

Memorandum

To: Matt Kremer, City Administrator
Fort Thomas, KY

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Subject: Significant Differences between the Phase 4 (Version 2) Draft of the Unified Development Ordinance (UDO) - Dated 8/28/2024 and the Existing Subdivision & Zoning Ordinances

Date: September 19, 2024

Below is a synopsis of the more significant revisions from the existing Zoning and Subdivision Ordinances to the provisions in the proposed Unified Development Ordinance (UDO) dated 8/28/2024. As a part of this update process, the Zoning Ordinance and the Subdivision Ordinances are being combined into a single ordinance that is a United Development Ordinance (UDO).

On August 28, 2024, CT-Verdantas provided the City of Fort Thomas with a complete draft of the UDO, which is entitled *Fort Thomas, KY Unified Development Ordinance Phase 4 – Version 2 (8/28/2024)*. This [Version 2 of the Phase 4 draft](#) is available on the City’s website, and all UDO references below are to this Phase 4 draft of the UDO dated 8/28/2024.

- A. **Subdivision Ordinance**: The existing Subdivision Ordinance was adopted in 1990, and as a result, lacks appropriate engineering and land division standards. The proposed revisions incorporate modern engineering standards and designs and bring the City’s requirements more in line with surrounding communities. In addition, the proposed revisions clarify the City’s procedures for subdivisions.
- B. **Zoning Map**: The existing Zoning Map will be amended as follows:
- a. Currently, there are parcels throughout the City that are split zoned, which more than likely resulted from bad digitizing of the paper version of the Zoning Map. Many of these split zoned parcels will be assigned the correct zoning district, which should aid property owners if they wish to make improvements to their property.
 - b. Past Zoning Map amendments have not been recorded on the Official Zoning Map. These amendments will be shown on the updated Zoning Map.
 - c. The new Zoning Districts, which are described below, will be mapped onto the Official Zoning Map. The [draft Zoning Map](#) is available on the City’s website at <https://fortthomasky.org/2024/08/21/proposed-udo-zoning-map-information/>.

C. Zoning Ordinance:

1. General Revisions:

- a. Aligns zoning provisions with requirements in KRS 100 and federal case law and rulings. For example, the revisions to the Sign Regulations are based upon *Reed v. Town of Gilbert*, 576 U.S. 155 (2015).
- b. Includes tables, photos, and graphics to improve usability and the administration of the UDO.
- c. Lists detailed setback, lot, and building dimensional requirements in table summaries for each Zoning District.
- d. Includes Permitted Uses in tables for each Zoning District with references to other Sections and sub-sections of the UDO, when appropriate.

2. Article I - General Provisions and Administration. This Article includes the provisions necessary to administer the UDO. This Article also clