal buildings. Such minimum front setback shall be the average distance, or within three (3) feet of such average, of the front setbacks of the four lots, two on either side, of the lot in question.
5. Building Setbacks. There are 4 types of setbacks – front, corner side street, side interior and rear. Building setbacks apply to both principal and accessory buildings or structures except where it explicitly states otherwise.
 - a. The front setback is measured at a right angle from the right-of-way line.
 - b. Where a lot extends through the block from street to street, the required front setback shall be provided along each street as required by sub-section 5.0.05 - Corner Lots, Double Frontage Lots, Flag Lots.
 - c. The corner side street setback is measured at a right angle from the corner side street right-of-way line.
 - d. The rear setback is measured at a right angle from the rear lot line or the rear right-of-way or easement line where there is an alley. The rear lot line is the lot line opposite to the front street lot line.
 - e. All lot lines which are not front street, corner side street or rear lot lines are considered side interior lot lines for the purpose of measuring setbacks. Side interior setbacks are measured at a right angle from the side lot line.

Figure 1.1-18 illustrates these Building Setbacks.

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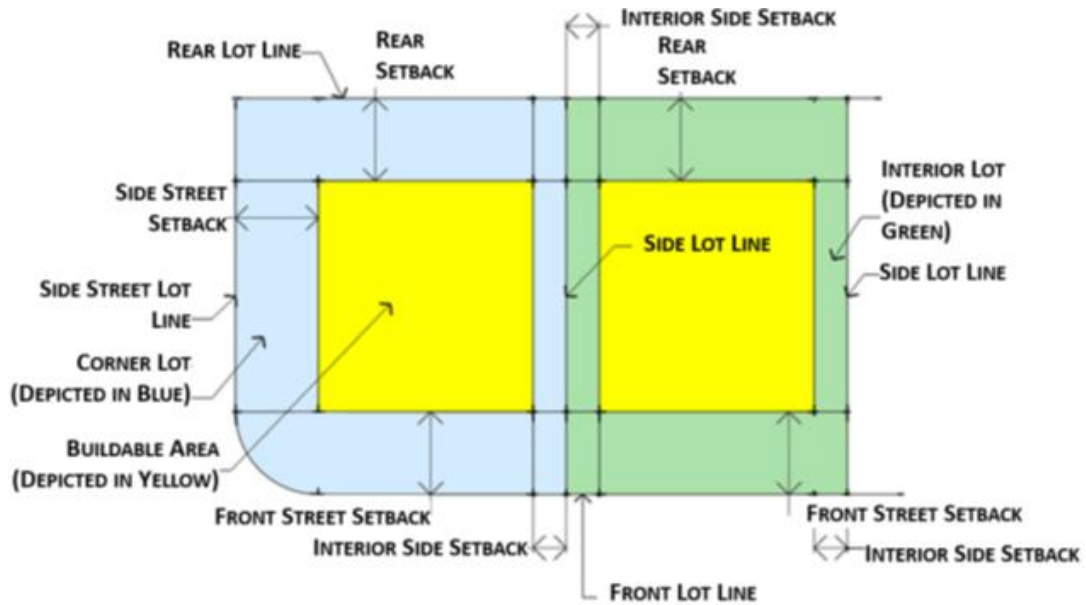


Figure 1.1-18 - Building Setbacks

6. Setback Encroachments. See Figure _____. (This Figure will be inserted in Phase 4.)
7. Yards and Setbacks. Yards are the open spaces on the same lot as the principal building extending between the lot line and the extreme front, rear, or side wall of the principal building. However, Yards and Setbacks are different. As shown in Figure 1.1-19 below, Setbacks define the location on a lot where the Ordinance permits buildings and structures to be constructed, which are shown as Setback Lines in Figure 1.1-19. However, a Setback is distinct from but usually included in a Yard, as shown in Figure 1.1-19, because in many instances, a building on a lot does not occupy the entire Buildable Area that is created by the required Setbacks.

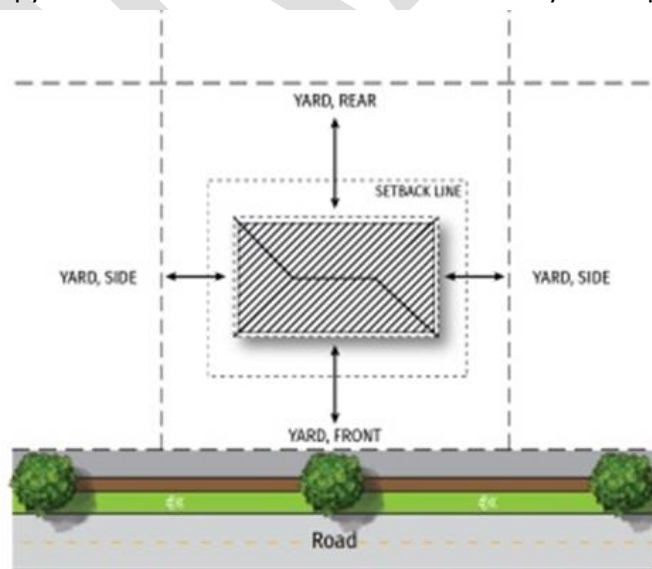


Figure 1.1-19 - Yards vs. Setbacks

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D. Height.

1. Building Height. Building height shall be measured from the finished or established grade elevation following any land disturbing activities. Building height is the vertical distance measured from average elevation of the finished grade adjoining the building to the highest point of the roof surfaces, excepting chimneys, spires, steeples, cupolas and other ornamental or functional projections. Figure 1.1-21 illustrates how to measure Building Height. See sub-section 5.0.11 A. for Exceptions to Height Limits.
2. Story. A building story is the portion of a building where all rooms share the same floor and ceiling level. A crawlspace or Basement with an average ceiling height of less than seven (7) feet is not considered as a Story unless it is suitable for habitation. An attic with an average ceiling height of less than six (6) feet is not considered a story. Figure 1.1-20 illustrates Stories and Half-Stories.

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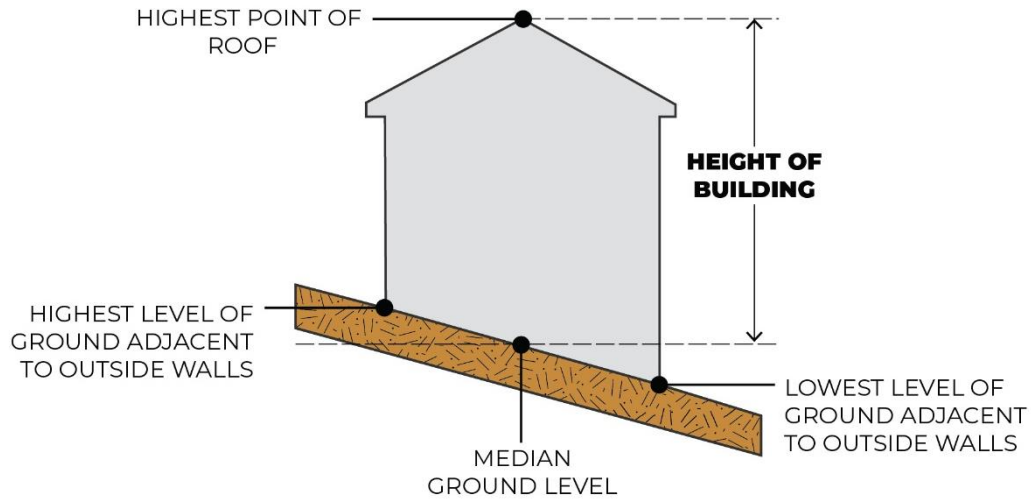


Figure 1.1-21 - Measuring Building Height

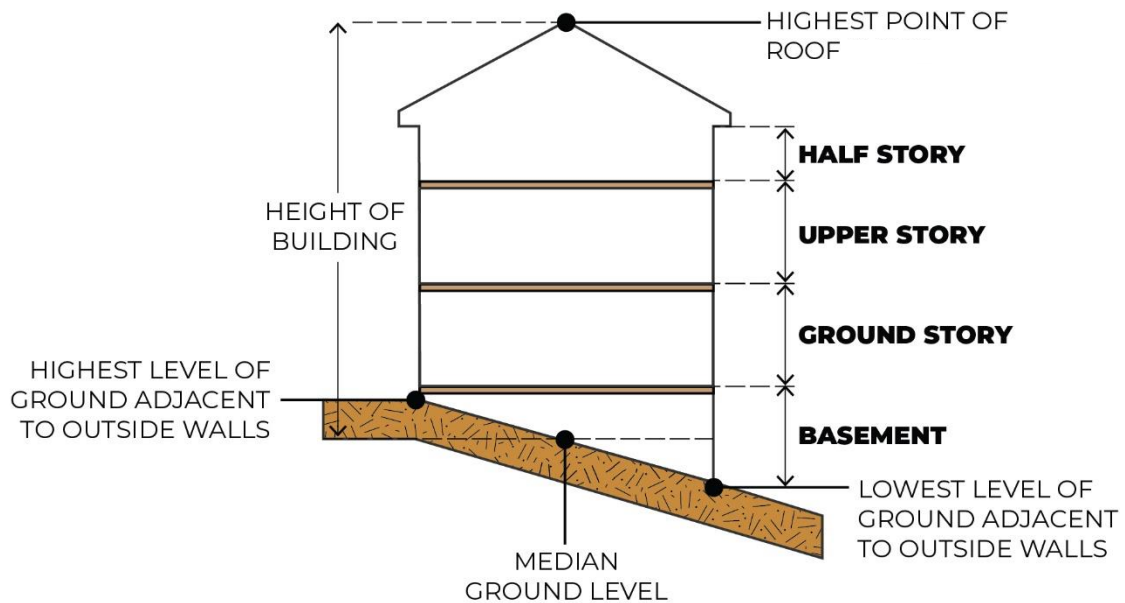


Figure 1.1-20 - Stories and Half-Stories

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- E. Buffer Yards and Required Screening. Buffer yards, when required by this Ordinance, must form a solid visual screen. Section 5.3 - Landscaping, Screening, & Lighting Regulations permits the use of both vegetation and fencing as shown in Figure 1.1-22 below or only the use of vegetation as shown in Figure 1.1-23. Regardless of the method of screening used, the depth of the buffer yard must meet the requirements mandated by this Ordinance and must be a minimum of 6 feet in height unless a greater height is required by this Ordinance.

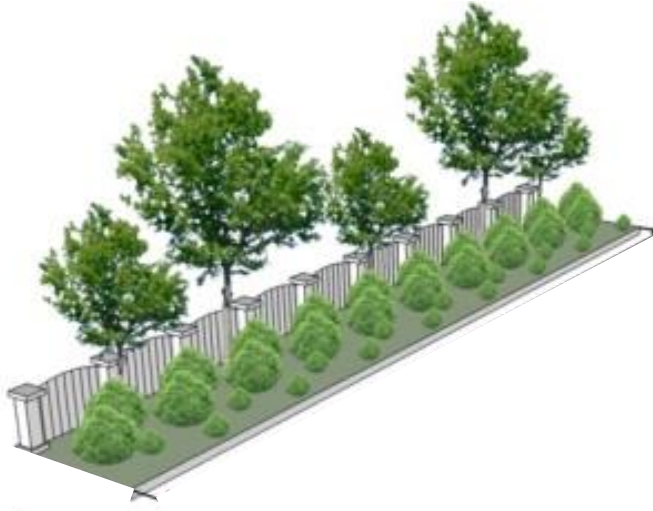


Figure 1.1-24 - Screening with Fencing and Vegetation



Figure 1.1-23 - Screening with Vegetation Only

- F. Calculations and Measurements Central Business and Traditional Business Districts. This sub-section explains and defines some of the regulations established in the Schedule 3.7.03 B. - Development Standards TBD, CBD-TCC, CBD-TCS, CBD-MC1, CBD-MC2, CBD-MC3
1. Principal Building Siting. The following sub-sections define some of the line-item requirements within the Principal Building Siting sub-section of Schedule 3.7.03 B. For those requirements not listed below, see sub-section 1.1.02 – Glossary of Terms.
 - a. Multiple Principal Buildings. The allowance of more than one principal structure on a lot.
 - i. Not Permitted. When noted as such, only one principal building per lot is allowed.
 - ii. Permitted. When noted as such, more than one principal building per lot is permissible. The combination of the multiple buildings may be used to fulfill Minimum Primary Lot Line Coverage requirement, unless otherwise noted.
 - b. Minimum Primary Lot Line Coverage. The Minimum Primary Lot Line Coverage specifies the percentage of the width of the building facade,

This Section is new with existing definitions lined out when replaced. Existing definitions are in *italics*, and all other definitions are new.

measured along the adjacent Primary Street or front right-of-way line, which shall be located within a Build-to Zone. A Build-to-Zone is the area between the minimum and maximum right-of-way setback lines.

- c. Occupation of Corner. When required, a principal building shall be located at the intersection of the front and corner side streets.
 - d. Maximum Building Width. The maximum width of the building measured parallel to the front or Primary Street lot line.
2. Height. The following sub-sections define some of the line-item requirements within the Height sub-section of Schedule 3.7.03 B. For those requirements not listed below, see sub-section 1.1.02 – Glossary of Terms.
- a. Minimum Principal Building Height. The minimum overall height for the building that shall be located within the Build-to Zone.
 - b. Maximum Principal Building Height. The sum of a building's maximum total number of stories or total height measured in feet excluding accessory rooftop appurtenances as permitted in sub-section 5.0.11 - Exceptions & Modifications. Any appurtenance extending above the maximum height shall not be used for any use other than a use incidental to the principal use of the building except as otherwise permitted in this Ordinance.
 - c. Ground Story and Upper Story, Minimum Height. A required minimum height in feet for ground (street-level) and upper floors for each story shall be measured as follows:
 - i. Floor height is measured in feet between the floor of a story to the floor of the story above it.
 - ii. Floor height requirements shall apply only to street facing facades for ground (street level) story height requirements. For front facades, ground (street level) story height requirements shall be maintained for the depth of an average minimum of thirty (30) feet.

Where site slope renders strict compliance with ground (street level) story floor height requirements impracticable, the Planning Commission may reasonably calculate average ground (street level) story heights across a reasonable portion of the ground floor, taking uses, front façade location, and the intent of these regulations into account.

For single story buildings and the uppermost story of a multiple story building, floor to floor height shall be measured from the floor of the story to the tallest point of the ceiling. One (1) foot may be deducted from the required minimum dimension for top stories.

This Section is new with existing definitions lined out when replaced. Existing definitions are in *italics*, and all other definitions are new.

3. Street Façade Requirements. The following sub-sections define some of the line-item requirements within the Street Façade Requirements sub-section of Schedule 3.7.03 B. For those requirements not listed below, see sub-section 1.1.02 – Glossary of Terms. Street Façade Requirements apply only to building facades facing a Primary or Fronting Street. The rear or interior side yard facades are not required to fulfill these standards unless otherwise stated.
 - a. Minimum Ground Story and Upper Floor Transparency. The minimum amount of transparency required on street facades with street frontage.
 - i. Ground Story Front Façade Transparency, when defined separately from the overall minimum transparency, shall be measured between two (2) feet and eight (8) feet from the average grade at the base of the front façade.
 - ii. A general minimum transparency requirement is measured from floor to floor of each story.
 - b. Required Principal Entrance Location. The façade on which the principal building entrance is to be located. Principal building entrance is the main public entrance to the majority of uses in the building.
 - c. Ground Story or Street Level Entrance Spacing. The minimum number of and maximum spacing between entrances on the ground floor (street level) building façade with street frontage.
 - d. Ground Story Vertical Façade Divisions. The use of a vertically oriented Transition Line or building element to divide the ground story façade into increments no greater than the dimension shown, as measured along the base of the façade. Building elements may include a column, pilaster, or other continuous vertical ornamentation, all with a minimum depth of 2 inches and a minimum width of 3 inches.
 - e. Horizontal Façade Divisions. The use of a horizontally oriented Transition Line or building element to divide portions of the façade into horizontal divisions, extending a minimum of 80 percent of the full width of the façade. Building elements may include a cornice, belt course, molding, string courses, or other continuous horizontal ornamentation a minimum of one-and-a-half-inch depth and a minimum height of three (3) inches.

Significant changes from the Phase 2 draft are noted: Substantive Additions and ~~Deletions~~

**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. 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 **and sub-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	R-1AA
Single-Family Residential-One A	R-1A
Single-Family Residential-One B	R-1B
Single-Family Residential-One C	R-1C
Single-Family Residential-One D	R-1D
<u>Single-Family Residential-Town Center with the following Sub-Zoning Districts</u>	<u>R-1-TC</u>
<u>Single-Family Residential-Town Center 1</u>	<u>R-1-TC1</u>
<u>Single-Family Residential-Town Center 2</u>	<u>R-1-TC2</u>
Two-Family Residential-Two	R-2
Multi-Family Residential-Three	R-3
Multi-Family Residential-Five Zone	R-5
BUSINESS and MIXED-USE DISTRICTS	
Central Business District <u>with the following Sub-Zoning Districts</u>	CBD
<u>Central Business District – Town Center Core</u>	<u>CBD-TCC</u>
<u>Central Business District – Town Center Supporting</u>	<u>CBD-TCS</u>
<u>Central Business District – Town Center Residential</u>	<u>CBD-TCR</u>
<u>Central Business District – Midway Core 1</u>	<u>CBD-MC1</u>
<u>Central Business District – Midway Core 2</u>	<u>CBD-MC2</u>
<u>Central Business District – Midway Core 3</u>	<u>CBD-MC3</u>
<u>Central Business District – Residential 1</u>	<u>CBD-MR1</u>
<u>Central Business District – Residential 2</u>	<u>CBD-MR2</u>
Traditional Business District	TBD

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Alexandria Pike Mixed-Use District with the following Sub-Zoning Districts	AP-MX
<u>Alexandria Pike Mixed-Use District - 1</u>	<u>AP-MX1</u>
<u>Alexandria Pike Mixed-Use District - 2</u>	<u>AP-MX2</u>
Neighborhood Commercial/Office District	NC/O
OTHER DISTRICTS	
River Preservation District	RP
Conservation District	CO
SPECIAL DISTRICTS	
ZONING DISTRICT NAME	SYMBOL
Residential Cluster Development Overlay District	RCD-O
<u>Fort Thomas Avenue Overlay District</u>	<u>FTA-O</u>
<u>Central Business District Historic Overlay District</u>	<u>CBD-O</u>
<u>Tower Park Historic Overlay District</u>	<u>TP-O</u>

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 **and structures** in addition to the general requirements and restrictions imposed on all land, **structures**, or uses within the City of Fort Thomas, KY. A standard district may be layered with an overlay district.

C. Special Districts in General.

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 development 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. 19., 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.

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- 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.
 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.~~ **If compliance with the Restricted Use requirements is not possible, the Use shall be deemed a Conditional Use and shall be considered pursuant to Section 1.6 - Conditional Use Permit.**
 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 **and sub-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~~ **zoning district** 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, fence, or **zoning** 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

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this Ordinance.

3. Regardless of the existence of purported copies of the Official Zoning Map (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 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 sub-section, shall be construed as parallel to such features. Boundaries indicated as approximate extensions of features indicated in Rules A through E of this sub-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 boundary, shall

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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~~ **Zoning District**, either through error or omission, such property shall be officially included in the 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 zoning district change review of the area in question, as per Section 1.8 - Amendment, to ensure its appropriate zoning classification in conformity with the officially adopted Comprehensive Plan.

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**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 review and act on applications for Wireless Telecommunications Facilities, as provided for in Section 5.6 - Wireless Telecommunication Facilities, according to the procedures, standards, and criteria stated in this Ordinance;**
 6. 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;
 7. 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, subdivision plats, and the changes from one nonconforming use to another nonconforming use;

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8. To maintain any records required by this Ordinance including inspection documents, records of all variances, amendments, conditional uses, Development Plan review, and similar use determinations;
9. 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;
10. To conduct or cause the inspection of buildings and uses of land to determine compliance with this Ordinance;
11. To enforce this Ordinance **including but not limited to** investigating and resolving zoning complaints including the authority to order discontinuance of illegal use of land; buildings; structures; signs; and fences; as well as illegal additions, alterations, or structural changes; and any other illegal work or activity being done;
12. 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;
13. To maintain in current status the "Official Zoning District Map" of the City of Fort Thomas;
14. To review, hear, and decide all other matters referred to and upon which the Zoning Administrator is required by this Ordinance;
15. **To review, hear, and decide on administrative modifications as provided for in Section 1.10, Waivers and Modifications;**
16. To collect all administrative fees associated with the administration of this Ordinance as authorized by law;
17. The Zoning Administrator shall have the authority to schedule public hearings when public hearings will be held at regular or announced meetings of the Planning Commission, **the Board of Adjustment, or the Design Review Board;**
18. 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,
19. 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;

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- c. The proposed use is consistent with the Intent statement of, and is most appropriately located in the requested zoning district; and,
- 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 Ordinance 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 Code of 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 Code of 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 City Council on amendments to this Ordinance and the Official Zoning Map, which the

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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 review and make decisions on Alternative Equivalency Review applications, simultaneously with an associated Development Plan application;**
7. To grant waivers to standards and provisions as authorized by this Ordinance; and,
8. 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.
- B. **Procedures.**
 1. The Board of Adjustment shall conduct meetings at the call of the chair, 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.
 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 KRS Chapter 100.
 5. The Board of Adjustment shall have the power to issue subpoenas to compel

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witnesses to attend its meetings and give evidence bearing upon the questions before it.

6. The chair 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 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) 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 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,
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 Code of Ordinances for the City of Fort Thomas, Kentucky.
- B. **Powers and Duties.** In addition to those Powers and Duties specified in Section 36.013 of the Code of Ordinances for the City of Fort Thomas, Kentucky, the Design Review Board shall be empowered to:

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1. Provide recommendations to the Planning Commission as required by this Ordinance;
2. Consider and decide **act on** exemptions, exceptions, and modifications to the Required Design Standards **for the Business and Mixed-Use Districts as provided for in this Ordinance;**
3. **Consider and act on deviations from the Residential Contextual Standards for the Fort Thomas Avenue Overlay District and for the applicable R-1 Districts as provided for in this Ordinance;**
4. **Consider and act on exterior building modifications in the Business and Mixed-Use Districts as provided for in this Ordinance.**
5. **Consider and act as required by this Ordinance in Section 3.9 - Central Business District Historic Overlay District Regulations and Section 3.10 - Tower Park Historic Overlay District Regulations; and,**
6. Review, hear, and decide any other matters upon which the Design Review Board is required to act or to 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 Code of 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 Code of 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 act or to make recommendations under this Ordinance.

1.3.08 BOARD OF COUNCIL.

For the purposes of this 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,
- C. To review, hear, and decide all other matters referred to and upon which the Board of Council is required by this Ordinance and **or** the Kentucky Revised Statutes.

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 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 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 and Mixed-Use Districts, Other Districts, 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,
 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

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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 REVIEW PROCESS.

Development plan reviews should proceed and generally move in phases as shown below. See Table 1.4-1 for an overview of the Development Review Process.

- 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.

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.

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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.

Overview of Development Plan Review Process	
STEP	ACTION
1	Pre-Application Meeting with City Staff Optional
2	WHEN APPLICABLE, STAGE I DEVELOPMENT PLAN REVIEW AND RECOMMENDATION BY: DESIGN REVIEW BOARD
3	WHEN APPLICABLE, STAGE I DEVELOPMENT PLAN REVIEW AND RECOMMENDATION BY: TREE COMMISSION
4	STAGE I DEVELOPMENT PLAN REVIEW AND ACTION BY: PLANNING COMMISSION
5	STAGE II DEVELOPMENT PLAN REVIEW AND ACTION BY: ZONING ADMINISTRATOR

*Table 1.4-1
Overview of Development Plan Review Process*

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 **and this Ordinance**, the Planning Commission shall hold at least one (1) public meeting on any proposed Development Plan application and said application and required fees shall be submitted one (1) month prior to public meeting. Stage I Development Plans shall contain the information as listed on the Development Plan Application and shall be submitted to the City a minimum of twenty (20) days prior to the scheduled public meeting. Whenever practical, the Zoning Administrator may waive the requirement for Stage II Development Plan Review, unless deemed necessary for adequate review. Failure to submit completed plans within this time period may result in cancellation of the scheduled public

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- meeting. All Stage I Development Plans shall be reviewed by the Planning Commission (and the Design Review Board and the Tree Commission when required by this Ordinance) 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 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 Zoning Administrator for compliance with 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 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.

1.4.06 PLAN SUBMISSION REQUIREMENTS.

- A. For the submission requirements for Stage I and Stage II Development Plans, see the 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 on the Development Plan Application. All public improvements shall be designed in conformance with all applicable City standards **including the applicable standards in the Subdivision Regulations in Article VII** and shall be designed and prepared by a licensed professional engineer.

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- C. See Section 5.2 – Environmental Regulations for additional submission requirements for those sites with significant slopes and tree stands.

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 by this Ordinance, except as otherwise provided for herein.
- 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 acted upon pursuant to Sections 36.010 – 36.011 of the Code 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

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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
 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. - Failure of the Planning Commission to Act, 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

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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 **or proposed** 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.
- 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 – Appeals and Variances. 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 **as this criteria relates to the requirements and standards in this Ordinance**. 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;

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- 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,
- J. The proposed conceptual landscaping is designed consistent with the intent **and standards** 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 **as this criteria relates to the requirements and standards in this Ordinance**. 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:

- A. The Development 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;

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- 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;
- 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

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development.

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 of 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 approved Development Plans, **when necessary to effectuate the approved Development Plan**. 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.

1.4.17 EXPIRATION OF DEVELOPMENT PLAN APPROVAL.

Approved Development Plans shall be valid for twelve (12) months. If substantial construction **as defined by this Ordinance**, 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.

SECTION 1.5
Zoning Permits and Certificates of Zoning Compliance

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

- 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 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.

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- C. Applications.
1. Applications for Zoning Permits are available in the City **Building 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 1.11 - Enforcement and Penalties of this Ordinance.
- G. Expiration of Zoning Permit.
1. If a building permit, when required, has not been obtained within ninety (90) 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, **as defined by this Ordinance**, 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 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 building or other structure shall be erected, moved, added to, or structurally altered without a Building Permit issued by the 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.

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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.
 3. Change in Nonconforming Use of Nonconforming Building or Use. A Certificate of Zoning Compliance shall be required whenever a ~~nonconforming~~ building, structure, or land is changed from one nonconforming use 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, when required.

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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~~ **City Attorney**.
- 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 use to be located within any 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 that are specifically named herein which may be suitable only in specific locations in the zoning district only if certain conditions are met:

- 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

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Permit attached to the deed for the property for which it is issued. The Board shall have power to revoke Conditional Use Permits 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, KY. 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 principal building or other improvements have been let; or in the absence of contracts that the 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.

- 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 chair 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 chair 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.

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- 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.

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SECTION 1.7
Appeals and Variances

1.7.01 Appeals of Administrative Decisions.	1.7.04 Appeals from the Final Actions of the Design Review Board.
1.7.02 Variances.	
1.7.03 Appeals from the Final Actions of the Planning Commission, Board of Adjustment, or Legislative Body.	

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.

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.

- 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

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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.

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 a 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 and give public notice in accordance with KRS Chapter 424, as well as written notice to the appellant and the Zoning Administrator at least one (1) calendar week prior to any hearing, and shall render a decision on all requests within sixty (60) consecutive calendar days. The affected party may appear at the hearing in person or by attorney.
 - b. **At the public hearing held by the Board, an interested person may appear and enter his appearance, and shall be given an opportunity to be heard.**

B. Variance Criteria. Findings necessary for granting variances:

1. Before any variance is granted the Board shall 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:

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- a. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity, or in the same zoning district;
 - 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 – Enforcement and Penalties 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 affect 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 zoning district in question, or to alter density requirements in the 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.

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

Any appeal from Planning Commission, Board of Adjustment, or the Legislative Body action 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) 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

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- 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 **or other final actions authorized by this Ordinance,** 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. Other persons speaking at the public hearing are not required to be made parties to such 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.

**SECTION 1.8
Amendments**

1.8.01 Declaration of Public Policy.	1.8.05 Examination of Applications.
1.8.02 Limitations 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 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. 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;
 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.

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- C. Uniformity of Zoning Regulations. No amendment to this Ordinance shall be adopted whereby the regulations and restrictions established thereby are not uniform for each 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 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.

1.8.05 EXAMINATION OF APPLICATIONS.

Upon receipt of a complete application, as defined by KRS 100.211, for an amendment, 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.

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 **and notice of the public hearing shall be provided as required by KRS 100.** The Planning Commission shall forward written notice of its findings and recommendations, **as required by KRS 100.211,** 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.

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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.
- c. **In the case of a map amendment, either the Board of Council or the Planning Commission shall make the findings required by KRS 100.213.**

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 Business, Mixed-Use, Other, Special, or Multi-family Residential zoning district 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 - Amendments and shall include a Stage I Development Plan in accordance with the applicable requirements of Section 1.4 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.

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5. If the detailed engineering data required under Section 1.4 - Development Plan Review Procedures, was 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 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;
 - 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, **as defined by this Ordinance**, 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.

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; Permit Required for Change.
1.9.05	Nonconforming Structures Excluding Signs.		

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 nonconforming uses so as to minimize any adverse effects the uses might have on the adjoining properties and development;
- B. To ~~continue~~ **allow** 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.

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.

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- 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 **considered to be** 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 zoning district change. If a zoning district 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 shall 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 zoning district in which it is located, the part or whole which has been made to conform shall not thereafter be changed in such manner as would be nonconforming.

1.9.03 NONCONFORMING LOTS OF RECORD.

A legal nonconforming lot is defined in Article 1.1 – Definitions and Measurements. A lot shall not be reduced below the minimum lot area, minimum lot width, **or other dimensional requirements of this Ordinance** 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 **lawfully established** 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 that fails to comply with the minimum lot area or other dimensional requirements required by the particular zoning district wherein

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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 Adjustment in accordance with Section 1.7 - Appeals & Variances of this Ordinance.

1.9.04 NONCONFORMING USES.

A legal nonconforming use is defined in Article 1.1 – Definitions and Measurements. 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 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.
- 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:
 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.)
 3. As used in this sub-section D., “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.

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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. **For multi-family dwellings, any enlargement or alterations shall follow all setback requirements for the district in which it is situated. For single-family detached and two-family dwellings, any enlargement or alterations shall follow all setback requirements for the R- 1C district, and new accessory structures may be constructed provided they meet the requirements of applicable to 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 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:
 - a. A written application for a change from one nonconforming use to another (including the required fee) and a Development Plan, if applicable, subject to the applicable requirements of Section 1.4 - Development Plan Review

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Procedures, shall be submitted to the Board.

- b. Notice of public hearing shall be given in accordance 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 zoning district 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 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 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.

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- 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 and Measurements. 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 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. 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.
- 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

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may likewise extend into the required side setback, as long as ~~it~~ **the addition** 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 (5) feet, even if a proposed addition is not extending any further into the required side setback.

1.9.06 NONCONFORMING SITE CONDITIONS.

A legal nonconforming site condition is defined in Article 1.1 – Definitions and Measurements. 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 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 - Development Plan Review Procedures, 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, Loading and Access Requirements, shall comply with the requirements of sub-section 5.5.19 - 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 5.7.12 in Section 5.7 - Sign Regulations.

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

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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~~ Board of Adjustment according to the procedures for conditional uses set forth in Section 1.6 - Conditional Use Permits.

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SECTION 1.10 Waivers, Modifications, & Equivalency

1.10.01	Intent.	1.10.05	Deviations, Exceptions, and
1.10.02	Waivers by Planning Commission.		Modifications by the Design Review
1.10.03	Flexible Administrative Modification		Board.
	Rules.	1.10.06	Alternative Equivalency Review.
1.10.04	Development Plan Modifications for	1.10.07	Notice & Public Hearing for Waivers.
	Some Public & Semipublic Uses.		

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 BY PLANNING COMMISSION.

- 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.
- B. Application Requirements. When requesting a waiver from the Planning Commission, the applicant shall 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,
 - 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 finding that:

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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. **The applicant has demonstrated the presence of existing site or building constraints, if required to do so by the applicable zoning district; and,**
 5. **The applicant has demonstrated any other requirements mandated by this Ordinance; and,**
 6. 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.
- E. **Appeals. Any person or entity claiming to be injured or aggrieved by any final action of the Planning Commission shall have the right to appeal the decision as established in Section 1.7 - Appeals and Variances.**

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 - Appeals & Variances. Neither a denial of an administrative waiver nor an unsuccessful appeal to that denial prevents the applicant from seeking a variance to the standard.

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 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 centers, schools (public/private) elementary/secondary, 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 **and in this Ordinance**, as follows:
 - 1. More than one building may be permitted on a single lot **or zoning lot**;
 - 2. The minimum lot width at minimum building setback line, minimum side setback requirements, minimum rear setback, 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 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 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, shall be public streets. Any 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 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 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 shall be initiated. It may prescribe a sequence in which order of development shall 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

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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.

1.10.05 DEVIATIONS, EXCEPTIONS, & MODIFICATIONS BY THE DESIGN REVIEW BOARD.

- A. General. The Design Review Board may grant deviations, exceptions, and/or modifications to certain standards and minimum requirements where expressly permitted to do so in this Ordinance. Deviations, exceptions, and/or modifications may include adjustments to or reductions from standards and minimum requirements.
- B. Application Requirements. When requesting a deviation, exception, and/or modification from the Design Review Board, the applicant shall indicate the request on the applicable application and include a Statement of Justification that addresses, as applicable, the following items:
1. Demonstration that the deviation, exception, and/or modification will not adversely affect adjacent property owners; and,
 2. The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant; and,
 3. Any site or building constraints that prevent compliance; 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 (net beneficial effect) and meet the intent of the requirement; 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.
- C. Findings Necessary for Granting of Waiver. The Design Review Board may approve the request upon finding that:
1. The applicant has demonstrated that the request will not adversely affect adjacent property owners; and,
 2. The extent of adjustment to the regulation is the minimum necessary to afford relief to the applicant; and,
 3. Either:

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- a. The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements (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 Design Review Board may impose additional conditions or restrictions intended to mitigate the impact of the deviation, exception, or modification. These conditions or restrictions shall be considered as binding elements.
- E. Appeals. Any person or entity claiming to be injured or aggrieved by any final action of the Planning Commission shall have the right to appeal the decision as established in Section 1.7 - Appeals and Variances.

1.10.06 ALTERNATIVE EQUIVALENCY REVIEW.

- A. Purpose. Alternative equivalency review is a procedure that allows applicants to propose unique design options as an alternative to a development standard established in this Ordinance provided it meets or exceeds the intent of the design-related provisions. It is not a variance, waiver, or weakening of regulations; rather, this procedure permits a site-specific plan that is equal to or better than the strict application of a standard specified in this Ordinance. Alternative equivalency review shall apply only to the specific site for which it is requested and does not establish a precedent for assured approval of other requests.
- B. Applicability.
1. The Alternative Equivalency Review procedure shall be available only for the following sections of this Ordinance:
 - a. Section 5.3, Landscaping, Screening, and Lighting Regulations;
 - b. Section 5.4, Conditional Use and Restricted Use Regulations; and,
 - c. Section 5.5, Off-Street Parking, Loading, and Access Regulations
 2. Where an applicant is seeking a variance of standards that is not an alternative equivalency review, such application shall comply with Section 1.7 - Appeals and Variances.
- C. Review Timing and Decisions.
1. A request for alternative equivalency review shall be made concurrently with the applicable Development Plan application.
 2. The Planning Commission shall have the authority to work with an applicant on an alternative equivalency approach to meeting the applicable standards as part of development plan review, regardless if a formal application is made.

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3. The Planning Commission shall have the authority to approve, approve with conditions, or deny the alternative equivalency review application. Such action shall be separate from the decision on the applicable development plan application.
- D. Review Criteria. Decisions on an alternative equivalency review application shall be based on consideration of the following criteria:
1. That the proposed alternative achieves the intent of the subject design or development standard to the same or better degree than the subject standard;
 2. That the proposed alternative achieves the goals and policies of the Comprehensive Plan to the same or better degree than the subject standard;
 3. That the proposed alternative results in benefits to the community that are equivalent to or better than compliance with the subject standard; and
 4. That the proposed alternative imposes no greater impacts on adjacent properties than would occur through compliance with the specific requirements of this Ordinance.
- E. Conditions. The Planning Commission may impose conditions on an approval for alternative equivalency review provided such conditions are related to ensuring the performance of the alternative equivalency review to meet or exceed the subject standard. Such conditions may include, required timeframes, amendments or revisions to the proposal, or the ability to revoke an approval for alternative equivalency review.
- F. Decisions.
1. If the Planning Commission approves the alternative equivalency review application, the Planning Commission shall make a written finding stating and explaining how the proposal has satisfied the equivalency review criteria.
 2. Any decision on an alternative equivalency review application shall not be binding on the City related to future applications requesting an alternative to any of the applicable standards. Each case shall be reviewed and decided upon based on the individual circumstances.
- G. Time Limit.
1. An approval of an alternative equivalency review application shall expire if the Development Plan approval or Zoning Permit approval such alternative equivalency review application is associated with expires.
 2. Upon expiration of an alternative equivalency review approval, a new application, including all applicable fees, shall be required before a new application will be reviewed.
- H. Appeals. Any person or entity claiming to be injured or aggrieved by any final action of the Planning Commission shall have the right to appeal the decision as established in Section 1.7 - Appeals and Variances.

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1.10.07 NOTICE AND PUBLIC HEARING FOR WAIVERS.

The Planning Commission and the Design Review Board, as applicable, shall hold a public hearing for waiver requests, and the applicable board or commission shall fix a reasonable time for the public hearing and give public notice in accordance with KRS Chapter 424, as well as written notice to the appellant at least one (1) calendar week prior to any hearing, and shall render a decision on all requests within sixty (60) consecutive calendar days. The affected party may appear at the hearing in person or by attorney.

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**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. The Zoning Administrator may be provided with assistance of such other persons as the City of Fort Thomas, KY 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
- 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 repair, condition, stipulation, or safeguard set forth in any

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- notice, 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 Zoning Administrator of the City of Fort Thomas, KY.

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.

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, the Zoning Administrator 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

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- 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 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 authorized by this Ordinance to ensure 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.
- F. 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~~ this 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 sub-section 5.2.04, 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.

SECTION 3.0
River Preservation District and Conservation District Regulations

3.0.01	Intent.	3.0.05	Performance Standards.
3.0.02	Use Regulations.	3.0.06	Other Development Controls.
3.0.03	Development Standards.	3.0.07	Development Plan Review.
3.0.04	Accessory Use & Structure Regulations		

3.0.01 INTENT.

The River Preservation (RP) and the Conversation (CO) Districts are created to conserve open space because of natural scenic assets, terrain limitations, streams and storm drainage, woodlands, and the adaptability for predominantly passive recreational purposes.

3.0.02 USE REGULATIONS.

- A. Compliance with Standards. Although a use may be indicated as a permitted use in a particular district, it shall not be approved on a lot unless it can be located thereon in full compliance with all of the standards and other regulations of this Ordinance applicable to the specific use and lot in question, including but not limited to any supplemental use-specific standards cross-referenced in Schedule 3.0.02 C.
- B. Organization of Use Table. In the Use Schedule, land uses are classified into general use categories and specific uses based on common physical or functional characteristics, such as type of dwelling unit, amount of activity generated by the use, and site conditions. Whenever a standard or reference is made to a general use category throughout this Ordinance, it shall include the specific uses in that category.
- C. Schedule 3.0.02 C. Permitted Uses. Schedule 3.0.02 C. sets forth the uses allowed in the River Preservation and Conservation Districts. The abbreviations used in the Schedule are defined in sub-section 1.2.02 B.

Example Development



For illustrative purposes only

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and **Deletions**

Schedule 3.0.02 C. Permitted Uses in the River Preservation and Conservation Districts			
	RP	CO	Use-Specific Regulations
1. Community Facilities/Institutions			
a. Community center	P		
b. Cultural institution	P		
c. Public facility	P	P	
d. Public park/playground	P	P	
e. Utility substation/distribution facility, indoor/outdoor	C	C	Section 5.4
2. Other			
a. Agriculture	R	R	Section 5.4
b. Campground/Recreational vehicle park	C		Section 5.4
c. Country club	P		
d. Open space	P	P	
e. Open space, common	P	P	
f. Open space recreation area	C		Section 5.4
g. Pleasure boat harbors and marinas	C		Section 5.4
h. Public boat landing or launching facilities	C		Section 5.4
i. Recreational dockage facilities	C		Section 5.4
j. Riding academies and stables, commercial	C	C	Section 5.4
k. Stables, personal	C	C	Section 5.4
l. Sexually oriented businesses	P		
m. Wireless telecommunication facility	See Section 5.6		
3. Accessory Uses			
a. Fences, walls	A	A	Section 5.1
b. Off-street parking	A	A	Section 5.3 & 5.5
c. Other accessory structures	A	A	Section 5.1 & sub-section 3.0.04
d. Outdoor sales /display of merchandise in association with a permitted use	A		Section 5.1
e. Outdoor storage of general materials, fleet vehicles, and equipment	A		Section 5.1
f. Signs	A	A	Section 5.7
g. Solar Energy System, integrated	A	A	Section 5.1
h. Solar Energy System, rooftop	A	A	Section 5.1
i. Trash receptacle	A	A	Section 5.3
Notes to Schedule 3.0.02 C.:			
P = Principal Permitted By-Right Use R=Restricted Use C=Conditional Use Blank Cell = Not Permitted A = Accessory Use			

D. Similar Uses. See Section 1.3 – Powers and Duties, sub-section 1.3.02 B. 19.

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and ~~Deletions~~

3.0.03 DEVELOPMENT STANDARDS.

- A. All buildings, parking areas, and land in the River Preservation and Conservation Districts shall comply with the requirements set forth in Schedule 3.0.03 B. See Section 5.4 - Conditional Use and Restricted Use Regulations, for additional development regulations for Conditional and Restricted Uses.
- B. Schedule 3.0.03 B., Development Standards in the River Preservation and Conservation Districts.

Schedule 3.0.03 B. Development Standards in the River Preservation and Conservation Districts		
	River Preservation RP	Conservation CO
1. Minimum lot area ^(a)	5 acres	5 acres
2. Minimum lot width	100 feet	300 feet
3. Minimum front setback	25 feet	100 feet
4. Minimum principal building setback abutting a non-residential district		
a. Minimum side	15 feet	50 feet
b. Minimum rear	35 feet	50 feet
5. Minimum principal building setback abutting a residential district	100 feet	100 feet
6. Minimum off-street parking area setback		
a. Public rights-of-way	50 feet	50 feet
b. Residential districts	50 feet	50 feet
c. All other lot lines	25 feet	25 feet
7. Maximum height of principal building	25 feet	25 feet
8. Maximum height of accessory building	25 feet	25 feet

Notes to Schedule 3.0.03 B.

- (a) See sub-section 5.0.11D., Exception to the Minimum Frontage Along a Dedicated Right-of-Way, for lots used as open space and common open space.

3.0.04 ACCESSORY USE AND STRUCTURE REGULATIONS.

- A. Accessory uses and accessory structures permitted in the River Preservation and Conservation Districts shall conform to the regulations in this Section and other applicable Sections of this Ordinance including Section 5.1 - Temporary and Accessory Use/Structure Regulations.

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and ~~Deletions~~

- B. Accessory buildings with a gross floor area of 200 square feet or less shall be located in a side or rear yard and shall comply with the applicable parking setbacks set forth in Schedule 3.0.03 B. Accessory buildings with more than 200 square feet of gross floor area shall comply with the principal building setback regulations in Schedule 3.0.03 B. and shall submit a development plan in compliance with Section 1.4 - Development Plan Review Procedures.

3.0.05 PERFORMANCE STANDARDS.

Every use shall comply with the following performance standards as well as any other applicable performance standards in this Ordinance.

- A. Trash Receptacles. All solid waste products, including empty packing boxes, that result from any permitted principal by-right, restricted, conditional, or accessory use shall either be disposed of, stored in buildings, or held for removal in completely enclosed in containers. Such structure, container, or waste receptacle, including any screening structure and landscaping, shall be located in a side or rear yard and shall comply with the applicable minimum parking **area** setback set forth in this Section and shall be screened in accordance with the provisions set forth in Section 5.3 - Landscaping, Screening & Lighting Regulations.
- B. Outdoor Storage. Outdoor storage of general materials, fleet vehicles, and equipment as permitted in Schedule 3.0.02 C. shall be permitted only when accessory to a principal permitted, restricted, or conditional use in compliance with the following regulations in **Sections 5.1, Accessory and Temporary Uses and 5.3 - Landscaping, Screening, and Lighting Regulations**:

1. ~~Outdoor storage of materials, fleet vehicles, and equipment shall only include the storage of goods, materials, equipment or products customary associated with the principal use. The storage of radioactive, toxic or otherwise hazardous materials shall not be permitted.~~
2. ~~All outdoor storage of goods, materials, fleet vehicles, and equipment shall be enclosed with a solid wall or fence, including solid gates. The wall or fence shall have a height tall enough to conceal all materials therein from the view of any observer standing at grade level. However, in no case shall the height of the fence or wall be less than six feet. The solid wall or fence and the associated gates shall be maintained in good condition. No barb or razor wire shall be permitted.~~
3. ~~All outdoor storage shall be stored in such a fashion as to be accessible to fire-fighting equipment at all times.~~
4. ~~Areas devoted to outdoor storage shall be located in a rear yard so that it is behind the principal building and not visible from any public street, unless the outdoor storage is located on a corner lot. Enclosed storage areas devoted to outdoor storage shall be setback 50 feet from any property boundary that abuts a Residential Districts. In no case shall the side and rear setback of the enclosed area be less than ten (10) feet.~~
5. ~~All equipment and fleet vehicles shall be in an operable state. In no case shall inoperable equipment and vehicles be stored outdoors overnight.~~
6. ~~Any proposed outdoor storage areas shall be approved as part of a development~~

These regulations are now in Article V, so they should not be here as well.

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and ~~Deletions~~

~~plan review in accordance with Section 1.4.~~

- C. Lighting. No lighting shall be permitted which would glare from this District on to any street, road, highway, and ~~dede~~ **dedicated** right-of-way or into any residential zoning district (See Section 5.3 - Landscaping, Screening, and Lighting Regulations).
- D. Objectionable External Impacts. No use producing objectionable odors, noise, or dust shall be permitted within 500 feet from the boundary of any residential district and must comply with the performance standards in sub-section 5.0.13 of this Ordinance.

3.0.06 OTHER DEVELOPMENT CONTROLS.

- A. Certificate of Approval from the City Engineer. All principal permitted by-right, restricted, conditional, and temporary uses permitted in the River Preservation and the Conservation Districts shall require a certificate of approval from the City Engineer certifying his approval of the type of, and manner of, construction to be built (insuring that such construction shall not cause flood hazards, soil erosion, adverse changes in the natural drainage courses or unnecessary destruction of natural features) which completed certificate shall be submitted to the appropriate officer or Board, as required herein, at time of request.
- B. Dwelling Units. Dwelling units, **except those associated with a campground or a recreational vehicle park**, both permanent and seasonal, are not permitted in River Preservation and Conservation Districts.
- C. Additional Regulations that Apply. For other regulations applicable to uses; structures; and buildings in the River Preservation and Conservation Districts, see Article V – Regulations Applicable to All Districts including:

5.0	General Regulations
5.1	Temporary and Accessory Use/Structure Regulations
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
5.7	Sign Regulations

3.0.07 DEVELOPMENT PLAN REVIEW.

All uses, structures, and buildings in the River Preservation and Conservation Districts shall only be permitted after Development Plans have been reviewed and approved according to the procedures set forth in Section 1.4 - Development Plan Review Procedures.

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and ~~Deletions~~

SECTION 3.1
Single-Family and Two-Family District Regulations

3.1.01	Intent.	3.1.05	Projections into Required Setbacks.
3.1.02	Use Regulations.	3.1.06	Performance Standards.
3.1.03	Development Standards.	3.1.07	Other Development Controls.
3.1.04	Residential Contextual Standards.	3.1.08	Development Plan Review.

3.1.01 INTENT.

Single-family and Two-family Residential Districts (R-1AA, R-1A, R-1B, R-1C, R-1D, ~~R-1-CBD~~, **R-1-TC1, R-1-TC2**, and R-2) and their regulations are established in order to achieve the following purposes:

- A. To regulate the size and location of dwellings, accessory buildings, and other structures in order to preserve privacy and allow for useable open space on each lot appropriate for the residential zoning district;
- B. To regulate the density and distribution of population consistent with the City of Fort Thomas Comprehensive Plan and thereby avoid the overburdening of existing and proposed municipal facilities and public services;
- C. To reflect the existing substantially developed patterns in Fort Thomas and minimize non-conforming conditions and thereby facilitate investment that is within the public interest without the necessity of requiring variances;
- D. To foster a variety of residential living units with respect to lot sizes and the types and density of dwelling units while protecting the character of the City;
- E. To preserve the character of unique neighborhoods by creating separate districts with different densities and development standards.

3.1.02 USE REGULATIONS.

- A. Compliance with Standards. Although a use may be indicated as a permitted use in a particular district, it shall not be approved on a lot unless it can be located thereon in full compliance with all of the standards and other regulations of this Ordinance applicable to the specific use and lot in question, including but not limited to any supplemental use-specific standards cross-referenced in Schedule 3.1.02 C.
- B. Organization of Use Table. In the Use Schedule, land uses are classified into general

Example Development



For illustrative purposes only

Significant changes from the Phase 2 draft are noted: Substantive Additions and Deletions

use categories and specific uses based on common physical or functional characteristics, such as type of dwelling unit, amount of activity generated by the use, and site conditions. Whenever a standard or reference is made to a general use category throughout this code, it shall include the specific uses in that category.

- C. Schedule 3.1.02 C. Permitted Uses. Schedule 3.1.02 C. sets forth the uses allowed in the Single-Family and Two-Family Districts. The abbreviations used in the Schedule are defined in sub-section 1.2.02 B.

Schedule 3.1.02 C. Permitted Uses in the Single-Family and Two-Family Districts								
	R-1AA	R-1A	R-1B	R-1C	R-1D	R-1-TC1/ R-1-TC2 CBD	R-2	Use-Specific Regulations
1. Residential								
a. Single-family dwelling, detached	P	P	P	P	P	P	P	
b. Two-family dwelling			<u>R</u>	<u>R</u>		<u>R</u>	P	Section 5.4
c. Residential care facility for persons with disabilities	P	P	P	P	P	P	P	
2. Community Facilities/Institutions								
a. Community center	C	C	C	C	C		C	Section 5.4
b. Day care center, adult or child	C	C	C	C	C		<u>C</u>	Section 5.4
c. Institutions for human medical care	C	C	C	C	C			Section 5.4
d. Places of worship	C	C	C	C	C		C	Section 5.4
e. Public facility	R	R	R	R	R		R	Section 5.4
f. Public park/playground	R	R	R	R	R	R	R	Section 5.4
g. School (public/private), college/university	C	C	C	C	C		C	Section 5.4
h. School (public/private), elementary/secondary	C	C	C	C	C		C	Section 5.4
i. Utility substation/ j. distribution facility, <u>indoor/outdoor</u>	C	C	C	C	C		C	Section 5.4
3. Other								
a. Cemetery	C	C	C	C	C		C	Section 5.4
b. Country club	C	C	C	C	C		C	Section 5.4
c. Funeral homes without crematorium				C	C		C	Section 5.4
d. Open space recreation area	C	C	C	C	C		C	Section 5.4

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and **Deletions**

Schedule 3.1.02 C. Permitted Uses in the Single-Family and Two-Family Districts								
	R-1AA	R-1A	R-1B	R-1C	R-1D	R-1-TC1/ R-1-TC2 CBD	R-2	Use-Specific Regulations
e. Wireless telecommunication facility	See Section 5.6							
4. Accessory Uses/Structures								
a. Accessory dwelling unit	A	A	A	A	A	A	A	Section 5.1
b. Agriculture	R							Section 5.4
c. Family child-care home	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	
d. Fences, walls	A	A	A	A	A	A	A	Section 5.1
e. Home occupation	A	A	A	A	A	A	A	Section 5.1
f. Other accessory structures	A	A	A	A	A	A	A	Section 5.1
g. Semi-public swimming pool	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	Section 5.1
h. Short-term rental properties	A	A	A	A	A	A	A	Section 5.1
i. Signs	A	A	A	A	A	A	A	Section 5.7
j. Solar energy system, integrated	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	Section 5.1
k. Solar energy system, rooftop	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	Section 5.1
Notes to Schedule 3.1.02 C.:								
P = Principal Permitted By-Right Use R=Restricted Use C=Conditional Use Blank Cell = Not Permitted A = Accessory Use								

D. Similar Uses. See Section 1.3 – Powers and Duties, sub-section 1.3.02 B. 19.

3.1.03 DEVELOPMENT STANDARDS.

A. All buildings, parking areas, and land in the Single-Family and Two-Family Districts shall comply with the requirements set forth in Schedule 3.1.03 B. See Section 5.4 - Conditional Use and Restricted Use Regulations for additional development regulations for Conditional and Restricted Uses.

B. Schedule 3.1.03 B., Development Standards in the Single-Family and Two-Family Districts.

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and ~~Deletions~~

Schedule 3.1.03 B. Development Standards in the Single-Family and Two-Family Districts ^(c)								
	R-1AA	R-1A	R-1B	R-1C	R-1D	R-1-TC1	R-1-TC2	R-2
1. Minimum lot area (square feet)	43,560	9,500	7,500	7,000	13,000	3,400	5,600	8,000
2. Minimum lot width (feet)	150	75	65	60	85	45	<u>65</u>	75
3. Minimum principal building setback (feet)								
a. Minimum front	40 ^(a)	30 ^(a)	30 ^(a)	25 ^(a)	30 ^(a)	(b)	<u>(b)</u>	25 ^(a)
b. Minimum side	12	10	5	5	10	3	<u>5</u>	8
c. Combined minimum side setback for both sides	38	NA	14	14	NA	9	<u>14</u>	NA
d. Minimum rear	40	40	30	25	40	20	<u>20</u>	30
4. Minimum gross floor area per dwelling unit (square feet)	1500	1000	800	800	1000	800	<u>800</u>	500
5. Maximum height of principal building (feet)	35 feet or 2.5 stories	35 feet or 2.5 stories	35 feet or 2.5 stories	35 feet or 2.5 stories	35 feet or 2.5 stories	35 feet or 2.5 stories	<u>35 feet or 2.5 stories</u>	35 feet or 2.5 stories
6. Maximum height of accessory building (feet)	15	15	15	15	15	15		15

Notes to Schedule 3.1.03 B.
^(a) See sub-section 3.1.03 C.
^(b) See sub-section 3.1.03 C. 4.
^(c) **For nonconforming lots and structures, see Section 1.9 - Nonconforming Uses, Lots, Structures, & Site Conditions**
 NA = Not Applicable

C. Front Setback Requirements.

1. Increasing the Required Front Setback. Where the average depth of existing front setbacks within three hundred (300) feet of the lot in question and within the same block front, is greater than the minimum front setback depth prescribed in this Section, the required minimum front setback depth on such lot shall be modified to be the average depth of said existing front setbacks provided; however, that the depth of the front setback on any such lot shall not be greater than sixty (60) feet. In instances where more than one building can be constructed within the three hundred (300) feet, the minimum front setback required shall be determined by uniform successive setbacks in order to establish a gradual adjustment of front setback requirements. No required minimum front setback shall be less than the average depth of existing front setbacks on the lots abutting on each side.

Significant changes from the **Phase 2** draft are noted: **Substantive Additions** and **Deletions**

2. Decreasing the Required Front Setback. In any residential district, no front setback shall be required to exceed the average depth of existing front setbacks on the same side of the street within three hundred (300) feet, when fifty-one percent (51%) or more of lots within that distance are improved with residential buildings having less than the required minimum front setback.
3. Maximum Front Setback in R-1B and R-1C. **In the R-1B and R-1C Districts, the maximum front setback shall be Minimum Setback established in Schedule 3.1.03 B., Development Standards in the Single-Family and Two-Family Districts, plus 7 feet or the abutting maximum whichever is closest to the street right-of-way. The abutting maximum is defined as the setback of the abutting principal structure, which for the purposes of this sub-section is the principal dwellings located next door, that is located the furthest from the street right-of-way.**

If the Planning Commission concurs with this Maximum Front Setback, an illustration will be provided in Section 1.1 during Phase 4.

4. Front Setback in the R-1-TC1 and R-1-TC2. In the R-1-TC1 and R-1-TCS Districts, the minimum front setback shall be the average setback of adjacent principal buildings. Such minimum front setback shall be the average distance, or within three (3) feet of such average, of the front setbacks of the four lots, two on either side, of the lot in question.

3.1.04 RESIDENTIAL CONTEXTUAL STANDARDS.

The purpose of the following residential contextual standards is to further the goals of the Comprehensive Plan and the Intent Statements in this Section. The Comprehensive Plan sets out the following goals and objectives:

- Maintain and improve our housing stock and neighborhoods.
- Promote continued neighborhood investment through renovations and rehabilitation of homes, along with compatible additions and new infill construction and other improvements that help neighborhoods retain their viability and desirability.
- Encourage sensitive renovations to older homes as a way of retaining the original character of Fort Thomas neighborhoods.
- Ensure that new housing is compatible with the character of the surrounding area.

The regulations below are tailored to fulfill these goals and objectives so that infill development in the City's traditional neighborhoods retains and enhances the City's original residential built environment that is recognized and valued in the City's Comprehensive Plan.

- A. Applicability. In the R-1A, R-1B, R-1C, ~~R-1-CBD~~, **R-1-TC1, R-1-TC2**, and R-2 zoning districts, all new single-family detached dwellings, constructed on lots of record **or on parts of lots of record** that existed as of August 1, 2024, shall comply with the regulations in this sub-section. These regulations in sub-section 3.1.04 shall not apply to single-family detached dwellings constructed on flag lots.

Significant changes from the **Phase 2** draft are noted: **Substantive Additions** and **Deletions**

- a. **Attached Garages.** On lots less than fifty (50) feet in width, street-facing garages are prohibited except that **street-facing garages are permissible when located at the grade of the abutting public street** provided they are located **but** in the basement or below the first floor of the dwelling. See



Figure 3.1-1 - Illustration of a permissible street facing garage that is located at the grade of the adjacent street, but below the first floor of the dwelling

- b. On lots equal to or greater than fifty (50) feet in width, street-facing garages shall not:
- i. Protrude beyond the wall of the livable portion of the dwelling; and,
 - ii. Occupy more than fifty percent (50%) of the ground level/**first floor** street-facing building façade.
- c. When permitted, street-facing garages shall incorporate at least one (1) of the following design features:
- i. Each garage door includes transparent or opaque windows;
 - ii. To provide variation **and interest** in the appearance of the garage door(s), garage doors incorporate decorative hinges or hardware that may be functional or aesthetic and/or simulated woodwork;
 - iii. Garage doors include an overhang, eave, trellis, arbor, awning, or other similar architectural feature that projects at least 16 inches beyond the front wall plane of the street facing facade;
 - iv. Garage doors are flanked on either side by vertical design elements like columns, pilasters, posts, or similar vertical feature;
 - v. The story/floor above the garage is cantilevered over or overhangs the garage by at least 18 inches;
 - vi. The garage is set back or recessed at least 18 inches from the primary mass of the street facing façade; or,

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and **Deletions**

- vii. The garage door(s) are painted a color other than white to complement the street facing façade.



Figure 3.1-2 - Example of a street-facing garage that includes an overhang



Figure 3.1-3 - Example Of street-facing garage that is recessed from the primary mass of the home



Figure 3.1-4 - Example of transparent windows and decorative hardware



Figure 3.1-5 - Example of garage door flanked by columns

- d. Side-loaded garages may be closer to the street than the primary entrance to the dwelling, provided the garage facade facing the street includes compatible design features found on the other facades of the dwelling, including but not limited to:
 - i. Windows;
 - ii. Eaves;
 - iii. Overhangs;
 - iv. Decorative trim;
 - v. Material changes; or

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and ~~Deletions~~

- vi. Other architectural features included for the sake of compatibility with the dwelling.



Figure 3.1-6 - Example of Side-Loading, Protruding Garage that incorporates features compatible with the dwelling

1. **Building Orientation.** The primary entrance to the residence shall face the public street, and the front wall of the principal structure shall be parallel to the street or to its tangent, if the street is curved.
2. **Side and Rear Facades.** Although the front facade of a principal building is expected to be the primary focal point in terms of architectural character and features, all sides of a dwelling should incorporate architectural detailing and/or windows that complement the front facade and provide visual interest.
 - a. ~~Blank walls void of windows or doors and architectural detailing are prohibited on any street facing façade.~~
- B. **Design Review of New Single-Family Detached Dwellings.** The Zoning Administrator shall review new single-family detached dwellings for compliance with the standards in this subsection. If an applicant wishes to deviate from these standards, the application will be forwarded to the Design Review Board, and the Design Review Board may permit deviations, **pursuant to Section 1.10 Waivers, Modifications, and Equivalency**, when appropriate due to site constraints or applicant's request to meet the intent of the standard in an equal or better way than strict adherence to the standard.

3.1.05 PROJECTIONS INTO REQUIRED SETBACKS.

Permitted encroachments into required setbacks shall be limited to the following:

- A. In all setbacks:
 1. Awnings, terraces, uncovered porches and canopies not over four (4) feet in width; walks, steps, fire escapes, chimneys, cornices, eaves, and ornamental architectural features projecting three (3) feet or less into the required minimum setback;
 2. Flagpoles, birdbaths, ornamental water fountains, yard lampposts;
 3. Fences and walls subject to the requirements in Section 5.1 - Temporary and Accessory Use/Structure Regulations of this Ordinance.
 4. **Driveways may extend to the property line in all yards except driveways shall be set back a minimum of 10 feet from the rear property line.**

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and ~~Deletions~~

- B. In the front setback:
1. ~~One~~ **Two**-story bay windows projecting three (3) feet or less into the minimum required setback;
 2. Overhanging eaves and gutters projecting three (3) feet or less into the minimum required front setback, and
 3. Open porches projecting not more than ten (10) feet into the minimum front setback providing there is a minimum of five (5) feet between the edge of the open porch and the front lot line.
- C. In the rear setback:
1. ~~One~~**Two**-story bay windows, projecting three (3) feet or less into the minimum required rear setback;
 2. Overhanging eaves and gutters projecting three (3) feet or less into the minimum required rear setback;
 3. Play equipment, arbors and trellises not projecting more than six (6) feet into the minimum required rear setback.
 4. Open porches, uncovered porches, decks, patios, and terraces projecting not more than fifteen (15) feet into the minimum required rear setback providing there is a minimum of fifteen (15) feet between the edge of the **projection** ~~appurtenance~~ and the rear lot line.
- D. In the side setback, overhanging eaves, gutters, and chimneys, projecting thirty (30) inches or less into the minimum required side setback; arbors, trellises and play equipment.

3.1.06 PERFORMANCE STANDARDS.

Every use shall comply with the following performance standards as well as any other applicable performance standards in this Ordinance.

- A. Outdoor Storage. No outdoor storage of any material (usable or waste) shall be permitted in this District except within enclosed metal containers or approved equal.
- B. Lighting. No lighting shall be permitted which would glare from this District on to any street, road, highway, and ~~deded~~ **dedicated** right-of-way or into any residential district. (See Section 5.3 - Landscaping, Screening, and Lighting Regulations).

3.1.07 OTHER DEVELOPMENT CONTROLS.

- A. More than One Building on a Single Lot. In the R-2 District, more than one principal building may be permitted on a single lot of more than 8,000 square feet provided that the lot is contiguous with a development in a R-3 District.
- B. One Dwelling per Lot. In the R-1 Districts, there shall not be more than one (1) dwelling unit constructed on a zoning lot, except as otherwise permitted in this Ordinance.

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and ~~Deletions~~

- C. Off-Street Parking and Loading Regulations. Off-street parking and loading or unloading shall be provided in accordance with Section 5.5 of this Ordinance.
- D. Landscaping, Screening, and Lighting Regulations. Screening and landscaping shall be required for Conditional and Restricted uses in accordance with the provisions set forth in Section 5.4 - Conditional Use and Restricted Use Regulations and Section 5.3 - Landscaping, Screening, and Lighting Regulations.
- E. Accessory Structures and Uses. Accessory structures and uses shall comply with the requirements in Section 5.1 - Temporary and Accessory Use/Structure Regulations.
- F. Unightly or Unsanitary Storage. See Section 5.0 - General Regulations.
- G. Additional Regulations that Apply. For other regulations applicable to uses; structures; and buildings in the Single-Family & Two-Family Districts, see Article V – Regulations Applicable to All Districts including:

5.0	General Regulations
5.1	Temporary and Accessory Use/Structure Regulations
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
5.7	Sign Regulations

3.1.08 DEVELOPMENT PLAN REVIEW.

All uses in the Single-family and Two-family Districts, except those uses specifically excluded in sub-section 1.4.02 B. - Exceptions, shall be permitted only after development plans have been reviewed and approved according to the procedures set forth in Section 1.4 - Development Plan Review Procedures.

SECTION 3.3
Residential Cluster Development Overlay District Regulations

3.3.01	Intent.	3.3.07	Fences, Walls, and Signs.
3.3.02	General.	3.3.08	Erosion & Sedimentation Control.
3.3.03	Use and Density Regulations.	3.3.09	Common Open Space – Recreation Area.
3.3.04	Area Requirements.	3.3.10	Amendments.
3.3.05	Height and Setback Requirements.	3.3.11	Other Development Controls.
3.3.06	Off-Street Parking & Loading and/or Unloading.	3.3.12	Application & Processing.

3.3.01 INTENT.

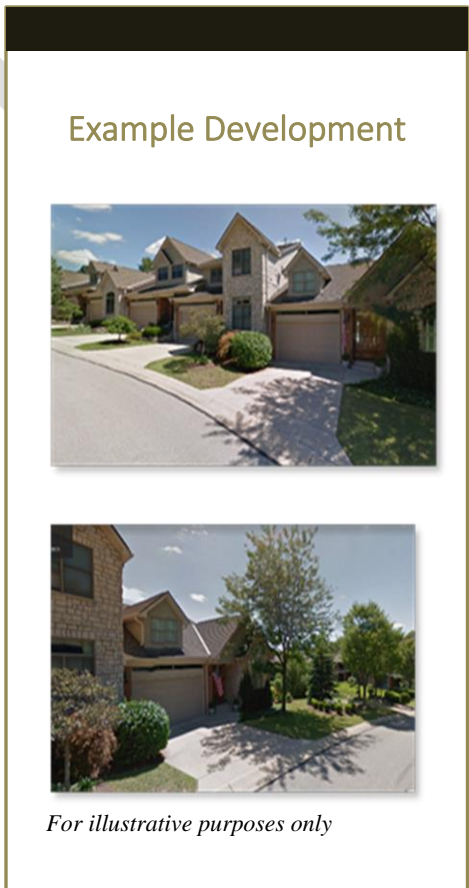
The purposes of the Residential Cluster Development (RCD-O) Overlay Zoning District are to: provide a means whereby clusters of attached and detached single-family residential units may be constructed in the R-1 Residential Zones, and therein, through a Development Plan, permit a wide flexibility in the design, location, siting of the building, and yard and setback requirements in order to provide for, to the greatest extent possible, the preservation of hillside areas, and other natural geographic and topographic features, and to provide for more usable and suitably located recreation facilities and open space than would otherwise be provided under conventional R-1 residential land development procedures.

3.3.02 GENERAL.

A Residential Cluster Development Overlay Zoning District may be permitted only to be superimposed **when overlaid** over any of the R-1 Residential Zoning Districts, provided that all conditions or provisions of this Section of the Ordinance, the applicable requirements of the subdivision regulations in Article VII, and any additional requirements as may be determined necessary to provide for the most efficient layout of the RCD Overlay Zoning District and its proper integration with the surrounding development are met; and a public hearing is held on the RCD-O application **as required by Section 1.8 - Amendments.**

3.3.03 USE AND DENSITY REGULATIONS.

- A. Residential Uses and Densities. Attached and detached single-family dwellings ~~may be~~ **are** permitted within an RCD-O Overlay Zoning District. The density of dwelling units in an RCD-O shall be determined by the density (dwelling units per net acre) as calculated from the existing residential (R-1) zoning district **overlaid** ~~superimposed~~ by the RCD Overlay Zoning District. This density shall be applied to the total project area excluding that land devoted to streets (public and private) and those areas as identified as exceeding a twenty percent (20%) slope in the Fort Thomas Comprehensive Plan (December 2018) **or the current Comprehensive Plan as applicable.**



Significant changes from the **Phase 2** draft are noted: **Substantive Additions** and ~~Deletions~~

- B. Accessory Uses. Short-Term Rental Properties are permitted pursuant to Section 5.1 - Temporary and Accessory Use/Structure Regulations.
- C. Community Facilities/Institutions.
 - 1. Schools (public/private), elementary/secondary;
 - 2. Places of Worship;
 - 3. Community centers;
 - 4. Day care center, adult or child
 - 5. Country clubs;
 - 6. Libraries;
 - 7. Public facility;
 - 8. Open space recreation area;
 - 9. Open space, common. See sub-section ~~7.5.07 A~~ **5.0.11 D., Exception to the Minimum Frontage Along a Dedicated Right-of-Way**, for lots used as open space and common open space.
 - 10. **Open space. See sub-section 5.0.11 D., Exception to the Minimum Frontage Along a Dedicated Right-of-Way, for lots used as open space and common open space.**

3.3.04 AREA REQUIREMENTS.

No RCD Overlay Zoning District shall be permitted on less than five (5) acres of land; however, development of a smaller tract adjacent to an existing RCD Overlay Zone may be permitted if the proposed development conforms to and extends the original development as if the new area had been a part of the original development.

3.3.05 HEIGHT AND SETBACK REGULATIONS.

Requirements shall be as approved on the Development Plan **that accompanies the rezoning to the RCD-O District as regulated in Section 1.8 - Amendments**.

3.3.06 OFF-STREET PARKING AND LOADING AND/OR UNLOADING.

Off-street parking and when applicable, loading and/or unloading facilities, shall be provided in accordance with Section 5.5 - Off-Street Parking, Loading, and Access Regulations of this Ordinance.

3.3.07 FENCES, WALLS, AND SIGNS.

The location, height, and type of all fences, walls, and signs shall be as approved on the Development Plan **that accompanies the rezoning to the RCD-O District as regulated in Section 1.8 - Amendments** or as outlined in other applicable Sections of this Ordinance.

3.3.08 EROSION AND SEDIMENTATION CONTROL.

Effective erosion and sedimentation controls shall be planned and applied in accordance with sub-section 5.0.08 - Excavation, Filling or Grading Operations and **sub-section 5.0.14 - Control of Erosion, Hillside Slippage & Sedimentation** of this Ordinance **as well as the requirements for erosion and sediment control listed on the Development Plan application.**

3.3.09 COMMON OPEN SPACE - RECREATION AREA.

At least fifteen percent (15%) of the total acreage of the proposed RCD-O shall be retained as **open space or** common open space and recreation area, and dedicated to a public and/or private entity for operation and maintenance. Such **open space or common** open space and recreation areas shall be

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and ~~Deletions~~

physically situated so as to be readily accessible, available to, and usable by all residents of the development. **Open space or** common open space and recreation area shall be that part of the total project exclusive of dwellings, streets, parking areas, single-family lots, non-residential areas, and other non-open space and non-recreational oriented facilities.

3.3.10 AMENDMENTS.

Any amendments to plans, except for the minor adjustments that may be permitted by the Planning Commission, shall be made in accordance with the Amendment procedure required by this Ordinance in Section 1.8, subject to the same limitations and requirements as those under which such plans were originally approved.

3.3.11 OTHER DEVELOPMENT CONTROLS.

For other regulations applicable to uses; structures; and buildings in the Residential Cluster Development Overlay Zoning District, see Article V – Regulations Applicable to All Districts including:

5.0	General Regulations
5.1	Temporary and Accessory Use/Structure Regulations
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
5.7	Sign Regulations

3.3.12 APPLICATION AND PROCESSING.

Applications for Residential Cluster Development Overlay Zoning District shall be processed in accordance with Section 1.4 - Development Plan Review Procedures and Section 1.8 - Amendments of this Ordinance.

SECTION 3.4
Multi-Family Residential District Regulations

3.4.01	Intent.	3.4.05	Performance Standards.
3.4.02	Use Regulations.	3.4.06	Other Development Controls.
3.4.03	Development Standards.	3.4.07	Development Plan Review.
3.4.04	Projections into Required Setbacks.		

3.4.01 INTENT.

The Multi-family Residential Districts (R-3 and R-5) and their regulations are established in order to achieve the following purposes:

- A. To facilitate the development of attached and detached single-family and two-family dwellings as well as multi-family dwellings in appropriate locations that result in stable and sustainable higher density neighborhoods through the adoption of appropriate development regulations.
- B. To provide development standards for high-density apartment development in appropriate locations where sufficient levels of municipal services and public utilities are available.
- C. To regulate the density and distribution of population consistent with the City of Fort Thomas Comprehensive Plan.
- D. To foster a variety of residential living units as envisioned in the Comprehensive Plan while protecting the character of the City.



3.4.02 USE REGULATIONS.

- A. Compliance with Standards. Although a use may be indicated as a permitted use in a particular district, it shall not be approved on a lot unless it can be located thereon in full compliance with all of the standards and other regulations of this Ordinance applicable to the specific use and lot in question, including but not limited to any supplemental use-specific standards cross-referenced in Schedule 3.4.02 C.
- B. Organization of Use Table. In the Use Schedule, land uses are classified into general use categories and specific uses based on common physical or functional characteristics, such as type of dwelling unit, amount of activity generated by the use, and site conditions. Whenever a standard or reference is made to a general use category throughout this code, it shall include the specific uses in that category.

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and ~~Deletions~~

- C. Schedule 3.4.02 C. Permitted Uses. Schedule 3.4.02 C. sets forth the uses allowed in the Multi-family Residential Districts. The abbreviations used in the Schedule are defined in 1.2.02 B.

Schedule 3.4.02 C. Permitted Uses in the Multi-Family Residential Districts			
	R-3	R-5	Use-Specific Regulations
1. Residential			
a. Single-family dwelling, detached	P		
b. Single-family dwelling, attached	R	P R	Section 5.4
c. Two-family dwellings	P		
d. Multi-family dwellings	P	P	
e. Residential care facility for persons with disabilities	P	P	
2. Community Facilities/Institutions			
a. Community center	C	C	Section 5.4
b. Day care center, adult or child	C	C	Section 5.4
c. Institutions for human medical care	C	C	Section 5.4
d. Places of worship	C	C	Section 5.4
e. Public facility	R	R	Section 5.4
f. Public park/playground	R	R	Section 5.4
g. School (public/private), college/university	C	C	Section 5.4
h. School (public/private), elementary/secondary	C	C	Section 5.4
3. Other			
a. Cemetery	C	C	Section 5.4
b. Country club	C	C	Section 5.4
c. Funeral Homes without crematorium	C	C	Section 5.4
d. Open space recreation area	C	C	Section 5.4
e. Wireless telecommunication facility	See Section 5.6		
4. Accessory Uses			
a. Accessory dwelling unit ^(a)	A		Section 5.1
b. Family child-care home ^(b)	A	A	
c. Fences, walls	A	A	Section 5.1
d. Home occupation	A	A	Section 5.1
e. Other accessory structures	A	A	Section 5.1 & sub-section 3.4.06
f. Parking structure in association with a principal use	C	C	Section 5.4
g. Off-street parking lots and/or parking garages	A	A	Section 5.3 & 5.5
h. Semi-public swimming pool	A	A	Section 5.1
i. Short-term rental properties	A	A	Section 5.1
j. Signs	A	A	Section 5.7
k. Solar energy system, integrated	A	A	Section 5.1
l. Solar energy system, rooftop	A	A	Section 5.1
m. Trash receptacle	A	A	Section 5.3
<u>Notes to Schedule 3.4.02 C.:</u>			
(a) Accessory dwelling units are permitted when accessory to detached single-family and two-family dwellings.			
(b) Family child-care homes are permitted when accessory to detached & attached single-family and two-family dwellings.			
P = Principal Permitted By-Right Use R=Restricted Use C=Conditional Use			
Blank Cell = Not Permitted A = Accessory Use			

- D. Similar Uses. See Section 1.3 – Powers and Duties, sub-section 1.3.02 B. 19.

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and ~~Deletions~~

3.4.03 DEVELOPMENT STANDARDS.

- A. All buildings, parking areas, and land in the Multi-family Residential Districts shall comply with the requirements set forth in Schedule 3.4.03 B. See Section 5.4 - Conditional Use and Restricted Use Regulations for additional development regulations for Conditional and Restricted Uses.
- B. Schedule 3.4.03 B., Development Standards in the Multi-family Residential Districts.

Schedule 3.4.03 B. Development Standards in the Multi-family Residential Districts^(a)		
	R-3	R-5
1. Minimum lot area (square feet)		
a. Single-family detached dwelling	8000	
b. Two-family dwelling	8000	
c. Multi-family dwelling	8000 sq. ft. for the first 4 dwelling units and 4,000 square feet of land for every dwelling unit thereafter	4,800 sq. ft. of land shall be provided for every dwelling unit
2. Minimum lot width (feet)		
a. Single-family detached dwelling	80	
b. Two-family dwelling	80	
c. Multi-family dwelling	80 feet plus 10 feet for every additional dwelling unit over 4 up to a maximum of 120 feet	80 feet plus 10 ft for every additional dwelling unit over 4 up to a maximum of 120 ft
3. Minimum principal building setback (feet)		
a. Minimum front ^(b)	35	35
b. Minimum side		
i. Single-family detached dwelling	9	
ii. Two-family dwelling	9	
iii. Multi-family dwelling	15 feet + 10 feet for each additional story to a maximum of 35 feet	10 ft for the first four dwelling units + 2 additional feet for every additional dwelling_unit to a maximum of 20 ft
c. Minimum rear	35	35
4. Maximum height of principal building (feet)		
a. Single-family detached dwelling	35 feet or 2.5 stories	
b. Two-family dwelling	35 feet or 2.5 stories	
c. Multi-family dwellings	6 stories, not to exceed 50 feet	3 stories, not to exceed 35 feet

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and ~~Deletions~~

Schedule 3.4.03 B. Development Standards in the Multi-family Residential Districts^(a)		
	R-3	R-5
5. Maximum height of accessory building (feet)	20	20
Notes to Schedule 3.4.03 B.:		
(a) For the Development Standards for Attached Single-family Dwelling Units, see Section 5.4 - Conditional Use and Restricted Use Regulations.		
(b) See sub-section 3.4.03 C.		

C. Front Setback Requirements.

1. Increasing the Required Front Setback. Where the average depth of existing front setbacks within three hundred (300) feet of the lot in question and within the same block front, is greater than the minimum front setback depth prescribed in this Section, the required minimum front setback depth on such lot shall be modified to be the average depth of said existing front setbacks provided; however, that the depth of the front setback on any such lot shall not be greater than sixty (60) feet. In instances where more than one building can be constructed within the three hundred (300) feet, the minimum front setback required shall be determined by uniform successive setbacks in order to establish a gradual adjustment of front setback requirements. No required minimum front setback shall be less than the average depth of existing front setbacks on the lots abutting on each side.
2. Decreasing the Required Front Setback. In any residential district, no front setback shall be required to exceed the average depth of existing front setbacks on the same side of the street within three hundred (300) feet, when fifty-one percent (51%) or more of lots within that distance are improved with residential buildings having less than the required minimum front setback.

3.4.04 PROJECTIONS INTO REQUIRED SETBACKS.

For detached single-family and two-family dwelling units, see sub-section 3.1.05 - Projections into Required Setbacks for permitted projections into required setbacks.

3.4.05 PERFORMANCE STANDARDS.

Every use shall comply with the following performance standards as well as any other applicable performance standards in this Ordinance.

- A. Outdoor Storage. No outdoor storage of any material or equipment shall be permitted in this District.
- B. Trash Receptacles. All solid waste products, including empty packing boxes, that result from any permitted principal by-right, restricted, conditional, or accessory use shall either be disposed of, stored in buildings, or held for removal in completely enclosed in containers. Such structure, container, or waste receptacle, including any screening structure and landscaping, shall be located in a side or rear yard and shall be set back **a minimum of 5 feet**

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and ~~Deletions~~

from rear and side property lines. Trash receptacles shall be screened in accordance with the provisions set forth in Section 5.3 - Landscaping, Screening & Lighting Regulations.

- C. Lighting. No lighting shall be permitted which would glare from this District on to any street, road, highway, and deeded right-of-way or into any residential zoning district. (See Section 5.3 - Landscaping, Screening, and Lighting Regulations.)

3.4.06 OTHER DEVELOPMENT CONTROLS.

A. Buildings per Lot.

1. In the R-3 zoning district, more than one building **containing multi-family or attached single-family dwellings** may be permitted on a single zoning lot; however, in no case shall the density exceed the limits set forth in this Ordinance.
2. In the R-5 zoning district, more than one building **containing multi-family or attached single-family dwellings** may be permitted on a single zoning lot; however, in no case may there be more than one (1) dwelling unit for each four thousand eight hundred (4,800) square feet of land.

B. Off-Street Parking and Loading Regulations.

1. Off-street parking areas shall be located to the rear or side of the principal building on the lot and no closer to the front lot line than the front façade of the largest principal building on the lot. The Planning Commission may grant a waiver to this requirement due to existing site constraints or to the location of existing off-street parking areas.
2. Off-street parking and loading or unloading shall be provided in accordance with Section 5.5 of this Ordinance.

- C. Landscaping, Screening, and Lighting Regulations. Screening and landscaping shall be required for Conditional and Restricted in accordance with the provisions set forth in Section 5.4, Conditional Use and Restricted Use Regulations and Section 5.3 - Landscaping, Screening, and Lighting Regulations.

D. Accessory Structures and Uses.

1. Accessory uses and accessory structures permitted in the Multi-family Districts shall conform to the applicable regulations in this Section and other applicable Sections of this Ordinance including Section 5.1 - Temporary and Accessory Use/Structure Regulations.

~~Accessory buildings shall be located in the side and rear yards and shall comply with the principal building setback regulations in Schedule 3.4.03 B. and shall submit a development plan in compliance with Section 1.4 (Development Plan Approval Process).~~

2. Minimum Setbacks for Accessory Structures and Uses in Developments containing Multi-family Dwelling Units. **Accessory structures including garages, carports, and**

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and ~~Deletions~~

recreation facilities, such as tennis courts, which is intended for use by the residents of the multi-family development, shall comply with the following:

- a. **All accessory buildings and structures shall be located in a rear or side yard;**
and,
 - b. **All accessory buildings and structures shall be set back a minimum of:**
 - i. **5 feet from the side and rear lot lines when adjacent to non-residential, R-3, and R-5 zoning districts;**
 - ii. **10 feet from the side and rear lot lines when adjacent to R-1 zoning districts.**
 - c. **Swimming pools shall:**
 - i. **Be located in a rear or side yard; and,**
 - ii. **Comply with the standards in sub-section 5.1.04 M., Outdoor Swimming Pools.**
- E. **Unightly or Unsanitary Storage.** See Section 5.0 - General Regulations.
- F. **Development on Steep Slopes.** Those areas identified in the Comprehensive Plan as containing slopes of 20 percent or greater and left undisturbed in their natural state as required by the Planning Commission shall not be included in the determination of the total number of dwelling units to be permitted on the site. Furthermore, existing vegetation shall be left undisturbed wherever possible, especially on sloped areas, to ensure stable hillside conditions and minimize increases in storm water runoff.
- G. **Additional Regulations that Apply.** For other regulations applicable to uses; structures; and buildings in the Multi-family Residential Districts, see Article V – Regulations Applicable to All Districts including:

5.0	General Regulations
5.1	Temporary and Accessory Use/Structure Regulations
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
5.7	Sign Regulations

3.4.07 DEVELOPMENT PLAN REVIEW.

All uses in the Multi-family Residential Districts, except those uses specifically excluded in sub-section 1.4.02 B. – Exceptions, shall be permitted only after development plans have been reviewed and approved according to the procedures set forth in Section 1.4 - Development Plan Review Procedures.

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and Deletions

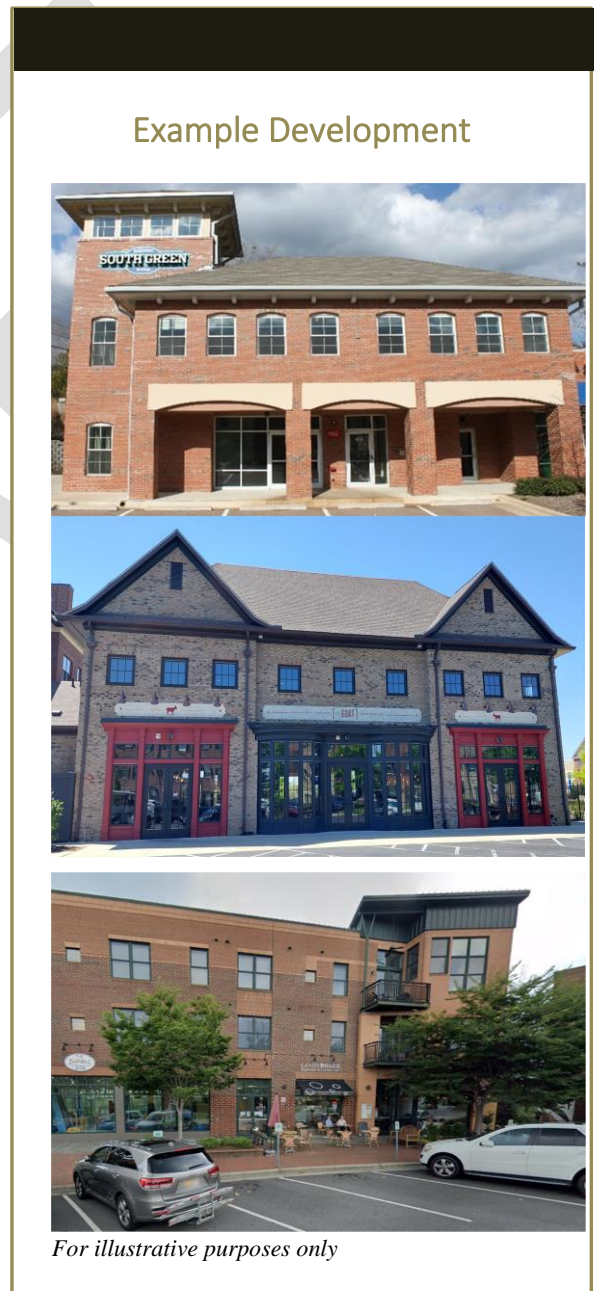
SECTION 3.5
Alexandria Pike Mixed-Use District Regulations

3.5.01	Intent.	3.5.06	Performance Standards.
3.5.02	Use Regulations.	3.5.07	Development Incentives.
3.5.03	Development Standards.	3.5.08	Other Development Controls.
3.5.04	Required Design Standards.	3.5.09	Development Plan Review.
3.5.05	Projections into Required Setbacks.		

3.5.01 INTENT.

The Alexandria Pike Mixed Use District (AP-MX), **the associated sub-zoning districts (AP-MX1 & AP-MX2)**, and **it’s the accompanying** regulations are established to achieve the following purposes:

- A. To realize the Vision for the Alexandria Pike Focus Area contained in the City’s Comprehensive Plan, which envisions an attractive corridor with concentrated nodes of mixed-use development at key intersections that serves as a welcoming gateway into the City with good building and site design as well as attractive streetscapes, that contribute to and reflect the overall high-quality built environment that is Fort Thomas.
- B. To provide for and encourage a balanced, compatible mix of uses, rather than a separation of uses, in a transit-friendly environment.
- C. To concentrate higher-density, mixed-use residential and commercial development at select major transit nodes or key thoroughfare intersections, with higher site and building design standards that create a more attractive pedestrian environment.
- D. To provide for walkable streetscapes where active facades address sidewalks and parking and loading are located behind buildings **in the southern portion of the corridor.**
- E. To promote small, incremental development, alongside larger developments.
- F. To promote economic opportunity/viability and consumer services for Fort Thomas and the surrounding area.



Significant changes from the Phase 2 draft are noted: **Substantive Additions** and Deletions

3.5.02 USE REGULATIONS.

- A. Compliance with Standards. Although a use may be indicated as a permitted use in a particular district, it shall not be approved on a lot unless it can be located thereon in full compliance with all of the standards and other regulations of this Ordinance applicable to the specific use and lot in question, including but not limited to any supplemental use-specific standards cross-referenced in Schedule 3.5.02 C.
- B. Organization of Use Table. In the Use Schedule, land uses are classified into general use categories and specific uses based on common physical or functional characteristics, such as type of dwelling unit, amount of activity generated by the use, and site conditions. Whenever a standard or reference is made to a general use category throughout this code, it shall include the specific uses in that category.
- C. Schedule 3.5.02 C. Permitted Uses. Schedule 3.5.02 C. sets forth the uses allowed in the Alexandria Pike Mixed Use District. The abbreviations used in the Schedule are defined in sub-section 1.2.02 B.

Schedule 3.5.02 C. Permitted Uses in the Alexandria Pike Mixed Use District		
	AP-MX1/ AP-MX2	Use-Specific Regulations
1. Residential		
a. Dwelling unit(s) above non-residential use	P	
2. Community Facilities/Institutions		
a. Community center	P	
b. Cultural institution	P	
c. Day care center, adult or child	P	
d. Institutions for human medical care	C	Section 5.4
e. Library	P	
f. Public facility	C R	Section 5.4
g. Public park/playground	P	
h. School (public/private), elementary/secondary	R	Section 5.4
i. <u>School (public/private), college/university</u>	R	Section 5.4
3. Entertainment/Recreation		
a. Assembly hall	P	
b. Health club	P	
c. Indoor commercial recreation facility	C	Section 5.4
d. School, specialty/personal instruction	P	
e. Theater, indoor	P	
4. Office/Professional Services		
a. Bank; financial institution	P	
b. Conference Center	P	
c. Medical/dental Clinic; Urgent Care	P	
d. Offices – administrative/professional	P	
e. Offices – medical/dental	P	
5. Retail/Personal Services		
a. Animal hospital/veterinary clinics without outdoor runs & kennels	C	Section 5.4
b. Artist studio	P	

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and Deletions

Schedule 3.5.02 C. Permitted Uses in the Alexandria Pike Mixed Use District		
	AP-MX1/ AP-MX2	Use-Specific Regulations
c. Artisanal workshop	P	
d. Brewpub	R	Section 5.4
e. Drinking establishment	P	
f. Experiential retail establishment	P	
g. Personal service establishment	P	
h. Restaurants	P	
i. Retail Establishments	P	
6. Industrial		
a. Artisan industrial production	R	Section 5.4
b. Commercial kitchen	R	Section 5.4
c. Manufacturing, light	R	Section 5.4
d. Research and development facility	R	Section 5.4
7. Vehicles and Equipment		
a. Automobile service stations	C	Section 5.4
b. Drive-thru facilities associated with a principal permitted use	C	Section 5.4
c. Freestanding drive-thru facilities	C	Section 5.4
d. Vehicle fueling stations	C	Section 5.4
8. Other		
a. Cemetery	C	XX
a. Funeral homes without cremation facilities	C	XX
b. Wireless telecommunication facility	See Section 5.6	
9. Accessory Uses		
a. Electric vehicle charging stations	A	
b. Fences, walls	A	Section 5.1
c. Food trucks	R	Section 5.4
d. Home occupation	A	Section 5.1
e. Other accessory structures	A	Section 5.1 & sub-section 3.5.08
f. Off-street parking lots	A	Sections 5.3 & 5.5
g. Outdoor dining in association with a principal permitted use	A	Section 5.1
h. Outdoor sales/display in association with a principal permitted use	A	Section 5.1
i. Parking structures in association with a principal use	C	Section 5.4
j. Short-term rental properties	A	Section 5.1
k. Signs	A	Section 5.7
l. Solar energy system, integrated	A	Section 5.1
m. Solar energy system, rooftop	A	Section 5.1
n. Trash receptacle	A	Section 5.3
Notes to Schedule 3.5.02 C.:		
P = Principal Permitted By-Right Use R=Restricted Use C=Conditional Use Blank Cell = Not Permitted A = Accessory Use		

D. **Similar Uses.** See Section 1.3 – Powers and Duties, sub-section 1.3.02 B. 19.

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and Deletions

3.5.03 DEVELOPMENT STANDARDS.

- A. All buildings, parking areas, and land in the Alexandria Pike Mixed Use District shall comply with the requirements set forth in Schedule 3.5.03 B. See Section 5.4 - Conditional Use and Restricted Use Regulations for additional development regulations for Conditional and Restricted Uses.
- B. Schedule 3.5.03 B., Development Standards in the Alexandria Pike Mixed Use District.

Schedule 3.5.03 B. ^(a) Development Standards in the Alexandria Pike Mixed Use District		
	AP-MX1	AP-MX2
1. Minimum lot area (square feet)	7500	<u>7500</u>
2. Minimum lot width (feet)	None	<u>None</u>
3. Maximum lot coverage	None ^(b)	<u>None^(b)</u>
4. Minimum principal building setback (feet)		
a. Minimum front	20	<u>20</u>
b. Maximum front	30	<u>NA</u>
c. Minimum Setback Abutting Non-residential Districts	0	0
d. Minimum setback abutting R-1 Districts	25	<u>25</u>
e. Minimum setback abutting R-3 District	15	<u>15</u>
5. Percent of façade within build-to-zone	70%	<u>NA</u>
6. Minimum parking setback from: (feet)		
a. Public rights-of-way	(c)	<u>15</u>
b. Project boundary line abutting single-family detached dwellings	10	10
c. Project boundary line abutting all other uses ^(d)	5	5
7. Height of principal building (feet) ^(e)		
a. Minimum	24	<u>NA</u>
b. Maximum	50	<u>50</u>
8. Maximum height of accessory building (feet)	20	<u>20</u>

Notes to Schedule 3.5.03 B.:

- (a) The Planning Commission may grant a waiver to these requirements, **except for Maximum Height** due to existing site, **building**, and/or lot constraints pursuant to Section 1.10 - Waivers, Modifications, & Equivalency.
- (b) No restrictions except as required by the setback requirements of this district.
- (c) See sub-section 3.5.08 A. 1.
- (d) See sub-section 3.5.08 A. 3.
- (e) Rooftop equipment and access shall not count towards **minimum and maximum** building height.

3.5.04 REQUIRED DESIGN STANDARDS.

- A. The buildings along **the southern portion of Alexandria Pike, which is a significant gateway into the City**, contribute to the City’s character and sense of place. Enhancing the quality and compatibility of these buildings is of utmost importance. The standards set forth below are

Significant changes from the **Phase 2** draft are noted: **Substantive Additions** and Deletions

intended to achieve among others the following purposes:

1. To strengthen, enhance, and improve the existing visual and aesthetic character of the **southern section of the** Alexandria Pike corridor;
 2. To protect and enhance property values;
 3. To provide guidelines for property owners, architects, and contractors to aid in the preparation of appropriate plans; and,
 4. To fulfill the Vision for the Alexandria Pike Focus Area set forth in the City's Comprehensive Plan.
- B. **Applicability of Regulations.** In addition to the development standards set forth in Schedule 3.5.03 B., the design standards set forth in Schedule 3.5.04 F. shall apply to the exterior appearance and design of all new construction and **exterior building modifications renovations** in the Alexandria Pike Mixed Use-**1 Sub-Zoning** District.
- C. The Design Review Board shall review all new construction and **exterior building renovations modifications** in the Alexandria Pike Mixed-Use-**1** District and provide a recommendation to the Planning Commission as required in Section 1.4 - Development Plan Review, **if a Development Plan is required. If a Development Plan is not required per this Ordinance, the Design Review Board shall review and decide upon exterior building modifications in the Alexandria Pike Mixed Use District by approving, approving with conditions, or denying the proposed exterior building modifications.**
- D. The Design Review Board may grant an exemption from these standards when the exterior building modifications are minor in nature, meaning the design modifications will have no discernable impact on neighboring properties, the public, the public right-of-way, or those intended to occupy or use the proposed development.
- E. The Design Review Board may grant an exception or modification to the Design Standards in Schedule 3.5.04 F., **pursuant to Section 1.10 – Waivers, Modifications, and Equivalency,** if the applicant demonstrates that, due to the unusual shape or topography of the lot or an adjoining lot; or due to the location or design of existing structures or other site features; or the presence of mature trees; or due to other site constraints, the application of the design standards would be unreasonable. The Design Review Board may grant a complete exception from the standard, or it may modify the standard in view of the peculiarities of the site. Any modification of the standard shall be considered an "exception." In determining whether to grant an exception, the Design Review Board shall consider:
1. The purposes of the Alexandria Pike Mixed Use District;
 2. The intent of the guideline from which the exception is requested; and,
 3. Whether the intent of the standard may be met by an alternate means.
- F. **Schedule 3.5.04 F. Design Standards.** The design standards set forth in Schedule 3.5.04 F. shall apply to the exterior appearance and design of all new construction and **exterior building modifications renovations** for non-residential and mixed-used buildings in the Alexandria Pike Mixed-Use-**1 Sub-Zoning** District. See Figure 3.5-1 for an Illustration of Required Design Standards.

Schedule 3.5.04 F.

Required Design Standards in the Alexandria Pike Mixed Use-1 Sub-Zoning District

1.	Buildings and principal building entrances shall be oriented toward the public street so as to define the street edge and contribute to a dynamic pedestrian and street environment.
2.	All buildings shall provide at least one functional building or storefront entrance for every 60 feet of façade length located adjacent to Alexandria Pike. A corner entrance may be substituted if both street frontages measure eighty (80) lineal feet or less.
3.	For the first floor, the front facade of every building shall have transparent areas, equal to 60 % of the front facade area (measured as the total area below the transition line). These transparent areas shall be between two (2) and nine (9) feet above the sidewalk or finished grade with glass paneled garage doors being permissible when such garage doors lower to sidewalk grade.
4.	For all upper floors, each floor of the front facade of the building shall have glazed areas equal to 15%.
5.	A transition line shall be provided between the first and second stories. The height of this transition line shall match the height of the transition line on the abutting or adjacent buildings. If adjoining properties are vacant or contain single-story buildings, then the ground floor shall be at least ten (10) feet in height measured from finished floor to finished ceiling.
6.	Any part of the building that is visible from a private right-of-way, public circulation area, or public parking area shall have no more than six (6) feet of contiguous wall length devoid of windows, on any ground floor, unless the wall includes architectural features such as piers, columns, defined bays, or an undulation of the building so that a pedestrian scale, rhythm, and visual interest is created. In no case shall a continuous wall length be devoid of windows for more than 20 feet.
7.	The pattern of architectural features, such as windows and doors, shall be placed upon the street facing facade of a building in a pattern that creates a building fenestration that has a constant rhythm, a harmonious appearance, and is proportional to one another and surrounding buildings, if applicable.
8.	First floor windows shall permit pedestrians a view of the interior of the building. Windows shall remain transparent and shall not be blocked in any manner except for permitted window signage. Alternatively, display windows may be used provided these windows are a minimum of three (3) feet in depth, extend the full height of the glazing, and are internally lit.
9.	Buildings shall have finish materials on all sides. Finish materials shall not include cinder block or vinyl siding.
10.	A combination of materials, textures, colors, and finishes shall be utilized to create visual interest.
	Facade openings, including windows and colonnades, shall be vertical in proportion.
11.	Facades may be supplemented by awnings, which shall be straight sheds without side flaps , but shall not be cubed or curved.

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and Deletions

- 12. Materials within ten (10) feet of the ground or the sidewalk shall be of a durable material to withstand pedestrian and vehicular traffic. If “dry vit” or E.I.F.S is used as an exterior building material, impact resistant E.I.F.S., as classified by EIMA (EIFS Industry Members Association), shall be used on all wall areas within ten (10) feet of the ground or sidewalk.
- 13. All roof top equipment shall be concealed in building materials that match the structure or shall be painted to be visually compatible with the structure.
- 14. The first 30 feet of ground floor building depth along Alexandria Pike shall be occupied space that is used for retail display, dining, lobby or waiting areas, fitness areas, open office, or other active uses.



Figure 3.5-1 - Illustration of Required Design Standards

Key for Figure 3.5-1

(Item numbers reference Require Design Standards in Schedule 3.5.04 F.)

- 1 Buildings & entrances oriented toward the street
- 2 Usable entrances facing a public street
- 3 Transparent areas equal to a minimum of 60% of the front façade area on the ground floor
- 4 Glazing on upper floor equal to 15% of the floor area
- 5 Transition line between 1st and 2nd floors
- 8 1st floor windows allow view into the building
- 10 Combination of materials, textures, colors, & finishes create visual interest
- 12 Building materials within 10 feet of sidewalk must be durable

3.5.05 PROJECTIONS INTO REQUIRED SETBACKS.

- A. Facade elements above the ground floor may project into required setbacks.

Significant changes from the **Phase 2** draft are noted: **Substantive Additions** and Deletions

- B. Display windows and awnings may project into required setback no more than four (4) feet.

3.5.06 PERFORMANCE STANDARDS.

Every use shall comply with the following performance standards as well as any other applicable performance standards in this Ordinance.

- A. **Outdoor Storage.** No outdoor storage of any material or equipment shall be permitted in this District.
- B. **Trash Receptacles.** All solid waste products, including empty packing boxes, that result from any permitted principal by-right, restricted, conditional, or accessory use shall either be disposed of, stored in buildings, or held for removal in completely enclosed in containers. Such building, container, or waste receptacle shall be located, including any screening structure and landscaping, in a side or rear yard and shall comply with the applicable minimum parking setbacks set forth in this Section and shall be screened in accordance with the provisions set forth in Section 5.3 - Landscaping, Screening & Lighting Regulations.
- C. **Lighting.** No lighting shall be permitted which would glare from this District on to any street, road, highway, and ~~deded~~ **dedicated** right-of-way or into any residential zoning district. See Section 5.3 - Landscaping, Screening, and Lighting Regulations.
- D. **Enclosure.** All uses and operations, except off street parking and loading facilities, shall be operated and performed within an enclosed building, unless otherwise specifically permitted.
- E. **Outdoor Vending Machines.** There shall be no outdoor vending machines visible from a public street.

3.5.07 DEVELOPMENT INCENTIVES.

- A. **Purpose.** To implement the Comprehensive Plan objectives to support multi-modal transportation and sustainability. These objectives include:
1. Being the most walkable and bike-friendly community in Kentucky, with a well-connected and attractive multi-modal transportation system so that citizens can safely and comfortably travel between all neighborhoods, schools, parks, business districts and other key destinations within the city and throughout neighboring communities, whether on foot, bike, car, or other form of transportation.
 2. Maintaining and improving stormwater quality and reducing quantity by:
 - a. Improving stormwater quality as redevelopment occurs;
 - b. Branding the City as sustainable; and,
 - c. Encouraging Low Impact Development Principles in the community and providing smart growth or LEED® green building program incentives.
- B. **Applicability.** This sub-section 3.5.07 applies to all new construction and substantial renovations in the AP-MX zoning district **including both the AP-MX1 and AP-MX2 sub-zoning districts.**

Significant changes from the **Phase 2** draft are noted: **Substantive Additions** and Deletions

C. Incentive.

1. Parking Reduction. Sites, structures, and buildings that fulfill the requirements set forth in sub-section 3.5.07 C. 2. may exempt 5000 square feet of gross floor area from the parking spaces otherwise required in Section 5.5 (Off-Street Parking, Loading, and Access Regulations) of this Ordinance when such improvements are approved by the Planning Commission during development plan review.
2. Improvements to Qualify for Parking Reduction. When applicants utilize Low Impact Development techniques, achieve Green Building certification, or provide improvements in the Alexandria Pike right-of-way that benefit transit riders or pedestrians as set forth in this sub-section, required parking may be reduced as provided for in sub-section 3.5.07 C. 1.

- a. Low Impact development (LID) techniques that shall include at least two (2) of the following:

- i. Rainwater harvesting;
- ii. Bioretention cells or rain gardens that include planter boxes; (See Figure 3.5-2 – Illustration of Bioretention Cell.)
- iii. Permeable pavement or pavers;
- iv. Bioswales;
- v. Green roofs and/or walls;
- vi. Other LID techniques as approved by the City Engineer.



Figure 3.5-2 - Illustration of Bioretention Cell

- b. Green building certification as follows:
 - i. Leadership in Energy and Environmental Design (LEED) Silver or better; or,
 - ii. Green Building Initiative - Green Globes, 2 Globe certification or better.
- c. Public improvements within the Alexandria Pike right-of-way that shall include at least three (3) of the following:

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and Deletions



Figure 3.5-3 - Illustration of a Respite Area for Pedestrians

- i. Bus shelter;
- ii. Seating at bus stops;
- iii. Bicycle parking;
- iv. Bicycle repair stations;
- v. Increase sidewalk width to 8 feet along the frontage of the development site;
- vi. Provide respite areas for pedestrians, measuring at least 200 square feet, that includes seating and trees; (See Figure 3.5-3 – Illustration of a Respite Area for Pedestrians.)
- vii. Art installations utilizing a bus shelter;
- viii. Other public improvements that benefit pedestrians and transit riders as approved by the Planning Commission.

3.5.08 OTHER DEVELOPMENT CONTROLS.

A. Off-Street Parking and Loading Regulations.

1. **In the Alexandria Pike Mixed Use-1 Sub-Zoning District**, off-street parking areas shall be located to the rear or side of the principal building on the lot and no closer to the front lot line than the front façade of the largest principal building on the lot. The Planning Commission may grant a waiver to this requirement, as permitted by Section 1.10 - Waivers, Modifications, & Equivalency, only if the applicant demonstrates that, due to existing site conditions, the application of this parking locational requirement would be unreasonable. 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/or access on the site in question, **topographical constraints on the site under review**, and the location of utilities both on and off-site.

If the Planning Commission finds the merits of such a waiver, the majority of the parking should be located behind the front façade of the principal building, and any parking located between the building and Alexandria Pike shall be setback a minimum of ~~10~~ **15** feet from the Alexandria Pike right-of-way. **This area between any parking areas and the arterial or collector right-of-way shall be landscaped as required by sub-section 5.3.05 – Landscaping along Street Frontage.**

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and Deletions

Below, in Figure 3.5-4, is an example of the appropriate siting of off-street parking areas:

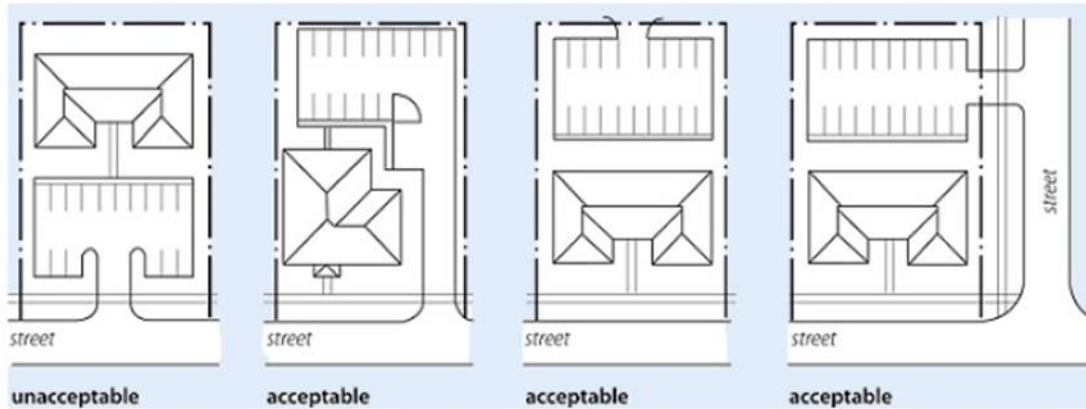


Figure 3.5-4 - Appropriate Siting of Off-street Parking Areas

For illustrative purposes only

2. Cross Access to Off-Street Parking Lots. Parking lots in the Alexandria Pike Mixed-Use District shall be interconnected with non-residential **and mixed-use** parking lots on adjacent properties to the maximum extent **practicable feasible**. Permanent cross-access easements or other acceptable agreements for adjacent lots with interconnected parking lots shall be submitted in language acceptable to the City's Law Director **Attorney** and the Planning Commission.
 3. Setbacks for Joint Parking Facilities. When cross access between two parking areas is required or provided, the parking setback shall not be required for the opening that accommodates the drive aisle, but it shall be required in all other areas that abut the shared property line. When shared parking, which spans the mutual property line, is required or provided, the parking setback is not required to be provided.
 4. Landscaping within the Parking Setback. The area within the parking setback shall be landscaped in accordance with Section 5.3, Landscaping, Screening, and Lighting Regulations.
 5. Off-street parking and loading or unloading shall be provided in accordance with Section 5.5 (Off-Street Parking, Loading, and Access Regulations) of this Ordinance unless exemptions are permitted under sub-section 3.5.07 - Development Incentives.
- B. Landscaping, Screening, and Lighting Regulations. Screening and landscaping shall be required in accordance with the applicable provisions set forth in Section 5.4 - Conditional Use and Specific Use Regulations and Section 5.3 - Landscaping, Screening, and Lighting Regulations.
- C. Accessory Structures and Uses.
1. Accessory uses and accessory structures permitted in the Alexandria Pike Mixed-Use District shall conform to the regulations in this Section and other applicable Sections of this Ordinance including Section 5.1 - Temporary and Accessory Use/Structure Regulations.

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and Deletions

- 2. Accessory buildings with a gross floor area of 200 square feet or less shall be located in a side or rear yard and shall comply with the applicable parking setbacks set forth in Schedule 3.5.03 B - Development Standards in the Alexandria Pike Mixed Use District. Accessory buildings with more than 200 square feet of gross floor area shall conform to the principal building setback regulations in Schedule 3.5.03 B. - Development Standards in the Alexandria Pike Mixed Use District and shall submit a development plan in compliance with Section 1.4 - Development Plan Review Procedures.

D. Unightly or Unsanitary Storage. See Section 5.0 - General Regulations.

E. Additional Regulations that Apply. For other regulations applicable to uses; structures; and buildings in the Alexandria Pike Mixed Use District, see Article V – Regulations Applicable to All Districts including:

5.0	General Regulations
5.1	Temporary and Accessory Use/Structure Regulations
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
5.7	Sign Regulations

3.5.09 DEVELOPMENT PLAN REVIEW.

All uses in the Alexandria Pike Mixed Use District shall be permitted only after development plans have been reviewed and approved according to the procedures set forth in Section 1.4 - Development Plan Review Procedures.

SECTION 3.6
Neighborhood Commercial/Office District Regulations

3.6.01	Intent.	3.6.06	Performance Standards.
3.6.02	Use Regulations.	3.6.07	Development Incentives.
3.6.03	Development Standards.	3.5.08	Other Development Controls.
3.6.04	Required Design Standards.	3.5.09	Development Plan Review.
3.6.05	Projections into Required Setbacks.		

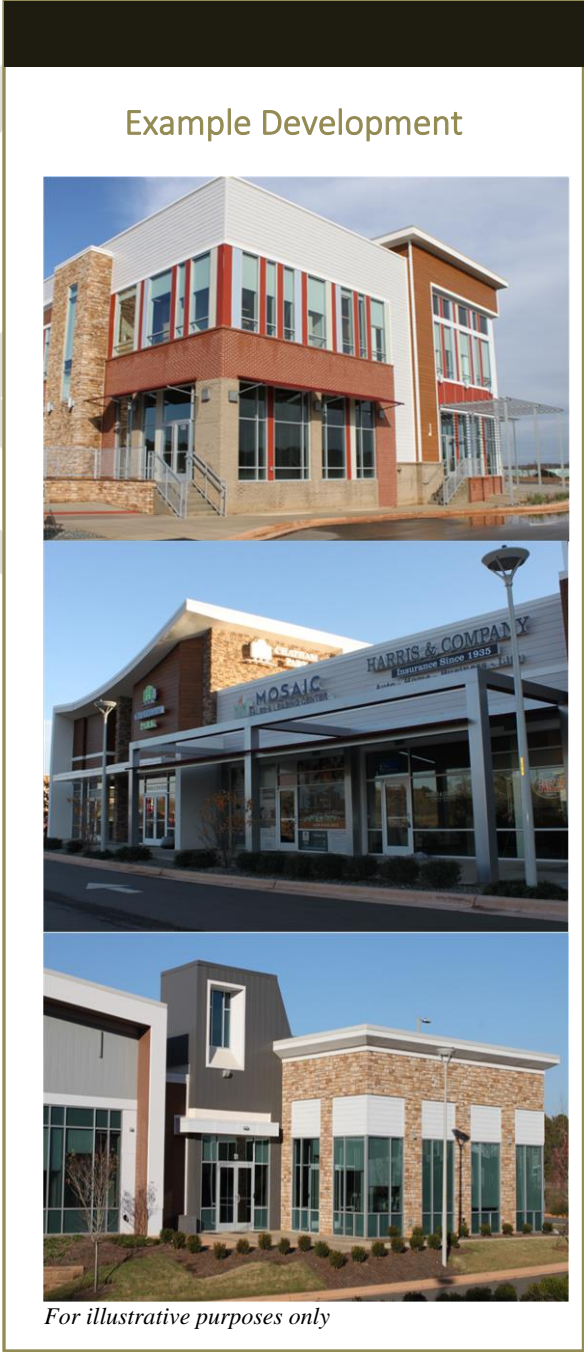
3.6.01 INTENT.

The Neighborhood Commercial/Office District (NC/O) and its regulations are established in order to achieve the following purposes:

- A. As stated in the City’s Comprehensive Plan:
 - 1. To continue to foster investment, infill development and redevelopment that create and enhance vibrant and resilient mixed-use business districts, each with a unique theme and sense of place, oriented primarily to the needs of residents, and which include a central gathering place.
 - 2. To enhance the City’s business districts through the use of well-designed signs, landscaping and streetscape treatments to create distinctive places.
 - 3. To attract businesses to the City to promote a healthy economy with a stable and diversified employment base.
- B. To allow for new development, redevelopment, renovation, and expansion of buildings and uses in developed commercial areas in a way that reflects the City’s desired character; accommodates the retail business, service, and office needs of the community; and provides for small business development opportunities.

3.6.02 USE REGULATIONS.

- A. Compliance with Standards. Although a use may be indicated as a permitted use in a particular district, it shall not be approved on a lot unless it can be located thereon in full compliance with all of the standards and other regulations of this Ordinance applicable to the specific use and lot



Significant changes from the Phase 2 draft are noted: **Substantive Additions** and ~~Deletions~~

in question, including but not limited to any supplemental use-specific standards cross-referenced in Schedule 3.6.02 C.

- B. Organization of Use Table. In the Use Schedule, land uses are classified into general use categories and specific uses based on common physical or functional characteristics, such as type of dwelling unit, amount of activity generated by the use, and site conditions. Whenever a standard or reference is made to a general use category throughout this code, it shall include the specific uses in that category.
- C. Schedule 3.6.02 C. Permitted Uses. Schedule 3.6.02 C. sets forth the uses allowed in the Neighborhood Commercial/Office District. The abbreviations used in the Schedule are defined in sub-section 1.2.02 B.

Schedule 3.6.02 C. Permitted Uses in the Neighborhood Commercial/Office District		
	NC/O	Use-Specific Regulations
1. Residential		
a. Dwelling unit(s) above non-residential use	P	
2. Community Facilities/Institutions		
a. Community center	R	Section 5.4
b. Cultural institution	P	
c. Day care center, adult or child	R P	
d. Library	P	
e. Institutions for human medical care	C	Section 5.4
f. Places of worship	R	Section 5.4
g. Public facility	R	Section 5.4
h. Public park/playground	P	
i. School (public/private), college/university	R	Section 5.4
j. School (public/private), elementary/secondary	R	Section 5.4
k. Trade/vocational school	R	Section 5.4
3. Entertainment/Recreation		
a. Assembly Hall	R	Section 5.4
b. Health club	R	Section 5.4
c. Indoor commercial recreation	C	Section 5.4
d. School, specialty/personal instruction	P	
e. Theater, indoor	R	Section 5.4
4. Office/Professional Services		
a. Bank; financial institution	P	
b. Medical/dental Clinic; Urgent Care	R	Section 5.4
c. Offices – administrative/professional	P	
d. Offices – medical/dental	P	
5. Retail/Personal Services		
a. Animal hospital/veterinary clinics without outdoor runs and kennels	C	Section 5.4
b. Artist studio	P	
c. Artisanal workshop	P	
d. Brewpub	R	Section 5.4

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and ~~Deletions~~

Schedule 3.6.02 C. Permitted Uses in the Neighborhood Commercial/Office District		
	NC/O	Use-Specific Regulations
e. Experiential retail establishment	P	
f. Hotel	R	Section 5.4
g. Personal service establishment	P	
h. Restaurants	P	
i. Retail Establishments	P	
6. Industrial		
a. Artisan industrial production	R	Section 5.4
7. Vehicles and Equipment		
a. Drive-thru facilities associated with a principal permitted use	C	Section 5.4
b. Freestanding drive-thru facilities	C	Section 5.4
c. Vehicle fueling stations	C	Section 5.4
d. Vehicle sales/rental/service facilities	C	Section 5.4
8. Other		
a. Funeral homes without crematorium	C	Section 5.4
b. Telecommunication facility		See Section 5.6
9. Accessory Uses		
a. Electric vehicle charging stations	A	
b. Fences, walls	A	Section 5.1
c. Food trucks	R	Section 5.4
d. Home occupation	A	Section 5.1
e. Other accessory structures	A	Section 5.1 & sub-section 3.6.08
f. Off-street parking lots	A	Sections 5.3 & 5.5
g. Outdoor dining in association with a principal permitted use	A	Section 5.1
h. Outdoor sales/display in association with a principal permitted use	A	Section 5.1
i. Parking structure in association with a principal use	C	Section 5.4
j. Short-term rental properties	A	Section 5.1
k. Signs	A	Section 5.7
l. Solar energy system, integrated	A	Section 5.1
m. Solar energy system, rooftop	A	Section 5.1
n. Trash receptacle	A	Section 5.3
Notes to Schedule 3.6.02 C.:		
P = Principal Permitted By-Right Use R=Restricted Use C=Conditional Use Blank Cell = Not Permitted A = Accessory Use		

D. Similar Uses. See Section 1.3 – Powers and Duties, sub-section 1.3.02 B. 19.

3.6.03 DEVELOPMENT STANDARDS.

A. All buildings, parking areas, and land in the Neighborhood Commercial/Office District shall comply with the requirements set forth in Schedule 3.6.03 B. See Section 5.4 - Conditional Use and Specific Use Regulations for additional development regulations for Conditional and Restricted Uses.

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and ~~Deletions~~

B. Schedule 3.6.03 B., Development Standards in the Neighborhood Commercial/Office District.

Schedule 3.6.03 B. ^(a) Development Standards in Neighborhood Commercial/Office District	
	NC/O
1. Minimum lot area (square feet)	5000
2. Minimum lot width (feet)	None
3. Maximum lot coverage	None ^(b)
4. Minimum principal building setback (feet)	
a. Minimum front	None
b. Maximum front	45 ^(f)
c. Minimum Setback Abutting Non-residential Districts	0
d. Minimum setback abutting R-1 Districts	25
e. Minimum setback abutting R-2 and R-3 Districts	15
5. Minimum parking setback from:	
a. Public rights-of-way	(c)
b. Project boundary line abutting Nonresidential District ^(d)	10
c. Project boundary line abutting Residential District	15
6. Height of principal building (feet) ^(e)	
a. Minimum	24
b. Maximum	50
7. Maximum height of accessory building (feet)	20

^(a) The Planning Commission may grant a waiver to these requirements, **except for Maximum Height** due to existing site, **building**, and/or lot constraints pursuant to Section 1.10 - Waivers, Modifications, & Equivalency.

^(b) No restrictions except as required by the setback requirements of this district.

^(c) See sub-section 3.6.08 A. 1.

^(d) See sub-section 3.6.08 A. 3. - Setbacks for Joint Parking Facilities

^(e) Rooftop equipment and access shall not count towards minimum & maximum building height.

^(f) **This Maximum Front Setback shall not apply to Vehicle sales/rental/service facilities.**

3.6.04 REQUIRED DESIGN STANDARDS.

A. The buildings in the City’s commercial areas contribute to the City’s character and sense of place and must “promote development that contributes to the image of the City,” as the Comprehensive Plan states. Therefore, enhancing the quality of these buildings is of utmost importance. The standards set forth below are intended to achieve among others the following purposes:

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and ~~Deletions~~

1. To strengthen, enhance, and improve the existing visual and aesthetic character of the City's commercial and office nodes;
 2. To protect and enhance property values;
 3. To provide guidelines for property owners, architects, and contractors to aid in the preparation of appropriate plans; and,
 4. To meet the Comprehensive Plan objective of "Enhanc[ing] secondary business districts...to create distinctive places."
- B. Applicability of Regulations. In addition to the development standards set forth in Schedule 3.6.03 B., the design standards set forth in Schedule 3.6.04 F. shall apply to the exterior appearance and design of all new construction and **exterior** building ~~renovations~~ **modifications** in the Neighborhood Commercial/Office District.
- C. **The Design Review Board shall review all new construction and exterior building modifications in the Neighborhood Commercial/Office District and provide a recommendation to the Planning Commission as required in Section 1.4 - Development Plan Review Procedures, if a Development Plan is required. If a Development Plan is not required per this Ordinance, the Design Review Board shall review and decide upon exterior building modifications in the Neighborhood Commercial/Office District by approving, approving with conditions, or denying the proposed exterior building modifications.**
- D. The Design Review Board may grant an exemption from these standards when the exterior building modifications are minor in nature, meaning the design modifications will have no discernable impact on neighboring properties, the public, the public right-of-way, or those intended to occupy or use the proposed development.
- E. The Design Review Board may grant an exception or modification to the Design Standards in Schedule 3.6.04 F., **pursuant to Section 1.10 – Waivers, Modifications, and Equivalency**, if the applicant demonstrates that, due to the unusual shape or topography of the lot or an adjoining lot; or due to the location or design of existing structures or other site features; or the presence of mature trees; or due to other site constraints, the application of the design standards would be unreasonable. The Design Review Board may grant a complete exception from the standard, or it may modify the standard in view of the peculiarities of the site. Any modification of the standard shall be considered an "exception." In determining whether to grant an exception, the Design Review Board shall consider:
1. The purposes of the Neighborhood Commercial/Office District;
 2. The intent of the guideline from which the exception is requested; and,
 3. Whether the intent of the standard may be met by an alternate means.
- F. Schedule 3.6.04 F. Design Standards. The design standards set forth in Schedule 3.6.04 E. shall apply to the exterior appearance and design of all new construction and **exterior** building ~~renovations~~ **modifications** for non-residential and mixed used buildings in the Neighborhood Commercial/Office District. Figure 3.6-1 for an Illustration of Required Design Standards.

Significant changes from the Phase 2 draft are noted: Substantive Additions and ~~Deletions~~

Schedule 3.6.04 F.
Required Design Standards in the Neighborhood Commercial/Office District

1.	Buildings and principal building entrances shall be oriented toward the public street so as to define the street edge and contribute to a dynamic pedestrian and street environment.
2.	All buildings shall provide at least one usable building or storefront entrance on each façade facing a public street.
3.	For the first floor, the front facade of every building shall have transparent areas, equal to a minimum of 50% of the front facade area (measured as the total area below the transition line). These transparent areas shall be between two (2) and nine (9) feet above the sidewalk or finished grade with glass paneled garage doors being permissible when such garage doors lower to sidewalk grade.
4.	For all upper floors, each floor of the front facade of the building shall have glazed areas equal to a minimum of 15%.
5.	A transition line shall be provided between the first and second stories. The height of this transition line shall match the height of the transition line on the abutting or adjacent buildings. If adjoining properties are vacant or contain single-story buildings, then the ground floor shall be at least ten (10) feet in height measured from finished floor to finished ceiling.
6.	Any part of the building that is visible from a private right-of-way, public circulation area, or public parking area shall have no more than six (6) feet of contiguous wall length devoid of windows, on any ground floor, unless the wall includes architectural features such as piers, columns, defined bays, or an undulation of the building so that a pedestrian scale, rhythm, and visual interest is created. In no case shall a continuous wall length be devoid of windows for more than 20 feet.
7.	The pattern of architectural features, such as windows and doors, shall be placed upon the facade of a building in a pattern that creates a building fenestration that has a constant rhythm, a harmonious appearance, and is proportional to one another and surrounding buildings, if applicable.
8.	First floor windows shall permit pedestrians a view of the interior of the building. Windows shall remain transparent and shall not be blocked in any manner except for permitted window signage.
9.	Buildings shall have finish materials on all sides. Finish materials shall not include cinder block or vinyl siding.
10.	A combination of materials, textures, colors, and finishes shall be utilized to create visual interest.
	Facade openings, including windows and colonnades, shall be vertical in proportion.
11.	Facades may be supplemented by awnings, which shall be straight sheds without side flaps , but shall not be cubed or curved.
12.	Materials within ten (10) feet of the ground or the sidewalk shall be of a durable material to withstand pedestrian and vehicular traffic. If “dry vit” or E.I.F.S is used as an exterior building material, impact resistant E.I.F.S., as classified by EIMA (EIFS Industry Members Association), shall be used on all wall areas within ten (10) feet of the ground or sidewalk.

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and **Deletions**

- 13. All roof top equipment shall be concealed in building materials that match the structure or shall be painted to be visually compatible with the structure.
- 14. For all buildings located at the intersection of Highland and Grand Avenues, substantial renovations and new buildings shall comply with the following:
 - > The primary building entrance shall face the primary or secondary frontage or be located on the corner, if the corner is chamfered.
 - > The principal building shall occupy 70% of the lot frontage on the primary frontage and at least 40 feet of the frontage along the secondary frontage.
 - > Parking shall be located behind the façade of the building on both the primary and secondary frontages. No parking shall be permitted between the building and Grand and Highland Avenues.
 - > Architectural elements such as corner pediments and awnings or verandahs should be utilized to “hold the corner.” Corners should generally consist of one contiguous space user wrapping the corner.

The applicant may decide which frontage is primary and which frontage is secondary.



Figure 3.6-1 - Illustration of Required Design Standards

Key for Figure 3.6-1

(Item numbers reference Require Design Standards in Schedule 3.6.04 F.)

1	Buildings & entrances oriented toward the street
2	Usable entrances facing a public street
3	Transparent areas equal to a minimum of 50% of the front façade area on the ground floor
4	Glazing on upper floor equal to 15% of the floor area
5	Transition line between 1 st and 2 nd floors
8	1 st floor windows allow view into the building
10	Combination of materials, textures, colors, & finishes create visual interest
12	Building materials within 10 feet of sidewalk must be durable

3.6.05 PROJECTIONS INTO REQUIRED SETBACKS.

- A. Facade elements above the ground floor may project into required setbacks.
- B. Display windows and awnings may project into required setback no more than 4 feet.

3.6.06 PERFORMANCE STANDARDS.

Every use shall comply with the following performance standards as well as any other applicable performance standards in this Ordinance.

- A. Outdoor Storage. No outdoor storage of any material or equipment shall be permitted in this District.
- B. Trash Receptacles. All solid waste products, including empty packing boxes, that result from any permitted principal by-right, restricted, conditional, or accessory use shall either be disposed of, stored in buildings, or held for removal in completely enclosed in containers. Such building, container, or waste receptacle shall be located, including any screening structure and landscaping, in a side or rear yard and shall comply with the applicable minimum parking setbacks set forth in this Section and shall be screened in accordance with the provisions set forth in Section 5.3 - Landscaping, Screening & Lighting Regulations.
- C. Lighting. No lighting shall be permitted which would glare from this District on to any street, road, highway, and ~~dede~~ **dedicated** right-of-way or into any residential zoning district (See Section 5.3 - Landscaping, Screening, and Lighting Regulations).
- D. Enclosure. All uses and operations, except off street parking and loading facilities, shall be operated and performed within an enclosed building, unless otherwise specifically permitted.
- E. Outdoor Vending Machines. There shall be no outdoor vending machines visible from a public street.

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and **Deletions**

3.6.07 DEVELOPMENT INCENTIVES.

- A. Purpose. To implement the Comprehensive Plan objective to “continue to foster investment, infill development and redevelopment that create and enhance vibrant and resilient mixed-use business districts...which include a central gathering place,” **this development incentive reduces a development’s required parking in exchange for Civic Public Space.**



Figure 3.6-2 - Illustration of a plaza

- B. Applicability. This sub-section 3.6.07 applies to all development in the NC/O zoning district.
- C. Incentive.
 - 1. Parking Reduction. Development that provides the Civic Public Space, as set forth in Schedule 3.6.07 C., may exempt a portion of the development’s gross floor area from the parking spaces otherwise required in Section 5.5 (Off-Street Parking, Loading, and Access Regulations) of this Ordinance when the Planning Commission approves such Civic Public Space during development plan review.

Schedule 3.6.07 C. Parking Requirement Reduction with the Provision of Civic Public Space	
Civic Public Space Provided	Reduction in Gross Floor Area from Required Parking in Schedule 5.5.06, Required Off-Street Parking Spaces
Plaza	2500 square feet
Square less than ¼ acre	2500 square feet
Square ¼ acre or more	5000 square feet
Green less than ¼ acre	2500 square feet
Green ¼ acre or more	5000 square feet

3.6.08 OTHER DEVELOPMENT CONTROLS.

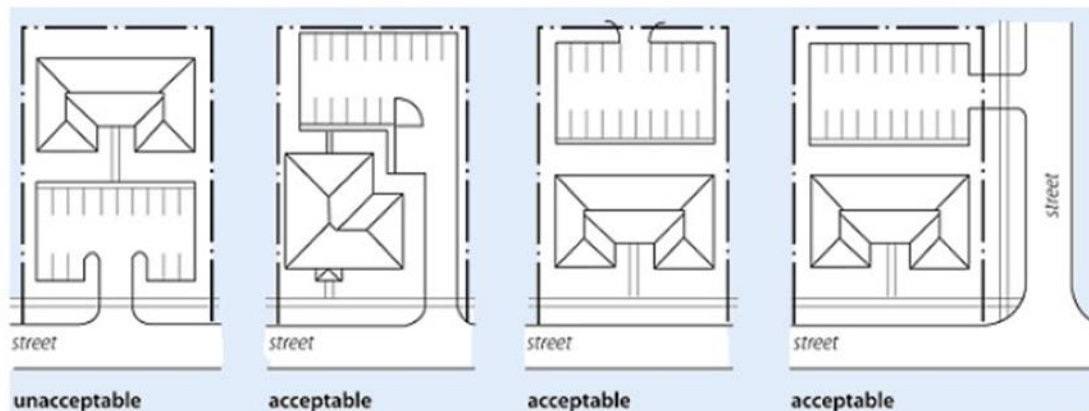
- A. Off-Street Parking and Loading Regulations.
 - 1. Off-street parking areas shall be located to the rear or side of the principal building on the lot and no closer to the front lot line than the front façade of the largest principal building on the lot. The Planning Commission may grant a waiver to this requirement, as permitted by Section 1.10 - Waivers, Modifications, & Equivalency, only if the applicant demonstrates that, due to existing site conditions, the application of this parking locational requirement would be unreasonable. Existing site

Significant changes from the **Phase 2** draft are noted: **Substantive Additions** and ~~Deletions~~

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 in question, **topographical constraints on the site under review**, and the location of utilities both on and off-site.

If the Planning Commission finds the merits of such a waiver, the majority of the parking should be located behind the front façade of the principal building, and any parking located between the building and the applicable right-of-way shall be setback a minimum of ~~10~~ **15** feet from Grand Avenue, Highland Avenue, Alexandria Pike, Fort Thomas Avenue right-of-way, and any other arterial or collector right-of-way. **This area between any parking areas and the arterial or collector right-of-way shall be landscaped as required by sub-section 5.3.05 – Landscaping along Street Frontage.**

Below, in Figure 3.6-3, is an example of the appropriate siting of off-street parking areas:



*Figure 3.6-3 - Appropriate Siting of Off-street Parking Areas
For illustrative purposes only*

2. **Cross Access to Off-Street Parking Lots.** Parking lots in the Neighborhood Commercial/Office District shall be interconnected with non-residential parking lots on adjacent properties to the maximum extent ~~feasible~~ **practicable**. Permanent cross-access easements or other acceptable agreements for adjacent lots with interconnected parking lots shall be submitted in language acceptable to the City's ~~Law Director~~ **Attorney** and the Planning Commission.
3. **Setbacks for Joint Parking Facilities.** When cross access between two parking areas is required or provided, the parking setback shall not be required for the opening that accommodates the drive aisle, but it shall be required in all other areas that abut the shared property line. When shared parking, which spans the mutual property line, is required or provided, the parking setback is not required to be provided.

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and ~~Deletions~~

- 4. Landscaping within the Parking Setback. The area within the parking setback shall be landscaped in accordance with Section 5.3 - Landscaping, Screening, and Lighting Regulations.
- 5. Off-street parking and loading or unloading shall be provided in accordance with Section 5.5 (Off-Street Parking, Loading, and Access Regulations) of this Ordinance unless exemptions are permitted under sub-section 3.6.07 – Development Incentive.
- B. Landscaping, Screening, and Lighting Regulations. Screening and landscaping shall be required in accordance with the applicable provisions set forth in Section 5.4 - Conditional Use and Restricted Use Regulations, when applicable, and Section 5.3 - Landscaping, Screening, and Lighting Regulations.
- C. Accessory Structures and Uses.
 - 1. Accessory uses and accessory structures permitted in the Neighborhood Commercial/Office Use District shall conform to the regulations in this Section and other applicable Sections of this Ordinance including Section 5.1 - Temporary and Accessory Use/Structure Regulations.
 - 2. Accessory buildings with a gross floor area of 200 square feet or less shall be located in a side or rear yard and shall comply with the applicable parking setbacks set forth in Schedule 3.6.03 B. Accessory buildings with more than 200 square feet of gross floor area shall conform to the principal building setback regulations in Schedule 3.6.03 B. and shall submit a development plan in compliance with Section 1.4 - Development Plan Review Procedures.
- D. Unightly or Unsanitary Storage. See Section 5.0 - General Regulations.
- E. Additional Regulations that Apply. For other regulations applicable to uses; structures; and buildings in the Neighborhood Commercial/Office District, see Article V – Regulations Applicable to All Districts including:

5.0	General Regulations
5.1	Temporary and Accessory Use/Structure Regulations
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
5.7	Sign Regulations

3.6.09 DEVELOPMENT PLAN REVIEW.

All uses in the Neighborhood Commercial/Office Use District shall be permitted only after development plans have been reviewed and approved according to the procedures set forth in Section 1.4 - Development Plan Review Procedures.



Significant changes from the Phase 2 draft are noted: **Substantive Additions** and Deletions

SECTION 3.7
Central Business District & Traditional Business District Regulations

3.7.01 Intent.	3.7.05 Performance Standards.
3.7.02 Use Regulations.	3.7.06 Other Development Controls.
3.7.03 Development Standards.	3.7.07 Development Plan Review.
3.7.04 Required Design Standards.	

3.7.01 INTENT.

The Central Business District (CBD) and the Traditional Business District (TBD) and the associated sub-zoning districts and accompanying regulations are established to achieve the following purposes:

DISTRICT & INTENT	SUB-ZONING DISTRICT NAME & INTENT
<p>Central Business District TOWN CENTER (CBD-TC)</p> <p>To be a compact, thriving, and family friendly city center with restaurants, convenient goods, services (e.g., small grocery and pharmacy) and other uses that meet the everyday needs of nearby residents, area employees and visitors, as well as a welcoming gathering place for families to go after games and other school events; with housing integrated in the district above first floor commercial in some locations and as compatible free-standing buildings that contribute to a compact, walkable, and bikeable district.</p>	<p>Town Center Core (CBD-TCC)</p> <p>The intent of this sub-zone is to highlight, enhance, & activate the historic core of Fort Thomas by requiring first floor retail or office use to facilitate vertical mixed use in predominantly two-story buildings located adjacent to the sidewalk.</p> 
<p>Town Center Supporting (CBD-TCS)</p> <p>The intent of this sub-zone is to be compatible with the Core by providing flexibility that accommodates a diverse range of residential & non-residential uses & building types while reinforcing the existing walkable nature of the area & encouraging investment in existing and proposed two story buildings that have small front setbacks and separation between buildings.</p>	
<p>Town Center Residential (CBD-TCR)</p> <p>The intent of this sub-zone is to support appropriate residential transitions between existing residential neighborhoods and the more active commercial areas in the Town Center.</p>	

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and Deletions

**Central Business District
MIDWAY BUSINESS DISTRICT
(CBD-M)**

To be a fun entertainment/recreation destination for both residents and visitors while preserving the historic character and integrity of the area, enhancing the existing traditional main street character, and enriching the critical mass of retail/mixed uses and housing.

Midway Core-1 (CBD-MC1)

The intent of this sub-zone is to support the fun entertainment/recreation destination envisioned by the Community Plan with mixed-use development characterized by pedestrian-priority streetscapes, inviting storefronts, ground level retail and other commercial services, and upper floor office and residential uses housed in predominantly two-story buildings located close to the sidewalks.



Midway Core-2 (CBD-MC2)

The intent of this sub-zone is to be compatible with and supporting the Core by allowing relatively dense, pedestrian-friendly, mixed-use development that prioritizes streetscapes, inviting facades located close to the sidewalk while allowing more flexibility with single-use buildings.



Midway Core-3 (CBD-MC3)

The intent of this sub-zone is to expand the Midway to include the sites currently housing the VA Hospital and the Cincinnati Bell site to encourage housing, civic, and mixed uses that are integral to the vitality of the Midway area. This expansion of the CBD will support additional sites for parking in the Midway. and will also enable the conversion of the VA Hospital into housing with some commercial uses or to facilitate other mixed-use development, if conversion proves unworkable.



Significant changes from the Phase 2 draft are noted: **Substantive Additions** and Deletions

Midway Residential-1 (CBD-MR1)

The intent of this sub-zone is to sustain existing residential structures by permitting residential uses while also providing the flexibility to use these residential structures for non-residential uses thereby adding to the diversity of uses in Midway.



Midway Residential-2 (CBD-MR2)

The intent of this sub-zone is to support appropriate residential transitions between existing residential neighborhoods and the more active commercial areas in Midway.



Traditional Business District (TBD)

INVERNESS BUSINESS DISTRICT

To foster investment, infill development, and redevelopment that enhances this pedestrian-friendly, vibrant, and resilient mixed-use business district, with its unique sense of place, that is oriented primarily to the needs of residents, and which includes a central gathering place.



3.7.02 USE REGULATIONS.

- A. Compliance with Standards. Although a use may be indicated as a permitted use in a particular district, it shall not be approved on a lot unless it can be located thereon in full compliance with all of the standards and other regulations of this Ordinance applicable to the specific use and lot in question, including but not limited to any supplemental use-specific standards cross-referenced in Schedule 3.7.02 C.
- B. Organization of Use Table. In the Use Schedule, land uses are classified into general use categories and specific uses based on common physical or functional characteristics, such as type of dwelling unit, amount of activity generated by the use, and site conditions. Whenever a standard or reference is made to a general use category throughout this code, it shall include the specific uses in that category.

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and Deletions

- C. Schedule 3.7.02 C. Permitted Uses. Schedule 3.7.02 C. sets forth the uses allowed in the Traditional and Central Business Districts. The abbreviations used in the Schedule are defined in sub-section 1.2.02 B.

Schedule 3.7.02 C. Permitted Uses in the Central Business & Traditional Business Districts										
USES	DISTRICT									Use-Specific Regulations
	TOWN CENTER			MIDWAY					Traditional Business	
	CBD-TCC	CBD-TCS	CBD-TCR	CBD-MC1	CBD-MC2	CBD-MC3	CBD-MR1	CBD-MR2	TBD	
1. Residential										
a. Single-family dwelling, detached		R	P				P	P	<u>R</u>	Section 5.4
b. Two-family dwelling		<u>R</u>	R				R	R	<u>R</u>	
c. Multi-family dwellings	R	R			P	P			R	
d. Dwelling unit(s) above ground floor non-residential uses	P	P		P	P	P			P	
e. Dwelling unit(s) behind ground floor non-residential uses when located in the same building as the non-residential use	P	P		P	P	<u>P</u>			P	Section 5.4
f. Residential care facility for persons with disabilities		P	P				P	<u>P</u>		
2. Community Facilities/Institutions										
a. Community center	P	P		P	P	P			P	
b. Congregate care facility		P			P	P			R	Section 5.4
c. Cultural institution	P	P		P	P	P			P	
d. Day care center, child or adult		P			P	P			P	
e. Institutions for human medical care						P				
f. Membership club		P			P				R <u>P</u>	
g. Places of worship						P				
h. Post office	P	P								
i. Public facility	P	P	P	P	P	P	P	P	P	
j. Public park/playground	P	P	P	P	P	P	P		P	

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and Deletions

Schedule 3.7.02 C. Permitted Uses in the Central Business & Traditional Business Districts										
USES	DISTRICT									Use-Specific Regulations
	TOWN CENTER			MIDWAY					Traditional Business	
	CBD-TCC	CBD-TCS	CBD-TCR	CBD-MC1	CBD-MC2	CBD-MC3	CBD-MR1	CBD-MR2	TBD	
k. School (public/private) elementary/secondary						P			R	Section 5.4
l. School (public/private), college/university						P			R	Section 5.4
3. Entertainment/Recreation										
a. Health club	P	p		P	P	P			P	
b. Live music entertainment venue	R			P <u>R</u>	P <u>R</u>	P <u>R</u>			R	Section 5.4
c. School, specialty/personal instruction	P	P		P	P	P			P	
4. Office/Professional Services										
a. Banking, financial institution ⁽¹⁾	P	p		P	P	P			P	
b. Offices – administrative/professional	P	P		P	P	P			P	
c. Offices – Medical/dental	P	P		P	P	P			P	
d. Shop house		P	R				P	R	<u>R</u>	Section 5.4
5. Retail/Personal Services										
a. Artisanal or craft workshop	P	P	<u>R</u>	P	P	P	<u>P</u>	<u>R</u>	R ⁽²⁾	Section 5.4
b. Artisan production	P	R		P	P	P			R	XX
c. Artist studio	P	P	R	P	P	P	<u>P</u>	<u>R</u>	<u>R</u> ⁽²⁾ P	Section 5.4
d. Brewpub	<u>R</u> P			<u>R</u> P	<u>R</u> P	<u>R</u> P			R	Section 5.4
e. Drinking establishment	P			P	P	P			p	
f. Experiential retail establishment	P	P		P	P	P			P	
g. Hotel	P	P		P	P	P			P	
h. Micro-Brewery/Distillery/Winery	R			<u>R</u> P	<u>R</u> P	<u>R</u> P				Section 5.4
i. Personal service establishment	p	p		P	P	P			P	
j. Restaurants	P	P		P	P	P			P	

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and Deletions

Schedule 3.7.02 C. Permitted Uses in the Central Business & Traditional Business Districts										
USES	DISTRICT									Use-Specific Regulations
	TOWN CENTER			MIDWAY					Traditional Business	
	CBD-TCC	CBD-TCS	CBD-TCR	CBD-MC1	CBD-MC2	CBD-MC3	CBD-MR1	CBD-MR2	TBD	
k. Retail establishments	P	P		P	P	P			P	
l. Shop house		P	R				P	R	<u>R</u>	Section 5.4
6. Vehicles and Equipment										
a. Drive thru facilities associated with a principal permitted use	€	€								XX
7. Other										
a. Funeral homes without cremation facilities		C								Section 5.4
b. Habitable roof – non-residential use	R	R		R	R	R			C	Section 5.4
c. Habitable roof – residential use	P	P	P	P	P	P	P	P	P	
d. Parking structure – Principal Use	C				C	C				Section 5.4
e. Wireless Telecommunication facility										
8. Industrial										
a. Artisan production	<u>R</u>	<u>R</u>		<u>R</u>	<u>R</u>	<u>R</u>			<u>R</u>	Section 5.4
9. Accessory Uses/Structures										
a. Electric vehicle charging stations	R	R		R	R	R			R	Section 5.4
b. Fences, walls	A	A	A	A	A	A	A		A	Section 5.1
c. Home occupation	A	A	A	A	A	A	A		A	Section 5.1
d. Other accessory structures		A	A	A	A	A	A		<u>R, A</u>	Sections 5.1 & 3.7
e. Off-street parking lots	R	R		R	<u>R, A</u>	R	R		R	Section 5.4
f. Outdoor dining in association with a principal permitted use	A	A		A	A	A			A	Section 5.1
g. Outdoor sales/display in association with a principal permitted use	A	A		A	A	A			A	Section 5.1
h. Parking structures in association with a principal use	C	C		C	C	C			C	Section 5.4

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and Deletions

Schedule 3.7.02 C. Permitted Uses in the Central Business & Traditional Business Districts										
USES	DISTRICT									Use-Specific Regulations
	TOWN CENTER			MIDWAY					Traditional Business	
	CBD-TCC	CBD-TCS	CBD-TCR	CBD-MC1	CBD-MC2	CBD-MC3	CBD-MR1	CBD-MR2	TBD	
i. Short-term rental properties	A	A	A	A	A	A	A	A	A	Section 5.1
j. Signs	A	A	A	A	A	A	A	A	A	Section 5.7
k. Solar energy system, integrated	A	A	A	A	A	A	A	A	A	Section 5.1
l. Solar energy system, rooftop	A	A	A	A	A	A	A	A	A	Section 5.1
m. Trash receptacle	A	A	A	A	A	A	A	A	A	Section 5.3

Notes to Schedule 3.7.02 C.:

⁽¹⁾ Automatic Teller Machines shall not be located on the front façade of structures with frontage on Fort Thomas Avenue.

⁽²⁾ "R" in Single-family detached dwellings and "P" in non-residential and mixed-use buildings

P = Principal Permitted By-Right Use R=Restricted Use C=Conditional Use Blank Cell = Not Permitted A = Accessory Use

D. Use Restrictions.

1. In the CBD-TCC, the CBD-MC1, and the TBD Districts, buildings that have frontage along the required ~~non-residential~~ **occupied** frontage, as specified on the Zoning Map, shall have Required Occupied Space with a minimum depth of 25 feet from the frontage line within the first or ground story for the permitted non-residential uses. **For the purposes of this Section 3.7, first floor or ground story means the tenant space that is at street level.**
2. **Prohibited Uses in the CBD and TBD Districts.** The following uses are prohibited in the CBD District and associated sub-zoning districts and in the TBD District:
 - a. Tattoo/Piercing Establishments;
 - b. Alternative Financial Services;
 - c. Outdoor automatic food and drink vending machines; and,
 - d. **Pawn shops.**

E. **Similar Uses.** See Section 1.3 – Powers and Duties, sub-section 1.3.02 B. 19.

3.7.03 DEVELOPMENT STANDARDS.

- A. All buildings, pavement areas, and land in the Central and Traditional Business Districts shall comply with the requirements set forth in Schedules 3.7.03 B and C. See Section 5.4,

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and Deletions

Conditional Use and Specific Use Regulations, for additional development regulations for Conditional and Restricted Uses. **See Section 1.1 - Definitions and Measurements for an explanation of terms used in Schedule 3.7.03 B.**

- B. Schedule 3.7.03 B., Development Standards in the TBD, CBD-TCC, CBD-TCS, CBD-MC1, CBD-MC2, CBD-MC3 Sub-Districts are as follows:

Schedule 3.7.03 B. Development Standards TBD, CBD-TCC, CBD-TCS, CBD-MC1, CBD-MC2, CBD-MC3			
	TBD/CBD-TCC CBD-MC1/CBD-MC2	CBD-TCS	CBD-MC3 ^(e)
1. Lot Configuration. ^(a)			
a. Minimum lot area (sq. ft.)	None	4,500	5,000 None
b. Minimum lot width (feet)	None	50	50 None
c. Minimum lot depth (feet)	None	100	100 None
d. Maximum lot coverage	100%	85%	75%
2. Principal Building Siting. ^{(a)(h)}			
a. Multiple principal buildings	Not permitted	Permitted	Permitted
b. Minimum primary lot line coverage	90% ^(b)	50%	
c. Occupation of corner	Required	Not Required	Not Required
d. Setback from back of sidewalk along Fort Thomas Avenue (feet)	Minimum - 0	Minimum - 25 20	Minimum - 0
	Maximum - 10	Maximum - 35	Maximum - 10 None
e. Fronting street setback (feet) ^(d)	Minimum - 0	NA	Minimum - 0 None
	Maximum - 20		Maximum - 50 None
f. Secondary street (Street other than Fronting or Ft. Thomas Ave.) setback (feet)	Minimum - 5		
	Maximum - 20		
g. Minimum side setback (feet)	Abutting lot in Non-Residential & R-3 Districts - 0	One side - 3	Abutting lot in Non-Residential & R-3 Districts - 0
	Abutting lot in R-1 District - 15	Total of both sides - 14	Abutting lot in R-1 District - 15
h. Minimum distance between principal buildings (feet)	NA	15	NA
i. Minimum rear setback (feet) -	Abutting lot in Non-Residential, R-3, & R-5 Districts - 0	25	Abutting lot in Non-Residential, R-3, & R-5 Districts - 0
	Abutting lot in R-1 District - 25		Abutting lot in R-1 District - 25
j. Maximum building width (feet)	185	75	None

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and Deletions

Schedule 3.7.03 B. Development Standards TBD, CBD-TCC, CBD-TCS, CBD-MC1, CBD-MC2, CBD-MC3			
	TBD/CBD-TCC CBD-MC1/CBD-MC2	CBD-TCS	CBD-MC3 ^(e)
3. Accessory Siting. ^(a)			
a. Accessory building/structures location	Rear yard; prohibited in front and corner side yards		
b. Accessory building/structure side & rear setback from boundary of development (feet)	5		
4. Height.			
a. Principal building Height (feet) ^(e)	Minimum – 24	Minimum – None	Minimum - 24
	Maximum – 40-50 ^(g)	Maximum – 35-50 ^(g)	Maximum – 50 ^(g)
b. Minimum ground floor height ^(a) (Measured floor to floor) (feet)	10	NA	
c. Maximum ground floor height ^(a) (Measured floor to floor) (feet)	18	NA	
d. Minimum upper floor ceiling height (feet) ^(a)	9		
e. Maximum height of accessory buildings/structures (feet) ^(a)	15		
5. Parking/Vehicular Access. ^(a)			
a. Parking within building	Permitted fully in any basement and in rear of ground first floor or the floor at street level		
b. Entry for parking within/attached to principal building	Rear façade, interior side façade permitted on lots wider than 100 feet, or corner side façade with approval of the Planning Commission after consultation with the City Engineer		
c. Parking location ^(f)	Rear, perpendicular to principal building behind the front façade, or within building; parking between a building and any primary public street except Hagedorn Lane street is prohibited		
d. Permitted vehicular access	Curb cuts shall be minimized in quantity and width. One driveway permitted off each abutting secondary street; if no secondary street exists, then Planning Commission, in consultation with the City Engineer and the Zoning Administrator, will determine the appropriate primary street access. Accessing parking from Fort Thomas Avenue shall be avoided, and when provided, only a single shared drive shall be provided and the width of the curb cut shall not exceed 22 feet.		
e. Minimum surface parking lot or pavement setback from the project boundary (feet)	0		
	Abutting lot in R-1 District – 15		
6. Street Façade Requirements ⁽ⁱ⁾ (See Figure 3.7-1 – Illustration of Street Façade Requirements)			
a. Minimum transparency on ground story or street level of building façade facing a street	75%	15%	30% 65%

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and Deletions

Schedule 3.7.03 B. Development Standards TBD, CBD-TCC, CBD-TCS, CBD-MC1, CBD-MC2, CBD-MC3			
	TBD/CBD-TCC CBD-MC1/CBD-MC2	CBD-TCS	CBD-MC3 ^(c)
b. Minimum transparency per each upper story	15%	12%	
c. Blank wall limitations	Required per floor on all stories of street facing facades – See sub-section 3.7.03 D 2.	30 feet maximum	Required per floor on all stories of street facing facades – See sub-section 3.7.03 D 2.
d. Required principal entrance location	Front, street facing façade adjacent to sidewalk	Front, street facing facade	Front, street facing façade adjacent to sidewalk
e. Ground story or street level entrance spacing	1 per each 70 feet of street facing facade	NA	1 per each 100 feet of street facing facade
f. Ground story or street level vertical facade divisions	Minimum of every 30 35 feet of facade width	NA	1 per each 100 feet of front façade Minimum of every 50 feet of facade width
g. Horizontal façade divisions	Required within 3 feet of the top of the ground or street level story	NA	Required within 3 feet of the top of the ground or street level story

Notes to Schedule 3.7.02 B.:

- (a) The Planning Commission may grant a waiver to these requirements pursuant to Section 1.10 - Waivers and Modifications.
- (b) When parking access is not available on an alley, rear street, or corner side street and is only available on a primary street, the required percentage indicated above may be reduced by the Planning Commission to allow parking access that is perpendicular to the front lot line and located behind the façade of the principal building.
- ~~(c) The frontages of this sub-district that abut South Fort Thomas Avenue shall meet the development standards for CBD-MC1~~
- (d) ~~In the CBD-M3, Cochran Avenue is considered a Fronting Street.~~ In the TBD, Rob Roy and Memorial Parkway are fronting streets.
- (e) Where existing at the adoption of these regulations, a single-story building that does not meet the minimum height requirements shall not be considered nonconforming in height.
- (f) On corner lots, parking lots shall be behind the building façade and/or set back a minimum of 10 feet from the secondary street and screened with a 3-foot masonry or continuous landscape wall.
- (g) In the CBD-TCC and CBD-TCS sub-districts, 100 feet from the back of the sidewalk along Front Thomas Avenue, upper stories of a building may be stepped-back and exceed the maximum height by 10 feet when approved by the Planning Commission and a COA is granted from the Design Review Board.
- (h) For through lots, see 3.7.03 D.
- (i) The Design Review Board may grant exemptions, waivers, and modifications to these requirements pursuant to sub-section 3.7.04 and Section 1.10 - Waivers, Modifications, & Equivalency.

NA = Not Applicable

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and Deletions

C. Schedule 3.7.03 C., Development Standards in the CBD-TCR, CBD-MR1, & CBD-MR2 Sub-Districts.

Schedule 3.7.03 C. (a) Development Standards CBD-TCR, CBD-MR1, & CBD-MR2 Sub-Districts.			
	CBD-TCR	CBD-MR1	CBD-MR2
1. Lot Configuration.			
a. Minimum lot area (sq. ft.)	5,000	4,000	3,000
b. Minimum lot width (feet)	40	35	30
2. Minimum principal building setback (feet).			
a. Minimum front	The minimum front setback shall be the average setback of adjacent principal buildings. Such minimum front setback shall be the average distance, or within three (3) feet of such average, of the front setbacks of the four lots, two on either side, of the lot in question.		
b. Minimum for one side	5	3	3
c. Combined minimum side setback for both sides	14	9	9
d. Minimum rear	25	25	25
3. Other Development Standards.			
a. Accessory building/structures location	Rear yard; prohibited in front and corner side yards in conformance with Section 5.1, Temporary & Accessory Use/Structure Regulations		
b. Minimum gross floor area per dwelling unit (square feet)	800		
4. Height.			
a. Maximum height of principal building	35 feet or 2.5 stories		
b. Maximum height of accessory buildings/structures (feet)	15		
Notes to Schedule 3.7.02 C.:			
^(a) Variances from the Development Standards in Schedule 3.7.03 C will be considered by the Board of Adjustment pursuant to Section 1.7.			

D. General Provisions.

1. Through Lots. Through lots require special consideration with regard to rear and side setback requirements, and the property owner may be allowed or required by the Zoning Administrator or the Planning Commission, as applicable, to meet some or all setback requirements on both street frontages of the lot; and to deviate from the Development Standards in this Section to ensure that the intent of these regulations with respect to the occupation of the street, the relationship of the building and the street, and the proper

Significant changes from the **Phase 2** draft are noted: **Substantive Additions** and Deletions

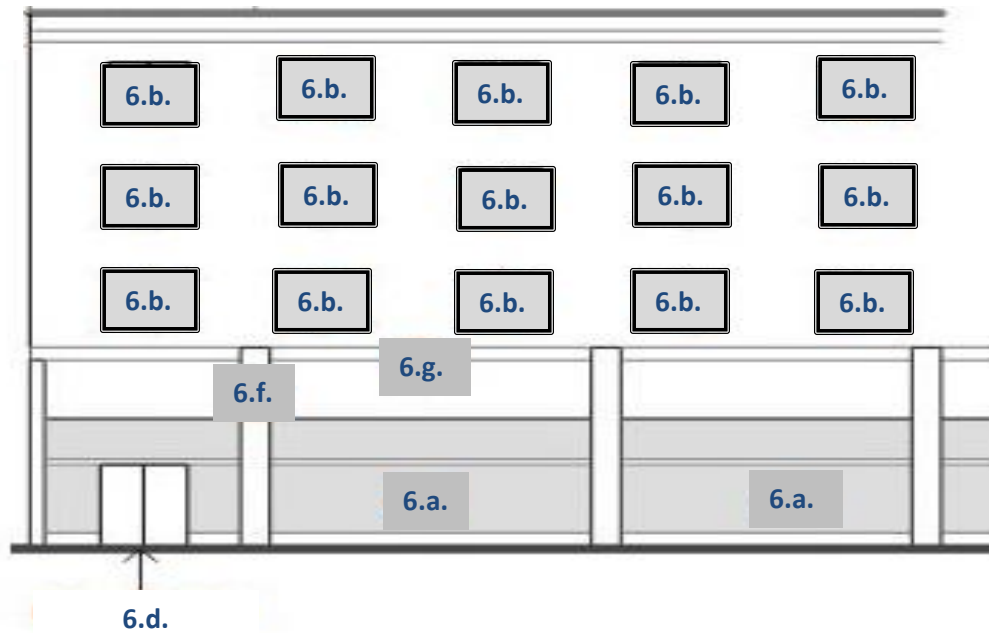
functioning of a site for utility and other access is ensured.

2. **Blank Wall Limitations**. A blank wall limitation is a restriction of the amount of windowless area permitted on a facade with street frontage. If required, the following shall both be met for each story:
 - a. No rectangular area greater than 30 percent of a story's facade, as measured from floor to floor, may be windowless; and
 - b. No horizontal segment of a story's facade greater than 20 feet in width may be windowless.
3. **Increased Street Setback**. In the TBD, CBD-TCC; CBD-MC1; CBD-MC2, **CBD-MC3** Districts and Sub-Districts, the Maximum Setback from Back of Sidewalk along Fort Thomas Avenue may be increased by 10 feet if a plaza, seating area or other outdoor area is incorporated into the development abutting the sidewalk. Unless waived by the Planning Commission pursuant to Section 1.10 - Waivers, Modifications, & Equivalency, at least 50% of the building frontage shall comply with the Minimum and Maximum Setback from Back of sidewalk along Fort Thomas Avenue established in Schedule 3.7.03 B.

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and Deletions

Figure 3.7-1 - Illustration of Street Facade Requirements

Numbers in the illustration refer to requirements in Section 6 of Schedule 3.7.03 B.



3.7.04 REQUIRED DESIGN STANDARDS.

- A. The buildings in the Central and Traditional Business Districts contribute to the City's character and sense of place. Enhancing the quality and compatibility of these buildings is of utmost importance. The standards set forth below are intended to achieve among others the following purposes:
1. To strengthen, enhance, and improve the existing visual and aesthetic character of the Traditional Business District and the core areas of the Central Business Districts;
 2. To protect and enhance property values;
 3. To provide guidelines for property owners, architects, and contractors to aid in the preparation of appropriate plans;
 4. To realize the Focus Area Plans for Town Center and Midway as set forth in the City's *Comprehensive Plan*; and,
 5. To supplement the Design Guidelines for Midway and the Town Center Business Districts.
- B. Applicability of Regulations. In addition to the development standards set forth in Schedule 3.7.03 B., the design standards set forth in Schedule 3.7.04 G. shall apply to the exterior appearance and design of all new construction and exterior building modifications in the Traditional Business District and the CBD-TCC, CBD-MC1 & 2 sub-districts.
- C. The Design Review Board shall review all new construction and exterior building modifications in the Traditional Business District and provide a recommendation to the Planning Commission as required in Section 1.4, Development Plan Review if a Development Plan is required. If a Development Plan is not required per this Ordinance, the

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and Deletions

Zoning Administrator or the Design Review Board, as applicable, shall review and decide upon ~~consider~~ the exterior building modifications in the Traditional Business District **by approving, approving with conditions, or denying the proposed exterior building modifications.**

- D. In the CBD-TCC, CBD-MC1 & 2 sub-districts, the Design Review Board shall review all new construction and exterior alterations and issue a Certificate of Appropriateness as required by Sections 36.010 – 36.015 of the Code Ordinances of the City of Fort Thomas, Kentucky.
- E. The Design Review Board may grant an exemption from these standards when the exterior building alterations are minor in nature, meaning the design modifications will have no discernable impact on neighboring properties, the public, the public right-of-way, or those intended to occupy or use the proposed development.
- F. The Design Review Board may grant an exception or modification to the Design Standards in Schedule 3.7.04 G. **pursuant to Section 1.10 – Waivers, Modifications, and Equivalency**, if the applicant demonstrates that, due to the unusual shape or topography of the lot or an adjoining lot; or due to the location or design of existing structures or other site features; or the presence of mature trees; or due to other site/building/utility constraints, the application of the design standards would be unreasonable. The Design Review Board may grant a complete exception from the standard, or it may modify the standard in view of the peculiarities of the site and existing structures. Any modification of the standard shall be considered an "exception." In determining whether to grant an exception, the Design Review Board shall consider:
 - 1. The purposes of the Traditional Business and Central Business Districts;
 - 2. The intent of the guideline from which the exception is requested; and,
 - 3. Whether the intent of the standard may be met by an alternate means.
- G. Schedule 3.7.04 G. Design Standards. The design standards set forth in Schedule 3.7.04 G. shall apply to the exterior appearance and design of all new construction and exterior building modifications in the Traditional Business District and the CBD-TCC, CBD-MC1 & 2 sub-districts. See Figure 3.7-1 for an Illustration of Street Facade Requirements.

Schedule 3.7.04 G.

Required Design Standards in the TBD & the CBD-TCC, CBD-MC1 & 2 Sub-districts

1.	Corner Treatment - Buildings located on corner lots shall:
	a. Occupy the corner as required by Schedule 3.7.03 B. and provide a minimum secondary lot line coverage of 60%
	b. Accentuate the corner’s unique location with architectural features that actively engage the public realm and create a visual presence at the corner, such as, but not limited to the following:
	<ul style="list-style-type: none"> i. Chamfered or rounded building corner or other architectural features to change the wall plane at the corner; ii. Projecting and recessed balconies & entrances; and, iii. Accentuating corner features including embellished doorways, recessed corner entries, volumetric building features (e.g. corner towers), and increased corner building height.

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and Deletions

2.	<p>Mass and Scale</p> <ul style="list-style-type: none"> a. Buildings with approximately 150 feet or more of street frontage shall incorporate coordinated building massing techniques so that the building width is divided vertically and designed as two (2) or more separate and distinct facades of differing architectural treatment so that the building appears to be multiple buildings. Appropriate techniques are: <ul style="list-style-type: none"> i. A facade plane change with a minimum depth or projection of 3 feet that extends the full height of the building or the lower story, if the building has upper floors; ii. A building material or color change that extends the full height of the building or the lower story when the building has upper floor(s); iii. A change in cornice, roof eave, or parapet; iv. A change in wall material for each storefront or 35-foot Ground Story Vertical Façade Division mandated in Schedule 3.7.03 B; and, v. Other techniques that achieve the overall intent of this Design Standard. b. All buildings over one (1) story shall evidence a design that illustrates a bottom, middle, and top of the building. Elements that demonstrate such building sections include, but are not limited to, cornices, changes in material, or other architectural expressions such as belt courses and fenestration. c. Horizontal ground floor facade elements shall, to the extent possible, align with horizontal ground floor facade elements of surrounding buildings in order to create continuity at the pedestrian level. d. The use of vertical cornice line elements is encouraged to create visual interest and articulate the building facade at the roof line.
3.	<p>Façade Articulation/Design</p> <ul style="list-style-type: none"> a. Scaling elements, architectural details, and other forms of facade articulation shall be integrated into building massing so they convey a sense of depth and texture rather than a thinly applied surface treatment. b. Façade articulation techniques used on the street level facade should coordinate with upper floor design elements to result in a cohesive building design. c. Articulate buildings with dimensions & elements that promote a sense of human scale.
4.	<p>Materiality & Colors</p> <ul style="list-style-type: none"> a. Street level facades shall be constructed of material that is durable and appropriate to pedestrian contact. Durable materials include masonry and other materials that require minimal or no maintenance. (Applicants may be required to prove the durability of unproven or unusual materials.) b. The following exterior building materials are prohibited. The use of any materials not specifically prohibited in this sub-section are subject to the review by the Design Review Board. <ul style="list-style-type: none"> i. Plain concrete masonry units (CMU). ii. Vinyl siding, aluminum, or wood-slat siding. iii. Exterior Insulation Finish System, EIFS or "Dryvit" (non-masonry stucco products a.k.a. Artificial Stucco, Synthetic Stucco, Vinyl Stucco,

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and Deletions

	<p>and Latex Stucco).</p> <ul style="list-style-type: none"> iv. T-111 Composite plywood siding. v. Utility-sized, king-size, or jumbo brick. vi. Fiberglass or plastic. vii. Exposed aggregate (rough finish) concrete wall panels. <p>Any expansions of structures existing as of the date of the adoption of this Ordinance may use the same building materials on the facade as the facade of the existing structure, even if such materials are not listed as permitted or are listed as prohibited in this sub-section. The use of such materials is subject to approval by the Design Review Board.</p> <ul style="list-style-type: none"> c. Architectural cast-in-place concrete shall incorporate textural detailing, color, and finish elements to ensure a high-quality final surface. d. Exterior building materials & finishes shall be detailed to articulate texture and depth. Appropriate techniques include but are not limited to: <ul style="list-style-type: none"> i. Adding visual interest through texture, depth, finish, and detailing; and, ii. Applying materials in units, panels or modules that produce shadow lines to help convey a sense of scale. e. The color of materials should be kept to a minimum, preferably 3 or fewer excluding a neutral trim color. f. Wall materials appearing heavier in weight should be used below wall materials appearing lighter in weight. (For example, wood and metal above brick, and all three above stone)
<p>5.</p>	<p>Windows & Transparency</p> <ul style="list-style-type: none"> a. Display windows that do not provide views into the interior of the building may be counted towards satisfying up to 50 % of the Minimum Transparency on Ground Story of Building Façade mandated in Schedule 3.7.03 B., provided that they are internally illuminated and are at least 3 feet in depth. b. The bottom of any window or product display window used to satisfy Minimum Transparency on Ground Story of Building Façade mandated in Schedule 3.7.03 B, shall not be more than 3 feet above the adjacent sidewalk. c. All glazing shall have a minimum of sixty percent (60%) light transmittance factor at street level. d. No portion of the building façade shall have highly reflective glass (maximum reflectance factor of 0.25) and there shall be no reflective coatings on the exterior of the glass. e. Required transparency on the street level façade shall not be blocked by furnishings, displays, graphics, or other obstructing elements. f. Illumination of windows, display windows and primary entrances shall not have any effects of movement, flashing, scintillation, rolling, dissolving, fading or similar effects. g. Required glazing shall not be aggregated into a single undivided area of glazing treatment. Individual glazing areas shall not span more than 15 linear feet. h. Display windows should be a minimum of 8 feet in height. Sills, bulkheads, or support walls at the bottom of display areas should be approximately 8-18 inches tall and generally no higher than 24 inches.

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and Deletions

6.	<p>Building Entries</p> <ul style="list-style-type: none"> a. Entrances shall be easily differentiated from the adjacent facade. b. Entrances set back from the sidewalk by a plaza, entry court, or other outdoor spaces shall be visible and maintain direct, universal access from the sidewalk. c. Glass on entry doors shall be highly transparent using non-reflective and minimally tinted glass. d. Street Level building entries shall be emphasized. Appropriate techniques include, but are not limited to: <ul style="list-style-type: none"> i. Recessed or projecting entries ii. Recessed or projecting canopies or awnings iii. Other design solutions that emphasize building entry prominence e. Entrances shall be recessed no more than 4 feet from the face of the storefront. f. Multi-family buildings shall provide entry from the public sidewalk to shared entry areas or lobbies.
7.	<p>Awnings</p> <ul style="list-style-type: none"> a. Awnings shall be an integral part of the architectural design of the buildings and facades to which they are attached while serving a purpose such as reducing solar gain, shadowing the pedestrian realm, emphasizing building entrances, creating a sense of human scale by helping to define the street level facade, and/or highlighting vertical/horizontal shifts in building massing. b. Stretched vinyl or materials similar in material, texture, or appearance are prohibited on awnings. c. Facades may be supplemented by awnings, which shall be straight sheds without side flaps, but shall not be cubed or curved. d. Only “goose-neck” or other similar forms of external lighting are permissible to illuminate awnings. Internally lit awnings are prohibited. e. Awnings shall not come within 2 feet from the back of the curb and shall not impede street tree growth. f. Awnings should be designed as individual components & not be continuous & uninterrupted along the street level façade.
8.	<p>Signs</p> <ul style="list-style-type: none"> a. Box/Cabinet Signs are prohibited. (Face changes of existing box or cabinet signs are acceptable.) b. Power sources, raceways and conduit shall be concealed to minimize their visual impact. c. Sign character and sign materials that are expressive of the individual proprietor is encouraged. d. Signs located at building corners and corner entrances or in other highly visible locations should be creative & iconographic. Appropriate techniques include, but are not limited to: <ul style="list-style-type: none"> i. Incorporating symbols or representations of products into sign design; ii. Utilizing unique typography in sign design; and, iii. Integrating creative lighting into the sign design.

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and Deletions

9.	<p>Miscellaneous Requirements:</p> <p>a. Elements such as meter boxes, utility conduits, roof projections such as vent and exhaust pipes, basement window enclosures, and trash containers shall be designed and located so as to minimize their visibility and visual impact from the sidewalk.</p> <p>b. All rooftop equipment shall be screened from view on all sides visible from public right-of-way, residential districts, and residential uses. Screening shall be provided through parapets, walls, or other building elements that appear as elements integral to the overall building. Such screening shall be provided to screen the equipment from off-site view and to buffer sound generated by such equipment. The height of the screening shall equal the height of the tallest rooftop mechanical element installed on the building. Solar energy systems shall be excluded from the requirements of this subsection to the extent the requirements prevent or limit functionality and/or accessibility to direct sunlight.</p> <p>c. Loading docks, overhead doors, & other service entries shall not be located on primary street facades and should not face a public street.</p> <p>d. Any building that terminates a view, as designated on the Zoning Map, shall provide distinct and prominent architectural features of enhanced character and visibility, which reflect the importance of the building’s location and create a positive visual landmark and focal point. <u>Appropriate treatments include but are not limited to a tower, a courtyard with a sculpture, pronounced increase in building height, or other similar treatment incorporating a distinct vertical element.</u></p> <p>e. No exterior stairs shall be permitted on any street facing façade.</p> <p>f. Facade elements above the ground floor are permitted to project into required setbacks.</p> <p>g. Display windows and awnings shall only project into a required setback no more than four (4) feet provided the City Engineer permits any encroachment into the right-of-way.</p> <p>h. <u>The continuous plane of a roofline shall be no greater than 150 feet. Rooflines can be varied with cantilevers, gables, parapets, and/or cornice lines.</u></p>
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3.7.05 PERFORMANCE STANDARDS.

Every use shall comply with the following performance standards as well as any other applicable performance standards in this Ordinance.

- A. **Outdoor Storage.** No outdoor storage of any material, vehicles, or equipment shall be permitted in these Districts and sub-zoning districts.
- B. **Trash Receptacles.** All solid waste products, including empty packing boxes, that result from any permitted principal by-right, restricted, conditional, or accessory use shall either be disposed of, stored in buildings, or held for removal in completely enclosed in containers. Such building, container, or waste receptacle shall be located in a side or rear yard and shall be set back five (5) feet from all lot lines and shall be screened in accordance with the provisions set forth in Section 5.3 - Landscaping, Screening & Lighting Regulations.

Significant changes from the **Phase 2** draft are noted: **Substantive Additions** and Deletions

- C. **Lighting**. No lighting shall be permitted which would glare from this District on to any street, road, highway, and deeded right-of-way or into any residential zoning district. Furthermore, lighting fixtures, types, and placement shall be consistent with Section 5.3 - Landscaping, Screening, and Lighting Regulations and with the design guidelines approved for the CBD zoning district and reviewed by the Design Review Board.
- D. **Enclosure**. All uses and operations, except off street parking and loading facilities, shall be operated and performed within an enclosed building, unless otherwise specifically permitted.
- E. Above ground mechanical devices shall be located in the side or rear yard, behind all portions of the principal building façade and shall be fully screened from the street and neighboring properties as required by Section 5.3 - Landscaping, Screening & Lighting Regulations.
- F. Where any yard of any non-residential use permitted in ~~this~~ **the CBD and TBD** zoning districts abuts an R-1 zoning district, a minimum side and rear setback as required by Schedule 3.7.03 B. shall be provided, with a screening area, as regulated by Section 5.3 - Landscaping, Screening, and Lighting Regulations of this Ordinance. The Planning Commission may reduce this minimum setback requirement by no more than one-half based upon the submission of a Development Plan that utilizes other approaches to effectively screen and separate incompatible land uses.
- G. No use producing objectionable odors, noise, or dust shall be permitted within 500 feet from the boundary of any residential zoning district, and shall comply with Section 5.0 - General Regulations of this Ordinance.
- H. No motor vehicle, which is inoperable, or trailer, which is usable or unusable, shall be stored or used for storage of any items therein on any lot or parcel of ground in this ~~zone~~ **zoning district** unless it is within a completely enclosed building.
- I. **Unsightly or Unsanitary Storage**. See Section 5.0 - General Regulations.

3.7.06 OTHER DEVELOPMENT CONTROLS.

- A. All new construction and alterations shall be completed in conformance with the CBD Design Guidelines and plans approved by the ~~CBD~~ Design Review Board or the Zoning Administrator as ~~required by~~ **provided for in** Sections 36.010 – 36.015 of the Code of Ordinances of the City of Fort Thomas, Kentucky.
- B. For commercial, office, multi-family, and mixed-use projects, unless waived by the Planning Commission pursuant to Section 1.10 - Waivers, Modifications, & Equivalency, a designated pedestrian access path from rear parking areas to the public sidewalk shall be provided based on the following regulations:
 - 1. For parcels fifty (50) feet to seventy-four (74) feet in width, no dedicated pedestrian access path is required.
 - 2. For parcels seventy-five (75) feet to one hundred forty-nine (149) feet in width, one (1) dedicated pedestrian access path is required.

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and Deletions

3. For parcels one hundred fifty (150) feet or more in width, two (2) dedicated pedestrian access paths are required.
4. Permitted pedestrian access paths may include the following (See Figure 3.7-2 - Permitted On-Site Pedestrian Paths):
 - a. Side building access path.
 - b. Passageway between buildings.
 - c. Internal corridor.
 - d. Side yard adjoining a street public sidewalk.

5. All parking lot pedestrian access paths shall have a minimum width of five (5) feet.
6. All passageways between buildings shall have a minimum width of five (5) feet and a maximum width of ten (10) feet.

7. On a parcel with a side yard adjoining a street, a public sidewalk on the secondary street may serve as the designated pedestrian access if the following are true:

- a. The sidewalk has a minimum width of five (5) feet.
- b. The sidewalk is determined to be in good condition and meeting all accessibility requirements.
- c. Direct pedestrian access is provided from the on-site parking area to the public sidewalk.

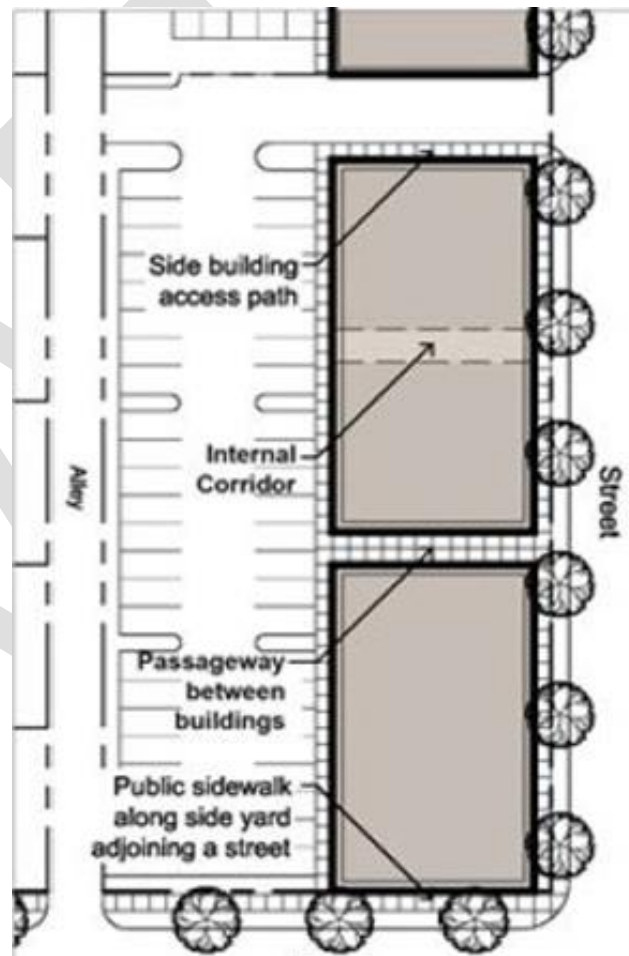


Figure 3.7-2 - Permitted On-site Pedestrian Paths

- C. Cross Access to Off-Street Parking Lots. Parking lots in the Traditional Business and Central Business Districts shall be interconnected with non-residential **and mixed-use** parking lots on adjacent properties to the maximum extent **practicable** ~~feasible~~. Permanent cross-access easements or other acceptable agreements for adjacent lots with interconnected parking lots shall be submitted in language acceptable to the City Attorney and the Planning Commission.

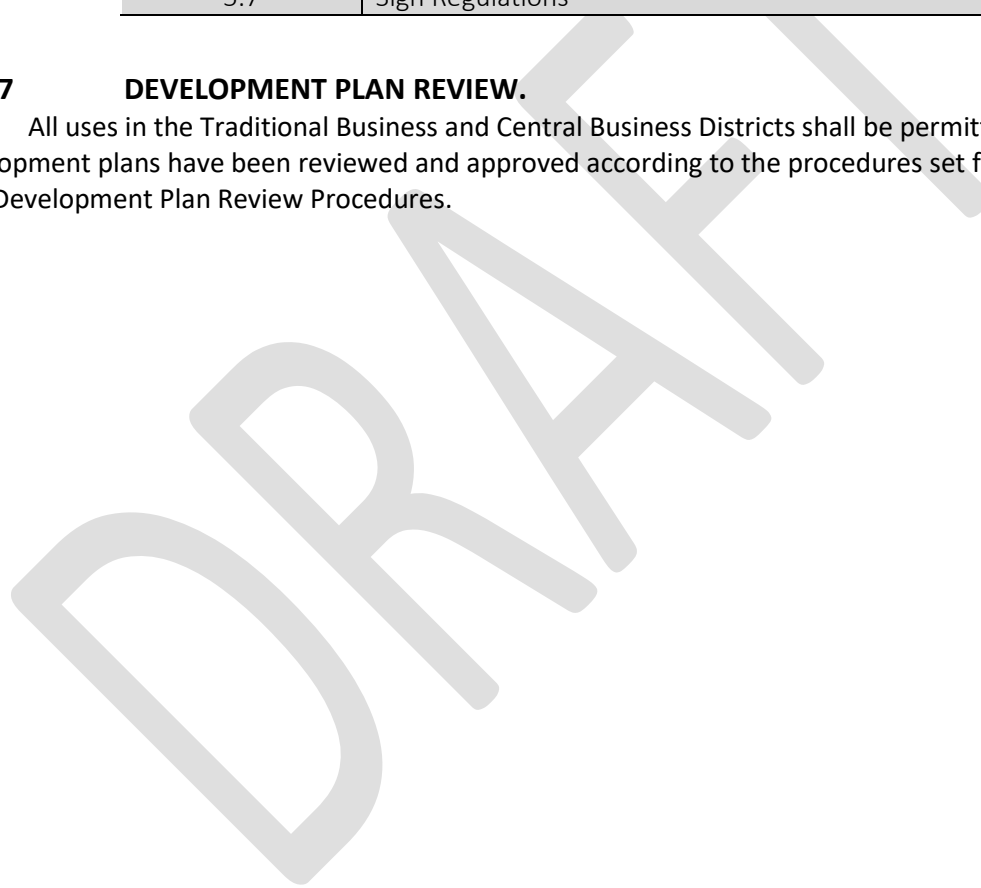
Significant changes from the Phase 2 draft are noted: **Substantive Additions** and Deletions

- D. **Additional Regulations that Apply.** For other regulations applicable to uses; structures; and buildings in the Traditional Business and Central Business Districts, see Article V – Regulations Applicable to All Districts including:

5.0	General Regulations
5.1	Temporary and Accessory Use/Structure Regulations
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
5.7	Sign Regulations

3.7.07 DEVELOPMENT PLAN REVIEW.

All uses in the Traditional Business and Central Business Districts shall be permitted only after development plans have been reviewed and approved according to the procedures set forth in Section 1.4 - Development Plan Review Procedures.



SECTION 3.8
Fort Thomas Avenue Overlay District Regulations

3.8.01	Intent.	3.8.04	Residential Contextual Standards.
3.8.02	Applicability.	3.8.05	Protective Maintenance Required.
3.8.03	Development Standards.	3.8.06	Development Plan Review.

3.8.01 INTENT.

The Fort Thomas Avenue Overlay District (FTA-O) is a zoning overlay district dedicated to the protection of traditional development patterns and neighborhood character along Fort Thomas Avenue. Regulations promote the continuity of the existing built environment, the reduction of conflict between new construction and existing development, and the integrity of the rich history of Fort Thomas. The Fort Thomas Avenue Overlay District is comprised of the properties shown within the FTA-O area on the Zoning Map. The Overlay District is made up primarily of single-family detached homes. Many of the existing single-family homes remain well-kept with minor exterior alterations. This Overlay District seeks to protect the special character and charm of this significant area of Fort Thomas.

3.8.02 APPLICABILITY.

The provisions in this Section shall apply to all properties occupied by Single-family Detached Dwellings, Two-family dwellings, and Residential Care Facilities for Persons with Disabilities located within the Fort Thomas Avenue Overlay District as shown on the official Zoning Map for the following:

- A. New construction;
- B. Substantial additions to existing properties. Substantial additions shall mean any alteration to the front of a residential property or any alteration to the side of a residential property that is visible from Fort Thomas Avenue.

All regulations of the underlying zoning districts and other applicable Ordinance provisions apply to and control property located in the Fort Thomas Avenue Overlay District; however, the regulations of the Fort Thomas Avenue Overlay District, when in conflict with other provisions in the Zoning Ordinance, shall govern.

3.8.03 DEVELOPMENT STANDARDS.

Front Setback for Principal Building. The front setback for the principal building shall be no more or no less than three (3) feet from the average established front setback of developed lots within three hundred

Example Development



For illustrative purposes only

Significant changes from the **Phase 2** draft are noted: **Substantive Additions** and ~~Deletions~~

(300) feet on each side of such lot, fronting on the same street as such lot, and within the FTA-O.

~~**Building Height.** The building height shall not exceed the average height of the principal structures, regulated by this Section, on lots within three hundred (300) feet on each side of such lot, fronting on the same street as such lot, and within the FTA-O.~~

3.8.04 RESIDENTIAL CONTEXTUAL STANDARDS.

New construction and substantial additions, as mandated by sub-section 3.8.02 - Applicability, shall comply with the following Residential Contextual Standards. The following Residential Contextual Standards do not apply to ordinary maintenance or repair of the exterior of existing structures.

A. Garages/Accessory Parking.

1. **Detached Garages.** Detached garages are preferred, and when provided, detached garages shall be located behind the principal structure **a minimum of 10 feet from the front edge of the dwelling.**
2. **Attached Garages.**
 - a. Along Fort Thomas Avenue, street-facing garages are prohibited except that below-grade, single-car garages **with doors no wider than 12 feet**, which are located **at the grade of the abutting public street but** in the basement or below the first floor of the dwelling, are permissible as shown in Figure 3.8-1.



Figure 3.8- 1 - Illustration of Appropriately Designed Below Grade Street-Facing Garage

- b. Side-loaded garages shall not protrude beyond the wall of the habitable portion of the dwelling **but shall be flush with or recessed from the façade containing the primary dwelling entrance.** See Figure 3.8-3.
- c. Rear-loaded garages are permissible. See Figure 3.8-2.

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and **Deletions**



Figure 3.8-3 - Illustration of an attached side-loaded garage that is recessed from the front facade of the dwelling



Figure 3.8-2 - Illustration of a permissible rear-loaded garage

3. Carport. No **freestanding** metal carports visible from Fort Thomas Avenue shall be permitted. **Freestanding** metal carports shall be located **entirely** behind the principal structure. **For the purposes of this regulation, “freestanding” means not attached to the principal structure.**
4. Porte Cochere. Porte cochere that are architecturally compatible with and integral to the principal dwelling are permissible. See Figure 3.8-4.



Figure 3.8-4 - Illustration of Appropriately Designed Porte Cochere

- B. Roof Design. All principal, residential buildings shall have sloped roofs. **Flat roofs on principal, residential buildings are prohibited.** Variations in roof planes are recommended to break up the large roof mass through the use of dormers, gables, or changes in elevation.

~~Main roofs shall have a pitch between 6:12 and 12:12. Shed roofs shall only be allowed if~~

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and ~~Deletions~~

~~they are attached to the wall of the main building. No shed roof shall have a pitch less than 4:12. See Figure 3.~~

- C. **Building Orientation.** The primary entrance to the residence shall face the public street, and the front wall of the principal structure shall be parallel to the street or to its tangent, if the street is curved.
- D. **Finished Floor Elevation.** New dwellings should be built with a raised foundation, a basement, or designed to suggest that there is a raised foundation equal to the foundation height of adjacent dwellings.
- E. **Porches.**
- Where new construction or an addition to the front of an existing principal building is proposed, such new principal building or building addition, ~~shall~~**should** have a front porch, if porches are present on the majority of the four homes, two on either side, of the dwelling under review. The minimum depth of the required porch ~~shall~~ should be four (4) feet.

~~If any of the four (4) lots used to determine if a front porch is required are vacant, then the presence or absence of a front porch on a majority of the remaining lots shall determine if a front stoop is required.~~
 - Existing front porches shall not be enclosed or screened in; however, existing screened in or glass enclosed front porches are permitted and may be repaired or replaced provided that transparent glass/screens are utilized and installed from the inside of the porch, behind the railing and other porch features.

~~**Raised Entries.** To provide privacy and maintain the character of Fort Thomas Avenue, all residential entrances within eighteen (18) feet of the sidewalk paralleling the front property line should be raised above the average finished grade of the sidewalk a minimum of 1½ feet.~~
- F. **Façade Design.**
- Transparency.** At least 15% of the area of each façade that faces Fort Thomas Avenue shall be windows or main entrance doors, as measured from the finished floor elevation to the eave.
 - Although the street facing facade of a principal building is expected to be the primary focal point in terms of architectural character and features, all sides of a dwelling should incorporate architectural detailing and windows that complement the street facing facade and provide visual interest.
- G. **Solar Considerations.** **Only integrated solar energy systems shall be permitted on the front façade or on the portion of the roof of the principal structure that is parallel (or approximately so) to the front setback line.**
- H. **Design Review.** The Zoning Administrator shall review dwellings for compliance with the Residential Contextual Standards in this sub-section. If an applicant wishes to deviate from

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and ~~Deletions~~

these standards, the application will be reviewed by the Design Review Board, and the Design Review Board may permit deviations when appropriate due to site constraints, **constraints resulting from the design or construction of an existing principal structure**, or the applicant's request to meet the intent of the standard in an equal or better way than strict adherence to the standard. **The Design Review Board shall review the request for a deviation pursuant to Section 1.10 - Waivers, Modifications, and Equivalency.**

3.8.05 PROTECTIVE MAINTENANCE REQUIRED.

- A. Maintenance Required. **The exterior and structural elements of every principal structure within the Fort Thomas Avenue Overlay District shall be so maintained by the owner or person in control thereof so as to preserve the character of the District, promote the purpose of this Section, and so as not to have a detrimental effect upon the District. The exterior of every principal structure shall be maintained in conformance with the International Property Maintenance Code as adopted by the City and in a workmanlike manner, and all surfaces thereof shall be kept painted or protected with other approved coatings or materials. Exterior surfaces of every building shall be maintained free of broken, loose, rotting, crumbling, missing, or inadequately finished materials.**
- B. Duty to Repair. **The owner or person in control of a principal structure within the Fort Thomas Avenue Overlay District shall, upon written Notice of Violation, repair exterior features or structural elements if any exterior features or structural elements are materially deteriorating or if the condition of any such features or elements is contributing to material deterioration of the principal structure.**

3.8.06 DEVELOPMENT PLAN REVIEW.

Pursuant to Section 1.4 - Development Plan Review Procedures, individually developed single-family detached, two-family, and residential care facilities for persons with disabilities are not required to seek Development Plan approval. Instead, a Zoning Permit is required for such uses. In addition to the standard submittal requirements for a Zoning Permit, applications in the Fort Thomas Avenue Overlay District shall also include building elevations.

SECTION 3.9
Central Business District Historic Overlay District Regulations

3.9.01	Intent.	3.9.04	Protective Maintenance Required.
3.9.02	Applicability.		
3.9.03	Making Changes to a Property in the Central Business District Historic Overlay District.		

3.9.01 INTENT.

The Central Business District Historic Overlay District (CBD-O) is a zoning overlay district that works in conjunction with the underlying zoning district to safeguard the heritage of the City by protecting this local historic district through:

- A. Recognizing the Central Business District for its history, architecture, and culture;
- B. Fostering civic beauty;
- C. Strengthening the local economy; and,
- D. Promoting this local historic district for the education, pleasure, and welfare of the residents of the City of Fort Thomas.

3.9.02 APPLICABILITY.

The provision and regulations of this Section shall apply to all parcels within the boundaries of the Central Business District Historic Overlay District, as shown on the Official Zoning Map.

All regulations of the underlying zoning district and other applicable Ordinance provisions apply to and control property located in the Central Business District Historic Overlay District.

3.9.03 MAKING CHANGES TO A PROPERTY IN THE CENTRAL BUSINESS DISTRICT HISTORIC OVERLAY DISTRICT.

New construction/additions, demolition, and alteration of a principal structure in the Central Business District Historic Overlay District shall be ~~reviewed and considered~~ **regulated** as set forth in Sections 36.010 – 36.015 of the Code of Ordinances for the City of Fort Thomas, Kentucky **including evaluating proposals pursuant to the official design guidelines for the CBD area as mandated by Sections 36.010-36.015 of the City’s Code of Ordinances.**

Example Buildings in the CBD Historic Overlay District



For illustrative purposes only

3.9.04 PROTECTIVE MAINTENACE REQUIRED.A. Maintenance Required.

1. The exterior and structural elements of every principal structure within the Central Business District Historic Overlay District shall be so maintained by the owner or person in control thereof so as to preserve the character of the District, promote the **Intent** purpose of this Section, and so as not to have a detrimental effect upon the District. The exterior of every principal structure shall be maintained in conformance with the *International Property Maintenance Code* as adopted by the City and in a workmanlike manner, and all surfaces thereof shall be kept painted or protected with other approved coatings or materials. Exterior surfaces of every building shall be maintained free of broken, loose, rotting, crumbling, missing, or inadequately finished materials.
2. Duty to Repair. The owner or person in control of a principal structure within the Central Business District Historic Overlay District shall, upon written Notice of Violation, repair exterior features or structural elements if any exterior features or structural elements are materially deteriorating or if the condition of any such features or elements is contributing to material deterioration of the principal structure.
3. Failure to Repair.
 - a. **If after 45 days, the owner or owners have failed to make the repairs listed in the Notice of Violation as provided for in sub-section 3.9.04 A. 2. (Duty to Repair) above, the City may elect to pay for the repair work and charge the expenses incurred in doing such work or having such work done or improvements made to the owner of record of such property. If such work is done or improvement made at the expense of the City, then such expenses shall be assessed as a lien on the real estate, lot, or lots upon which such expense was incurred. The City and the City's authorized assistants, employees, contracting agents or other representatives are hereby expressly authorized to enter upon private property at all reasonable hours for the purpose of completing repairs necessary for the stabilization and repair of such property. Neither the City nor its employees, agents or contractors shall be answerable in damages or otherwise for damage to property due to the enforcement of this Section.**
 - b. **The City shall have a privileged lien on such property upon which said work was done or improvements made to secure the expenditures so made. For any such expenditures, as aforesaid, suit may be instituted, and recovery and foreclosure of said lien may be had in the name of the City.**

- B. The Design Review Board may request a meeting with the property owner when a principal structure in the Central Business District Historic Overlay District is in poor repair in order to discuss ways to improve the condition of the principal structure.

Significant changes from the **Phase 2** draft are noted: **Substantive Additions** and ~~Deletions~~

- C. Maintenance without Certificate of Appropriateness. Ordinary repairs and maintenance may be undertaken without a Certificate of Appropriateness provided this work on a property in the Central Business District Historic Overlay District does not change the exterior appearance that is visible from any public right-of-way.

- D. Emergency Measures. In any case where the Zoning Administrator determines that there are emergency conditions dangerous to life, health, or property affecting a building, structure, appurtenance, or place in the Central Business District Historic Overlay District, the Zoning Administrator may order the remedy of these conditions without the approval of the Design Review Board. The Zoning Administrator shall promptly notify the Chair of the Design Review Board of the action being taken.

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Significant changes from the Phase 2 draft are noted: Substantive Additions and ~~Deletions~~.

SECTION 3.10
Tower Park Historic Overlay District Regulations

<p>3.10.01 Intent.</p> <p>3.10.02 Applicability.</p> <p>3.10.03 Making Changes to a Property in the Tower Park Historic Overlay District.</p>	<p>3.10.04 Protective Maintenance Required.</p>
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3.10.01 INTENT.

The Tower Park Historic Overlay District (TP-O) is a zoning overlay district that works in conjunction with the underlying zoning district to safeguard the history and heritage of the City and Tower Park by protecting and preserving this local historic district through:

- A. Recognizing Tower Park for its architecture, unique character, development patterns, and connection to Fort Thomas’ history;
- B. Fostering the beauty of the homes and open spaces within Tower Park;
- C. Sustaining the historic, visual, and aesthetic character of the dwellings within Tower Park;
- D. Accomplishing the preservation, protection, perpetuation, and use of historic structures within Tower Park;
- E. Fostering civic pride in the value of notable accomplishments of the City’s past as shown throughout Tower Park;
- F. Promoting this local historic district for the education, pleasure, and welfare of the residents of the City of Fort Thomas.

3.10.02 APPLICABILITY.

The provision and regulations of this Section shall apply to all parcels within the boundaries of the Tower Park Historic Overlay District, as shown on the Official Zoning Map.

All regulations of the underlying zoning district and other applicable Ordinance provisions apply to and control property located in the Tower Park Historic Overlay District.

Example Buildings in the Tower Park Historic Overlay District



For illustrative purposes only

Significant changes from the Phase 2 draft are noted: Substantive Additions and ~~Deletions~~.

3.10.03 MAKING CHANGES TO A PROPERTY IN THE TOWER PARK HISTORIC OVERLAY DISTRICT.

- A. Application for Certificate of Appropriateness. New construction/additions, demolition, or alteration of any building, structure, appurtenance, or place in the Tower Park Historic Overlay District shall be reviewed as set forth in Section 36.014, Review Process, of the Code of Ordinances of the City of Fort Thomas, Kentucky according to the terms defined in Section 36.012 of the Code of Ordinances of the City of Fort Thomas, Kentucky. If any definitional conflicts exist between this Ordinance and the Code of Ordinances of the City of Fort Thomas, the definitions in this Ordinance shall govern.
- B. Application Review.
1. Applications on Alexander Circle and Cochran Avenue. New construction/additions, demolition, or alteration of any building, structure, appurtenance, or place abutting Alexander Circle and Cochran Avenue, as shown on the Official Zoning Map, shall be ~~considered~~ **evaluated** as required by sub-section 36.013 (L) of the Code of Ordinances of the City of Fort Thomas, Kentucky. This sub-section requires the Design Review Board to evaluate alterations using the “Fort Thomas VA Homes Architectural Guidelines,” which are available at City Hall in the General Services office and the Secretary of Interior’s Standards for Rehabilitation.
 2. Applications on Greene and Pearson Streets. **For those lots abutting Greene and Pearson Streets as shown on the Official Zoning Map, no new construction/additions, demolition, or alteration, which is visible from a public/private right-of-way, of any building; structure; appurtenance; or place abutting Greene and Pearson Streets, as shown on the Official Zoning Map, is permitted unless the Zoning Administrator or Design Review Board, as appropriate, determines it to be consistent with the U.S. Secretary of Interior’s “Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings.” The U. S. Secretary for the Interior Standards for Rehabilitation are as follows and the Guidelines for Rehabilitating Historic Buildings are available at City Hall in the General Services office.**
 - a. A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces and spatial relationships.
 - b. The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces and spatial relationships that characterize a property will be avoided.
 - c. Each property will be recognized as a physical record of its time, place and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken.
 - d. Changes to a property that have acquired historic significance in their own right will be retained and preserved.

Significant changes from the Phase 2 draft are noted: Substantive Additions and ~~Deletions~~.

- e. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.
- f. Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture and, where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.
- g. Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.
- h. Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.
- i. New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work will be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.
- j. New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

3.10.04

PROTECTIVE MAINTENANCE REQUIRED.

A. Maintenance Required.

1. The exterior and structural elements of every principal structure within the Tower Park Historic Overlay District shall be so maintained by the owner or person in control thereof so as to preserve the character of the District, promote the purpose of this Section, and so as not to have a detrimental effect upon the District. The exterior of every principal structure shall be maintained in conformance with the *International Property Maintenance Code* as adopted by the City and in a workmanlike manner, and all surfaces thereof shall be kept painted or protected with other approved coatings or materials. Exterior surfaces of every building shall be maintained free of broken, loose, rotting, crumbling, missing, or inadequately finished materials.
2. Duty to Repair. The owner or person in control of a principal structure within the Tower Park Historic Overlay District shall, upon written Notice of Violation, repair exterior features or structural elements if any exterior features or structural elements are materially deteriorating or if the condition of any such features or elements is contributing to material deterioration of the principal structure.

Significant changes from the Phase 2 draft are noted: Substantive Additions and ~~Deletions~~.

3. **Failure to Repair.**
 - a. **If after 45 days, the owner or owners have failed to make the repairs listed in the Notice of Violation as provided for in sub-section 3.10.04 A. 2. (Duty to Repair) above, the City may elect to pay for the repair work and charge the expenses incurred in doing such work or having such work done or improvements made to the owner of record of such property. If such work is done or improvement made at the expense of the City, then such expenses shall be assessed as a lien on the real estate, lot, or lots upon which such expense was incurred. The City and the City's authorized assistants, employees, contracting agents or other representatives are hereby expressly authorized to enter upon private property at all reasonable hours for the purpose of completing repairs necessary for the stabilization and repair of such property. Neither the City nor its employees, agents or contractors shall be answerable in damages or otherwise for damage to property due to the enforcement of this Section.**
 - b. **The City shall have a privileged lien on such property upon which said work was done or improvements made to secure the expenditures so made. For any such expenditures, as aforesaid, suit may be instituted, and recovery and foreclosure of said lien may be had in the name of the City.**
- B. The Design Review Board may request a meeting with the property owner when a principal structure in the Tower Park Historic Overlay District is in poor repair in order to discuss ways to improve the condition of the principal structure.
- C. Maintenance without Certificate of Appropriateness. Ordinary repairs and maintenance may be undertaken without a Certificate of Appropriateness provided this work on a property in the Tower Park Historic Overlay District does not change the exterior appearance that is visible from public property and from any public or private right-of-way or street.
- D. Emergency Measures. In any case where the Zoning Administrator determines that there are emergency conditions dangerous to life, health, or property affecting a building, structure, appurtenance, or place in the Tower Park Historic Overlay District, the Zoning Administrator may order the remedy of these conditions without the approval of the Design Review Board. The Zoning Administrator shall promptly notify the Chair of the Design Review Board of the action being taken.

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and Deletions

SECTION 5.0
General Regulations

5.0.01	Purpose.	5.0.08	Excavation, Filling or Grading Operations.
5.0.02	Reduction in Building Site Area.	5.0.09	Unightly or Unsanitary Storage.
5.0.03	Interference with Traffic Control Devices.	5.0.10	Application of Zoning Regulations.
5.0.04	Vision Clearance at Intersections, Curb Cuts, Pedestrian & Railroad Crossings.	5.0.11	Exceptions & Modifications.
5.0.05	Corner Lots, Double Frontage Lots, Flag Lots.	5.0.12	Move and Set.
5.0.06	Utilities Location.	5.0.13	Performance Standards.
5.0.07	Railroad Rights-of-Way.	5.0.14	Control of Erosion, Hillside Slippage & Sedimentation.
		5.0.15	Required Improvements for Developments.

5.0.01 PURPOSE.

General regulations shall apply to all districts. Where requirements of a general regulation and a district regulation differ, the more restrictive requirement shall prevail.

5.0.02 REDUCTION IN BUILDING SITE AREA.

Notwithstanding other provisions of this Ordinance, no lot in any zoning district shall be reduced in area below the minimum lot area as specified herein for the zoning district within which said lot is located except where such reduction has been brought about by the expansion or acquiring of rights-of-way for a street, road, or highway by a public entity. If, however, by some means (e.g., misinterpretation of law, erroneous lot descriptions, etc.) the lot area is reduced below the minimum required lot area as specified herein for the zoning district, all of the uses and structures contained on the remaining portion of the area shall be subject to compliance with all other provisions of this Ordinance. In the event that the uses and structures cannot comply in such circumstances, the property owner shall seek relief from the Board of Adjustment, as provided for in Section 1.7 of this Ordinance.

5.0.03 INTERFERENCE WITH TRAFFIC CONTROL DEVICES.

Notwithstanding other provisions of this Ordinance, in any zoning district, no sign, structure, tree, planting, or vegetation, or any portion thereof, shall protrude over or into any street, road or highway so as to create confusion around, or otherwise interfere with, traffic control devices of any kind.

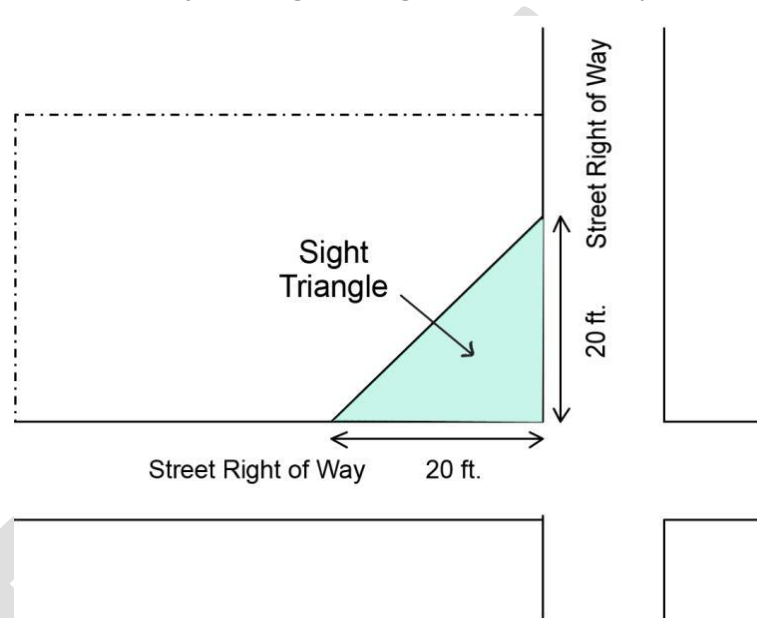
5.0.04 VISION CLEARANCE AT INTERSECTIONS, CURB CUTS, PEDESTRIAN AND RAILROAD CROSSINGS.

- A. Notwithstanding any part of this Ordinance, or any permit granted, or any variance granted by the Board of Adjustment; no type of structure, vehicle, tree, planting, vegetation, sign, or fence, or any type of obstacle or any portion thereof shall be placed or retained in such a manner which would obstruct the visual clearance and create a potential hazard from inadequate sight distance at intersections, curb cuts, and pedestrian or railroad crossings.

Significant changes from the **Phase 2** draft are noted: **Substantive Additions** and Deletions

- B. No fence, wall, hedge, **tree**, or other structure or other obstruction above a height of three (3) feet as measured above the curb level shall be erected, placed, maintained, or continued in any zone within that triangular portion of a corner lot formed by measuring 20 feet from the intersection of the rights-of-way line of two (2) streets or of the right-of-way line of a street intersection with a railroad right-of-way line and joining these points with a straight line. No type of tree or planting or other obstruction shall be planted, placed, maintained, or continued in such a manner which would obstruct the vision clearance at corners and railroad crossings. See Figure 5.0-1 – Illustration of Clear Sight Triangle to Insure Visibility at Intersections.

Figure 5.0-1 – Illustration of Clear Sight Triangle to Insure Visibility at Intersections



5.0.05 CORNER LOTS, DOUBLE FRONTAGE LOTS, FLAG LOTS.

- A. On lots having frontage on more than one street, in any zoning district, the minimum front setback of a principal structure shall be provided for each street, road or highway, in accordance with the provisions of this Ordinance.
On corner lots, the minimum front setback shall be in accordance with the provisions of this Ordinance, and the side yard facing the secondary street shall have a minimum requirement of fifteen (15) feet.
- B. Flag lots shall only be used in those locations where due to geometric, topographic, and other physical features, it would be impractical to extend a publicly dedicated street to serve lots located in said areas. In no case shall the required lot width of a flag lot be located further than two hundred fifty (250) feet from the publicly dedicated right-of-way from which the flag lot originates, and the narrow portion of the lot (flag stem) extending from the right-of-way shall be physically capable of providing reasonable access to the flag lot. In no case shall more than two (2) flag lots be contiguous to each other at the publicly dedicated street.

5.0.06 UTILITIES LOCATION.

Electrical transformer stations, gas regulator stations, sewage, and water treatment plants, pumping stations, standpipes for public water supply and other similar utility uses may be located in

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and Deletions

any zoning district subject to the approval of the Planning Commission and if necessary, the Board of Adjustment, as set forth in Section 1.7 of this Ordinance. The location of such facilities shall be in accordance with Kentucky Revised Statutes, and all other pertinent regulations, and the following requirements:

- A. Such facilities shall be essential for the immediate area or for the proper functioning of the total utility system of which the element is a part.
- B. A building or structure, except an enclosing fence, shall be set back at least fifty (50) feet from any property line.
- C. Such facilities shall be enclosed by a protective fence or wall. The wall or fence shall have a height tall enough to conceal all materials therein from the view of any observer standing at grade level. However, in no case shall the height of the fence or wall be less than six (6) feet. The solid wall or fence and the associated gates shall be maintained in good condition. Barbed wire or sharp pointed fences are permitted in conformance with the regulations in Section 5.1.
- D. Open spaces on the premises shall be suitably landscaped and maintained and a screening area according to this Ordinance and may be required in and along any yard.
- E. The storage of vehicles and equipment on the premises, unless enclosed or screened, shall be prohibited.
- F. The surrounding area shall not be adversely affected by, and shall be protected from noise, odor, glare, dust, gas, smoke, and vibration by such suitable means and conditions as the Board of Adjustment or Planning Commission may specify.
- G. A Development Plan, as regulated by Section 1.4 of this Ordinance, shall be required with an application submitted to the Board of Adjustment and/or Planning Commission, as applicable.
- H. **For utility substation/distribution facility, indoor and outdoor, see Section 5.4- Conditional Use and Restricted Use Regulations.**

5.0.07 RAILROAD RIGHTS-OF-WAY LOCATION.

Railroad right-of-ways, exclusive of such uses as marshalling yards, passenger and freight terminals, maintenance shops, fueling facilities and round houses, may be located in any zoning district of this Ordinance providing said railroad right-of-ways meet the requirements of those sections of the Kentucky Revised Statute, Section 277, which regulate such uses.

5.0.08 EXCAVATION, FILLING OR GRADING OPERATIONS.

Notwithstanding other provisions of this Ordinance, no governmental entity except Federal and State, or other person or entity shall strip, excavate, or otherwise remove or add fill or otherwise place soil for sale or for any other purpose, except for minor changes such as the filling of small pockets in lots, flower beds and other similar operations, in any zoning district set forth in this Ordinance without first ensuring that all requirements of this Ordinance and the Subdivision Regulations of the City of Fort Thomas, if applicable, have been fulfilled and then obtaining a permit from the Zoning Administrator for such filling, excavating or other means of addition or removal of soil, vegetation, and trees. For purposes of this Ordinance “minor” grading shall be limited to areas requiring less than 200 cubic yards of material and not within 10 feet of property lines. The Zoning Administrator shall issue the required permit but may

Significant changes from the **Phase 2** draft are noted: **Substantive Additions** and Deletions

require a letter from the City of Fort Thomas Engineer, that the resulting change in grade in the affected area will not be against the best interests of the local area. The provisions of this sub-section shall not be construed to prohibit normal excavation or grading incidental to the construction or alteration of a building on the premises for which a building permit has been granted as required otherwise in this Ordinance, but shall include all road cuts thereto. Grading activities shall be subject to the requirements of Section 1.4 - Development Plan Review Procedures, **when applicable and sub-section 5.0.14**, of this Ordinance for runoff, erosion, and silt control.

5.0.09 UNSIGHTLY OR UNSANITARY STORAGE.

- A. No rubbish, salvage materials, junk or miscellaneous refuse shall be openly stored, or kept in the open, and no grass and/or weeds over 12 inches high shall be allowed to go uncut within any zoning district. Such materials shall be removed, and unsightly vegetation shall be cut and removed from the premises, within seven (7) days from the receipt of notification of the violation by the Zoning Administrator. Regular salvage and junkyards, **when permitted by this Ordinance**, shall be adequately enclosed with a solid fence or wall, as regulated by this Ordinance, and an approved permanent planting screen may also be required as regulated in Section 5.3 of this Ordinance.
- B. No vehicle that is abandoned, inoperable, in a state of disrepair, or lacking a valid license, shall be stored in excess of seventy-two (72) hours in any residential zoning district, unless it is in a completely enclosed building. Parking shall be limited to the number of operable vehicles regularly used by members of resident families and their guests. Any violation of this section shall be rectified within fourteen (14) days after receipt of notification from the Zoning Administrator.
- C. It shall be unlawful for any person, or persons, to live in any trailer, boat, or truck within the limits of the City of Fort Thomas, Kentucky. It shall be unlawful for any person, or persons, to keep or to park any trailer, or boat in any residential district on any street or public way in Fort Thomas, Kentucky, for more than 24 hours. Said 24-hour period being for the purpose of loading and unloading same. Except for above, it shall be unlawful to park or store any trailer or boat at any place or location in the City of Fort Thomas, except in the rear yard of any premises (as rear yard is defined in this Ordinance). In no case shall more than one of the aforementioned vehicles or similar type equipment, be permitted in any rear yard area unless it is in a completely enclosed building. It shall be unlawful to park or keep any vehicle greater than seven feet (7') in height as measured from the ground at any place or location on any private property in any residential district except in a completely enclosed garage building. No recreational vehicle, trailer, or boat more than ten feet (10') in height or more than thirty feet (30') feet in length shall be permitted at any place or location on any private property in any residential district except in a completely enclosed garage building.
- D. It shall be unlawful to park any automobile, truck, trailer, boat, or vehicle or to keep any material or other item on any property, street or public way that blocks or obscures sight distance and/or creates a public safety hazard. Any violation of this section shall be rectified within twenty-four (24) hours of notification of violation from the Zoning Administrator. Failure to comply with an order of the Zoning Administrator to maintain sight distance as herein defined, may be corrected by the City at the property owner's or violator's sole expense.

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and Deletions

5.0.10 APPLICATION OF ZONING REGULATIONS.

- A. Except as hereinafter provided, no public or private structure, except the service facilities of public utilities operating under the jurisdiction of the Public Service Commission or the Department of Motor Transportation or Federal Power Commission and common carriers by rail, shall be erected, reconstructed, or structurally altered, nor shall any public or private structures or land except the service facilities of public utilities operating under the jurisdiction of the Public Service Commission or the Department of Motor Transportation or Federal Power Commission and common carriers by rail, be used for any purpose other than that permitted in the zoning district in which such structures or land is to be located or is located.
- B. Except as hereinafter provided, no structures except the service facilities of public utilities operating under the jurisdiction of the Public Service Commission or the Department of Motor Transportation or Federal Power Commission and common carriers by rail, shall be erected, reconstructed, or structurally altered to exceed the height or bulk limit herein established for the zoning district in which such structure is to be located or is located.
- C. Except as hereinafter provided, no lot areas shall hereafter be so reduced or diminished that the yards, setbacks, or other open spaces shall be smaller than described or required by this Ordinance, and buildings shall only be occupied by a use permitted in the zoning district in which it is located.
- D. Except as herein provided, no part of any yard, setback, open space, or off-street parking or loading and/or unloading space in connection with any building, structure, or use permitted by this Ordinance shall be considered to be part of a required setback, open space, or off-street parking or loading space for any other building, structure, or use.
- E. Every public or private building or other structure hereafter erected shall be located on a lot as herein defined and in no case in the R-1 Districts shall there be more than one (1) principal building and the permitted accessory structures on one (1) lot, except as herein permitted, nor shall any building be erected on any lot that does not abut at least twenty-five (25) feet on a deeded and accepted public right-of-way.

5.0.11 EXCEPTIONS AND MODIFICATIONS.

- A. Exceptions to Height Limits.
 - 1. The height limitations of this Ordinance shall not apply to church spires, belfries, cupolas and domes not intended for human occupancy; monuments, water towers, observation towers, transmission towers, chimneys, smoke stacks, conveyers, flag poles, masts and aerals, equipment penthouses, scenery lofts, stand pipes, parapet walls, other related structures and necessary mechanical appurtenances, provided their construction is in accordance with existing or hereafter adopted ordinances of the City of Fort Thomas, Commonwealth of Kentucky, and is in conformance with federal regulations under the jurisdiction of the Federal Aviation Agency and the Federal Communication Commission. Radio and television towers shall not exceed the maximum building height of the zoning district in which they are located.

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2. In the districts where permitted, as permitted, restricted, or conditional uses, public or semi-public buildings or hospitals may be erected to a height not exceeding seventy-five (75) feet when the front, side and rear setbacks are increased an additional foot for each foot such buildings exceed the maximum height permitted in that district.

B. Area Exceptions.

1. For the purpose of side setback regulations, the following dwellings with common party wall shall be considered as one (1) building occupying one (1) lot: Two-family dwellings, attached single-family, and multi-family dwellings.
2. Lots Serving Condominiums. Individual condominium uses, whether residential or non-residential, are exempted from minimum lot area requirements in this Ordinance but shall be located on a larger site or parent tract that meets the standards for the zoning district where located.
3. In the case of a apartments with an inner courtyard (See Figure 5.0-2) or multi-family dwellings, side yards may be used as rear yards provided that:
 - a. The required side setback shall be increased by one (1) foot for each entrance or exit opening into or served by such yard;
 - b. The width of the courtyard shall not be less than two and one-half (2-1/2) times the width of the side yard as required in the district in which such courtyard apartments or multi-family dwellings are located;
 - c. Where a roadway is provided in the courtyard, the width allowed for such roadway shall be in addition to that required in the foregoing regulation;
 - d. All other requirements, including front, side, and rear setbacks shall be complied with in accordance with the regulations of the district in which such courtyard apartments or multi-family dwellings are located;
 - e. Every part of a required minimum setback or courtyard shall be open from its lowest point to the sky unobstructed, except for permitted obstructions in minimum required yards as specified in this Ordinance.

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Figure 5.0-2 - Illustration of Apartments with Inner Courtyard

C. Exception to Area and Setback Regulations.

1. Where existing or proposed development within any multi-family (R-3, R-5) or Business and Mixed-Use Zoning Districts is to be subdivided, the minimum area and setback requirements may be less than required by this Ordinance provided that:
 - a. The maximum density of the zoning district is not exceeded and/or the minimum site for the total development shall not be less than that required by the respective zoning district;
 - b. A community association or other responsible entity is established prior to the approval by the Planning Commission of any subdivision of land. The association shall be obligated and empowered to own, operate and maintain all common areas (as specifically identified on the submitted development plan required by item c. of this sub-section) including such items as open space, recreational facilities, access drives, parking areas, pedestrian walkways, etc., and all facilities constructed thereon;
 - c. A Development Plan as regulated by the applicable requirements of Section 1.4 of this Ordinance, including the proposed area and setback requirements for the development, is submitted for review and approval by the Planning Commission.
2. In addition, the Planning Commission may waive the requirement that all lots abut a minimum frontage along a dedicated right-of-way provided that those lots that do not abut a dedicated right-of-way are assured an unencumbered and maintained access way by the association to a dedicated right-of-way in accordance with sub-section 5.0.11, C , paragraph 1, b, above of this Ordinance.
3. It is understood that the developer shall comply with all of the provisions of Chapter 100 of the Kentucky Revised Statutes including but not limited to, the provisions,

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which deal specifically with the recording requirements for all subdivisions of lands.

4. **For permitted projections into required setbacks in the R-1 and R-2 districts, see sub-section 3.1.05.**
- D. Exception to the Minimum Frontage Along a Dedicated Right-of-Way. The Planning Commission may waive, pursuant to Section 1.10 – Waivers, Modifications, and Equivalency, the requirement that lots that contain open space and common open space ~~about a minimum frontage along a dedicated right-of-way~~ **front at least twenty-five (25) feet onto a publicly dedicated street** provided that the common open space and open space, as shown on the Development Plan, is appropriate for the development and appropriate access is provided for the intended users of the common open space and the open space.

5.0.12 MOVE AND SET.

- A. No building, structure, or improvement shall be moved or set from or upon land located in any area or transported upon any public street, road, or highway in the City of Fort Thomas until and unless a move and set permit has been obtained therefore and said building, structure, or improvement complies with the provisions of this section.
- B. All buildings, structures, and improvements shall comply with the Kentucky Building Code.
- C. Procedure:
 1. Any person who wishes to obtain a move and set permit and a building permit, to move and set in compliance herewith, shall apply at the Office of the Building Inspector requesting an inspection of the building, structure, or improvement to be moved and set, and that an application for such permit be filed with the Building Inspector.
 2. The applicant shall submit, with his application for said building permit, a plat plan, footing and foundation plan, and construction plans for any new construction. Said plans shall comply with the Kentucky Building Code.
 3. If the building, structure or improvement is located in the City of Fort Thomas, all outstanding property taxes shall be paid, and the applicant shall submit with his application a statement from the City of Fort Thomas' City Treasurer showing that all past and current taxes have been paid before any permit shall be issued.
 4. Upon receipt of the foregoing items, the Building Inspector shall inspect said building, structure or improvements, and the proposed location where it will be set within the City of Fort Thomas and determine that the proposed development complies with the building code.
 5. The move and set shall be referred to the Zoning Administrator for approval or denial of compliance with this Ordinance.
 6. Upon approval by the Zoning Administrator and Building Inspector, a permit shall be issued to permit the move and set. The City Engineer shall then be notified of it. The City Engineer or his agent will designate the route to be traveled. The move and set

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permit is good only for the date specified on the permit. The move and set permit will not be issued if ninety (90) consecutive calendar days or more have lapsed from the date of inspection by the Building Inspector.

7. There will be a move and set permit fee to cover the costs of investigation and inspection for assessing the structural condition of buildings, structures, or improvements to be moved, which fee is payable in advance and must accompany the application provided for herein. The inspection shall determine what will be necessary to bring buildings, structures, or improvements into compliance with the City of Fort Thomas Building Code should the building not comply. This fee is not returnable. If buildings, structures, or improvements are found to be capable of complying with the Kentucky Building Code, and this Ordinance, a building permit will be issued at the regular fees as determined by the valuation of said building, structure, or improvements as published in the building code. This building permit fee is in addition to the move and set fee.
8. The move and set permit provided for in this section shall not be in lieu of any building permits, which may be required by the City.
9. No move or set or building permit shall be issued until the applicant has first obtained the necessary permits from the telephone company, public utilities companies, railroad companies, the Kentucky Department of Transportation, the Campbell County Road Supervisor, or any other utility companies having jurisdiction.
10. No move and set or building permit shall be issued for any building, structure or improvement exceeding the dimensions as approved by the Zoning Administrator and Building Inspector.
11. No person, corporation, or company shall transport, move, or set any building, structure, or improvement in the City of Fort Thomas until and unless such person, corporation or company shall post with the Building Inspector a good and sufficient indemnity bond in the amount of five thousand dollars (\$5,000.00) in favor of the City of Fort Thomas. Such bond shall be made by a Surety Corporation authorized to do business in the Commonwealth of Kentucky; said bond may be issued on an annual basis but shall not be in excess of such period of time.

5.0.13 PERFORMANCE STANDARDS.

No land or structure in any zoning district shall be used or occupied in a manner to create a dangerous or objectionable condition, substance, or element, in such a manner or in such amount to adversely affect the adjoining premises or surrounding area. All uses shall comply with the following performance standards in addition to the applicable requirements elsewhere in this Ordinance.

- A. Americans with Disabilities Act. All uses shall comply with all applicable requirements of the Americans with Disabilities Act, and all other applicable federal, state, and county regulations, as required by the Zoning Administrator.
- B. Lighting and Glare. All exterior lighting and conditions that generate glare shall comply with the requirements of Section 5.3, Landscaping, Screening, and Lighting Regulations.

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- C. Heat. No use shall generate heat that is perceptible without the aid of instruments at any point beyond the lot occupied by the use.
- D. Noise.
 - 1. No land use or structure shall be used or occupied in a manner which creates dangerous or objectionable noise. See Chapter 95 of the City of Fort Thomas Code of Ordinances.
 - 2. Within a nonresidential district, a maximum level of noise of 80 decibels is permitted at the boundary of the nearest residential district located within the City. During the hours of 7:00 AM to 6 PM Monday through Saturday, sound may equal but not exceed traffic noise in the vicinity. Noise producing equipment and activities shall be muffled to prevent intermittence, beat frequency, or shrillness.
- E. Vibration. Vibrations, which are perceptible without the aid of instruments, shall not be permitted beyond the lot occupied by the use generating such vibration.
- F. Smoke. No use shall emit smoke for longer than eight (8) minutes in any hour which is of a shade darker than Number 3 on the Standard Ringelmann Chart as issued by the U.S. Bureau of Mines.
- G. Odors. No use shall emit malodorous gas or matter that is discernible on any adjoining lot or property. No use shall allow for the bedding, fur, feathers, feces, and/or urine of animals to collect or remain on the premises whereby noxious odors or offensive smells are generated and discernible on any adjoining lot or property. No use shall allow any structure that shelters or houses animals to collect or generate noxious odors or offensive smells that are discernible on any adjoining lot or property.
- H. Air Pollution.
 - 1. No use shall cause the emission of dust, dirt, fly ash, fumes, vapors, or gases which can cause any damage to human health, animals, vegetation, or property, or which can cause any soiling or staining of persons or property at any point beyond the boundaries of the lot occupied by the use creating the emission.
 - 2. Appropriate landscaping, paving, oiling, or other acceptable treatment shall be used to reduce and minimize dust and other types of air pollution borne by the wind from sources such as parking areas, storage areas or yards shall be kept to a minimum by.
- I. Fire Hazards. Flammable or explosive materials shall only be permitted in structures having incombustible exterior walls.
- J. Solid Waste. Solid waste, including empty packing crates and other excess materials, shall be regularly removed from a lot or enclosed within a wall or fence, as required by this Ordinance, until removed.
- K. Liquid Waste. Liquid wastes should be disposed of in appropriate containers removed from the site on a regular basis. Liquid waste or sewerage shall not be discharged into a reservoir,

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stream, other open body of water, or a storm or sanitary sewer except as allowed by the law and regulations of governmental authority with jurisdiction.

- L. Noxious, Toxic or Corrosive Fumes. Noxious, toxic, or corrosive fumes or gasses injurious to the property, vegetation or health of the people residing in an adjacent residential district shall not be emitted.
- M. Radioactive or Electrical Disturbances. Radioactive emissions or electrical discharges shall be confined to the use and shall not cross the boundary lines of the lot from which they originate.
- N. Infectious and Medical Waste Materials. Infectious or medical waste materials shall not be stored, incinerated, or disposed of in a manner or in such quantities that produces a public nuisance or a hazard to the public health and welfare of the community and is prohibited.
- O. Underground Utilities. All utilities required to serve a development shall be located underground.

5.0.14 CONTROL OF EROSION, HILLSIDE SLIPPAGE, AND SEDIMENTATION.

Provisions for control of erosion, hillside slippage and sedimentation, indicating the temporary and permanent control practices and measures, that will be implemented during all phases of clearing, grading, and construction, shall be required. The following principles are effective in minimizing erosion and sedimentation and shall be included on the Development Plan where applicable.

- A. **Stripping of vegetation, re-grading or other development shall be done in such a way that will minimize erosion. Whenever feasible, natural vegetation shall be retained, protected and supplemented;**
- B. **To the extent practical, developments shall conform to the existing topography so as to minimize the cut and fill operations and create the least erosion potential;**
- C. **The smallest practical area of land shall be exposed at any one time and the duration of exposure shall be kept to a practical minimum;**
- D. **Disturbed areas shall be stabilized as quickly as practicable with temporary vegetation and/or mulching to protect exposed critical areas during development;**
- E. **The permanent final vegetation and structural erosion control and drainage measures shall be installed as soon as practical in the development;**
- F. **The downhill side of disturbed areas shall be protected with a straw bale silt trap or a silt fence;**
- G. **Straw bale inlet filters shall be provided at catch basins, inlets and the inlet side of pipe openings;**
- H. **Concentration of surface water runoff shall only be permitted in swales or watercourses;**
- I. **Straw bale silt traps and/or silt checks shall be provided at the outlet ditch, swale, watercourse or pipe located at the low end of the project. Depending upon the size and topography of the development area, sediment basins or debris basins may be required;**

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- J. **Swales, watercourses and ditches shall be protected from erosion due to concentrated flows by erosion control netting or matting, sodding, rock channel lining or paving with concrete, as appropriate;**
- K. **Provisions shall be made to effectively accommodate the increased runoff caused by changed soil and surface conditions during and after development. Where necessary, for protection of downstream areas, storm water detention shall be provided. All erosion control measures implemented at the site shall be subject at all times to the inspection and approval of the City of Fort Thomas and/or the City Engineer and the developer shall make any corrections or provide any additional measures deemed necessary by the City of Fort Thomas and/or the City Engineer within one (1) week of receipt of written notification.**
- L. **Demonstrate compliance with the Regional Storm Water Management Program by providing a copy of a Clearing, Grading and Land Disturbance Permit issued by Sanitation District Number One (SD#1) for any development disturbing an area of one acre or more in size.**

5.0.15 REQUIRED IMPROVEMENTS FOR DEVELOPMENTS.

All developments shall be required to provide the following improvements in accordance with the applicable sections of the Subdivision Regulations in Article VII. These shall be reviewed through Section 1.4 – Development Plan Review Procedures.

- A. **All new streets shall be designed and constructed in accordance with the Subdivision Regulations. This includes, but is not limited to pavement design, curb and gutters, and sidewalk provisions.**
- B. **Sidewalks shall be designed and constructed along all existing and proposed public streets in accordance with the Subdivision Regulations. This includes, but is not limited to, design and width.**
- C. **When required by the Subdivision Regulations, a Traffic Impact Study meeting the scope of those regulations shall be submitted. Recommended infrastructure improvements identified in the study may be required as a part of the development plan approval.**
- D. **All stormwater runoff controls shall be constructed in accordance with the Subdivision Regulations.**
- E. **All fire flows shall meet standards included in the Subdivision Regulations. This does not apply to individual building fire department connections, which shall be approved by the applicable fire authority.**

SECTION 5.1
Temporary and Accessory Use/Structure Regulations

5.1.01	Applicability.	5.1.03	Temporary Uses.
5.1.02	Accessory Uses.	5.1.04	Accessory Structures.

5.1.01 APPLICABILITY.

Temporary and Accessory Use/Structure regulations shall apply to all districts. Where requirements of this Section and a district regulation differ, the more restrictive requirement shall prevail.

5.1.02 ACCESSORY USES.A. General Provisions.

1. Accessory Uses Allowed. Accessory uses are allowed only in connection with lawfully established principal uses.
2. Allowed Uses. Allowed accessory uses are limited to those expressly regulated in this Ordinance as well as those that, in the determination of the Zoning Administrator, satisfy all of the following criteria:
 - a. They are subordinate and clearly incidental to the principal use(s) of the property; and
 - b. Either:
 - i. They are customarily found in conjunction with the subject principal use(s) or principal structure; or,
 - ii. They serve a necessary function for the comfort, safety, or convenience of occupants of the principal use(s).
3. Time of Construction and Establishment. Accessory uses shall be established only after the principal use of the property is in place.

B. Accessory Dwelling Unit (ADU). Accessory dwelling units are permitted in the R-1AA, R-1A, R-1B, R-1C, R-1D, R-1-TC1, R-1-TC2, and **R-2** zoning districts in accordance with the following standards:

1. There are two types of ADUs: (a) integrated ADUs, and (b) detached ADUs. Integrated ADUs are established by dividing space within a principal dwelling or by adding floor area to a single-family detached dwelling. Detached ADUs are prohibited in the R-1 Districts, and integrated ADUs are permitted only on lots that comply with the minimum lot area **and minimum lot width** for the applicable zoning district.
2. Integrated ADUs shall comply with the minimum principal building setbacks

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established in Section 3.1.

3. No more than one ADU shall be located on a zoning lot with a single-family detached dwelling **or a two-family dwelling.**
4. The floor area of an ADU shall not exceed 40 percent of the net floor area of the principal residential building to which it is accessory, or 1,000 square feet, whichever is less. An ADU shall not be required to comply with the development standard for Minimum Gross Floor Area per Dwelling Unit established in Section 3.1 - Single-Family & Two-Family Residential District Regulations.
5. The accessory dwelling unit may be located in a basement or story below the first floor if permitted to do so by the Building Code.
6. **Appearance:**
 - a. Where exterior doors provide direct access to the integrated unit, such doors shall be designed, located, and configured in a manner that is typical for secondary access to a residential dwelling (e.g. side doors, French doors, etc.).
 - b. Exterior stairs that provide access to an entrance to the ADU shall be located on the side or rear of the principal building and are prohibited from being located on the front of the principal building.
 - c. If a principal building is expanded to accommodate an integrated ADU, the expansion shall be designed in a manner that is comparable to the principal building.
 - d. Only one entrance may be located on the front facade of the principal building facing the street unless the building contained additional front entrances prior to the ADU's construction. Additional entrances are permitted on the side or rear of the principal building.
 - e. If a principal building is expanded to accommodate an integrated ADU, the accessory dwelling unit shall not exceed the height of the existing, single-family detached dwelling.
7. An ADU shall not be subdivided or otherwise separated in ownership from the principal dwelling unit.
8. An ADU and the principal dwelling shall utilize the same driveway, unless the ADU is accessed from a right-of-way not used by the principal dwelling (e.g., a rear alley or separate street access on a corner or through lot).
9. An ADU ~~may be~~ **shall only be** served by ~~separate or shared~~ water, sanitary sewer, gas, and electrical utilities. **An ADU shall not be served by utilities separate from the principal dwelling.**
10. ~~One~~ **No** additional off-street parking spaces shall be ~~provided unless waived by~~

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~~Planning Commission~~ **required for an ADU.**

11. The gross floor area of an integrated ADU shall be included in the gross floor area of the single-family detached dwelling in terms of meeting the development standard for Minimum Gross Floor Area per Dwelling Unit established in Section 3.1 - Single-Family & Two-Family Residential District Regulations.
 12. Where short term rentals are permitted by this Ordinance, accessory dwelling units may be used as short-term rental properties subject to the provisions of this Section and this Ordinance.
- C. **Home Occupation.** The following requirements shall apply to home occupations when permitted herein:
1. No persons other than the individual, or individuals, residing on the premises shall be engaged in such operation as herein defined.
 2. A home occupation shall be clearly incidental and subordinate to the use of a dwelling unit for residential purposes. No more than twenty-five percent (25%) of the ~~total~~ **gross** floor area or ~~more than~~ five hundred (500) square feet, whichever is greater, of the dwelling unit may be used in connection with a home occupation. Floor area of a dwelling unit, in this case, shall include the floors of all heated and ventilated and thereby habitable rooms, including basements, cellars, and habitable attic space.
 3. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation that will indicate from the exterior that the building is being utilized in part for any purpose other than that of a dwelling unit, except signage as regulated by Section 5.7, Sign Regulations of this Ordinance, shall be permitted. There shall be no entrance or exit way specifically provided in the dwelling or on the premises for the conduct of a home occupation.
 4. A home occupation shall be operated wholly within the principal building. No home occupation or any storage of goods, materials, or products connected with a home occupation shall be permitted in an accessory building or garage, attached, or detached, or any vehicle including a recreational vehicle.
 5. There shall be no goods or products sold directly from the premises in connection with such home occupation. Internet based sales are permitted.
 6. No traffic shall be generated by such home occupation in greater volumes than would normally be generated in a residential neighborhood.
 7. Delivery from a commercial supplier in a vehicle larger than a step van shall be limited to one delivery and one pickup each week and the delivery or pickup shall not restrict traffic flow.
 8. Neither a home occupation nor any equipment used in conjunction with a home occupation shall produce heat, sound, vibration, light, glare, dust, odor, smoke, or fumes detectable to normal sensory perception by a person located off premises or beyond the walls of the dwelling unit if the dwelling is part of a multi-family building.

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No equipment or process shall create a hazard to person or property, resulting in electrical, visual, or audible interference to nearby machinery or equipment, become a nuisance, or cause fluctuation on line voltage or utilities off or on the premises. **Home occupations shall comply with all applicable Performance Standards in Section 5.0, General Regulations.**

9. A home occupation shall not cause an increase in the use of any one or more utilities (water, sewer, electricity, waste collection, etc.) so that the combined total use for dwelling and home occupation exceeds the average for the residences in the neighborhood.
 10. No outdoor display or storage of materials, goods, supplies, or equipment shall be allowed.
 11. **Occupational taxes shall be paid to the City, when applicable.**
 12. **Business activity shall be only conducted electronically or by appointment.**
 13. The Zoning Administrator may inspect all properties used for home occupations annually to determine compliance with a permit and/or applicable zoning regulations herein.
 - a. Upon inspection and determination of violation, the Zoning Administrator shall notify owner of violations and require compliance within twenty-one (21) days of receipt of notice.
 - b. Failure to comply with notification for compliance from the Zoning Administrator shall be considered a violation of this Ordinance and shall be subject to the penalties in Section 1.11 and shall also be cause for revocation of a permit for a home occupation.
- D. **Outdoor Dining.** When permitted in the zoning district, restaurants shall be permitted to operate outdoor dining on sidewalks, patios, and other impervious surfaces, including areas within the public right-of-way and in courtyards, provided that pedestrian circulation and access to store entrances shall not be impaired. The following standards shall apply to outdoor eating areas:
1. If outdoor dining is proposed to be in the public right-of-way, a permit shall be obtained from the Zoning Administrator or the Kentucky Transportation Cabinet, as applicable, before a Certificate of Zoning Compliance is issued.
 2. Planters, fencing, or other devices shall be used as a way of defining the area occupied by the outdoor dining.
 3. Extended awnings, canopies, or large umbrellas shall be permitted if located to provide shade or cover.
 4. The operators of outdoor dining shall maintain a clean, litter-free, and well-kept appearance within and immediately adjacent to the area of cafe activity.

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5. The outdoor dining area shall comply with the building setback regulations for the zoning district in which it is located, except that the outdoor dining area may encroach up to ten (10) feet into the front setback.
 6. The outdoor seating area shall be used in conjunction with and is under the same management and exclusive control of, a restaurant located on the same or contiguous property.
- E. Outdoor Sales/Display in Association with a Permitted Use. When permitted by this Ordinance, the outdoor display of merchandise for sale shall comply with the following requirements. These requirements shall not apply to a vehicle sales/rental/service facilities.
1. Outdoor display of merchandise for sale shall be limited to products that are customarily associated with the operation of the principal business located on the premises and conducted by employees of such principal business. There shall be no outdoor display of merchandise for sale by any person operating or conducting a business that is different or distinct from the principal business conducted at that location.
 2. The area of the lot devoted to outdoor display shall not exceed 20 percent (20%) of the gross ground floor area of the building(s) on the lot. The Planning Commission may grant a waiver to this requirement, pursuant to Section 1.10 – Waivers, Modifications, and Equivalency, when the ground floor area is 5000 square feet or less.
 3. The outdoor display/sales area shall not be located in areas intended for traffic and pedestrian circulation or parking as identified on the approved Development Plan.
 4. Any proposed outdoor display/sales areas shall be approved as part of development plan review in accordance with Section 1.4.
 5. If the outdoor display/sales of merchandise is proposed to be in the public right-of-way, a permit shall be obtained from the Zoning Administrator or the Kentucky Transportation Cabinet, as applicable, before a Certificate of Zoning Compliance is issued.
 6. The outdoor display and sales areas shall be maintained in good order and appearance.
 7. Temporary structures may be erected in association with a seasonal outdoor display/sale when located in compliance with the required principal building setbacks and specifically authorized during development plan review.
- F. Outdoor Storage. The outdoor, overnight storage of general materials, fleet vehicles, and equipment, when permitted by this Ordinance, shall comply with the following:
1. Outdoor storage of materials, fleet vehicles, and equipment shall only include the storage of goods, materials, equipment, or products customary associated with the principal use. The storage of radioactive, toxic, or otherwise hazardous materials shall not be permitted.

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2. All outdoor storage of goods, materials, fleet vehicles, and equipment shall be enclosed **and screened as required by Section 5.3 - Landscaping, Screening, and Lighting Regulations**. ~~with a solid wall or fence, including solid gates. The wall or fence shall have a height tall enough to conceal all materials therein from the view of any observer standing at grade level. However, in no case shall the height of the fence or wall be less than six (6) feet. The solid wall or fence and the associated gates shall be maintained in good condition. No barb or razor wire shall be permitted.~~
 3. All outdoor storage shall be stored in such a fashion as to be accessible to fire-fighting equipment at all times.
 4. Areas devoted to outdoor storage shall be located in a rear yard so that it is behind the principal building and not visible from any public street, unless the outdoor storage is located on a corner lot. Enclosed storage areas devoted to outdoor storage shall be setback twenty-five (25) feet from any property boundary that abuts an **Residential R-1 District**, ~~except the R-3 and R-5 Districts~~. In no case shall the side and rear setback of the enclosed area be less than ten (10) feet.
 5. All equipment and fleet vehicles shall be in an operable state. In no case shall inoperable equipment and vehicles be stored outside overnight.
 6. Any proposed outdoor storage areas shall be approved as part of a development plan review in accordance with Section 1.4.
- G. **Short-Term Rental Properties.** The operation of short-term rental units is subject to the following standards and conditions when permitted by this Ordinance:
1. An annual permit/license from the city is required. The fee for the initial permit/license is One Hundred Dollars (\$100.00) and the annual fee for each renewal is Fifty Dollars (\$50).
 2. A copy of a current business liability insurance policy is required to be submitted to the City each year at the time an application for a permit is filed.
 3. Occupational taxes shall be paid to the City.
 4. Each dwelling used for short-term rental shall be subject to inspection by the Building Inspector prior to the issuance of an annual business permit/license and at all renewals.
 5. Short-term rental units are permitted in attached single-family dwellings, detached single-family dwellings, two-family dwellings, ~~housing~~ **dwelling units** in the ~~Central Business and Traditional Business~~ **and Mixed-Use** Districts, condominiums, landominiums, **and** accessory dwelling units. Owners of rental properties shall consent to short term rental units. Condominium/Landominium owners shall have written permission from the homeowners' association.
 6. **In the R-1 and R-2 zoning districts**, short-term rental guests shall not stay more than twenty-nine (29) consecutive days in duration.

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7. All short-term rental buildings and units shall be in compliance with applicable building codes.
8. Bed and Breakfasts shall be in compliance with their distinct building codes.
9. Contact information for the owner(s) shall be posted in a conspicuous location within each unit of the short-term rental.
10. Evacuation plan must be posted in a conspicuous location within each unit of the short-term rental permit.
11. If property is subject to two (2) or more substantiated civil and/or criminal complaints, the Zoning Administrator may revoke the approval of the short-term rental permit/license.
12. **Parking.** In the R-1 and R-2 zoning districts, the host shall provide one off-street parking space per guest room of short-term rental contract.
13. Number of Persons Allowed. No more than two (2) adults per bedroom. Maximum of six (6) adults per home.
14. Noise Ordinance. Each unit shall comply with the City's Noise Ordinance. A copy of said Ordinance shall be posted in a conspicuous place within the unit.
15. The **property owner(s) or the operator of the short-term rental, as applicable,** Host is responsible for **and shall provide** giving adjoining neighbors **up to date** contact information.
16. Any person who shall violate a provision of this Ordinance and this sub-section 5.1.02 shall be subject to a fine of Five Hundred Dollars (\$500.00),
17. The City shall have the right to seek civil injunctive relief against any person(s) who rent(s) any rental unit in the absence of a valid rental license and the City shall recover the litigation costs and attorney fees incurred by the City therein.

5.1.03 TEMPORARY USES.

- A. Temporary Uses Allowed. Temporary uses are allowed only in connection with lawfully established principal uses.
- B. Allowed Temporary Uses. Expressly permitted temporary uses are enumerated in this sub-section. The Zoning Administrator may permit other temporary uses with appropriate conditions to ensure public safety and welfare.
- C. Garage Sales/Yard Sales. The following requirements shall apply to garage sales/yard sales when permitted herein:
 1. Permit Required. No garage sale may be conducted within the City without a permit having been first issued for such sale by the Zoning Administrator. Such permit shall

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set forth and restrict the time and location of such garage sale. No more than three (3) such permits may be issued to one residence and/or household during a calendar year. Such permits shall be limited in time to no more than the daylight hours of two (2) consecutive days.

2. One sign of not more than twelve (12) square feet shall be permitted to be displayed on the property of the residence where a garage sale is being conducted. Such signs shall be displayed only during the times of the sale as stated on the permit. In no case shall the sign be placed on any property other than the property of the residence to which the permit has been issued, nor shall any sign be located closer than five (5) feet from the property line.
3. General Retail Sales Prohibited. The conduct of general retail sales or commercial activities in residential areas is, except as otherwise expressly authorized under this Ordinance, prohibited. Garage/Yard sales are permitted only insofar as they are conducted consistent with the limitations set forth herein.

5.1.04 ACCESSORY STRUCTURES.

A. General Provisions.

1. Each accessory structure is permitted in the districts in which it is listed as an accessory, provided that it is developed in compliance with the development standards detailed in this sub-section, unless otherwise permitted or regulated in this Ordinance.
2. Yard. Accessory structures shall only be located in the side and rear yards unless otherwise permitted in this Ordinance.

B. Accessory Structures. Accessory structures shall not be permitted in any front or side yard, **except as permitted herein**, unless they are attached to the principal structure on the lot and also conform to the minimum setback requirements of the zoning district, except as otherwise permitted in this Ordinance; provided however, garages not attached to the principal structure that are greater than 600 square feet, if approved by the Board of Adjustment, may be permitted within a side yard but shall be a minimum of sixty (60) feet from the front lot line and shall meet **the minimum** side setback requirements. Accessory structures shall be permitted to be extended into the minimum setback areas, as defined herein, in all zoning districts with the following limitations in this sub-section. For other permitted encroachments into setbacks, refer to the applicable zoning district section.

1. At least five (5) feet from any **side and rear** property lines on an interior lot for garages and other storage buildings that do not exceed six hundred (600) square feet in floor area.
2. On a corner lot, the side setback abutting the street shall equal the front setback of principal permitted uses on the abutting property on the same side of the street.
3. On through or double frontage lots both setbacks abutting a street shall be at least the minimum front setback requirement for the zoning district in which it is located.

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4. All accessory structures and uses not intended as use for a garage or storage building shall not encroach more than ten (10) feet into the required rear setback and shall conform to all side setback requirements in the zoning district in which it is located.
 5. A garage or accessory structure in a residential zone shall be clearly incidental to the principal permitted use.
 6. ~~A detached garage, or garages, in a single-family zoning district as an accessory structure(s) to a residence, shall not contain space for more than four (4) motor vehicles.~~
 7. Maximum Rear Yard Coverage by Accessory Structures. **The percentage of rear yard covered by accessory buildings and structures shall not be greater than 70%. The percentage of yard coverage shall be the area of building or structure footprint in ratio to the area of the rear yard. For the purposes of this sub-section, all accessory buildings and structures shall be included in the ratio except for incidental play equipment.**
 8. Number of Accessory Structures in the Rear Yard. **Each single-family detached and two-family dwelling shall be permitted to have in the rear yard a maximum of two accessory buildings or structures not including play equipment.**
- C. Air Conditioning and Outside Mechanical Equipment. All air conditioning condenser units, heat pumps, or other mechanical devices placed outside of a building shall comply with minimum setback requirements for the zoning district in which they are located, except that they may be located within five (5) feet of a side property line if they are sound shielded and screened with fencing and/or shrubs equal in height to the height of the appliance.
- D. Fences and Walls. Fences and walls shall comply with the regulations in this Section and this Ordinance. The following shall be the classification of fences and walls for this Ordinance:
1. Hedges;
 2. Retaining walls;
 3. Other masonry walls;
 4. Ornamental iron, aluminum, and iron (eighty percent (80%) open);
 5. Woven wire-Chain Link (eight percent (80%) open);
 6. Wood or other materials (more than fifty percent (50%) open);
 7. Solid fences - wood or other materials (less than fifty percent (50%) open);
 8. Barbed wire or sharp pointed fences;
 9. Earthen or concrete walls intended to contain or redirect flooding waters, or otherwise serve as a physical barrier.
- E. Fences and Walls in the Conservation and River Preservation Districts. Fences and/or walls within the Conservation and River Preservation Zoning Districts shall conform to the following requirements:
1. In front yards, class 2 or 4 fences may be erected up to a maximum height of eight (8) feet;
 2. Side and rear yard, class 1, 2, 3, 4, 5, 6, 7, or 8 fences and/or walls may be erected up

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to a maximum height of eight (8) feet;

3. Class 9 walls shall be permitted but shall conform to requirements of the Corps of Engineers and/or City Engineer, whichever is applicable.

F. Fences and Walls in the Residential Districts. Fences and/or walls within the Residential Zoning Districts shall conform to the following requirements:

1. The requirements set forth and depicted on Figure 5.1-1 of this Ordinance for residential uses only.
2. For all nonresidential Permitted, Restricted, or Conditional uses permitted herein:
 - a. In front yards, class 1 or 2 fences may be erected up to a maximum height of six (6) feet;
 - b. Side or rear yards, class 1,2,3,4,5,6, or 7 fences or walls may be erected up to a maximum height of eight (8) feet;

G. Fences and Walls in Business and Mixed-Use Districts. Fences and/or walls within the Business and Mixed-Use Districts shall conform to the following requirements:

1. In front yards Classes 1, 2, or 3 fences may be erected up to a maximum height of three (3) feet;
2. Side and rear yard, classes 1, 2, 3, 4, 5, 6, or 7 fences and/or walls may be erected up to a maximum height of eight (8) feet except that sub-section 5.0.04 - Vision Clearance at Intersections, shall prevail at all intersections.

H. Fencing for Athletic Activities. In zoning districts where permitted, public and semi-public athletic fields, ball fields, tennis courts, and similar recreation areas may be fenced with fences of a maximum height of twelve (12) feet. Baseball field backstops may have a maximum height of sixteen (16) feet.

In Residential Districts, private athletic fields, tennis courts and similar recreation areas may be fenced with Class 4 or Class 5 fences to a maximum height of twelve (12) feet. These fences shall be setback an additional one foot from the minimum building setbacks established in each zoning district for each additional foot in height above the foot maximum height established in 5.1.04 G. of this Ordinance.

I. Height for Barbed Wire or Sharp Pointed Fences. Where permitted, barbed wire or sharp pointed fences, shall not be less than a height of six (6) feet.

J. General Provisions for Fences and Walls.

1. Measurement of All Fence and/or Wall Heights.
 - a. All fences and/or wall heights shall be measured from their top edge to bottom edge, except as stated in sub-section 5.0.04, Vision Clearance at Intersections, and shall be maintained at bottom edge of no greater than 3

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inches from the existing grade at any point.

- b. All locations for distance measurements shall be measured from lot lines.
2. Height of Fences atop Retaining Walls. A combination fence and retaining wall may be erected. The retaining wall portion may be erected up to the level of the higher finished grade. The fence portion must be of the class and height permitted within this Ordinance for the applicable zoning district. Said measurement shall be made at the location of the fence and retaining wall. Where difference in grade require “guards” per Kentucky Building Code (KBC), fencing and/or guards shall meet the minimum standards of this Ordinance and the KBC.
 3. Structural Elements of Fences. Fences shall be constructed so that all structural members shall be located on the inside of the fence. The inside shall be the side which faces the property owned by the person building the fence.
- K. Satellite Receiving Antenna for All Zoning Districts. Satellite Receiving Antenna in all Zoning Districts shall conform to the following requirements:
1. A satellite receiving antenna, and its components, herein defined as an accessory structure, shall not be permitted within any front yard ~~or side yard~~ in any zoning district.
 2. In all zoning districts, a satellite-receiving antenna **and its components** may be permitted in the rear yard area provided that such structures are set back from the rear lot line a minimum of fifteen (15) feet and set back from the side lot lines a minimum of fifteen (15) feet.
 3. The structure shall be mounted at ground level and the entire structure shall not exceed fifteen (15) feet in height as measured from ground level to the highest point of the structure.
 4. The dish antenna shall be limited to a maximum of ten (10) feet in diameter.
 5. No more than one (1) satellite receiving antenna shall be permitted per zoning lot in single-family residential zones.
 6. No satellite-receiving antenna shall be roof-mounted or connected to any other structure.
 7. All structures shall be neutral in color. The name of the manufacturer in letters shall not exceed two inches in height.
 8. In the case of a corner lot providing that all setback requirements are complied with, the rear yard shall be most opposite the front yard and front lot line.
 9. In the case of a double frontage lot, the unit shall be located within the required rear setback for that zoning district.

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10. A Building Permit is required before a structure is to be placed on any lot. All satellite-receiving antenna shall comply with all regulations of the Kentucky Building Code, the Federal Communications Commission, and the Official Zoning and Unified Development Ordinance.
11. Any dish-type antenna measuring twenty-four (24) inches in diameter or less shall be excluded from all provisions of this sub-section 5.1.04 K.; however, dish-type antennae of this size shall still comply with all regulations of the Kentucky Building Code and the Federal Communications Commission.

L. Outdoor Swimming Pools.

1. Private Swimming Pools. All private swimming pools eighteen (18) inches or more in depth shall be regulated according to the following requirements:
 - a. Swimming pools shall be permitted to be located only to the side or rear of the principal permitted dwelling or dwellings, shall be a minimum of sixty (60) feet from the front lot line, meet side setback requirements and may encroach up to ten (10) feet into the minimum required rear setback.
 - b. Except as herein provided, no swimming pool, including the apparatus and equipment pertaining to the operation of the swimming pool shall be permitted within any required side setback of the lot nor within the limits of any public utility right-of-way or easement.
 - c. The swimming pool, or the property on which the pool is located, shall be surrounded by a fence or wall (only classes 1, 3, 4, 5, 6, and 7 are permitted as regulated in this sub-section 5.1.04 – Accessory Structures of the Ordinance) at least four (4) feet in height but not exceeding a height of six (6) feet or of such construction that a small child may not reach the pool from the street or from any adjacent property without opening a door or gate or scaling a wall or fence as determined by the Zoning Administrator. The same shall have a self-closing and self-latching gate. Elevated or portable pools which sides are at least four (4) feet above the surrounding ground level for a minimum area of four (4) feet from the base of the pool will be considered to comply with this regulation, provided stairs, ramps, or ladders used for ingress and egress are protected by self-latching and self-closing gates or other approved protection. Pools located more than three hundred and fifty (350) feet from the nearest lot line are excluded from this fence requirement.
 - d. Glare from floodlights used to illuminate the swimming pool area for night bathing shall be directed away from adjacent properties and comply with Section 5.3, Landscaping, Screening, & Lighting Regulations, of this Ordinance.
 - e. All swimming pools including the apparatus and equipment pertaining to the operation of the swimming pool, shall be constructed, and erected in accordance with all applicable codes, ordinances, and regulations of the City of Fort Thomas. Any water used in the operation of a swimming pool other

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than from a public source, shall be approved by the appropriate health department.

- f. On a corner lot, a swimming pool shall conform to all setback requirements for a principal structure in that zoning district. When a swimming pool is placed on a corner lot whose rear lot line is common with a side lot line of an adjoining lot, a closed fence (less than 10% open) and screen plantings shall be placed on the corner lot to the extent necessary to screen the view of the pool and the view of the fence from said abutting lot. The minimum screening shall be determined by the Zoning Administrator.

2. Public, Semi-Public, and Commercial Swimming Pools. All public, semi-public, and commercial swimming pools shall be regulated according to the KBC and the following requirements:

- a. Except as herein provided, no swimming pool including the apparatus and equipment pertaining to the operation of the swimming pool, shall be permitted within any required setback of the lot or within the limits of any public utility right-of-way easement.
- b. No mechanical device for the reproduction or amplification of sounds used in connection with swimming pools shall create a nuisance to adjacent residential properties through the emission of noises, voices, or music.
- c. The swimming pool or the property on which the pool is located shall be surrounded by a fence or wall, (only classes 1, 3, 4, 5, 6, and 7 are permitted as regulated by this sub-section 5.1.04 – Accessory Structures of the Ordinance) at least six (6) feet in height, but not exceeding the height as herein required, or of such construction that a small child may not reach the pool from the street or from any adjacent property without opening a door or gate or scaling a wall or fence as determined by the Zoning Administrator.
- d. Pools located more than three hundred and fifty (350) feet from the nearest lot line are excluded from the fence requirement.
- e. Glare from flood lights used to illuminate the swimming pool area for night bathing shall be directed away from adjacent properties and comply with Section 5.3, Landscaping, Screening, & Lighting Regulations of this Ordinance.
- f. All swimming pools including the apparatus and equipment pertaining to the operation of the swimming pool shall be constructed and erected in accordance with all applicable codes, ordinances, and regulations of the City of Fort Thomas. Any water used in the operation of swimming pool other than from a public source, shall be approved by the appropriate health department.

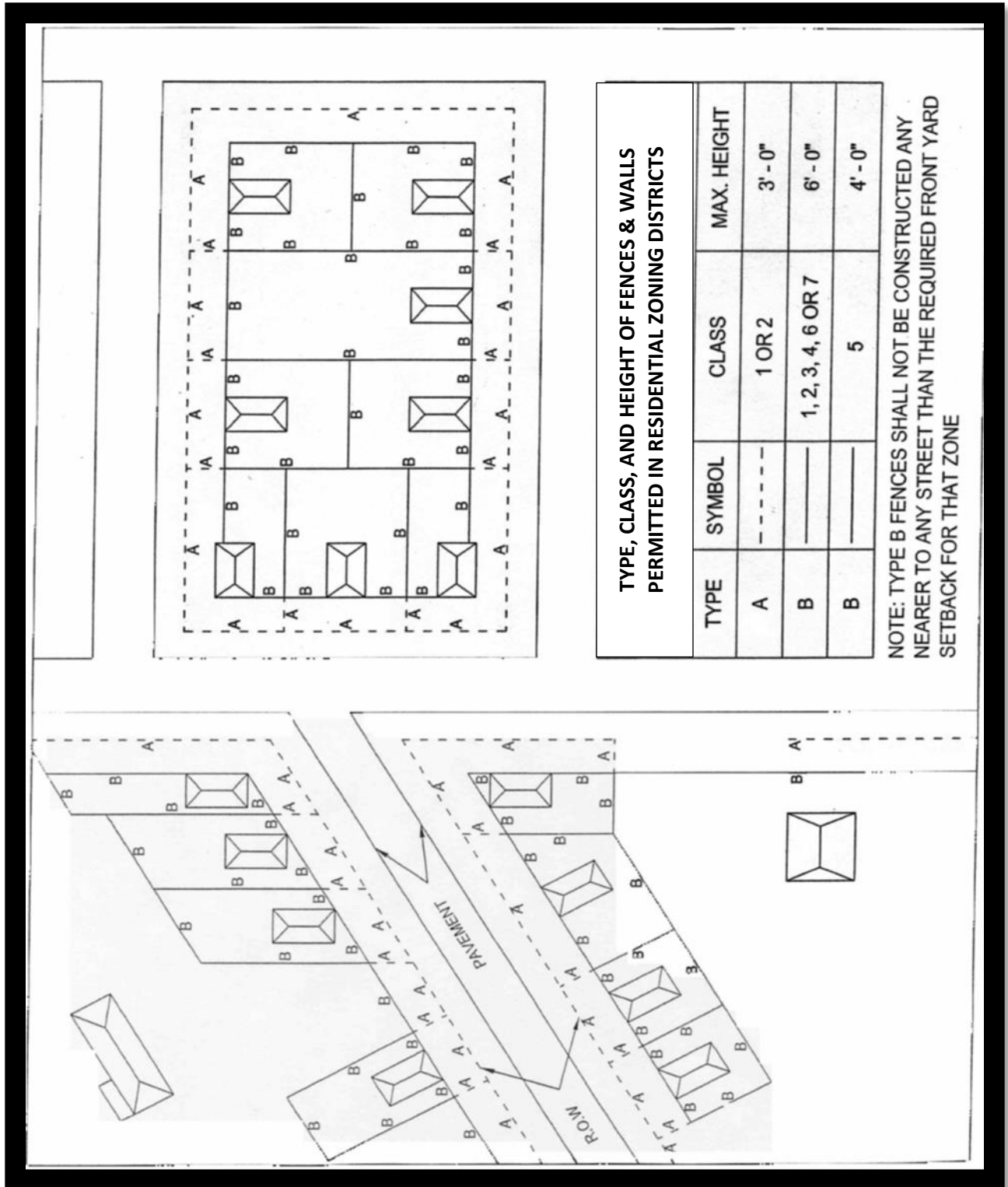
- M. Solar Energy System (SES), Integrated & Rooftop. Integrated and Rooftop Solar Energy Systems are permitted as an accessory structure when attached to a principal or accessory building and installed in conformance with the following:

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1. Solar Access. Consistent with KRS 381.200(2), a property owner may obtain a solar easement from another property owner for the purpose of ensuring adequate exposure to sunlight for an Integrated or Rooftop SES. Such easement shall be recorded.
2. Tree Removal. The removal of trees or natural vegetation for an Integrated or Rooftop SES shall be limited to the extent practicable or any applicable regulations or restrictions.
3. Height Restrictions.
 - a. A rooftop SES may exceed the maximum permitted height for the structure type by no more than five (5) feet.
 - b. A rooftop SES shall be positioned on the roof so as not to extend above or beyond the edge of any ridge, hip, valley, or eave, provided that where it is mounted on a sloped roof, the SES shall not vertically exceed the highest point of the roof to which it is attached by more than five (5) feet except whenever rooftop SES are located on the front of the structure with pitched, hipped, or gambrel roofs, the panels shall be mounted at the same angle as the roof's surface with no more than 18 inches between the roof and the upper side of the SES.
4. Lighting. Integrated and Rooftop SESs shall not be illuminated and shall be designed and installed to prevent off-site glare.
5. Integrated SESs shall comply with all setback requirements for the structure type.
6. Glare. SESs shall be placed and arranged such that reflected solar radiation or glare shall not be directed onto adjacent buildings, properties, or streets.
7. Ground-mounted SES shall:
 - a. **Not be placed in any front yard;**
 - b. **Only be located in a rear yard;**
 - c. **Not encroach more than ten (10) feet into the required rear setback and shall conform to all side setback requirements in the zoning district in which it is located; and,**
 - d. **Comply with any other applicable regulations for accessory structures in this Section and in this Ordinance.**
8. **In the Business and Mixed-Use Districts, Integrated SESs are prohibited on the any façade that faces a public street right-of-way.**

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Figure 5.1-1 - TYPE, CLASS, & HEIGHT OF FENCES & WALLS PERMITTED IN RESIDENTIAL ZONING DISTRICTS



SECTION 5.2 Environmental Regulations

<p>5.2.01 Intent.</p> <p>5.2.02 Applicability.</p> <p>5.2.03 Hillside Development Controls.</p>	<p>5.2.04 Tree Conservation & Restoration Requirements.</p>
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5.2.01 INTENT.

The purpose of these standards is to:

- A. Establish development standards to protect functions and values of environmentally sensitive features;
- B. Protect unique, fragile, and valuable elements of the environment by maintaining and promoting native biodiversity and habitat; and,
- C. Preserve and enhance the natural beauty of the landscape and open ridgelines.

5.2.02 APPLICABILITY.

These standards shall apply to all development in all zoning districts unless otherwise stated.

5.2.03 HILLSIDE DEVELOPMENT CONTROLS.

The purpose of this sub-section is to promote the public health, safety, and general welfare, and to minimize public and private losses resulting from earth movement, erosion, deforestation, and related environmental damage in the areas subject to Hillside Development Controls as well as adjoining properties.

- A. Applicability. The areas subject to compliance of this sub-section 5.2.03 shall contain ~~two (2) or more of the following site characteristics:~~
 - B. Slopes of 20% or greater; **and/or** (Slopes greater than 20% are identified in the Comprehensive Plan and shown in Figure 5.2-1)
 - C. Exposures of KOPE geologic formations;
 - ~~D. Prominent hillsides, which are readily viewable from a public thoroughfare located in a valley below the hillside;~~
 - ~~E. Hillsides, which provide views of a major stream or valley;~~
 - ~~F. Hillsides functioning as community separators or community boundaries;~~
 - ~~G. Hillsides which support a substantial natural wooded cover.~~
- H. The following requirements shall be enforced on all proposed development within property designated as "Hillside Development" as outlined in sub-section A above:

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1. No excavation, removal or placement of any soil, foundation placement, or construction of buildings, or structures of any nature within "any area designated as Hillside Development" ~~may~~ **shall** occur until plans and specifications for such work have been submitted in the form of a Development Plan as regulated by Section 1.4 of this Ordinance and all the requirements as outlined in this sub-section;
2. Plan(s) which show existing topography and the proposed physical changes necessary for construction, indicating grading (cutting and filling) compaction, erosion sedimentation basins, areas to be defoliated, and any other pertinent information which will change the natural physical features of the site or general area;
3. A subsurface geo-technical investigation report shall be submitted as part of the Stage I Development Plan in accordance with Section 1.4 of this Ordinance. This report shall include but not be limited to the following:
 - a. A general description of the existing site geology and topographic features.
 - b. A description of visible indications of past or present adverse site features such as landslides, slumps erosion, creep, ravines, man-made cuts and fills, springs, ponds, etc.
 - c. A general description of the proposed development and resulting changes to the existing site.
 - d. The results of any soil borings, laboratory tests and geo-technical analysis.
 - e. Recommendations of the type, location, and procedure for construction of the proposed development, which will not promote slope failures, excessive settlement of erosion on the site or on adjacent properties.

This report shall be produced by a qualified professional engineer licensed in the Commonwealth of Kentucky. The report conformance with the requirements of this Ordinance shall be subject to approval by the Planning Commission.

4. Plan(s) that inventory the approximate location, species, and size of all trees over eight (8) inch caliber that are located in the area to be affected by the proposed development. This plan shall further designate between the trees to be saved and those which will be lost due to construction. This plan shall be submitted with Stage I Development Plans for review by the Zoning Administrator and the Planning Commission.

The Planning Commission shall retain the right to require a developer to post a performance ~~bond~~ **guarantee** with the City of Fort Thomas for an amount specified below for the purpose of ensuring strict compliance with submitted plans. Failure to comply with said plans will result in the Planning Commission directing that the ~~bond~~ **guarantee** be executed to cover the expenditures required to replace trees that were removed in violation of said plan. The performance ~~bond~~ **guarantee** shall be effective until the site improvements are completed in accordance with approved plans and the Zoning Administrator performs a final inspection and recommends to the Planning Commission that said ~~bond~~ **guarantee** be released. See the current Fee

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Schedule for the City of Fort Thomas, KY to determine amounts of ~~bonding~~ **guarantee** required for tree conservation on development sites.

5. Plans shall indicate the limits of all proposed tree conservation areas. Such limits shall be undisturbed through all phases of construction and shall be staked and protected by a physical barrier throughout the construction of the site. This barrier shall be installed in accordance with the approved Development Plan before issuance of any permits to proceed with work on the site.
6. Provision shall be made to replace trees lost due to construction. Location, species, and size of replacement trees shall be indicated on the submitted Stage I plans. It may be required as a condition of approval that trees lost to construction are replaced pursuant to sub-section 5.2.04 - Tree Conservation & Restoration Requirements of this Ordinance.
7. The Development Plan and other information required in this sub-section shall be reviewed by the City Engineer and Zoning Administrator who shall report to the Planning Commission regarding compliance with this Ordinance.
8. The Planning Commission shall consider the reports from City Staff and the following "Hillside Development Guidelines" when reviewing the plan for acceptance or denial. The following guidelines ~~may~~ **shall** be used for consideration of an approval or denial of a development:
 - a. Cuts in the hills should not be made if they would leave cliff-like vertical slopes;
 - b. Large parking area requirements should be satisfied by providing some parking within structures and by providing multiple small parking areas, screening them with plantings, berms, and walls. The rate of storm water discharges from the site should be analyzed and limited to minimize erosion in receiving watercourses.
 - c. Buildings should be planned to fit into the hillside rather than altering the hillsides to fit the buildings. This should be accomplished with as little cutting as necessary for foundations, parking, and access drives;
 - d. All cuts, fills or any other earth modifications shall be replanted in accordance with Section 5.3, Landscaping, Screening, & Lighting Regulations of this Ordinance.
 - e. Buildings should be planned and designed to take advantage of views without obstructing the views from other buildings;
 - f. Avoid roof-top utilities, or provide screening and sound control, or in other ways integrate them into the rooftop;
 - g. Respect the site's conditions of steepness, soil, bedrock, and hydrology so as to ensure hillside stability and reduce erosion both during and after construction;

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- h. Match scale of buildings to scale of terrain, stagger or step building units according to the topography;
 - i. Provide parking on the uphill side behind buildings;
 - j. Respect and retain natural site features such as streams, slopes, ridge lines, wildlife habitat, plant communities, and trees;
 - k. Employ techniques that create a variety of architectural solutions responsive to the limits and potentials of hillside development.
9. After consideration of the recommendations, the Planning Commission, or the Zoning Administrator, as applicable, may authorize use of the site in accordance with the submitted plans.

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Figure 5.2-1 - Slopes Greater than 20%

5.2.04 TREE CONSERVATION AND RESTORATION REQUIREMENTS.

- A. All Major Subdivisions and Development Plans submitted for consideration to the Fort Thomas Planning Commission shall address the following items. Plans shall first be submitted to the Tree Commission for review and recommendation to the Planning Commission. The Planning Commission shall have sole enforcement authority of said Ordinance as it relates to Major Subdivision plans and Development Plans.
- B. The following requirements shall apply for all Major Subdivisions and Development Plans submitted for a development in any zoning district:
1. A tree inventory plan shall be submitted in conjunction with all Development Plans. The tree inventory plan shall be submitted pursuant to the requirements contained in Chapter 98, Trees, of the City of Fort Thomas, KY General Ordinances. The tree inventory plan shall also identify any landmark tree(s) and delineate the buildable area of a proposed development. The Planning Commission may permit the removal of a tree outside the buildable area, with the advice of the Tree Commission, provided the proposed tree removal is reasonably required to develop the parcel in compliance with this Ordinance.
 2. All trees to be saved outside of the buildable area of a development shall be conspicuously designated with suitable protective tree barriers. Protective tree barriers shall be installed to a minimum height of four (4) feet above ground level around the outermost dripline of the tree protection zone. Tree protection zones shall be delineated with typical orange construction fencing or continuous rope or flagging. In either case, the tree protection barrier shall be accompanied by "Tree Save Area" signage to be placed around the tree zone not more than every twenty (20) feet. The use of tree protection zones is encouraged rather than the protection of individual (non-specimen) trees that may be scattered throughout a development site.
 3. The layout of development improvements, utilities, access drives, grading, etc., of a site shall accommodate the required tree protective zones. The public improvements shall be placed along the corridors between tree protective zones unless the placement of same causes undue hardship on the developer as determined by the Planning Commission. If the Planning Commission determines that public improvements and/or utilities may be placed within a tree protective zone, the installation shall occur by way of tunneling rather than trenching.

Tunneling or boring shall be at least three (3) feet below grade within the dripline of the tree and any access pits for utilities shall be placed outside the dripline.
 4. Construction site activities including, but not limited to, material storage, parking, or concrete washout shall not encroach into any tree protection zone. Any tree irreparably damaged or killed within a tree protection zone as a result of construction activity shall be removed and replaced by the owner and/or developer at a rate of two (2) trees for every tree irreparably damaged or killed.
 5. The tree-planting plan shall indicate the total number and location of trees to be planted within a proposed development. Trees required to be planted by this subsection should be planted predominately in the developed areas, driveway aisles,

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and/or parking areas of the project. In no case shall more than fifty percent (50%) of the trees required be utilized to satisfy the screening requirements of a development. The exact location of the trees to be planted shall be approved by the Planning Commission, after review of all Tree Commission recommendations, as part of the Stage I Development Plan review process. Whenever the owner/developer can demonstrate to the Planning Commission that the site spatial constraints result in an absolute inability to plant the required number of trees, as many trees as possible shall be planted on the site. The difference of those trees required to be planted, and those trees planted, shall be donated to the City for use elsewhere in the City on public property. A reduction credit of one (1) tree or more shall be granted to an owner/developer:

- a. For every tree saved within the buildable area of a development, eight (8) inches or more in diameter; or
 - b. For every two (2) trees saved within the buildable area of a development four (4) to eight (8) inches in diameter.
- C. In addition to the landscaping requirements in Section 5.3 – Landscaping, Screening and Lighting Regulations, the following criteria shall apply for tree replacement for Development Plans in each zoning district as outlined below. Trees planted to meet this requirement shall be planted within the development site unless otherwise noted and shall not be less than three (3) inches in diameter when planted.
1. In the R-3, R-5, and RCD-O zones one (1) tree shall be planted on the development site for every one unit approved.
 2. In the CBD, TBD, AP-MX and NC/O zoning districts, one (1) tree shall be planted for every five (5) required parking spaces.
 3. In the R-1AA, R-1A, R-1B, R-1C, R-1D, R-1-TC, and R-2 zones one (1) tree shall be planted on each lot or on the public right-of-way in front of each lot, for every five thousand (5,000) square feet of lot area or fraction thereof.

SECTION 5.3
Landscaping, Screening, & Lighting Regulations

5.3.01	Intent.	5.3.10	Ancillary Screening Requirements.
5.3.02	Applicability.	5.3.11	General Landscaping Requirements.
5.3.03	Landscape Review.	5.3.12	Approval Process for Landscaping, Fences, & Walls.
5.3.04	Flexibility; Waiver/Deferral of Requirements.	5.3.13	Lighting Regulations.
5.3.05	Landscaping Along Street Frontage.	5.3.14	Additional Development Regulations that Apply.
5.3.06	Vehicle Use Areas (VUA).		
5.3.07	Building Landscaping.		
5.3.08	Sign Landscaping.		
5.3.09	Buffering & Screening Between Districts & Uses.		

5.3.01 INTENT.

The preservation of existing trees and vegetation and the planting of new trees and vegetation can significantly add to the quality of the physical environment of the City of Fort Thomas. The regulations in this Section are designed to foster development that will improve the appearance and character of the City and promote the health, safety, and welfare of the community by:

- (A) Mitigating the potential impacts and hazards created through the development of incompatible uses adjacent to each other and to preserve and supplement the tree and vegetation cover and the ecological, environmental, and economical benefits they provide.
- (B) Using landscaping to reduce adverse impacts, to provide separation of private vehicle use areas from the public street, and to otherwise buffer incompatible land uses.
- (C) Requiring the proper utilization of landscaping and screening as a buffer between certain land uses to reduce the noise, glare, and the visual clutter associated with parking and service areas.
- (D) Requiring landscaping in vehicular use areas to break up large expanses of pavement and reduce reflected heat and glare.
- (E) Controlling the installation of exterior lighting fixtures to prevent light pollution in the forms of light trespass and glare and to preserve, protect, and enhance the character of the City and the lawful nighttime use and enjoyment of property located within the City.
- (F) Improving the appearance of off-street parking areas and vehicular use areas and properties abutting public rights-of-way.
- (G) Protecting, preserving, and promoting the aesthetic character valued by the residents of the City of Fort Thomas.
- (H) Providing areas of permeable surfaces in order to:

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1. Allow the infiltration of surface water into groundwater resources;
2. Reduce the quantity of storm water discharge, thereby reducing the hazards of flooding and aiding in the control of erosion and storm water runoff;
3. Preserve air quality through the preservation and replacement of trees and significant vegetation removed during development; and,
4. Improve the quality of storm water discharge.

5.3.02 APPLICABILITY.

- A. The landscaping, screening, and buffering provisions of this Section and Chapter 98, Trees, of the City of Fort Thomas Code of Ordinances shall apply to:
1. New Development. New development on vacant land that requires the approval of a Development Plan and issuance of a Zoning Permit or building permit. The required landscaping shall be shown on plans submitted as part of the Development Plan application.
 2. Existing Sites. No building, structure, or vehicular use area shall be constructed or expanded unless the minimum landscaping required by the provisions of this Section is provided on the property to the extent of its alteration or expansion. In the case of a substantial expansion, the entire site shall be brought into compliance with the minimum requirements of this Section, or to the maximum extent practicable as determined by the Planning Commission. An alteration or expansion of an existing property is generally considered substantial when:
 - a. The square footage of an expansion exceeds 33% of the gross floor area of the existing building.
 - b. The square footage of the vehicular use area expansion exceeds 33% of the total existing vehicular use area.
 - c. The land area of the developed portion of the zoning lot is increased by thirty three percent (33%) or more.
- B. Single-family detached dwellings and two-family dwellings located on existing lots of record are exempt from the requirements of this Section.
- C. The requirements of this Section are minimum landscaping requirements. Nothing herein shall prevent a developer from proposing and the City from approving more extensive landscaping.

5.3.03 LANDSCAPE REVIEW.

- A. The landscaping, screening, and buffering requirements stated in this Section and Chapter 98, Trees, of the City of Fort Thomas Code of Ordinances shall be addressed during the applicable review process subject to Development Plan review procedures as required by Section 1.4. The submitted landscaping plan shall be reviewed to determine if proposed improvements

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comply with the requirements and standards of this Section, Chapter 98 - Trees, of the City of Fort Thomas Code of Ordinances, Section 5.2.02 - Tree Conservation and Restorations Requirements, and commonly accepted landscaping and design standards. The Planning Commission or Tree Commission may call upon professional services from either the public or private sectors to provide an evaluation relative to any submitted landscaping plan.

- B. A landscaping plan shall be required as part of the Development Plan Review procedure pursuant to Section 1.4 of this Ordinance. The landscaping plan shall be prepared by a licensed design professional or landscape professional and shall include the following information:
1. Proposed plant material, including botanical and common names, installation size, on-center planting dimensions where applicable, and an inventory of all existing and proposed landscaping materials to be used on site by type, common name, and quality.
 2. Where development calls for removal of existing trees, a tree inventory plan and replanting plan for any proposed development shall be submitted in accordance with Chapter 98 - Trees of the City of Fort Thomas Code of Ordinances and Section 5.2 - Environmental Regulations of this Ordinance.
 3. Typical building elevations and/or cross sections with proposed vegetation sufficient to demonstrate compliance with the provisions of this Section.

5.3.04 FLEXIBILITY; WAIVER/DEFERRAL OF REQUIREMENTS.

- A. Flexibility. The standards and criteria in this Section establish the City's objectives and landscaping intensity expected. The Planning Commission may exercise discretion and flexibility with respect to the placement and arrangement of the required elements to ensure that the objectives of the zoning district and the proposed development or redevelopment are satisfied.
- B. The Planning Commission shall have the authority to grant a waiver of any of the landscaping, screening, and buffering requirements in this Section upon receipt of a written request that outlines the rationale for the waiver. The Planning Commission shall review each written request and grant a waiver, pursuant to Section 1.10-Waivers, Modifications & Equivalency, after considering any unusual or extreme circumstances that cause an unreasonable hardship such as the size of the lot, when sufficient vegetation exists that meets the screening requirement of the required buffer yard, or when an innovative or alternative approach can be made which still meets the intent and purpose of this Section. If existing plant material is to be used to meet these requirements, they must be protected during all phases of construction. Protective tree barriers shall be installed to a minimum height of four (4) feet around the outermost drip line of the area to be protected. Tree protection zones shall be delineated with typical orange construction fence or continuous rope and flagging and "Tree Save Area" signs placed not more than every twenty (20) feet.

5.3.05 LANDSCAPING ALONG STREET FRONTAGE.

All areas within the building and parking setback adjacent to a street right-of-way as well as the front or corner lot setbacks, excluding driveway openings, shall be landscaped as required below. The following minimum plant materials shall be provided and maintained on all lots or developments:

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- A. Three (3) deciduous trees shall be provided for every 100 linear feet of lot frontage or fraction thereof, not including drive entrances. Large deciduous trees shall be used for setback areas that have minimum dimensions of 20 feet for both length and width. Small deciduous trees shall be used for smaller setback areas.
- B. Twenty (20) shrubs shall be provided for every 100 linear feet of lot frontage or fraction thereof, not including drive entrances.
- C. All areas not devoted to trees and shrubs shall be planted with grass, ground cover or other live landscape treatment.
- D. Trees and shrubs may be aggregated appropriately.
- E. Whenever the building setback is 10 feet or less, these requirements shall not apply.

5.3.06 VEHICLE USE AREAS (VUA).

- A. Screening Along Public Streets. In addition to the requirements of Section 5.3.05, whenever a vehicular use area of five (5) spaces or more is adjacent to and within 40 feet of a public street, a continuous ten (10) foot wide landscape area shall be provided and maintained between the parking area and the street right of way line. The screening shall be a combination of an ~~berm~~, ornamental fence, or a decorative brick wall and low-level landscaping that provides a visual screen.
 - 1. Walls and fences shall have a minimum height of three (3) feet, measured from the highest finished grade of the parking area and a maximum opacity of 50%.
 - 2. Shrubs with a minimum height of 30 inches shall be placed to effectively obscure a minimum of 75% of the parking area at the time of planting.
 - 3. Landscaping and screening shall be located parallel to and within five (5) feet of the edge of the parking lot.
- B. Perimeter Landscaping Requirements. Perimeter landscaping shall be required along any side of a vehicular use area that abuts adjoining property that is not a right-of-way. A landscaped strip that is the depth of the minimum parking setback set forth in this Ordinance for the district in which the lot is located **or 12 feet whichever is greater** except as otherwise regulated in Section 5.4 - Conditional Use and Restricted Use Regulations, shall be located between the parking area and the abutting property lines. One large deciduous or two small deciduous trees for each 40 lineal feet shall be planted in the landscape strip. A wall, fence, or walkway may be constructed along the edge of the landscaped strip. This sub-section shall not apply where planting is required for screening pursuant to sub-section 5.3.09, Buffering and Screening between Districts and Uses or when shared parking areas on adjacent parcels is provided. **Breaks in the perimeter landscaping are permitted when cross access between sites or parking areas is provided.**
- C. Interior Parking Lot Landscaping: Islands, Peninsulas, and Bumpouts. Interior landscaping of vehicular use areas shall be provided in accordance with the following requirements.
 - 1. Vehicular use areas designed to accommodate 20 or more vehicles shall provide a

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minimum of five percent (5%) of interior landscaping, reasonably distributed throughout the vehicular use area to define major circulation aisles and driving lanes and to provide visual and climatic relief from broad expanses of pavement. Unbroken rows of parking shall be limited to a maximum of 100 linear feet. This interior vehicular use area landscaping shall be in addition to any other planting or landscaping required by this Section.

2. The area of a parking lot includes the vehicular use area within the perimeter of the parking lot, landscaped islands, parking spaces and circulation aisles. Circulation aisles with no parking spaces or landscaped islands located on either side are not included. See Figure 5.3-1, Parking Lot Interior Calculation.
3. The interior landscaping shall be located within landscaped islands that are separated from the perimeter landscaping required in sub-section 5.3.06 B. and shall be dispersed throughout the vehicular use area to break up large areas of pavement. Landscaped islands that are designed as extensions from the perimeter landscaping areas shall also be considered as interior parking area landscaping but shall not count as the perimeter landscaping area.
4. Each interior landscaped area shall be no less than 200 square feet. The minimum width for each area shall be ten (10) feet. In all cases, the minimum distance from a tree to the back of curb or edge of pavement shall be 2.5 feet where vehicle overhangs the landscaped area. See Figure 5.3-2.

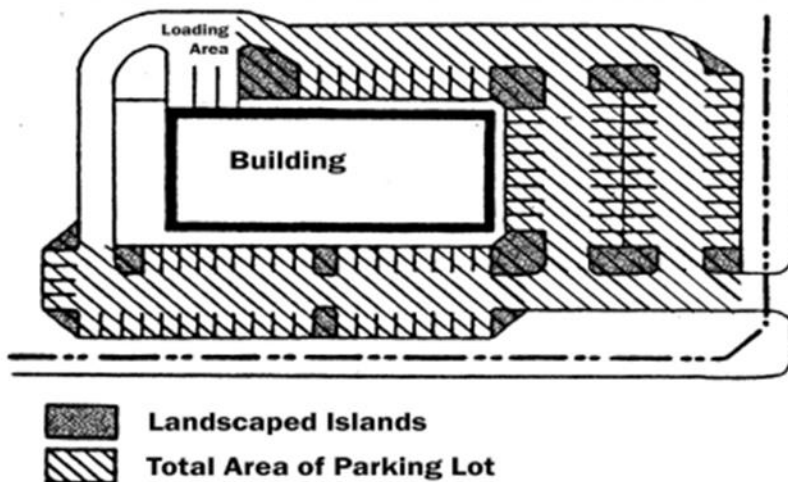


Figure 5.3-1 - Parking Lot Interior Calculation

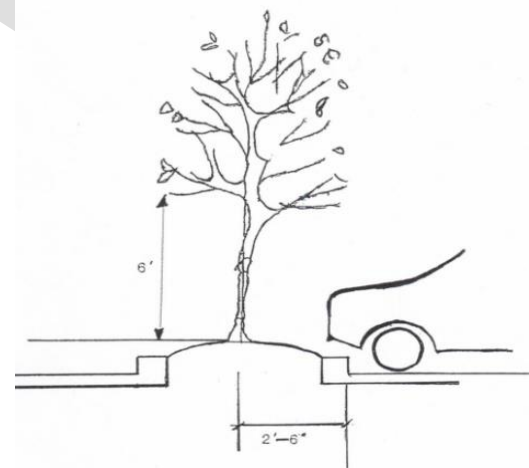


Figure 5.3-2 - Minimum Required Overhang Dimension

5. Within the interior landscaped areas, there shall be provided 1 large deciduous tree for every 10 parking spaces, and each interior landscape island shall have at least 1 large deciduous tree, provided there is no impairment to visibility of motorists or pedestrians. Where a landscape area is equal to the width and length of two parking spaces, a minimum of two (2) large deciduous trees shall be provided.

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6. Planted areas shall be required at the end of every other parking row and when parking adjoins each other at or near right angles. See Figure 5.3-3. **To ensure the required** landscaped areas are properly dispersed, an individual landscape area shall not exceed 350 square feet, unless approved by the Planning Commission per sub-section 5.3.06 10. below or as otherwise permitted herein.

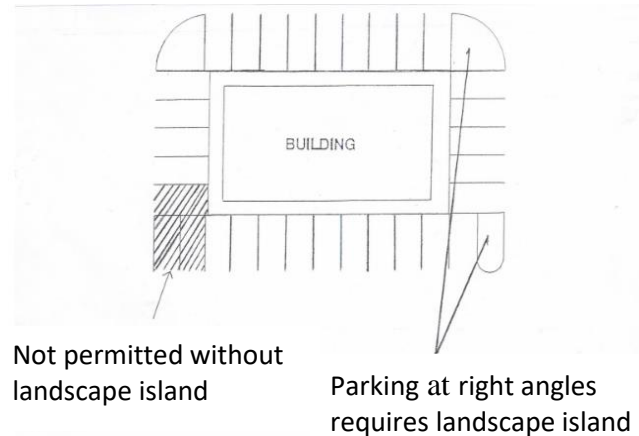


Figure 5.3-3 – Required Landscape Islands

7. All planting islands shall be planted with grass, low ground cover, shrubs, flowers, mulch, or any combination of these. Hard surfaces or gravel are not permitted. All planting islands shall have minimum 6-inch curb installed to protect the planting area from vehicle traffic.
8. Sites that have large uninterrupted circulation areas for tractor trailers and trucks may provide one or more large landscape islands in order to comply with the required 5% landscaped area within these large, uninterrupted circulation areas.
9. No landscaping materials with a mature height greater than 3.0 feet shall be placed in sight triangles, (see sub-section 5.4.04 for diagram of sight triangles.) This includes trees that are limbed up because a mature tree trunk can impair motorist visibility.
10. If the application of the interior landscape requirement significantly limits the function of the building site, the Planning Commission has authority to permit consolidation and relocation of the landscaped areas on the building site.

5.3.07 BUILDING LANDSCAPING.

- A. Any blank façade or portion of a façade of a building that is not used for outdoor display, storage or loading/unloading shall be required to provide the following landscaping if the wall is visible from a public right-of-way. Blank façades shall be classified as any wall that does not have unobstructed windows or entry doors for customers of the general public. Buildings that are 5,000 square feet or smaller shall be exempt from the requirement within this sub-section.
- B. Landscaping shall be required to break the mass and visual monotony of long continuous façades. This landscaping is not required to be placed in a linear design, but shall be required to be dispersed throughout the length of the building façade.
- C. Facades that abut VUA's shall have a minimum eight (8) feet wide planting area. This planting area may be reduced by four (4) feet if sidewalks are installed.

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5.3.08 SIGN LANDSCAPING.

Landscaping shall be located around the base of freestanding signs. This landscaping shall be ornamental in nature with annuals, perennials, ornamental grasses, etc. This landscaping is not required to be installed for existing freestanding signs. The amount of landscape area required shall be one (1) square foot of landscape area per one (1) square foot of sign area.

5.3.09 BUFFERING AND SCREENING BETWEEN DISTRICTS AND USES.

The purpose of this sub-section is to establish provisions for a visually opaque screen or buffer between unharmonious uses and to reduce the effects of glare from automobile headlights, noise, and other activities on a lot that may disturb the owners and occupants of the abutting lot. Screening is intended to eliminate or minimize these conflicts between potentially incompatible, but otherwise permitted land uses on adjoining lots. Screening may include a combination of setbacks and visual buffers or barriers.

- A. Screening. Screening shall be of such nature and density that it will screen the activities on the lot from view of a first story window at normal level on an abutting lot.
- B. When Required. A buffer yard and screening shall be required:
 - 1. In the following scenarios and is required to be erected by the more intensive use to properly visually buffer the use or activity of the more intensive use as follows:

Schedule 5.3.09 - Buffering and Screening Requirements ^(a)							
		Adjacent Zoning District					
		RP	R-1 Districts	R-2	R-3 & R-5	CBD & TBD	AP-MX & NC/O
Proposed Development or Zoning District	RP						
	R-1 Districts						
	R-2						
	R-3 & R-5 ^(b)		X	X	X ^(c)		
	CBD & TBD		X	X	X ^(c)		
	AP-MX & NC/O		X	X	X ^(c)		
	Non-residential use R-1 & R-2 Districts ^(d)		X	X	X ^(c)		

^(a) Buffering and screening is not required when uses and districts of different intensities are located across a public street.

^(b) Single-family detached dwellings and two-family dwellings in the R-3 District shall not be required to provide buffering and screening.

^(c) Buffering and screening shall be required when occupied by a single-family detached or two-family dwelling.

^(d) **Buffering and screening shall not be required when occupied by a non-residential use.**

X = Buffering and Screening Required

- 2. By the regulations in Section 5.4, Conditional Use and Restricted Use Regulations; and,

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3. By the regulations in the Business, Mixed Use, and Other Districts.
- C. Required Width of Buffer Yard. The width of the buffer yard shall be equal to the parking set back set forth in the applicable zoning district or ~~10~~ **12** feet, whichever is greater.
- D. Location.
1. The buffer yard shall be located entirely within the higher intensity zoning district or use. The buffer yard may be placed in the lower intensity zoning district/use or partially within both zoning districts/uses if the lots on both sides of the zoning district or project boundary line and the entire buffer yard width have common ownership. A permanent easement over any portion of the buffer yard not in the higher intensity zoning district or use shall be approved by the City Attorney and filed for record in the Campbell County, KY Clerk's Office.
 2. Buffer yards may be located within building setbacks, and in some circumstances may be located within utility easements with a written agreement from the grantee of the easement. However, location within an easement will require approval by the Planning Commission and shall only be permitted if the required amount of plant material can be accommodated in the area in which the plants will be permitted to flourish. If the vegetation is removed or damaged because of necessary maintenance or construction within the easement, it shall be the responsibility of the owner of the property to replace the required vegetation at their expense.
 3. Trees and shrubs should be planted a minimum of five (5) feet away from the property line to ensure maintenance access and to avoid encroachment on neighboring property.
- E. Buffer Yard Abutting an Adjacent Political Subdivision. When a property line abuts an adjacent political subdivision, the Planning Commission shall determine the screening and buffering required along that property line after consideration of the zoning classification and land use of the adjacent property. The requirements shall not exceed the municipal requirements for property within the City of Fort Thomas, KY with a similar use and zoning classification.
- F. Screening. When the natural vegetation within the required buffer yard does not form a solid, continuous, visual screen **and/or** is less than six (6) feet in height along the entire length of the common boundary at the time of occupancy, screening shall be installed in compliance with the following provisions unless more stringent requirements are imposed in Section 5.4 - Conditional Use and Restricted Use Regulations or the applicable zoning district Regulations.
1. Screening Materials. Screening design and plantings shall be compatible with the existing and proposed land use and character of the surrounding land, structures, and development. Screening within the buffer yard shall include of one (1) or more of the following:
 - a. A dense vegetative planting incorporating trees and/or shrubs of a variety which shall be equally effective in winter and summer. Trees and/or shrubs shall be adequately spaced to form a solid, continuous visual screen within one (1) year after the initial installation. At a minimum, at the time of

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planting, the spacing of trees shall not exceed twelve (12) feet on center, and the planting pattern shall be staggered. Shrubbery shall be more closely spaced.

- b. Non-living opaque structures, such as a solid masonry wall, that is compatible with the principal structure or a solid wood fence together with a landscaped area at least ten (10) feet wide. For solid fences, fences shall be designed, constructed, and finished so that the supporting members face the property owner of the fence, and they shall be maintained in good condition, be structurally sound, and attractively finished at all times. All structures and hardware used for landscaping or screening, such as walls or fences, shall be constructed of weatherproof or weather resistant materials such as treated wood, PVC, or composite materials such as Trex, brick, natural stone or pre-cast stone or other material approved by the Planning Commission.
 - c. An ornamental fence with openings through which light and air may pass and a landscaped area at least 10 feet wide. Chain link fence is prohibited.
 - d. A landscaped mound or berm at least seven (7) feet wide, with a slope no more than a 3:1. Where the mound or berm is to be mowed, the maximum permitted slope is 4:1.
2. The location of the wall, fence, or vegetation shall be placed within the buffer yard to maximize the screening effect, as determined by the Zoning Administrator or the Planning Commission, as applicable.
 3. The wall, fence, and vegetation shall be continuous and in place at the time of occupancy. If vehicular or pedestrian access through the screen is necessary, the screening function shall be preserved.
 4. The height of screening shall be in accordance with the following:
 - a. Visual screening by walls, fences, or mounds in combination with vegetation, shall be a minimum of six (6) feet high measured from the natural grade.
 - b. Visual screening shall not exceed a height of three (3) feet when it is located within 25 feet of a parking lot, drive, or driveway entrance.
 - c. Visual screening by vegetation only shall be a minimum of six (6) feet high, measured from the natural grade. The required height shall be achieved no later than 1 year after the initial installation.
- G. Modifications to Buffering and Screening Requirements. A requirement of a buffer yard shall be applied equally to all similarly situated properties. The Planning Commission is authorized to waive, pursuant to Section 1.10 – Waivers Modifications, Equivalency, the above buffering and screening requirements if:
1. Natural land characteristics, such as topography or existing vegetation on the proposed building site, achieve the same screening requirement of this Section; or

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2. Innovative landscaping or architectural design is proposed on the building site to achieve an equivalent screening and buffering effect; or
 3. The required screening and landscaping will not provide visual screening at maturity due to the topography of the site, the location of the improvements on the site, or the topography of adjacent and surrounding sites; or
 4. The Planning Commission is persuaded that it is highly improbable that the abutting property will be developed for residential purposes.
- H. Development within Required Buffers. The required buffer shall not contain any development, impervious surfaces, or site features that do not function to meet the standards of this sub-section or that require removal of existing vegetation, except for the following features:
1. Fences or walls;
 2. Sidewalks, trails, and other elements associated with passive recreation, if all required landscaping is provided;
 3. Signs and light posts;
 4. Driveways, access roads, driveway connections between sites and similar uses if they cross perpendicularly across a required buffer and are designed to limit disturbance of vegetation;
 5. Overhead and underground utilities required or allowed by the City with written agreement from the grantee of the easement as provided for in this Section;
 6. Detention and retention systems provided the visual screening requirements shall not be altered or diminished.

5.3.10 ANCILLARY SCREENING REQUIREMENTS.

In addition to the other forms of required screening and landscaping, screening shall be required to conceal specific areas of high visual or auditory impact or hazardous areas from adjacent, less intense uses and from views from public rights-of-way. Such areas shall be screened at all times, unless otherwise specified, regardless of adjacent uses, districts, or other proximate landscaping material.

- A. The following areas shall be screened in accordance with this sub-section:
1. All trash collection areas
 2. Outdoor storage;
 3. Off-street loading areas;
 4. Pipes, conduit, and cables associated with the building or use;

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5. Outdoor service areas that are necessary to support common business operations (e.g., outdoor freezer or refrigeration units, storage units, etc.); and,
 6. Ground-level or façade-mounted mechanical equipment and utility structures.
- B. Screening shall not be required if any of the above items in sub-section 5.3.10 A. are not visible from adjacent rights-of-way or from adjacent lots.
- C. All sides of the item shall be screened with the exception that one side of the item may be screened with a gate or other similar feature to allow access while screening the item when access is not necessary.
- D. Trash Collection Areas.
1. Trash or garbage collection areas shall be enclosed on all sides by a solid wall or fence and a solid gate at least one (1) foot higher than the refuse containers in the collection area but not less than six (6) feet in height. The solid wall or solid fence shall screen the view of the collection area from adjacent properties and from visibility from the street. The wall or fence shall be constructed of wood, brick, decorative concrete, split face block, stone, or a synthetic material manufactured to look like the approved material. See Figure 5.3-4, Examples of Appropriate Trash Collection Screening.
 2. Any screening material placed around trash or garbage collection area shall be protected to prevent damage to the screening when the trash containers are moved, emptied, or removed. Curbing, if required for protection, shall be at least one foot from the screening material.

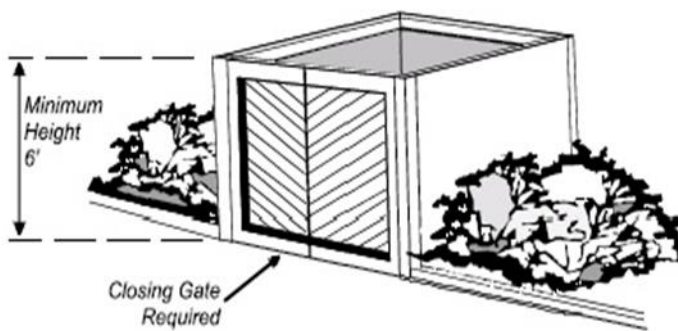


Figure 5.3-4 - Examples of Appropriate Trash Collection Area Screening

- E. Ground mounted Mechanical Equipment and Utility Structures. Ground mounted mechanical equipment and utility structures shall be screened with evergreen plant material so the equipment is completely obscured from view within 2 years.
- F. Outdoor Storage and Loading Areas.
1. Permitted loading areas, outdoor storage of goods, supplies, equipment, or vehicles used in the operation of use, shall be enclosed with a solid fence or wall and solid gates. The wall or fence shall be high enough to conceal all operations and materials

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from the view of an observer standing at the grade level of an abutting lot or a public street, but in no case shall the wall or fence be less than six (6) feet in height. The wall or fence shall be constructed of wood, brick, decorative concrete, split face block, stone, or a synthetic material manufactured to look like the approved material. **The solid wall or fence and the associated gates shall be maintained in good condition. No barb or razor wire shall be permitted.**

2. For loading spaces, a single gap of no more than 40 feet shall be permitted to allow for ingress and egress to a loading area.
- G. Screening Methods for Other Unsightly Areas.
1. The following items are permitted for use as screening materials for ~~pipes, conduit, and cables associated with the building or use;~~ outdoor service areas that are necessary to support common business operations; and façade-mounted mechanical equipment and utility structures. More than one method may be used on a lot or site.
 - a. Vegetative materials that provide a fully opaque screen to the minimum height necessary to fully screen the facility from off-site views; or
 - b. An opaque fence or wall consistent with the standards of Section 5.1, Temporary and Accessory Use/Structure Regulations; or
 - c. Integration into the building design (e.g., false walls or other architectural screening) that utilizes the same building materials and colors as the principal building.
 2. The required screening shall have a height sufficient enough to screen the applicable item(s) provided it is in accordance with any other applicable sections of this Ordinance.
 3. Alternative screening materials that are not listed or alternative configurations may be proposed as part of an equivalency provision review application. See Section 1.10 – Waivers, Modifications & Equivalency.
 4. To the maximum extent feasible, pipes, conduit, and cables should be located along the rear facade of buildings if conditions do not allow for them to be enclosed within the building itself. Pipes, conduit, and cables shall be located as far away from public view as practical and shall be painted a similar color as the building façade to further reduce visibility.
 5. In cases where vegetative materials are used for screening in accordance with this sub-section, the vegetative materials shall:
 - a. Be planted around the perimeter of the site feature to be screened in a manner that screens the site feature from all off-site views;
 - b. Be configured in two staggered rows or other arrangement that provides maximum screening;

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- c. Be upright, large evergreen shrubs or a hedge and be capable of reaching at least 6 feet in height within 2 years of planting; and,
- d. Be spaced no farther than necessary to create an opaque screen when the shrubs or trees are fully grown. In no case shall trees used for screening be spaced further than 8 feet apart on center.

5.3.11 GENERAL LANDSCAPING REQUIREMENTS.

Areas within the setbacks of the lot and not covered by structures shall be landscaped with grass, trees, shrubbery or other appropriate ground cover or landscaping material. Landscaping material shall be well maintained, free of weeds, and in good and healthy condition.

- A. Installation. All plant materials shall be living plants and when provided in order to comply with this Section shall meet the minimum size requirements in Schedule 5.3.11, or according to industry standards when installed.

Schedule 5.3.11 Minimum Size Requirements for Plant Materials	
Plant Type	Minimum Size at Time of Planting
(1) Large Deciduous Trees	2-inch DBH with a clear trunk height of 6 feet
(2) Small Deciduous Trees	1.5-inch DBH with a clear trunk height of 5 feet
(3) Evergreen Trees	6 feet in height
(4) Shrubs	2 feet in height

DBH = Diameter at Breast Height

- B. Planting Arrangement. Trees and shrubs shall be arranged to create varied and attractive views. The plant material selected should provide a variety of color and seasonal interest displayed throughout the year.
- C. Screening. All screening and buffer yards shall be free of advertising and signs, except for Incidental Instructional Signs.
- D. Parking. Vehicle parking **or storage** shall not be permitted in landscaped areas.
- E. Pedestrian Movement. Landscaping materials shall not be placed where they will prevent pedestrian movement unless planted to create a pedestrian barrier.
- F. Damage to Public Works. Plant material shall not interfere with or cause damage to underground utility lines, public roadways, or other public works.
- G. Maintenance. The lot owner shall maintain landscaping in good condition and keep plants healthy and thriving by following best practices for watering, fertilizing, mulching, and weeding, in order to present a neat and orderly appearance. Landscape areas shall be free from refuse and debris. All unhealthy or dead plant material shall be replaced by the next planting season (seasons can differ depending on the type of plant) or within 1 year. No plant material required herein shall be removed unless replaced with like kind and size. Prior to removal, a revised landscape plan shall be submitted to the Zoning Administrator for review and approval pursuant to Section 1.4.10, Minor Alternations by Zoning Administrator.

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- H. Vehicular Encroachment on Landscaping Islands. For parking areas with ten (10) or more parking spaces, concrete curbs or other wheel stops shall be provided to assure that vehicles overhang into landscape areas no more than 2.5 feet.
- I. Ground Cover. The property owner is required to maintain vegetative or other effective ground cover to prevent soil erosion.
- J. All plant material:
1. Shall meet specifications for the quality and installation of trees and shrubs in accordance with the most recent edition of “American Standards for Nursery Stock” published by the American Association of Nurserymen.
 2. Shall be free from disease and damage.
 3. Shall be planted in a manner that is not intrusive to pavement or vehicular traffic.
- K. All plant material shall be installed according to the approved landscaping plan, and in accordance with commonly accepted landscape standards ~~by no later than~~ prior to a building occupancy permit being issued. If planting is not possible prior to occupancy, a performance guarantee shall be 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 City Attorney. If no occupancy permit is required, all plant material shall be installed by the next planting season from the date of approval for the landscaping plan.
- L. All plant material that is selected should be able to tolerate the specific planting environment and shall be designed and installed to permit access to any area where repairs, renovations, or maintenance to site, building, utilities, etc. can be reasonably expected.
- M. The location of all driveways, off-street parking and loading areas, and all other improvements, including grading, shall be designed to minimize the destruction of any existing trees. As part of the approved landscaping plan, trees to be removed due to disease or construction of these improvements shall be replaced by trees of an appropriate species with a caliper not less than three (3) inches as required by Section 5.2, Environmental Regulations.
- N. Intersection Visibility. No landscaping materials with a mature height greater than three (3) feet shall be placed in sight triangles **formed at the intersection of public street rights-of-way or private street/access roads**. This includes trees that are limbed up because a mature tree trunk can impair motorist visibility. All landscaping shall be subject to the intersection visibility standards established in 5.0.04, Vision Clearance at Intersections, Curb Cuts, Pedestrian & Railroad Crossings.

5.3.12 APPROVAL PROCESS FOR REQUIRED LANDSCAPING, FENCES, AND WALLS.

- A. The location of landscaping, fences, or walls required to fulfill the standards and criteria of this Section shall be reviewed and approved as part of a Development Plan pursuant to Section 1.4, Development Plan Review Procedures:

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and ~~Deletions~~

- B. When a fence, wall, or landscaping is proposed at a separate time from any other development for new construction, additions or site renovation, a fence; wall; or landscaping may be approved administratively by the Zoning Administrator when the Zoning Administrator determines that the proposal:
1. Complies with the requirements of this Section, other applicable provisions in this Ordinance;
 2. Is consistent with any previously approved plan;
 3. Is compatible with the current site development if there is no approved plan; and,
 4. Will have a minimal adverse impact to the surrounding areas.

5.3.13 LIGHTING REGULATIONS.

Outdoor lighting shall be designed to provide the minimum lighting necessary to ensure adequate safety, night vision, and comfort, and not create or cause excessive glare onto adjacent properties and public street rights of way.

- A. For the purpose of this sub-section, certain words, phrases and terms used herein shall have the meanings assigned to them as follows:
1. **Correlated Color Temperature (CCT): Quantity describing the perceived color of light. It is specified by the temperature of a pure thermal spectrum having the same perceived color. The corresponding thermal temperature is ordinarily given in degrees Kelvin.**
 2. **Cutoff Fixture:** An outdoor light fixture shielded or constructed in such a manner that no more than two and one half (2½) percent of the total light emitted by the fixture is projected above the horizontal plane of the fixture.
 3. **Flood Lamp:** A form of lighting designed to direct its output in a specific direction with a reflector formed from the glass envelope of the lamp itself. Such lamps are so designated by the manufacturers and are typically used in residential outdoor area lighting.
 4. **Flood Light:** A form of lighting designed to direct its output in a diffuse, more or less specific direction, with reflecting or refracting elements located external to the lamp.

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5. **Footcandle (FC):** A quantitative unit measuring the amount of light cast onto a given point, measured as one lumen per square foot.

6. **Full Cutoff Fixture:** An outdoor light fixture shielded or constructed in such a manner that it emits no light above the horizontal plane of the fixture.



Figure 5 - Example of Full Cutoff Fixture

7. **Glare:** The effect produced by a light source within the visual field that is sufficiently brighter than the level to which the eyes are adapted, to cause annoyance, discomfort, or loss of visual performance and ability.

8. **IESNA:** The Illuminating Engineering Society of North America, a non-profit professional organization of lighting specialists that has established recommended design standards for various lighting applications.

9. **Internal Refractive Lens:** A glass or plastic lens installed between the lamp and the sections of the outer fixture globe or enclosure. Refractive refers to the redirection (bending) of the light as it goes through the lens, softening and spreading the light being distributed from the light source thereby reducing direct glare.

10. **Light Source:** The element of a lighting fixture that is the point of origin of the lumens emitted by the fixture.

11. **Lumen:** A quantitative unit measuring the amount of light emitted by a light source.

12. **Maintained Footcandles:** Illuminance of lighting fixtures adjusted for a maintenance factor accounting for dirt build-up and lamp output depreciation. The maintenance factor used in the design process to account for this depreciation cannot be lower than 0.72 for high-pressure sodium and 0.64 for metal halide and mercury vapor.

13. **Medium Base:** The size of lamp socket designed to accept a medium or Edison base lamp.

14. **Outdoor Sports Field:** An area designed for active recreation, whether publicly or privately owned, including but not limited to baseball/softball diamonds, soccer fields, football fields, golf courses and ranges, tennis courts, racetracks, and swimming pools.

15. **Outdoor Performance Area:** An area permanently dedicated to the public presentation of music, dance, theater, media arts, storytelling, oratory, or other performing arts, whether publicly or privately owned, including but not limited to amphitheaters and similar open or semi-enclosed structures.

16. **Semi-Cutoff Fixture:** An outdoor light fixture shielded or constructed in such a manner that it emits no more than five (5) percent of its light above the horizontal

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plane of the fixture, and no more than twenty (20) percent of its light ten (10) degrees below the horizontal plane of the fixture.

17. **Vehicular Canopy**: A roofed, open, drive-through structure designed to provide temporary shelter for vehicles and their occupants while making use of a business' services.
 18. **Wall Pack**: A type of light fixture typically flush-mounted on a vertical wall surface.
 19. **Wide-body Refractive Globe**: A translucent lamp enclosure used with some outdoor fixtures to provide a decorative look (including but not limited to acorn- and carriage light style fixtures). "Wide-body" refers to a wider than average size globe (greater than 15.75 inches in diameter). "Refractive" refers to the redirection (bending) of the light as it goes through the lens, rendering the light fixture more effective. Wide-body refractive globes are intended to soften and spread the light being distributed from the light source thereby reducing direct glare.
- B. **Light Measurement Technique**. Light level measurements shall be made at the property line of the property upon which the light to be measured is being generated. If measurement on private property is not possible or practical, light level measurements may be made at the boundary of the public street right-of-way that adjoins the property of the complainant or at any other location on the property of the complainant. Measurements shall be made at finished grade (ground level), with the light-registering portion of the meter held parallel to the ground pointing up. The meter shall have cosine and color correction and have an accuracy tolerance of no greater than plus or minus five (5) percent. Measurements shall be taken with a light meter that has been calibrated within the year. Light levels are specified, calculated, and measured in footcandles (FC). All FC values below are maintained footcandles.
- C. **General Standards for Outdoor Lighting**.
1. Unless otherwise specified in sub-sections D. through I. below, the maximum light level shall be 0.5 maintained footcandle at any property line in a residential district, or on a lot occupied by a dwelling, congregate care or congregate living structure, 2.0 maintained footcandles at any public street right-of-way, and 5.0 maintained footcandles along a non-residential property line unless otherwise waived by the Planning Commission pursuant to Section 1.10, Waivers, Modifications & Equivalency.
 2. All flood lights, when permitted by this sub-section 5.3.14, shall be installed such that the fixture shall be aimed down at least forty-five (45) degrees from vertical, or the front of the fixture is shielded such that no portion of the light bulb extends below the bottom edge of an external shield. Flood lights and display lights shall be positioned such that any such fixture located within fifty feet (50) of a public street right-of-way is mounted and aimed perpendicular to the right-of-way, with a side-to-side horizontal aiming tolerance not to exceed fifteen (15) degrees from perpendicular to the right-of-way.
 3. All flood lamps emitting 1,000 or more lumens, when permitted by this sub-section 5.3.13, shall be aimed at least sixty (60) degrees down from horizontal, or shielded

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such that the main beam from the light source is not visible from adjacent properties or the public street right-of-way.

4. Lighting shall be controlled to prevent direct lighting into the sky or on neighboring properties. Examples of methods to accomplish this directive include the use of fully shielded cut off fixtures, directing light fixtures downward rather than upward, or shielding the light to reduce light emission from the fixture so it cannot be seen at a reasonable distance.
5. All wall pack fixtures shall be full cutoff fixtures.
6. Service connections for all freestanding fixtures installed after application of this Ordinance shall be installed underground.
7. Prohibited Lighting Effects. The following effects from exterior lighting of buildings, properties, developments, signs, or other features, and for any use, including, but not limited to, residential; commercial; non-residential; and industrial uses, shall be prohibited.
 - a. Light trespass (light that spills over or is directed onto adjacent properties or rights-of-way).
 - b. Flashing, scrolling, and strobing, rotating, and moving lights.
 - c. Lighting which may be confused with warning signals, emergency signals or traffic signals.
 - d. Direct or reflected glare, whether from floodlights, high temperature processing, combustion, welding, or otherwise, that is visible at the property line or right-of-way.
 - e. Any artificial light source which creates glare observable within the normal range of vision from any public walk, thoroughfare, or adjacent property under normal weather conditions is considered a safety hazard and is prohibited.
8. An outdoor light fixture installed and maintained upon private property within all zoning districts shall be turned off **or dimmed** between 11:00 pm and sunrise, except **outdoor light fixtures** when used for security purposes or to illuminate walkways, roadways and flag poles may ~~be~~ **remain turned on when expressly permitted to do so by the Planning Commission. This review may take place during Development Plan review per Section 1.4 – Development Plan Review Procedures or upon review of a lighting plan that fulfills the requirements of this sub-section 5.3.13 – Lighting Regulations.**
9. **Except for signs and as provided for herein, all light sources shall not exceed a maximum Correlated Color Temperature (CCT) of 3,000K unless waived by the Planning Commission pursuant to Section 1.10-Waivers, Modifications, & Equivalency.**

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and ~~Deletions~~

10. Exemptions. The following are exempted from the requirements of this sub-section 5.3.13.
 - a. All light fixtures installed by public agencies, their agents, or contractors for the purpose of illuminating public streets are otherwise exempt from these regulations in sub-section 5.3.13 – Lighting Regulations.
 - b. Lighting fixtures and standards required by federal, state, county, or city agencies.
 - c. Outdoor lighting fixtures used or required by law enforcement, fire and emergency services, transportation, or similar governmental agencies to perform emergency or construction repair work, or to perform nighttime road construction on major thoroughfares.
- D. Lighting in Parking Lots and Outdoor Areas.
 1. Other than flood lights and flood lamps, all outdoor area and parking lot lighting fixtures of more than 1,800 lumens shall be full cutoff fixtures.
 2. The mounting height of all outdoor lighting, except outdoor sports field lighting and outdoor performance area lighting, shall not exceed 30 feet above finished grade, unless waived by the Planning Commission pursuant to Section 1.10 - Waivers, Modifications, & Equivalency.
 3. Exemptions:
 - a. Fixtures having a total light output less than one thousand (1000) lumens (approximately equal to a 60-watt incandescent bulb or a 15-watt compact fluorescent) are exempted from the full cutoff requirement provided:
 - i. The fixture has a top that is completely opaque such that no light is directed upward.
 - ii. The fixture has sides that completely cover the light source and are made of opaque or semi-opaque material. Fixtures with opaque sides may have incidental decorative perforations that emit small amounts of light. Semi-opaque material, such as dark tinted glass or translucent plastic, may be used if the light source is not discernable behind the material. Completely transparent materials, such as clear glass, are not allowed.
 - iii. The light source (light bulb or filament) must not be visible from any point outside the property on which the fixture is located.
 - b. Spotlights controlled by motion sensors having a light output less than one thousand (1000) lumens per lamp (allowing a maximum of a 60-watt incandescent or a 15 watt compact fluorescent bulb) are exempt from the full cutoff requirement, provided:

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and ~~Deletions~~

- i. The fixture is a spotlight or other type of directed light that shall be directed at a forty-five degree (45°) angle or less, where the zero angle is pointing straight down.
 - ii. The fixture must not be placed in such a manner that results in illumination being directed outside the property boundaries where the light fixtures are located.
 - iii. The fixture must be hooded or shielded to the extent necessary to prevent glare on adjacent properties or roadways.
 - c. Pathway lights less than eighteen inches (18") in height are exempted from the full cutoff fixture requirement, if the total light output from each pathway light is less than three hundred (300) lumens and the lights have opaque caps that direct light downward.
 - d. Architectural lights, water feature illumination and sign illumination are all exempted from the full cutoff fixture requirement, provided such illumination meets all other applicable standards of this sub-section 5.3.13 and this Ordinance.
- E. Lighting for Vehicular Canopies. Areas under a vehicular canopy shall have a maximum point of horizontal illuminance of twenty-four (24) maintained footcandles (FC). Areas outside the vehicular canopy shall be regulated by the standards of subsections C. and D. above. Lighting under vehicular canopies shall be designed so as not to create glare off-site. Acceptable methods include one or more of the following:
 1. Recessed fixture incorporating a lens cover that is either recessed or flush with the bottom surface (ceiling) of the vehicular canopy.
 2. Light fixture incorporating shields or shielded by the edge of the vehicular canopy itself, so that light is restrained to five degrees or more below the horizontal plane.
 3. Surface mounted fixture incorporating a flat glass that provides a cutoff fixture or shielded light distribution.
 4. Surface mounted fixture, typically measuring two feet by two feet, with a lens cover that contains at least two (2) percent white fill diffusion material.
 5. Indirect lighting where light is beamed upward and then reflected down from the underside of the vehicular canopy. Such fixtures shall be shielded such that direct illumination is focused exclusively on the underside of the vehicular canopy.
 6. Other method approved by the Planning Commission.
- F. Outdoor Sports Field/Outdoor Performance Area Lighting.
 1. The mounting height of outdoor sports field and outdoor performance area lighting fixtures shall not exceed eighty (80) feet from finished grade unless waived by the Planning Commission pursuant to Section 1.10 - Waivers, Modifications, & Equivalency.

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2. All outdoor sports field and outdoor performance area lighting fixtures shall be equipped with a glare control package (louvers, shields, or similar devices). The fixtures must be aimed so that their beams are directed and fall within the primary playing or performance area.
 3. The hours of operation for the lighting system for any game or event shall not exceed one hour after the end of the event.
 4. **Light sources for outdoor sports fields and outdoor performance areas shall not exceed a maximum correlated color temperature (CCT) of 5,700 kelvins.**
- G. Lighting of Outdoor Display Areas.
1. Parking lot outdoor areas shall be illuminated in accordance with the requirements for sub-sections C. and D., above. Outdoor display areas shall have a maximum point of illuminance of twenty-four (24) maintained footcandles (FC).
 2. All light fixtures shall be full cutoff fixtures. Forward throw fixtures (type IV light distribution, as defined by the IESNA) are required within twenty-five (25) feet of any public street right-of-way and shall be aimed away from the public street right of way. Alternatively, directional fixtures (such as flood lights) may be used provided they shall be aimed and shielded in accordance with subsections C. 1. and C. 2. of this sub-section 5.3.13.
 3. The mounting height of outdoor display area fixtures shall not exceed 30 feet above finished grade, unless waived by the Planning Commission pursuant to Section 1.10 - Waivers, Modifications, & Equivalency.
- H. Sign Lighting.
1. Lighting fixtures illuminating signs shall be aimed and shielded so that direct illumination is focused exclusively on the sign.
 2. An illuminated sign for commercial purposes shall be turned off between 11:00 pm and sunrise, except that signs may be illuminated while the business facility is open to the public.
 3. Illuminated signs shall also comply with Section 5.7, Sign Regulations.
- I. Lighting of Buildings and Landscaping. Lighting fixtures shall be selected, located, aimed, and shielded so that direct illumination is focused exclusively on the building façade, plantings, and other intended site feature and away from adjoining properties and the public street right-of-way.
- J. Permits. The applicant for any permit required for work involving outdoor lighting shall submit documentation at time of Development Plan approval that the proposed lighting plan complies with the provisions of this sub-Section 5.3.13 and this Ordinance. The submission shall contain, but not be limited to the following, all or part of which may be part of or in addition to the information required elsewhere in this Ordinance:

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1. A point-by-point footcandle array in a printout format indicating the location and aiming of illuminating devices. The printout shall indicate compliance with the maximum maintained footcandles required by this sub-section 5.3.13 and this Ordinance.
 2. Description of the illuminating devices, fixtures, lamps, supports, reflectors, poles, raised foundations and other devices (including but not limited to manufacturers or electric utility catalog specification sheets and/or drawings, and photometric report indicating fixture classification [cutoff fixture, wall pack, flood light, etc.]). The Zoning Administrator may waive any or all of the above permit requirements, provided the applicant can otherwise demonstrate compliance with this sub-section 5.3.13 and this Ordinance.
- K. Nonconformities.
1. Following application of this regulation ~~sub-section 5.31.13~~, the installation of outdoor lighting, replacement of outdoor lighting, and changes to existing light fixture wattage, type of fixture, mounting, or fixture location shall be made in strict compliance with this Ordinance. Routine maintenance, including changing the lamp, ballast, starter, photo control, fixture housing, lens, and other required components, is permitted for all existing fixtures not subject to sub-section 2. below.
 2. All outdoor lighting that fails to conform with sub-section C. (General Standards for Outdoor Lighting) above which is either located in a residential zoning district or which affects a lot occupied by a dwelling, congregate care, or congregate living structure located in a residential zoning district shall be discontinued, removed, or made to conform with sub-section C. at any time development or redevelopment on the property results in review of a Development Plan by the Planning Commission. The Planning Commission shall have the right to waive these requirements, as provided for in Section 1.10, Waivers, Modifications & Equivalency or impose them as a condition of approval of any Development Plan.

5.3.14 ADDITIONAL DEVELOPMENT REGULATIONS THAT APPLY.

See Section 5.2 – Environmental Regulations.

SECTION 5.4
Conditional and Restricted Use Regulations

5.4.01 Intent.	5.4.03 Schedule of Use-Specific Regulations.
5.4.02 Applicability; Conflict with District Standards.	5.4.04 Supplementary Use-Specific Regulations.

5.4.01 INTENT.

This Section establishes supplemental standards, exceptions to standards, or alternative standards for particular uses in order to protect surrounding property values and uses as well as to protect the public health, safety, and general welfare of the community.

5.4.02 APPLICABILITY; CONFLICT WITH DISTRICT STANDARDS.

No use governed by the regulations in this Section may be initiated, established, or maintained unless it complies with the standards set forth for such use in this Section.

- A. Where site development standards for a specific use are not listed, such use shall comply with the development standards for the applicable zoning district.
- B. To the extent there is a conflict between a standard in another Section or sub-section of this Ordinance and a standard in this Chapter, the standard in this Section governs unless otherwise indicated.
- C. Whenever state law requires a use regulated by this Ordinance to be registered, certified or licensed, compliance with such law shall be a condition precedent to zoning approval of such use. Failure to maintain such license, certification or other approval requirements shall be cause for revocation of the applicant’s Conditional Use or any applicable zoning permit or certificate.
- D. Any use in this Section that is regulated as a conditional use in the district in which it proposed shall also comply with the conditional use criteria set forth in Section 1.6.

5.4.03 SCHEDULE OF USE-SPECIFIC REGULATIONS.

Schedule 5.4.03 references additional requirements for uses in the Residential, Business, Mixed-Use, and Other Districts. Supplemental requirements pertaining to uses are imposed in Section 5.4.04, Supplementary Use-Specific Regulations and referenced in Schedule 5.4.03 below.

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and ~~Deletions~~

Schedule 5.4.03 Schedule of Use-Specific Regulations			
	Conditional Use in District or Sub-Zoning District	Restricted Use in District or Sub-Zoning District	See Sub- Section
A. Agriculture		R-1AA RP CO	5.4.04 A.
B. Animal Hospital/Veterinarian Clinic	AP-MX 1 & 2 NC/O		5.4.04 B.
C. Artisanal or Craft Workshop		CBD-TCR CBD-MR2 TBD	5.4.04 C.
D. Artisan Industrial Production		AP-MX 1 & 2 NC/O CBD-TCC CBD-TCS CBD-MC1 CBD-MC2 CBD-MC3 TBD	5.4.04 D.
E. Artist Studio		CBD-TCR CBD-MR2 TBD	5.4.04 E.
F. Assembly Hall		NC/O	5.4.04 F.
G. Automobile Service Stations	AP-MX 1 & 2		5.4.04 G.
H. Brewpubs		AP-MX 1 & 2 NC/O CBD-TCC CBD-MC1 CBD-MC2 CBD-MC3 TBD	5.4.04 H.
I. Campground/Recreational Vehicle Park	RP		5.4.04 I.
J. Cemetery	R-1 AA R-1 A, B, C, & D R-2 R-3 & R-5 AP-MX		5.4.04 J.
K. Commercial Kitchen		AP-MX 1 & 2	5.4.04 K.
L. Commercial Recreation Facility, Indoors	AP-MX 1 & 2 NC/O		5.4.04 L.
M. Community Center	R-1 AA R-1 A, B, C, & D R-2 R-3 & R-5	NC/O	5.4.04 M.
N. Congregate Care Facility		TBD	5.4.04 N.

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and **Deletions**

Schedule 5.4.03 Schedule of Use-Specific Regulations			
	Conditional Use in District or Sub-Zoning District	Restricted Use in District or Sub-Zoning District	See Sub- Section
O. Country Club (public, private/semi-private) including golf courses	R-1 AA R-1 A, B, C, & D R-2 R-3 & R-5		5.4.04 O.
P. Day Care Center, Adult or Child	R-1 AA R-1 A, B, C, & D R-2 R-3 & R-5		5.4.04 P.
Q. Drive-thru Facility in Association with a Principal Permitted Use	AP-MX 1 & 2 NC/O		5.4.04 Q.
R. Electric Vehicle Charging Stations		CBD-TCC CBD-TCS CBD-MC1 CBD-MC2 CBD-MC3 TBD	5.4.04 R.
S. Food Trucks		AP-MX 1 & 2 NC/O	5.4.04 S.
T. Freestanding Drive-thru Facility	AP-MX 1 & 2 NC/O		5.4.04 T.
U. Funeral Homes	R-1C & D R-2 R-3 & R-5 NC/O AP-MX 1 & 2 CBD-TCS		5.4.04 U.
V. Habitable Roof – Non-Residential Use	TBD	CBD-TCC CBD-TCS CBD-MC1 CBD-MC2 CBD-MC3	5.4.04 V.
W. Health Club		NC/O	5.4.04 W.
X. Hotel		NC/O	5.4.04 X.
Y. Institutions for Human Medical Care	R-1 AA R-1 A, B, C, & D R-3 & R-5 AP-MX 1 & 2 NC/O		5.4.04 Y.
Z. Live Entertainment Venue		CBD-TCC CBD-MC1 CBD-MC2 CBD-MC3 TBD	5.4.04 Z.
AA. Manufacturing, Light		AP-MX 1 & 2	5.4.04 AA.

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and ~~Deletions~~

Schedule 5.4.03 Schedule of Use-Specific Regulations			
	Conditional Use in District or Sub-Zoning District	Restricted Use in District or Sub-Zoning District	See Sub- Section
BB. Medical/Dental Clinic Urgent Care		NC/O	5.4.04 BB.
CC. Micro Production of Alcohol Micro-brewery/Distillery/Winery		CBD-TCC CBD-MC1 CBD-MC2 CBD-MC3	5.4.04 CC.
DD. Multi-family Dwellings		CBD-TCC CBD-TCS TBD	5.4.04 DD.
EE. Off-street Parking Lots		CBD-TCC CBD-TCS CBD-MC1 CBD-MC2 CBD-MC3 TBD	5.4.04 EE.
FF. Open Space Recreation Area	RP R-1 AA R-1 A, B, C, & D R-2 R-3 & R-5		5.4.04 FF.
GG. Parking Structure - Accessory to a Principal Use	R-3 & R-5 AP-MX 1 & 2 NC/O CBD-TCC CBD-TCS CBD-MC1 CBD-MC2 CBD-MC3 TBD		5.4.04 GG.
HH. Parking Structure – Principal Use	CBD-TCC CBD-MC2 CBD-MC3		5.4.04 HH.
II. Places of Worship	R-1 AA R-1 A, B, C, & D R-2 R-3 & R-5	NC/O	5.4.04 II.
JJ. Pleasure boat harbors & marinas	RP		5.4.04 JJ.
KK. Public Boat Landing or Launching Facilities	RP		5.4.04 KK.
LL. Public Facility		R-1 AA R-1 A, B, C, & D R-2 R-3 & R-5 AP-MX 1 & 2 NC/O	5.4.04 LL.

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and **Deletions**

Schedule 5.4.03 Schedule of Use-Specific Regulations			
	Conditional Use in District or Sub-Zoning District	Restricted Use in District or Sub-Zoning District	See Sub- Section
MM. Public Park/Playground		R-1 AA R-1 A, B, C, & D R-1-TC 1 & 2 R-2 R-3 & R-5	5.4.04 MM.
NN. Recreational Dockage Facilities	RP		5.4.04 NN.
OO. Research and Development Facility		AP-MX 1 & 2	5.4.04 OO.
PP. Riding Academies and Stables (Commercial)	RP CO		5.4.04 PP.
QQ. Riding and Stables (Personal Use)	RP CO		5.4.04 QQ.
RR. School (public/private), College/University	R-1 AA R-1 A, B, C, & D R-2 R-3 & R-5	AP-MX 1 & 2 NC/O TBD	5.4.04 RR.
SS. School (Public/Private) Elementary/Secondary	R-1 AA R-1 A, B, C, & D R-2 R-3 & R-5	AP-MX 1 & 2 NC/O TBD	5.4.04 SS.
TT. Shop house		CBD-TCR CBD-MR2 TBD	5.4.04 TT.
UU. Single-family Dwelling, Attached		R-3 R-5	5.4.04 UU.
VV. Single-family Dwelling, Detached		CBD-TCS TBD	5.4.04 VV.
WW. Theater, Indoors		NC/O	5.4.04 WW.
XX. Trade/Vocational School		NC/O	5.4.04 XX.
YY. Two-Family Dwelling		R-1B & C R-1-TC 1 & 2 CBD-TCS CBD-TCR CBD-MR1 CBD-MR2 TBD	5.4.04 YY.
ZZ. Utility substation/distribution facility, indoor/outdoor	R-1 AA R-1 A, B, C, & D R-2 RP CO		5.4.04 ZZ.

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and ~~Deletions~~

Schedule 5.4.03 Schedule of Use-Specific Regulations					
	Conditional Use in District or Sub-Zoning District	Restricted Use in District or Sub-Zoning District	See Sub- Section		
AAA. Vehicle Fueling Stations	AP-MX 1 & 2 NC/O		5.4.04 AAA.		
BBB. Vehicle Sales/Rental/Service Facilities	NC/O		5.4.04 BBB.		
<table border="0"> <tr> <td style="vertical-align: top;"> <p>RESIDENTIAL DISTRICTS Single-Family Residential = R-1AA, R-1A, R-1B, R-1C, R-1D, R-1-TC 1 & 2 Two-Family Residential = R-2 Multi-Family Residential = R-3, R-5 BUSINESS and MIXED-USE DISTRICTS Traditional Business District = TBD Alexandria Pike Mixed Use District = AP-MX 1 & 2 Neighborhood Commercial/Office District = NC/O OTHER DISTRICTS River Preservation District = RP Conservation District = CO</p> </td> <td style="vertical-align: top;"> <p>CBD DISTRICTS & SUB-ZONING DISTRICTS Town Center Core = CBD-TCC Town Center Supporting = CBD-TCS Town Center Residential = CBD-TCR Midway Core-1 = CBD-MC1 Midway Core-2 = CBD-MC2 Midway Core-3 = CBD-MC3 Midway Residential-1 = CBD-MR1 Midway Residential-2 = CBD-MR2</p> </td> </tr> </table>				<p>RESIDENTIAL DISTRICTS Single-Family Residential = R-1AA, R-1A, R-1B, R-1C, R-1D, R-1-TC 1 & 2 Two-Family Residential = R-2 Multi-Family Residential = R-3, R-5 BUSINESS and MIXED-USE DISTRICTS Traditional Business District = TBD Alexandria Pike Mixed Use District = AP-MX 1 & 2 Neighborhood Commercial/Office District = NC/O OTHER DISTRICTS River Preservation District = RP Conservation District = CO</p>	<p>CBD DISTRICTS & SUB-ZONING DISTRICTS Town Center Core = CBD-TCC Town Center Supporting = CBD-TCS Town Center Residential = CBD-TCR Midway Core-1 = CBD-MC1 Midway Core-2 = CBD-MC2 Midway Core-3 = CBD-MC3 Midway Residential-1 = CBD-MR1 Midway Residential-2 = CBD-MR2</p>
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5.4.04 SUPPLEMENTARY USE-SPECIFIC REGULATIONS.

This sub-section provides supplementary site planning, development, and/or operating standards for certain land uses. The land uses and activities covered by this sub-section shall comply with the applicable standards for the specific use, which, unless otherwise noted, are in addition to all other applicable provisions of this Ordinance including, but not limited to, parking, signs, landscaping, lighting, etc.

- A. Agriculture. Agricultural uses shall comply with the following requirements:
 - 1. The keeping of fowl or small animals not primarily for gain provided that any enclosures for such fowl and animals shall be at least a 20-foot distance from every lot line.
 - 2. The keeping of horses, cows, and other livestock, not primarily for gain and only within an enclosure, which shall be a distance at least 100 feet from every lot line. No manure or bedding shall be stored or kept within 100 feet of any lot line and same is prohibited unless stored or kept in a sanitary manner and so as not to emit or produce noxious or objectionable odors.
- B. Animal Hospital/Veterinarian Clinic. Such uses shall comply with the following requirements:
 - 1. The use shall be operated by a licensed or registered veterinarian.
 - 2. All principal use activities shall be conducted within a totally enclosed principal building; no outdoor pet enclosures or runs are permitted.

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3. Any indoor boarding shall be limited to that incidental to treatment or surgery. 24-hour boarding supervision shall be provided when animals are boarded overnight.
 4. Outdoor exercising is allowed when the pet is accompanied by an employee provided no animals shall be permitted outside of the buildings between 10:00 p.m. and 6:00 a.m.
 5. A caretaker's quarters is permitted as an accessory use.
 6. There shall be no burial or incineration of animals on the premises.
 7. Odor and noise shall be adequately controlled to ensure that animals do not create a nuisance.
 8. All waste material shall be removed from the site on a daily basis, and no animal waste shall be buried on site or be allowed to accumulate on the premise.
 9. The Board of Adjustment may impose additional conditions or restrictions, such as increasing buffers and screening materials, requiring odor or noise mitigation, and setting limits on the number of animals, to ensure that the proposed use will not be detrimental to the health, safety, or general welfare of the surrounding area.
 10. Facility shall be operated in accordance with all applicable Commonwealth of Kentucky and Campbell County Health Code regulations.
 11. When located adjacent to a residential zoning district, the following additional restrictions shall apply:
 - a. Soundproofed, air-conditioned buildings shall be located a minimum distance of 50 feet from any residential zoning district boundary line. Walls shall be soundproofed to allow a maximum transmission of 65 dB measured at any point on the outside of the exterior wall, and doors shall be solid core.
 - b. All non-soundproofed structures where animals are confined shall be located a minimum distance of 200 feet from any residential zoning district boundary line.
 - c. All non-soundproofed structures for the confinement of animals shall be screened by a solid fence or wall a minimum of 6 feet in height located within 50 feet of the principal non-soundproofed building.
 - d. Animals shall be confined in an enclosed building between the hours of 10:00 p.m. and 6:00 a.m. of the following day.
- C. Artisan or Craft Workshop. See Shop House.
- D. Artisan Production Industrial. Artisan Production facilities shall comply with the following:
1. The principal activities of the use shall occur completely within an enclosed building.

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2. There shall be no outdoor storage of merchandise for sale, goods, or materials.
 3. All work activities, artistic shows, programs, and other events shall be listed on the Development Plan application or the Zoning Permit application. If any additional activities are proposed that were not included on the original application, then a new application shall be required according to the procedures in this Ordinance.
 4. The proposed use shall not generate excessive noise, odor, dust, or smoke beyond the principal building.
 5. When adjacent to single-family residential district, the production of offensive noise, vibration, smoke, dust or other particulate matter, heat, humidity, glare, or other objectionable effect is prohibited.
 - a. No vibration shall be permitted which is discernible without instruments at the property line.
 - b. No emission shall be permitted of odorous gases or other odorous matter in such quantities as to be offensive at the property line.
 6. When adjoining single-family detached dwellings, no operations between the hours of 11:00 PM and 7:00 AM.
 7. A minimum of five percent (5%) of the gross floor area shall be required, as an accessory use, for retail sales of goods manufactured on-site.
 8. When located in the Neighborhood Commercial/Office District, such facilities shall not be located on corner lots with lot frontage on a local street that is in a public right-of-way owned and maintained by the City of Fort Thomas.
- E. Artist Studio. See Shop House.
- F. Assembly Hall. When located in the Neighborhood Commercial/Office District, such facilities shall not be located on corner lots with lot frontage on a local street that is in a public right-of-way owned and maintained by the City of Fort Thomas.
- G. Automobile Service Stations; Vehicle Fueling Stations. Automobile Service Stations and Vehicle Fueling Stations shall comply with the following requirements:
1. The minimum lot area shall be 25,000 square feet. When abutting R-1 Districts, the minimum pavement setback shall be 20 feet.
 2. Fuel pumps, canopies over fuel pumps, and electric vehicle charging stations shall be located behind the front line of the primary structure. When it is impractical to do so, the Board of Adjustment may grant an exception to this requirement due to the shallow depth of a parcel, the location of existing mature trees, the location of existing fuel pumps or canopies, the location of utilities and access points, the location of existing buildings or parking facilities, or other similar factors unless beneficial to surrounding properties to not do so. In such cases, additional front yard landscaping shall be considered as a condition for approval. **If the Board of**

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Adjustment grants such an exception, the centerlines of the fuel pumps and electric vehicle charging stations shall be at least twenty-five (25) feet from any street right-of-way line.

3. No equipment or parts shall be permitted to remain outside on the property.
4. Except while being serviced at a pump island or fueling station, no vehicle shall be parked between the fuel pumps, charging stations, and the front property line if fuel pumps and charging stations are located between the primary structure and a street right-of-way.
5. A car wash establishment may be combined with a vehicle fueling station or an automobile service station, provided that the minimum lot size for the combined uses is a minimum of 50,000 square feet.
6. An area for vehicular circulation that is not otherwise used for required parking shall be provided at each end of a pump island or fueling station. Such area shall be a minimum of 30 feet in width.
7. When an establishment with vehicle fueling stations is located on a corner lot, the following shall apply:
 - a. The lot shall have a minimum of 100 feet of lot frontage on each of the two intersecting streets;
 - b. The location of access drives and curb cuts shall be placed as far as possible from the intersection; and
 - c. Shall be limited to no more than one access drive or driveway per street frontage.
 - d. When located in the Neighborhood Commercial/Office District, such facilities **are prohibited when** ~~shall not be~~ located on a corner lot with lot frontage on a local street that is in a public right-of-way owned and maintained by the City of Fort Thomas.
8. The location, dimensions, and design concept of any proposed signage will be included in the Conditional Use Permit application.
9. All hydraulic hoists, oil pits, and all lubricants, greasing, vehicle washing, and repair equipment shall be enclosed entirely within a building. No outdoor disassembly or repair of motor vehicles shall be permitted.
10. Activities shall be limited to:
 - a. The sale of fuel;
 - b. The servicing of motor vehicles with minor repair work;
 - c. Automatic or hand washing of vehicles within an enclosed building;

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- d. The retail sale of vehicle parts and products relating to minor repair work such as, but not limited to, oil, grease, antifreeze, batteries, windshield wipers, etc.
 11. Retail sales activity that is usual and customary to the use is permitted as an accessory use and incidental to the principal use.
 12. Any major repair work, including automobile body repair and painting, work on vehicles over a 1.5-ton weight, automobile glass work, automobile transmission work, automobile engine overhaul and repair, and radiator repair is prohibited.
 13. Vehicles being serviced or awaiting same shall be stored for no longer than 7 days on the site if in located in unenclosed areas.
 14. Any removal of pumps or tanks shall be undertaken in accordance with safe accepted practices as prescribed by the National Fire Protection Association and filling depressions to the grade level of the lot.
 15. The storage and disposal of solid waste and recyclable materials, including used or discarded motor vehicle parts or equipment, and fluids, shall comply with all applicable federal, State, and local requirements.
 16. No junk, inoperative, or unlicensed vehicle will be permitted to remain outdoors.
 17. The exterior/outdoor display or storage of new or used automobile parts is prohibited.
 18. All vehicles shall be parked in marked parking spaces on concrete, asphalt, or other permanent surfacing material other than crushed stone. Such parking areas shall be indicated on the Development Plan.
 19. Vehicle parking areas, vehicle storage areas, maneuvering lanes and access ways to public streets shall be designed to prevent interference with the safe and convenient movement of vehicular and pedestrian traffic on the site and adjacent public rights-of-way.
- H. ~~Brewpubs; Micro-brewery/Distillery/Winery-Micro Production of Alcohol.~~ Brewpubs and Micro-brewery/Distillery/Winery facilities shall comply with the following requirements:
1. Each brewpub or micro-brewery/distillery/winery shall manufacture and sell alcoholic beverages in accordance with the provisions of the Kentucky Department of Alcohol Beverage Control and the Bureau of Alcohol, Tobacco, and Firearms (ATF), and shall maintain current licenses as required by each agency.
 2. Brewpubs:
 - a. A minimum of 50% of the gross floor area of the brewpub shall be devoted to restaurant use for on-site consumption of food and beverages, including the kitchen and seating area, but not including any outdoor dining area.

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- b. The area used for on-site production, including but not limited to manufacturing, bottling and storage, shall not exceed 50% of the gross floor area of the entire facility or 8,000 square feet, whichever is less.
 - c. Where this use abuts a residentially used property, any outdoor dining or service area shall be setback a minimum of 5 feet from any property line and enclosed by a fence that is a minimum of 4 feet in height. The 5 feet setback area shall be landscaped with a minimum of one tree every 30 linear feet or portion thereof. For every required tree a corresponding number of plantings or trees, from either i., ii., or iii., will be required for each Development Plan:
 - i. Bushes: 3 Per Required Tree; or
 - ii. Flowering Perennials Plants: 6 Per Required Tree; or
 - iii. Trees: 1 Per Required Tree
 3. Micro production facilities may provide on-site retail sale, restaurant, or tasting room for the on-site consumption of products produced on the premises and shall provide a minimum of five percent (5%) of the gross floor area for retail sales of products and/or beverages.
 4. No outdoor storage of brewing equipment or materials shall be permitted.
 5. The facility shall be designed and operated so as not to produce odors, gas, dust, or any other atmospheric pollutant detrimental to the health, safety, or general welfare of persons living or working in the surrounding area. The emission of odorous matter or smells in such quantities as to produce a public nuisance or hazard is not permitted.
 6. The facility shall not generate truck traffic materially different in truck size or frequency from that truck traffic generated by the surrounding non-residential uses.
 7. Each facility shall maintain copies of all reports filed with the Bureau of Alcohol, Tobacco, and Firearms (ATF) and shall be able to demonstrate, upon request of the City, that they have not exceeded the annual beverage production limit in any twelve (12) month period.
 8. When located in the Neighborhood Commercial/Office District, such facilities **are prohibited when** ~~shall not be~~ located on a corner lot with lot frontage on a local public street that is in a public right-of-way owned and maintained by the City of Fort Thomas.
- I. Campground/Recreational Vehicle Park. Campground/Recreational Vehicle Parks shall comply with the following requirements:
 1. A minimum lot area of 6 acres is required.
 2. Manager/Owner and members of their household shall be the only permanent residents.
 3. Campsites, whether occupied by tents; recreational vehicles; or other camping equipment, shall not be inhabited more than 20 days in a 30-day period by the same occupants.

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4. No camper trailer, tents or recreational vehicles shall be permanently placed at campsites as evidenced by the presence of sheds, roofs over campsites or recreational vehicles, or similar structures or activities that demonstrate permanent placement.
 5. Trash collection areas shall be screened in accordance with Section 5.3, Landscaping, Screening, and Lighting Regulations.
 6. No outdoor storage of any material or waste shall be permitted on site.
 7. Individual camp or recreational vehicle sites shall maintain a minimum size of 750 square feet in area and at least 20 feet in width.
 8. Individual campsites or recreational vehicle sites shall be set back at least 80 feet from the front lot line and a minimum of 25 feet from the side and rear lot lines.
 9. All areas within a campground shall have sufficient groundcover to prevent erosion and blowing dust.
 10. After-hours lighting shall be limited to that necessary only for security purposes. All lighting shall comply with the requirements in Section 5.3, Landscaping, Screening, and Lighting Regulations.
 11. Campground and recreational vehicle parks may include restrooms with showers as well as water, sewer, and electric hookups to each recreational vehicle lot. Accessory retail uses, where they are clearly incidental and intended to serve park patrons only, are permissible.
 12. Multiple structures may be constructed on the property, such as cabins, lodges, and other facilities typical of a camp provided that all structures comply with the setback requirements for a principal structure from adjoining property lines.
 13. Each building or campsite intended to accommodate guests shall be accessible via an all-weather road suitable to accommodate emergency vehicles serving the property.
 14. Any outdoor activity area, swimming pool, or ball field or court that adjoins an abutting residential use shall have a thirty (30) foot setback, which shall be landscaped in accordance with sub-section 150.800.8 (F), Screening. Where night-time lighting of such areas is proposed, large evergreen trees, which are a minimum of six (6) feet in height at planting, shall be required in a location appropriate to screen adjoining residences.
- J. Cemetery. Cemeteries and associated uses shall comply with the following requirements:
1. In addition to the other requirements in this sub-section 5.4.04 J., in Residential Districts, the following standards shall apply:
 - a. The minimum lot area shall be 22,500 square feet.
 - b. The minimum lot width shall be 150 feet;

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- c. The minimum front, side, and rear setback for principal and accessory buildings shall be 50 feet.
 - d. The maximum building height shall be 35 feet or two and one-half (2 1/2) stories.
 2. Sufficient parking spaces shall be provided throughout the cemetery so as not to hinder traffic flow.
 3. No gravesite shall be located within 25 feet of a public street right-of-way or residential zoning district boundary.
 4. No building, such as a mausoleum or columbarium, shall be located within the required setback.
 5. The minimum parking setback shall be 20 feet.
 6. Cemeteries shall include drive aisles or vehicular accessways of at least 12 feet in width or greater as needed for the parking and maneuvering of funeral processions.
 7. All driveway shoulders shall be constructed with a reinforced grass system or a similar alternative to prevent the destruction of grass next to interior streets and drives.
 8. In R-1 districts, a funeral home is not allowed as an accessory use.
- K. Commercial Kitchen. Commercial Kitchens shall comply with the following requirements:
 1. The principal activities of the use shall occur completely within an enclosed building.
 2. There shall be no outdoor storage of merchandise, goods, equipment, or materials.
 3. All work activities, programs, and other events shall be listed on the Development Plan application or the Zoning Permit application. If any additional activities are proposed that were not included on the original application, then a new application shall be required according to the procedures in this Ordinance.
 4. The proposed use shall not generate excessive noise, odor, dust, or smoke beyond the principal building.
 5. Trash collection areas shall be located behind the principal structure and screened as required by Section 5.3, Landscaping, Screening, and Lighting Regulations.
 6. When adjacent to single-family residential district, the production of offensive noise, vibration, smoke, dust or other particulate matter, heat, humidity, glare, or other objectionable effect is prohibited.
 - a. No vibration shall be permitted which is discernible without instruments at the property line.

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- b. No emission shall be permitted of odorous gases or other odorous matter in such quantities as to be offensive at the property line.
7. Applicants shall obtain and maintain all required food handling and serving licenses from the Commonwealth of Kentucky.
8. The applicant shall provide a parking plan for delivery vehicle and mobile food units (food trucks) stored or parked on site. Fleet vehicle parking shall be to the side or rear of the property on a striped asphalt or concrete paved surface.
9. Fleet vehicle parking areas shall be screened by landscaping along all sides visible from adjoining residentially used property.
- L. Commercial Recreation Facility, Indoors; Theater, Indoors. Indoor Commercial Recreation Facilities and Indoor Theaters shall comply with the following requirements:
 1. The minimum lot size shall be one (1) acre.
 2. The use shall not generate noise beyond the premises above the prevailing noise levels of other permitted uses in the zoning district. To minimize noise, the Board of Adjustment may require noise reduction measures to assure that the level of noise is no more than the prevailing noise levels of permitted uses in the District.
 3. The Board of Adjustment may limit the hours of operations to ensure that the proposed use is compatible with the surrounding uses.
 4. Applicant shall clearly demonstrate that the use will be compatible with the surrounding land uses and the surrounding built environment, particularly with regarding to traffic circulation, parking, and appearance.
 5. Points of ingress and egress to the site shall be minimized and placed in such a way as to maximum safety, maximize efficient traffic circulation, and minimize the impact on the surrounding area.
 6. Retail sales activity that is usual and customary to the use is permitted as an accessory use and incidental to the principal use. Examples are an office and the retail sale of refreshments, food, or souvenirs.
 7. The use shall be located on an arterial or collector street or provide direct access to an arterial or collector street.
 8. The landscaping on the site shall provide appropriate transition from ~~commercial~~ **non-residential** to residential districts, separate and buffer the buildings from other uses especially abutting residential districts, and provide visual relief from stark, linear building walls.
 9. In the Business and Mixed-Use Districts, principal buildings shall comply with the Required Design Standards in the applicable zoning district.

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10. All uses and operations, except off street parking and loading facilities, shall be operated and performed within an enclosed building.
- M. Community Center. See the requirements for Places of Worship.
- N. Congregate Care Facility. In the TBD, buildings that existed prior to [Insert date of passage of zoning amendments] may be converted into Congregate Care Facilities pursuant to all applicable regulations in this Ordinance. After [Insert date of passage of zoning amendments], new construction of Congregate Care Facilities is prohibited.
- O. Country Club (public, private/semi-private) including golf courses. Such facilities shall comply with the following requirements:
1. The minimum lot area shall be 40,000 square feet.
 2. The minimum parking setback from all project boundaries shall be 20 feet.
 3. The minimum building setback for both principal and accessory buildings from all lot lines shall be 50 feet.
 4. The proposed use shall not generate excessive noise beyond the premises. In order to minimize any effects of the above, the Board of Adjustment may require additional noise reduction measures to assure that the level of noise is no more than the prevailing noise levels of other permitted uses in the District.
 5. Exterior lighting shall be compatible with the surrounding neighborhood or development and comply with Section 5.3, Landscaping, Screening, and Lighting Regulations. No exterior lighting of golfing areas or driving ranges shall be permitted within 100 feet of any residentially zoned property line.
 6. Where night-time lighting of outdoor recreation areas is proposed, evergreen trees, which shall be a minimum of 6 feet in height at the time of planting, shall be required in a number and location appropriate to screen adjoining residences.
 7. The minimum setback from all lot lines for all outdoor recreation areas shall be 50 feet measured from the edge of the recreation area including any associated seating areas.
 8. All activities, programs, and other events shall be directly related to the activities listed on the approved Conditional Use Permit. If any additional activities are proposed that were not included on the approved Conditional Use Permit, then a new Conditional Use Permit shall be required according to the procedures in this Ordinance.
 9. For driving ranges, tees shall have at least 1,000 feet to the end of any open-air driving area. The Board of Adjustment may reduce this requirement if the end of the driving area is controlled by netting or other measures to control golf balls.

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10. Fencing, netting, trees, berms, or other control measures shall be provided around the perimeter of the golf course to prevent golf balls from leaving the property.
 11. Safety netting of not less than 32 feet in height shall be placed along the perimeter of the golf course playing area that abuts any public road frontage.
 12. Retail and restaurant uses shall be limited to accessory eating, dining, and pro-shop sales. Such facilities shall be provided for the convenience of the members or customers attending the Country Club or Golf Course, and no sign advertising the retail or restaurant uses shall be permitted.
 13. Swimming pools shall comply with the regulations in Section 5.1, Temporary and Accessory Use/Structure Regulations.
 14. Operational hours for maintenance vehicles, course maintenance and/or irrigation may be restricted by the Board of Adjustment to protect nearby residential districts. Maintenance sheds shall not be visible from any adjacent single family residential areas or from a public street right-of-way.
 15. Buffering and screening shall be required as mandated by Section 5.3, Landscaping, Screening, and Lighting Regulations.
- P. Day Care Center, Adult or Child. A day care center, adult or child shall comply with the following requirements:
1. The minimum lot area shall be as required by Schedule 5.4.03 P. unless there are less than five (5) children in which case the minimum lot area shall conform to the minimum lot area in the applicable zoning district.

Schedule 5.4.03 P.	
Minimum Lot Area for Day Care Center, Adult or Child	
Zoning District	Minimum Lot Area (Square Feet)
R-1AA	19,000
R-1A	19,000
R-1B	15,000
R-1C	14,000
R-1D	19,000
R-2	16,000
R-3	16,000
R-5	16,000

2. The minimum lot width shall be 150 feet.
3. The minimum front, side, and rear setback shall be 50 feet.

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4. The maximum building height shall be 35 feet or two and one-half (2 1/2) stories.
5. A copy of the Development Plan and a descriptive plan of operation shall be submitted with the application for a Conditional Use Permit.
6. A drop-off/pick-up location, which will not impede traffic on or off the site, shall be provided to ensure pedestrian safety.
7. For the protection of children and adults enrolled in the Day Care Center, a fence or wall having a height of at least five (5) feet shall enclose all outdoor activity areas. A securely fastened entry gate shall be provided to such outdoor activity areas.
8. Privacy screening, at least 6 feet tall, shall be provided along play areas abutting a residential lot or use. Such screening shall include a fence and a vegetative buffer. This privacy screening may serve as the protection fence or wall required by this subsection.
9. Whenever an application is made in any Residential District for a building permit or certificate of occupancy for a day care center for 30 or more children and/or adults located in a school, community center, or place of worship, no occupancy certificate shall be issued until the applicant complies with the Conditional Use provisions in this Ordinance, in addition to any and all other provisions of the Ordinance as may be applicable.
10. Parking shall be located behind the front line of the principal building. The Board of Adjustment may grant an exception to the prohibition against front yard parking where necessary due to shallow depth of a parcel, the location of existing mature trees, the location of utilities and access points, the location of existing buildings or parking facilities, or other similar circumstances.
11. Applicants shall clearly demonstrate that the use will be compatible with the surrounding area, particularly with regard to traffic circulation, parking, and appearance. The hours of operation may be restricted through the Conditional Use Permit.
12. The location, dimensions, and design concept of any proposed signage should be provided at the time of the Conditional Use Permit application.
13. Exterior lighting shall be residential in character and compatible with the surrounding neighborhood. After-hours lighting shall be limited to that necessary only for security purposes. All lighting shall comply with the requirements in Section 5.3, Landscaping, Screening, and Lighting Regulations.
14. Entrances to the site should be minimized and placed in such a way as to maximize safety, maximize efficient traffic circulation, and minimize the impact on any surrounding residential neighborhood.
15. The location and design of the facility shall provide for the protection of the children and adults from the traffic, noise, and other hazards of the area.

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Q. Drive-thru Facility in Association with a Principal Permitted Use; Freestanding Drive-thru Facility. Drive-thru Facilities in Association with a Principal Permitted Use and Freestanding Drive-thru Facilities shall comply with the following requirements:

1. Drive-thru facilities shall have a minimum lot area of one (1) acre and a minimum lot width of 150 feet.
2. Such facilities shall be located on an arterial or collector street in an area least disruptive to pedestrian and vehicular traffic.
3. Any proposed loudspeaker system shall be approved as part of the Conditional Use Permit application.
4. All access drives shall be located as far as practicable from existing intersections in order to minimize congestion and constricted turning movements.
5. The hours of operation of a drive-thru facility may be limited by the Board of Adjustment as a condition of approval for the Conditional Use Permit. In evaluating this provision, the Board shall consider the proximity of residential zoning districts, schools, places of worship, parks/playgrounds, and similar uses.
6. A traffic analysis may be required as part of the Conditional Use Permit application, including but not limited to proposed traffic flow, sight visibility for emerging vehicles, roadway capacity for turning movements, and other public safety factors.
7. Stacking spaces shall be provided for any use having a drive-thru facility as required by Section 5.5, Off-street Parking, Loading, and Access Regulations. The following standards shall apply to all drive-thru facilities:
 - a. Stacking spaces and lanes for drive-thru stations shall not impede on and off-site traffic movements and shall not create a potentially unsafe condition when crossed by pedestrian access to a public entrance of a building.
 - b. Drive thru lanes shall be separated from off-street parking areas. Individual lanes shall be curbed or otherwise distinctly delineated.
 - c. Approach lanes for drive-thru facilities shall have the following minimum widths:
 - i. One lane = 12 feet.
 - ii. Two or more lanes = 12 feet per lane.
 - d. All drive-thru facilities shall be provided with a bypass lane with a minimum width of 10 feet.
 - e. Each stacking space shall be a minimum of 10 feet by 20 feet.

The Board of Adjustment may grant an exception to these stacking standards where necessary due to shallow depth of a parcel, the location of existing mature trees, the

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location of utilities and access points, the location of existing buildings or parking facilities, or other similar circumstances.

- R. **Electric Vehicle Charging Stations**. Accessory Electric Vehicle Charging Stations shall comply with the following requirements:
1. Electric vehicle (EV) charging station spaces shall be posted with signage identifying the spaces as reserved for the charging of electric vehicles, amperage and voltage levels, any enforceable time limits or tow away provisions, and contact information for reporting non-operating equipment or other problems.
 2. EV charging station equipment shall be located so as not to interfere with vehicle, bicycle, or pedestrian access and circulation, or with required landscaping.
 3. Transformers and similar equipment shall be screened in accordance with Section 5.3, Landscaping, Screening, and Lighting Regulations.
 4. Dedicated electric vehicle charging spaces may be included in the calculation for minimum required parking spaces.
 5. The maximum height of the dispenser is 6 feet in a surface parking lot.
 6. Dispenser and associated equipment for EV charging stations shall not be located on the front façade of any principal building in the CBD or TBD.
 7. Each dispenser is permitted to have digital/static display area up to 1.5 square foot in size. Digital/static display areas greater than 1.5 square feet are regulated as signs and are subject to the regulations in Section 5.7, Sign Regulations.
 8. The related equipment cabinets and/or structures for electric vehicle charging stations shall not be located in any required buffer yard. The location of plantings required for parking lot landscaping may be modified for electric vehicle charging stations, but the parking lot landscaping requirements shall be in accordance with Section 5.3, Landscaping, Screening, and Lighting Regulations.
 9. A canopy is not permitted in association with an electric vehicle charging stations located in a surface parking lot unless it supports a solar collection system. Any canopy supporting a solar collection system shall comply with height and setback requirements for a freestanding accessory structure in the applicable zoning district and shall not include signage or illumination on the sides of the canopy.
- S. **Food Trucks**. Food trucks, otherwise known as mobile food vending service, shall comply with the following requirements:
1. The food truck/mobile food vending service is permitted as an accessory use when permitted in the applicable zoning district.
 2. The food truck/mobile food vending service shall not be located or parked in any required setback, sight distance triangle, buffer yard, or on existing landscaped areas.

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3. Food truck/mobile food vending service shall not be parked or located:
 - a. Within any public street, right-of-way, or sidewalk;
 - b. In any fire lane, travel lane, or entrance/exit.
4. Food truck/mobile food vending service shall not use or permit use of parking spaces on the site if doing so will adversely affect the required off-street parking available for the primary use(s) of the site during peak periods as determined by the Zoning Administrator.
5. Any operator of a food truck/mobile food vending service shall receive and display a valid Certificate of Zoning Compliance from the Zoning Administrator.
6. The operator of a food truck/mobile food vending service shall obtain, in writing, the property owner's permission to operate on the property and shall submit a copy to the Zoning Administrator with their application for a Zoning Permit.
7. The operator of a food truck/mobile food vending service shall meet all applicable local and state laws, rules, regulations, and ordinances.
8. Food trucks/mobile food vending service may only operate for a maximum of 6 hours in any one day at any one location, including set-up and break-down.
9. A maximum of 3 food trucks/mobile food vending service are permitted at any one location at the same time, provided that additional food trucks may be permitted in conjunction with special events or special permits permitted by the City of Fort Thomas.
10. Food trucks/mobile food vending services shall be located on a level, paved, or gravel surface with safe pedestrian access.
11. The vicinity around the food truck/mobile food vending service shall be kept clean and free of debris.
12. Trash receptacles shall be provided.
13. No liquid waste or grease is to be disposed into tree pits, storm drains, or onto the sidewalks, streets, or other public locations. Under no circumstances shall grease be released into or disposed of in the City's sanitary sewer system.
14. There shall be no audio amplifier or similar device to attract the attention of the public.
15. Food truck/mobile food vending services shall not be in operation between the hours of 10 p.m. and 7 a.m., except when associated with a special event authorized by the City of Fort Thomas.
16. The mobile vending unit or food trucks may be painted with signage, but no additional site signage is permitted.

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17. The mobile vending unit or food trucks shall be lit with available site lighting. No additional exterior lighting is permitted unless permitted by the Zoning Administrator upon finding that proposed exterior lighting mounted to the mobile vending unit or food truck will not spill over onto adjacent residential uses as measured at the property line.
 18. When located in the Neighborhood Commercial/Office District, such facilities **are prohibited when** ~~shall not be~~ located on a corner lot with lot frontage on a local street that is in a public right-of-way owned and maintained by the City of Fort Thomas.
- T. Freestanding Drive-thru Facility. See Drive-thru Facility in Association with a Principal Permitted Use.
- U. Funeral homes. Funeral homes shall comply with the following requirements:
1. In addition to the other requirements in this sub-section 5.4.04 U., in Residential Districts:
 - a. The minimum lot area shall be 22,500 square feet.
 - b. The minimum lot width shall be 150 feet;
 - c. The minimum front, side and rear setback for principal and accessory buildings shall be 50 feet.
 - d. The maximum building height shall be 35 feet or two and one-half (2 1/2) stories.
 - e. Such facilities shall be located adjacent to an arterial street.
 - f. Applicants shall clearly demonstrate that the use will be compatible with the neighborhood, particularly with regard to traffic circulation, parking, and appearance.
 - g. The hours of operation may be restricted.
 - h. Funeral homes shall not contain facilities for performing autopsies or other surgical procedures.
 - i. The external appearance of the funeral home and any accessory building shall be residential in character.
 - j. The parking of vehicles related to the funeral home in the front yard is prohibited except such vehicles are permitted in the front yard when forming the funeral procession.
 2. Cremation units may be included within mortuaries and funeral homes if permitted in the applicable zoning district.

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3. All activity shall be conducted inside the buildings except organizing the funeral processions.
 4. Sufficient car stacking space shall be provided on the lot such that the ~~arterial~~ public street need not be used for the forming of funeral processions. The area of the lot used for the forming of funeral processions shall have direct, ~~but limited,~~ access to the public ~~arterial road~~ **street**. This assembly area for the funeral procession shall be in addition to required off-street parking and its related maneuvering area.
 5. Indoor storage shall be provided adequate in size to store all vehicles related to the funeral home. The Board of Adjustment may permit outdoor storage of vehicles related to the funeral when screening is provided to adequately screen these vehicles from surrounding **residentially used** single-family residential dwellings.
 6. A caretaker's residence may be provided within the principal building.
 7. No outdoor storage of any material, equipment, or waste shall be permitted on site.
 8. Trash collection areas shall be located behind the principal structure and screened as required by Section 5.3, Landscaping, Screening, and Lighting Regulations.
- V. **Habitable Roof – Non-Residential Use.** Non-residential uses of a Habitable Roof shall comply with the following requirements:
1. Permitted uses of a habitable roof include outdoor dining, assembly uses, and live entertainment venues when permitted in the district or sub-district. Structural suitability of the roof for these uses shall be evaluated by the Building Official.
 2. In the CBD sub-districts, all structures; features; furnishings; and exterior modifications shall be reviewed by the Design Review Board as required by this Ordinance.
 3. Seating areas for outdoor dining and assembly uses shall be set back a minimum of 5 feet from the roof's edge and shall be cordoned off as required by the Building Official.
 4. If 50% or more of habitable roof is covered, whether with a permanent roofing structure or a more temporary covering such as lattice, canvas, or other similar cloth coverings, then the habitable roof shall be included in the calculation of maximum height.
 5. If music or other live entertainment is provided, compliance with the standards for Live Entertainment Venues is required.
 6. When a Habitable Roof for a Non-residential Use is a Conditional Use, the Board of Adjustment may:
 - a. May require noise reduction measures to assure that the level of noise is compatible with surrounding uses.

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- b. The Board of Adjustment may limit the hours of operations to ensure that the proposed use is compatible with the surrounding uses.
- W. Health Club. When located in the Neighborhood Commercial/Office District, Health Clubs **are prohibited when** ~~shall not be~~ located on a corner lot with lot frontage on a local street that is in a public right-of-way owned and maintained by the City of Fort Thomas.
- X. Hotel. When located in the Neighborhood Commercial/Office District, Hotels **are prohibited when** ~~shall not be~~ located on a corner lot with lot frontage on a local street that is in a public right-of-way owned and maintained by the City of Fort Thomas.
- Y. Institutions for Human Medical Care. Institutions for Human Medical Care, **except Congregate Care Facilities which shall comply with the Development Standards in the applicable zoning district and other applicable standards in this Ordinance**, shall comply with the following requirements:
1. In addition to the other requirements in this sub-section 5.4.04 Y., in Residential Districts:
 - a. The minimum lot area shall be 22,500 square feet.
 - b. The minimum lot width shall be 150 feet;
 - c. The minimum front, side and rear setback for principal and accessory buildings shall be 50 feet.
 - d. The maximum building height shall be 35 feet or two and one-half (2 1/2) stories.
 - e. Such facilities shall be located adjacent to an arterial street.
 2. In addition to the other requirements in this sub-section 5.4.04 Y., in the Business and Mixed-Use Districts:
 - a. The minimum lot size shall be 2 acres.
 - b. The minimum lot width shall be 200 feet.
 - c. Such use shall be located on an arterial or collector street.
 - d. The maximum height, building/parking setbacks shall be the development standards in the applicable zoning district.
 3. No outdoor storage of any material or waste shall be permitted on site.
 4. Trash collection areas shall be located behind the principal structure and screened as required by Section 5.3, Landscaping, Screening, and Lighting Regulations.
 5. Any emergency vehicle entrance shall be accessed from an arterial or collector street.

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6. Outdoor storage of ambulances and other vehicles used in the operation of the principal use may be permitted provided such storage areas are located in the side or rear yard in off-street parking areas. The areas devoted to the outdoor storage of such vehicles shall be enclosed with a fence having a minimum height of six (6) feet.
 7. Parking shall be located behind the front line of the principal building. The Board of Adjustment may grant an exception to this requirement where necessary due to shallow depth of a parcel, the location of existing mature trees, the location of utilities and access points, the location of existing buildings or parking facilities, or other similar circumstances.
 8. Applicants shall clearly demonstrate that the use will be compatible with the surrounding land uses, particularly with regard to traffic circulation, parking, noise, and appearance.
 9. Entrances to the site should be minimized and placed in such a way as to maximize safety, maximize efficient traffic circulation, and minimize the impact on any surrounding residential neighborhood. No more than two curb cuts shall be allowed per street frontage. Factors including the number of existing curb cuts in the area, the potential for increased traffic hazards and congestion, and the number of travel lanes of the street that serves the development shall be used to determine the actual number of curb cuts permitted.
 10. The scale, massing, and building design should be compatible with the surrounding built environment. In the Business and Mixed-Use Districts, principal buildings shall comply with the Required Design Standards in the applicable zoning district.
 11. **Outside of the Business and Mixed-Use Districts**, the public street elevation of the principal structure shall have at least one street-oriented entrance and contain the principal windows of the establishment.
 12. The location, dimensions, and design concept of any proposed signage should be provided at the time of the Conditional Use Permit application.
 13. Loading and emergency entrance areas shall be sited in such a way so as to minimize the impact on the surrounding land uses.
 14. A traffic analysis may be required from the applicant as part of its application for a Conditional Use Permit. Such analysis may include, but not be limited to, existing background traffic volumes, the proposed traffic flows and volumes, sight visibility for emerging vehicles, and other public safety factors as may be required.
- Z. **Live Entertainment Venue**. Live Entertainment Venues shall comply with the following:
1. In the CBD-TCC and the TBD, a maximum area of 15 percent of the square footage of the area of the principal use accessible to the public or 250 square feet, whichever is larger, as evidenced by submission of a floor plan, may be used for entertainment, as determined by the Zoning Administrator. Entertainment may include dancing, live entertainment including recorded music with a DJ, or other similar uses. This

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entertainment area may be inside or outside of the building hosting the Live Entertainment Venue. **Live entertainment venues in the CBD-TCC and the TBD shall comply with the remaining requirements in this sub-section.**

2. The building shall be configured and the use operated such that sound from amplified music or other performance taking place within the building is not audible at the lot line after 11:00 PM.
 3. No outdoor entertainment shall be permitted between 11 PM and 10 AM on Friday, Saturday, and any evening preceding a holiday recognized by the City of Fort Thomas, KY and between 10 PM and 10 AM on any other day.
 4. The use of mechanically produced sound, amplified sound or live music shall only be permitted in conformity with the City's noise standards and the Performance Standards in this Ordinance.
- AA. **Manufacturing, Light; Research and Development Facility.** Light Manufacturing and Research and Development Facilities shall comply with the following requirements:
1. The minimum lot area shall be 40,000 square feet.
 2. Existing natural or manmade barriers at the site shall be provided as protection and screening against noise, dust, and visual protection for all operations. At a minimum, a 35-foot buffer yard shall be provided adjacent to any R-1 zoning district. It shall be planted with large and small evergreen trees and one row of evergreen shrubs. The large evergreen trees shall be at least 6 feet in height when planted and allowed to grow to a minimum of 10 feet. The small evergreen trees shall be at least 4 feet in height when planted and permitted to grow to a minimum of 6 feet. The evergreen shrubs shall be three (3) feet when planted. Trees and/or shrubs shall be adequately spaced to form a solid, continuous visual screen within one (1) year after the initial installation. At a minimum, at the time of planting, the spacing of trees shall not exceed 12 feet on center.
 3. The facility shall be designed and operated so as not to produce odors, gas, dust, or any other atmospheric pollutant detrimental to the health, safety, or general welfare of persons living or working in the surrounding area. The emission of odorous matter or smells in such quantities as to produce a public nuisance or hazard is prohibited.
 4. The facility shall not generate truck traffic materially different in truck size or frequency from that truck traffic generated by the surrounding non-residential uses.
 5. Points of ingress and egress to the site shall be minimized and placed in such a way as to maximum safety, maximize efficient traffic circulation, and minimize the impact on the surrounding area. All site circulation, including loading and unloading, shall take place on site.
 6. There shall be no outside activities conducted or outside storage.
 7. Showrooms and the sale of goods produced on-site are permitted.

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- BB. Medical/Dental Clinic; Urgent Care. When located in the Neighborhood Commercial/Office District, Medical/Dental Clinics and Urgent Care facilities **are prohibited when** ~~shall not be~~ located on corner lots with lot frontage on a local street that is in a public right-of-way owned and maintained by the City of Fort Thomas.
- CC. ~~Micro-Production of Alcohol~~ **Micro-brewery/Distillery/Winery**. See Brewpubs.
- DD. Multi-family Dwellings. Multi-family Dwellings shall comply with the following requirements:
1. In the CBD-TCC, multi-family dwellings shall only be permitted when the multi-family building existed prior to [Insert date of passage of zoning amendments].
 2. In the CBD-TCS and TBD, buildings that existed prior to [Insert date of passage of zoning amendments] may be converted into multi-family dwellings pursuant to all applicable regulations in this Ordinance. After [Insert date of passage of zoning amendments], new construction of multi-family dwellings is prohibited.
- EE. Off-street Parking Lots. In all CBD sub-districts and the TBD, accessory Off-street Parking Lots shall comply with the Parking/Vehicular Access standards in Schedule 3.7.03 B. - Development Standards TBD, CBD-TCC, CBD-TCS, CBD-MC1, CBD-MC2, CBD-MC3. If Off-street Parking Lots existing as of [insert date of passage of Ordinance amendments] do not comply with the standards in Parking/Vehicular Access standards in Schedule 3.7.03 B, those Off-street Parking Lots may continue as provided for in sub-section 1.9.06, Non-conforming Site Conditions.
- FF. Open Space Recreation Area. Open Space Recreation Areas shall comply with the following requirements:
1. The minimum lot area shall be 22,500 square feet.
 2. The minimum lot width shall be 150 feet;
 3. The minimum front, side and rear setback for principal and accessory buildings shall be 50 feet.
 4. The maximum building height shall be 35 feet or two and one-half (2 1/2) stories.
 5. The site shall be adequate to accommodate the intended use(s), parking and adequate buffer areas without significant impact on nearby properties in terms of noise, traffic, lighting glare, views, odors, trespassing, dust or blowing debris, as determined by the Board of Adjustment.
 6. Swimming pools shall comply with the regulations in Section 5.1, Temporary and Accessory Use/Structure Regulations.
 7. The Board of Adjustment may require active recreation areas to be enclosed by a fence having a minimum height of 5 feet.
 8. The proposed use shall comply with the standards in sub-section 5.015, Performance Standards, and shall not generate excessive noise, odor, dust or smoke beyond the

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premises. To minimize any effects of the above, the Board of Adjustment may require all applicable surface areas to be paved, and impose additional noise reduction measures, including mounding, landscaping and sound barriers, to ensure that the level of noise is less than or the same as the prevailing noise levels of permitted uses in the District.

9. All activities, programs and other events shall be directly related to the Conditional Use Permit so granted, and any proposed changes from the approved Conditional Use Permit shall be reviewed and approved by the Board of Adjustment according to the procedures in Section 1.6 – Conditional Use Permits.
 10. An adequate number of public restrooms shall be provided and maintained.
 11. The Board of Adjustment may limit the hours of operation to ensure that the proposed use is compatible with the surrounding uses.
 12. Only retail uses that are customary accessory and incidental to the principal use shall be permitted. Included in such retail uses are refreshment stands, souvenir stands, concession stands, an office, **and similar uses**.
- GG. Parking Structure – Accessory to a Principal Use. Parking Structures – Accessory to a Principal Use shall comply with the following requirements:
1. In all zoning districts:
 - a. When Parking Structures are not constructed as part of the principal building, parking structures shall be located behind front building line of the principal building on the site.
 - b. Parking structures shall have a minimum side and rear setback of 25 feet.
 - c. The maximum height shall be as permitted in the applicable zoning district.
 - d. Where possible, parking structures shall be constructed as part of the principal structure.
 - e. Solar canopies are permitted on parking structure roofs and shall not be included in the calculation of maximum height.
 2. Applicants shall clearly demonstrate that the use will be compatible with the neighborhood, particularly with regard to traffic circulation, parking, and appearance.
 3. Design of Parking Structure:
 - a. The parking structure shall be designed to be compatible with surrounding development. Considerations include design elements that break up long, monotonous building walls and any other design elements that are compatible with the desired character of the District. Parking structure elevations shall use color, massing, or architectural features to reduce the appearance of bulk.

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- b. The materials for the parking structure shall be compatible with the surrounding built environment or the desired character of the District.
 4. Parking structure façades facing **single-family detached** residential lots shall:
 - a. Be enclosed to prevent light spillover from headlights, adverse noise, or pollutants; and
 - b. Incorporate architectural design elements, including surface treatments, offset planes, structural articulation, and landscaping to provide visual interest and compatibility with adjacent residential uses.
 5. The landscaping on the site shall provide an appropriate transition to single-family residential districts, separate and buffer the building from uses in abutting single-family residential districts, and provide visual relief from the building walls of the parking structure.
- HH. Parking Structure – Principal Use. When Parking Structures are the principal use, such Parking Structures shall comply with the following requirements:
1. Parking structures shall contain commercial uses along the frontage line. These commercial uses shall have a minimum depth of 20 feet from the frontage line. The Board of Adjustment may grant an exception to this requirement if the applicant presents compelling information that commercial tenants cannot be found at the time of construction. If the exception is granted, the parking structure shall be designed and constructed to accommodate ground floor non-residential uses in future with a minimum ceiling height of 20 feet above grade to ease conversion, and the parking structure shall have:
 - a. Architectural features, such as piers; columns; and/or colors, to break up the wall mass. A pedestrian-oriented plaza with pedestrian amenities such as benches, planters, landscaping, bicycle racks, and similar pedestrian amenities shall also be provided. The Board of Adjustment shall evaluate the appropriateness of the pedestrian-oriented plaza when deciding upon the requested exception and may seek guidance from the Design Review Board; OR,
 - b. Display window shall be provided and outfitted with displays. These display windows shall be vertical in proportion, have a minimum depth of three (3) feet, be internally lit, and have a minimum height of five (5) feet, and a minimum width of three (3) feet. The Board of Adjustment shall evaluate the spacing and adequacy of activating the public realm with these display windows when deciding upon the requested exception. The Board of Adjustment may seek guidance from the Design Review Board when deciding upon the spacing and adequacy of the proposed display windows.
 2. In those zoning districts with maximum setback requirements, the Board of Adjustment may increase the maximum setback to soften the impact of the parking structure. In the increased setback, the Board may require additional landscaping, including shade and evergreen trees that are of significant size.

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- II. Places of Worship; Community Center. Places of Worship and Community Centers shall comply with the following requirements:
1. When located in a Residential District, such facilities shall comply with the following:
 - a. The minimum lot area shall be 22,500 square feet.
 - b. The minimum lot width shall be 150 feet;
 - c. The minimum front, side, and rear setback for principal and accessory buildings shall be 50 feet.
 - d. The maximum building height shall be 35 feet or two and one-half (2 1/2) stories.
 - e. Such facilities shall be located adjacent to an arterial street.
 - f. Screening and buffering shall be required as mandated in Section 5.3, Landscaping, Screening, and Lighting Regulations.
 - g. All outdoor children's activity areas are to be enclosed by an ornamental or stockade fence or wall having a height of at least 5 feet but not exceeding 6 feet. An entry gate shall be securely fastened.
 - h. All activities, programs, and other events shall be listed on the Conditional Use Permit application and be directly related to the conditional use permit so granted. These activities shall be adequately and properly supervised so as to prevent any hazard and to assure against any disturbance or nuisance to surrounding properties, residents or to the community in general. If any additional activities are proposed that were not included on the approved Conditional Use Permit, then a new Conditional Use Permit shall be requested according to the procedures in this Ordinance.
 - i. Parking shall not be located in the front yard, and parking areas shall be located a minimum of 10 feet from side and rear lot lines. The Board of Adjustment may grant an exception to the prohibition against front yard parking where necessary due to shallow depth of a parcel, the location of existing mature trees, the location of utilities and access points, the location of existing buildings or parking facilities, or other similar circumstances.
 - j. Outdoor recreation areas shall be not located in the front yard. The minimum setback from side and rear lot lines for all outdoor recreation areas shall be 50 feet measured from the edge of the recreation area including any associated seating areas.
 - k. No outdoor activity area, such as a swimming pool, ball field, or court shall be permitted unless the lot area is 3 acres or more. When an outdoor activity area adjoins a residential zoning district boundary, these activity areas shall be setback 40 feet from any side or rear lot line. These outdoor activity areas shall be located behind the rear building line. Where exterior lighting of such

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areas is proposed large evergreen trees, which shall be a minimum of 6 feet at planting, shall be required in a location appropriate to screen adjoining residences.

- l. Applicants shall clearly demonstrate that the use will not cause a nuisance to neighboring properties with respect to traffic, parking, and noise. Drop off areas may be located in the front yard but shall maintain a residential character and appearance.
 - m. After-hours lighting shall be limited to that necessary only for security purposes. All lighting shall comply with the requirements in Section 5.3, Landscaping, Screening, and Lighting Regulations.
 - n. Entrances to the site should be minimized and placed in such a way as to maximize safety, maximize efficient traffic circulation, and minimize the impact on any surrounding residential neighborhood.
 - o. The principal structure shall be street oriented with pedestrian entrances from the street. A pedestrian walkway shall be provided from the public sidewalk to the principal entrance.
 - p. The use of land, buildings, and facilities associated with a Place of Worship use may be used for other accessory purposes in furtherance of the mission of the Place of Worship use. These additional uses, such as childcare centers or private schools, will require an additional Conditional Use Permit if so specified in the applicable zoning district.
2. When located in the Neighborhood Commercial/Office District, such facilities **are prohibited when** ~~shall not be~~ located on a corner lot with lot frontage on a local street that is in a public right-of-way owned and maintained by the City of Fort Thomas.
- JJ. Pleasure Boat Harbors & Marinas; Public Boat Landing or Launching Facilities; Recreational Dockage Facilities. Pleasure Boat Harbors & Marinas; Public Boat Landing or Launching Facilities; and Recreational Dockage Facilities shall comply with the following requirements:
1. Pleasure boat harbors & marinas; public boat landing or launching facilities; and recreational dockage facilities shall only be permitted in connection with streams, rivers, lakes, or other bodies of water, providing that the development of all permitted facilities in or adjacent to navigable waters shall be approved by the Corps of Engineers, Department of the Army, and such statement of approval or denial shall be submitted to the Board of Adjustment at the time of submittal for a Conditional Use Permit.
 2. No trailer, camper, manufactured housing unit, modular office trailer or similar unit shall be used on the property for any purpose.
 3. Trash collection areas shall be located behind the principal structure, and shall be screened as required by Section 5.3, Landscaping, Screening, and Lighting Regulations.

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4. No outdoor storage of any material or waste shall be permitted on site.
 5. Structures, other than light poles and those **expressly** regulated by this sub-section 5.4.04 JJ., shall be located a minimum of 50 feet from all nonriparian lot lines.
 6. Engine and hull repair shops shall only be permitted when conducted within a completely enclosed building, or completely obscured from view beyond the property boundaries with a continuous masonry wall, six feet in height or a heavily planted greenbelt 10 feet in width.
 7. All multi-slip and marina docking facilities in or adjacent to natural waterbodies shall be set back a minimum of 25 feet from all adjoining side lot lines.
 8. All boat ramps shall setback 20 feet from all adjoining side lot and side riparian lines.
 9. Ancillary long-term dry storage of recreational watercraft in racks or other storage systems is permitted provided the dry storage area is a minimum of 50 feet from all nonriparian lot lines.
 10. Off-street parking facilities and temporary parking of boat trailers including spaces large enough to accommodate automobiles pulling boat trailers are permitted.
 11. The following uses shall be permitted as accessory uses in connection with any boat landing or launching facilities or any boat harbor or marina and primarily intended to serve only persons using these facilities:
 - a. Boat fueling, service and repairs;
 - b. Sale of boat supplies;
 - c. Grocery store;
 - d. Restaurant; and,
 - e. Club house and lockers.
- KK. Public Boat Landing or Launching Facilities. See Pleasure Boat Harbors & Marinas.
- LL. Public Facility. See Public Park/Playground.
- MM. Public Park/Playground; Public Facility. Public Park/Playgrounds and Public Facilities shall comply with the following requirements:
1. The minimum lot area shall be 22,500 square feet.
 2. The minimum lot width shall be 150 feet;
 3. In the Residential Districts:

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- a. The minimum front, side and rear setback for principal and accessory buildings shall be 50 feet.
 - b. The maximum building height shall be 35 feet or two and one-half (2 1/2) stories.
4. In the Business and Mixed-Use Districts, all building; parking; and land shall comply with the Development Standards in the applicable zoning district except minimum lot area and minimum lot width which is regulated by this sub-section 5.4.04 LL.
- NN. Recreational Dockage Facilities. See Pleasure boat harbors & marinas; public boat landing or launching facilities; recreational dockage facilities.
- OO. Research and Development Facility. See Manufacturing, Light.
- PP. Riding Academies and Stables (commercial). All stables and academies for the **exercising, training,** rearing, and housing of horses and ponies shall meet the following requirements:
1. The number of permitted animals shall not exceed 2 animals for the first 5 acres and one animal per additional 2 acres.
 2. Any buildings used to house animals shall be a minimum of 100-feet from any property line.
 3. When animals are fed hay and oats or other feed outside of a building, the feeding area shall be located not less than one hundred (100) feet from all property lines. Corrals where animals graze only shall not be considered feeding areas.
 4. Stables shall be enclosed by a suitable fence, and shall be maintained so that odor, dust, noise, or water drainage shall not constitute a nuisance or hazard to adjoining properties.
 5. Outdoor storage or composting of animal waste shall be located a minimum of 50-ft from any property line. No other outdoor storage of any material or waste shall be permitted on site.
 6. No trailer, camper, manufactured housing unit, modular office trailer or similar unit shall be used on the property for any purpose. **A horse trailer may be stored and used on the site provided the horse trailer shall not parked or stored in an area that is visible from the right-of-way.**
 7. Fences enclosing the facility will be set back a minimum of ten (10) feet from any property line.
 8. No emission shall be permitted of odorous gases or other odorous matter in such quantities as to be offensive at the property line.
 9. If there is a lighted outdoor riding ring or riding area, the use of outdoor lighting for such areas is limited to 7:00 AM to 7:00 PM.

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10. Stables shall be operated and maintained in a healthy and safe manner. Healthy and safe is defined as, but not limited to: fences kept in good repair; potable water available on demand; protection from wind or rain; a sign posted indicating the name and phone number of the person to be contacted in case of emergency.

QQ. Riding and Stables (Personal Use). The keeping of horses and/or ponies primarily owned and kept for the personal use of the owner of the land on which they are maintained provided:

1. The minimum lot area is 2 acres.
2. All buildings used in connection with the keeping of horses or ponies shall be located at least 100 feet from all property lines.
3. All bulk feed and other supplies, equipment and materials used in connection with the keeping of horses or ponies shall be located in such buildings or structures located a minimum of 100 feet from all property lines.
4. Stables and riding areas shall be enclosed by a suitable fence, and shall be maintained so that odor, dust, noise, or water drainage shall not constitute a nuisance or hazard to adjoining premises.
5. If there is a lighted outdoor riding ring or riding area, the use of outdoor lighting for such areas is limited to 7:00 AM to 7:00 PM.
6. Stables shall be operated and maintained in a healthy and safe manner. Healthy and safe is defined as, but not limited to: fences kept in good repair; potable water available on demand; protection from wind or rain; a sign posted indicating the name and phone number of the person to be contacted in case of emergency.

RR. School (public/private), College/University. School (public/private), College/University shall comply with the following requirements:

1. In the Residential Districts, such facilities shall comply with the following requirements:
 - a. The minimum lot area shall be 22,500 square feet.
 - b. The minimum lot width shall be 150 feet;
 - c. The minimum front, side, and rear setback for principal and accessory buildings shall be 50 feet.
 - d. The maximum building height shall be 35 feet or two and one-half (2 1/2) stories.
 - e. Such facilities shall be located adjacent to an arterial street, and all access shall be from an arterial street.
 - f. The maximum lot coverage shall be 75%.

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and ~~Deletions~~

- g. No outdoor storage of any material or waste shall be permitted on site.
 - h. Exterior lighting shall be residential in character and compatible with the surrounding neighborhood. After-hours lighting shall be limited to that necessary only for security purposes. All lighting shall comply with the requirements in Section 5.3, Landscaping, Screening, and Lighting Regulations.
 - i. Such facilities shall not include athletic or large-scale assembly-type facilities.
 - j. Points of ingress and egress to the site shall be minimized and placed in such a way as to maximum safety, maximize efficient traffic circulation, and minimize the impact on the surrounding area.
 - k. The building and roof shall be designed to be compatible with surrounding development. Considerations include design elements that break up long, monotonous building or rooflines and any other design elements that are compatible with the character of the surrounding residential districts.
 - l. The materials used for buildings, roofs, fences, and other structures shall be compatible with the surrounding residential development and built environment.
2. When located in the Neighborhood Commercial/Office District, such facilities **are prohibited when** ~~shall not be~~ located on a corner lot with lot frontage on a local public street that is in the public right-of-way owned and maintained by the City of Fort Thomas.
3. In the Alexandria Pike Mixed Use District, such facilities are exempt from the Required Design Standards except for the following:
- a. Buildings and principal building entrances shall be oriented toward the public street so as to define the street edge and contribute to a dynamic pedestrian and street environment.
 - b. For the first floor, the front facade of every building shall have transparent areas, equal to 60 % of the front facade area (measured as the total area below the transition line). These transparent areas shall be between two (2) and nine (9) feet above the sidewalk or finished grade.
 - c. The pattern of architectural features, such as windows and doors, shall be placed upon the street facing facade of a building in a pattern that creates a building fenestration that has a constant rhythm, a harmonious appearance, and is proportional to one another and surrounding buildings, if applicable.
 - d. Buildings shall have finish materials on all sides. Finish materials shall not include cinder block or vinyl siding.
 - e. A combination of materials, textures, colors, and finishes shall be utilized to create visual interest.

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and ~~Deletions~~

- f. Facades may be supplemented by awnings, which shall be straight sheds ~~without side flaps~~, but shall not be cubed or curved.
 - g. Materials within ten (10) feet of the ground or the sidewalk shall be of a durable material. If “dry vit” or E.I.F.S is used as an exterior building material, impact resistant E.I.F.S., as classified by EIMA (EIFS Industry Members Association), shall be used on all wall areas within ten (10) feet of the ground or sidewalk.
 - h. All roof top equipment shall be concealed in building materials that match the structure or shall be painted to be visually compatible with the structure.
4. In the Traditional Business District, buildings that existed prior to [Insert date of passage of zoning amendments] may be converted into School (public/private), College/University pursuant to all applicable regulations in this Ordinance. After [Insert date of passage of zoning amendments], new construction of Schools (public/private), College/University is prohibited.
- SS. School (Public/Private) Elementary/Secondary. School (Public/Private) Elementary/Secondary facilities shall comply with the following requirements:
1. In the Residential Districts, such facilities shall comply with the following requirements:
 - a. The minimum lot area shall be 22,500 square feet.
 - b. The minimum lot width shall be 150 feet;
 - c. The minimum front, side and rear setback for principal and accessory buildings shall be 50 feet.
 - d. The maximum building height shall be 35 feet or two and one-half (2 1/2) stories.
 - e. The maximum lot coverage shall be 75%.
 - f. All activities, programs and other events shall be directly related to the approved Conditional Use Permit. These activities shall be adequately and properly supervised so as to prevent any hazard and to assure against any disturbance or nuisance to surrounding properties, residents or to the community in general. If any additional activities are proposed that were not included on the approved Conditional Use Permit, then a new Conditional Use Permit shall be requested according to the procedures in this Ordinance.
 - g. Outdoor recreation areas shall be not located in the front yard. The minimum setback from side and rear lot lines for all outdoor recreation areas shall be 50 feet measured from the edge of the recreation area including any associated seating areas.

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- h. Such uses should be located on an arterial or collector street or have direct access to an arterial or collector street to minimize impacts on local streets and residential neighborhoods, with the exception of elementary schools. Elementary schools may be located on local streets provided documentation is supplied that indicates a majority of students are within walking distance of the elementary school.
 - i. Exterior lighting shall be compatible with the surrounding neighborhood.
 - j. Entrances to the site should be minimized and placed in such a way as to maximize safety, maximize efficient traffic circulation, and minimize the impact on any surrounding residential neighborhood.
 - k. The scale, massing, and building design shall be compatible with the surrounding parcels.
 - l. In order to minimize any effects from this use, the Board of Adjustment may require additional noise reduction measures to assure that the level of noise is no more than the prevailing noise levels of permitted uses in the District.
 - m. The structure shall be street oriented with the principal entrance oriented toward the public street.
2. When located in the Neighborhood Commercial/Office District, such facilities **are prohibited when** ~~shall not be~~ located on a corner lot with lot frontage on a local street that is in a public right-of-way owned and maintained by the City of Fort Thomas.
3. In the Alexandria Pike Mixed Use District, such facilities are exempt from the Required Design Standards except for the following:
- a. Buildings and principal building entrances shall be oriented toward the public street so as to define the street edge and contribute to a dynamic pedestrian and street environment.
 - b. For the first floor, the front facade of every building shall have transparent areas, equal to 60 % of the front facade area (measured as the total area below the transition line). These transparent areas shall be between two (2) and nine (9) feet above the sidewalk or finished grade.
 - c. The pattern of architectural features, such as windows and doors, shall be placed upon the street facing facade of a building in a pattern that creates a building fenestration that has a constant rhythm, a harmonious appearance, and is proportional to one another and surrounding buildings, if applicable.
 - d. Buildings shall have finish materials on all sides. Finish materials shall not include cinder block or vinyl siding.
 - e. A combination of materials, textures, colors, and finishes shall be utilized to create visual interest.

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- f. Facades may be supplemented by awnings, which shall be straight sheds ~~without side flaps~~, but shall not be cubed or curved.
 - g. Materials within ten (10) feet of the ground or the sidewalk shall be of a durable material. If “dry vit” or E.I.F.S is used as an exterior building material, impact resistant E.I.F.S., as classified by EIMA (EIFS Industry Members Association), shall be used on all wall areas within ten (10) feet of the ground or sidewalk.
 - h. All roof top equipment shall be concealed in building materials that match the structure or shall be painted to be visually compatible with the structure.
4. In the Traditional Business District, buildings that existed prior to [Insert date of passage of zoning amendments] may be converted into School (public/private), elementary/secondary, pursuant to all applicable regulations in this Ordinance. After [Insert date of passage of zoning amendments], new construction of Schools (public/private), elementary/secondary is prohibited.
- TT. Shop House; Artisanal or Craft Workshop; Artist Studio. Such live/work uses shall comply with the following requirements:
- 1. The workspace shall occupy less than 50% of the dwelling unit’s gross floor area.
 - 2. The occupant of the dwelling unit shall be the owner and primary person involved in the business or activity.
 - 3. Not more than one (1) full-time, non-resident employee or the equivalent may be employed in the live/work use.
 - 4. There shall be no outdoor storage of equipment or materials used for the work activity of a live/work unit.
 - 5. In no way shall the appearance of a residential structure be altered or the activity within the residence be conducted in such a manner that changes the essential character of the dwelling.
 - 6. Live/work units shall have a common access for both the residential and nonresidential space and be designed in such a way as to prevent separate lease of spaces.
 - 7. Neither a live/work use nor any equipment used in conjunction with the work activities in the workspace shall produce heat, sound, vibration, light, glare, dust, odor, smoke, or fumes detectable to normal sensory perception by a person located off premises. No equipment or process shall create a hazard to person or property, resulting in electrical, visual, or audible interference to nearby machinery or equipment, become a nuisance, or cause fluctuation on line voltage or utilities off or on the premises.

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8. Any work activities associated with the live/work use shall be completely contained wholly within the live/work unit and shall not be permitted in any detached accessory buildings or structures.
 9. No outdoor display of materials, goods, supplies, or equipment shall be allowed.
 10. Signs for the live/work use shall be no greater than 4 square feet and shall only be placed in a window or mounted on the wall of the live/work unit.
 11. Office uses are limited to Office – administrative/professional uses; medical/dental uses are prohibited. Retail sales and personal service uses are permitted in the live/work unit. Restaurants are prohibited.
 12. Any application to establish a live/work use or to change the use of a live/work unit shall specifically identify the nature of the work activities, the hours of operation, whether or not there will be one full-time employee or multiple part-time employees, and the number and type of expected deliveries. The application shall also include a floor plan that identifies those areas of the dwelling unit to be used as living space and those areas to be used as work space. The floor plan shall include the nature and location of any equipment to be used for work activities.
 13. Separate parking shall not be provided for the workspace portion of the live/work unit. All parking for the live/work unit shall be provided in the driveway.
 14. An Occupational License shall be obtained from the City of Fort Thomas, KY.
- UU. Single-family Dwelling, Attached. Attached single-family dwelling units shall comply with the following requirements:
1. In addition to the other requirements in this sub-section 5.4.04 UU., in the R-3 District:
 - a. No more than 4 single-family attached dwelling units shall be constructed in one building.
 - b. Maximum Density. The gross density shall not exceed 6.5 dwelling units per acre.
 2. In addition to the other requirements in this sub-section 5.4.04 UU., in the R-5 District:
 - a. No more than 6 single-family attached dwelling units shall be constructed in one building.
 - b. Maximum Density. The gross density shall not exceed 9 dwelling units per acre.
 3. Building Placement in R-3 and R-5 Zoning Districts.

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- a. A minimum 10 feet of separation shall be maintained between all principal buildings in the development.
 - b. Principal buildings shall be set back from private drives and parking lots a minimum of 10 feet as measured from back of curb or edge of pavement, if no curb is provided.
 - c. Principal buildings shall be set back from public streets in or abutting the development a minimum of 35 feet.
 - d. For principal buildings, the minimum side setback from a project boundary shall be 15 feet, and the minimum rear setback from a project boundary shall be 35 feet. Setback requirements do not apply to individual attached single-family dwelling lots. Setback requirements do apply to the lot or parcel from which the individual attached single-family dwelling lots are subdivided.
 - e. All accessory structures shall be located behind the rear building line of the attached single-family dwellings.
4. Design of Attached Single-family Dwellings in R-3 and R-5 Zoning Districts:
- a. Each attached unit shall have a width of at least 20 feet.
 - b. The principal orientation of the attached single-family units shall be the public street on which the development has frontage. There shall be at least one entrance of each unit, facing the public street, and the principal windows of the attached single-family units shall also face this public street. **In no situation shall the back of the attached single-family units face a public street.**
 - c. The maximum height shall be 35 feet or 2.5 stories.
 - d. The front façade shall be at least 25% windows or doors.
 - e. All buildings shall utilize high-quality building materials that are in keeping with traditional architectural styles. Permitted wall materials include brick, stone, wood, and fiber cement siding. Vinyl siding is prohibited.
5. Access in R-3 and R-5 Zoning Districts.
- a. Single-family attached developments shall abut a public street.
 - b. Individual single-family attached lots need not abut a public street provided that every dwelling unit shall be provided access to their property via either a public right-of-way or a private vehicular or pedestrian way owned by the individual lot owner in fee or in common ownership with other property owners in the development.
 - c. Adequate access shall be provided for firefighting equipment, service deliveries, and refuse collection.

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- d. Vehicular entrances to the attached single-family development shall be minimized and designed in such a way as to maximize safety, maximize efficient traffic circulation, and minimize the impact on any adjacent residential neighborhood.
 6. Parking spaces shall be located behind the front building line. However, the Planning Commission may grant a waiver to this requirement, pursuant to Section 1.10 - Waivers, Modifications, & Equivalency where necessary due to shallow depth of a parcel, the location of existing mature trees, the location of utilities and access points, the location of existing buildings or parking facilities, or other similar factors.
 7. Garages shall be located in the rear yard and shall only be accessed by a rear entrance or from a side street. The Planning Commission may **grant a waiver to this requirement and** permit garage doors on the front façade where the lot depth will not permit a rear entrance; provided the front of the garage does not project closer to the street than the wall of the livable portion of the dwelling and the garage does not occupy more than 50% of the total length of the street-facing building façade and each door is a maximum of 8 feet wide with a minimum 8 inch column between doors.
 8. A subdivision plat shall be submitted with the development plan if the attached single-family dwelling units will be constructed on individual lots.
 9. Notwithstanding the above requirements, the Planning Commission may grant waivers to all of the requirements in this sub-section, except maximum density and height, based upon the proposed development plan, pursuant to Section 1.10 - Waivers, Modifications, & Equivalency.
 10. Detached garages and other accessory buildings shall be located in the rear yard shall be set back a minimum of 3 feet from the rear and side lot lines and shall have a maximum height of 15 feet.
- VV. Single-family Dwelling, Detached. Only Single-family Detached Dwellings that existed prior to [fill in date of passage of these amendments] shall be permitted. Construction of ~~the~~ new Single-family Detached Dwellings ~~are permitted~~ **is prohibited** in the CBD-TCS or the TBD. **Renovations to Single-family Detached Dwelling that existed prior to [fill in date of passage of these amendments] are permitted provided such renovations meet the requirements of the R-1-TC1 District.**
- WW. Theater, Indoors. See Commercial Recreation Facility, Indoors
- XX. Trade/Vocational School. When located in the Neighborhood Commercial/Office District, Trade/Vocational Schools **are prohibited when** ~~shall not be~~ located on a corner lot with lot frontage on a local street that is in a public right-of-way owned and maintained by the City of Fort Thomas.
- YY. Two-family dwelling. Only Two-family Dwellings that existed prior to [fill in date of passage of these amendments] shall be permitted. Newly constructed Two-family Dwellings and the conversion of dwellings, which predate [fill in date of passage of these amendments], into Two-family Dwellings is prohibited. **Renovations to Two- Dwellings that existed prior to [fill**

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in date of passage of these amendments] are permitted provided such renovations meet the setback requirements of the R-2 District. In the CBD-TCS, existing buildings occupied with mixed-uses prior to [fill in date of passage of these amendments] may be converted into Two-family Dwellings.

ZZ. Utility Substation/distribution Facility, Indoor/Outdoor. Indoor/Outdoor Utility Substation/distribution Facilities shall comply with the following requirements:

1. Public utility facilities, including substations, shall be permitted as a conditional use only when the distribution of service is essential to the immediate neighborhood or when topological features restrict the location of such facility.
2. Natural or man-made barriers shall be provided to lessen any intrusion into a residential area. In making this determination, the Board of Adjustment shall consider the proximity of residential uses, the form of surrounding built environment, and the location and type of surrounding land uses shall be considered.
3. Storage of materials shall be within a completely enclosed building.
4. Substations, as measured from the outermost edge of the facility, shall be located a minimum of fifty (50) feet from any residential property line and from any street right-of-way line.
5. For facilities other than sub-stations adjacent to residential property lines, the minimum front setback shall be twenty-five (25) feet, and the minimum side setback shall be fifteen (15) feet.
6. Fences and walls, in excess of six (6) feet in height shall be setback from every public street right of way line a distance no less than twelve (12) feet and shall be setback from every other property line a distance of no less than ten (10) feet. Within these setbacks, evergreen shrubs and trees, which meet the standards for trees specified in Schedule 5.3.11 Minimum Size Requirements for Plant Materials, shall be planted in addition to the deciduous trees required in sub-section 7. below. At a minimum, at the time of planting, the spacing of trees shall not exceed 12 feet on center, and the planting pattern shall be staggered. Shrubbery shall be more closely spaced.
7. The entire perimeter of the site shall be landscaped with deciduous trees 2.5 inches in caliper planted thirty (30) feet on center.

AAA. Vehicle Fueling Stations. See Automobile Service Stations.

BBB. Vehicle Sales/Rental/Service Facilities. Vehicle Sales/Rental/Service Facilities shall comply with the following requirements:

1. The minimum lot area shall be 2.5 acres.
2. Buildings and premises for the sale, rental, and ancillary servicing of vehicles in operating condition shall be limited to the following:
 - a. Passenger automobiles, up to $\frac{3}{4}$ ton trucks, and motorcycles;

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- b. Vans, but not including any vehicle designed primarily for the transportation of ten or more passengers;
 - c. Boats less than 26 feet in length; and,
 - d. Specialized vehicles such as recreational vehicles and boat trailers having a maximum length of 17 feet.
3. A service garage, leasing department, and other activities customarily incidental to a vehicle sales and leasing facility shall be permitted as accessory to the sale of vehicles provided the activities are conducted entirely in an enclosed building.
4. Only repair of vehicles customarily associated with vehicle sales and leasing shall be permitted and shall be conducted inside a suitable building.
5. No inoperable or unlicensed vehicles, which are not displayed for sale, shall be stored or parked outside for more than 48 hours.
6. Vehicle parking areas, vehicle storage areas, maneuvering lanes, and access ways to public streets shall be designed to prevent interference with the safe and convenient movement of vehicular and pedestrian traffic on the site and adjacent public rights-of-way.
7. Outdoor areas devoted to storage, loading, parking, and display are limited to the portion of the site designated for such activities. Such areas shall comply with the following standards:
 - a. The areas shall be located on the same lot with and ancillary to a sales room, rental office, or service facility.
 - b. Except loading areas, if located on the ground and open to the sky, the areas may be located in any yard, provided, the areas shall be located a minimum of 10 feet from any front lot line; set back a minimum of 20 feet from any R-1 zoning district boundary line; and set back a minimum of 20 feet from any non-residential zoning district boundary line.
 - c. If located contiguous to a street, the areas shall have a curb between the area and the street.
 - d. The areas, including aisles and driveways, shall be constructed and maintained with concrete, asphalt, or other permanent surfacing material other than crushed stone. Such areas shall be indicated on the Development Plan.
8. No vehicles or other similar items shall be displayed on the top of a building.
9. All lights and lighting shall be designed and arranged so no source of light is directly visible from any adjacent property.

SECTION 5.5 Off-Street Parking, Loading, and Access Regulations

5.5.01	Intent.	5.5.11	Allowance for Shared Parking for Non-Residential Uses.
5.5.02	Applicability.	5.5.12	Allowance for Off-Site Parking.
5.5.03	Parking Facilities Required.	5.5.13	Parking Spaces for Persons with Disabilities.
5.5.04	Expansion of Existing Parking Lots.	5.5.14	Location of Required Parking Spaces.
5.5.05	Units of Measure.	5.5.15	General Requirements.
5.5.06	Off-Street Parking Standards.	5.5.16	Design & Layout of Off-Street Parking Areas.
5.5.07	Parking Requirements for the Central Business & Traditional Business Districts.	5.5.17	Access Control Regulations.
5.5.08	Parking Assessment.	5.5.18	Street Loading and/or Unloading Regulations.
5.5.09	Modification of Standards.	5.5.19	Nonconforming Parking Facilities.
5.5.10	Deferred Construction of Required Spaces.		

5.5.01 INTENT.

Off-street parking and loading requirements and regulations are established in order to achieve, among other things, the following purposes:

- A. To provide regulations that assure sufficient number of off-street parking spaces, in proportion to the need of each use to:
 1. Relieve congestion on streets to allow more fully the movement of vehicular traffic;
 2. Lessen vehicular movement in the vicinity of intensive pedestrian traffic and thereby promote safety and convenience;
 3. Protect adjoining residential neighborhoods from excessive non-residential on-street parking; and,
 4. Promote general convenience, welfare, and prosperity of developments that depend upon off-street parking facilities.
- B. To ensure an appropriate level of vehicle parking, loading, and storage to support a variety of land uses.
- C. To provide for accommodation of vehicles in a functionally and aesthetically satisfactory manner and to minimize external effects on adjacent land uses.
- D. To provide specifications for vehicular site access.
- E. To prevent the creation of surplus amounts of parking spaces and reduce unnecessary amounts of impervious surface by allowing for a reduction in parking requirements where warranted.

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- F. To allow flexibility in addressing vehicle parking and access issues.

5.5.02 APPLICABILITY.

- A. In all zoning districts, off-street parking facilities for use by occupants, employees, and patrons of the building hereafter erected, altered, or extended, and all uses of the land after the effective date of this Ordinance, shall be provided and maintained as herein prescribed.
- B. Compliance. Compliance with the standards outlined in this Section shall be attained in the following ways:
 - 1. Development of new parking facilities, loading facilities, and driveways.
 - 2. Improvements to existing parking facilities, loading facilities, and driveways, including reconfiguration, enlargement, removal, or pulverization of an existing parking lot (excluding milling and paving), or the addition of curbs, walkways, fencing, or landscaping.
- C. Parking Plan Approval Required. Plans for all parking lot facilities, including parking structures, excepting that required for **individually developed** single- and two-family development, shall be submitted to the Planning Commission for review and for compliance with the provisions of this Ordinance and such other pertinent ordinances of the City of Fort Thomas. Such plans shall show the number of spaces and arrangements of parking aisles, location of driveway entrances and exits, provisions for vehicular and pedestrian circulation, location of sidewalks and curbs on or adjacent to the property, utilities, location of shelters for parking attendant, locations of signs, typical cross-sections of pavement, base and sub-base, in accordance with 5.5.16 of this Ordinance, proposed grade of parking lot, storm drainage facilities, location of lighting facilities and such other information or plans as the circumstances may warrant.

5.5.03 PARKING FACILITIES REQUIRED.

Accessory off-street parking facilities, including access driveways, shall be provided prior to the occupancy of a building or use. Facilities shall be provided for the entire building or use in accordance with the regulations in this Section:

- A. Whenever a building is constructed or a new use is established; or,
- B. Whenever the intensity of use of any building, structure, or premises shall be increased through a change of use, addition of dwelling units, gross floor area exceeding one thousand (1,000) square feet, seating capacity not exceeding ten persons, or other units of measurement specified herein - additional parking spaces shall be provided in the amounts hereafter specified for that use, if the existing off-street parking area is inadequate to serve such increase in intensity of use; or,
- C. The Zoning Administrator is authorized to waive a requirement for additional parking spaces relating to the construction of a minor accessory building or minor building addition when such construction is within the limits prescribed by Section 1.4.10 -Minor Alteration Approved by the Zoning Administrator.

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5.5.04 EXPANSION OF EXISTING PARKING LOTS.

- A. When an existing parking lot or loading area is increased in area by 33% or more, the entire parking lot or loading area shall conform with the current requirements for paving, storm water, and landscaping as required by this Ordinance and other applicable City Ordinances.
- B. Alterations or repairs may be made to any existing parking lot or loading area without requiring the existing facility to comply with the current requirements of this Ordinance. The alterations or repairs shall conform to the applicable requirements set forth herein.

5.5.05 UNITS OF MEASURE.

In computing the number of parking spaces required by this Ordinance, the following rules shall apply:

- A. Floor Area. Gross floor area shall be used as the standard for determining parking space requirements, for all uses, unless specifically noted otherwise.
- B. Seats. Seat means the number of seating units installed or indicated on plans for places of assembly, or one seat for each twenty-four lineal inches of benches, or pews or the capacity shall be determined as one seat for each 30 square feet of gross floor area of the assembly room.
- C. Employees. Employees means the maximum number of employees on duty on the premises at one time.
- D. Fractional Numbers. When the computation results in a fractional unit, the number of said required spaces shall be construed to be the next highest whole number.
- E. Parking for Mixed or Multiple Uses. When a building or group of buildings contains two or more uses, normally operating during the same hours, the number of parking spaces for each use shall be computed separately. The total spaces provided shall not be less than the sum of the spaces required for each use, except as otherwise provided for in this Section.
- F. Parking Requirements for Uses Not Specified.
 - 1. When the off-street parking requirements for a use are not specifically defined herein, the parking facilities for such use shall be determined by the Zoning Administrator based on the standard most similar to the proposed use.
 - 2. Appeal by the applicant of a decision by the Zoning Administrator pursuant to this sub-section and deemed to be too restrictive may be reviewed by the Planning Commission at a regular meeting.

5.5.06 OFF-STREET PARKING STANDARDS.

The amount of required off-street parking space for uses, buildings, or additions thereto shall be determined according to the following requirements, and the parking space, so required, shall be reserved for such use.

Significant changes from the Phase 2 draft are noted: Substantive Additions and Deletions

Schedule 5.5.06 Required Off-Street Parking Spaces	
Principal Building or Use	Minimum Parking Requirement ^(a)
A. Residential	
1. Accessory dwelling unit	1 space per unit ^(e) None
2. Dwelling unit(s) above/behind non-residential use when located in the same building as the non-residential use	1 space per dwelling unit
3. Single-family dwelling, attached	1.5 spaces for each dwelling unit
4. Single-family dwelling, detached	2 spaces for each dwelling unit
5. Two-family dwelling	1 space for each dwelling unit
6. Shophouse	1 parking space for each dwelling unit
7. Multi-family dwellings	1 Bedroom - 1 space per unit 2 Bedroom - 1.5 spaces per unit 3+ Bedroom - 2 spaces per unit
8. Residential care facility for persons with disabilities	0.5 space per employee
B. Community Facilities/Institutions	
1. Cemetery	0.75 per employee + 1 per 4 persons at design capacity of any chapel
2. Community center	1 space per 500 sq. ft. of floor area, plus 1 space for every 6 seats in any assembly area
3. Congregate care facility/nursing home/assisted living facility	1 space for each 6 beds, plus 1 space for every 3 employees
4. Day Care Center, Adult or Child	1 space per employee
5. Government Facilities, other than municipal	To be established by the Planning Commission ^(b)
6. Hospital; Institutions for human medical care	1 space per 2 beds
7. Cultural Institution; library and similar use	1 space for each 400 square feet of public floor area
8. Membership club and similar uses	1 space per 4 persons at design capacity
9. Outdoor swimming pool (Not associated with dwelling units)	1 space for every 5 persons, based on pool capacity
10. Place of worship	1 space for every 6 seats in the portion of the building to be used for assembly use
11. Post office	One (1) parking space for each four hundred (400) square feet of floor area, plus one (1) parking space for each two (2)

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Schedule 5.5.06 Required Off-Street Parking Spaces	
Principal Building or Use	Minimum Parking Requirement ^(a)
	employees plus one (1) space for every vehicle operating from the premises
12. Public facility	1 space per each full-time employee on largest shift plus 1 space for each 6 seats in assembly rooms
13. Public park/playground	To be established by the Planning Commission ^(b)
14. School (Public/Private) college/university	1 space per 4 students (based on the maximum number of students at design capacity) plus 2 spaces for each 3 employees
15. School (public/private), elementary/secondary	One (1) space per classroom, or one (1) space for each four (4) seats in the auditorium, stadium and other places of assembly or facilities available to the public, based on maximum seating capacity.
16. Utility substation/distribution facility	No parking requirement
C. Office/Professional Services	
(1) Banking; Financial Institutions	One space per 350 square feet of floor area.
(2) Conference Center	1 space per 4 seats in the assembly rooms + other use requirements
(3) Medical/Dental Clinic; Urgent Care	5 spaces per doctor and/or dentist
(4) Office - administrative/ professional;	1 space per 2000 square feet of floor area
(5) Office – medical/dental	Five (5) parking spaces per each practitioner plus one (1) parking space for each two (2) employees, or one (1) parking space per each 300 square feet of floor area in the building plus one (1) parking space for each two (2) employees, whichever is greater.
(6) Vocational, Trade or Technical School	1 space for every instructor, employee, and administrator, plus 1 space for every 2 students
D. Retail/Personal Services	
1. Artist studio; Artisanal workshop	1 space per employee, plus 1 space per 500 square feet of floor area
2. Beauty salons and barber shops	2 spaces per beauty or barber chair
3. Brewpub	1 space per 50 square feet of floor area or 1 space per two seats, whichever requires the greater number of spaces plus 1 space per 2,000 sf of floor area of production area
4. Drinking establishment	1 space per 200 square feet
5. Hotel	0.8 per room, plus 1 per 800 sf of public meeting, event, or

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Schedule 5.5.06 Required Off-Street Parking Spaces	
Principal Building or Use	Minimum Parking Requirement ^(a)
	restaurant area
6. Micro-brewery/Distillery/Winery	1 parking space per 500 square feet of industrial/manufacturing floor area, 1 parking space per 400 square feet of retail/restaurant floor area, and 1 parking space per 500 square feet of office floor area
7. Retail establishment; Personal services; Experiential retail establishment	One space per 400 square feet of floor area
8. Retail establishment – bulky items such as furniture	1 space for each 450 square feet of floor area plus one (1) parking space for each two (2) employees
9. Restaurant carryout only	1 space per 300 square feet
10. Restaurant, indoor	One space per 200 square feet of floor area or 1 parking spaces for every 5 persons of maximum occupancy, whichever requires the least number of spaces plus 1 space for each delivery vehicle
11. Restaurant, outdoor seating including when located on habitable roof	For the first 500 square feet of outdoor seating area, no additional parking spaces. Beyond 500 square feet, one space per fifty (50) square feet of floor area or one (1) space per two seats, whichever requires the greater number of spaces
12. School, specialty/personal instruction	2 spaces per classroom, plus 1 space for every 5 students at design capacity
E. Vehicles and Equipment	
1. Auto service stations	1 space for each gas pump plus two (2) spaces for each service bay, plus one (1) parking space for each employee on largest shift, but never less than 5 spaces
2. Freestanding drive-thru facility	1 per employee + stacking for 2 vehicles per station
3. Drive-thru associated with a principal permitted use	Stacking for 2 vehicles per station + other use requirements
4. Vehicle fueling station	2 spaces per pump plus other use requirements
F. Entertainment/Recreation	
1. Bowling establishments	5 parking spaces for each lane
2. Assembly hall	1 space per 4 persons at design capacity
3. Golf course; country club	1 per 500 square feet of club house + 3 spaces per hole
4. Health club	1 space per 300 square feet of exercise area, including locker

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Schedule 5.5.06 Required Off-Street Parking Spaces	
Principal Building or Use	Minimum Parking Requirement ^(a)
	and equipment rooms
5. Live music venue	1 per 6 seats + other use requirements
6. Recreation facility, indoor	1 space per 3 persons based on maximum occupancy load of entertainment areas
7. Recreation facility, outdoor	1 space per 1,000 square feet of recreation area
8. School, specialty/personal instruction	2 spaces per classroom, plus 1 space for every 5 students at design capacity
9. Theaters and other places of assembly	1 parking space for each 4 seats based on maximum seating capacity
G. Industrial	
1. Artisan production	1 space per 2 employees + other use requirements
2. Commercial kitchen	1 space per 2 employees + other use requirements
3. Light manufacturing uses	1 space per 2 employees on the largest shift plus one (1) parking space for each company vehicle operating from the premises.
4. Research and development facilities	1 space per 1000 square feet of floor area
5. All Other Industrial Facilities	1 space per 2 employees on the largest shift
H. Other	
1. Agriculture	No parking requirement
2. Funeral home	1 space per 4 seats of design capacity, plus 1 space for each vehicle maintained on the premises
3. Habitable roof – non-residential uses	Parking requirement for designated use of habitable roof
4. Habitable roof – Residential uses	No parking requirement
5. Pleasure boat harbors & marinas; Recreational dockage facilities	1 space or adequate off-site parking for each vessel berth + other use requirements
6. Public boat landing or launching facilities	Adequate to handle the anticipated normal capacity for patron use, as determined by the Zoning Administrator, + 1 space for each employee
7. Riding academies and stables	1 space per 2 stalls + 1 per employee
8. Sexually oriented business	1 space per 4 seats

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Schedule 5.5.06 Required Off-Street Parking Spaces	
Principal Building or Use	Minimum Parking Requirement ^(a)
9. Short-term rental properties	1 space per guest room; Maximum is 4 spaces

Notes to Schedule 5.5.06

^(a) A minimum of five (5) spaces is required for each facility other than **individually developed** single-family or two-family dwellings except when Schedule 5.5.06 indicates No Parking Requirement.

^(b) The Planning Commission shall apply the unit of measurement deemed to be most similar or appropriate for the proposed building or use based on requirements for similar uses, location of proposed use, surrounding land uses, expected demand and traffic generated by the proposed use, and appropriate traffic engineering and planning criteria and information.

~~^(c) The Planning Commission may waive the requirement pursuant to Section 1.10, Waivers and Modifications.~~

5.5.07 PARKING REQUIREMENTS FOR THE TBD AND CBD.

In recognition of the distinctive, compact character of buildings in the Central Business District-Town Center, Central Business District-Midway, and the Traditional Business Districts, the Planning Commission may waive the requirements of Schedule 5.5.06 - Required Off-Street Parking Spaces for permitted, restricted, and conditional uses within the Central Business District – Town Center, Central Business District - Midway, and Traditional Business Zoning Districts and Sub-Districts, in those circumstances where an owner is physically unable to provide additional off-street parking facilities due to limitations in lot area, building setback, accessibility and other pre-existing site constraints. When a waiver to this requirement is requested pursuant to Section 1.10 - Waivers, Modifications, & Equivalency, the owner or applicant must demonstrate that such waiver will not materially or substantially affect other business uses within the same district.

- A. In making a determination for such a waiver, the Planning Commission shall consider the following criteria:
 - 1. The character of the proposed use as well as the ability of the proposed use to reinforce the character of the Central Business and Traditional Business Zoning Districts;
 - 2. The availability and accessibility of public parking spaces, both on-street and within public parking lots;
 - 3. The availability of parking areas on adjacent sites, considering the hours of operation of the proposed use compared to adjacent uses; and,
 - 4. The potential negative impact to the character of the Central Business and Traditional Business Districts and sub-districts if the requisite number of parking spaces are or are not provided.
- B. Any request for a waiver from the parking requirements shall require submission of a parking

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assessment pursuant to the provisions of sub-section 5.5.08. Additionally, the Planning Commission shall make findings supporting the waiver and include those findings with final action of the submitted Development Plan. In addition to the findings required by Section 1.10, Waivers, Modifications & Equivalency, the Planning Commission shall find that the waiver satisfies the parking demands of the use without burdening other available parking facilities in surrounding areas of the City.

5.5.08 PARKING ASSESSMENT.

The Planning Commission may approve a Development Plan for a use with fewer parking spaces when the reduction is supported by a parking assessment, described below, submitted with the Development Plan application.

The parking assessment shall be prepared by a ~~traffic consultant~~ **planner, engineer, or other professional with expertise in parking or transportation** and shall include a description of the use(s) and its anticipated relationship to, and impact on, the surrounding community. At a minimum, the assessment shall include the following:

- A. The nature of the proposed uses, activities and events that will be accommodated.
- B. The maximum design capacity of the facility/establishment.
- C. The anticipated pattern of use, including peak hours (inbound and outbound).
- D. The estimated traffic generation and parking demand, including the estimated number of parking spaces required at peak capacity.
- E. The number of parking spaces required according to Schedule 5.5.06 compared to the number of spaces proposed.
- F. The current supply and utilization of parking spaces in the immediate area.
- G. How many available spaces meet the needs of the proposed use.
- H. Estimated parking duration per vehicle trip (turn-over rates).
- I. Estimated number of employees.
- J. Suggested parking management solutions to address any anticipated discrepancy between the number of parking spaces available and anticipated parking demand.
- K. Required parking spaces, even if the required number of spaces is reduced pursuant to this Section, which may be provided in compliance with sub-section 5.5.11, Allowance for Shared Parking, and/or in compliance with Section 5.5.12, Allowance for Off-Site Parking.

5.5.09 MODIFICATION OF STANDARDS.

Off-street parking requirements may be reduced in areas of the City outside of the Central Business and Traditional Business Districts based on the provisions of this sub-section.

- A. Administrator Reduction. A reduction of up to ten percent (10%) of the number of required

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- parking spaces may be permitted administratively by the Zoning Administrator when the applicant demonstrates that the reduction in parking will not impact adjacent uses.
- B. **Shared Vehicle Modification.** For each shared vehicle, carpool, or vanpool space provided, the minimum number of required off-street parking spaces may be reduced by four. Each shared vehicle, carpool, or vanpool space shall count toward the minimum number of required off-street parking spaces.
 - C. **Modification Permitted by Zoning District.** Additional modifications to parking requirements are permitted in the Neighborhood Commercial/Office and the Alexandria Pike Mixed Use Districts. See Sections 3.5 and 3.6.
 - D. **Alternative Uses for Parking Facilities.** An area equal to that needed to provide up to ten (10) percent of the parking spaces required for retail uses may be delineated from the balance of the parking lot with removable barriers and be used as open space, recreational facilities or outdoor sales/display area during the non-peak period (January 15th to November 15th or any other ten-month non-peak period approved by the Planning Commission). This area shall be surfaced with grass or a semi-pervious or other paving system, excluding asphalt or concrete, approved by the Planning Commission. Parking areas existing at the time of adoption of this Section that are surfaced with hard and durable materials, including but not limited to asphalt and concrete, may comply with this modification without modifying the existing surfacing material(s) only if the area meets the **landscaping and** screening requirements for vehicle use areas as required in Section 5.3, Landscaping and Screening, and Lighting Regulations, of this Ordinance.
 - E. **Modification for Increased Landscaping and Buffering.** Change in the use of an existing structure or site shall require compliance with the minimum parking requirements applicable to the new use. However, if the new use also requires additional buffer or parking lot landscaping, the Planning Commission may permit a reduction of up to 20 percent (20%) in the required number of spaces to accommodate additional landscaping and buffering.
 - F. **On-Street Parking Consideration.** Any on-street parking space, at least one-half the length of which is located immediately adjacent to the subject property, may be counted towards on-site parking requirements. Each on-street parking space may only be counted once towards the parking requirements of the adjacent lot, regardless of the number of individual buildings or tenants on the lot. The use of this credit does not entitle the property owner to the continued availability of those on-street parking spaces over time; management of on-street parking spaces is subject to City parking management policies and practices. In cases where on-street parking is available but is not marked, the City shall determine the number of spaces available.

5.5.10 DEFERRED CONSTRUCTION OF REQUIRED SPACES.

If the number of parking spaces required by this Section for a non-residential use is substantially larger than the number anticipated by the applicant and the applicant submits a parking assessment, **which meets the requirement in sub-section 5.5.08,** that provides sufficient evidence to support the reduced parking needs, a Development Plan may be approved with an allowance for the construction of a lesser number of parking spaces provided that:

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- A. The total number of parking spaces initially constructed shall not be less than 70 percent (70%) of the spaces required this Section.
- B. Suitable areas are reserved for the construction of the balance of the required spaces in the event such spaces become necessary, and such areas are shown on the Development Plan in locations and with landscaping in full compliance with this Ordinance.
- C. The Planning Commission, upon reevaluation of the project's parking needs, may determine that some or all of the required parking spaces be constructed, and shall notify the property owner of such determination.
- D. Additional parking, if determined to be necessary, shall be constructed according to the approved Development Plan.

5.5.11 ALLOWANCE FOR SHARED PARKING FOR NON-RESIDENTIAL USES.

When any land or building is under the same ownership, or upon submission of documentation recorded in the Campbell County Clerk's Office of satisfactory guarantees of the continued operation and proper maintenance of the shared parking facility, and proposed development is for two (2) or more land uses, excluding residential uses, such two or more non-residential uses may share a parking facility without providing the minimum number of on-site required spaces for each use, when parking spaces are provided in compliance with all the requirements of this sub-section.

- A. The minimum required number of parking spaces for the combined uses may be reduced by 20% for shared parking when hours of operation overlap.
- B. When the hours of operation DO NOT overlap, the parking facility to be shared shall contain the largest number of minimum required spaces for the uses sharing the lot.
- C. The parking facility to be shared shall be owned by the owner of one of the uses, leased for a 20-year minimum term or through a permanent easement by the owners of the uses being served. A lease or easement shall be approved by the City Attorney and the Planning Commission.
- D. No changes shall be made to the shared parking facility that would reduce the parking provided for the uses unless the owner of one of the uses makes other arrangements to provide parking. No such changes shall be made without Zoning Administrator approval including a new Zoning Permit prior to any changes taking place.
- E. Parking spaces to be shared shall not be reserved on a twenty-four-hour basis for a specific person, individual, or use.
- F. It shall be determined at the time of parking facility plan approval that shared parking is possible and appropriate at the location proposed. Particular attention is needed to assure that sufficient and convenient short-term parking will be available to commercial establishments during the weekday daytime period. The short-term shared parking spaces shall be located in the most convenient and visible area of the parking facility nearest the establishment being served.
- G. Handicap parking spaces shall not be shared unless the uses are adjacent to the handicap spaces and no inconvenience to the users of the spaces would result.

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- H. Loading spaces shall not be shared.
- I. A proposed change in the use of a structure that shares a parking facility requires approval by the Zoning Administrator after finding that adequate parking will be available.
- J. A shared parking facility shall be located on the same lot as the use for which parking is provided, unless the parking facility complies with all the requirements of sub-section 5.5.12, Allowance for Off-site Parking.
- K. The property owners involved in the joint use of off-street parking facilities shall submit a legal agreement approved by the attorney for the City of Fort Thomas guaranteeing that the parking spaces shall be maintained so long as the use requiring such parking is in existence or unless the required parking is provided elsewhere in accordance with provisions of this chapter. Such instruments shall be recorded by the property owners in the Campbell County Clerk's Office and a copy shall be filed with the City of Fort Thomas Zoning Administrator.

5.5.12 ALLOWANCE FOR OFF-SITE PARKING.

All off-street parking spaces shall be located on the same lot as the structure or use unless parking spaces are provided in compliance with all the requirements of this Ordinance.

- A. The use shall provide at least 50% of the required parking spaces on the site. The Planning Commission may grant a waiver to this requirement, pursuant to Section 1.10 - Waivers, Modifications & Equivalency, considering the following criteria:
 - 1. Proximity of the proposed parking area to the use served;
 - 2. Ease and safety of access between the proposed parking area and the use served;
 - 3. The use to be served by the off-site parking; and,
 - 4. The hours of operation of the use to be served by the off-site parking.
- B. Off-site spaces shall be within 800 feet walking distance, measured along the pedestrian route to a building entrance or use. Safe and convenient pedestrian access, such as a sidewalk or path, shall exist or be provided from the structure or use to the parking lot. Appropriate safety measures shall be provided if the pedestrian must cross an arterial street.
- C. Contiguous lots providing off street parking for more than one use shall provide sufficient parking spaces to comply with the combined total parking requirements for all uses unless an allowance for shared parking is granted under sub-section 5.5.11.
- D. The off-site lot may be located in another zoning district than the structure or use it serves.
- E. The lot used as an off-site parking facility shall be owned or leased for at least a 20-year term or acquired through a permanent easement by the owner of the use being served. The Zoning Administrator and the City Attorney shall approve the lease or easement. If the term of the use is limited by a Conditional Use Permit, then the term of the lease agreement for parking may be limited accordingly. At the expiration of the term of a lease or extensions thereof, the owner shall provide other suitable parking with sufficient parking spaces or end the use that required the parking.

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- F. The number of the off-site parking spaces shall not be reduced, unless other sufficient parking spaces are provided by the owner of the use. The Zoning Administrator's approval is required prior to changing the approved parking plan.
- G. All required handicapped parking spaces for a use shall be located on site.
- H. All required loading spaces shall be located on site.
- I. An existing nonconforming parking lot used under this sub-section as off-site parking shall be landscaped, paved, and striped according to the standards of this Section and this Ordinance.

5.5.13 PARKING SPACES FOR PERSONS WITH DISABILITIES.

In compliance with the Americans with Disabilities Act (ADA) of 1990, all new construction and alterations to places of public accommodation and commercial facilities shall provide parking spaces that are designed and constructed to be readily accessible to persons with disabilities.

5.5.14 LOCATION OF REQUIRED PARKING SPACES.

Off-street parking facilities shall be located as follows:

- A. In Single-Family and Two-Family Residential Zoning Districts:
 - 1. Off-street parking may be permitted in driveways in the front, side, and rear yards of permitted uses in these zones, provided all requirements of this Ordinance are met. Additionally, off-street parking located in the rear yard shall be set back a minimum of ten (10) feet from the rear lot line. Parking spaces shall not cause the ratio of unpaved area to paved area (parking and driveway areas) in the front yard to be less than 3:1.
 - 2. Off-street parking may be permitted in the side and rear yards of conditional uses in these zones, provided all requirements of this Ordinance are met. Additionally, off-street parking, located in the rear yard, shall be set back a minimum of ten (10) feet from the rear lot line. Off-street parking may be permitted in the front approved by the Board of Adjustment **unless prohibited by the regulations in Section 5.4 - Conditional Use and Restricted Use Regulations.**
- B. All Other Zoning Districts. For all other zoning districts, parking shall be located as required by the regulations for the zoning districts or as required by the conditional use and restricted use regulations in Section 5.4 - Conditional Use and Restricted Use Regulations.

5.5.15 GENERAL REQUIREMENTS.

- A. Approval of Curb Cuts Required in Business, Mixed-Use, and Multi-family Districts. Detailed plans shall be submitted to the Planning Commission for approval of all curb cuts or driveway openings in Business, Mixed-Use, and Multi-family Districts before a building permit may be obtained, therefore.
- B. Driveway not Computed as Part of Required Parking Area. Entrances, exits, or driveways shall not be computed as any part of a required parking lot or area.

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- C. Off-street Parking Space to be Used for Parking Only. Any vehicle parking space shall be used for parking only. Any other use of such space, including repair work or servicing of any kind other than in an emergency, shall not be permitted.
- D. No Building Shall be Erected in Off-Street Parking Space. No building of any kind shall be erected in any off-street parking lot except a parking garage containing parking spaces equal to the requirements set forth in this section of the Ordinance or a shelter house booth for a parking attendant providing the number of spaces required are not reduced.
- E. Off-Street Parking Space Shall Not be Reduced. The required parking area on any lot, as set forth and designated in this Ordinance, shall not be reduced or encroached upon in any manner.
- F. Parking Plan Approval Required. Plans for all parking lot facilities, including parking garages, excepting that required for **individually developed** single- and two-family development, shall be submitted to the Zoning Administrator for review and for compliance with the provisions of this Ordinance and such other pertinent ordinances of the City of Fort Thomas. Such plans shall show the number of spaces and arrangements of parking aisles, location of driveway entrances and exits, provisions for vehicular and pedestrian circulation, location of sidewalks and curbs on or adjacent to the property, utilities, location of shelters for parking attendant, locations of signs, typical cross-sections of pavement, base and sub-base, in accordance with this Ordinance, proposed grade of parking lot, storm drainage facilities, location of lighting facilities and such other information or plans as the circumstances may warrant.

5.5.16 DESIGN AND LAYOUT OF OFF-STREET PARKING AREAS.

- A. Size of Off-Street Parking Spaces. For the purposes of this Ordinance, one (1) parking space shall be a minimum of one hundred and sixty-two (162) square feet in area, exclusive of access drives or aisles and shall be a minimum of nine (9) feet in width and eighteen (18) feet in length. Such parking space shall have a vertical clearance of at least seven (7) feet.

The Zoning Administrator may permit a maximum of twenty-five (25) percent of the total parking spaces of a parking lot facility to be seven and one-half (7-1/2) feet in width and fifteen (15) feet in length, in order to accommodate compact cars.

- B. Width of Access Drives.
 - 1. All parking lots shall be laid out with the following minimum access drive or aisle width:
 - a. Ninety (90) degree (perpendicular) parking - Twenty-four (24) feet (either one or two way circulation);
 - b. Sixty (60) degree (angle) parking - Eighteen (18) feet (one way circulation); twenty (20) feet (two-way circulation);
 - c. Forty-five (45) degree (angle) parking - Thirteen (13) feet (one way circulation); twenty (20) feet (two-way circulation);

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- d. Thirty (30) degree (angle) parking - Eleven (11) feet (one way circulation); twenty (20) feet (two-way circulation);
 - e. Zero (0) degree (parallel) parking - Twelve (12) feet (one-way circulation).
2. Except as herein provided, the minimum width of access drives or aisles, as provided for in sub-section 5.5.16 B. 1. - Width of Access Drives of this Ordinance, shall be required whether the access drive or aisle provides access to an off-street parking area or individual off-street parking spaces.
 3. When any combination of these types of parking is used (facing the same aisle) the most restricted aisle or access drive width requirements shall prevail.
- C. Paving of New Off-Street Parking Area.
1. All new off-street parking facilities available for public use, shall be surfaced with asphalt concrete or Portland Cement concrete and shall be designed and constructed in accordance with the specifications, standards, and procedures of the City of Fort Thomas or the Kentucky Department of Highways, to be determined by the City Engineer.
 2. All off-street parking areas and driveways shall be paved with hard-surface pavement materials pursuant to the Subdivision Regulations, an approved Development Plan or in accordance with the specifications, standards, and procedures of the Kentucky Department of Highways ~~for a minimum distance equal to the established or required front yard setback in the zoning district the property is located.~~
 3. Alternative hard surface paving systems, including decorative pavers, may be used, provided that the system and materials used will have the same or greater load-bearing strength as the equivalent asphalt concrete or cement concrete specified above.
- D. Access. Parking lots or areas adjacent to streets, roads, highways, or deeded rights-of-way shall have driveways or openings not less than twelve (12) feet in width and no more than thirty (30) feet in width at the curb line. These curb cuts shall be so located as to minimize traffic hazards and congestion. There shall not be more than two (2) accesses from any one property to a public street, road, highway, or deeded right-of-way for each four hundred (400) feet of street frontage. All such parking lots or areas shall have a protective wall or bumper block around each parking lot and said parking lots shall be so designed that all vehicles leaving the facility will be traveling forward to approaching traffic.
- No residential driveway width at street, road, highway, or deeded rights-of-way junctions shall be more than twenty-four (24) feet.
- E. Design and Maintenance.
1. Screening and Landscaping. All open automobile parking areas shall be effectively screened on each side adjoining or fronting on any property line for more than eighty (80) feet situated in a residential zone by a solid wall, fence or densely planted

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compact hedge, as regulated by Section 5.3 - Landscaping, Screening, and Lighting Regulations of this Ordinance. Ground cover shrubs and trees shall be located and maintained so as to not interfere with vehicular and pedestrian traffic on the property or with sight distance clearance at entrances and exits.

2. Any lighting used to illuminate off-street parking areas shall comply with Section 5.3 - Landscaping, Screening, and Lighting Regulations and be directed onto usable parking areas and away from adjoining property in such a way as not to create a glare or nuisance as determined by the Zoning Administrator.
3. Ingress and egress to parking areas shall be limited to driveway entrances and exits specified in parking area plans as approved by the Zoning Administrator. Each required parking space shall be connected with a deeded public right-of-way (by means of adequate aisles as required in sub-section 5.5.17) which offers adequate ingress and egress for automobiles.
4. Parking lots, garages and storage areas shall be so designed and constructed so that all maneuvering into and out of each parking space takes place entirely within property lines of lots, garages, and/or storage areas.
5. **Pedestrian connections shall be provided to ensure safe, convenient walking between the parking lot and the entrance to the building. This pedestrian connection may be an alternatively paved path, a raised walkway, or pavement markings provided the path, walkway, or markings are a minimum of three (3) feet in width.**

5.5.17 ACCESS CONTROL REGULATIONS.

In order to promote greater safety of passage between highway and land; improve the convenience and ease of movement of travelers on the highway; permit reasonable speeds and economy of travel; and increase and protect the capacity of the highway, the location and design of access points shall be in accordance with the following access control requirements. These requirements shall apply to all arterial and collector type streets, as identified in the adopted comprehensive plan:

- A. **Provision of Reserved Turning Lanes.** At those access points where vehicles turning to and from the arterial and collector streets will affect the roadway capacity, reserved turn lanes shall be constructed by the developer.
- B. **Provision of Frontage Road.** Where possible, provision for the construction of a frontage road shall be made. However, access to the arterial or collector streets via an intersecting street or a common driveway shall be investigated if such a design is not reasonable.
- C. **Coordination of Access Points.** Major access points on opposite sides of the arterial and collector streets shall be located opposite each other, otherwise turning movement restrictions may be imposed by the Planning Commission or Zoning Administrator, whichever is applicable. In addition, in order to maximize the efficient utilization of access points, access drives shall be designed, located, and constructed in a manner to provide and make possible the coordination of access with and between adjacent properties developed (present or future) for similar uses. As a condition of approval for construction, use, or reuse of any access road, the zoning administrator may require that unobstructed and unencumbered access, in

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accordance with the provisions of this ordinance, be provided from any such access point to adjacent properties.

- D. Spacing Restrictions for Signalized Access Points. Access points which will warrant signalization shall be spaced a minimum distance of one quarter mile apart. The exact location of the signal light shall be determined by a traffic engineering study which shall at least account for the following variables:

1. Speed;
2. Traffic signal phasing;
3. Traffic signal cycle length;
4. Roadway geometries; and
5. Accident experience.

Provision for all turning movements to maintain the design capacity of the roadway shall be required.

- E. Sight Distance. ~~The location of access points shall comply with safe sight distance requirements as provided in Table 1.~~ The centerline of all access points shall intersect as nearly at a ninety (90) degree angle as possible, but in no case shall the angle of intersection be less than seventy-five (75) degrees or greater than one hundred five (105) degrees, unless approved by the Planning Commission or Zoning Administrator, whichever is applicable, due to certain exceptional conditions.

- F. Location of Unsignalized Access Point.

1. Arterial Streets.

- a. Unsignalized access points shall be spaced a minimum distance of six hundred (600) feet apart. Turning restrictions and/or reserved turn lanes may be required.
- b. One access point per existing tract will be permitted; however, if the spacing requirements for a direct access point onto an arterial street (as provided in F,1, a, above) cannot be met, then an access point may be located on a frontage road or on an intersecting local street, or share a common driveway that meets the spacing requirements. In order for the intersecting local street or frontage road to function properly, access onto them should be controlled as follows:
 - i. Access points onto local streets intersecting an arterial street shall be spaced a minimum distance of one hundred (100) feet, measured from point of curb return to point of curb return, from the arterial street.
 - ii. In areas zoned to permit commercial, industrial, or multi-family residential use, access points from adjacent properties onto frontage

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roads, shall be no less than one hundred (100) feet measured from point of curb return to point of curb return from intersections of the frontage road with local or collector streets.

- c. Where the frontage of a tract is greater than five hundred (500) feet an additional access point may be permitted; however, the type of access will depend on the spacing requirements in F, 1, a.
 - i. If the frontage of the tract is large enough, then at least one of the access points may have direct access onto the arterial street, provided the spacing between the adjacent access points meet the requirements of Section F, 1, a, and all other requirements of this section of the ordinance. In the case where the frontage allows only one point of direct access due to spacing restrictions as provided herein, the second access point will be via a frontage road or an intersecting local street, or share a common driveway that meets the spacing restrictions as provided along the arterial street.
- d. If a tract of land has no means of access that would meet the requirements of this section of the ordinance, one access point shall be provided. However, all such access points shall be considered a temporary right-of-way and may be terminated, reduced, limited to certain turning movements or caused to be relocated by the Zoning Administrator at such time as the particular use served by the access point changes and/or the property is otherwise provided an alternate means of access via a frontage road or an intersecting local street or sharing of a common driveway. Provisions for the construction of a frontage road, restricted turning movements, or other improvements, may be required, as a condition to approval, in order to minimize the number of access points and congestion to the adjacent street. In all cases where said access points are classified as "temporary", such designation shall be duly noted on the plot plan or site plan submitted for a zoning permit and also upon the deed of the property in question.

2. Collector Streets.

- a. On two lane roadways, one access point per existing tract will be allowed; however, if the frontage is greater than five hundred (500) feet, an additional access point may be permitted. Furthermore, the minimum spacing between adjacent access points on this type of facility shall be one hundred (100) feet, measured from point of curb return to point of curb return, except in the case where the street intersects another collector street or arterial street, then said access points shall be spaced a minimum of three hundred (300) feet from the intersection.
- b. On multi-lane roadways the spacing is dependent on whether or not a barrier median exists (prohibiting left turn movements). If a barrier median exists, access points may be spaced as close as three hundred (300) feet; however, certain turning movements will be prohibited. If a barrier median does not exist, then the minimum spacing of access points shall be six hundred (600)

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feet. In addition, some turning movements may be prohibited.

- c. One access point per existing tract will be allowed; however, if the spacing requirements for a direct access point, as provided in F, 2, a, cannot be met, then an access point may be located on a frontage road or on an intersecting street or share a common driveway that meets the spacing requirements.
- d. If a tract of land has no means of access that would meet the requirements of this section of the ordinance, one access point shall be provided. However, all such access points shall be considered a temporary right-of-way and may be terminated, reduced, limited to certain turning movements, or caused to be relocated by the zoning administrator at such time as the particular use served by the access point changes and/or the property is otherwise provided an alternate means of access via a frontage road or an intersecting local street or share a common driveway. Provisions for the construction of a frontage road, restricted turning movements, or other improvements, may be required, as a condition to approval, in order to minimize the number of access points and congestion to the adjacent street. In all cases where said access points are classified as "temporary", such designation shall be duly noted on the plot plan or site plan submitted for a zoning permit and also upon the deed of the property in question.

G. Width of Access Points.

1. In single-family residential districts, no access point width shall be less than nine (9) feet, nor more than twenty-four (24) feet. In all other zones, access points shall not be less than twelve (12) feet, nor more than forty-eight (48) feet in width. The width shall be as measured from the point of curb return to point of curb return (or edge of pavement if no curb exists) excluding the curb radius.
2. The Zoning Administrator may modify (enlarge or reduce) the width to provide for a more efficient and safe channelization and/or flow of traffic.

H. Exceptions to Access Point Requirements. Where situations develop that may require special treatment, the requirements as provided in sub-section 5.5.17 A-G, may be ~~varied~~ **waived pursuant to Section 1.10 - Waivers, Modifications, & Equivalency** by the Planning Commission, provided evidence is presented establishing that the special treatment will have no adverse effects on the roadway safety and capacity, pedestrian safety, or existing parking needs. The Commission may require a traffic engineering report, prepared by a licensed engineer, which addresses issues of safety and capacity.

I. Access Point Problem Areas. If after special study, it is determined that the type of use or activity proposed would have an adverse effect on the safety and capacity of the adjacent roadway, the access point spacing requirements as contained in this section, may have to be increased in order to adequately solve the traffic movement.

J. Approval of Access Points. Plans for all access points and modifications thereto, (including plans to use existing access points where a change of use for any tract of land would generate more traffic than the previous use, thus producing an adverse effect on the adjacent roadway)

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- shall be submitted to the Zoning Administrator, at a scale not less than one (1) inch equals fifty (50) feet. Such plans shall show the location of all access points, and access points within 600 feet in either direction. The proposed access point shall include typical cross sections of pavement, the base and sub base, proposed grade and storm drainage and such other information or plans as the circumstances may warrant. If such access points are being located in conjunction with off-street parking and/or loading and unloading facilities, then said plans shall also include parking and off-street loading and/or unloading plans, in accordance with this Ordinance.
- K. Approval of Access Points Along State-Maintained Routes by Kentucky Transportation Cabinet. A copy of the plans for all access points to be constructed along a state-maintained route shall also be submitted to the Kentucky Transportation Cabinet for review and approval during the same time as plans are submitted to the Zoning Administrator, as provided for in this Section. No access point plans shall be approved or permits issued for construction by the Zoning Administrator, until said access point plans have been approved by the Kentucky Transportation Cabinet.
- L. Sight Distance Requirements. Proposed access points on to adjacent roads shall be required to be reviewed by the City Engineer for compliance with standards provided in the ITE Transportation and Land Development Manual, the American Association of State Highway Transportation Officials (AASHTO) Policy for Geometric Design and/or other generally accepted engineering design manuals.

5.5.18 OFF-STREET LOADING AND/OR UNLOADING REGULATIONS.

- A. For all buildings and structures erected, altered, or extended, and all uses of land established as specified herein, after the effective date of this Ordinance, off-street loading and/or unloading facilities shall be provided as required by the regulations herein.
- B. Off-street loading and/or unloading facilities shall be provided in accordance with the following regulations:
1. Spaces Required. Every building, structure, or part thereof, erected and occupied for manufacturing, storage, warehousing, department stores, wholesale stores, retail stores, market, hotel, hospital, laundry, dry cleaning, dairy, mortuary, and other uses similarly involving the receipt or distribution of vehicles, materials, or merchandise and having up to 5,000 square feet of gross floor area shall be provided with at least one loading and/or unloading space. One additional loading and/or unloading space shall be provided for every additional 10,000 square feet, or fraction thereof, of gross floor area in the building.

If sufficient proof can be shown that less than these requirements will be satisfactory for the operation in question, the Planning Commission may reduce or waive these requirements pursuant to Section 1.10 - Waivers, Modifications, & Equivalency.

2. Size of Off-Street Loading and/or Unloading Space. Each off-street loading and/or unloading space shall be at least twelve (12) feet in width and at least forty-eight (48) feet in length, exclusive of aisle and maneuvering spaces, and shall have a vertical clearance of at least fourteen (14) feet; provided; however, that when it is

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demonstrated that a particular loading and/or unloading space will be used by shorter trucks, the Planning Commission may reduce this minimum length.

3. Location. All required loading and/or unloading spaces shall be located on the same zoning lot as the use served. No loading and/or unloading space for vehicles over two-ton capacity shall be closer than fifty (50) feet to any property in a residential zone unless completely enclosed by a fence, wall or screen, as regulated by Section 5.3 - Landscaping, Screening, and Lighting Regulations of this Ordinance. No loading and/or unloading space shall be located in any required yards abutting a street right-of-way except as herein provided.
4. Access. Each required off-street loading and/or unloading space shall be designed with direct access via an approved access drive, to a deeded right-of-way that offers satisfactory ingress and egress for trucks. Access drives or aisles shall be laid out with a width of at least twelve (12) feet for one-way circulation and at least twenty-four (24) feet for two-way circulation.

Off-street loading and/or unloading space shall be so designed and constructed so that all maneuvering for loading and/or unloading can take place entirely within the property lines of the premises. Such off-street loading and/or unloading space shall be so located as not to hinder the free movement of pedestrians and vehicles over a sidewalk, street, road, highway, or deeded right-of-way.

5. Enlargement of Building. The off-street loading and/or unloading requirements, as listed in this article of the ordinance, shall apply at any time any building is enlarged or increased in capacity by adding floor area.
6. Design and Maintenance.
 - a. Surfacing. All open off-street loading and/or unloading spaces shall be paved subject to the provisions in ~~Article XIII, Section 13.0, M,~~ of this Ordinance.
 - b. Lighting. Any lighting used to illuminate off-street loading and/or unloading areas shall comply with Section 5.3 - Landscaping, Screening, and Lighting Regulations and be directed away from property in any residential zone in such a way as not to create a nuisance.
 - c. Space allocated to any off-street loading and/or unloading space shall not be used to satisfy the space requirements for any off-street parking facilities or portion thereof.
7. Off-Street Loading and/or Unloading Plan Approval Required. - Plans for all loading and/or unloading facilities shall be submitted to the Zoning Administrator for review and for compliance with the provisions of this ordinance and such other pertinent ordinances of the City of Fort Thomas. Such plans shall show the exact proposed layout of all loading and/or unloading areas, drives and accessories, entrances and exits, type of surface to be used, typical cross sections of pavement, base and sub-base, location of lighting facilities, storm drainage facilities, proposed grade of off-street loading and/or unloading area, and such other information or plans as the circumstances may warrant.

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5.5.19 NONCONFORMING PARKING FACILITIES.

A building or use, existing lawfully on the effective date of this Ordinance, or an amendment thereto that does not comply with the off-street parking regulations in this Section, may continue the use. If an existing building is altered or a use is changed or substituted, then additional off-street parking spaces shall be provided as required by this Ordinance.

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SECTION 5.6 Wireless Telecommunication Facilities

5.6.01 Intent. 5.6.02 General Provisions.	5.6.03 Cellular Antenna Towers. 5.6.04 Small Cell Towers.
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5.6.01 INTENT.

The purposes of these regulations are:

- A. To balance the need for new Cellular Antenna Towers with the impacts new towers have on adjacent land uses;
- B. To provide for the safest and most efficient integration of cellular antenna towers and small cellular systems and towers for cellular telecommunications services or personal communications services within the community;
- C. To provide for such facilities in coordination with the recommendations of the Comprehensive Plan; and,
- D. To allow for such facilities with the intention of furthering the public health, safety, and general welfare.

5.6.02 GENERAL PROVISIONS.

- A. Authorization.
 1. These regulations are adopted pursuant to authority granted to planning commissions in the Commonwealth of Kentucky by Kentucky Revised Statutes (KRS) 100.985 – 100.987.
 2. The Planning Commission shall not regulate:
 - a. The placement of antennas or related equipment on an existing structure;
 - b. The placement of a cellular antenna tower on the basis of the environmental effects of radio frequency emissions to the extent that the proposed facility complies with the regulations of the Federal Communications Commission concerning radio frequency emissions.
- B. Applicability. These regulations apply to every Utility or company that is engaged in the business of providing the required infrastructure to a Utility that proposes to construct an antenna tower for Cellular Telecommunications Services or Personal Communications Services. These regulations also apply to towers that do not meet the requirements of minor adjustments, in accordance with sub-sections 5.6.03 I. or 5.6.04 I. of these regulations.

This Section completely replaces Section 9.27 Cellular Telecommunications Facilities in the current Zoning Ordinance.

- C. Relationship to Building Code. These regulations are not intended to supersede in any way the requirements of the mandatory statewide Kentucky Building Code.
- D. Compliance Required. Except as hereinafter specified, no Cellular Antenna Tower or Small Cell System Tower shall hereafter be placed or constructed except in conformity with these regulations in Section 5.6 - Wireless Telecommunication Facilities.
- E. Burden of Proof. The burden of demonstrating that an application subject to these regulations complies with applicable review and approval standards is on the applicant. The burden is not on the City Staff, the Zoning Administrator, the Planning Commission, or other parties to show that the standards have been met by the applicant or person responsible for the development.
- F. Discontinuance. Upon the expiration date of the permit or upon early termination, revocation or abandonment of any cellular antenna tower, wireless communications facility, small cell tower or antenna or the facility related thereto, the applicant shall remove the same and shall restore the site to its natural or previous condition, excepting any landscaping improvements shall remain at the discretion of the City.
- G. Definitions. For the purposes of these regulations in Section 5.6, the following definitions shall apply. Other terms are defined in Section 1.1 - Definitions and Measurements.
1. ALTERNATIVE CELLULAR ANTENNA TOWER: Manmade trees, clock towers, bell towers, steeples, light poles and similar alternative-design mounting structures that accommodate, camouflage, minimize or conceal the presence of cellular antennas or cellular antenna towers and that are constructed primarily for the purpose of accommodating cellular antennas or cellular antenna towers or are reconstructed for the purpose of accommodating cellular antennas or cellular antenna towers. This does not include existing structures erected for another primary purpose, but which subsequently have cellular antennas attached to or located within them, without any reconstruction of the original structure. For the provisions of these regulations, an alternative cellular antenna tower is considered a cellular antenna tower.
 2. ANTENNAS OR RELATED EQUIPMENT: Any transmitting, receiving or other equipment used in conjunction with a Wireless Communications Facility. The term includes Utility or Transmission Equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters, or similar equipment. This definition does not include Cellular Antenna Towers.
 3. BASE STATION: A structure or equipment at a fixed location that enables Federal Communications Commission-licensed or authorized wireless communication between user equipment and a communication network. The term does not include a Cellular Antenna Tower as defined in this section or any equipment associated with a tower. The term includes, but is not limited to, equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

This Section completely replaces Section 9.27 Cellular Telecommunications Facilities in the current Zoning Ordinance.

- a. The term includes, but is not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including Small Cell Systems).
 - b. The term includes any structure other than a tower that, at the time the required Application is filed with the Planning Commission under this subsection, supports or houses equipment described in sub-paragraph (A) of this definition that has been reviewed and approved under the applicable zoning or siting process even if the structure was not built for the sole or primary purpose of providing such support.
 - c. The term does not include any structure that, at the time the required Application is filed with the Planning Commission under this definition, does not support or house equipment described in this definition.
4. **CELLULAR ANTENNA TOWER:** A tower constructed for, or an existing facility that has been adapted for, the location of transmission or related equipment to be used in the provision of Cellular Telecommunications Services or Personal Communication Services.
 5. **CELLULAR TELECOMMUNICATIONS SERVICES:** A retail telecommunications service that uses radio signals transmitted through cell sites and mobile switching stations.
 6. **CO-LOCATION:** Locating two (2) or more transmission Antennas or Related Equipment on the same Cellular Antenna Tower.
 7. **MONOPOLE:** A tower that consists of a single pole structure, designed and erected on the ground or on top of a structure, to support communications antennas and connected appurtenances.
 8. **NON-TOWER WIRELESS COMMUNICATION FACILITIES:** Wireless communications facilities other than tower-based wireless communications that are located on buildings, Utility Poles as defined by this section, and other existing structures.
 9. **PERSONAL COMMUNICATION SERVICES:** Commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services as defined in 47 U.S.C. sec. 332(c).
 10. **RIGHT-OF-WAY:** The surface of and space above and below any real property in the municipality in which the federal government, Commonwealth, municipality, or municipal authority has a regulatory interest, or interest as a trustee for the public, as such interests now or hereafter exist, including, but not limited to, all streets, highways, avenues, roads, alleys, sidewalks, tunnels, bridges, or any other public place, area, or property under the control of the federal government, Commonwealth, municipality, or municipal authority. Private Rights-of-Way and other government-owned lands not listed above shall not be considered a Right-of-Way. The phrase “in the Right(s)-of-Way” means in, on, over, along, above and/or under the Right(s)-of-Way.

This Section completely replaces Section 9.27 Cellular Telecommunications Facilities in the current Zoning Ordinance.

11. **SMALL CELL SYSTEM:** A network of remote antenna nodes that distributes radio frequency signals from a central hub through a high capacity signal transport medium to a specific area. The term includes mini commercial towers, small cells, distributed antenna systems, mini cell, or similar systems.
12. **SMALL CELL TOWER:** Any structure under fifty (50) feet in height with an antenna or transmitter that is constructed for the sole or primary purpose of supporting any Federal Communications Commission- licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site. A pole originally installed for the primary purpose of supporting wireless telecommunications equipment, regardless of the timeframe between pole installation and connection/implementation of Transmission Equipment, is considered a Small Cell Tower, and is not a Utility Pole. The term Small Cell Tower includes mini cell towers, distributed antenna system towers, micro cell towers, mini cell, Wi-Fi antennas, or similar systems.
13. **STEALTH TECHNOLOGY:** State-of-the-art design techniques used to blend objects into the surrounding environment and to minimize visual impact. These design techniques may be applied to wireless communications towers, antennas, and other facilities, which blend the proposed facility into the existing structure or visual backdrop in such a manner as to render it less visible to the casual observer. Such methods include, but are not limited to facilities constructed to resemble light poles, flag poles or other streetscape amenities. The use of additional features such as flags, decorative street lamps and banners or signs may be utilized to blend the proposed facility into the visual backdrop.
14. **TRANSMISSION EQUIPMENT:** Equipment that facilitates transmission for any Federal Communications Commission-licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.
15. **UNIFORM APPLICATION:** An Application to construct a Cellular Antenna Tower submitted to a planning commission in accordance with KRS Chapter 100 and these regulations.
16. **UTILITY:** Has the meaning as defined in KRS 278.010(3).
17. **UTILITY, OVERHEAD:** Utility infrastructure that is located primarily above ground as determined by City staff or the Zoning Administrator. For purposes of these regulations, Overhead Utilities include but are not limited to power lines and communications lines.
18. **UTILITY POLE:** A structure originally constructed for the support of electrical, telephone, cable television or other video services, street lighting, or other similar

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cables and located within the public right of way or Utility easements. A pole originally installed for the primary purpose of supporting wireless telecommunications equipment, regardless of the timeframe between pole installation and connection/implementation of Transmission Equipment, is considered a Small Cell Tower, and is not a Utility Pole.

19. UTILITY, UNDERGROUND: Utility infrastructure that is located primarily underground as determined by City staff and the Zoning Administrator. For purposes of these regulations, utilities include but are not limited to water lines, sanitary sewer lines, storm sewer lines, culverts, natural gas lines, power lines, and communications lines. This definition does not include electric transformers, switch boxes, telephone pedestals and telephone boxes, traffic boxes, and similar devices which are ground mounted.
20. WIRELESS COMMUNICATIONS FACILITY: The set of equipment and network components including antennas, transmitters, receivers, Base Stations, cabling, and Antenna or Related Equipment, used to provide wireless data and telecommunication services.

5.6.03 CELLULAR ANTENNA TOWERS.

- A. Pre-application Conference. Applicants should contact the Zoning Administrator and request a pre-application conference. This meeting will allow for early coordination, by identifying existing structures that might be suitable for collocation and identifying any other items which are in conformance/nonconformance with the Comprehensive Plan and this Ordinance, and/or the provisions of these regulations in Section 5.6. The meeting will provide an opportunity for an initial discussion regarding proposed structure locations, design and the application submittal, and approval process. Applicants should supply the provider's preferred location, base elevation, search ring, structure design style and structure height one (1) week prior to the meeting with the Zoning Administrator.
- B. Uniform Application Requirements. Applications for the construction of a Cellular Antenna Tower for Cellular Telecommunication Services or Personal Wireless Services shall include all information specified in KRS 100.985 – 100.987.
- C. Additional Information. In addition to the Uniform Application requirements specified in KRS 100.985 – 100.987, applicants for a Cellular Antenna Tower should submit the following information:
 1. A statement demonstrating that the proposal is in agreement with the Comprehensive Plan, and that the applicant has attempted to Co-locate the proposed facility on an existing approved tower or facility or locate on sites that might be in better conformance with the adopted Comprehensive Plan, and that:
 - a. Identifies the location of the sites attempted to locate; and
 - b. Lists the reasons why the Co-Location or locating on the alternative sites was unsuccessful in each instance.

This Section completely replaces Section 9.27 Cellular Telecommunications Facilities in the current Zoning Ordinance.

2. A Development Plan, signed and sealed by a professional engineer registered in Kentucky, drawn to a scale not smaller than one (1) inch equals one hundred (100) feet, showing the following information, where applicable. The Zoning Administrator may waive the submission of such data involving detailed engineering study until such time as the application has been approved.
 - a. The total area of the site in question.
 - b. All public and private rights-of-way and easement lines located on or adjacent to the subject property which are proposed to be continued, created, enlarged, relocated, or abandoned.
 - c. Existing topography, and approximate delineation of any topographical changes shown by contour with intervals not to exceed five (5) feet.
 - d. Location, height, arrangement, and identification of all nonresidential buildings, structures, and uses on the subject property and, where applicable, location and arrangement of all lots with lot dimensions.
 - e. A circle drawn on the site plan showing the setback distance requirement.
 - f. Landscaping features, including identification of planting areas and the location, type, and height of walls and fences.
 - g. Location of signs, indicating their orientation, size, and height.
 - h. All electric Utility lines and easements.
 - i. Locations of all off-street parking, loading and/or unloading, and driveway areas, including typical cross sections, the type of surfacing, dimensions, and the number and arrangement of off- street parking and loading and/or unloading spaces.
- D. Confidentiality of Application. All information contained in the application and any updates, except for any map or other information that specifically identifies the proposed location of the cellular antenna tower then being reviewed, shall be deemed confidential and proprietary within the meaning of KRS 61.878. The Planning Commission shall deny any public request for the inspection of this information, whether submitted under Kentucky's Open Records Act or otherwise, except when ordered to release the information by a court of competent jurisdiction. Any person violating this sub-section shall be guilty of official misconduct in the second degree as provided under KRS.522.030. The confidentiality of the applications and any updates of the application can be waived by the written authorization of the applicant.
- E. Application Fee. The application fee shall be as set forth in the adopted Fee Schedule for the City of Fort Thomas, KY.
- F. Processing of Application. Applications for the construction of Cellular Antenna Towers for Cellular Telecommunications Services or Personal Communications Services shall be processed as follows:

This Section completely replaces Section 9.27 Cellular Telecommunications Facilities in the current Zoning Ordinance.

1. At least one (1) public hearing on the proposal shall be held, at which hearing interested parties and citizens shall have the opportunity to be heard. Notice of the time and place of such hearing shall be published at least once, but may be published two (2) or more times, in a newspaper of general circulation in the county, provided that one (1) publication occurs not less than seven (7) calendar days nor more than twenty-one (21) calendar days before the occurrence of such hearing.
2. Notice of the hearing shall be posted conspicuously on the property in question, for at least fourteen (14) consecutive days immediately prior to the hearing. The notice shall consist of a written notice, of durable material at least two (2) feet by four (4) feet in size. Said posting shall consist of one or more signs, and clearly depicting the following information: "(name of Utility) proposes to construct a telecommunications ("tower" or "monopole") on this site" (a minimum of one (1) inch high lettering); date, place, and time of public hearing (one (1) inch high lettering); and address, including telephone number, of the Planning Commission where additional information regarding the hearing may be obtained. Notice of the proposal shall also be posted on the public road nearest the site. This notice shall consist of a written notice, of durable material at least two (2) feet by four (4) feet in size, stating that "[Name of applicant] proposes to construct a telecommunications tower near this site" and including the addresses and telephone numbers of the applicant and the Planning Commission where additional information regarding the hearing may be obtained.
3. Notice of the hearing shall be given at least fourteen (14) days in advance of the hearing, by certified mail, return receipt requested, to the owner of every parcel of property within five hundred (500) feet of the proposed tower or property contiguous to the site upon which the tower is proposed to be constructed. The notice shall include a map of the location of the proposed construction, the telephone number and address of the planning commission and shall inform the addressee of his or her right to participate in the planning commission's proceedings on the application. Records maintained by the property valuation administrator may be relied upon conclusively to determine the identity and address of said owner. In the event a property is in condominium or cooperative forms of ownership, then the person notified by mail shall be the president or chairperson of the owner group that administers property commonly owned by the condominium or cooperative owners. A joint notice may be mailed to two or more co-owners of an adjoining property who are listed in the property valuation administrator's records as having the same address.
4. Upon holding such hearing, the Planning Commission shall review and take final action on application within sixty (60) days of a completed application, or within a date otherwise specified in a written agreement between the Planning Commission and the applicant. This time period will not begin until the filing fee is submitted and the application is deemed complete. The Planning Commission shall notify the applicant once the application is deemed complete and provide the deadline for the review period. The Planning Commission shall either approve, approve with conditions, or deny the Application. If the Planning Commission does not make a final decision within the required sixty (60) days, or the date specified in the written agreement, the application shall be deemed to be approved as submitted. The

This Section completely replaces Section 9.27 Cellular Telecommunications Facilities in the current Zoning Ordinance.

Planning Commission shall submit to the applicant along with its action, the rationale for the decision.

5. After a Cellular Antenna Tower for Cellular Telecommunications Services or Personal Communications Services is approved, separate building, zoning, and electrical permits are required prior to the beginning of construction.
- G. Design Standards. At the time of application submittal, the applicant shall provide information demonstrating compliance with the following requirements. Where the Planning Commission finds that circumstances or conditions relating to the particular application are not necessary or desirable for the protection of surrounding property or the public health, safety, and general welfare, and that such special conditions or circumstances make one or more requirements unreasonable, the Planning Commission may modify or waive such requirement, either permanently or on a temporary basis. Any modification or waiver, along with justification for each, shall be requested in writing by the applicant.
1. All Cellular Antenna Towers shall be constructed as a Monopole structure, unless Stealth or Camouflage technology is used, or unless a waiver is granted.
 2. All cables and wires shall be installed inside the Monopole structure.
 3. Unless required by state and/or federal regulations, all Cellular Antenna Towers shall be uniform grey or black in color.
 4. All structures, except fences, shall be located a minimum distance from the property line or lease line of any adjoining property that is equal to one-half (1/2) the height of the tower, but not less than fifty (50) feet.
 5. A Cellular Antenna Tower, or Alternative Cellular Antenna Tower structure, may be a maximum height of two hundred (200) feet regardless of the maximum height requirements listed in the specific zoning district. This also applies to any tower taller than ten (10) feet constructed on the top of another building or structure, with the height being the overall height of building/structure and tower together, measured from the grade to the highest point. The Planning Commission may allow antennas greater than two hundred (200) feet in height upon review of the Applicant's justification that the additional height meets the criteria identified in sub-section 5.6.03 H.
 6. Cellular Antenna Towers shall not be illuminated, except in accordance with state or federal regulations.
 7. The site shall be unstaffed. Personnel may periodically visit the site for maintenance, equipment modification, or repairs. To accommodate such visits, ingress/egress shall only be from approved access points.
 8. Woven wire or chain link (eighty (80) percent open) or solid fences made from wood or other materials (less than fifty (50) percent open), shall be used to enclose the site. Such fences shall be eight (8) feet in height. The use of barbed wire or sharp pointed

This Section completely replaces Section 9.27 Cellular Telecommunications Facilities in the current Zoning Ordinance.

fences shall be prohibited. Such fence may be located within the front, side, or rear yard.

9. Screening shall be provided by evergreen trees, with a minimum height of six (6) feet, planted in a staggered pattern at a maximum distance of fifteen (15) feet on center. The screening shall be placed in a ten-foot perimeter area surrounding the compound.
 10. Any site to be purchased or leased for the installation of a Cellular Antenna Tower, or Alternative Cellular Antenna Tower, and ancillary facilities, shall be at least two thousand five hundred (2,500) square feet in area, unless located on a pre-existing structure such as a building, water tank, etc.
 11. Surfacing of all driveways and off-street parking areas shall comply with the requirements of the applicable local zoning ordinance.
 12. There shall be no signs permitted, except those displaying emergency information, owner contact information, warning or safety instructions, or signs which are required by a federal, state, or local agency. Such signs shall not exceed five (5) total square feet in area.
 13. All new Cellular Antenna Towers shall be designed and constructed to accommodate a minimum of three (3) additional service Providers.
 14. All option and site lease agreements shall not prohibit the possibility of co- location.
 15. Cell towers locating in a residential zone shall be located on a lot in a location that would have the least impact on the natural setting and adjacent properties and in a location most compatible with surrounding properties. The Planning Commission shall have the authority to approve a proposed cell tower only at a different location on the same property if it determines an alternative location is more appropriate.
 16. A cell tower in a residential district shall be camouflaged in the form of an Alternative Cellular Tower structure such as a flagpole, light pole, or steeple so that it is compatible with the natural setting and surrounding structures as determined by the Planning Commission.
- H. Evaluation Criteria. Evaluation of the proposal shall be based upon the following criteria:
1. Agreement with the various elements of the adopted Comprehensive Plan, and where applicable, any other adopted plan.
 2. The extent to which the proposal is consistent with the purposes of these regulations in Section 5.6 – Wireless Telecommunication Facilities.
 3. The adequacy of the proposed site, considering such factors as the sufficiency of the size of the site to comply with the established criteria, the configuration of the site, and the extent to which the site is formed by logical boundaries (e.g., topography, natural features, streets, relationship of adjacent uses, etc.).

This Section completely replaces Section 9.27 Cellular Telecommunications Facilities in the current Zoning Ordinance.

4. The extent to which the proposal responds to the impact of the proposed development on adjacent land uses, especially in terms of visual impact.
 5. The extent to which the proposed cellular antenna tower is camouflaged (i.e., use of Stealth Technology).
 6. The extent to which the proposed facility is integrated with existing structures (i.e., buildings, signs).
- I. Amendments to Approved Plans. Any amendments to approved plans, except for the minor adjustments outlined below, shall be made in accordance with the procedure required by sub-section 5.6.03 - Cellular Antenna Towers, subject to the same limitations and requirements as those under which such plans were originally approved. These regulations also apply to modifications and amendments to approved plans.

The following activities shall be considered minor adjustments from the original approval of an application for towers not located in public rights-of-way. Changes are measured cumulatively from the original approval of the tower or Base Station.

1. Tower height increases of less than ten (10) percent or twenty (20) feet, whichever is less.
2. Support structure height increases of less than ten (10) percent or ten (10) feet, whichever is less.
3. New equipment extensions from a tower horizontally of less than twenty (20) feet or width of tower at elevation of change.
4. Structure or new item extensions on a Non-Tower Wireless Communication Facility horizontally less than six (6) feet from existing structure.
5. The addition of four (4) or fewer new equipment cabinets within the boundaries of the leased/owned site.
6. Any excavation or deployment within the current boundaries of the leased/owned site and any access/Utility easements.
7. Concealment elements of the tower are not defeated.
8. Activities that comply with all other conditions in any prior approval not related to the limits set forth above.

5.6.04 SMALL CELL TOWERS.

- A. Pre-application Conference. Applicants should contact the Zoning Administrator and request a pre-application conference. Upon receipt of this request, the Zoning Administrator will set up the meeting which shall include applicable City staff, the applicant, any applicable Utility providers, and the owner of the right of way or property on which the Small Cell System is proposed to be installed. This meeting will allow for early coordination by identifying existing

This Section completely replaces Section 9.27 Cellular Telecommunications Facilities in the current Zoning Ordinance.

- structures that might be suitable for collocation and identifying any other items which are in conformance/nonconformance with the Comprehensive Plan, this Ordinance, and/or the provisions of these regulations in Section 5.6 - Wireless Telecommunication Facilities. The meeting will provide an opportunity for an initial discussion regarding proposed structure locations, design and the application submittal, and approval process. Coordination with utilities for possible use of pre-existing structures will be required. Applicants should supply the provider's preferred locations, structure design style and structure height one (1) week prior to the pre-application meeting or upon request for such meeting.
- B. Applicability. Every utility, or a company that is engaged in the business of providing the required infrastructure to a utility, that proposes to construct a Small Cellular System shall submit a completed uniform application to the Zoning Administrator. Where the Zoning Administrator finds that circumstances or conditions relating to the particular application are such that one or more of the requirements of the uniform application listed below are not necessary or desirable for the protection of surrounding property or the public health, safety, and general welfare, and that such special conditions or circumstances make one or more said requirements unreasonable, the Zoning Administrator may modify or waive such requirement of the uniform application, either permanently or on a temporary basis. Any such modification or waiver shall be requested by the applicant, and the applicant shall submit a written justification for each requested modification or waiver. The Zoning Administrator shall not regulate the placement of antennas or related equipment on an existing structure. All proposed Small Cell Systems, except those exempted shall be subject to approval by the Zoning Administrator. The factual determination approving or rejecting such plans shall be made in accordance with requirements of this and other applicable sections of these regulations and the Comprehensive Plan. One Application for multiple proposed towers within the same Small Cell System is encouraged whenever possible.
- C. All information contained in the application and any updates, except for any map or other information that specifically identifies the proposed location of the Cellular Antenna Tower then being reviewed, shall be deemed confidential and proprietary within the meaning of KRS 61.878. The Planning Commission shall deny any public request for the inspection of this information, whether submitted under Kentucky's Open Records Act or otherwise, except when ordered to release the information by a court of competent jurisdiction.
- D. Application Fee. An applicant for the construction of small cellular systems or towers shall be as set forth in the adopted Fee Schedule for the City of Fort Thomas, KY. Applications are limited to ten (10) towers per application.
- E. Applicants for the construction of Small Cell Systems for Cellular Telecommunications Services or Personal Communications Services may choose to provide either the Uniform Application per KRS.100.9865 or in lieu of the Uniform Application, the following information should be submitted:
1. A written description and map showing the coverage area of the provider's existing facilities in the general and site-specific areas that are the subject of the application.
 2. A statement of the telecommunications objectives for the proposed location, whether the proposed facility is necessary to prevent or fill a gap capacity shortfall, expand, or provide new coverage, or to deploy new technology in the Applicant or

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provider's service area, whether it is the least obtrusive means of doing so, and whether there are any alternative sites that would have fewer aesthetic impacts while providing comparable service.

3. A statement by an authorized representative that the Applicant or provider holds all applicable licenses or other approvals required by the Federal Communications Commission, the Kentucky Public Service Commission, and any other agency of state or federal government with authority to regulate telecommunications facilities that are required in order for the Applicant to construct the proposed facility.
 4. A statement by an authorized representative that the applicant or provider is in compliance with all conditions required for such license and approvals.
 5. A full description of the number and dimensions of all Small Cell Towers proposed to be installed.
 6. A Development Plan, signed, and sealed by a professional engineer registered in Kentucky, showing the proposed location of the tower and existing structures within five hundred (500) feet of the proposed site. For applications in which multiple towers are proposed, an overall site Development Plan showing all proposed locations.
 7. A vertical profile sketch or drawing of the towers, signed and sealed by a professional engineer registered in Kentucky, indicating the height of the tower and the placement of all antennas and equipment enclosures.
 8. A statement indicating the individual who is the authorized agent and their preferred email and mailing address to receive communications under these regulations.
 9. Photographs of view shed from each proposed tower location, taken in at least four directions.
 10. Description of whether other Overhead Utilities exist within five hundred (500) feet of the proposed antenna location.
 11. Written approval from the property owner stating the applicant or provider has permission to construct a facility on their property. In the case of public right-of-way or public property, written approval shall be submitted from the duly authorized representative of the governing body holding ownership.
- F. Processing of Application. Applications for the construction of Small Cellular Systems or towers for Cellular Telecommunications Services or Personal Communications Services shall be processed as follows:
1. Applications will be reviewed for substance only when they meet all submittal requirements. If applications are not complete, the Zoning Administrator shall notify the applicant within ten (10) days from the submission of the application stating the application is incomplete and identifying the missing materials, which shall be submitted in order to complete the application. No further review of the application

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will take place until the application is complete. If the resubmitted materials are not complete, the Zoning Administrator shall notify the applicant within ten (10) days from the submission of the application stating the application is incomplete and identifying the missing materials, which shall be submitted in order to complete the application. No further review of the application will take place until the application is complete.

2. The Zoning Administrator shall review and take final action on applications for new Small Cell Systems within sixty (60) days of a completed application. This time period will not begin until the application is deemed complete by the Zoning Administrator. The Zoning Administrator shall notify the applicant once the application is deemed complete and provide the deadline for the Zoning Administrator review period. The Zoning Administrator shall either approve, approve with conditions, or deny the application. If the Zoning Administrator does not make a final decision within the required sixty (60) days, the application shall be deemed to be approved as submitted.
3. An applicant claiming to be injuriously affected or aggrieved by an official action, order, requirement, interpretation, grant, refusal, or decision of City staff or the Zoning Administrator in the administration of these regulations may appeal the action to the Planning Commission. Such appeal shall be taken within thirty (30) consecutive calendar days of the final action by the Zoning Administrator. The appeal shall be filed with Staff along with an appeal fee of five hundred dollars (\$500). The Zoning Administrator will fix a reasonable time for hearing the appeal and give public notice in accordance with KRS Chapter 424, as well as written notice to the appellant, the jurisdiction where the proposed Small Cell System is located, and the owner of Right-of-Way or property (if different from the jurisdiction) at least one (1) calendar week prior to the hearing.

An applicant 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 is located. Such appeal shall be taken within thirty (30) days after such action.

4. Waivers to these Regulations. This sub-section sets forth a procedure by which the Planning Commission may allow for waivers of these regulations in lieu of the procedure established by Section 1.10 - Waivers, Modifications, & Equivalency. The purpose is to allow some flexibility in dealing with unique issues that are outlined in sub-section 5.6.04 G. below.
 - a. An application requesting a waiver, a \$500 fee, and any additional documentation necessary to meet the requirements of this section shall be submitted for review.
 - b. The Planning Commission shall hold at least one (1) public hearing after giving notice as according to KRS 424 for the purposes of reviewing the requested waiver.
 - c. After the public hearing, the Planning Commission may approve, approve with conditions, or disapprove the requested waiver.

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- d. The Planning Commission may grant a waiver to these regulations balanced against the public interest, providing the Planning Commission finds that the waiver will not be detrimental to the public interest and that the jurisdiction where the proposed small cell tower is to be located approves the waiver, and at least one (1) of the following criteria apply:
 - i. That strict compliance with these regulations will create a hardship or unsafe situation in the face of unusual conditions.
 - ii. That granting the waiver creates a situation more in keeping with unique character within the general vicinity.
 - iii. That the requested waiver better meets the objectives of these regulations.
 - iv. That granting the waiver creates a safer situation than strict compliance with these regulations.
 5. After a Small Cell System is approved, separate applicable building, zoning, and electrical permits, and permission from the right-of-way or property owner are required prior to the beginning of construction.
- G. Small Cellular System and Tower Location and Design Standards. A new Small Cell System is subject to design review and approval by the Zoning Administrator. The design criteria required for the new Small Cell Systems is determined by the type of location or zoning district in which the facility is to be located.
1. Non-Tower Small Cell System Locations. No administrative review by the Zoning Administrator is required for antennas locating on existing telecommunications structures, water towers, buildings, utility poles (as defined by this regulation) or other existing structures. These non-tower locations shall adhere to all other applicable federal, state, and local zoning codes, building codes or permits.
 2. New Small Cell System Tower Locations in All Zoning Districts. The regulations in this sub-section apply to all new Small Cell System and Towers.
 - a. Temporary, mobile, or wheeled cellular antenna towers shall not be permitted.
 - b. New Small Cell Towers shall not exceed the maximum building height for the zoning district within which they are located. A height that is in excess of what is permitted within the zoning district may be approved by the Zoning Administrator if it integrates Stealth Technology that better meets the objectives of these regulations.
 - c. New Small Cell Towers shall be designed and constructed to accommodate a minimum of two (2) service providers.

This Section completely replaces Section 9.27 Cellular Telecommunications Facilities in the current Zoning Ordinance.

- d. New Small Cell Towers may be located on public or private non-residential land or within a public Right-of-Way provided it does not interfere with other utilities, functionality of sidewalks, visibility, or other matters of public safety.
 - e. New Small Cell Towers shall not be illuminated, except in accord with state or federal regulations, or unless illumination is integral to the Stealth Technology, such as a design intended to look like a street light pole.
 - f. New Small Cell Towers shall not include advertisements and may only display information required by a federal, state, or local agency. Such display shall not exceed one (1) square foot in area, unless required by state or federal regulations, or unless a larger display is integral to the Stealth Technology. Such display shall not exceed the width of the pole, unless a wider sign is integral to the Stealth Technology such as a design which integrates a decorative banner.
 - g. If a new Small Cell Tower is located in an area with primarily Underground Utilities, or where no adjacent Overhead Utility lines exist, it shall not utilize Overhead Utility lines.
 - h. In instances where an antenna is proposed to be constructed within the Central Business District and the Tower Park Historic Overlay Districts or other historic or commercial district with established public or private design control measures, applicable regulations in sub-section 5.6.04 G. 3. shall be followed. Efforts shall be made to adhere to any established design control measures or existing furnishing or fixture styles within the district. Where additional local design review processes exist, such as Certificates of Appropriateness or Design Review Board, such approvals may be required.
3. New Small Cell System Tower Locations in Residential Zoning Districts. The regulations in this sub-section apply to Small Cell Towers to be located within, or immediately adjacent to, residential zoning districts.
- a. Facilities in residential areas are strongly encouraged to be Non-Tower Wireless Communication Facilities, which are exempt from these regulations per sub-section 5.6.04 G. 1.
 - b. New Small Cell Towers and Antenna or Related Equipment shall be camouflaged by Stealth Technology. Examples of appropriate Stealth Technology for residential areas includes, at a minimum, towers with all cables, wires, Transmission Equipment, electric meters, power equipment, etc. installed inside the Small Cell Tower. Other types of stealth technology or other methods which will reduce the visual impact may be approved by the Zoning Administrator.
 - c. All poles and antennas shall be uniform grey or black in color, unless another color is integral to the Stealth Technology as approved by the Zoning Administrator.

This Section completely replaces Section 9.27 Cellular Telecommunications Facilities in the current Zoning Ordinance.

- d. The use of cooling fans is discouraged. When needed, fans with lower noise profiles shall be used.
 - e. New Small Cell Towers should avoid areas without Overhead Utilities. If a Small Cell Tower is located in an area with primarily Underground Utilities it shall adhere to Stealth Technology that incorporates the telecommunications equipment into a streetscape amenity such as a decorative lamp post, streetlight or other approved design. In areas with Overhead Utilities, cylindrical antennas are required.
 - f. In residential areas, a Small Cell Tower shall not be located closer than the height of the proposed tower to an existing or proposed residential structure, or no closer than thirty (30) feet, whichever is greater.
 - g. Efforts should be made to locate new Small Cell Towers in the yard location where other Overhead Utilities are located.
 - h. New Small Cell Towers within residential areas should be located to avoid obstructing the view of building facades by placing the tower at a corner, intersection or along a lot line.
 - i. New Small Cell Tower shall not be located within five hundred (500) feet of an existing Small Cell System Tower. Multiple carriers are permitted and encouraged to locate on one tower, where possible.
 - j. Reasonable efforts shall be made to locate new Small Cell Towers in the order of hierarchy below, based on the following functional roadway classification from the most to least preferred:
 - i. Interstate
 - ii. Arterial
 - iii. Collector
 - iv. Local
4. New Small Cell System Tower Locations in Non-Residential Zoning Districts. The regulations in this sub-section apply to towers to be located within non-residential zoning districts.
- a. In instances where a facility is proposed to be constructed in the right-of-way within one hundred (100) feet of a residential zone or use, even if the antenna's physical location is within a non-residential zone, regulations in above sub-section 5.6.04 G. 3. shall be followed.
 - b. Antennas in park areas are encouraged to be installed as Non-Tower Wireless Communication Facilities, which are exempt from this regulation pursuant to sub-section 5.6.04 G. 1.
 - c. Reasonable effort shall be given to locate new equipment based upon the following hierarchy of zones and land uses from the most to least preferred:

This Section completely replaces Section 9.27 Cellular Telecommunications Facilities in the current Zoning Ordinance.

- i. Co-locate on an existing structure whenever possible, which is exempt from these regulations per sub-section 5.6.04 G. 1.
 - ii. Institutional.
 - iii. Industrial.
 - iv. Commercial.
 - v. Public parks.
 - vi. Agricultural.
 - d. Equipment enclosures, including electric meters, should be nearly the same width as the pole or as small as possible. Ground mounted equipment boxes should be screened from view with shrubs or other appropriate screening as approved by the Zoning Administrator.
 - e. Shrouds, risers, and conduits shall be used to reduce the appearance of external cabling.
 - f. All poles, antennas, brackets, cabling, risers, shrouds, and conduits shall be uniform grey or black in color, or other color as approved by the Zoning Administrator.
 - g. Cylindrical antennas shall be required, unless another antenna style is integral to the Stealth Technology as approved by the Zoning Administrator.
 - h. There shall be no more than a four (4) inch offset between the pole and pole mounted equipment enclosures.
- H. Evaluation Criteria. Evaluation of the proposal shall be based upon the following criteria and shall be subject to administrative approval by the Zoning Administrator:
 - 1. The extent to which the proposal is consistent with the purposes of these regulations.
 - 2. The extent to which the proposal minimizes the impact on adjacent land uses, especially in terms of visual impact.
 - 3. The extent to which the proposed facility is camouflaged (i.e., use of Stealth Technology).
 - 4. The extent to which the proposed facility conforms to the character of the surrounding area (i.e., buildings, street lighting, signs).
- I. Amendments to Approved Plans. Any amendments to plans, except for the minor adjustments outlined below, shall be made in accordance with the procedure required by sub-section 5.6.04 F., subject to the same limitations and requirements as those under which such plans were originally approved.

This Section completely replaces Section 9.27 Cellular Telecommunications Facilities in the current Zoning Ordinance.

The following activities shall be considered minor adjustments from the original approval of an application for towers located in public rights of way. Changes are measured cumulatively from the original approval of the tower or Base Station.

1. Tower height increases by less than ten (10) percent or ten (10) feet, whichever is greater.
2. Change in the tower width of less than ten (10) percent or six (6) feet, whichever is greater.

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Significant changes from the Phase 2 draft are noted: Substantive Additions and ~~Deletions~~

SECTION 5.7
Sign Regulations

5.7.01	Intent.	5.7.08	Murals.
5.7.02	General Provisions.	5.7.09	Prohibited Signs.
5.7.03	Classification of Signs.	5.7.10	Design Standards.
5.7.04	Application of Sign Regulations.	5.7.11	Sign Illumination, Construction &
5.7.05	Computations & Rules of		Maintenance Standards;
	Measurement.		Prohibitions.
5.7.06	Signs in Non-Residential Districts.	5.7.12	Nonconforming Signs.
5.7.07	Signs in Residential & Conservation	5.7.13	Administrative Provisions.
	Districts.	5.7.14	Violations & Enforcement.

5.7.01 INTENT.

The purpose of this Section is to promote the public health, safety, and welfare through the provision of standards for existing and proposed signs of all types. More specifically, this Section is intended to:

- A. Encourage the effective use of signs as a means of communications in the City of Fort Thomas, KY.
- B. Maintain and enhance the aesthetic environment and the City's ability to attract sources of economic development and growth.
- C. Improve pedestrian and traffic safety.
- D. Minimize the possible adverse effect of signs on nearby public and private property.
- E. Enable the fair and consistent enforcement of these Sign Regulations.
- F. Promote and maintain visually attractive residential and commercial areas by reducing visual clutter and preventing blight characterized by oversized, overcrowded, abandoned, obsolete, and/or dilapidated signs.
- G. Ensure that signs are located and designed to reduce distraction and confusion as factors that may contribute to traffic congestion and accidents and thereby maintain a safe and orderly pedestrian and vehicular environment.
- H. Provide review procedures that enable the City to evaluate thoroughly the appropriateness of a sign to a specific site or building and its surroundings.
- I. Achieve an appropriate balance between signs as a means of communication and reducing the distractions caused by signs.
- J. Prohibit all signs not expressly permitted by this Section.

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and ~~Deletions~~

- K. Promote clarity in sign communications while providing reasonable and appropriate opportunities to identify properties and advertise goods and services.
- L. Provide for the enforcement of the provisions of these Sign Regulations.
- M. To allow certain signs that are small, unobtrusive, and incidental to the principal use of the respective lots on which they are located, subject to the substantive requirements of these Sign Regulations, without the requirements of a Sign Permit.

5.7.02 GENERAL PROVISIONS.

The information contained in this Section is intended to be used as criteria, as applicable, in all other Sections of this Ordinance; however, there may be areas that need more detail or explanation. In those cases, the information in those applicable Sections shall be used.

- A. General Regulation. Signs shall be erected maintained or continued in compliance with the regulations for the zoning district in which they are located, all applicable provisions and regulations of this Ordinance or any applicable laws, codes, including the Kentucky Building Code, or ordinances of the City of Fort Thomas.
- B. Placement of Signs. It shall be unlawful and a violation of this Ordinance for any person to fasten, place, paint or attach in any way any sign, handbill, poster, advertisement, or notice of any kind or cause the same to be done in or upon any curbstone, lamp post, utility pole, hydrant, bridge, culvert, public drinking fountain, trash container, benches, rest station building, tree, other structure not intended or approved as a sign support or in or upon any portion of any public sidewalk, street or sign, except as specifically permitted within this Ordinance.

5.7.03 CLASSIFICATION OF SIGNS.

The following shall serve as definitions for terms used in this Section:

- A. Abandoned Sign: A sign that identifies or advertises a business, lessor, service, owner, product, or activity no longer conducted on the premises for 90 consecutive days, and/or for which no legal owner or proprietor is found on the premises.
- B. Animated Sign: A sign that uses movement or change of lighting to depict action or to create a special effect or scene.
- C. Banner Sign: A temporary sign composed of cloth, canvas, plastic, fabric or similar lightweight, non-rigid material that can be mounted to a structure with cord, rope, cable, or a similar method, or that may be supported by stakes in the ground. National and state flags and the official flag of any organization, institution or business shall not be considered banners.
- D. Bench Sign: A sign painted on or affixed to any portion of a bench or seating area at bus stops or other such pedestrian areas.
- E. Billboard: **See Off-Premise Sign.**

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and **Deletions**

- F. **Building Marker:** Letters, words, or insignia cut into the building surface, or otherwise permanently mounted on the building, with the name or address of the building, date of construction, or to convey a memorial or similar message.
- G. **Building-Mounted Sign:** A sign that is applied or attached to any part of a building including but not limited to wall, cabinet, awning, canopy, marquee, projecting, hanging, and painted signs.
- H. **Cabinet Sign:** A building-mounted sign that may be multi-sided incorporating a rigid frame, which supports and retains the removable sign face panel(s) and/or background constructed of plastic or similar translucent materials, and which usually has an internal light source. Cabinet signs do not include signs composed of individually mounted and individually illuminated letters or logos.
- I. **Canopy or Awning Sign:** A sign on or attached to the awning, canopy, or other fabric, plastic, or structural protective cover over a door entrance or window. See Illustration of a Canopy or Awning Sign. See Figure 5.1-1.



Figure 5.7-1 - Illustration of Canopy or Awning Signage

- J. **Canopy Valance:** That portion of a canopy consisting of short strips or bands of material hung at the lower edge of the canopy.
- K. **Changeable Copy Sign:** A sign on which the message or graphics is not permanently affixed to the structure, framing, sign face, or background and is designed to be periodically replaced or changed by mechanical devices or manually usually through the placement of letters or symbols on a panel mounted in or on a track system. See Figure 5.7-3.



Figure 5.7-2 - Illustration of a Changeable Copy Sign



Figure 5.7-3 - Illustration of a Directory Sign

Significant changes from the **Phase 2** draft are noted: **Substantive Additions** and **Deletions**

- L. **Comprehensive Sign Development Plan.** A coordinated program of all signs, including exempt and temporary signs, located on a development site.
- M. **Directory Sign:** A sign that lists the names of the occupants of a multiple occupancy building or site. See Figure 5.7-3.
- N. **Electronic Message Center:** An electrically activated changeable sign whose variable message and/or graphic presentation capability can be electronically programmed by computer from a remote location. Also known as an EMC. EMCs typically use light emitting diodes (LEDs) as a lighting source. See Figure 5.7-4.



Figure 5.7-4 - Illustration of an Electronic Message Center



Figure 5.7-5 - Illustration of a Feather Sign

- O. **Feather Sign:** A sign with a flexible or rigid pole to which one side of a flexible fabric, generally in the shape of a feather or similar shape, is attached, and which is used for the primary purpose of advertising or attention-getting by the public display of visually communicative images. Such banners are also known and sold under names which include, but are not limited to, “quill sign,” “banana banner,” “blade banner,” “flutter banner,” “flutter flag,” “bowflag,” “teardrop banners,” and others. The definition includes functionally similar display devices. See Illustration of Feather Sign.
- P. **Festoons:** A string of ribbons, tinsel, small flags, pinwheels or the like.
- Q. **Flashing Sign:** A sign, other than a changeable copy sign, **electronic message center**, or animated sign, which contains an intermittent or sequential flashing light source, used primarily to attract attention.
- R. **Freestanding Sign:** A sign supported by one or more uprights, posts, columns, or vertical structures or supports affixed to the ground and not attached to any part of the building. **Ground signs, Pole Signs, and Pylon Signs are Freestanding Signs.**
- S. **Ground Sign:** A freestanding sign, other than a pole or pylon sign, whose sign surface is attached to a proportionate solid base, typically on a monument or pedestal structure. See Figure 5.7-6.

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and **Deletions**

- T. **Hanging Sign:** A double-faced sign mounted to a wall or building that hangs from a bracket or support structure. See Figure 5.7-7.



Figure 5.7-7 - Illustration of Hanging Sign



Figure 5.7-6 - Illustration of Ground Sign

- U. **Illuminated Sign:** A sign with an artificial light source incorporated internally or externally for the purpose of lighting the sign.
- V. **Incidental Instructional Sign:** A sign or signs that support and facilitate traffic flow and safety needs or otherwise supports the operational convenience for the benefit of facility owner or tenant and the customers alike. See Figure 5.7-8.
- W. **Individual Letter Sign:** Letters and/or numbers individually fashioned from metal, glass, plastic, or other materials and attached directly to the wall or a runway attached directly to the wall of a building, but not including a sign painted on a wall or other surface. See Figure 5.7-9.



Figure 5.7-9 - Illustration of an Individual Letter Sign



Figure 5.7-8 - Illustration of an Incidental Instruction Sign

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and ~~Deletions~~

- X. **Marquee Sign:** A sign attached to or supported by a permanent roof-like structure or canopy of rigid materials supported by and extending from the façade of a building. See Figure 5.7-10.



Figure 5.7-10 - Illustration of a Marquee Sign

- Y. **Menu Board:** A sign, usually used by a restaurant, which is either mounted to the building, or located near the building alongside a driving or stacking lane. A "menu board" shall not be counted as a sign under Section 5.7 – Sign Regulation so long as it complies with the following requirements:
1. It is constructed as an accessory use to a "drive-up service window" or "drive-thru";
 2. The menu board does not face the municipal right-of-way but faces a side or rear property line;
 3. No more than two (2) menu boards for each "drive-thru service window" are permitted; and,
 4. It complies with all other requirements, as applicable, for a wall sign or freestanding sign as set forth in these Sign Regulations.
- Z. **Mural:** Any pictorial or graphic illustration that is painted, constructed, or affixed onto an outside vertical wall, facade, or other surface of a building or structure other than a sign structure that does not constitute a sign as defined by this Section, which is meant to be decorative in nature and where architectural elements of a given wall are incorporated harmoniously therein. A mural may contain incidental text, logos, or symbols, but is generally for the purpose of decoration or artistic expression.
- AA. **Nonconforming Sign:** A sign which was erected legally but that no longer complies with current sign restrictions and regulations.
- BB. **Off-Premise Sign:** **Any sign, permanent or temporary, that is advertising, promoting, or identifying an establishment, merchandise, event, service, or entertainment that is not sold, produced, manufactured or furnished at the property on which the sign is located. Also referred to as a billboard.**

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and **Deletions**

CC. **Pedestrian Sign:** A sign near or at street/sidewalk level that is oriented and scaled to the pedestrian, rather than the motorist. Such sign typically has two hinged boards or faces that can be placed on the ground that is used on a temporary basis. See Figure 5.7.11.

DD. **Permanent Sign:** A sign permitted by this Ordinance designed to be permanently attached to a building, structure, or the ground that is constructed of rigid, non-flexible materials that enables the sign to resist environmental loads, such as wind, and precludes ready removal or movement of the sign.



Figure 5.7-11 - Illustration of a Pedestrian Sign

EE. **Pole Cover:** An enclosure for concealing and/or for decorating poles or other structural supports of a freestanding sign.

FF. **Pole Sign:** A permanent freestanding sign, with a visible support structure, that is usually double-faced, mounted on a round pole(s), square tube, or other fabricated member without any type of secondary support. Pole signs may be internally or externally illuminated. See Figure 5.7-12.



Figure 5.7-12 - Illustration of a Pole Sign



Figure 5.7-13 - Illustration of a Pylon Sign

GG. **Portable Sign:** A sign that is designed to be transported on wheels, skids, a bench, runners, brackets or has a frame to which wheels, skids, runners, brackets, or similar mechanical devices are or can be attached.

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and **Deletions**

HH. **Projecting Sign:** A sign that projects from and is supported by a wall or parapet of a building with the display surface of the sign in a plane perpendicular to or approximately perpendicular to the wall. See Figure 5.7-14.



Figure 5.7-14 - Illustration of Projecting Sign

II. **Pylon Sign:** A freestanding sign with a visible support structure enclosed with a pole cover. Often called pole signs, pylons may be internally or externally illuminated. See Figure 5.7.13.

JJ. **Roof Sign:** A sign erected on, above or over the roof of a building.

KK. **Rotating Sign:** A sign, or any portion thereof, which moves in a revolving or similar manner.

LL. **Sign:** Any object, device, display, or structure, or part thereof, visible from a public place, a public right-of-way, any parking area, or any navigable body of water which is designed and used to attract attention to an institution, organization, business, product, service, event, or location by any means involving words, letters, figures, designs, symbols, fixtures, logos, colors, illumination, or projected images. The definition of sign shall include all parts, portions, units, and materials composing the same, together with the frame, background, and supports or anchoring thereof.

MM. **Sign Band:** A horizontal band extending the full width of the building facade and located between the highest first floor windows and the cornice, or if there is more than one story, the highest first floor windows and the bottom of the second-floor windows.

NN. **Sign Face:** An exterior display surface of a sign including non-structural trim exclusive of the supporting structure. Typically refers to the most prominent message area of a sign, but may refer generically to the surface area on a sign where copy is displayed.

OO. **Temporary Sign:** A sign, **typically made of paper; cardboard; or fabric**, that is designed to be used only temporarily and is not permanently, or intended to be permanently, attached to a building, structure, or on the ground. Examples of these signs include, but are not limited to, banners and feather signs. See Figure 5.7-15.



Figure 5.7-15 - Illustration of a Temporary Sign

Significant changes from the **Phase 2** draft are noted: **Substantive Additions** and ~~Deletions~~

- PP. Wall Sign: A sign on the surface or on the outside wall of any building, or erected parallel thereto, which does not extend more than 12 inches therefrom and which does not project above the roofline or beyond the corner of the building. See Figure 5.7-16.



Figure 5.7-16 - Illustration of Wall Signs

- QQ. Window Sign: A sign that is attached to, affixed to, painted on, or located within ~~two (2)~~ **three (3)** feet inside of a window and exposed to public view outside of the building. For the purpose of this Section 5.7, the word "window" shall be construed to mean any glass, which comprises part of the surface of the wall regardless of its ability to be moved. See Figure 5.7-17.



Figure 5.7-17 - Illustration of a Window Sign

5.7.04 APPLICATION OF SIGN REGULATIONS.

The regulations contained in this Section shall apply to all signs in the City of Fort Thomas, KY.

- A. Signs shall be erected, placed, established, painted, altered, reconstructed, moved, or maintained, in whole or part, only in conformance with the standards, procedures, exemptions, type, design, size, location, illumination and other requirements set forth in this Section and in accordance with other applicable codes and regulations of the City.
- B. Architectural features, which are either part of the building or structure **or freestanding**, are not considered signs and are thus exempt from these regulations. Architectural features include any construction attending to, but not an integral part of the sign, and which may consist of landscaping, building or structural forms that enhance the site in general. An architectural feature means ornamentation or decorative elements attached to, incorporated into, or projection from the exterior of a building. Architectural features include, but are not limited to, doors, windows columns, cornices, eaves, gutters, belt courses, sills, lintels pediments, bay windows,

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and ~~Deletions~~

chimneys, trim details, and decorative ornaments.

C. The following signs and displays are exempt from the Sign Regulations of this Section:

1. A public regulation and information sign, municipal and traffic signs, and a sign displaying a public notice or warning required by federal, state, or local law, ordinance, or regulation;
2. Flags of the United States, the Commonwealth of Kentucky, foreign nations having diplomatic relations with the United States, and any other flag adopted or sanctioned by an elected legislative body of competent jurisdiction. These flags must be flown in accordance with protocol established by the Congress of the United States for the Stars and Stripes. Any flag not meeting these conditions shall be considered a sign and shall be subject to regulations as such;
3. Decorations pertaining to religious or secular holidays when displayed during the appropriate time of the year. Decorative elements of a temporary nature intended for the acknowledgment of a cultural holiday or season when displayed during the appropriate time of the year;
4. Signs conforming to the Manual of Uniform Traffic Control Devices and other government signs for traffic control, public safety, and other regulatory purposes.
5. Any sign in a building, not attached to a window or door that is not legible from a distance of more than three (3) feet beyond the building in which such sign is located.
6. Any outdoor sign that is not in any way visible from any adjacent public right-of-way or from any adjacent property.

5.7.05 COMPUTATIONS AND RULES OF MEASUREMENT.

The following regulations shall control the computation and measurement of sign area, sign height, and building frontage:

A. Determining Sign Area.

1. Sign area shall include the face of the entire display area of the sign. **The sign area shall include the frame but** shall not include the **pole or other** structural support unless such structural support is an integral part of the sign design.
2. For a sign that is framed, outlined, painted, or otherwise prepared and intended to provide a background for a sign display, the area of the sign shall be the area of no more than three (3) geometric shapes that encompasses the entire background or frame. Any protrusions beyond the area of less than 5% of the total sign area shall be exempt. See Figure 5.7-18.

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and ~~Deletions~~

3. For a sign comprised of individual letters, figures, or elements on a wall or similar surface of a building or structure, or on a regular or irregular shaped freestanding sign, the area of the sign shall **encompass a regular shape, or a combination of** ~~be the area of~~ up to three, **regular** geometric shapes that encompasses the perimeter of the area on which all elements of the sign display are located. Any protrusions beyond the area of less than 5% of the total sign area shall be exempt. See Figure 5.7-18.

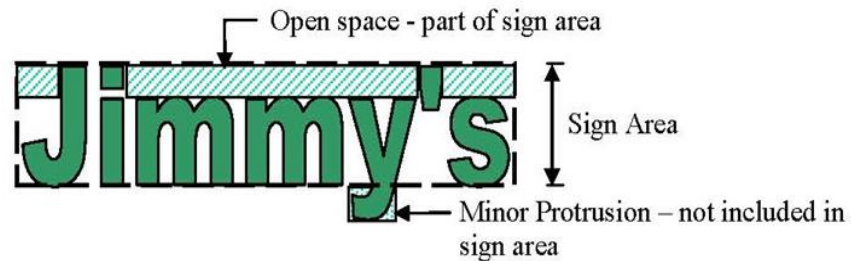


Figure 5.7-18 - Calculation of Open Space & Excluded Minor Protrusions

4. For freestanding signs and projecting signs:
 - a. The sign area shall be computed by the measurement of one of the faces as prescribed above when two (2) identical display faces are joined parallel to each other and are within two (2) feet of each other.
 - b. No more than two display faces shall be permitted for one sign.
 - c. The sign area shall not include: (See Figure 5.7-19.)

- i. A pole or other structural support unless such pole or structural support is internally illuminated or otherwise so designed to constitute a display device or a part of a display device;

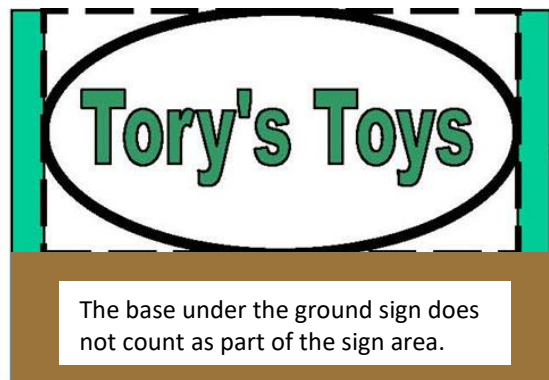


Figure 5.7-19 - Calculation of Sign Area for a Freestanding Sign

- ii. Architectural features that are a part of the freestanding or projecting sign and are not an integral part of the sign; and,
- iii. Landscaping for freestanding signs.

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and ~~Deletions~~

- B. Determining Sign Height. The height of a sign shall be measured from the average grade at the base of the sign or support structure to the top of the sign or support structure, whichever is highest. Decorative caps on top of the support posts shall not be included in the total sign height provided they do not exceed nine (9) inches in height. The height of a freestanding sign on an earthen mound shall be measured from the average site grade at the perimeter of the mounded area.
- C. Determining Building and Tenant Space Frontage. For the purposes of these Sign Regulations, the length of the building wall that faces a public street, that faces a parking lot, or that contains a public entrance to the uses therein shall be considered the building frontage as provided below:
1. Each building frontage shall be entitled to the sign area permitted in this sub-section.
 2. The building frontage shall be measured along such building wall between the exterior faces of the exterior side walls.
 3. In the case of an irregular wall surface, a single straight line extended along such wall surface shall be used to measure the length.
 4. For multi-occupant buildings, the portion of a building that is owned or leased by a single occupant shall be considered a tenant space. The building frontage for a tenant space shall be the distance as measured between the centerlines of each party wall bordering the tenant space.
 5. The primary frontage is the wall with the main public entrance to a building or tenant space. A site/building may have secondary frontage when any of the following site/building characteristics are present: (See Figures 4a and 4b.)
 - a. The subject site is located on a corner or through lot; or
 - b. The primary parking area is not located adjacent to a public street; or
 - c. The building or unit has exterior walls with public entrances that do not face the public street.
 6. When a site has primary and secondary frontage, as defined in sub-section 5.7.05 C. 5., the applicant shall determine, for signage purposes, which wall shall be the primary building frontage and which wall(s) shall be the secondary building frontage. A business shall have only one wall with primary building frontage. Any business and/or building shall be limited to two secondary frontages.

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and **Deletions**

- D. Determining Window Area. The window area of a building shall be the total glass area on the building frontage. For the purposes of these regulations, a single glass window shall be all of the glass area that has less than six (6) inches of separation from other glass areas. For the purposes of determining window area for ground floor occupants, the ground floor shall only include the glass area to a height of fifteen (15) feet above the average elevation of the finished grade of the building.

- E. Determining Sign Setbacks. The required setbacks for any freestanding sign shall apply to all elements of the sign, including its frame and base. **The setback for such sign shall be measured horizontally from the outward edge of the sign frame to the street right-of-way or lot line, as applicable.**

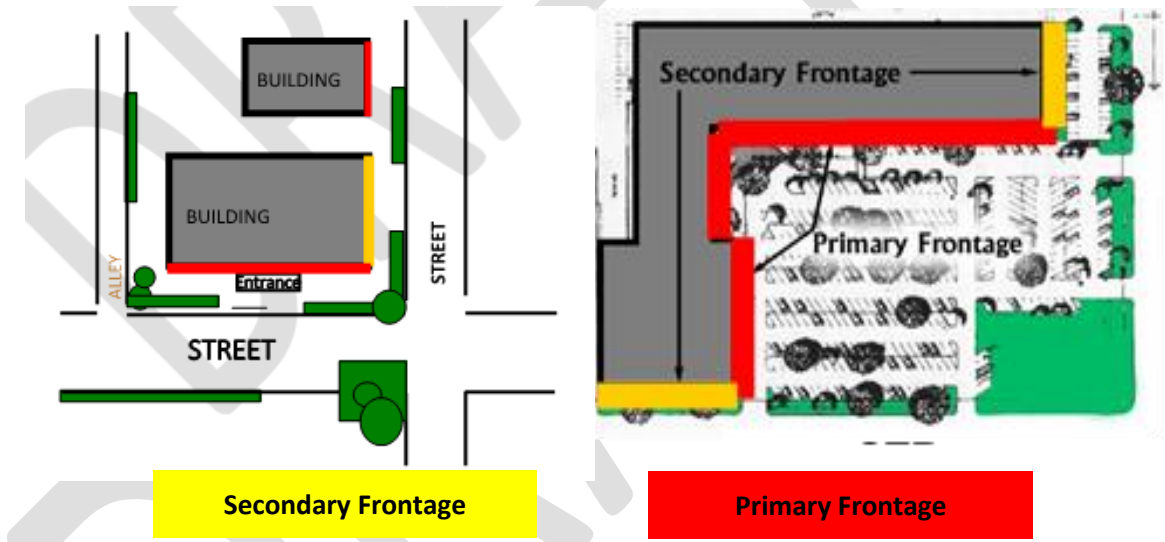


Figure 9.17-20 - Illustrations of Primary and Secondary Frontage

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and ~~Deletions~~

5.7.06 SIGNS IN NON-RESIDENTIAL DISTRICTS.

Signs in Business, Mixed Use, and River Preservation Districts shall conform to the standards set forth in this sub-section 5.7.06.

- A. Maximum Number and Area of Permanent Signs Attached to Buildings. Permanent signs attached to buildings, in the NC/O and RP districts and CBD AP-MX districts and sub-districts, shall conform to the maximum number, area limitations, and other requirements set forth in Schedule 5.7.06 A.

Schedule 5.7.06 A. Permanent Building-Mounted Signs for the Primary Frontage ^{(1) (5)}						
Type of Sign	Permit	Maximum Area	Illumination	Sign Placement	Maximum Number	Additional Requirements
1. Hanging, Wall, Marquee ⁽²⁾	Yes	1 square foot of area for each horizontal linear frontage of building wall upon which sign is to be located	Permitted, external or internal illumination with no flashing or animation	The width of a wall & hangings sign shall not exceed ninety percent (90%) of the width of the tenant space or length of the building frontage or tenant space. At least five percent (5%) at each end of the building frontage shall remain open and unoccupied by signage.	None, except the total area of all wall, hanging, & marquee signs shall not exceed 1 square foot of signage for each linear foot of primary building frontage	The entire sign should be affixed to one continuous, flat vertical, opaque surface or the sign may consist of individually mounted letters. <u>See sub-section 5.7.06 B., Bonus Signs</u> Upper floor tenants may have wall/hanging signs <u>in conformance with Sign Placement standards.</u> For buildings with more than 1 occupant, the property owner shall designate which occupants may be identified on wall, hanging, & marquee signs.
			Adjacent to Residential Uses, no illuminated wall signs on side or rear of building	Wall, hanging & marquee signs shall not extend higher than the bottom of the sill of the second story window, or above the lowest point of the roof, or over 25 feet above grade (whichever is lowest) unless otherwise approved by the Design Review Board.		
2. Projecting	Yes	15 sq. ft. per sign face	Permitted, external or internal illumination with no flashing or animation	7 ft. of clearance above sidewalk Shall not project more than 6 feet from the building nor be closer than 18 inches from the back of curb The top of the sign shall not extend higher than the lowest of: a. The bottom of the sills of the 2nd story window; b. The lowest point of the roof; or, c. 20 feet above grade.	1 per tenant with a minimum of 6 feet of separation between projecting signs	Maximum 2 sides No exposed guy wires or turnbuckles allowed <u>Upper floor tenants may have projecting signs in conformance with Sign Placement & Maximum Number standards.</u>

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and **Deletions**

Schedule 5.7.06 A. Permanent Building-Mounted Signs for the Primary Frontage ^{(1) (5)}						
Type of Sign	Permit	Maximum Area	Illumination	Sign Placement	Maximum Number	Additional Requirements
3. Canopy/ Awning Sign	Yes	<u>In the AP-MX, NC/O, & RP Districts:</u> 1 sq. ft of area for each horizontal linear foot of building wall frontage <u>CBD:</u> ½ sq. foot for each horizontal linear foot of building wall frontage	Not Permitted	Shall project no more than 6 ft. from the face of the building and be no closer than 18 inches from the back of the curb. Shall provide clearance of 7 ft. from sidewalk/grade Awning/canopy signage shall only be permitted above first and second floor windows & doors	NA	Wall signs may be placed above canopy/awning signs Signage is prohibited on cubed or curved awnings. Awning/canopy signage shall only be permitted on the valance of the awning or canopy. The canopy/awning valance containing signage shall not be more than 9 inches in height.
Incidental Instructional Signs⁽³⁾	No	4 sq. ft.	Not Permitted	Incidental Instructional Signs shall only be located below the roofline or the uppermost portion of the parapet wall	2	NA
Directory Sign	Yes	15 square feet per sign face	Permitted, external or internal illumination with no flashing or animation	Shall be located at or below the first-floor sign band	1 sign for every 6 tenants	Tenants on upper floors may be identified on a directory sign Maximum one sign face, except projecting directory signs may have 2 sign faces.
Window Signs	No, except in CBD ⁽⁴⁾	25% of window area	Permitted, external or internal illumination with no flashing or animation	May be placed in ground and upper floor windows	Limited by window area	NA

⁽¹⁾ The number of signs is not limited to a specific number **except as noted herein**. A building is permitted to have any number provided the total area of all signs does not exceed the maximum area allocation for each sign type **and complies with all applicable requirements**.

⁽²⁾ Where a single building or complex of buildings contains two (2) or more separate activities or establishments, the individual establishment located therein shall be permitted wall signs and wall sign areas based on the portion of the building frontage used by the establishments as though they were individual buildings with individual street frontages.

⁽³⁾ Incidental Instructional signs shall be permitted in addition to all other signs when they are of such size and location that satisfy the intended instructional, way-finding purpose. Incidental instructional signs shall be permitted pursuant to Schedule 5.7.06 A. and may include the name of the business and logos.

⁽⁴⁾ See sub-section 5.7.12 B. 2 a., Consideration by the Design Review Board

⁽⁵⁾ For signs located within 100 feet of a Residential District, see sub-section 5.7.12 B. 2. b., Consideration by the Design Review Board

NP = Not Permitted NA = Not Applicable

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and ~~Deletions~~

- B. **Bonus Signs.** The following additional area for wall signs, beyond what is permitted in Schedule 5.7.06 A., is permissible as follows:
1. **Building Identification. One (1) nonilluminated wall sign identifying the entire structure by a building name is permitted above the first floor provided:**
 - a. **The area of the wall sign does not exceed 1 square foot of signage for each lineal foot of building frontage; and,**
 - b. **The sign shall be located on the top floor.**
 2. **Sign Bonuses for Large Building Setbacks.** In the AP-MX, NC/O, RP Districts, the maximum allowable area for a wall sign may be increased by 25% for each 100 feet of building setback where the building is visible from the street and located more than 100 feet from the street on which the building fronts. The sign bonus allowed herein shall not exceed 100% of the maximum allowable area.
 3. **Sign Bonuses for Corner & Through Lots, Side and Rear Entrances.** The maximum allowable area for wall signs shall be increased above the allowable area set forth in Schedule 5.7.06 A. as followings:
 - a. Additional area shall be permitted when a building has a secondary frontage.
 - b. The sign area for signs on each secondary building frontage shall be no greater than sixty percent (60%) of the sign area permitted for the primary frontage.
 - c. At the applicant's discretion, some or all of the sign area permitted for the primary frontage may be transferred to a secondary frontage. The resulting total area on the secondary frontage shall not exceed the maximum sign area permitted for the primary frontage. The election to transfer primary frontage sign area to secondary frontage shall be made in the sign application.
 - d. **The allowable increase by virtue of the secondary frontage shall not be aggregated with or used with the allowable sign area on the primary frontage.**
- C. **Permanent Freestanding Signs.** Permanent freestanding signs, in the NC/O and RP districts and CBD AP-MX districts and sub-districts, shall comply with the following regulations:
1. **Maximum Number, Area and Height, Minimum Setback of Permanent, Freestanding signs.** In the NC/O and RP districts and the CBD and AP-MX districts and sub-districts, permanent freestanding signs shall comply with Schedule

Significant changes from the Phase 2 draft are noted: Substantive Additions and Deletions

5.7.06 C.

**Schedule 5.7.06 C.
Permanent Freestanding Signs⁽¹⁾**

Type of Sign	Permit Needed	Maximum Area	Illumination	Sign Placement		Maximum Number	Maximum Height	Additional Requirements
				Minimum Setback from Side Lot Line	Minimum Setback from Right-of-Way			
a. Ground ⁽²⁾	Yes	<u>In AP-MX, NC/O, & RP:</u> 40 sq. ft. <u>In CBD:</u> ½ sq. foot per linear foot of lot frontage up to a maximum of 40 sq. ft.	Permitted, external or internal illumination	5 feet	Equal to height of sign	1 per zoning lot	<u>In the AP-MX, NC/O, & RP: 10 feet</u> <u>In CBD: 6 feet</u>	Shall only have two faces See sub-section 5.7.06 C. 2. for additional sign allowances
b. Pole/ Pylon	Yes	16 sq. ft.	Permitted, external or internal illumination with no flashing or animation	5 feet	Equal to height of sign Shall conform to definitional standards for menu boards	1 per zoning lot Shall conform to definitional requirements for menu boards	7 feet	Only permitted for menu boards in AP-MX & NC/O Districts & as allowed by sub-section 5.7.06 C. 2.
c. Pedestrian Sign	Yes	8 sq. ft. per side	Not Permitted; No animation	Shall maintain a minimum of a 6-foot clear, unobstructed width on the sidewalk for safe pedestrian passage & shall not extend over curb line		One per Store Front	4 feet	Sign shall only be displayed during hours business is open
d. Incidental Instructional Signs ⁽⁴⁾	No	6 sq. ft.	Not Permitted	NA	NA	1 per curb cut ⁽³⁾	5 feet	

Notes for Schedule 5.7.06 C.

⁽¹⁾ For signs located within 100 feet of a Residential District, see sub-section 5.07.13 B. 2. b.

⁽²⁾ Not permitted on the site when the building is set back less than 10 feet from the street right-of-way.

⁽³⁾ The Zoning Administrator may permit additional Incidental Instructional Signs within off-street parking areas & to serve the intended instructional, way-finding purpose.

⁽⁴⁾ Incidental Instructional signs shall be permitted in addition to all other signs permitted in Schedule 5.7.06 C. when they are of such size and location that satisfy the intended instructional, way-finding purpose. Incidental instructional signs shall be permitted pursuant to Schedule 5.7.06 C. and may include the name of the business and logos.

NP = Not Permitted NA = Not Applicable

2. Pole, Pylon and Ground Signs in the Neighborhood Commercial/Office District.
 - a. Pole/Pylon Signs Located adjacent to an Interstate Highway. In the Neighborhood Commercial/Office District, on parcels located adjacent to an Interstate Highway with principal access from a federal aid primary highway one (1) pole or pylon sign, not to exceed 400 square feet and 50 feet maximum height, shall be permitted on the owned/leased premises (for each free standing building); said sign shall be located within 50 feet of the building in which the business activity is conducted; however, in no case shall there be more than three (3) pole signs permitted within a NC/O development, regardless of the number of free standing buildings. Property subdivisions and/or outtakes of a Neighborhood Commercial/Office District tract, approved by the Planning Commission, shall not constitute a separate development for the purposes of this sub-section.
 - b. Pylon/Ground Signs along US-27. One ~~pole~~, pylon or ground sign is permitted on zoning lots with frontage on US-27 in compliance with the following requirements:
 - i. One (1) ground **or pylon** sign not to exceed 200 square feet with a maximum height of 20 feet for the purpose of identifying a commercial area. The sign shall be located at the entrance from an arterial highway into a Neighborhood Commercial/Office District development with multiple uses within the site;
 - ii. The zoning lot shall be a minimum of 5 acres with more than 300 feet of frontage on US-27;
 - iii. One (1) electronic message center used as an integral part of the permitted ground, ~~pole~~, or pylon sign shall be permitted provided it complies with the requirements in sub-section 5.7.06 C. 2. d.:
 - c. Pylon/Ground Signs Located along Highland and Grand Avenues. **One (1) pylon or ground sign is permitted on zoning lots with frontage on Highland or Grand Avenues in compliance with the following requirements:**
 - i. **One (1) ground or pylon sign not to exceed 200 square feet with a maximum height of 20 feet for the purpose of identifying a commercial area. The sign shall be located at the entrance from an arterial highway into a Neighborhood Commercial/Office District development with multiple uses within the site;**

Significant changes from the Phase 2 draft are noted: Substantive Additions and ~~Deletions~~

- ii. **The zoning lot shall be a minimum of 1.25 acres;**
 - iii. **One (1) electronic message center used as an integral part of the permitted ground or pylon sign shall be permitted provided it complies with the requirements in sub-section 5.7.06 C. 2. d.:**
- d. Requirements for Electronic Message Center.
- i. Said sign shall not exceed one hundred (100) square feet and shall not exceed a maximum height of twenty (20) feet;
 - ii. Said sign shall be located no closer than 450 feet to a residential zoning district;
 - iii. The operation of said sign shall be limited to the hours between 6:00 A.M. and 11:00 P.M., Sunday through Saturday;
 - iv. The illumination of said sign shall not glare on to adjacent residential zoning districts;
 - v. The changing of intermittent messages shall not be less than eight (8) second intervals. During such interval, the entire message, graphic or display shall not be moving, flashing, Scintillating, animating, nor changing in color or light intensity or visibly changing in any other manner. The following EMC display features and functions are prohibited: continuous scrolling and/or traveling, flashing, spinning, rotating, and similar moving effects, and all dynamic frame effects or patterns of illusionary movement or simulating movement;
 - vi. Said sign shall be neither flashing nor animated and shall only be illuminated from a concealed light source;
 - vii. No part of any ground ~~or pole~~, or pylon sign shall be closer than five (5) feet from any property line;
 - viii. Shall be landscaped in accordance with this Ordinance;
 - ix. Any electronic message center that malfunctions, fails, or ceases to operate in its usual or normal programmed manner causing motion, movement, flashing or any other similar effects, shall be repaired or disconnected within 24 hours by the owner or operator of such sign.
 - x. Audio Prohibited. EMCs shall not utilize audio devices to create sound.

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and **Deletions**

year. The maximum size for a freestanding sign is 20 square feet, and the maximum size for a temporary sign attached to a building is 20 square feet. The maximum height for a freestanding temporary sign is 6 feet.

4. **Number and Size on Undeveloped Non-residential Parcel.** One (1) temporary sign shall be permitted per undeveloped property. Maximum size for a freestanding sign is 16 square feet. The maximum height for a freestanding, temporary sign is 6 feet.
5. **Window Signs. Temporary and permanent window signs in nonresidential districts are regulated in accordance with Schedule 5.7.06 A.**

5.7.07 SIGNS IN RESIDENTIAL & CONSERVATION DISTRICTS.

Signs for all residential uses and for non-residential uses in the Residential Districts; Conservation District; and the Residential Cluster Development Overlay District (R-1AA, R-1A, R-1B, R-1C, R-1D, R-1-TC1/2, R-2, R-3, R-5, CO, and RCD-O), shall comply with the regulations and standards set forth in this sub-section 5.7.07.

- A. **Sign Standards.** Permanent signs for all residential uses and for non-residential uses shall be limited in number, area, height, setback, and other requirements based on the type of use, as set forth in Schedule 5.7.07 A.

Schedule 5.7.07 A. Permanent Signs in the Residential and Conservation Districts						
Type	Permit Needed	Maximum Number Permitted	Maximum Area Per Sign	Illumination	Regulations for Freestanding signs	
					Maximum Height	Min. Setback
1. Signs for Single-family Detached Dwellings, Single-family Detached Dwellings in RCD-O, Residential Care Facility for Persons with Disabilities, Two-Family Dwellings						
a. Wall Sign	No	1/DU	2 sq. ft.	Not Permitted	NA	NA
b. Ground Sign for Residential Subdivision ⁽¹⁾	Yes	1/development entrance ⁽⁴⁾	20 sq. ft.	External only	8 ft.	5 ft.
2. Developments for Multi-Family Dwellings						
a. Ground Sign in R-5 ⁽²⁾	Yes	1/development	25 sq. ft.	External only	8** 10 ft.	5 ft.
b. Ground Sign in R-3	Prohibited in the R-3 District					
c. Wall sign	Yes	1/development	25 sq. ft.	External only	NA	NA
3. Developments for Attached Single-Family Dwellings						
a. Ground Sign ⁽²⁾	Yes	1/development	25 sq. ft.	External only	8 ft.	5 ft.
b. Wall sign	Yes	1/development	25 sq. ft.	External only	NA	NA

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and ~~Deletions~~

~~11:00~~ **9:30** P.M., Sunday through Saturday.

3. The sign shall not glare into adjacent properties used for residential purposes.
4. The sign shall be no closer than 5 ft. to any property line.
5. The sign shall be landscaped as required by this Ordinance.
6. Any Electronic Message Center that malfunctions, fails, or ceases to operate in its usual or normal programmed manner causing motion, movement, flashing or any other similar effects, shall be repaired or disconnected within 24 hours by the owner or operator of such sign.
7. Maximum ~~digital sign~~ **Electronic Message Center** area per sign side, limit 2 sides, is 75% of the permitted total of the signage face per side.
8. No message, graphic, display or part thereof shall be visible for less than ten (10) seconds. During such interval, the entire message, graphic or display shall not be moving, flashing, scintillating, animating, nor changing in color or light intensity or visibly changing in any other manner. The following EMC display features and functions are prohibited: continuous scrolling and/or traveling, flashing, spinning, rotating, and similar moving effects, and all dynamic frame effects or patterns of illusionary movement or simulating movement.
9. Electronic Message Center Illumination. The brightness of the EMC's illuminance shall not exceed 0.3 foot-candles above the ambient light level in accordance with the following procedure:
 - a. The illuminance of an EMC shall be measured with an illuminance meter set to measure foot candles accurate to at least two decimals.
 - b. Illuminance shall be measured with the EMC off, and again with the EMC displaying a white image for a full color-capable EMC, or a solid message for a single-color EMC.
 - c. All measurements shall be taken as close as practical to a perpendicular plane of the sign at the distance determined by the following formula:
The square root of the Area of Sign in Sq. Ft x 100.

All permitted EMCs shall be equipped with a sensor or other device that automatically determines the ambient illumination is programmed to automatically dim according to ambient light conditions, or that can be adjusted to comply with the 0.3- foot candle measurements.

Each EMC sign shall be operated with monitoring and methods in place that shall either turn off the display, or show a full black image on the display, in the event of a malfunction that affects more than 50 percent of the EMC sign

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and ~~Deletions~~

face.

10. The display change interval, which is defined as the time period between when one message, graphic or display becomes illegible and the next message graphic or display first reaches legibility, shall be 3 seconds or less. Transitions may employ fade, dissolve, and or other transition effects.
 11. Audio Prohibited. EMCs shall not utilize audio devices to create sound.
 12. Existing nonconforming, freestanding signs shall not be converted to Electronic Message Centers unless the nonconforming, freestanding sign is brought into full compliance with the applicable regulations for ground signs.
 13. The Board of Adjustment may limit the hours of operation of the Electronic Message Center to ensure that the use of the EMC is compatible with any surrounding residential uses.
- E. Supplemental Regulations for Temporary Signs. Temporary signs do not require a Sign Permit, shall be well maintained in accordance with sub-section 5.7.11 B. and are permitted only in compliance with the following provisions:
1. Temporary signs associated with single-family detached dwellings, two-family dwellings, and attached single-family dwellings shall comply with the requirements in Schedule 5.7.07 E. 1.

Schedule 5.7.07 E. 1 Temporary Signs for Single-family Detached Dwellings, Two-family dwellings, and Attached Single-family Dwellings	
	Requirement
a. Total Area of All Temporary Signs at any One Time	Maximum of 16 sq. ft. per lot or parcel
b. Number of Signs	Unlimited except that the total area shall not exceed 16 sq. ft.
c. Maximum Height of Freestanding Temporary Signs	4 feet
d. Duration	Not to exceed 60 days

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and ~~Deletions~~

2. Temporary Signs for non-residential uses shall comply with the requirements in Schedule 5.7.07 E. 2.

Schedule 5.7.07 E. 2 Temporary Signs for Non-residential Uses	
	Requirement
a. Total Area of All Temporary Signs at any One Time	Maximum of 20 sq. ft.
b. Number of Signs	Unlimited except that the total area shall not exceed 20 sq. ft.
c. Maximum Height of Freestanding Temporary Signs	6 feet
d. Duration	Not to exceed 60 days

3. Setbacks. All temporary freestanding signs shall be located a minimum of five (5) feet from the street right-of-way line and ten (10) feet from a side lot line, unless specifically regulated otherwise.
4. One additional temporary sign may be located on a property during active construction on the property authorized by a Zoning Permit as long as the sign does not exceed sixteen (16) square feet and is less than six (6) feet in height.

5.7.08 MURALS. [May be Removed]

Murals are exempt from the standards for signs in this Section, but shall comply with any applicable adopted policy guidance and the following:

- A. Murals shall only be permitted in the CBD after approval by the Design Review Board.
- B. Design, construction, installation, repair, and maintenance of such displays shall not interfere with traffic or public safety.
- C. No part of a mural shall exceed the height or width of the structure to which it is tiled, painted, or affixed.
- D. No part of a mural shall extend more than six (6) inches from the plane of the wall upon which it is tiled, painted, or affixed and shall not project over a public right of way.
- E. No mural may consist of, or contain, electrical or mechanical components, or changing Images.
- F. No murals shall be placed over the exterior surface of any building opening, including,

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but not limited to, windows, doors, and vents.

- G. A mural shall not cover, destroy, or materially alter a distinctive architectural feature of the building or structure.
- H. No mural shall be arranged and illuminated in a manner that will produce a light intensity of greater than three-foot candles, as measured at the property line of the nearest commercial property or one-foot candle, as measured at the property line of the nearest residentially used property.
- I. It shall be the responsibility of the property owner or the owner's designee to ensure that the mural is maintained in good condition, free from graffiti, and free from chipped, peeled, torn, or faded paint or materials for the duration of the mural's existence.
- J. In the event that a mural is damaged, vandalized, removed, altered, or destroyed, including graffiti abatement, the property owner or the owner's designee, in consultation with a mural artist, shall be responsible for restoring the mural to the original condition, within 60 days from the date a notice is sent to the property owner regarding damage to the mural.
- K. An appropriate clear sealer or a suitable varnish or topcoat shall be applied to the finished mural. Graffiti resistant sealers should be chosen.
- L. The application for a mural shall include:
 - 1. A color photographic or digital image of the proposed wall location in the context of adjoining properties, and a color image depicting the proposed wall mural to represent with general accuracy the appearance of the wall with the addition of the mural.
 - 2. A description of the materials to be used.
 - 3. Written permission from the owner of the building or structure on which the wall mural will be placed.
 - 4. Any other information the Zoning Administrator deems necessary for the Design Review Board to review and evaluate the request.

5.7.09 PROHIBITED SIGNS.

All signs not expressly permitted in this Section are prohibited. Visual elements, intended to attract attention to an establishment or activity, or to convey a message concerning an establishment or activity and thus are a substitute for additional signs, are prohibited. These visual elements are prohibited in all circumstances whether added to a sign or simply displayed on the property on which the ~~business~~ **establishment** is located or on any other property. Prohibited signs include but are not limited to the following:

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- A. A sign on or over any public sidewalk, street, or other public property or within any public easement or right-of-way except as otherwise permitted in this Ordinance.
- B. Roof Signs.
- C. Off-premise signs including Billboards.
- D. Flashing, moving, blinker, racer type, intermittent, rotating, moving, animated, or revolving signs, whirligig devices, and tethered balloons, pennants, ribbons, streamers, spinners, flashing lights, flashing arrows, other pulsating fixtures or items, exposed light bulbs, strings of lights not permanently mounted to a rigid background, and other similar types of attention-getting devices except Electronic Message Centers as permitted in this Section.
- E. Merchandise, equipment, products, vehicles, or other items not themselves for sale and placed for attention getting, identification, or advertising purposes.
- F. Signs mounted on mobile platforms or trailers, with either fixed or movable letters, lighted or unlighted.
- G. Pole and pylon signs, except as provided in sub-section 5.7.06.
- H. Temporary signs placed in the public right-of-way not installed by a government agency for public safety, notification, or identification except as permitted by this Ordinance.
- I. Feather signs.
- J. Signs attached to natural vegetation.
- K. Signs containing any words or symbols that would cause confusion because of their resemblance to highway traffic control or direction signals.
- L. Bench signs.
- M. Visual elements prohibited includes automobiles and other vehicles unless the message is permanently painted on the vehicle and the vehicle retains its mobility and it is moved frequently throughout the day, so as not to provide a stationary sign.
- N. Other signs or attention getting devices that raise concerns substantially similar to those listed above.
- O. Signs that convey or depict pornographic or vulgar or obscene information or graphics.

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5.7.10 DESIGN STANDARDS.

In addition to ensuring compliance with the requirements of these regulations, the Zoning Administrator; the Planning Commission; and the Design Review Board, as applicable, shall consider the proposed general design arrangement and placement of the sign according to the following criteria:

- A. The lettering shall be large enough to be easily read but not overly large or out of scale with the building or site.
- B. The sign should be consolidated into a minimum number of elements.
- C. The ratio between the message and the background shall permit easy recognition of the message.
- D. The size, style, and location of the sign shall be appropriate to the activity of the site.
- E. The sign shall be designed and placed to enhance the architecture of the building.
- F. Signs shall be designed with a limited number and harmonious use of colors.
- G. Signs, if seen in series, shall have a continuity of design with the style of sign generally consistent throughout the building or block.
- H. Incidental Instructional signs shall contain the minimum information and the minimum area necessary to convey the message and instruct the viewer in the safe and efficient use of the facility.
- I. Signs shall be located to maintain safe and orderly pedestrian and vehicular circulation.

5.7.11 SIGN ILLUMINATION, CONSTRUCTION, AND MAINTENANCE STANDARDS; PROHIBITIONS.

- A. Illumination. Illuminated signs shall meet the following requirements:
 1. Light sources shall be shielded from all adjacent buildings and streets.
 2. Lights shall not cause glare that distracts pedestrians or motorists or causes glare on adjacent residences or residential districts.
 3. The illumination of signs shall not obstruct or distract attention from traffic control or any other public informational signs. Signs visible from sight lines along streets shall not contain symbols or words, or red and green lights that resemble highway traffic signs or devices.
- B. Construction and Maintenance Standards Applicable to All Temporary Signs. All temporary signs shall be constructed and maintained in compliance with the following:

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1. Temporary signs shall not be mounted, attached, affixed, installed, or otherwise secured in a manner that will make the sign a permanent sign.
 2. No temporary sign shall be mounted, attached, affixed, installed, or otherwise secured so as to protrude above the roofline of a structure.
 3. Temporary signs shall not be posted in any place or in any manner that is destructive to public property including, but not limited to, rights-of-way, utility poles, public trees, etc.
 4. Unless otherwise specifically stated, temporary signs shall not be illuminated.
 5. No temporary sign shall require a foundation, support, wiring, fittings, or elements that would traditionally require a building permit or electrical permit.
 6. Temporary signs shall not be affixed to any permanent sign or permanent structure except when such sign is attached to the principal building as permitted in this Section.
 7. No streamers, spinning, flashing, windblown devices or similarly moving devices shall be allowed as part of or attachments to temporary signs.
 8. All temporary signs shall be secured in such a manner as to prevent swinging or other significantly noticeable movement resulting from the wind that could pose a danger to people, vehicles, or structures.
 9. Temporary signs shall be well maintained in good condition. Because of the nature of materials typically used to construct temporary signs and to avoid the unsightliness of deteriorating signs and all safety concerns which accompany such a condition, temporary signs shall be removed or replaced when such sign is deteriorated. **For the purposes of these temporary sign regulations, well maintained shall mean free from dirt, free from obvious signs of weathering, and no rips; tears; lose materials, or tatters. Temporary signs that are not well maintained shall be removed as directed by the Zoning Administrator. If the sign owner fails to comply with the written notice to remove the temporary sign, the Zoning Administrator is hereby authorized to cause removal of the temporary sign.**
- C. **Construction and Maintenance Standards.** All permanent signs shall be constructed and maintained in compliance with the appropriate detailed provisions of the Kentucky Building Code, the National Electric Code, and other provisions of the Code of Ordinances of the City of Fort Thomas.
1. **Additional Construction Standards.**
 - a. A sign shall be located and secured in a manner to ensure the safety of

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pedestrians and motorists.

- b. No sign shall obstruct architectural trim or feature of a building including but not limited to a column or an arch; window; door; fire escape; balcony, platform, stairway, ladder, vent, or any means of entry or exit.
 - c. No sign shall be erected in a public right-of-way, or at the intersection of any streets, which obstructs free and clear vision; or at any location where, by reason of its position, shape or color, the sign may interfere with, obstruct the view of, or be confused with any traffic control sign, signal or device; or which includes the words “STOP”, “LOOK”, “DANGER” or any other like word, phrase, symbol or character which may be confused with a traffic or warning sign.
2. Additional Maintenance Standards. All signs shall be maintained in good repair in accordance with the following:
- a. The property owner, occupant, tenant and/or sign applicant shall maintain a sign so the sign content is visible, the sign is operable, and the sign is in good repair, structurally sound and secure; and shall continue to comply with all building code requirements.
 - b. The Zoning Administrator may order any sign to be painted or refurbished to keep the sign in a neat and safe condition. All sign supports, guys, braces and anchors shall be maintained in a safe condition.
 - c. Abandoned Signs & Failure to Maintain. An abandoned sign which fails to serve the purpose for which it was intended or a sign not properly maintained shall be removed by the owner, occupant, tenant and/or sign applicant within ten (10) days after receipt of written notice by the Zoning Administrator. The sign area shall be replaced by a neutral, single background color panel or similar cover. If the sign is comprised of individually raised letters, the letters shall be removed and any holes in the building’s façade shall be repaired. If the owner fails to comply with the written notice to remove the sign, the Zoning Administrator is hereby authorized to cause removal of the sign. Any expense incidental to the removal of the sign shall be charged to the owner of the property upon which the sign is located and shall constitute a lien upon the property. For the purposes of this sub-section, the word "remove" shall mean:
 - i. The sign face, along with posts, columns, or supports of freestanding signs, shall be taken down and removed from the property.

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- ii. The sign face and supporting structures of "projection", "roof" or "wall" signs shall be taken down and removed from the property.
 - iii. The sign face of "painted wall signs" shall be removed by painting over the wall sign in such a manner as to completely cover up and hide from sight the sign in question.
- D. Other Limitations. No sign shall be erected, maintained, or continued in any zoning district which is:
1. Constituting a nuisance, because of light, glare, focus, noise, animation, flashing, intensity of illumination as to unduly disturb the use of surrounding properties.
 2. Misleading, nor advertising a defunct business establishment or occupant, fraudulent, obscene, immoral, indecent, or unsightly in character **as determined by the Zoning Administrator.**
 3. Located upon the inside curve of a street which causes any interference to sight distance.
- E. Signs Erected on Private Property in Violation of Ordinance. Signs erected in violation of the Ordinance shall be removed by the owner, tenant, occupant and/or sign applicant, or person having the beneficial use of the building, structure, or land upon which such sign is located, within ten (10) days after receipt of written notice by the Zoning Administrator. Upon failure to remove the sign pursuant to such order, the Zoning Administrator is hereby authorized to commence legal action for an order to remove the sign. All expenses incurred by the City to remove the sign shall be paid by the owner of the property on which the sign is located.
- F. Signs Erected on Public Property in Violation of Ordinance. Any sign installed or placed on or over public property or right-of-way after adoption of this Ordinance, except in conformance with these requirements, shall be subject to removal by the City without notice. In addition to other remedies hereunder, the City shall have the right to recover from the owner or person placing such a sign the full cost of removal and disposal of the sign.
- G. Emergency Removal. In cases of emergency, the Zoning Administrator may cause the immediate removal of a dangerous or defective sign without notice.

5.7.12 NONCONFORMING SIGNS.

- A. Maintenance of Nonconforming Signs. A nonconforming sign and the supports thereof shall be maintained in good condition pursuant to this Section, this Ordinance, and any other applicable law and codes. Nothing in this Ordinance shall prevent the ordinary maintenance or repair of a nonconforming sign or replacement of a broken

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part of a nonconforming sign. Replacement of broken parts of a non-conforming sign is permitted so long as it does not change the dimensions, location, sign size, or the area of the sign face.

B. Alteration and Removal of Nonconforming Signs.

1. The following are to be removed or made to conform to this Ordinance within 90 days [of the date of adoption of this Ordinance]:
 - a. Nonconforming signs made of paper, cloth, or other non-durable material.
 - b. All temporary signs other than those permitted herein.
2. Nonconforming signs shall be removed and any subsequent modification or replacement, excluding maintenance pursuant to this Ordinance, shall conform to all requirements of this Ordinance:
 - a. When 50% or more of the market value of the sign has been destroyed or taken down; or,
 - b. When the use which the nonconforming sign is accessory to is vacant for 180 consecutive days.
3. A nonconforming sign shall not be altered, modified, or reconstructed other than to comply with this Ordinance except:
 - a. When the existing use has new ownership which results in a change in the name of the use or business on the property; and,
 - b. Pursuant to this sub-section, the nonconforming sign may be changed only by replacing a sign panel, replacing individual sign letter and logos within the same area of the sign face or by repainting a sign face.
4. A nonconforming sign shall immediately lose its legal nonconforming status and thereafter must be brought into conformance with this Ordinance or removed whenever alterations to a nonconforming sign changes the structure or framing or the nonconforming sign is relocated.

5.7.13 ADMINISTRATIVE PROVISIONS.

- A. Compliance with this Ordinance. A sign may be erected, placed, established, painted, or created in the City only after obtaining a Sign Permit from the Zoning Administrator except where specifically exempted by this Ordinance.
- B. Application, Administrative Review, and Approval of Signage Proposals.

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1. **Consideration by the Zoning Administrator.** The Zoning Administrator shall review a Sign Permit Application including the Sign Plan for compliance with the design criteria, construction standards, maintenance, any previously approved Comprehensive Sign Development Plan, and all other applicable regulations in this Ordinance.
2. **Consideration by the Design Review Board.**
 - a. **Signs in the CBD.** Any request for Comprehensive Sign Development Plans and Sign Permits, unless specifically exempted by this Ordinance or administrative review is permitted as authorized in Section 36.014 - Review Process of the Fort Thomas, KY Code of Ordinances, within the CBD shall be submitted to the Fort Thomas Design Review Board. The color, materials, support structure and appearance of signs in the CBD will be controlled by the Design Review Board through their regular review process.
 - b. **Signs within 100 feet of Residential Zoning District.** The intent of this sub-section is to allow for appropriate transitions from **non-residential uses** to residential zoning districts. Any sign proposed in a location that is within 100 feet of a residential zoning district shall be subject to review by the Design Review Board. The Design Review Board may restrict the maximum permitted size, height, and area of a sign by not more than 50%; may increase the minimum required set back of a sign by not more than 100%; may restrict the hours of illumination of a sign; and may restrict the materials used in construction or fabrication of a sign.
 - c. **Waivers.** **The Design Review Board may grant waivers to the standards and requirements in this Section 5.7 – Sign Regulations in accordance with Section 1.10 - Waivers, Modifications, & Equivalency.**
3. **Permits.**
 - a. If a sign requiring a permit under the provision of this Ordinance is to be placed, constructed, erected, or modified on a lot, the owner of the lot or sign shall secure a Sign Permit prior to the construction, placement, erection, or modification of the sign.
 - b. No sign shall be erected in the public right-of-way except in accordance with this Ordinance.
 - c. No sign permit of any kind shall be issued for an existing or proposed sign unless the sign is consistent with the requirements of this Ordinance (~~including those protecting existing signs~~) in every respect

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and with the Sign Plan in effect for that property.

- d. The following procedures shall govern the application for and issuance of all sign permits under this Ordinance and the submission and review of Sign Plans.
 - i. Sign Plan Required. No permit shall be issued for an individual sign requiring a permit until a Sign Plan for the lot on which the sign will be erected has been submitted to and approved by the Zoning Administrator as conforming with this Ordinance.
 - ii. Upon approval of a Sign Plan, the Zoning Administrator shall issue a Sign Permit.
 - iii. A Sign Permit shall expire one (1) year after the date of issuance if the sign has not been installed.
 - iv. The Zoning Administrator may approve a minor alteration to an existing Sign Permit without requiring the submittal, review, and approval of a new Sign Permit application.
 - e. Sign Plan Contents. For any lot on which the owner proposes to erect one (1) or more signs requiring a permit, the owner shall submit to the Zoning Administrator a Sign Plan containing the following:
 - i. An accurate site plan of the property, at such a scale as the Zoning Administrator may reasonably require, illustrating the location of all buildings, parking and circulation areas, and landscaped areas.
 - ii. The site sign plan shall include the location of each existing and proposed sign of any type, whether requiring a permit or not.
 - iii. Elevation drawings indicating the type of sign, locations, dimensions, total sign area, height, and number of signs.
 - iv. For signs requiring approval of the Design Review Board, additional information must be submitted including scaled drawings illustrating the design, typography, color, logos, placement on the building, lighting, sign materials and mounting hardware.
- C. Signs Allowed on Private Property without Permits. The following signs shall be permitted on private property without a Sign Permit. All such signs shall be located a minimum of five (5) feet from any property line and shall not exceed a height of six (6) feet. Shall be neither animated nor illuminated.
1. House or building identification signs, such as address and building markers,

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no more than two (2) square feet in area, and attached to the referenced building.

2. Any informational, directional, or historic marker or sign erected by a public agency is allowed. Identification signs containing the name of a community are allowed.
3. Building markers, memorial signs, or tablets when built into the walls of the building and constructed of bronze, brass, marble, stone, or other noncombustible materials.

D. Comprehensive Sign Development Plan.

1. For all newly constructed multi-tenant buildings and development projects with multiple buildings, a Comprehensive Sign Development Plan shall be required and submitted for review and approval by the Planning Commission during Development Plan Review.
2. For multi-tenant buildings and development projects with multiple buildings outside of the CBD, the Design Review Board may review and provide a recommendation to the Planning Commission.
3. Whenever the Planning Commission has approved a Comprehensive Sign Development Plan, the Zoning Administrator shall require that a subsequent tenant sign complies therewith.
4. Comprehensive Sign Development Plans shall include, but not be limited to, sign locations, dimensions, colors, letter styles, and sign types for all signs to be installed on the site including exempt signs.
5. Both the Planning Commission and the Design Review Board, as applicable, shall review the location, size, color, and style of each sign according to the criteria in sub-section 5.7.10 - Design Standards.

- E. Status of Prior Violations. A violation of the sign regulations in effect upon the adoption of this Section shall continue, unless in compliance with this Section, and penalties and enforcement remedies available to the City shall continue in full force and effect. The City may continue to pursue imposition and collection of penalties for the violations that occurred prior to the effective date of this Ordinance.

5.7.14 VIOLATIONS AND ENFORCEMENT.

- A. Violation. Any of the following shall be a violation of this Ordinance and shall be subject to the enforcement remedies and penalties provided by this Ordinance and by state law:
1. To install, create, erect, or maintain any sign in a way that is inconsistent with

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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.

Each day of a continued violation shall be considered a separate violation when applying the penalty portions of this Ordinance.

- B. Enforcement. 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:

1. Issuing a stop-work order for any and all work on any signs on the same lot;
2. Seeking an injunction or other order of restraint or abatement that requires the removal of the sign(s) or the correction of the non-conformity.
3. In the case of a sign that poses an immediate danger to the public health or safety, taking such measures as are available to the City under the applicable building codes or other ordinances.

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.

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ARTICLE VII - FORT THOMAS SUBDIVISION REGULATIONS

SECTION 7.0 – APPLICATION AND AUTHORITY OF REGULATIONS

Sub-sections

- 7.0.01 Short Title
- 7.0.02 Purpose and Authority
- 7.0.03 Schedule of Construction and Sale of Lots
- 7.0.04 Schedule of Improvements
- 7.0.05 General Responsibilities

SECTION 7.1 – SUBDIVISION DEFINITIONS

SECTION 7.2 – SUBDIVISION PROCEDURE

Sub-Sections

- 7.2.01 Preliminary Information
- 7.2.02 Submission of Preliminary Plat
- 7.2.03 Processing of the Preliminary Plat
- 7.2.04 Planning Commission Action
- 7.2.05 Submission and Processing of Preliminary Grading Plans
- 7.2.06 Improvement Drawings and Specifications
- 7.2.07 Processing of Improvement Drawings and Plans
- 7.2.08 Submission of the Final Plat
- 7.2.09 Processing of the Final Plat and Where Applicable, the Improvement Drawings and Specifications
- 7.2.10 Planning Commission Action
- 7.2.11 Effect of Approval
- 7.2.12 Disposition of Approved Final Plat
- 7.2.13 Recording
- 7.2.14 Submission of As-Built Improvement Drawings
- 7.2.15 Acceptance of Improvements for Maintenance and/or Lane Offered for Dedication
- 7.2.16 Submission and Processing of Identification Plats
- 7.2.17 Submission and Processing of Condominium Property Regime Plats
- 7.2.18 Revocation of Subdivision Plat

SECTION 7.3 – PRELIMINARY PLAT REQUIREMENTS

Sub-Sections

- 7.3.01 Specifications for and Content of the Preliminary Plat

SECTION 7.4 – FINAL PLAT REQUIREMENTS INCLUDING IMPROVEMENT DRAWINGS & SPECIFICATIONS

Sub-Sections

- 7.4.01 Specification for and Content of the Final Plat

SECTION 7.5 – DESIGN STANDARDS FOR THE LAYOUT OF SUBDIVISIONS

Sub-Sections

- 7.5.01 Streets
- 7.5.02 Intersections
- 7.5.03 Easements
- 7.5.04 Physical Considerations
- 7.5.05 Flood Hazard
- 7.5.06 Blocks
- 7.5.07 Lots
- 7.5.08 Pedestrian Ways
- 7.5.09 Public Sites

SECTION 7.6 – IMPROVEMENTS

Sub-Sections

- 7.6.01 Minimum Design Standards and Criteria for the Storm Drainage System

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- 7.6.02 Sanitary Sewer System
- 7.6.03 Water System
- 7.6.04 Streets
- 7.6.05 Driveway Approaches
- 7.6.06 Off-Street Parking Areas
- 7.6.07 Private Utilities
- 7.6.08 Street Signs
- 7.6.09 Streets Lights
- 7.6.10 Planting Screen or Fences
- 7.6.11 Monumentation
- 7.6.12 Plans for Future Expansion–Extra Size and Off-Site Improvements
- 7.6.13 Plans Required for the Control of Erosion and Sedimentation
- 7.6.14 Construction Inspections
- 7.6.15 Construction Responsibilities
- 7.6.16 Final Cleaning Up
- 7.6.17 Agreements and Guarantees

SECTION 7.7 – ADMINISTRATION AND ENFORCEMENT

Sub-Sections

- 7.7.01 Administration
- 7.7.02 Fees for Plats and Plans
- 7.7.03 Payment of Fees
- 7.7.04 Recordation Fees in County Clerk’s Office
- 7.7.05 Modifications
- 7.7.06 Enforcement
- 7.7.07 Appeals from Planning Commission’s Duly Authorized Representative

APPENDICES

- APPENDIX “A” – PAVEMENT DESIGN
- APPENDIX “B” – GEOTECHNICAL EXPLORATION AND EARTHWORK CONSTRUCTION REQUIREMENTS
- APPENDIX “C” – STANDARD CONSTRUCTION DETAILS FOR STREETS, SIDEWALKS, AND DRIVEWAYS
- APPENDIX “E” – CERTIFICATES FOR FINAL PLATS
- APPENDIX “F” – CERTIFICATES FOR IDENTIFICATION PLATS

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SECTION 7.0 Application and Authority of Regulations

7.0.01	Short Title.	7.0.04	Schedule of Improvements.
7.0.02	Purpose and Authority.	7.0.05	General Responsibilities.
7.0.03	Schedule of Construction & Sale of Lots.		

Regulations for establishing subdivision procedures for the submission and approval of the Identification, Preliminary, and Final Plats and recording of Final Plats; design standards and principles for the layout of subdivision and for the surveying and platting requirements thereof; requiring the installation of certain improvements and providing for the necessary construction agreements and guarantees therein; providing for certain Preliminary, Identification, and Final Plat requirements; defining certain terms used herein; and, providing for the method of administration and enforcement.

7.0.01 SHORT TITLE.

Those regulations shall be known and may be cited as the “Subdivision Regulations” of the City of Fort Thomas, State of Kentucky.

7.0.02 PURPOSE AND AUTHORITY.

- A. **PURPOSE:** These Subdivision Regulations are herein set forth, have been prepared in accordance with the adopted Comprehensive Plan for Fort Thomas, to promote the public health, safety, morals and general welfare of the City; to provide for the proper arrangement of streets in relation to existing or proposed streets; to provide for adequate and convenient open spaces for vehicular and pedestrian traffic, utilities, access of firefighting apparatus, recreation, light and air, and the avoidance of congestion of population, and to facilitate the orderly and efficient layout and appropriate use of the land. In addition, these regulations also provide for the accurate surveying of land, preparing and recording of plats and the equitable handling of all subdivision plats by providing uniform procedures and standards for observance by both the approving authority and subdividers.
- B. **AUTHORITY:** These regulations are adopted in accordance with the Kentucky Revised Statutes – Chapter 100.

7.0.03 SCHEDULE OF CONSTRUCTION AND SALE OF LOTS.

No lot, tract, or parcel in a subdivision shall be sold or transferred unless a Final or Identification Plat has been approved by the Planning Commission and recorded with the Campbell County Clerk.

7.0.04 SCHEDULE OF IMPROVEMENTS.

The subdivider of any tract or parcel of land located within Fort Thomas shall not proceed with the construction of any improvements until they have obtained: (1) approval or conditional approval of the Preliminary Plat; (2) approval or approval subject to conditions, of the improvement drawings and specification; or (3) Final Plat approval. Preliminary grading of the site may proceed following approval or conditional approval of the preliminary plat, providing that plans for erosion and sedimentation are submitted to the City Engineer and approved or approved subject to conditions.

7.0.05 GENERAL RESPONSIBILITIES.

- A. **Subdivider.** The subdivider shall: use a land surveyor and engineer, as defined herein, to prepare plats and plans consistent with the design standards; accomplish improvements consistent with the improvement requirements; and submit said plats and plans in accordance with these Subdivision regulations and this Ordinance.

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- B. Planning Commission. The Planning Commission, or its support staff, is charged with the duty of making investigations and reports on the design and improvements of proposed subdivisions, and requiring conformance of such subdivisions with the Kentucky Revised Statutes, Chapter 100, and these Subdivision regulations and this Ordinance.

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SECTION 7.1 Subdivision Definitions

7.1.01 Words and Phrases.

7.1.02 Definitions.

7.1.01 WORDS AND PHRASES.

For the purpose of these regulations, certain terms, phrases, words, and their derivatives, are herewith defined as follows: Words used in the future tense include the present; Words used in the present tense include the future; Words used in the singular form include the plural; Words used in the plural form include the singular; Words used in the masculine include the feminine; Words used in the feminine include the masculine; The words "shall" and "must" are mandatory; The words "may" and "should" are permissive.

7.1.02 DEFINITIONS.

- A. Words used in these Subdivision Regulations are used in their ordinary English usage.
- B. The following shall serve as definitions for terms used in this Article VII. Other terms are defined in Section 1.1, Definitions.

ACCESS POINT: An access point is:

1. A driveway, a local street, a collector street, or sub collector street, intersecting an arterial street;
2. A driveway or a local street intersecting a collector street or sub collector street; or
3. A driveway or a local street intersecting a local street.

ALLEY: Public right-of-way which normally affords a secondary means of access to abutting property.

BLOCK: A parcel of land within a subdivision that is bounded by streets or bounded by streets and the exterior boundary of the subdivision. For this definition, an alley is not considered a street, but part of the block.

BLOCK LENGTH: The distance between intersections of through streets, such distance being measured parallel to the longest street bounding the block and from right of way line to right of way line of the two intersecting streets.

CERTIFICATE OF OCCUPANCY: A certificate which must be obtained prior to occupancy of any premises.

CITY INSPECTOR: A person employed by the legislative body or the Planning Commission, whose responsibility it is to inspect items required by these regulations.

COMMISSION (OR PLANNING COMMISSION, OR PLANNING AND ZONING COMMISSION): The Fort Thomas Planning and Zoning Commission, Commonwealth of Kentucky.

DEVELOPER: **In the context of these Subdivision Regulations, Developer** is synonymous with term "subdivider".

DULY AUTHORIZED REPRESENTATIVE: The Fort Thomas City Staff shall serve as the duly authorized representative for the Fort Thomas Planning and Zoning Commission and shall be authorized to check, review, and approve, where provided in these regulations, all submissions regarding their conformance to these regulations.

FINAL PLAT: A subdivision plat proposed in accordance with the provisions herein in which said plat is designated to be placed on record with the County Clerk after approval by the Planning Commission.

FLOOD: A general and temporary condition of partial or complete inundation of normally dry land areas from: (a) the overflow of inland waters; (b) the unusual and rapid accumulation of runoff of surface waters from any source;

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and (c) mudslides (i.e., mudflows) which are caused or precipitated by accumulations of water on or under the ground.

FLOOD - 100 YEAR FREQUENCY: The highest level of flooding that, on the average, is likely to occur once every 100 years or has a 1% chance of occurring in any given year.

FLOOD PLAIN OR FLOOD PRONE AREA: Any normally dry land area that is susceptible to being inundated by water from any source.

FLOODWAY: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation more than one foot at any point.

FLOODWAY ENCROACHMENT LINES: The lines marking the limits of floodways on the official zoning map.

FRONTAGE LOT: All the property abutting on one side of the right-of-way of a street, measured along the right-of-way line of the street between the intersecting lot lines. In no case shall the line along an alley be considered as acceptable for frontage.

IDENTIFICATION PLAT: An Identification Plat is a drawing representing a proposed Minor Subdivision of land that does not contain public Improvements. See Subdivisions, Minor.

IMPROVEMENT PLANS: The engineering plans showing types of materials and construction details for the physical structures and facilities to be installed in, or in conjunction with, the subdivision.

OFFICIAL MAP: An adopted official map of the City of Fort Thomas, as provided for in the Kentucky Revised Statutes, Chapter 100.

PLAT, FINAL: See Final Plat.

PLAT, IDENTIFICATION: See Identification Plat.

PLAT, PRELIMINARY: See Preliminary Plat.

PRELIMINARY PLAT: A tentative plat of a proposed subdivision prepared in accordance with the provisions herein for presentation to the Planning Commission for its action.

RESUBDIVISION: A subdivision which is actually a resubdivision of a previously recorded plat, representing a revision of the old lots, but where no new improvements are to be constructed or extended.

RIGHT-OF-WAY: A general term denoting land, property, or interest therein, usually in a strip and dedicated for or devoted to such uses as a street, alley, or railroad.

STREETS: Any vehicular ways except alleys.

1. All streets will be within dedicated rights-of-way which have been properly processed, approved and recorded.
2. The following shall be used to classify streets:
 - a. **STREET, PRIVATE:** A paved private roadway which affords access to abutting property for private users of such property, and that has not been accepted for ownership by the City. As such, the property owners of mutual benefit are responsible for maintenance of said street. For the purposes of density calculations, a private street shall constitute the areas of its paved surface and sidewalks or the private right-of-way if designated on the recorded plat.
 - b. **STREET, PUBLIC:** A public roadway, constructed within the boundaries of an officially dedicated public right-of-way, which affords principal means of access to abutting

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- property. For purposes of density calculations, a public street shall constitute all of the area within the public right-of-way.
- c. STREET CUL-DE-SAC OR COURT: A street having an outlet at one end only and having the other end permanently closed with facilities permitting vehicles to turn around.
 - d. STREET, DEAD-END: A street having an outlet at one end only and terminated at or partial control of access and generally with grade separations at major intersections.
 - e. STREET, FRONTAGE ROAD (SERVICE OR ACCESS ROAD): A street adjacent to a freeway, expressway, or arterial street separated therefrom by a dividing strip and providing access to abutting properties.

SUBDIVIDER: Any individual, firm, association, syndicate, co-partnership, corporation, trust, governmental agency or any other legal entity commencing proceedings under these regulations, to create a subdivision of land as defined herein for himself or for another.

SUBDIVISION: The division of a parcel of land into two or more lots or parcels for the purpose, whether immediate or future, of sale, lease, or building development, or if a new street is involved, any division of a parcel of land; providing that a division of land for agricultural uses into lots or parcels of five acres or more and not involving a new street shall not be deemed a subdivision. The term includes Resubdivision and when appropriate to the context, shall relate to the process of subdivision or to the land subdivided. Any division or redivision of land into Parcels of less than one acre occurring within 12 months following a division of the same land shall be deemed a Subdivision within the meaning of these regulations.

SUBDIVISION, MAJOR: A Major Subdivision is a proposed Subdivision of land that contains ~~public~~ infrastructure improvements or the construction of a Public or Private Street.

SUBDIVISION, MINOR: A Minor Subdivision is a proposed Subdivision of land that does not contain ~~public~~ infrastructure improvements **or the construction of a Public or Private Street.**

SURVEYOR: A qualified registered-land surveyor in good standing with the Kentucky Board of Registration.

TRACT: A parcel of land identified by letter or number, the boundaries of which are shown on the recorded subdivision plat.

Significant changes from the Phase 2 draft are noted: Substantive Additions and ~~Deletions~~

SECTION 7.2
Subdivision Procedure

<p>7.2.01 Preliminary Information.</p> <p>7.2.02 Submission of Preliminary Plat.</p> <p>7.2.03 Processing of Preliminary Plat.</p> <p>7.2.04 Planning Commission Action.</p> <p>7.2.05 Submission & Processing of Preliminary Grading Plans.</p> <p>7.2.06 Submission of Improvement Drawings & Specifications.</p> <p>7.2.07 Processing of Improvement Drawings & Plans.</p> <p>7.2.08 Submission of the Final Plat.</p> <p>7.2.09 Processing of the Final Plat & Where Applicable, Improvement Drawings & Specifications.</p>	<p>7.2.10 Planning Commission Action.</p> <p>7.2.11 Effect of Approval.</p> <p>7.2.12 Disposition of Approved Final Plat.</p> <p>7.2.13 Recording.</p> <p>7.2.14 Submission of As-Built Improvement Drawings.</p> <p>7.2.15 Acceptance of Improvement For Maintenance and/or Land Offered for Dedications.</p> <p>7.2.16 Submission & Processing of Identification Plats.</p> <p>7.2.17 Submission & Processing of Condominium Property Regime Plats.</p> <p>7.2.18 Revocation of Subdivision Plat.</p>
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Any person desiring to subdivide any lot, tract, or parcel of land within Fort Thomas, shall comply with the procedures established in this Article VII and other applicable Sections of these Subdivision Regulations and this Ordinance and in the sequence specified.

7.2.01 PRELIMINARY INFORMATION.

- A. Pre-application Meeting. Attendance at a pre-application meeting(s) between City staff and the subdivider is encouraged prior to submission of an application for ~~Major~~ all **proposed** subdivisions. The purpose of this meeting is to:
 1. Acquaint the subdivider with the standards and requirements of these regulations;
 2. Review with the subdivider the required procedures and application requirements; and,
 3. Allow City staff and other regulatory authorities to identify problematic components of the project and to suggest improvements that will speed the approval process and avoid future costly plan revisions.
- B. Application for Preliminary Plat Approval. An application (provided by the Commission) shall be submitted. At the time of a complete application which includes the elements required by these Subdivision Regulations and this Ordinance is accepted, the City official, shall indicate on the application the date of submission and signature of the City official.
- C. Preliminary Plat Fees. Preliminary plat fees shall be submitted in accordance with the-adopted fee schedule for the City of Fort Thomas, KY.

7.2.02 SUBMISSION OF PRELIMINARY PLAT.

The subdivider shall file, with the Zoning Administrator, five (5) copies or digital files acceptable to the Zoning Administrator of the Preliminary Plat, prepared in accordance with the requirements of Section 7.3, at least twenty-one (21) consecutive days prior to the next regular meeting of the Planning Commission. At this time, the following material shall also be filed where applicable.

- A. Individual On-site Disposal System Permit. Where individual on site disposal systems have been approved a copy of the permit to use onsite disposal systems, approved by the Northern Kentucky Health Department shall be required.

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- B. Erosion & Sedimentation Control Plans. In the event the subdivider elects to proceed with grading, following preliminary plat approval, or conditional approval, but prior to the submission of improvement drawings and specifications, two (2) copies of plans for the grading and control of erosion and sedimentation (as per Section 7.12) shall also be submitted to the Planning Commission for review and approval.

7.2.03 PROCESSING OF PRELIMINARY PLAT.

The applicant shall be required to notify the local and state governmental agencies, and other organizations of the public meeting and shall submit to them copies of the proposed preliminary plat.

The local and state governmental agencies and other affected organizations shall forward their recommendations and/or comments, if any, to the Planning Commission prior to or at the meeting of the Planning Commission at which the issue will be heard.

The preliminary plat, the application, and all other required information shall be checked by the Planning Commission and the Zoning Administrator for compliance with:

- A. The requirements of the preliminary plat as per Section 7.3;
- B. The requirements of the applicable regulations in this Ordinance; and,
- C. Any other pertinent sections of applicable regulations.

7.2.04 PLANNING COMMISSION ACTION.

The City staff shall review the Preliminary Plat, including determination of its conformance to the requirements of these Subdivision Regulations and this Ordinance, and shall consider the recommendations and/or comments of all applicable state governmental agencies and other applicable organizations, and shall forward such recommendations and/or comments to the Planning Commission along with its recommendations and/or comments. The Planning Commission shall then review the recommendations and take one of the following actions:

- A. Approve the plat;
- B. Approve the plat, subject to conditions; or,
- C. Disapprove the plat;

Overview of Subdivision Review Process (Except Minor Subdivisions that may use an Identification Plat)	
STEP	ACTION
1	Pre-Application Meeting with City Staff Optional
2	PRELIMINARY PLAT REVIEW AND ACTION BY: <u>PLANNING COMMISSION</u>
3	IMPROVEMENT PLANS REVIEW AND ACTION BY (If Applicable): <u>CITY ENGINEER</u>
4	IMPROVEMENTS CONSTRUCTED OR PERFORMANCE GUARANTEE PROVIDED - INSPECTION AND ACTION BY: <u>CITY ENGINEER</u>
5	FINAL PLAT REVIEW AND ACTION BY: <u>PLANNING COMMISSION</u>
6	RECORDATION BY: <u>CAMPBELL COUNTY, KY</u>

*Table 7.2-1
Overview of Subdivision Review Process*

within two consecutive regularly scheduled meetings from date of official filing, unless such time is extended by agreement between the Planning Commission and the subdivider. Approval of the preliminary plat by the Commission does not constitute final approval of the subdivision, but is merely an authorization to proceed with the preparation of the improvement drawings and specifications and the Final Plat.

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In the event of conditional approval or disapproval of the preliminary plat, a statement, in writing, by the Planning Commission, setting forth the conditions of approval, or reasons for disapproval, shall be submitted to the subdivider.

Approval or conditional approval of a preliminary plat shall be valid and not subject to additional requirements for a period of twelve (12) consecutive calendar months, except that if a portion of an approved preliminary plat is approved or conditionally approved as a Final Plat, said approval or conditional approval of the remainder of the preliminary plat shall be valid for eighteen (18) consecutive calendar months after the date of approval or conditional approval of said Final Plat (as provided for in sub-section 7.2.08). The Planning Commission may, upon receipt of a request by the subdivider, grant an extension not to exceed one (1) year to this twelve (12) month period if prevailing conditions have not changed appreciably.

7.2.05 SUBMISSION AND PROCESSING OF PRELIMINARY GRADING PLANS.

Following approval or conditional approval of the preliminary plat, the subdivider may elect to proceed with preliminary grading of the area to be subdivided, provided that grading plans with provisions for control of erosion and sedimentation (as per sub-section 7.6.13) are submitted to the City Staff who shall check the proposed grading and erosion and sedimentation control plans to ensure their conformance with the approved or conditionally approved preliminary plat and that they meet the requirements established in Section 7.6 – Improvements and other pertinent sections of these Subdivision Regulations and this Ordinance. Following this review, the staff shall take one of the following actions:

- A. Approve the erosion and sedimentation plans for preliminary grading;
- B. Approve the erosion and sedimentation plans for preliminary grading, subject to conditions; or,
- C. Disapprove the erosion and sedimentation plans for preliminary grading.

In the event of conditional approval or disapproval, a statement, in writing, setting forth the conditions of approval, or the reasons for disapproval, shall be submitted to the subdivider.

7.2.06 SUBMISSION OF IMPROVEMENT DRAWINGS AND SPECIFICATIONS.

Following approval or conditional approval of the Preliminary Plat by the Planning Commission, the subdivider shall submit the improvement drawings and specifications to the City staff for review and approval, prior to the submission of the Final Plat. It shall also be the responsibility of the subdivider to submit copies of the improvement drawings and specifications to the applicable local and state governmental agencies and other organizations affected by the subdivision. Said improvement drawings and specifications shall include at least the area intended for processing as a Final Plat. At this time, the subdivider shall submit the following to the City staff.

- A. Three (3) copies or digital files acceptable to the Zoning Administrator of the Sanitary Sewerage & Storm System Plans and Profiles.
- B. Three (3) copies or digital files acceptable to the Zoning Administrator of the Water System Plans.
- C. Three (3) copies or digital files acceptable to the Zoning Administrator of the Street Plans and Profiles, including typical cross sections.
- D. Three (3) copies or digital files acceptable to the Zoning Administrator of the Drainage Report, including computations.
- E. Three (3) copies or digital files acceptable to the Zoning Administrator of plans for grading and control of erosion and sedimentation if not submitted previously for processing.
- F. The required fees the adopted Fee Schedule for the City of Fort Thomas, KY.

Significant changes from the Phase 2 draft are noted: Substantive Additions and ~~Deletions~~

7.2.07 PROCESSING OF IMPROVEMENT DRAWINGS AND PLANS.

- A. The City staff shall check the improvement drawings and plans to ensure they are in conformance with the approved or conditionally approved Preliminary Plat and that they meet the requirements established in Section 7.6 and other pertinent sections of these Subdivision Regulations and this Ordinance. The staff shall also contact the applicable local and state governmental agencies and other organizations for their comments as they pertain to the proposed improvement drawings and specifications. Following these reviews, the staff shall take one of the following actions:
1. Approve the improvement drawings and specifications; (2)
 2. Approve the improvement drawings and specifications, subject to conditions; or,
 3. Disapprove the improvement drawings and specifications.
- B. In the event of conditional approval or disapproval, a statement, in writing, by the staff, setting forth the reasons for conditional approval or disapproval, shall be submitted to the subdivider.

7.2.08 SUBMISSION OF THE FINAL PLAT.

- A. General. The Final Plat shall only be submitted after the Preliminary Plat has been approved. The Final Plat shall conform to the approved or conditionally approved Preliminary Plat and shall include all changes, additions, deletions, or approvals as may be required on conditional approval by the Commission, and shall be prepared in accordance with Section 7.4 and other applicable sections of these Subdivision regulations and this Ordinance.
- B. Preparation. The subdivider may cause, within twenty-four (24) consecutive calendar months after the approval or conditional approval of the preliminary plat, the subdivision, or any part thereof, to be surveyed and a Final Plat thereof to be prepared. The Final Plat shall contain only that portion of the approved or conditionally approved Preliminary Plat which the subdivider wishes to have approved, recorded and developed at that time. Final Plats which are a portion of the approved or conditionally approved preliminary plat shall be named and listed as "Phase No. (Name of Subdivision)". Final Plats which are resubdivisions of approved and recorded Final Plats shall be labeled as "RESUBDIVISION OF (Appropriate Listing Title)". The subdivider shall insure that the Final Plat is prepared under the supervision of a registered land surveyor.
- C. Filing. The subdivider shall submit, to the City's staff, three (3) copies of the Final Plat drawing prepared in accordance with Section 7.4 of these Subdivision regulations. As this time, the following material shall also be filed with the staff, unless otherwise noted:
1. Application for Final Plat Approval. An application (provided by the Commission and available in the Office of the Zoning Administrator and on the [City's website](#)) shall be submitted. At the time of submission, the staff, shall indicate, on the application, the date of submission and signature of the City official.
 2. Traverse Sheets. One (1) copy of the traverse calculations. The minimum traverse calculations required shall include a closed traverse of the subdivision boundaries.
 3. Improvement Drawings and Specifications. Improvement drawings and specifications will be required, if not submitted previously for processing.
 - a. Three (3) copies or digital files acceptable to the Zoning Administrator of the Sanitary Sewerage & Storm Systems Plans and Profiles.
 - b. Three (3) copies or digital files acceptable to the Zoning Administrator of the Water System Plans.

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- c. Three (3) copies or digital files acceptable to the Zoning Administrator of the Street Plans and Profiles, including typical cross sections.
4. Drainage Plans Including Computations and Plans for Control of Erosion and Sedimentation: This report will be required, if not submitted previously for processing, as per Sections 7.02.05 & 7.02.06.
 - a. Three (3) copies of Drainage Report, including computations.
 - b. Three (3) copies of plans for control of erosion and sedimentation.
5. As-Built Improvement Drawings. Where the improvement drawings and specifications were previously submitted and approved prior to the submission of the Final Plat, as per sub-sections 7.02.06 and 7.02.07, ~~and where improvements were constructed differently from the originally approved improvement drawings,~~ the subdivider shall submit three (3) copies of As-Built Improvement Drawings for the sanitary sewerage and storm system and water system.
6. Final Plat Fees. Final Plat fees shall be submitted in accordance with the adopted Fee Schedule for the City of Fort Thomas, KY.
7. Guarantee: A guarantee (if applicable) per sub-section 7.6.17 of these regulations.
8. Additional Information. Any additional information listed on the application for Final Plat approval or requested by City staff.

7.2.09 PROCESSING OF THE FINAL PLAT AND WHERE APPLICABLE, THE IMPROVEMENT DRAWINGS AND SPECIFICATIONS.

The City's staff shall check the Final Plat as to conformity with the approved, or conditionally approved, Preliminary Plat and all other pertinent aspects as required in Section 7.5 and other applicable sections of these Subdivision Regulations. Where applicable, the staff shall also check the improvement drawings and specifications, drainage plans and plans for erosion and sedimentation control, to ensure that they are in conformity with the Final Plat and that they meet the requirements established in Section 7.6 and other pertinent sections of these Subdivision regulations and this Ordinance. In the event the improvement drawings and specifications were previously submitted and approved, prior to the submission of the Final Plat, the staff shall review the as-built drawings for their conformity to the Final Plat.

7.2.10 PLANNING COMMISSION ACTION.

Following the review of the Final Plat and when applicable the improvement drawing and specifications, the staff and the Planning Commission shall take one of the following final actions:

- A. Final Approval. Final approval of a plat shall be given in one of two ways:
 1. After Construction of Improvements. After the subdivider has obtained approval or conditional approval, as indicated in sub-section 7.2.07 and has installed all required improvements in compliance with these regulations and has provided as-built drawings, ~~(if such improvements were constructed differently than from the originally approved improvement drawings),~~ the Planning Commission shall then give final approval. The original drawing of the Final Plat shall then be signed and dated by the chair of the Planning Commission.
 2. Before Construction of Improvements. The City's staff may give final approval before all required improvements are installed, provided that a construction agreement and a guarantee are provided for the purpose of assuring installation of such improvements. The amount of the guarantee shall be based on an estimate made by subdivider and approved by the City Engineer (see sub-section 7.6.17). Upon determination that all requirements of these Subdivision Regulations and this Ordinance have been met, the Planning Commission shall give Final Plat approval. The original drawing of the Final Plat shall then be signed and dated by the chair of the

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Planning Commission. The guarantee shall not be returned to the subdivider until all improvements are installed, and as-built drawings have been provided, according to these regulations.

- B. Disapproval. Should the Planning Commission decide to disapprove the Final Plat, written notice of such action, including the reasons for disapproval shall be transmitted to the subdivider by the Zoning Administrator. The action shall be entered on the official records of the Planning Commission.

7.2.11 EFFECT OF APPROVAL.

After the Final Plat has been approved by the Planning Commission, and signed by the chair of the Planning Commission, it shall be recorded as specified in sub-section 7.2.13 of these regulations.

7.2.12 DISPOSITION OF APPROVED FINAL PLAT.

After approval of the Final Plat by the Planning Commission, the Zoning Administrator shall cause to have made at the expense of the subdivider, three (3) copies of the Final Plat to be retained by the Zoning Administrator one copy of which shall be a reproducible mylar to be retained by the City.

7.2.13 RECORDING.

After approval of the Final Plat, the original drawing of the approved Final Plat shall be filed in the County Clerk's office, after which lots may be sold, leased, or transferred. A certificate of occupancy, however, shall not be issued until all required improvements have been installed or a guarantee is executed as per sub-section 7.6.17. In the case where sidewalk improvements have not been completed, a conditional certificate of occupancy shall be given, provided either a guarantee is executed as per sub-section 7.6.17 of these regulations, or a time period for completion is established, by contract with the applicable legislative body not to exceed six (6) months, signed by both the builder and owner of the premises for which the improvements will serve.

7.2.14 SUBMISSION OF AS-BUILT IMPROVEMENT DRAWINGS.

In the case where the Planning Commission has given Final Plat approval before construction of improvements and after all water, sewer, and street improvements have been installed, in accordance with these regulations, the subdivider shall submit to the Zoning Administrator one (1) copy each of the as-built drawings for water, sanitary and storm sewer improvements, for record purposes.

7.2.15 ACCEPTANCE OF IMPROVEMENTS FOR MAINTENANCE AND/OR LAND OFFERED FOR DEDICATIONS.

- A. After all improvements have been installed in accordance with the approved improvement drawings and specifications and the as-built drawings have been submitted, and the City Engineer and/or Building Inspector has indicated, that the inspection was made and approved the applicable legislative body or other applicable public body should accept the improvements for maintenance (or in the case of lands to be dedicated may accept such lands in fee simple, by easement, or other such instrument approved by the applicable governmental body) and then transmit a copy of the instrument of acceptance to the Zoning Administrator.
- B. **Public street and utility acceptance and maintenance usually proceeds as follows:**
- All public improvements (e.g. street, storm sewer, sanitary sewer and water, et al) shall be inspected during the course of construction by the appropriate Inspector in order to demonstrate compliance with approved plats, plans and construction specifications.**
 - The streets in a given section shall be accepted for maintenance and dedicated to the appropriate legislative body after a section is completed, provided they, along with the storm sewers, pass the final inspections. This acceptance shall occur forty-five (45) days from the recording of the final plat if no guarantee is posted.**
 - Items requiring repair or completion such as sidewalks, street lights, final grading, crack filling, etc. can be done after the final plat is approved, provided a performance guarantee is posted pursuant to sub-section 7.6.17 - Agreements & Guarantees.**

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4. Sidewalks fronting all lots determined to not be buildable nor readily buildable shall be completed prior to acceptance of the street section or a guarantee posted.
5. If, after one (1) year after acceptance of a street, items against which the guarantee was posted have not been completed, the developer will be contacted to complete such items within ninety (90) days. Should the developer not complete said items within ninety (90) days, the City shall contract to have items completed and charged against the posted guarantee. However, if during the one (1) year plus the ninety-day period mentioned above, the City determines any of the items covered by the bond or pledge to be required immediately, due to safety or protection of property under emergency situations, said emergency repairs/improvements shall be completed at once at the expense of the developer or his bond/pledge. A one (1) year renewal of the bond or pledge is possible by agreement between the City and the developer.
6. A Final Plat shall be signed by the chair of the Planning Commission, after approval by the Planning Commission, and/or the appropriate public utility upon recommendation from officials conducting such inspection of a public improvement. If a guarantee is posted and public improvements are completed and inspected, the appropriate official representing the City shall release the bond or guarantee and amend the Final Plat, if necessary.

7.2.16 SUBMISSION AND PROCESSING OF IDENTIFICATION PLATS.

- A. General. It is the purpose of the Identification Plat to provide a process whereby **certain Minor Subdivisions** not more than two lots, including the residual property, may be subdivided from land held in large tracts, without having to be processed through the Preliminary and Final Plat procedures, as established in these Subdivision Regulations. Said identification plat process is also intended to provide for certain lot line adjustments that may be required (e.g., such as side and rear lot lines) when involving no more than three contiguous lots. In order to be processed as an identification plat, the following requirements shall be met in addition to other requirements of these Subdivision Regulations:
1. The parcel to be subdivided will not involve the construction of any public water lines, storm and sanitary sewers, and streets, etc.
 2. Not more than two lots, including the residual parcel, may be subdivided ~~from the original tract of land existing prior to 1966.~~
 3. Lot lines that are to be adjusted in already recorded subdivisions shall not involve more than three contiguous lots. If more than three lots are involved then said lots shall be handled as a resubdivision and processed according to the applicable requirements of the Preliminary and Final Plats.
 4. Except as noted in item (3) above, the identification plat process shall not be permitted in areas already approved or conditionally approved as a preliminary plat.
- Minor Subdivisions that do not fulfill the requirements for an Identification Plat shall be processed, considered, and acted upon using the procedures for Preliminary and Final Plats.**
- B. Submission of the Identification Plat. The subdivider shall submit to the City staff, the original and three copies of the identification plat at a size measuring 8-1/2 x 11" or 8-1/2 x 14" (intended for attachment to a deed) and prepared in accordance with the applicable requirements of Section 7.4 and other pertinent sections of these regulations. In addition, the Identification Plat shall also contain the following information:

~~A statement by a registered land surveyor preparing the plat that the parcel represents the first or second parcel subdivided from the original tract existing prior to 1966.~~

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~~In the case of the second lot to be subdivided, sufficient information shall be included to locate the parcel being subdivided in relation to the previous subdivided parcel, as well as its location within the original tract existing prior to 1966.~~

1. A vicinity map drawn at a scale of one (1) inch to two thousand (2,000) feet or greater (e.g., one (1) inch to one thousand (1,000) feet on the plat showing, within one half (1/2) mile of the proposed subdivision, existing roads and other significant features (e.g., streams, lakes, etc.)
2. **Certifications required in Appendix E.**
3. **Sufficient information shall be included to locate the Parcel being subdivided in relation to previously subdivided Parcels, as well as to their location within the original tract of land.**

At this time the following information shall also be filed with the staff:

1. Application for Identification Plat Approval. An application (provided by the Commission and available in the Office of the Zoning Administrator and on the [City's website](#)) shall be submitted at the time of submission, the staff, shall indicate on the application the date of submission and signature of the City official.
 2. Traverse Sheets. One copy of the traverse calculations. The minimum traverse calculations required shall include a closed traverse of the subdivision boundaries as per Section 5.0.B.
 3. Identification Plat Fees. Plat fees shall be submitted in accordance with the adopted Fee Schedule of the City of Fort Thomas, KY.
- C. Processing of Identification Plat. The Planning Commission shall review the Identification Plat as per the applicable requirements of Section 7.4, the requirements of this section, and other pertinent sections of these Subdivision Regulations and this Ordinance. Following the review, the Planning Commission shall take one of the following actions: (1) approve the Identification Plat; (2) or disapprove the Identification Plat. Should the Planning Commission disapprove the identification plat, written notice of such action, including the reasons for disapproval shall be transmitted to the subdivider by the Planning Commission. The action shall be entered in the official records of the Planning Commission. If approved and signed by the chair of the Planning Commission, the original Identification Plat shall be recorded in the County Clerk's office per the County's requirements.

7.2.17 SUBMISSION AND PROCESSING OF CONDOMINIUM PROPERTY REGIME PLATS.

- A. General. In accord with the Horizontal Property Law (KRS 381.805-381. 910), whenever a developer, the sole owner, or the co-owners of a building or buildings constructed or to be constructed, expressly declare, through the recordation of a master deed or lease, a condominium property regime may be established. Once the property is submitted to the condominium property regime, a unit in the building(s) may be individually conveyed and may be the subject of ownership possession or sale and other acts as if it were sole and entirely independent of the other units in the building(s) of which they form a part and the corresponding individual titles and interest shall be recordable. It is the purpose of the condominium property regime plat to provide a process whereby two or more apartments, townhouses, rooms, office spaces, or other units in existing or proposed buildings or structures may be subdivided and offered for sale in accordance with requirements as established by these regulations. In order to be processed as a condominium property regime plat, the following requirements must be met in addition to other requirements of these regulations and applicable sections of KRS 381.805 to 381.910:
1. The condominium project will not involve the construction of any public streets, water lines, storm and sanitary sewers that require review and processing through Preliminary and Final Plat procedures.

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2. The condominium project will not involve the subdivision and conveyance of land with any unit within the condominium property regime for which other processes are available.
- B. Submission of Condominium Property Regime Plats. The developer shall submit to the Planning Commission, three (3) copies of the Final Plat drawing prepared in accordance with Section 7.4 of these regulations. In addition to other requirements of these regulations, the Final Plat shall show the location of the building or buildings proposed for the condominium project. Simultaneously, with the submission of the Final Plat, there shall be attached three (3) copies of a set of floor plans of the building or buildings in accord with KRS 381.835 bearing the certification of a registered architect or professional engineer.

At this time, the following information shall be filed with the City staff:

1. Application for Condominium Property Regime Plat Approval. An application form provided by the Commission, shall be submitted at the time of filing for Condominium Property Regime Plat approval.
 2. Traverse Sheets. One (1) copy of the traverse calculations. The minimum traverse calculations required shall include a closed traverse of the property (as per Section 7.4.01 B.).
 3. Master Deed or Lease. One (1) copy of the master deed or lease, in accord with the requirements of KRS 381.835 to 381.837.
 4. Condominium Property Regime Plat Fees. Plat fees shall be submitted the same as for Final Plats.
- C. Processing of Condominium Property Regime Plats. The City staff shall review the condominium property regime plats for conformance to the applicable requirements of Section 7.4 of these regulations and KRS 381.805 to 381.910. Following the review, the staff shall forward its recommendation and/or comments to the Planning Commission. The Planning Commission shall then review the recommendations of the staff and shall take one of the following actions: (1) approve the condominium property regime plats; (2) or disapprove the condominium property regime plats. Should the Planning Commission disapprove the plats, written notice of such action, including the reasons for disapproval, shall be transmitted to the subdivider by the Zoning Administrator. The action shall be entered in the official records of the Planning Commission and signed by the chair of the Planning Commission. If approved and signed by the chair of the Planning Commission, the original condominium property regime plats shall be recorded simultaneously with the master deed or lease in the County Clerk's office per the County's requirements.

7.2.18 REVOCATION OF SUBDIVISION PLAT.

Revocation of a previously approved Subdivision Plat shall be permitted only in accordance with KRS 100.285.

Significant changes from the Phase 2 draft are noted: Substantive Additions and ~~Deletions~~

SECTION 7.3 Preliminary Plat Requirements

7.3.01 Specifications for & Content of the Preliminary Plat.

7.3.01 SPECIFICATIONS FOR AND CONTENT OF THE PRELIMINARY PLAT.

The subdivider shall file with the City staff, three (3) copies or digital files acceptable to the Zoning Administrator of the preliminary plat for review. Such plat shall be drawn at a scale of one (1) inch to one hundred (100) feet or greater (e.g., one (1) inch to fifty (50) feet).

- A. The following information shall be clearly shown or accompany the preliminary plat:
1. Proposed name of subdivision, which shall not duplicate or too closely approximate, phonetically, or in spelling, the name of any other subdivision in the county.
 2. Name, address, and phone number of record owner(s).
 3. Name, address, and phone number of subdivider(s).
 4. Name, address, and phone number of person, firm, or organization preparing the preliminary plat, with the seal and signature of the registered professional engineer responsible for its preparation.
 5. North arrow, written and geographic scale, and date.
 6. Vicinity sketch map: a vicinity sketch map drawn at a scale of one (1) inch to two thousand (2000) feet or greater (e.g., one (1) inch to one thousand (1000) feet), including the following information, if applicable within at least one half (1/2) mile of the proposed subdivision:
 - a. Proposed subdivision name and location;
 - b. Existing and proposed streets;
 - c. Other significant features (e.g., streams, lakes, etc.)
 7. The perimeter boundary lines of the tract to be subdivided and submitted as a preliminary plat shall be drawn to scale showing all bearings and distances.
 8. The existing use or uses of the property and, to scale, the outline of any existing buildings or improvements to be retained and their location in relation to existing or proposed street and lot line locations (addresses if available).
 9. The right-of-way lines and names of all existing or platted streets, other public ways and easements adjacent to or in connection with the subdivision including right-of-way widths and other important features at least within one hundred (100) feet of the boundary lines, such as railroad lines, watercourses, etc.
 10. Names of adjacent subdivisions and the property lines, at least within one hundred (100) feet of the subdivision boundary, and owners of record of all adjacent parcels that are unsubdivided (for adjacent platted land, refer to subdivision plat by name, plat book, and page).

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11. Location and dimensions of all existing easements and rights-of-way way within the subdivision.
 12. Existing utilities on and adjacent to the subdivision: location and size of water mains, sanitary, storm and/or combined sewers.
 13. Existing contours at five (5) foot intervals within the subdivision and within 100 feet of the subdivision boundary.
 14. Subsurface conditions on the subdivision; any known conditions that are not typical, or which may cause problems, such as: soils and geological formations, old mine shafts, wells, known material deposits, etc.
 15. Proposals:
 - a. Streets and Alleys: layout, names, right-of-way and pavement widths, approximate corner radii at the right-of-way line and the approximate proposed grades of all streets.
 - b. Other Rights-of-Way or Easements: location, width, and purpose.
 - c. Lots: lots & blocks numbered.
 - d. Water and Sewer Systems: plan view layout of water lines, storm and sanitary sewer lines, including sizes, to serve the subdivision.
 16. Statement of the lot area of the smallest lot in the subdivision (reference shall be made to the lot and block number).
 17. Parcels of land intended to be dedicated or temporarily reserved for public use, or to be reserved by deed restriction or protective covenant for use of all property owners in the subdivision or parcels of land or lots to be used for any purpose other than private, shall be so designated.
 18. Proposed uses for all land in the subdivision.
 19. Approximate boundaries of areas subject to flood of 100-year frequency (including 100-year floodway) and the location, width, and direction of flow of all watercourses, lakes, marshy areas, and swamps.
 20. Total site data: including acreage, number of lots, the area of each lot, and if applicable, approximate number of square feet or acres in parks and other public uses.
 21. For major subdivisions, Tree Conservation and Restoration Requirements as established per City Ordinance 0-4-90 including all amendments thereto and codified as Chapter 98, Trees, of the City of Fort Thomas, KY General Ordinances.
- B. ADDITIONAL INFORMATION TO BE SUBMITTED AT TIME OF FILING OF PRELIMINARY PLAT:
1. One (1) copy of an application for Preliminary Plat approval (provided by the Commission and available in the Office of the Zoning Administrator and on the [City's website](#)).
 2. If individual on-site disposal systems have been approved-one (1) copy of a permit to use on-site disposal systems approved by the Northern Kentucky Health Department.
 3. One (1) copy of applicable Board of Adjustment action identifying any dimensional variances granted, if applicable.

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4. In the event the subdivider elects to proceed with preliminary grading following the preliminary plat approval or conditional approval, but prior to submission and processing of the improvement drawings and specifications, one (1) copy of plans for grading and control of erosion and sedimentation must also be submitted to the City Engineer, for review and approval.
5. Identify the owner and/or entity responsible, such as homeowners' associations, for ownership and/or maintenance of common areas, storm water facilities, and other similar features.
6. **Additional Information. Any additional information listed on the application for Preliminary Plat approval or requested by City staff.**

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SECTION 7.4 Final Plat Requirements including Improvement Drawings & Specifications

7.4.01 Specifications for & Content of the Final Plat.

7.4.01 SPECIFICATIONS FOR AND CONTENT OF THE FINAL PLAT:

The subdivider shall file with the Zoning Administrator, three (3) copies of the Final Plat for review. The Final Plat of the subdivision shall be drawn on material as required by the county clerk's office in a black, waterproof media ink. The Final Plat shall be drawn at a scale of one (1) inch to fifty (50) feet or greater (e.g., one (1) inch to thirty (30) feet). However, if the Final Plat will contain lots of one hundred (100) feet or greater, fronting along a street, then a scale of one (1) inch to one hundred (100) feet or greater may be used.

Where necessary, the Final Plat may be on several sheets accompanied by an index showing the entire subdivision. The particular number of the sheet, the total number of sheets, and the relation of each adjoining sheet shall be clearly shown by a small key map on each sheet. Each sheet of said plat shall show the north arrow, written and graphic scale and the date. The Final Plat shall contain a vicinity map showing the location of the subdivision with relation to at least one (1) east/west and one (1) north/south major arterial. The Final Plat shall further locate and retrace any of the required data thereon.

A. Information to be Contained on Final Plat:

1. The boundary lines of the Final Plat shall be drawn in heavy solid lines with accurate lengths and bearings. These boundaries shall be determined by an accurate field survey, which shall be balanced and closed. All lines shown on the plat which do not constitute a part of the subdivision shall be dashed. Any area enclosed by the subdivision, but not a part thereof, shall be labeled "Not a Part of This Subdivision".
2. The exact location and the widths of all existing or recorded streets, intersecting or paralleling the boundaries of the subdivision at least within one hundred (100) feet.
3. The exact location and width of all abutting lot lines. Names of recorded owners of adjoining unplatted land and reference to subdivision plats of adjoining platted land by name, plat book, and page and lot numbers for lots within an existing subdivision.
4. The boundary line of the proposed Final Plat shall be tied by bearings and distances to a selected point or points (described on the plat) on the nearest established centerline or right-of-way line of any street or highway or a previously established monument(s) in which case the location of said monument shall be identified and accurately described on the plat. In addition, the final plat shall be tied by bearings and distances to a point in the original parent tract.
5. Municipal and County boundaries lines, if applicable.
6. The exact layout of the subdivision showing:
 - a. Street and alley centerlines and right-of-way lines shall be graphically shown; street names and bearings and distances along centerlines.
 - b. Sufficient linear, angular, and curve data (at least Delta, Tangent, Radius, and Length of Curve) to readily determine the bearing and length of the boundary lines of every block, lot and tract which is a part of the subdivision.

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- c. All easements or other rights-of-way (the limitation of the easement rights shall be stated or referenced on the plat).
 - d. All lot lines with dimensions and bearings.
7. Identification of any waivers of the subdivision regulations granted by the Planning Commission, such as: sidewalks on one side of the street; width of street pavement; any need for additional off-street parking spaces; etc.
8. All blocks and lots numbered or lettered in a consecutive manner with no omissions or duplications. Lot area of all lots. Ditto marks shall not be used for lot dimensions. Tracts offered for dedication, other than for streets or easements shall be designated by letter or number. Further, the accurate outline of all such tracts shall be shown with the proposed use indicated thereon.
9. All permanent monuments set or to be set shall be shown on the Final Plat (see sub-section 7.6.11):
 - a. The location of all monuments placed in making the survey and if any points were reset, that fact shall be stated and attached to Final Plat for recording (minimum four (4) monuments per subdivision boundary).
 - b. Monuments shall be set at intersections of street center lines and curve points or offsets therefrom. The exact location of all such monuments shall be shown on the Final Plat before approval is requested.
 - c. Description (size and material) of all monuments set and/or found.
10. The accurate outline of all property (if applicable) which is to be reserved by deed restriction or protective covenant for the common use of the property owners in the subdivision.
11. Flood Hazard Information. Elevation and flood profiles shall be shown on the Final Plat if required (as determined as per sub-section 7.5.05 of these regulations).
12. All easements shall be shown by a fine dashed line and clearly labeled and identified on the plat. If an easement shown on the plat is already of record, its recorded reference must be given.
13. Name of the subdivision and name or number of the large subdivision or tract of which the tract now being subdivided is a part.
14. North arrow (showing true north), written and graphic scale, and date.
15. Total site data including acreage, and, if applicable, number of square feet or acres in parks and other public uses.
16. Certification, acknowledgments, and descriptions: The following certificates, acknowledgments, and descriptions shall appear on the title sheet of the Final Plat (unless otherwise stated herein). Representative certificates, acknowledgments, and approvals that shall be used on the Final Plat appear in Appendix D of these regulations.
 - a. Dedication certificates: a notarized certificate shall be signed and acknowledged offering for dedication all parcels of land shown on the Final Plat which are intended for public dedication.

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- b. Surveyor's certificate: a certificate shall be signed by a Registered Land Surveyor, in Kentucky, stating that he is responsible for the survey and that the Final Plat accurately depicts the subdivision and the survey. The signature of such surveyor must be accompanied by his seal and registration number.
 - c. Reference of property from which the plat is taken: each reference in such description to any tract, development, or subdivision, shall show a complete reference to records of the county.
 - d. Other affidavits, etc.: the title sheet shall contain such other affidavits, certificates, acknowledgments, endorsements, and notarial seals as are required by law and by these regulations. If such documents are recorded elsewhere, then reference to such documents should be included on the Final Plat.
 - e. Certificate of approval by the chair of the Planning Commission.
 - f. Certificate of acceptance for recording by the County Clerk.
 - g. Certificate of acceptance of public improvements and lands dedicated for public use by the Mayor.
- B. Additional Information to be submitted at the time of filing of Final Plat:
1. One (1) copy of an application for Final Plat approval provided by the Commission and available in the Office of the Zoning Administrator and on the City's [website](#).
 2. One (1) copy of traverse calculations, resulting from an accurate and complete boundary survey of the perimeter of the Final Plat. Traverse calculations when computed from field measurements, on the ground, shall close with an error of closure not to exceed one (1) foot to five thousand (5,000) feet.
 3. Improvement drawings and specifications (improvement drawings and specifications will be required if not submitted previously for processing as per Sections 3.5 and 3.6): Drawings, showing typical cross sections, profiles, construction details, and specifications for all required improvements shall be prepared by a registered engineer in conformance with the provisions in Section 7.6 and any other pertinent sections of these regulations.
 - a. Three (3) copies of the Sanitary Sewerage & Storm Systems Plans.
 - b. Three (3) copies of the Water System Plans.
 - c. Three (3) copies of the Street Plans and Profiles, including typical cross sections.
 - d. Three (3) copies of the Drainage Report, including computations.
 - e. Three (3) copies of plans for control of erosion and sedimentation.
 4. As-Built Improvement Drawings. Where the improvement drawings and plans were previously submitted and approved prior to the submission of the Final Plat, the subdivider shall be required to submit two (2) copies each of as-built improvement drawings for: sanitary sewerage & storm system, and water system & roadway.
 5. Two (2) copies of all deed restrictions or protective covenants (may be either placed directly on the final plat, or if separately recorded, reference is made on the final plat).
 6. Final Plat Fees. Final plat fees shall be submitted in accordance with the adopted Fee Schedule of the City of Fort Thomas, KY.

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7. Guarantee. A guarantee (if applicable) per sub-section 7.6.17.
8. Recording Fees. The subdivider shall pay the recording fee, per requirements of the County Clerk.
9. **Additional Information. Any additional information listed on the application for Final Plat approval or requested by City staff.**

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SECTION 7.5 Design Standards for the Layout of Subdivisions

7.5.01	Streets.	7.5.06	Blocks.
7.5.02	Intersections.	7.5.07	Lots.
7.5.03	Easements.	7.5.08	Pedestrian Ways.
7.5.04	Physical Considerations.	7.5.09	Public Sites.
7.5.05	Flood Hazard.		

7.5.01 STREETS.

- A. Conformity to Comprehensive Plan and/or Official Map. Whenever a tract of land to be subdivided or resubdivided includes any part of, or is adjacent to, a proposed arterial or collector street as designated on the comprehensive plan and/or the Official Map, the subdivider shall meet with the Zoning Administrator to determine the design requirements needed for compliance with comprehensive plan (e.g., right-of-way width for future widening and pavement widths).
- B. Street Extension.
1. Existing Streets. The arrangement of streets in new subdivisions shall make provision for the proper continuation of existing streets in adjoining areas, unless determined otherwise by the Planning Commission.
 2. Adjacent Property. Where adjoining areas are not subdivided and are appropriate for future subdivision, arrangement of streets in new subdivisions shall make provision for the proper projection of streets to those adjoining areas in a manner which shall provide for the practical development of the adjacent property.
 3. Half Streets. Dedication of one-half (1/2) of the right-of-way (half streets) for streets proposed along the boundaries of land to be subdivided, shall be prohibited.
- C. Street Classification and Function.
1. Arterial Streets. Arterial streets should be planned so as to provide for the smooth flow of traffic between points of heavy traffic generation and from one section of the community or communities to another. Such arterial streets should traverse the entire community or communities. Arterial streets should not bisect neighborhoods but should act as boundaries between such neighborhoods. Direct access onto the roadway from abutting properties shall be discouraged.
 2. Collector Streets. Collector streets should be designed to provide for the smooth flow of traffic from subcollector streets to arterial streets. These streets should be designed to carry traffic which has an origin or designation within the neighborhood and between arterial streets. Said streets shall be designed in such a manner to discourage “short cuts” through the neighborhood. Direct access to abutting property should be discouraged whenever possible.
 3. Subcollector Streets. Subcollector streets shall be designed to provide a traffic route from local streets. Said streets will serve equally both traffic movement and abutting properties.
 4. Local Streets, including Cul-de-sacs and Courts. Local streets shall provide direct and full access to each lot and direct traffic movement to another local street or to a subcollector street. Said street may be laid out so that their use by through traffic will be discouraged. Local street intersections with arterial streets shall be discouraged, whenever practical.

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and ~~Deletions~~

- 5. Frontage Roads. Frontage roads may be required along existing or proposed arterial streets to provide access to lots along such streets.
- 6. Alleys. Where alleys are to be provided (e.g., in the case of certain commercial development), they shall be designed to provide only secondary access.

D. Street Rights-of-Way and Grades.

- 1. Widths and Grades of New Streets. Street right-of-way widths and grades shall conform to the following minimum requirements **in Table 1:**

The Planning Commission shall maintain the authority to grant relief, **as provided for in sub-section 7.7.05,** of strict compliance of street grades when unique circumstances are presented and substantiated by the applicant.

TABLE 1 STREET RIGHT-OF-WAY WIDTH AND GRADE REQUIREMENTS			
TYPE OF STREET	MINIMUM RIGHT-OF-WAY WIDTH (FT) ***	GRADES (%)	
		MAXIMUM	MINIMUM
ARTERIAL	*	*	*
COLLECTOR	60	10	1
SUBCOLLECTOR	50	12	1
LOCAL (INCLUDING CUL-DE-SACS)			
- RESIDENTIAL	50	12	1
- COMMERCIAL & INDUSTRIAL AREAS	60	8	1
COURTS (LESS THAN 400' LENGTH)	40	12	1
FRONTAGE ROAD	**	**	**
NOTES:			
* Arterial streets shall be based on current design standards and other pertinent requirements of Kentucky Transportation Cabinet and the official area-wide comprehensive plan.			
** Requirements will vary for frontage roads depending on whether the street would serve as a local subcollector or collector type street and as such would be designed in accordance with the respective requirements of said streets.			
*** Except as may be permitted in Table 4 of these regulations.			

- 2. Existing Streets. Subdivisions platted along existing streets shall dedicate additional right-of-way, if necessary, to meet the minimum street width requirements set forth in Table 1 of these regulations. Such dedication shall be in accordance with the followings:
 - a. At least the minimum right-of-way width shall be dedicated where the subdivision is on both sides of an existing street.
 - b. When the subdivision is located on only one side of an existing street, one-half (1/2) of the required right-of-way width, measured from the centerline of the existing right-of-way, shall be dedicated. However, the owner or owners of such property shall not be required to dedicate more than one-half (1/2) of the required rights-of-way width.

E. Curves and Sight Distance.

- 1. Sight Distance. Minimum Sight Distances for vehicles entering and exiting an intersection shall be designed in compliance with the guidelines established by the American Association of State Highway Officials (AASHTO) manual "A Policy of the Geometric Design of Highway and Streets," as summarized in Tables 2-A & 2-B. Sight Distance calculations and profiles shall utilize a driver's eye height of 3.5 feet and an object height of 2.0 feet.

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and **Deletions**

TABLE 2-A: SIGHT DISTANCE REQUIREMENTS FOR EXITING VEHICLES (FEET)								
NO. OF LANES	POSTED SPEED LIMIT (MILES PER HOUR)							
	20	25	30	35	40	45	50	55
2-LANES	230	285	340	400	455	510	570	625
4-LANES	245	305	365	425	485	545	605	665

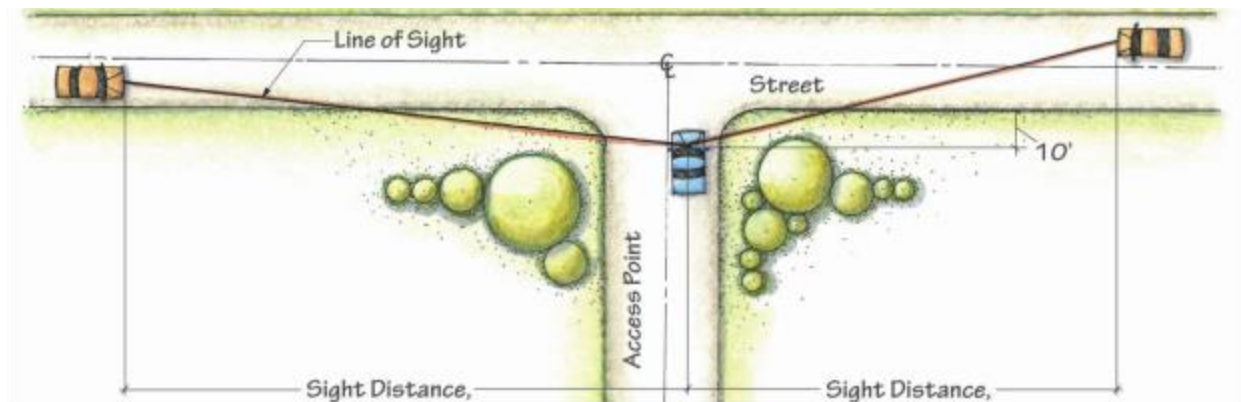


Figure 1: Illustration of Sight Distance Requirements for Exiting Vehicles

TABLE 2-B: SIGHT DISTANCE REQUIREMENTS FOR EXITING VEHICLES (FEET)								
NO. OF LANES	POSTED SPEED LIMIT (MILES PER HOUR)							
	20	25	30	35	40	45	50	55
2-LANES	165	205	245	285	325	365	405	445
4-LANES	180	220	265	310	355	400	440	485
6-LANES	195	240	290	335	385	430	480	525

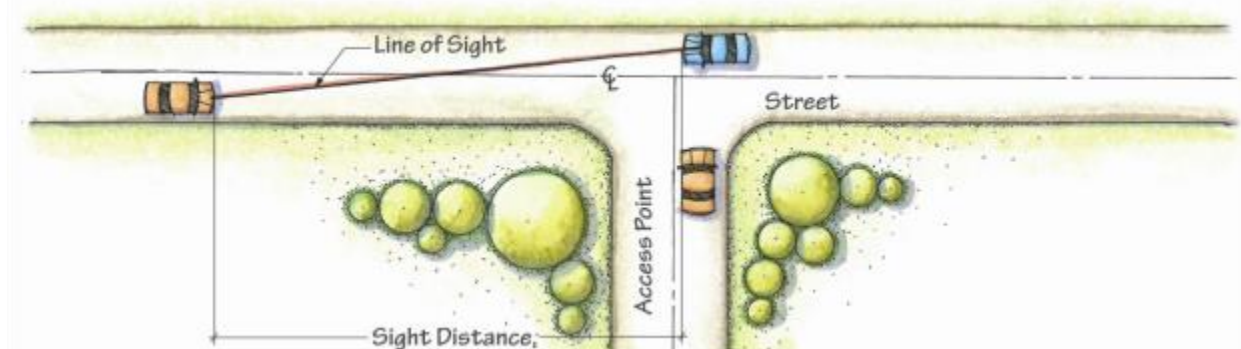


Figure 2: Illustration of Sight Distance Requirements for Approaching Vehicles

2. **Horizontal Curve.** Where there is a change in the alignment of a street along the centerline, a curve with a radius adequate to ensure safe sight distance shall be constructed. The minimum radii of curves are shown in Table 3.
3. **Reverse Curves.** A tangent of at least two hundred (200) feet for collector streets, shall be provided between reverse curves. No tangent shall be required for local and subcollector streets.

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and ~~Deletions~~

- 4. **Vertical Curves.** The minimum vertical curve length required shall be calculated by multiplying the algebraic difference in grades times a “K” factor. Rounded “K” factors for local and subcollector and collector streets are shown in Table 3.

TABLE 3: GEOMETRIC DESIGN STANDARDS				
FUNCTIONAL CLASSIFICATION	DESIGN SPEED	HORIZONTAL	VERTICAL	
			CREST	SAG
		MINIMUM RADIUS (FT)	K FACTOR MINIMUM	K FACTOR MINIMUM
ARTERIAL	*	*	*	*
LOCAL	25	100	15	15
SUBCOLLECTOR	25	100	15	15
COLLECTOR	35	400	30	35
NOTES:				
* Design of arterial streets shall be based on current standards of the Kentucky Transportation Cabinet.				

- F. **Cul-de-Sac and Dead-end Streets.** Cul-de-Sacs and Dead-end streets designed and constructed to be dead-end permanently, unless local topographic or other physical conditions are such as to render this provision impracticable.
- G. **Street Names.**
 - 1. Duplication: The name of a new street shall not duplicate existing or platted street names in the county, or approximate such names in spelling, or sound, or pronunciation, or by the use of alternate prefixes such as “North”, “South”, or such suffixes as “Lane”, “Way”, “Drive”, “Court”, “Avenue”, “Street”, etc.
 - 2. Continuation of Streets: New street names shall bear the same name of any continuation of, or when in alignment with, an existing or platted street.
 - 3. Approval of Street Names: All street names shall be approved by the Planning Commission before approval of the final plat.
- H. **Private Streets.**
 - 1. New private streets or alleys shall not be created or extended, except as approved by the Planning Commission, and existing ones shall, whenever practicable, be dedicated to the public. The Planning Commission may approve private streets to serve three (3) lots or less within any subdivision. Private streets shall be a minimum of sixteen (16) feet in pavement width. Pavement composition shall be consistent with standards established herein for public streets. “On-street” parking restrictions shall be implemented for all private streets and “on-street” parking restrictions shall be implemented.

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and ~~Deletions~~

TABLE 4: IMPROVEMENT REQUIREMENTS BY TYPE OF STREET SERVING RESIDENTIAL SUBDIVISIONS (F)

TYPE OF STREET	NO. OF LOTS SERVED	RIGHT-OF-WAY (FT)	PAVEMENT WIDTH (FT)	CURB & GUTTER ©	SIDEWALKS ALONG STREET (B)	ON-STREET PARKING REQUIRED	MINIMUM FRONT SETBACK REQUIRED (FT)	MINIMUM LOT WIDTH REQUIRED (FT)	MINIMUM PAVEMENT THICKNESS
COURTS TYPICAL OPTIONAL	Under 7	40 40	25 22	YES YES	ONE SIDE ONE SIDE	ONE SIDE NONE	(A) 35	(A) (A)	(G)
CUL-DE-SAC TYPICAL OPTIONAL	7-25	50 40	28 24	YES YES	BOTH SIDES BOTH SIDES (B)	ONE SIDE NONE	(A) 50	(A) (A)	(G)
LOCAL TYPICAL OPTIONAL	Under 100	50 40	28 24	YES YES	BOTH SIDES BOTH SIDES (B)	ONE SIDE NONE	(A) 50	(A) 100 (H) (A)	(G)
SUBCOLLECTOR TYPICAL OPTIONAL	100-500	50 40	28 24	YES YES	BOTH SIDES BOTH SIDES (B)	ONE SIDE NONE	(A) 50	(A) 100	(G)
COLLECTOR (D) TYPICAL OPTIONAL	Over 500	60 60	40 36	YES YES	BOTH SIDES BOTH SIDES (B)	BOTH SIDES NONE	(A) 50	(A) 100	(G)

NOTES:

Where streets are to serve industrial or commercial areas, the pavement design shall be based on a study prepared by the subdivider’s engineer, projecting the type of vehicles using the street and traffic volumes and approved by the Planning Commission’s duly authorized representative.

(A) Minimum as per applicable zoning ordinance requirements.

(B) Sidewalks may be permitted on only one side of the street, providing that the minimum front ~~yard depth~~ **setback** is 50 feet and the minimum lot width is 100 feet. When subdivisions are designed to provide pedestrian walkways to the rear of lots or in other locations, other than along the street, the Planning Commission may waive sidewalks along the streets. In the case where local streets serving less than 25 lots, sidewalks may be permitted on one side of the street.

(C) Shoulders and side ditches may be permitted and designed in accordance with the regulations (see Appendix C), providing that the minimum front ~~depth~~ **setback** ~~yard~~ is 50 feet, the minimum lot width is 100 feet, the minimum right-of-way is increased by 10 feet, except for collector streets.

(D) Driveway access points along collector streets shall be discouraged, however, if permitted, shall be spaced not less than 200 feet apart.

(E) Individual off-street parking spaces shall be laid out in such a manner to ensure that each space has unrestricted ingress and egress to a public street (i.e., not blocked from gaining access to the street via another parked vehicle).

(F) Arterial streets shall be designed in accordance with the requirements of the Kentucky Transportation Cabinet.

(G) Minimum pavement thickness shall be designed in accordance with Appendix A.

(H) In the case where local streets serving less than 25 lots, the minimum lot width shall be as per the zoning ordinance requirements.

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and ~~Deletions~~

7.5.02 INTERSECTIONS.

- A. Angle of Intersection. The centerline of all streets shall intersect as nearly at a ninety (90) degree angle as possible, but in no case shall the angle of intersection be less than seventy (70) degrees or greater than one hundred and ten (110) degrees, unless a special modification is granted by the Planning Commission due to certain exceptional conditions.
- B. Centerline Offset of Adjacent Intersections. Where T-intersections are used, the following minimum centerline offsets of adjacent intersections shall be as follows:

Type of Street	Minimum Centerline Offset (FT)
Local – Local	150
Local – Subcollector	150
Subcollector – Collector	200
Collector – Collector	200

- C. Corner Radii. Property lines at street intersections shall be provided from the same radius point necessary to establish the pavement radius. If because of certain exceptional conditions, a modification is granted permitting an angle of intersection less than seventy (70) degrees, or greater than one hundred and ten (110) degrees, then the minimum radii shall be increased or decreased, respectively.
- D. Centerline Grades within Intersections. Maximum centerline grades within street intersections shall not exceed the grade for through streets, as identified in Table 1 of these regulations, depending on the type of street. The maximum grade of the centerline of the side streets intersecting with the gutter line of the through street shall not exceed four (4) percent for a distance of not less than seventy-five (75) feet from the centerline for local and subcollector streets and one hundred and fifty (150) feet for collector streets.
- E. Design Adjacent to Freeways, Expressways, Arterials or Collectors. The following principles shall be used in the design of subdivisions adjacent to freeways, expressways, or arterials:
 - 1. Street Design shall have the purpose of making adjacent lots desirable by cushioning the impact of heavy traffic and of minimizing the interference with traffic on such thoroughfares.
 - 2. Collector, Subcollector, and Local streets shall not be permitted to intersect with freeways or expressways. The number of intersections with arterial streets shall be held to a minimum. Wherever practical, such intersections shall be spaced not less than 600 feet apart. In the case of collector streets, intersections with said streets shall be spaced not less than four hundred (400) feet apart and access to driveways shall be spaced at intervals of not less than 200 feet. At those access points where turning vehicles to and from the arterial and collector streets will affect the roadway capacity or safety, reserved turn lanes shall be required, wherever practical. Frontage or service roads shall be used when these spacing requirements cannot be met.
 - 3. Where frontage roads are not required, lots adjacent to such thoroughfares shall, when practical, be served and be accessible only by a street generally paralleling said thoroughfare from an internal street system.

7.5.03 EASEMENTS.

- A. Utility Easements. Unless waived in writing by the City Engineer, public utility easements at least ten (10) feet in total width shall be required along the front, rear and sides of lots where needed for the accommodation of a public utility, drainage, or sanitary structures, or any combination of the

Significant changes from the Phase 2 draft are noted: Substantive Additions and Deletions

foregoing. Where deemed necessary by the Planning Commission or its staff, an additional easement width shall be provided.

- B. Watercourses. The subdivider shall dedicate rights-of-way or provide easements for storm drainage purposes which conform substantially with the lines of any natural watercourses, channels, streams, or creeks which traverse the subdivision or for any new channel which is established to substitute for a natural watercourse, channel, stream, or creek. Such rights-of-way or easements shall be of a width that will provide for the maintenance needs of the channel as determined by the Planning Commission after consultation with the City Engineer.

7.5.04 PHYSICAL CONSIDERATIONS.

- A. Natural Land Use. Wherever practical, subdivisions shall be planned to take advantage of the natural topography of the land, to economize in the construction of drainage facilities, to reduce the amount of danger, to minimize destruction of trees and topsoil, and to preserve such natural features as watercourses, unusual rock formations, large trees, sites for historical significance, and other assets which, if preserved, will add attractiveness and value to the subdivision and the community.

7.5.05 FLOOD HAZARDS.

- A. Prohibition of Development in Areas Susceptible to Flooding. Land subject to flooding or otherwise uninhabitable shall not be platted for residential, commercial, or industrial uses or for any other use which may increase the danger of health, life, property, or aggravate erosion or flood hazards. Such land within the subdivision shall be set aside on the plat for such uses as will not be endangered by periodic or occasional inundation or will not result in conditions contrary to the public welfare (e.g., use as open space, extensive recreation use, conservation purposes).
- B. Areas of land adjacent to streams, rivers, or bodies of water which have a high degree of susceptibility to flooding shall be limited to development according to either the flood protection control regulations, if adopted as part of the applicable zoning ordinance, or according to the following regulations:
 1. The limits of the floodplain (areas subject to flooding during the occurrence of a 100-year flood) including elevations of the 100-year flood level along the Ohio River and certain tributaries thereof, are designated on maps and charts on file with the Kentucky Division of Water. The limits of the floodway are contained within the flood plain area.
 2. In the case of any subdivision to be developed along. The tributaries of the Ohio River and located in those areas which are identified as being susceptible to flooding according to the report prepared by the U.S. Department of the Agriculture, Soil Conservation Service, "Soil Survey of Boone, Campbell, and Kenton Counties, Kentucky", August, 1973, a survey shall be made by a qualified civil engineer establishing the limits of the 100-year floodplain and floodway for said tributary.
 3. No subdivider in development of a subdivision, shall fill any area with earth, debris, or any other material or raise the level of any area in any manner, or place a building, barrier, or obstruction of any sort on any area located within the floodway which would result in any increase in flood levels during the occurrence of a 100-year flood discharge. Plans and specifications for any work which the subdivider believes will not increase the flood levels shall be submitted to the City staff for review and approval to determine if said encroachment will meet the requirements of these regulations. Mobile homes shall be prohibited from being placed within the floodway.
 4. All land in the subdivision which is outside the floodway of the Ohio River and its tributaries, but located within the floodplain, may be used for any purpose for which it is zoned; provided that:

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- a. The land is graded in such a manner that any residential construction, within said floodplain shall have the lowest floor, including the basement, elevated to or be above the level of the 100-year flood; and,
 - b. The land is graded in such a manner that any new nonresidential structures within the floodplain area shall have the lowest floor (including basements) elevated to or be above the level of the 100-year flood or together with attendant utility and sanitary facilities shall be designed and flood proofed so that any structures that are anticipated to be constructed below the 100-year flood level are water tight with walls impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
5. All streets and utilities constructed to serve the subdivision to be located within the floodplain, but outside the floodway, shall be:
- a. flood protected;
 - b. The land filled; or
 - c. Any combination thereof, to a level of not less than the elevation of the 100-year flood level. Where the fill is partially within the floodplain, roadway access and utilities shall be provided from the “dry” side (areas located above the 100-year floodplain).
- C. **Stream Easement.** If a stream flows through or is adjacent to, the proposed subdivision, the plat shall provide for a storm water easement or drainage right-of-way along the stream for a floodway of at least ten (10) feet. For the smaller streams, the plat shall provide for channel improvement to enable them to carry all reasonable floods (25 year flow) within banks. The floodway easement shall be wide enough to provide for future enlargement of the stream channels as adjacent areas become more highly developed and run-off rates are increased. (Based upon development under present zoning classification).
- D. **Streets.** Approval shall not be given for streets within a subdivision which would be subject to flooding. All streets shall be located at elevations above a flood of a 100-year frequency. However, streets may be permitted in areas subject to flooding of a 100-year frequency provided said streets provide access to activities relating to rivers, streams, and recreational activities located along said areas.

7.5.06 BLOCKS.

- A. **Arrangement.** The arrangement of blocks shall be such as to provide for convenient access, circulation, control, and safety of street traffic. Blocks intended to be used for commercial or industrial purposes shall be designed specifically for such uses with space set aside for off-street parking and loading and/or unloading facilities as required by this Ordinance or the applicable zoning ordinance.
- B. **Length.** Blocks should not be less than two hundred and forty feet (240’) nor exceed twelve hundred (1,200) feet, except where topographical or exceptional physical conditions exist.
- C. **Width.** The width of blocks should ordinarily be sufficient to allow for two (2) tiers of lots except for double frontage lots, as permitted in sub-section 7.5.07 of these Subdivision Regulations.

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7.5.07 LOTS.

- A. Conformance to Zoning. All lots shall conform to or exceed the requirements of this Ordinance or the applicable zoning ordinance. Each lot shall front at least twenty-five (25) feet onto a publicly dedicated street, **have at least twenty-five (25) feet of lot frontage**, and comply with all applicable sections of this Ordinance or the City's Official Zoning Ordinance.
- B. Lot Frontage and Width.
1. Arterial Street Frontage. No access onto an arterial street shall be permitted from abutting properties except as provided for in these Subdivision Regulations.
 2. Corner Lots. Corner lots shall have extra width to permit conformance to the minimum setback from the side street. In no case shall a corner lot be so narrow that minimum zoning requirements cannot be met.
 3. Double Frontage Lots. Lots shall not be laid out so that they have frontage onto more than one (1) street except: (a) when the lots are adjacent to the intersection of two (2) streets; or (b) when the rear of the lot faces an arterial, freeway, expressway, collector street, railroad right of-way, etc., and the front of the lot faces onto another street.
- C. Lot Depth.
1. Conformance to Zoning. Each lot shall conform to all requirements of this Ordinance or the Official Zoning Ordinance.
 2. Maximum Depth. The maximum depth of a lot shall not be greater than four (4) times the width of the lot, except lots which contain over five (5) acres of area. Exceptional individual site conditions may require a waiver from these requirements, as permitted by the Planning Commission in sub-section 7.7.05.
 3. Extra Depth and Width in Certain Cases. Additional side yard and lot depth as per this Ordinance or the applicable zoning ordinance may be required where a lot in a subdivision abuts a non-residentially zoned area.
- D. Usable Lots.
1. Building Lots. All subdivisions shall result in the creation of lots which are developable and capable of being built upon. No lots may be developed which create building sites which are impracticable to improve due to known problems related to soil conditions and geological formations, topography, and areas subject to flood prone conditions based on information prepared by the U.S. Soil Conservation Service, Geological survey maps prepared by the U.S. Geological Survey, and flood prone information supplied by the U.S. Army Corps of Engineers and the U.S. Geological Survey.
 2. Strips or Parcels. No remnants of property shall be left which do not conform to minimum lot requirements of the zoning district in which the property is located, or which are not required for a private or public utility purpose, or which are not accepted by the Board of Council or any other appropriate public body for an appropriate use.
 3. Side Lot Lines. The side lot lines of all lots, whenever practical, shall be at right angles to the street which the lot faces or radial to the center of curvature, if such street is curved. In the case of a cul-de-sac on which the lot faces, side lot lines shall be as nearly radial to the cul-de-sac as practical.
 4. Lot Arrangement and Sizes. The size, shape, and arrangement of lots in proposed subdivisions or developments shall be such as set forward in this Ordinance and these Subdivision

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Regulations. Rectangular shaped lots shall be encouraged in all zoning districts. Extremely irregularly shaped lots shall be avoided. Consideration of additional lot depth **and lot width** should be made when lots adjoin railroads, major utility easements, commercial or industrial areas, or other conflicting land uses. Except flag lots, lots shall be more or less rectangular in form; triangular, elongated or other shapes that restrict its use as a building site shall be avoided.

7.5.08 PEDESTRIAN WAYS.

Where deemed necessary by the Planning Commission, pedestrian ways may be required, and if provided, they should not exceed a fifteen (15) percent grade, unless steps of an acceptable design, as determined by the City Engineer, are to be constructed.

7.5.09 PUBLIC SITES.

Where a proposed park or other recreational area, school site, or other public ground identified in the adopted Fort Thomas Comprehensive Plan or the Official Map, is located in whole or in part within the proposed subdivision, the Planning Commission may require a reservation, as a condition precedent to preliminary plat approval, not to exceed one (1) year, for the purchase of such public ground by the applicable public body.

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**SECTION 7.6
Improvements**

7.6.01	Minimum Design Standards & Criteria for Storm Water Management.	7.6.11	Monumentation.
7.6.02	Sanitary Sewer System.	7.6.12	Plans for Future Expansion Extra Size & Off-Site Improvements.
7.6.03	Water System.	7.6.13	Plans Required for the Control of Erosion & Sedimentation.
7.6.04	Streets.	7.6.14	Construction Inspections.
7.6.05	Driveway Approaches.	7.6.15	Construction Responsibilities.
7.6.06	Off-Street Parking Areas.	7.6.16	Final Cleaning Up.
7.6.07	Private Utilities.	7.6.17	Agreements & Guarantees.
7.6.08	Street Signs.		
7.6.09	Street Lights.		
7.6.10	Planting Screen or Fences.		

The improvements which are hereby required shall be designed by a registered professional engineer and installed in accord with the provisions of these and other applicable regulations. Prior to the commencement of any project, a preconstruction meeting will be held with the City staff, to discuss the project in regard to procedure, materials, inspections, etc.

7.6.01 MINIMUM DESIGN STANDARDS AND CRITERIA FOR THE STORM WATER MANAGEMENT SYSTEM.

- A. Storm Water Drainage Systems. All storm water Drainage systems shall comply with the Northern Kentucky Regional Storm Water Management Program Rules and Regulations of Sanitation District No. 1 (SD1’s Storm Water Regulations).
 - 1. Sanitation District No. 1 shall perform the plan review of the storm water drainage system(s) and issue the appropriate permit(s) for any development that disturbs one acre of land or greater, or for disturbances of less than one acre when that disturbance is part of a larger overall development.
 - 2. Development that does not disturb one acre of land or greater will be subject to the requirement of plan reviews and/or permits through these regulations and/or the applicable zoning ordinance.
 - 3. Any proposed Subdivision that requires submission of a grading plan or improvement drawing to Staff shall receive grading plan or improvement drawing approval prior to the commencement of any earth moving operations.
- B. Inlet Grates. Except for inlets serving temporary silt basins, detention and/or retention basins, inlet grates shall not allow a sphere with a diameter of six inches to pass through.
- C. On-Street Inlet Location. Inlet spacing along streets shall be based upon gutter and inlet capacity, street slope, and contributing drainage area. In addition, inlet spacing shall not exceed the following spacing requirements unless hydraulic calculations are submitted that indicate acceptable capacity:
 - 1. Along continuous grades less than two percent – 400 feet maximum.
 - 2. Along continuous grades two percent and over – 600 feet maximum.
 - 3. At sag locations less than two percent – 400 feet maximum between inlets or from a high point.
 - 4. At sag locations two percent and over – 600 feet maximum between inlets or from a high point.

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5. Inlets shall be placed immediately upstream of Pedestrian Walkways and designed to intercept 100 percent of the flow at the gutter line.
 6. Inlets placed at locations other than in sub-section 7.6.01 C.5. above shall be designed to conform to SD1's Storm Water Regulations.
 7. Roll type grate inlets shall be used in any location where a driveway will intersect the street.
- D. Cul-de-sac Inlet Location. Special consideration should be given to storm drainage entering cul-de-sacs. In addition to an inlet provided at the low point within the cul-de-sac, two additional inlets shall be required along each curb prior to the entrance of the cul-de-sac:
1. For street slopes eight percent and less draining more than 400 feet of pavement.
 2. For all street slopes more than eight percent and draining more than 300 feet of pavement.
- E. Culverts and Pipe Types. Culverts and pipe types shall be designed in accord with SD1's Storm Water Regulations.
1. All pipe installations greater than 30 inches in diameter require full-time on-site inspections under the direction of a qualified geotechnical engineer or firm.
- F. Lot Grading and Drainage. The following shall apply to lot grading and drainage:
1. Surface drainage swales to accommodate individual lot drainage shall be constructed as part of the final lot grading and seeded and mulched.
 2. Surface drainage swales shall have a minimum grade of two percent and shall be constructed so that the surface water will drain onto a street, storm inlet, natural drainage area, or other drainage feature.
 3. Roof downspouts, footing, foundation drains, and sump pumps that are discharged above ground shall be discharged onto the same Parcel of land from which the water is generated, as far from the property line as practical and at least five feet from the residence.
 4. **Roof downspouts, footing, foundation drains, and sump pumps that are discharged above ground shall be discharged no closer than 10 feet from the property line, unless the minimum setback for the zoning district is less than 10 feet.**
 5. Roof downspouts, footing, foundation drains, and sump pumps discharging toward the street shall be discharged onto a pervious area no closer than 20 feet from the edge of pavement or back of curb.
 6. **Roof downspouts, footing, foundation drains, and sump pumps that are discharged above ground shall be oriented such that no discharged water is directed toward adjacent buildings.**
 7. The connection of roof downspouts, footing, foundation drains, or sump pumps to the public storm sewer system shall be prohibited unless approved by Sanitation District No. 1 in writing.
- G. A waiver of stormwater management control facilities may be granted by Staff when the following criteria are present:
1. Less than one acre of land is disturbed and the area is not part of a larger overall development.
 2. Less than ½ acre will be impervious area.

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3. Drainage calculations indicate that the downstream drainage facilities are adequately sized to accommodate the additional stormwater runoff and that no pre-existing stormwater drainage problems in this watershed exist immediately downstream.

7.6.02 SANITARY SEWER SYSTEM.

The subdivider shall construct a sanitary sewage collection system designed to serve adequately all lots in his subdivision plus lines adequate in size to facilitate the orderly development of nearby land which is an integral part of the neighborhood service or drainage area (see sub-section 7.6.12 of these regulations) and connect said collection system to a centralized sewerage system, or an approved package treatment plant (surface discharge), except as herein provided.

- A. **Plans Required.** The subdivider shall submit plans and specifications prepared by a registered professional engineer, showing the proposed sanitary sewerage system and facilities. Said plans shall show pipe sizes, gradients, type of pipe, invert elevations, location and type of manholes, the location, type and size of all lift or pumping stations, location, type and capacity of all proposed package treatment plants, and all construction details including such other information as required by the Planning Commission's duly authorized representative.
- B. **Design Standards.** The sanitary sewerage system shall comply with the Rules and Regulations of Sanitation District No. 1.
- C. **Sanitary Sewer Extensions.** The sanitary sewer system easement shall be required to be provided to adjacent property not presently served by a sanitary sewer system.

7.6.03 WATER SYSTEM.

It shall be the responsibility of the subdivider to contact the applicable water district, indicating his/her proposed layout of the water distribution system, according to the subdivision procedures identified in Section 7.2 of these regulations. The subdivider shall design and construct a complete water distribution system which shall serve adequately all lots within the proposed subdivision plus coordinated with the applicable water district, lines adequate in size to facilitate the orderly development of nearby land which is an integral part of the neighborhood service area.

- A. **Plans Required.** The subdivider shall submit plans and specifications prepared by a registered professional engineer, showing the proposed water system. Said plans shall show location and size of lines, type of pipe, location of hydrants and valves and supply facilities, booster pumps, elevated or ground-level storage tanks, if applicable, including all construction details and such other information as may be required by the Planning Commission or its duly authorized representative.
- B. **Design Standards.** The design criteria for the water distribution system shall be as required by the Rules and Regulations of Northern Kentucky Water District and the applicable design criteria of the Insurance Services Offices of Kentucky and the National Fire Protection Association. The minimum fire hydrant flows within residential developments shall be provided in accordance with Table 6. The maximum spacing of the fire hydrants shall be provided in accordance with Table 7. A fire Hydrant shall be located a maximum of 500 feet from the face of any building within developments where new street is involved.

7.6.04 STREETS.

- A. **Plans Required.** The subdivider shall submit plans and specifications prepared by a registered engineer showing the proposed street system. Said plans shall show the proposed right-of-way width, pavement width, location and the proposed alignment, grade, geometric details, and typical cross sections of each proposed street, including curbs and gutters and sidewalks (where applicable). Said plans and specifications shall show for each proposed street, design criteria such as street classification, pavement classification and thickness of base and subbase materials.

In addition, the following information shall be required:

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1. The plans and profiles of all surrounding streets which are to connect to a street in the proposed subdivision (for a distance of one hundred (100) feet back from the boundary line of the proposed subdivision).
 2. All profiles shall be drawn at a scale not to exceed one (1) inch equals fifty (50) feet horizontal and one (1) inch equals ten (10) feet vertical.
 3. Elevations shall be shown at all vertical point of intersection(s), between point of intersection(s) and at 50 feet stations on tangents and 25 feet stations on vertical curves.
 4. Elevations shall be tied to a bench mark (U.S.G.S. or other bench marks when available), when, within a reasonable distance (as determined by the City Engineer) and shall be shown on the improvement drawings.
 5. Details of curb and gutter, sidewalks, street section and paving.
 6. Intersections and cul-de-sac details, including geometrics and detrics and detailed grading.
- B. Pavement Specifications. All streets shall be paved with Portland Cement concrete or asphalt concrete and constructed in accordance with the specifications in Appendix A of these regulations.
- C. Minimum Pavement Widths. Pavement widths shall be measured from back of curb to back of curb, or if no curbs are required, then measurements shall include the entire paved surface. Minimum pavement widths for each street shall be as shown in Table 4 and laid out in the manner indicated by the typical street the manner indicated by the typical street cross sections shown in Appendix C.
- D. Curbs and Gutters. The subdivider shall construct vertical curbs, at least six (6) inches in height or rolled curbs four (4) inches in height, for all residential streets (where applicable) as identified in Table 4. For streets to be constructed of asphalt concrete, curb and gutter shall be constructed according to the typical section detail in Appendix C.

All curbs and gutters shall be constructed of Portland Cement concrete and in accordance with the specifications in Appendix A and typical cross sections in Appendix C.

- E. Curb Radii. The minimum curb radius at intersections shall be as follows:

TABLE 6: CURB RADII	
TYPE OF STREET INTERSECTION *	MINIMUM CURB RADIUS (FT)
LOCAL – LOCAL OR SUBCOLLECTOR	25
SUBCOLLECTOR – SUBCOLLECTOR	25
SUBCOLLECTOR – COLLECTOR	30
COLLECTOR – COLLECTOR	30
ARTERIAL – ARTERIAL	**
Notes:	
* In the case of local or collector streets located in commercial or industrial areas, the minimum curb radii shall be increased to fifty (50) feet.	
** Shall be based on current design standards of Kentucky Transportation Cabinet.	

- F. Sidewalks. Sidewalks shall be required as identified in Table 4 of these regulations. Sidewalks shall be constructed of Portland Cement concrete in accordance with the specifications of Appendix A of these regulations, at least four (4) inches thick and increased to five (5) inches of thickness when included as part of a driveway. All sidewalks shall be constructed with a minimum width of four (4) feet and this width increased to five (5) feet for streets in multi-family residential, commercial, and industrial areas, where pedestrian traffic volume indicates the need for this additional width. (Sidewalks shall be laid out in the manner indicated by the typical cross sections shown in Appendix C).

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- G. **Alternative Pedestrian Walkways.** Alternative Pedestrian Walkways may be permitted in developments by the choice of the Applicant and/or as an alternative to Sidewalks. Pedestrian Walkways within the public right-of-way shall be constructed of Portland cement concrete. Pedestrian Walkways located outside of the public right-of-way that are intended to meet in an alternative way, may be constructed of asphalt. Asphalt walkways shall have a minimum width of five (5) feet and a minimum thickness of five (5) inches consisting of a modified base mixture. The subgrade for the asphalt walkways shall be proofrolled prior to the placement of the sidewalk. Walkways constructed outside the public right-of-way shall only be permitted within developments that contain a homeowners' association with specific maintenance and Easement agreements for the walk recorded at the County Clerk's office. If the requirements for sidewalks have been met, by either concrete sidewalks within the right-of-way or asphalt sidewalks outside of the right-of-way, then any other sidewalk construction is not regulated in terms of material used. Sidewalk construction where materials are not regulated by these regulations is still required to comply with the Americans with Disabilities Act of 1990.
- H. **Americans with Disabilities Act (ADA) Curb Ramps.** Where sidewalks along streets are required, Curb ramps shall comply with the U.S. Department of Justice's regulations for the Americans with Disabilities Act of 1990 and the current ADA Standards for Accessible Design.
1. Curb ramp installation shall prohibit stormwater from flowing onto the ramps.
 2. Curb ramps shall be installed at all new Street intersections in conjunction with construction of the concrete curbs and gutters.
 3. Curb ramps shall be installed at the intersection of the sidewalk and curb when sidewalk dead-ends into a t-type or hammerhead type turnaround.
 4. Curb ramp locations shall be shown on submitted improvement plans.
- I. **Parking.** Parking on any street where pavement width is less than thirty-six (36) feet, shall be limited to one side of the street. Parking lanes shall not be shifted from one side to the other from block to block or where the proposed street is the extension of an existing street the parking lane shall extend continuously on the same side of the street. If practicable, the parking lane shall be located on the opposite side of the street from where the fire hydrants are located.
- J. **Cul-de-sacs and Dead-End Streets.** Cul-de-sac courts and dead-end streets shall be designed in accordance with the typical design details as per Appendix C of these regulations. However, if conditions warrant, other turn around designs may be permitted by the Planning Commission. If such street is of a temporary nature and a further extension into adjacent land is anticipated, then said turn around, beyond normal street width, shall be in the nature of an easement of the premises included in said turn around, as per the typical design in Appendix C. Such easement may be vacated to abutting property owners when said dead-end street is legally extended into adjacent land. If such dead-end street serves four (4) lots or less, no temporary turn around will be required.
- K. **Construction of Required Pavement Width on Existing Streets.** When a subdivision is located on only one side of an existing street, and where the pavement width of such existing street is less than that required by these regulations, the subdivider shall be required to construct one-half (1/2) the required pavement width, as per these regulations, along the side fronting his property on such street.

7.6.05 DRIVEWAY APPROACHES.

Driveways for residential areas (detached single family and two-family) shall be provided with a minimum width of nine (9) feet and a minimum radius at the curb of five (5) feet, or a five (5) foot flare, for collector streets and a minimum radius at the curb of four (4) feet, or a four (4) foot flare, for local and subcollector streets. In areas of heavier traffic volumes or where special conditions are encountered (Multi-family, industrial, commercial areas), increased driveway widths, plus increased minimum radii or flares may be required by the Planning Commission. All driveways within the right-of-way shall be constructed in accordance with the specifications of Appendix A of these regulations. Within the street right-of-way area, driveway grades shall not exceed eight (8) percent. In upward sloping driveways beyond the street right-of-way area, the change in grade shall not exceed twelve (12) percent within ten (10) feet of distance. On downward sloping driveways beyond the street right-of-

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way area, (entering basement garages), the change in grade shall not exceed eight (8) percent within any ten (10) feet of distance (see design as per Appendix C).

7.6.06 OFF-STREET PARKING AREAS.

Off-street parking areas shall be constructed in accordance with the requirements of this Ordinance.

7.6.07 PRIVATE UTILITIES.

All new telephone, cable television, fiber, gas, electrical utility lines, and any other private utilities shall be installed underground and be in conformance with the appropriate utility company's policy and requirements. Such utilities shall be placed within the in the street right-of-way, or within platted easements.

7.6.08 STREET SIGNS.

- A. Street Name Signs. The City should arrange for installation of street signs at all street intersection. The signs shall conform to the City's specifications and be mounted at a height of approximately seven (7) feet above the top of the curb or the crown of the pavement. They shall be located on diagonally opposite corners on the far right hand side of the intersection for traffic on the more important streets.
- B. Traffic Control Signs and Devices. The City shall arrange for the installation of traffic control signs and devices which shall be in conformance with the "Manual on Uniform Traffic Control Devices" as prepared by the Joint Committee on Traffic Control Devices, U.S. Department of Commerce, Bureau of Public Roads.

7.6.09 STREETLIGHTS.

The subdivider shall submit a detailed layout of street lighting within the proposed subdivision. The street lighting plan shall include the light fixtures, style, size, height, spacing, intensity of illumination, power source, etc. Street lighting plans shall be reviewed by the Planning Commission and Zoning Administrator and forwarded to the Board of Council for acceptance. Installation costs of improvements shall be at the expense of the subdivider.

7.6.10 PLANTING SCREEN OR FENCES.

The Planning Commission may require and permit planting screens, fences, or masonry walls, as required by this Ordinance.

7.6.11 MONUMENTATION.

- A. Monuments of Record – Permanent Control Monuments. The subdivider shall establish or confirm the prior establishment of permanent control monuments along the center line of all streets not to exceed five hundred (500) feet in spacing. Such permanent control monuments shall be designed according to specifications as per Appendix C. All such monuments shall be set in pavement. All permanent control monuments shall be clearly shown on the Final Plat.
- B. Other Monuments. Other monuments set shall be metal pins of no less no less than one (1) inch diameter and no less than twenty-four (24) inches in length. Monuments of this type shall be set at all of the following locations:
1. At every point of intersection of the outer boundary of the subdivision with an existing or created right-of way: line of any street, railroad, or other way.
 2. At least four (4) – 4-inch square by 30" long concrete monuments shall be placed on the major comers of the subdivision and at common corners of subdivision phases
 3. Prior to final plat certification by the planning commission and recording or a subdivision plat, all property lines of lots created by the subdivision shall be appropriately marked. In addition, appropriately identified markings shall also be located at points along the building set-back line on every-other lot line.
 4. Appropriately identified markings shall also be located at each point along the street curb which intersects with the side lot lines of each lot.

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5. In such cases where the placement of a required monument at its proper location is impractical, a reference monument may be set close by the proper point providing its location and tie to the proper point is properly shown on the final plat.

7.6.12 PLANS FOR FUTURE EXPANSION – EXTRA SIZE & OFF-SITE IMPROVEMENTS.

All improvements shall be installed to satisfy the service requirements for the service or drainage area in which the subdivision is located and the improvements shall be of sufficient capacity to handle the expected development of the overall service or drainage area involved.

- A. Extra-Size Improvements. Where the Planning Commission has determined, after consulting with the City Engineer, that improvements in excess of the size needed to serve just the proposed subdivision are required, the subdivider shall be so notified and arrangements for construction shall be agreed upon.

7.6.13 PLANS REQUIRED FOR THE CONTROL OF EROSION AND SEDIMENTATION.

Any developer who intends to make changes in the contour of any land proposed to be subdivided, developed, or changed in use by grading, excavating, or removing the natural topsoil, trees, or other vegetative covering thereon, shall submit a plan for erosion and sedimentation control to the City Engineer for approval. The City Engineer may determine that such plans are not necessary. If the disturbed limits of the site exceeds one (1) acre, the developer will be required to obtain a Land Disturbance Permit from Sanitation District No. 1.

Such plans, if required, shall contain adequate measures for control of erosion and siltation where necessary, using the guidelines and policies contained herein.

- A. Requirements.
 1. One (1) set of plans for the control of erosion and sedimentation shall be submitted to the Planning Commission, as per the procedures established in Article III.
 2. In the event the Planning Commission and/or City Engineer gives final plat approval before construction of improvements, as per Section 3.09.A.2, measures to be taken to control erosion and sedimentation shall be included as per these regulations.
 3. The City Engineer shall make periodic inspections of the methods used and the overall effectiveness of the erosion and sedimentation control program.
- B. Suggested Control Measures. The following control measures should be used for an effective erosion and sedimentation control plan for the area being subdivided:
 1. The smallest practical area of land should be exposed at any one time during development.
 2. When land is exposed during development, the exposure should be kept to the shortest practical period of time.
 3. Where necessary, after grading, temporary vegetation and/or mulching should be used to protect areas exposed during development.
 4. Sediment basins (debris basins, desilting basins, or silt traps) should be installed and maintained until ground cover has been completed to remove sediment from run-off waters from land undergoing development.
 5. On-site provisions should be able to effectively accommodate the increased runoff caused by changed soil and surface conditions during and after development.
 6. The permanent final vegetation and structures should be installed as soon as practical in the development.

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7. The development plan should be fitted to the topography and soils so as to create the least erosion potential.
8. Wherever feasible, natural vegetation should be retained and protected.
9. Silt fences, straw bale silt traps, straw and bale inlet filters and bale ditch checks.

7.6.14 CONSTRUCTION INSPECTIONS.

Authority and Duties of City Inspectors. Inspectors shall inspect all work done and all materials furnished. Such inspection, including final inspection, may extend to all or any part of the work and to the preparation, fabrication, or manufacture of the materials to be used. The inspector shall not be authorized to revoke, alter, or waive any requirements of the approved improvement drawings and specifications, but authorized to call to the attention of the contractor, any failure of the work or materials to conform to the approved improvement drawing and specifications. The contractor shall notify the inspector within 48 hours prior to the time when the work is to begin on each phase of construction, such as sewer and water lines, storm sewers and street paving. The inspector shall begin inspection at the time of construction and maintain inspection as necessary as the work progresses on each phase of the project until all construction is complete. Further, and during the time of construction, any work determined by the inspector not to conform to the requirements of the approved improvement drawings and specifications, shall be referred to and decided upon by the City staff.

7.6.15 CONSTRUCTION RESPONSIBILITIES.

Cooperation of Subdivider and/or Contractor. The subdivider and/or contractor shall have available on the project, at all times, two (2) copies of all required plans and specifications. He shall cooperate with the inspector and with other contractors in every way possible. The subdivider and/or contractor shall, at all times, during actual construction, have a competent superintendent acting as his agent on the project. The superintendent shall be capable of reading and thoroughly understanding the plans and specifications and he shall receive instructions from the inspector. The superintendent shall have full authority to execute the orders or directions of the inspector. A superintendent shall be furnished irrespective of the amount of work sublet. Subdivider and contractors are not relieved of other responsibilities and requirements or other state and local agencies relating to zoning, permits, etc., which may be beyond the scope of requirements of the Subdivision Regulations. Satisfactory completion of inspections and certification that improvements have been constructed in accord with grading plans related to public improvements construction, erosion and sedimentation control plans, and improvement drawings and specifications per these regulations, shall not be a defense in an action for damages against anyone who may be liable by reason of non-compliance with the requirements of these regulations.

7.6.16 FINAL CLEANING UP.

Upon completion of the work, the subdivider and/or contractor shall clean up all ground occupied or affected by him in connection with the work and return same to original or better condition.

7.6.17 AGREEMENTS AND GUARANTEES.

The subdivider may execute and file guarantees with the Planning Commission and/or staff, in lieu of actual installation or completion of the required improvements, except sidewalks, when requesting approval of the final plat. Such guarantees shall be an amount for the required improvements, as estimated by the subdivider's engineer, and approved by the Planning Commission and/or City Engineer. The cost estimate shall be based on the amount determined to be reasonably necessary to complete all of the improvements required to be constructed by the subdivider, as specified in the approved improvement drawings and specifications, including the fees for field inspections.

The guarantee shall be in the form of cash, direct or general obligations of the United States Government, a surety bond, or an approved escrow agreement or letter of credit. The guarantee shall be executed by the subdivider as principal, and if a surety bond, shall be executed by a corporation authorized to act as a surety under the laws of the state of Kentucky, as surety. The guarantee shall be an assurance of faithful performance of any and all work and the construction and in-installation of all improvements required to be done by the subdivider, as specified in the approved improvement drawings and specifications, together with all engineering and inspection fees as required by Section 8.1, of these regulations. The guarantee shall contain the further condition that should the subdivider fail to complete all work and improvements required to be done by him within twenty four (24)

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consecutive calendar months of the date of approval of the final plat, or within a mutually agreed upon extension, but never to exceed twelve (12) consecutive calendar months, that the Planning Commission or its duly authorized representative, may at its option, cause all required work to be done and improvements constructed. The parties executing the guarantee shall be firmly bound for the payment of all necessary costs thereof. Whenever the subdivider elects to deposit cash or direct or general obligations of the United States Government, or an approved escrow agreement, the Planning Commission or its duly authorized representative, shall be authorized, in the event of any default on the part of the subdivider or the performance of any work or construction of any improvements for which such guarantees have been deposited, to cause the required work to be done and to withdraw that amount required for payment of all costs thereof.

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**SECTION 7.7
Administration and Enforcement**

7.7.01	Administration.	7.7.06	Enforcement.
7.7.02	Fees for Plats and Plans.	7.7.07	Appeals from the Planning
7.7.03	Payment of Fees.		Commission’s Duly Authorized
7.7.04	Recordation Fees in County Clerk’s		Representative.
	Office.		
7.7.05	Modifications.		

7.7.01 ADMINISTRATION.

‡ Administration shall be the responsibility of the Planning Commission and the City staff, as provided per these Subdivision Regulations.

7.7.02 FEES FOR PLATS AND PLANS.

The schedule of fees, charges, etc. shall be as established by the Board of Council.

7.7.03 PAYMENT OF FEES.

The subdivider shall pay all fees to the Zoning Administrator at the time of submitting plats, improvement drawings and specifications, and grading plans for approval. Said fees shall be paid by check or money order only, and made payable to the City of Fort Thomas.

7.7.04 RECORDATION FEES IN COUNTY CLERK’S OFFICE.

The subdivider shall pay the recording fee as per the requirements of the County Clerk’s office.

7.7.05 MODIFICATIONS.

In lieu of the Waiver and Modification authority granted in Section 1.10 – Waivers and Modifications, the Planning Commission may grant a modification or waiver to these Subdivision Regulations in Article VII, where specified herein, providing the Planning Commission shall find:

- A. That unusual topographical or exceptional physical conditions exist; or
- B. That strict compliance with these regulations would create an extraordinary hardship in the face of the exceptional conditions; or
- C. That the modifications would provide for an innovative design layout of the subdivision.

In granting any modification or waiver to these regulations, the Planning Commission shall find that said modification or waiver will not be detrimental to the public interest nor in conflict with the intent and purpose of these Subdivision Regulations.

The Planning Commission may require certain conditions to be met, as may be determined necessary, to accomplish the purpose of these regulations, when modified.

Waivers to regulations in Articles III and V of this Ordinance shall be heard through the applicable waiver or variance procedure in Article I, General Provisions and Administration.

7.7.06 ENFORCEMENT.

- A. Planning Commission Approval Required for All Subdivisions. No person or his agent shall subdivide any land, before securing Planning Commission approval of a plat designating the areas to be subdivided, and no plat of a subdivision of land within the planning unit jurisdiction shall be recorded by the county clerk

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until the plat has been approved by the Commission and the approval entered thereon in writing by the chair.

- B. Sale of Land Subdivision. No person owning land composing a subdivision, or his agent, shall transfer or sell or agree to sell, any lot or parcel of land located within a subdivision by reference to, or by exhibition, or by any other use of a plat of such subdivision, before such plat has received final approval of the Planning Commission signed by the chair of the Planning Commission and has been recorded. Any such installment of transfer, sale, or contract shall be void and shall not be subject to be recorded, but all rights of such purchaser to damages are hereby preserved. The description of such lot or parcel by metes and bounds in any contract or instrument of transfer or other document used in the process of selling or transferring same shall not exempt the person attempting to transfer from penalties provided or deprive the purchaser of any rights or remedies he may otherwise have.
- C. Revisions of Plat after Approval. No changes, erasures, modifications, or revisions shall be made in any plat of a subdivision after final approval has been given by the Planning Commission and an endorsement is made in writing on the plat, unless the plat is first resubmitted and the changes approved by the Planning Commission.
- D. Improvements in Conflict with Official Map. After the Board of Council has adopted an official map, no board, public officer, or authority shall accept, Layout, improve, or authorize any improvements to be constructed in any street, including rights-of-way, watercourses, park and playgrounds, public school or other public building sites shown on the official map, except as provided for in KRS 100.293 – 100.317.
- E. Enforcement by the Planning Commission. The Planning Commission shall have a cause of action for all appropriate relief including injunctions against any governmental bodies or any person who violates any of these regulations.

7.7.07 APPEALS FROM PLANNING COMMISSION’S DULY AUTHORIZED REPRESENTATIVE:

Regarding those actions authorized under Article VII of this Ordinance, any subdivider claiming to be aggrieved by any actions by the City Staff may appeal such actions to the Planning Commission.

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APPENDIX A
PAVEMENT DESIGN

SECTION A.1: PAVEMENT DESIGN METHOD AND REQUIRED THICKNESSES

A.1-1 Pavement Design Method

AASHTO Guide for Design of Pavement Structures (1986 and 1993), published by The American Association of State Highway and Transportation Officials is the design method used herein and is specified as the design method to be used for any alternate pavement designs that are allowed or required in this regulation. Table A-1: Subdivision Pavement Design Parameters Using AASHTO Method sets out the design parameters used herein for Campbell County Subdivision pavements. For definition and explanation of the parameters shown here, see the above mentioned AASHTO guides. Project specific pavement designs are required for residential streets serving over 1,000 residences or commercial/industrial streets serving more than 3,500,000 ESALs or alternative pavement designs proposed under Section A.1-2: Required Thicknesses. Any project specific pavement designs are required to use the design parameters identified in Table A-1: Subdivision Pavement Design Parameters Using AASHTO Method.

Table A-1: Subdivision Pavement Design Parameters Using AASHTO Method		
Parameter	Design Values	
	Concrete	Asphalt
Design Life	20 years	20 years
Life Cycle Analysis	50 years	50 years
Drainage Coefficient	1.0	--
Reliability	80%	80%
Deviation	0.35	0.45
Initial Serviceability	4.2	4.5
Terminal Serviceability	2.5	2.5
Modulus of Rupture	600 psi	--
Modulus of Elasticity	3,600,000psi	--
CBR, Minimum	2 (K=50 pci)	3 (MR=2700 psi)
Load Transfer	4.4 (no dowels)	--
Load Transfer	3.2 (dowels)	--
20 Year ESAL, Residential Local Street, ≤ 199 Residential Units served	81,000	81,000
20 Year ESAL, Residential Sub-collector Street, 200-500 Residential Units served	203,000	203,000
20 Year ESAL, Residential Collector Street, 501-1000 Residential Units served	406,000 ^[2]	406,000 ^[2]
20 Year ESAL, Light Commercial	1,000,000 ^[1]	1,000,000 ^[1]
20 Year ESAL, Heavy Commercial/Industrial Street	3,500,000 ^[1]	3,500,000 ^[1]
Year 17 to Year 34 and Year 34 to Year 50 ESAL, Residential Local Street, ≤ 199 Residential Units served	53,000	53,000
Year 17 to Year 34 and Year 34 to Year 50 ESAL, Residential Local Street, 200-500 Residential Units served	133,000	133,000
Year 17 to Year 34 and Year 34 to Year 50 ESAL, Residential Local Street, 501-1000 Residential Units served	265,000 ^[2]	265,000 ^[2]
Year 17 to Year 34 and Year 34 to Year 50 ESAL, Light Commercial	850,000 ^[1]	850,000 ^[1]

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Year 17 to Year 34 ESAL, Heavy Commercial/Industrial	2,975,000 ^[1]	2,975,000 ^[1]
ESAL, Arterial	Per KYTC Specifications	
Asphalt Surface Layer Coefficient		0.44
Asphalt Base Layer Coefficient		0.40
Crushed Stone Base Layer Coefficient		0.14
Crushed Stone Base with Tensar TX5 Geogrid Layer Coefficient		0.25 for CBR ≥ 3
		0.21 for 2 ≤ BR < 3
Thickness conversion factor, 17 year old asphalt – Residential		0.70
Thickness conversion factor, 34 year old asphalt – Residential		0.60
Thickness conversion factor, 17 year old asphalt – Light Commercial		0.85
Thickness conversion factor, 34 year old asphalt – Light Commercial		0.75
Thickness conversion factor, 17 year old asphalt – Heavy Commercial/Industrial		0.90
Thickness conversion factor, 34 year old asphalt – Heavy Commercial/Industrial		0.80
NOTES:		
^[1] Engineer shall submit a Traffic Impact Study (TIS) documenting project-specific design ESALs for each commercial/industrial Subdivision generating more than 100 vehicle trips per hour during the AM or PM peak period. If project-specific ESAL loading is greater than 3,500,000, a project-specific pavement design is required.		
^[2] Project-specific pavement design required for residential streets serving more than 1,000 residential units.		

A.1-2 Required Thicknesses

- (A) Table A-2: Required Subdivision Street Thicknesses shows the required pavement thicknesses for various Street classifications for Asphalt and Concrete Streets where in situ Subgrade soils can meet the minimum required Subgrade CBR equal to 2 or greater for Concrete pavements or CBR of 3 or greater for Asphalt pavements. These thicknesses were determined using the AASHTO Guide for Design of Pavement Structures (1986 and 1993) and the design parameters identified in Table A-1: Subdivision Pavement Design Parameters Using AASHTO Method. These values meet requirements for a 50 year life cycle without replacement, assuming resurfacing at 17 and 34 years.

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Table A-2: Required Subdivision Street Thicknesses								
Street Classification With Number of Residential Units Served ^{[5][6]}	Concrete Over Crushed Stone Base (CSB)		Asphalt Over Crushed Stone Base (CSB)			Asphalt Over Crushed Stone Base (CSB) + Geogrid ^[7]		
	Concrete	CSB	Surface	Base	CSB ^[1]	Surface	Base	CSB ^[1]
Residential Local ≤ 199 R.U.	7” ^[2]	4”	1.5”	5”	7” ^[4]	1.5”	3”	7” ^[4]
Residential Sub-collector 200-500 R.U.	8” ^[2]	4”	1.5”	6”	7” ^[4]	1.5”	4”	7” ^[4]
Residential Collector 501-1000 R.U.	9” ^[2]	4”	1.5”	7.75”	7” ^[4]	1.5”	5.75”	7” ^[4]
Light Commercial ≤1 Million ESALS	8.5” ^[3]	4”	1.5”	8”	7” ^[4]	1.5”	6”	7” ^[4]
Heavy Commercial/ Industrial ≤3.5 Million ESALS	10” ^[3]	4”	1.5”	9.5”	7” ^[4]	1.5”	7.5”	7” ^[4]
Arterial	Per KYTC Specifications							
<p>[1] Average thickness. Varies from 1 inch less at centerline to 1 inch greater at gutter apron.</p> <p>[2] Plain Concrete, tooled skewed transverse Contraction Joints without dowels (see Details C.17 & C.18).</p> <p>[3] Plain Concrete, with doweled and sawed (non-skewed) transverse Contraction Joints (see Detail C.16).</p> <p>[4] 6-8 inch KYTC crushed stone base for residential pavements to be installed in one lift (pug milled) and properly compacted (one lift). Any crushed stone base greater in thickness than the above noted 6-8 inches must be installed in two lifts.</p> <p>[5] Residential Unit means a residential dwelling unit and shall include single-family unattached homes, condominiums, town homes, duplex, triplex and fourplex units, and individual apartment units in a multi-family building.</p> <p>[6] Number of residential units served for a particular Street is defined as the number of residential units which that Street serves as the sole access or, where a number of residential units are served by more than one access, it is an approximation of the number of residential units served that is equivalent to one access.</p> <p>- Example 1: A particular section Street serves as the sole access to less than 200 residential units. That Street would then be a Local Street.</p> <p>- Example 2: An area of existing and future residential development of 450 residential units is served by more than one access Street. Only those Streets that will carry traffic and ESAL loading higher than a Subdivision Street that provides sole access to more than 200 residential units will be classified as a Subcollector Street.</p> <p>[7] Geogrid shall be Tensar TX5 triaxial geogrid.</p>								

(B) Wherever the minimum CBR values for Asphalt or Concrete pavements as defined in Table A-1: Subdivision Pavement Design Parameters Using AASHTO Method cannot be provided by the in situ Subgrade soils, the Engineer shall: 1) submit an engineered Subgrade improvement design that increases the CBR value of the in situ Subgrade soils to the required minimum CBR values for Asphalt and Concrete pavement in Subsection A.1-1: Pavement Design Method; or 2) submit an engineered alternate pavement design that takes into account the substandard CBR values.

- (1) Engineered subgrade improvements may include:
 - a) Undercutting the substandard Subgrade soils and replacing them with documented soils that provide the minimum CBR values, or greater.

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- b) Providing a chemically stabilized Subgrade (usually lime stabilization) to effectively provide the minimum CBR values, or greater.
 - c) Utilizing crushed stone base with geotextile and/or Tensar TX5 triaxial geogrid to effectively provide the minimum CBR values, or greater.
- (2) Alternative pavement designs may be proposed for Asphalt pavement on subgrades with a CBR value of 2, provided the pavement structure is shown to meet the structural number requirements identified in Table A-3: Structural Numbers for Alternative Asphalt Pavement Designs (CBR =2). Alternative pavement designs are not permitted for Subgrade soils with a CBR less than 2; rather, the subgrade soils shall be improved to CBR equal to 2 or greater, per Subsection A.1-2(B)(1).

Street Classification	Structural Number
Local (≤199 Residential Units)	4.09
Sub-collector (200-500 Residential Units)	4.92
Collector (501-1000 Residential Units)	5.60
Light Commercial	5.15
Heavy Commercial/Industrial	6.31

- (3) When chemically stabilized Subgrade demonstrates a documented CBR value greater than 3, an alternative asphalt pavement design may be proposed to reduce pavement thickness, provided the pavement structure is shown to meet the structural number requirements identified in Table A-4: Structural Numbers for Alternative Asphalt Pavement Designs.

Street Classification	Structural Number			
	CBR 4	CBR 5	CBR 6	CBR 7
Local (≤199 Residential Units)	2.85	2.50	2.24	2.04
Sub-collector (200-500 Residential Units)	3.52	3.14	2.84	2.60
Collector (501-1000 Residential Units)	4.09	3.65	3.34	3.07
Light Commercial	4.05	3.75	3.55	3.35
Heavy Commercial/Industrial	4.87	4.55	4.26	4.05

- a) For Asphalt over Crushed Stone Base pavements, the crushed stone base may not be reduced below the thicknesses shown in Table A-2: Required Subdivision Street Thicknesses and minimum total Asphalt thickness of 4.5" (local streets), 5.5" (subcollector streets), 6.5" (residential collector streets), and 7.5" (commercial/industrial streets) shall be maintained.
- b) There shall be no reduction in thickness for Concrete pavements below those shown in Table A-2: Required Subdivision Street Thicknesses.
- c) Alternative pavement designs shall not be permitted for:

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- i. in situ soils with CBR values greater than 3;
- ii. undercut and replaced subgrade soils; or
- iii. crushed stone base and geotextile/geogrid subgrade improvements.

A.1-3 Pavement and Pavement Drainage Construction Details

Appendix C: Standard Construction Requirements and Details for Streets, Sidewalks, Driveways contains important construction details that are a part of these specifications for the pavement, pavement Drainage system, and other utility construction within the Right of Way that can impact pavement performance. Proper construction execution of the details in Appendix C: Standard Construction Requirements and Details for Streets, Sidewalks, Driveways is important to good pavement performance.

SECTION A.2: USE OF AGGREGATES WITHIN THE RIGHT-OF-WAY

A.2-1 Aggregate Specifications

Table A-5 indicates the specifications for the various aggregate types and their uses in improvement construction within the Street Right-of-way. All aggregates must pass all KYTC aggregate requirements for their intended use as set out in Section 800 of the KYTC Road and Bridge Manual, latest edition.

Table A-5: Aggregate Specification Table	
KYTC Specification	Use Within Right-of-Way
Pipe Bedding Sand	Bed and cover for deep sanitary sewer and storm sewer
Concrete Sand	Concrete mix and bed and cover for waterline and power and communication utilities
DGA	Backfill for waterline and power and communication utilities under the Street
57’s Crushed Limestone	Concrete pavement aggregate and catch basin crossover construction
57’s Gravel	Allowable aggregate for all Concrete not used in Concrete Pavement and Concrete Curb and Gutter
No. 8’s Gravel	Allowable aggregate for all Concrete
#4 Crushed Limestone	Required aggregate for Concrete Pavements
Crushed Stone Base	Base material all pavements
Asphalt Aggregates See Table A-14.	Asphalt pavement aggregates must meet requirements in Section 400 of KYTC Road and Bridge Manual, latest edition, except where noted otherwise in this specification

All aggregates must pass all KYTC aggregate requirements for their intended use as set out in Section 800 of the KYTC Road and Bridge Manual, latest edition.

SECTION A.3: PORTLAND CEMENT CONCRETE (CONCRETE) INFRASTRUCTURE

A.3-1 General Requirement

(A) Materials

Portland cement, water, aggregates, air entraining agents, and admixtures to reduce water, retard set, etc. shall satisfy the material specifications of, and be proportioned, batched, delivered, and cured in

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accordance with, the Portland Cement Association (PCA), Design and Control of Concrete Mixtures, latest edition, except as noted otherwise in these regulations.

- (B) Mix Design
Concrete mix design shall: (1) contain six bags of cement (564 pounds) per cubic yard; (2) be air entrained to an air content of six percent +2 percent using ASTM air entraining admixture; and (3) have a maximum water cement ratio of 0.45, and a maximum slump of four inches. Aggregate type, gradation and weight distribution will vary depending on the intended use, as spelled out in Subsections A.3-2(A), A.3-3(A), and A.3-4(A).
- (C) Fly Ash
No fly ash is allowed in the Concrete mix.
- (D) Strength
Finished Concrete shall attain a minimum compressive strength at 28 days of 4,000 pounds per square inch.
- (E) Ready Mix Suppliers
All Concrete Ready Mix must be provided by Ready Mix plants listed on the KYTC List of Approved Materials (LAM) as a qualified producer. In the alternative, the Ready Mix supplier must supply to the staff an executed original of KTC Form TC-64-764/09 2011 "Certification of Compliance for Freeze Thaw Resistant Concrete Aggregate" for the aggregate used in Concrete mixes prior to commencement of construction. All Ready Mix Concrete suppliers shall submit to the Staff in January of each year mix design verifications for all Concrete mixes that will be supplied during that year for use in Subdivision improvements.
- (F) Delivery and Discharge
Concrete shall be delivered and discharged from a truck mixer or agitator truck within the periods specified in Table A-6. Delivery tickets shall have this time clearly shown and be checked for conformance by the Staff. Delivery tickets shall also show the date of the delivery, the Concrete mix supplied, and the design compressive strength. All delivery tickets shall be delivered to Staff. Any Concrete which is not plastic and workable when placed shall be rejected.

Table A-6: Maximum Concrete Discharge Time	
Air Temperature	Maximum Discharge Time
Up to 85 degrees Fahrenheit	1.5 hours
More than 85 degrees Fahrenheit	1 hour

- (G) Curing
Concrete shall be cured in accordance with Section 601.03.17 of the KYTC specification.
- (H) Expansion and Isolation Joints
Expansion and Isolation Joint material used herein shall be pre-formed one inch thick material, the full depth of the Concrete, and shall conform to KYTC specifications for use in Concrete pavements.
- (I) Cold Weather Placement
Concrete may be placed when the ambient air temperature in the shade and away from artificial heat is 40° F (and rising). No concrete shall be placed upon frozen subgrade. Concrete shall be protected from freezing for a period of up to seven days.
- (J) Hot Weather Placement
Maintain the temperature of the mixture at or below 90° F during placement. Cease concrete production when the mixture exceeds 90° F until adequate methods are in place to reduce or maintain the mixture temperature. Do not place concrete in areas where the ambient temperature is above 100° F.

A.3-2 Street Pavement Requirements

- (A) Aggregates

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- (1) Aggregates for Concrete Street pavement shall be a blend of No. 467 crushed limestone, No. 8 gravel and concrete sand.
- (2) The No. 467 crushed limestone aggregate shall meet the gradation limits shown in Table A-7.

Sieve Size	Percent Passing
2"	100
1 ½"	93-98*
1"	--
¾"	35-70
½"	--
⅜"	10-30
#4	0-5
#8	--

*Note that the specified percent passing the 1 ½" sieve differs from Section 800 of the KYTC Road and Bridge Manual, latest edition, for No. 467 gradation. The No. 467 crushed limestone for Street pavement in the Regulation must have 2% to 7% retained on the 1 ½" sieve.

- (3) Gradation of the No. 8 gravel and the concrete sand shall meet the requirements of Section 800 of the KYTC Road and Bridge Manual, latest edition.
- (4) Minimum cement factor shall be 564 pounds per cubic yard.
- (5) Minimum compressive strength at 28 days shall be 4,000 psi.
- (6) Maximum water / cement ratio shall be 0.45.
- (7) Air entrainment shall be 6% ± 2%.
- (8) Maximum slump without mid-range water reducer shall be 4-inches.
- (9) Maximum slump with mid-range water reducer shall be 7-inches.
- (10) Workability factor shall be between 38 high to 33 low.
- (11) Coarseness factor shall be between 73 high to 68 low.

(B) Thickness Requirements

Pavement thicknesses for various classifications of Streets shall be as shown in Table A-2: Required Subdivision Street Thicknesses. Various critical Concrete pavement design and construction details that shall be used in Concrete Subdivision pavements are shown in Appendix C: Standard Construction Requirements and Details for Streets, Sidewalks, Driveways.

(C) Testing Requirements

- (1) One set of three test cylinders shall be made for each day's placement of Street. An additional set of three test cylinders shall be made for each additional 100 cubic yards of placement. One slump, air entrainment and temperature test shall be performed for each set of Concrete test cylinders.
- (2) One cylinder shall be tested for compressive strength at no later than seven days and two cylinders at 28 days.

Significant changes from the **Phase 2** draft are noted: **Substantive Additions** and ~~Deletions~~

- (3) Part of the plastic Concrete sample used for the test cylinders shall be washed to visually confirm that crushed limestone coarse aggregate was used in the Concrete mix.
 - (4) All Concrete testing shall be performed by a Qualified Materials Testing firm in accord with applicable ASTM specifications, latest editions. The results of all Concrete testing are required to be provided to Staff by the Developer prior to the approval of a Final Plat.
- (D) Reinforcing Steel
The use of continuous reinforced concrete pavements is not required but can be considered for streets serving commercial/industrial uses.
- (1) Bent bars are not considered reinforcing steel in the contents of this section.
 - (2) The use of wire mesh in concrete pavements is prohibited.
- (E) Placement
- (1) Formwork
 - a) Fixed forms shall have a depth equal to or greater than the thickness of the pavement.
 - b) Forms shall be of such cross-sections and strength and so secured as to resist the pressure of the Concrete when placed, and the impact and vibration of any equipment which they support, without springing or settlement.
 - (2) Setting
The Subgrade under the forms shall be compacted and shaped so that the form set shall provide the specified elevation.
 - (3) Grade and Alignment
The alignment and grade elevation of the forms shall be checked by the Contractor immediately ahead of Concrete placement and corrections made when necessary.
 - (4) Placement Method
 - a) All Concrete placement shall conform to ACI Specifications, latest edition.
 - b) The Concrete shall be mixed in quantities required for immediate use and shall be deposited on the Subgrade to the required depth and width of the construction lane in successive batches and in a continuous operation. The terminus of a continuous pour shall be a Construction Joint per Appendix C: Detail C.17.
 - c) The Concrete shall be placed as uniformly as possible in order to minimize the amount of additional spreading necessary.
 - d) The Concrete shall be vibrated and consolidated with suitable tools while being placed so that the formation of voids or honeycomb pockets is prevented.
 - e) Concrete shall not be placed around manholes or other structures until they have been brought to the required grade and alignment.
 - f) Additional tamping and compaction of surrounding fill material may be required after raising manholes.
 - (5) Consolidating and Finishing

Significant changes from the **Phase 2** draft are noted: **Substantive Additions** and ~~Deletions~~

- a) Concrete pavement shall be struck off and consolidated with a mechanical finishing machine, vibrating screed, slipform paver, or by hand-finishing methods such that, after consolidation and final finishing, it shall be at the elevation shown on the approved plans.
 - b) The finishing method shall incorporate a screed, which will consolidate the Concrete by pressure, vibration, or both.
 - c) The Concrete shall be brought to a true and even surface, free from rock pockets.
 - d) Hand-finishing tools shall be kept available for use in case the mechanical finishing machine breaks down.
 - e) When hand finishing, the pavement shall be struck off and consolidated by a vibrating screed to the elevation as shown on the plans. When the forward motion of the vibrating screen is stopped, the vibrator shall be shut off and not be allowed to idle on the Concrete.
- (6) Scraping and Straight Edging
- a) The Inspector may require that the pavement be scraped with a straightedge with a minimum width of six feet, equipped with handles long enough to permit it to be operated from the edge of the pavement.
 - b) When irregularities with the surface elevation are discovered, they shall be corrected by adding or removing Concrete. All disturbed areas shall be floated with a wooden or metal float not less than four feet long and not less than six inches wide and straight edged.
- (7) Edging
Before final finishing is completed and before the Concrete has taken its initial set, the edges of the slab and Curb shall be carefully finished with an edger.
- (8) Final Surface Finish
- a) The final surface of the Concrete pavement and Curb shall have a uniform gritty texture at the grades and cross-sections shown on the plans.
 - b) A burlap drag or medium broom shall be used as the final finishing method for Concrete pavement.
 - c) A burlap drag finish shall have a minimum width of at least three feet and have a length that is long enough to cover the entire pavement width.
 - d) The burlap drag shall be pulled forward across the pavement in the direction in which the pavement is being placed.
 - e) A broom finish shall be drawn transversely across the pavement using overlapping strokes to produce surface corrugations of uniform appearance approximately 1/16th inch in depth.
 - f) Curbs shall be finished using the same method as the pavement.
- (9) Integral Curb
- a) Curbs shall be constructed monolithically with pavement extrusion equipment or hand formed prior to the finishing operation.

Significant changes from the **Phase 2** draft are noted: **Substantive Additions** and ~~Deletions~~

- b) The integral barrier and sloped Curb shall be constructed with or prior to the finished paving operation. Special care shall be taken so that the Curb construction does not create a “cold joint.”
- c) Curbs placed immediately following the paving operation shall be sufficiently consolidated with the paving slab and shall not contain voids within or along the back face of the Curb.
- d) Integral barrier Curbs along the edges of Street pavement shall contain depressed Curbs not less than 1-3/4 inches above the gutter line at all Driveway entrances and at such other locations as designed on the approved plans.
- e) When barrier Curb is used, the Curb may be sawed horizontally to facilitate residential Driveways, approaches, and Sidewalks.

(F) Concrete Street Pavement Joints

(1) Contraction Joints

- a) All Contraction Joints shall be placed a maximum of 15 feet on center. Commercial/Industrial Subdivision pavements shall have sawed transverse Contraction Joints with steel dowels that are cut perpendicular across the pavement. All residential pavements shall have tooled or sawed Contraction Joints without dowels. Residential pavement transverse Contraction Joints shall be skewed (except at intersections, paired catch basins and in Cul-de-sacs). See Appendix C: Detail C.18.
- b) Sawed joints shall be equal to a depth of one-fourth (1/4) of the pavement thickness continuous across the slab.
- c) The timing of the installation of joints shall conform to ACI specifications, latest edition.
- d) Contraction Joints cut into fresh Concrete with a jointing tool shall be a minimum 1½ inches deep.

(2) Expansion Joints

There shall be no Expansion Joints in any pavements except at bridge abutments and where required by Appendix C: Detail C.12, C.13, C.14, C.22, C.23, and C.24.

(3) Longitudinal Joints

- a) All pavements wider than 15 feet require Longitudinal Joints. Longitudinal Joints may be Construction Joints or tooled/sawed joints.
- b) Longitudinal Construction Joints will require 18 inches long #4 deformed bars embedded into each slab at the mid-slab height, no more than four feet on center and no closer than 18 inches to each Contraction Joint.
- c) Bent bars may be inserted into fresh Concrete before its initial set.
- d) Bent bars shall not be straightened until the Concrete has cured sufficiently to enable bending without fracture of the Concrete slab.

(4) Other Pavement Joints

Other Contraction Joints and Isolation Joints shall be constructed per Appendix C: Detail C.17.

(G) Manholes and On-Street Inlets

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and ~~Deletions~~

Manholes, on-Street inlets, and water valves encountered in the areas to be paved shall be raised or lowered to the surface of the new pavement. On-Street inlets may be separated from the pavement and Curb by boxing out around the inlet. Details for Joint construction at manholes and catch basins are in Appendix C: Details C.22, C.23, and C.24.

(H) Protection and Opening to Traffic

- (1) Traffic shall be prohibited from the pavement until the Concrete has attained a compressive strength of 3,500 pounds per square inch.
- (2) Prohibited traffic shall include Contractor's vehicles.
- (3) Prior to opening to public traffic, the Developer is responsible for completing, curing and sealing the pavement, including box outs, backfilling the Street, sealing the joints and cleaning the pavement of all debris.

(I) Concrete Pavement Lugs

The purpose of pavement lugs in Subdivision pavements is to provide some additional resistance to Contraction Joints separating during repeated expansion and contraction cycles over the life of the pavement in certain open ended and relatively steep downhill pavement conditions. In these open ended and downhill conditions, resistance to pavement lengthening at contraction joints is substantially reduced as compared to Contraction Joints in long stretches relatively straight pavement. In the long, relatively straight streets, the repetitive adjacent slabs help keep the contraction joints from separating during repeated expansion and contraction cycles. Those conditions which shall require lugs are related to the geometry of the Streets and are as follows (see Appendix C: Details C.19, C.20, and C.21).

- (1) The ends of Cul-de-sacs where the Street grade approaching the Cul-de-sac decreases more than 20 feet vertically, at an average grade of more than six percent, before there is a change in direction of Street Drainage. In this condition, install a lug near the end of the Cul-de-sac across the extension of the two lanes of pavement.
- (2) At T-intersections, place a lug on the intersecting street near the intersection, where grade on the intersecting Street is going up from the intersection more than 20 feet vertically, at an average grade of more than six percent, before there is a change in the Drainage direction.
- (3) On the main line of a Street pavement where the pavement is going straight and downhill more than 20 feet vertically, at an average grade of more than six percent and the direction of centerline deflects horizontally by more than 30 degrees, place a lug just uphill of the start of the horizontal curve.
 - a) Lugs shall be placed at least 20 feet uphill from any shallow utility excavation transverse to the pavement.
- (4) The Design Engineer may add other lugs in conditions he considers critical to Contraction Joint integrity.
- (5) Lug locations are to be shown on construction design and as-built drawings.

(J) Joint Sealing Compound

- (1) Joint sealing compound shall conform to the following standard designations:
 - a) Hot-poured elastic type, as specified by AASHTO, latest edition; or
 - b) Silicone rubber sealant type (non-sag, self-leveling, or rapid cure) conforming to the KYTC Department of Highways Standard Specifications for Road and Bridge Construction, latest edition; or

Significant changes from the Phase 2 draft are noted: Substantive Additions and ~~Deletions~~

- c) An approved equal, as determined and approved by Staff.
- (2) The application of joint sealant is prohibited at temperatures below 40 degrees Fahrenheit.

A.3-3 Concrete Curb and Gutter Requirements

(A) Aggregates

- (1) Aggregates for Concrete Curb and Gutter shall consist of KYTC aggregates approved for use in pavements.
- (2) The following quantities and aggregate types shall be provided for one cubic yard of concrete:
 - a) 1,500 pounds of #57 crushed limestone.
 - b) 300 pounds #8 gravel.
 - c) 1,320 pounds of Concrete sand.

(B) Curb Design

- (1) 24-inch wide Concrete Curb and gutter shall be used for all Streets Types with Asphalt pavements.
- (2) All Streets serving residential developments shall use the sloped curb as shown in Appendix C: Details C.10 and C.11.
- (3) All Streets serving industrial/commercial developments shall use the six inch barrier Curb.

(C) Concrete Curb over Crushed Stone Base

Concrete Curb over Crushed Stone Base shall be a minimum of seven inches thick at the Curb apron.

(D) Expansion Joints

- (1) Expansion Joints shall be placed in Concrete Curbs at each side of Curb inlet catch basins.
- (2) Two ¾-inch diameter, 18-inch long smooth dowels with expansion caps shall be placed in each Expansion Joint location.
- (3) Expansion material must go completely through the Curb cross section, preventing Concrete to Concrete contact.

(E) Contraction Joints

Contraction Joints shall be installed in the Curb at a spacing of no more than 10 feet on center.

(F) Standard Details

Details for Concrete Curb and gutter are shown in Appendix C: Details C.10 and C.11.

(G) Testing Requirements

- (1) One set of three test cylinders shall be made for each day's placement of Street. An additional set of three test cylinders shall be made for each additional 100 cubic yards of placement. One slump, air entrainment and temperature test shall be performed for each set of Concrete test cylinders.
- (2) One cylinder shall be tested for compressive strength at no later than seven days and two cylinders at 28 days.

Significant changes from the **Phase 2** draft are noted: **Substantive Additions** and ~~Deletions~~

- (3) Part of the plastic Concrete sample used for the test cylinders shall be washed to visually confirm that crushed limestone coarse aggregate was used in the Concrete mix.
- (4) All Concrete testing shall be performed by a Qualified Materials Testing firm in accord with applicable ASTM specifications, latest editions. The results of all Concrete testing are required to be provided to Staff by the materials testing firm prior to the approval of a Final Plat.

A.3-4 Concrete Public Sidewalks, Pathways, Driveway Aprons and Other Infrastructure

(A) Concrete Mix Design Requirements

- (1) Aggregates shall be a blend of No. 57 gravel or crushed limestone, No. 8 gravel and concrete sand.
- (2) Gradation of the No. 57 gravel or crushed limestone, the No. 8 gravel and the concrete sand shall meet the requirements of Section 800 of the KYTC Road and Bridge Manual, latest edition.
- (3) Minimum cement factor shall be 564 pounds per cubic yard.
- (4) Minimum compressive strength at 28 days shall be 4,000 psi.
- (5) Maximum water / cement ratio shall be 0.45.
- (6) Air entrainment shall be 6% ± 2%.
- (7) Maximum slump without mid-range water reducer shall be 4-inches.
- (8) Maximum slump with mid-range water reducer shall be 7-inches.
- (9) Workability factor shall be between 40 high to 35 low.
- (10) Coarseness factor shall be between 63 high to 58 low.

(B) Subgrade

- (1) Subgrade for Sidewalks, pathways, and Driveway aprons shall be non-organic and consist of natural clay or sand soils.
- (2) Clay soils must be knit together without any loose clay soils. Any material used to finish grade Subgrade shall be bank run sand, KYTC crushed limestone DGA, or crushed recycled Concrete.
- (3) Any granular material in excess of two inches thick shall be compacted with a vibrating plate compactor or equivalent.
- (4) No gravel and no other crushed limestone gradation will be used for finish grade fill material.

(C) Thickness Requirements

- (1) Concrete for public Sidewalks and pathways shall be a minimum of four inches thick.
- (2) Residential Driveway aprons shall be a minimum of five inches thick.
- (3) Commercial and industrial Driveway aprons shall be a minimum of seven inches thick.

Significant changes from the **Phase 2** draft are noted: **Substantive Additions** and ~~Deletions~~

(D) Drive/Apron Requirements

Required Driveway apron layouts and construction details, including required Expansion Joint thickness and location, are shown in Appendix C: Details C.12, C.13, and C.14. Special care must be taken during construction to make sure there is no Concrete-to-Concrete contact under all Expansion Joints.

(E) Edge Drain Installation

When installing Driveway aprons, special care must be taken not to damage the edge drain installed on the outside of the Curb. If the edge drain is damaged, the damaged section must be properly replaced to assure water flow through the edge drain.

(F) Contraction Joint Spacing

For Sidewalks, the maximum spacing of Contraction Joints shall not exceed five feet, except when the Sidewalk or pathway is wider than five feet when the spacing shall not exceed the width of the slab.

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Significant changes from the Phase 2 draft are noted: Substantive Additions and Deletions

SECTION A.4: ASPHALT CONCRETE (ASPHALT) PAVING MIXTURE AND CONSTRUCTION SPECIFICATIONS

A.4-1 General Requirement

- (A) All Subdivision Streets in Campbell County Subdivisions shall be constructed in accordance with the latest edition of the KYTC Roadway Manual, Division 400, except where noted otherwise in this specification.
- (B) All Contractors, suppliers and producers must be prequalified by KYTC or demonstrate experience and success on similar projects in order to perform this work.
- (C) All construction materials incorporated into the work shall conform to the requirements set forth in the KYTC Roadway Manual.
- (D) The Contractor shall notify Staff of the intent to start the project within 24 hours of beginning production.

A.4-2 Mixture Designation and Design

- (A) Volumetric Mix Design
The Contractor shall perform the volumetric mix design according to AASHTO R35 and conforming to AASHTO M323 and utilize 50 gyrations.
- (B) Mix Design Submittal
At least 72 hours prior to the start of production, the Contractor shall submit the mix design to the Staff and the Applicant’s Qualified Material Testing Lab for review.
- (C) Aggregate Gradation
Aggregate gradations for base, intermediate and surface mixtures shall conform to KYTC Roadway Manual Division 400 and Table A-8.

Table A-8: Aggregate Gradations			
Sieve Size	1.0 Base Mixture	0.75 Intermediate Mixture	Surface Mixture
1-1/2"	100	--	--
1"	90-100	100	--
3/4"	<90	90-100	--
1/2"	--	<90	100
3/8"	--	--	90-100
#4	--	--	<70
#8	19-45	23-49	25-55
#16	--	--	--
#200	1-7	2-8	2-10

- (D) Voids in Mineral Aggregate (VMA), Asphalt Content (AC) and Air Voids (AV) VMA, AC and AV for residential streets shall be as specified in Table A-9 and for commercial/industrial streets as specified in Table A-10.

Table A-9: VMA, AC, and AV for Residential Streets			
	Minimum VMA	Minimum AC	AV
Base Mixture	12%	4%	4%
Intermediate Mixture	13%	4.3%	4%
Surface Mixture	14%	5.4%	3%

Table A-10: VMA, AC, and AV for Commercial/Industrial Streets			
	Minimum VMA	Minimum AC	AV
Base Mixture	12%	4%	4%

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and **Deletions**

Intermediate Mixture	13%	4.3%	4%
Surface Mixture	14%	5.4%	4%

(E) Remaining Mix Design

The remaining mix design shall conform to the applicable KYTC mix designations Class 2 BASE 0.75D PG64-22 or Class 2 BASE 1.0D PG64-22 “Base and Intermediate Mixture” and Class 2 SURF 0.38D PG64-22 “Surface Mixture”.

(F) Recycled Asphalt Pavement and Recycled Asphalt Shingles

Recycled Asphalt Pavement (RAP) may be used but is limited to 25 percent of the mixture by weight in the surface and 30 percent of the mixture by weight in the base. Recycled Asphalt Shingles (RAS) may be used but is limited to 3.0 percent of the mixture by weight. However, when combined, the total amount of RAP and RAS may not exceed 25 percent in the surface and 30 percent in the base with no more than three percent RAS. Warm mix Asphalt technology is allowed on a permissive base similar to the KYTC Standard Specifications. See Table A-11.

Table A-11: Maximum Recycled RAP and RAS in Asphalt Pavement			
	Maximum RAP	Maximum RAS	Maximum RAP and RAS
Base Mixture	30%	3%	30%
Intermediate Mixture	30%	3%	30%
Surface Mixture	25%	3%	25%

A.4-3 Plant Mix Operation

(A) Plant Requirements

- (1) All Asphalt mixing plants shall conform to KYTC standards.
- (2) Maximum asphalt temperature during plant operations is 330° F.
- (3) Minimum asphalt temperature in the truck at the plant is 220° F.

(B) Plant Testing Requirements

- (1) The Contractor shall monitor the plant production and perform quality control testing at the Asphalt mixing plant.
- (2) Staff shall be provided access to the facility during production and may be present to observe sampling and testing by the Contractor personnel.
- (3) A minimum of one test shall be performed per day of paving and additional tests shall be performed for each 1,000 tons produced.
 - a) The Contractor may perform additional testing as desired to control mix properties.
 - b) When multiple test samples are obtained, the average value of those results shall be used for acceptance.
 - c) At the start of production on the project, the first sample shall be obtained after a minimum of 50 tons have been loaded.
 - d) Samples shall be tested for conformance to gradation and Asphalt content requirements (AASHTO T164 & AASHTO T30).

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and ~~Deletions~~

- e) Testing results from any offsite laboratory testing shall be reported to Staff, the applicant and the Qualified Material Testing Lab within 24 hours.

A.4-4 Minimum and Maximum Lift Thicknesses

Minimum and maximum thicknesses for asphalt lifts are indicated in Table A-12.

Table A-12: Minimum and Maximum Lift Thickness		
	Minimum Lift	Maximum Lift
Base	3"	5"
Intermediate	2-1/4"	4-1/4"
Surface	1-1/4"	1-3/4"

A.4-5 Placement Procedures

(A) General

- (1) All Contractors must be prequalified by KYTC or demonstrate experience and success on similar projects in order to perform this work.
- (2) Immediately before placing Asphalt materials, remove loose and deleterious materials using a power broom or street sweeping equipment.

(B) Subgrade

- (1) Asphalt placement is prohibited on subgrade with free water on the surface.
- (2) Pavement Subgrade cross slopes shall vary from 3.7 percent to 5 percent depending on the applicable Street cross section.

(C) Overlay

- (1) A tack coat shall be evenly applied across the width of the lane at a rate of 0.05 gallons per square yard. Adjust spray bars as necessary to avoid streaks.
- (2) A tack coat is not required when placing Asphalt base mixtures on granular base layers.
- (3) When Asphalt surface abuts a barrier Curb or similar vertical surface, the abutting surface shall be tack coated prior to construction of the Asphalt course.

(D) Equipment

- (1) The Contractor shall furnish dump trucks with clean, smooth metal beds to transport materials and shall use approved and environmentally friendly release agents.
- (2) Use of diesel fuel is strictly prohibited in truck beds.
- (3) Sufficient trucks should be scheduled to allow for a continuous paving operation without significant delays between trucks.
- (4) The Contractor shall furnish a self-propelled paver with the capacity of spreading and finishing all courses to the indicated widths, depths, line, grade and cross section, with a smooth finish, uniform in density and texture.

Significant changes from the **Phase 2** draft are noted: **Substantive Additions** and **Deletions**

- (5) Rollers must also be self-propelled and capable of reversing smoothly. Steel wheel rollers must be equipped with adjustable scrapers, spray bars, and/or wetting pads to keep wheels clean at all times.
- (6) Hand tampers may also be used in tight areas inaccessible by rollers.

(E) Temperatures for Asphalt, Ambient Air and Subgrade

- (1) Do not place Asphalt mixtures when the ambient air temperature and existing surface temperatures on the project are less than those specified below or when weather conditions otherwise prevent the proper handling or finishing of the Asphalt mixtures.
 - a) Minimum ambient air and existing surface temperature shall be 35° F (and rising) prior to placement of Asphalt Base Mixture.
 - b) Minimum ambient air and existing surface temperature shall be 40° F (and rising) prior to placement of Asphalt Surface Mixture:
- (2) The maximum temperature of the mixture shall not exceed 330° F at any time, and the minimum temperature (measured in the truck at the project site) shall not fall below 200° F for all mixtures.
- (3) Compaction efforts shall be completed before the Roadway mix temperature falls below 150° F.

(F) Application of Asphalt Mixes

- (1) All courses shall be placed and spread as continuously as possible, keeping the number of joints to a minimum.
- (2) The longitudinal joint in the final surface course shall be placed along the dividing line between the lanes.
- (3) Best paving practices shall be utilized to ensure the proper amount of material at the joint and to make the same number of passes over the joint as the middle of the mat.
- (4) The finished Joint shall be smooth and tight and free from voids or coarse material.

(G) Surface Course Application

- (1) The surface course application shall be provided no later than 12 months from the date the base Asphalt was placed.
- (2) Prior to the surface course application, Staff shall inspect the Asphalt base course. Damage to the Asphalt base course that will affect the structural integrity or future maintainability of the pavement section shall be repaired prior to placement of the surface course.
- (3) Damage to Curb and gutter sections identified by Staff that will affect the structural integrity and/or future maintainability of the Curb and gutter shall be removed and replaced prior to the placement of surface Asphalt course.
- (4) The surface course shall be compacted to between 1/8" and 1/2" above adjacent Concrete Curb apron.
- (5) The pavement surface cross slope shall be three percent.
- (6) The joint between Curb and gutter and Asphalt pavements shall be sealed in accord with Subsection A.4-7: Joint Sealing.

Significant changes from the Phase 2 draft are noted: Substantive Additions and Deletions

A.4-6 Density Testing Requirements

(A) Sampling

All base and surface Asphalt and aggregate materials shall be sampled, tested, and reported by a Qualified Material Testing Lab in accordance with the KYTC Roadway Manual Division 400.

(B) Testing Frequency and Results

- (1) Density tests shall be performed at least every 150 feet along each lane of asphalt placed.
- (2) At the discretion of Staff, a quality assurance check (including cores) of the sampling and testing may be required if deficiencies are suspected.
- (3) Asphalt base and surface courses shall be compacted to an average density of between 90 and 97 percent of solid volume.
- (4) Density testing shall be per ASTM D2950 "Density of Bituminous Concrete In Place by Nuclear Density Methods" or ASTM D7113 "Density of Bituminous Mixtures In Place by Electromagnetic Surface Contact Methods".

A.4-7 Joint Sealing

(A) Compound Material

The Joint Sealing Compound shall conform to the following standard designations:

- (1) Hot-Poured Elastic Type, as specified by AASHTO, latest edition; or
- (2) Silicone Rubber Sealant Type (Non-Sag, Self-Leveling, or Rapid Cure) conforming to the KYTC Roadway Manual, latest edition; or
- (3) An approved equal, as determined and approved by Staff.
- (4) The use of AC-20 as joint sealant is prohibited.

(B) Air Temperature

The application of joint sealant is prohibited at air temperatures below 40° F.

(C) Application

- (1) Joint Sealant shall be applied to all Joints abutting the Asphalt, which includes the Joint between the base Asphalt and the Curb if the surface course is not going to be applied immediately.
- (2) Joint sealant shall be applied to the Curb line immediately upon placement of the surface Asphalt.

A.4-8 Acceptance

- (A) All Asphalt pavement materials shall be evaluated by the Staff, per the requirements set forth in this specification and the KYTC Roadway Manual. Asphalt mixtures will be considered acceptable if the test results determine the materials are within the acceptable limits, as shown in Table A-13 and Table A-14. Any materials deemed to be outside of these ranges shall be retested for compliance.

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and ~~Deletions~~

Table A-13: Acceptable Ranges for AC and Density	
Asphalt Content	Density
±0.6%	90%-97%

Table A-14 : Acceptable Gradation Ranges			
Sieve Size	Acceptable Ranges Percent Passing		
	1.0 Base Mixture	0.75 Intermediate Mixture	0.38 Surface Mixture
1-1/2"	94-100	--	--
1"	84-100	94-100	--
3/4"	<90	84-100	--
1/2"	--	<90	94-100
3/8"	--	--	84-100
#4	--	--	<90
#8	14-50	18-54	32-73
#16	--	--	--
#200	1-10	1-10	1-10

- (B) When test results are in the “Acceptable Ranges,” the material will be accepted. Staff shall require the Applicant to “Remove and Replace” the materials when the test results indicate they are outside the limits of the “Acceptable Ranges”.
- (C) The surface of each course shall be inspected for uniformity and adequate thickness. Base courses shall be placed within a 1/2 inch tolerance and surface courses within 1/4 inch tolerance. All irregularities exceeding the allowable tolerances must be repaired as directed by the Staff.

Significant changes from the Phase 2 draft are noted: Substantive Additions and ~~Deletions~~

APPENDIX B

GEOTECHNICAL EXPLORATION AND EARTHWORK CONSTRUCTION REQUIREMENTS

SECTION B.1: GEOTECHNICAL EXPLORATIONS

B.1-1 Purpose

This section fulfills the infrastructure requirements of Kentucky Revised Statutes (KRS) 100.273 through 100.292 by determining that: (1) important in situ Subdivision soils and geologic features that will impact the functional use of public and private improvements have been identified; and (2) that soils and geologic aspects of the design and construction of public and private improvements within the Public Street Right of way or Private Street easements meet the support requirements of their intended use.

- (A) All earthwork and geotechnical exploration requirements within Appendix B shall apply to areas within the Public Street Right-of-way and Private Street easements, and areas structurally supporting the Public Street Right-of-way and Private Street easements;
- (B) All Geotechnical Engineering and Geotechnical Technician work and reporting required under Appendix B shall be provided by the Applicant of the proposed Subdivision. The Geotechnical Technician must be under the direction and control of the Geotechnical Engineer who has been employed by the Applicant for the proposed Subdivision. The proposed Subdivision's Geotechnical Engineer shall have substantial professional engineering discretion to determine when the Geotechnical Engineering intent of the requirements of this Appendix is being met.
- (C) The Applicant shall submit all Geotechnical Engineering and Geotechnical Technician reports and testing results to staff at the appropriate submittal time, as noted in Appendix B.

B.1-2 Geotechnical Explorations Outside of Right-of-Way

- (A) Prior to the approval of the preliminary plat, a geotechnical engineer shall complete a preliminary report that addresses the soil and bedrock types and any existing slope stability issues that are expected in the proposed Subdivision.
 - (1) The Geotechnical Engineer's preliminary report will render a preliminary engineering opinion about the suitability of those soil and bedrock types and existing slopes to provide the necessary support for the intended private property use of the Subdivision.
 - (2) The opinion of expected soil and bedrock types and opinion of soil support suitability can be based on the Geotechnical Engineer's local soil and bedrock knowledge, USGS maps, and a visual field reconnaissance.
- (B) The requirement for preliminary and final geotechnical explorations outside of the Public Right-of way may be further regulated by the applicable legislative body's zoning ordinance.

B.1-3 Geotechnical Explorations Within Right-of-Way

- (A) Preliminary Geotechnical Exploration

Significant changes from the Phase 2 draft are noted: Substantive Additions and ~~Deletions~~

- (1) Prior to the approval of the preliminary plat a geotechnical engineer shall complete a preliminary geotechnical exploration report. The report will address the soil and bedrock types that are expected on the project site, and present an engineering opinion about the suitability of the soil and bedrock types (when properly prepared and constructed) to provide adequate proposed Public Street Right-of-way structural support, including the minimum required CBR (subgrade support) values for asphalt and/or concrete pavements described herein.
 - (2) The opinion of expected soil and bedrock types and opinion of Subgrade support suitability can be based on the Geotechnical Engineer's local soil and bedrock knowledge, USGS maps, and a visual field reconnaissance.
 - (3) Campbell County soil types that may require replacement or other form of remediation during Subgrade construction in order to provide the minimum required CBR values for Concrete and Asphalt pavement designs shown in Table A-1 are non-plastic silts (soils that classify ML according to the Unified Soil Classification System (USCS)) and highly plastic silts and clays (MH and CH soils) with standard Proctor maximum dry densities less than 100 pounds per cubic foot and plasticity indices greater than 30 percent.
- (B) Final Geotechnical Exploration
- Prior to approval of the Improvement Plans or Grading Plans a Geotechnical Engineer shall complete a final geotechnical exploration report that identifies the soil and bedrock types present on the project site covered by the Improvement Plans or Grading Plans and presents a written engineering opinion about the suitability of the soils and bedrock to provide stable Right-of-way earthwork construction, and to provide the minimum CBR values for Asphalt and Concrete pavement.
- (1) This written report shall be submitted to staff and be based on the results of soil borings, test pits, field and laboratory soil testing, etc. that are sufficient for the Geotechnical Engineer to render his/her engineering opinion.
 - (2) If the soils are not suitable to provide the minimum CBR values, the Geotechnical Engineer shall include recommendations in the written report for subgrade improvement or alternate pavement designs.

SECTION B.2: EARTHWORK SPECIFICATIONS

B.2-1 Purpose

The purpose of this section is to establish the appropriate earthwork specifications and material testing requirements so that the Public Street Right-of-way and Private Street easements have adequate earthwork structural support and the required pavement subgrade support.

B.2-2 Earthwork Excavations

The following shall apply to earthwork excavations other than trenches or temporary excavations:

- (A) All topsoil shall be stripped from proposed cut, fill and pavement areas.
- (B) Excavations shall be made to approximate grade or Subgrade elevations consistent with approved plans.

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- (C) Final cut slopes shall not be steeper than a slope of 3.0 horizontal to 1.0 vertical unless otherwise designed by a Geotechnical Engineer, but in no case shall be steeper than 2.0 horizontal to 1.0 vertical.
- (D) Any spongy, unstable, or organic material that is exposed at the finished Subgrade level must be removed to expose stiff, non-yielding, non-organic soils and the excavated material replaced with soils capable of producing the required Subgrade CBR for the pavement design being used for the project (see Section A.1: Pavement Design Method and Required Thicknesses of these regulations).
- (E) When excavating at the cut/fill transition during earthwork, remove spongy or unstable material, organic matter, or other unsuitable materials that are exposed. The Contractor shall remove same to expose stiff, non-yielding, non-organic soils and shall replace with approved materials, placed and compacted in accordance with these regulations and the recommendations of the geotechnical engineer.
- (F) Excavations can be backfilled with the same soils that were removed, provided they meet the requirements of Subsection B.2-3: Controlled Fill, Subsection B.2-4: Trench Backfill, Subsection B.2-5: Shallow Trench Backfill, and Subsection B.2-6: Deep Trench Backfill.

B.2-3 Controlled Fill Other than Trench Backfill

- (A) Construction of controlled fills shall be observed and tested by a Geotechnical Technician. Density testing and reporting is required at a minimum frequency of one density test per 500 cubic yards.
- (B) Organic or vegetative soils shall not be used in the construction of the controlled fill.
- (C) Controlled fills shall be constructed of natural soils or bedrock to approximate Subgrade elevation in level lift thicknesses that are approved by the Geotechnical Engineer. All shale used in controlled fills shall be pulverized to a soil-like consistency and moisture-conditioned the same as a soil. Limestone shall be laid flat and shall be broken up and dispersed in the fill so that it does not nest or impede compaction. The incorporation of limestone floaters in the fill shall be in accordance with the recommendations of the Geotechnical Engineer.
- (D) Except for the top one foot of earthwork finished grades, which is the pavement subgrade, controlled fills shall be constructed with soils that are within two percent below to three percent above their optimum moisture content and compacted to a firm, non-yielding condition and to dry densities at least 95 percent of the maximum dry density, as determined by the standard Proctor moisture-density test (ASTM D698, latest edition), or 87 percent of maximum dry density as determined by the modified Proctor moisture-density test (ASTM D1557, latest edition).
- (E) Clean granular soils that do not exhibit a well-defined moisture-density curve shall be compacted to a firm, non-yielding condition and to at least 75 percent relative density as determined by the testing methods contained in ASTM D4253 and D4254, latest edition.
- (F) Controlled fill slopes shall not be steeper than 3.0 horizontal to 1.0 vertical unless otherwise designed by a Geotechnical Engineer. In no case shall unreinforced fill slopes be steeper than 2.5 horizontal to 1.0 vertical.
- (G) Lime stabilization in controlled fills is prohibited unless designed and approved by a Geotechnical

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Engineer.

- (1) Prior to using lime stabilization, staff shall approve the recommended lime stabilization specifications from a Geotechnical Engineer.
 - (2) The Geotechnical Engineer shall be required to monitor the lime stabilization process in the field to determine that it is consistent with their recommended specifications.
 - (3) A letter from the Geotechnical Engineer shall be submitted to staff confirming that the lime stabilization process used in the field was consistent with their written recommendations.
- (H) Heavy equipment used for compaction shall be capable of producing the required controlled fill densities without lamination.
- (1) Cohesive soils shall be compacted with kneading type compaction equipment.
 - (2) Cohesionless soils shall be compacted with smooth face vibratory equipment.

B.2-4 Trench Backfill

The following general information shall apply to all trench backfill:

- (A) Trench backfill is defined as the backfill material used to refill the trench excavation above the initial utility conduit bedding and cover that is a part of underground utility installation.
- (B) Natural non-organic soils, bedrock, approved aggregates, and Controlled Low Strength Material shall be used to backfill utility trenches as defined herein.
- (C) Backfill shall not be flushed with water to obtain compaction.
- (D) A Geotechnical Technician shall observe, test and report on the trench backfill compaction at least once per day when said trench backfill operations are occurring.

B.2-6 Deep Trench Backfill

The following shall apply to deep trench backfill:

- (A) Deep trench backfill is defined as any trench with backfill deeper than shallow trench backfill.
- (B) Deep trench backfill shall consist of natural non-organic soil or bedrock (no pieces of limestone thicker than six inches or more than 12 inches long/wide) or specified aggregates as set out in Appendix C: Details C.2 and C.3.
 - (1) All shale shall be pulverized to a soil-like consistency and moisture-conditioned as a soil.
 - (2) All limestone shall be laid flat, broken up and dispersed so that it does not nest or impede compaction.
 - (3) All backfill shall be moisture-conditioned to within two percent below to three percent above the optimum moisture content for compaction.

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- (4) Backfill lifts shall be 10 inches thick or less (unless otherwise specified by the Geotechnical Engineer), and compacted to not less than 95 percent of the standard Proctor maximum dry density for that soil.
 - (5) Backfill method shall be either a sheepsfoot roller attachment on a track mounted excavator or a self-propelled kneading-type compactor operating longitudinally in the trench excavation.
- (C) Where depths of trenches are more than four feet and worker safety is at risk, the technician shall observe the compaction process in layers with an appropriate type of compaction equipment and document observations until worker safety is assured when compaction testing, as required, is resumed.

B.2-7 Street Pavement Subgrade

(A) Subgrade Preparation During Excavation

Subgrade is defined as the top one foot of the soils under the pavement. The pavement Subgrade must provide adequate support for the pavement structure as defined in these regulations.

- (1) During earthwork and initial pavement subgrade preparation, the Geotechnical Engineer or Geotechnical Technician shall evaluate in situ pavement subgrade materials on the site and develop an opinion about their suitability to provide the minimum CBR values when compacted to the required densities at the specified moisture contents.
- (2) Any soils identified as unsuitable to prove the minimum CBR values will be removed from the subgrade and replaced with suitable soils, or otherwise improved as recommended by the Geotechnical Engineer.

(B) Final Subgrade Preparations and Testing

- (1) At the time of final Subgrade preparation, density testing and proofrolling before paving, the Subgrade shall be within two percent of its optimum moisture content and compacted to a firm, non-yielding condition and to dry densities at least 98 percent of the maximum dry density, determined by the standard Proctor moisture-density test (ASTM D698, latest edition) or 89 percent of the maximum dry density as determined by the modified Proctor moisture-density test (ASTM D1557, latest edition). Cohesive Subgrade material shall be properly knit together and free of loose, dry, crumbly, baked or crusted soil material.
- (2) The Subgrade shall consist of cohesive soils, clean #57 crushed limestone, crushed stone base, or Controlled Low Strength Material (CLSM). Any aggregate material used to replace part of the cohesive Subgrade soil must be drained, so that no standing water can collect and be held in the aggregate Subgrade.
- (3) Clean granular soils that do not exhibit a well-defined moisture-density curve shall be compacted to a firm, non-yielding condition and to at least 80 percent relative density as determined by the testing methods contained in ASTM D4253 and D4254, latest edition.
- (4) The Subgrade shall be shaped to plan elevation and cross-section and checked by the Staff inspector for conformity with the cross section shown on the approved Improvement Drawings immediately prior to placing the pavement. Pavement shall not be placed on any part of the

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Subgrade which does not conform to the cross section shown on the approved Improvement Drawings.

(C) Final Subgrade Proofrolling

- (1) Subgrade Proofrolling is the final test to be performed immediately prior to beginning the paving operations.
- (2) Prior to the placement of pavement materials and after confirming proper density and moisture content of the Subgrade soils, all Street Subgrades shall be proofrolled to test the stability and uniformity of Subgrade materials.
- (3) Subgrade Proofrolling shall be performed with a dual axle dump truck fully loaded with clayey soils or aggregate.
- (4) Subgrade Proofrolling shall be performed at walking speed with at least two passes made in each drive lane direction with the outside wheel generally traveling along the inside line of the future Curb during one pass, and the wheel-paths offset one-half of the truck width during the second pass to maximize subgrade coverage. Extra proofroll passes shall be made at the discretion of the Staff inspector.
 - a) Where proofrolling indicates areas of soft or unsuitable Subgrade soils or areas of non-uniform Subgrade stability, the area shall be delineated and repaired.
 - b) Areas of soft or unsuitable Subgrade soils or areas of non-uniform Subgrade stability shall be identified by observing Pumping and/or Rutting. Pumping is defined as movement or deflection of the Subgrade soil that extends beyond the limits of the direct wheel load. Unless accompanied by Rutting (which is common), the pumping Subgrade soil may rebound back to its original position after the wheel load passes. Pumping failures are typically caused by Subgrade soils with higher than optimum moisture content located within a zone up to several feet below the Subgrade surface. Rutting is defined as imprints or depressions in the Subgrade caused by direct wheel loads. Rutting failures are typically caused by inadequate compaction of near surface soils.
 - c) Rutting in excess of one inch in depth shall be deemed a Subgrade failure requiring Subgrade repair.
 - d) Pumping or deflection of less than one inch is acceptable so long as the Subgrade soil rebounds back to its original position after the wheel load passes. Pumping or deflection greater than one inch or areas of permanent deflections shall be deemed a Subgrade failure requiring Subgrade repair.
 - e) For larger areas of subgrade proofroll failure, the alternative pavement design procedures in Subsection A.1-2(B) can be implemented by the Applicant.
- (5) Subgrade repairs shall be performed by scarifying, aerating and recompacting the Subgrade soils. As an alternative, the failed Subgrade soils can be removed and replaced with properly compacted soils capable of producing the required CBR value.

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- (6) In all cases, repaired areas shall be retested for compaction and proofrolled again before proceeding with the placement of pavement materials. Rutting can typically be repaired by scarifying, aerating, and recompacting, while areas of pumping will more likely require a more significant repair with depth often including the removal and replacement of unsuitable Subgrade materials.

(D) Final Subgrade Inspection Testing and Reporting Requirements

- (1) Both the Staff inspector and the Geotechnical Technician have final Subgrade review, testing, and reporting responsibilities.
- (2) The Geotechnical Engineer shall provide soil testing to develop an opinion of adequate bearing characteristics of the final Subgrade soils. Those tests will include, but are not limited to, moisture content testing, density testing, and verification of soil types being adequate to produce the required CBR values for the pavement. Moisture content testing, density testing, and verification of soil types being adequate to produce the required CBR values for the pavement shall be performed by the Geotechnical Engineer at intervals no less than one test per 100 lineal feet of Street for Streets of 500 lineal feet or less, or one test per 200 lineal feet for Streets over 500 lineal feet.
- (3) The Geotechnical Technician and the Staff Inspector shall review the proofrolling described in Subsection B.2-7©: Final Subgrade Proofrolling and determine whether the Subgrade passes the proofroll.
- (4) Paving operations shall only be permitted to begin after passing inspection results are achieved from Subsection B.2-7: Street Pavement Subgrade, Subsection B.2-7©: Final Subgrade Proofrolling, and Clause B.2-7(D)(2). Inspection reports referenced in Clause B.2-7(D)(1) and Clause B.2-7(D)(2) shall be placed in the Staff project file and Staff shall make their inspection records available to the Developer.
- (5) Street paving shall occur within 30 hours after passing inspection results are achieved from Clause B.2-7(D)(1) and Clause B.2-7(D)(2). A ¼ inch rain event or sub-freezing temperature occurrence between a passing proofroll and Street paving shall void the proofroll and geotechnical testing and shall require re-evaluation.
- (6) For concrete pavements, small pours of up to one hundred square yards to complete intersections, cul-de-sacs, etc. do not require subgrade re-proofrolling after initially passing a proofroll as part of a large subgrade preparations and testing. Moisture conditioning and rerolling may be required.

B.2-8 Controlled Low Strength Material

- (A) CLSM may be used in place of compacted clayey soils to uniformly backfill utility trenches, manholes, etc.
- (B) CLSM shall not be used in place of clean, free-draining #57 crushed limestone specified for and intended as Drainage backfill around catch basins and manholes or in trench drains, such as between catch basin pairs.

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- (C) CLSM shall be transported by mixing truck to ensure proper suspension when placed. Constant agitation is required.
- (D) Flotation of pipes should be avoided by backfilling in 8 to 12 inch lifts until fluid head subsides.
- (E) Adequate separation from aluminum pipe, such as a bituminous coating, is required.
- (F) CLSM shall extend from the top of compacted bedding or other backfill to bottom of pavement structure.
 - (1) CLSM placement shall begin no greater than six inches above the top of the pipe.
- (G) CLSM shall have a minimum excavatable strength of 20 pounds per square inch at three days and 30 pounds per square inch at 28 days. CLSM shall have a maximum excavatable strength of 100 pounds per square inch at 28 days for potential future excavatability.

B.2-9 Construction Equipment on Paved Surfaces

Only rubber tired or rubber tracked equipment shall be used on paved surfaces.

B.2-10 Work Adjacent to Plastic Concrete

Grading operations adjacent to Concrete Curb are prohibited for a minimum of 24 hours after Concrete placement has been completed.

B.2-11 Final Geotechnical Reporting

After the completion of all earthwork covered under this Appendix, for each Subdivision section that is constructed and is to be recorded, the Geotechnical Engineer shall complete a final written report for that Subdivision section. The report will include the following:

- (1) All relevant construction inspection results; and
- (2) A statement from the project Geotechnical Engineer that, to the best of his/her knowledge and belief, all earthwork operations within the Public Street Right-of-way, Private Street easements and areas structurally supporting the Public Street Right-of-way and Private Street easements were performed in general conformance with the requirements of this Appendix and the recommendations for the areas within the Public Street Right-of-way, Private Street easements and areas structurally supporting the Public Street Right-of-way and Private Street easements contained in the associated geotechnical exploration report.

Significant changes from the Phase 2 draft are noted: Substantive Additions and Deletions

APPENDIX C

STANDARD CONSTRUCTION REQUIREMENTS AND DETAILS FOR STREETS, SIDEWALKS, DRIVEWAYS

These details are available on the City’s website and in the office of the Zoning Administrator in the City Building, which is located at 130 N Ft Thomas Ave, Fort Thomas, KY 41075.

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Significant changes from the Phase 2 draft are noted: Substantive Additions and ~~Deletions~~

APPENDIX D
Certificates for Final Plats

The following certifications, terms, and condition shall appear on all Final Plats and Condominium Property Regime Plats presented to the Planning Commission for approval, as applicable:

- A. The statement below for Plats without public Improvements.

<p><i>OWNERS CERTIFICATE</i></p> <p><i>We, the undersigned, do hereby adopt this plat and further certify that the title to the property shown hereon is part or all of the same property conveyed to us.</i></p> <p><i>Owner’s Signature</i> _____ <i>Date</i> _____</p>

- B. The statement below for Plats with public Improvements.

<p><i>DEDICATION CERTIFICATE</i></p> <p><i>We, the undersigned, do hereby adopt this plat, dedicate the right-of-way, storm and sanitary sewer structures, water main and/or other improvements within the easements or parcels as shown on the plat herein to public use and further certify that the title to the property shown herein is part or all of the same property conveyed to us.</i></p> <p><i>Owner’s Signature</i> _____ <i>Date</i> _____</p>

- C. Both the Owner’s Certificate in A. above and the Dedication Certificate in B. above, as applicable, shall be notarized with the acknowledgment shown below.

<p><i>NOTARY ACKNOWLEDGMENT</i></p> <p><i>County of</i> _____</p> <p><i>State of</i> _____</p> <p><i>I, _____, a notary public in and for said county and state, do certify that the foregoing instrument was acknowledged before me this ____ Day of _____, 20__ By (Name of Signer) , (Title) , (Company Name).</i></p> <p><i>Signed:</i> _____</p> <p><i>Notary Public State of</i> _____</p> <p><i>My Commission Expires:</i> _____</p>

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and ~~Deletions~~

D. The approval certificate below.

APPROVAL CERTIFICATE

Approved by the Fort Thomas, KY Planning Commission. This approval does not constitute a guarantee that the resulting parcel(s) complies with any other regulatory agency's requirements.

this _____ day of _____, 20____.

By: _____

Chair, Fort Thomas, KY Planning Commission

E. The County Clerk acknowledgment below. Note that the County Clerk will provide their own acknowledgment when the plat is filed with their office. Please provide a blank box with a title stating "County Clerk's Stamp" measuring 4 inches in width and 1.5 inches in height in the upper right corner of all Final Plats.

County Clerk's Stamp

F. The Surveyor certificate below.

SURVEYOR'S CERTIFICATE

I hereby certify that the survey depicted by this plat was done by me or persons under my direct supervision by the method of random traverse with side shots. The unadjusted precision ration of the traverse was 1:_____ and the directions and distances shown on the plat are based on a traverse that (was/was not) adjusted. The reference meridian basis shown hereon is from_____. This survey is a (Rural/Urban) Survey and the accuracy and precision of said survey meets all the specifications of this class and complies with 201 KAR 18:150.)

Signature _____ PLS # _____ Date _____

Significant changes from the Phase 2 draft are noted: **Substantive Additions** and ~~Deletions~~

G. The standard terms and conditions for easements listed below as applicable.

SANITARY SEWER EASEMENTS

The utility easements shown and described on this plat are dedicated to the use and benefit of the named utility. The respective rights, duties and obligations of the individual lot owner and the respective utility are set forth in separate recorded document in the Kenton County Clerk's Office. Terms and conditions of the document listed below are incorporated by reference:

Sanitary Sewers Sanitation District No. 1 Misc. Book 431, Pg. 110

SURFACE DRAINAGE EASEMENT DEFINITION

"Surface Drainage Easement" shown on this plat are not accepted by the legislative body of jurisdiction. The legislative body is not obligated to maintain or repair any channels or installations in said easements. The easement area of each lot and all improvements in it shall be maintained continuously by the owners of the lots. Within the easements, no structure, planting, fill material or other material shall be placed or permitted to remain which may obstruct, retard or change the direction of flow of water through the drainage channel in the easement.

UTILITY GRANT OF EASEMENT

For valuable consideration, We, the undersigned ("Grantor") do hereby permanently grant to Duke Energy Ohio/Kentucky, Inc. and their parent entity (or entity controlling both entities), their respective subsidiaries or affiliate entities, and Owen Co. Recc, CATV provider and the Cincinnati Bell Telephone Company ("Grantee") their successors and assigns, forever, non-exclusive easements, as shown on the within plat and designated as designed "Utility Easements" for the construction, operation, maintenance, repair, or replacement of any and all necessary fixtures for the overhead or underground distribution of gas, electric, telephone, telecommunications or other utilities ("Grantee Facilities" or "Facilities"). The Grantee shall have the right of ingress and egress and also the right to cut, trim or remove any trees, undergrowth or overhanging branches within the Utility Easements or immediately adjacent thereto. No buildings or other structures may be built within the Utility Easements area, nor may the Utility Easements area be physically altered to (1) Reduce the clearances of either overhead or underground Facilities; (2) Impair the land support of Grantee Facilities; (3) Impair the ability to maintain the Facilities or; (4) Create a hazard. To have and to hold the easement forever. We acknowledge having the full power to convey this Utility Easement and will defend the same against all claims.

H. Any other certificates deemed necessary by the City Engineer, City staff, and/or the Planning Commission.

Significant changes from the Phase 2 draft are noted: Substantive Additions and ~~Deletions~~

APPENDIX E
Certificates for Identification Plats

The following certifications shall appear on all Identification Plats presented to the Planning Commission for approval, as applicable:

- A. The statement below for plats without right-of-way dedications.

OWNERS CERTIFICATE

We, the undersigned, do hereby adopt this plat and further certify that the title to the property shown hereon is part or all of the same property conveyed to us.

Owner's Signature _____ *Date* _____

- B. The statement below for plats with right-of-way dedications.

DEDICATION CERTIFICATE

We, the undersigned, do hereby adopt this plat, dedicate the Right-of-way as shown on the plat herein to public use and further certify that the title to the property shown herein is part or all of the same property conveyed to us.

Owner's Signature _____ *Date* _____

- C. Both the Owner's Certificate in A. above and the Dedication Certificate B. above, when applicable, shall be notarized with the acknowledgment shown below.

NOTARY ACKNOWLEDGMENT

County of _____

State of _____

I, _____, a notary public in and for said county and state, do certify that the foregoing instrument was acknowledged before me this ____ Day of _____, 20__ By (Name of Signer) , (Title) , (Company Name).

Signed: _____

Notary Public State of _____

My Commission Expires: _____

Significant changes from the Phase 2 draft are noted: Substantive Additions and ~~Deletions~~

D. The approval certificate below.

APPROVAL CERTIFICATE

Approved by the Fort Thomas, KY Planning Commission. This approval does not constitute a guarantee that the resulting parcel(s) complies with any other regulatory agency's requirements.

this _____ day of _____, 20____.

By: _____

Chair, Fort Thomas, KY Planning Commission

E. The County Clerk acknowledgment below. Note that the County Clerk will provide their own acknowledgment when the plat is filed with their office. Please provide a blank box with a title stating "County Clerk's Stamp" measuring 4 inches in width and 1.5 inches in height in the upper right corner of all Identification Plats.

County Clerk's Stamp

F. The Surveyor Certificate below.

SURVEYOR'S CERTIFICATE

I hereby certify that the survey depicted by this plat was done by me or persons under my direct supervision by the method of random traverse with side shots. The unadjusted precision ration of the traverse was 1:_____ and the directions and distances shown on the plat are based on a traverse that (was/was not) adjusted. The reference meridian basis shown hereon is from_____. This survey is a (Rural/Urban) Survey and the accuracy and precision of said survey meets all the specifications of this class and complies with 201 KAR 18:150.)

Signature _____ PLS # _____ Date _____

G. All easements that are to be established on the plat shall indicate the grantor of the easement, the recipient of the easement and the purpose of the easement.

H. Any other certificates deemed necessary by the City Engineer, City staff, and/or the Planning Commission.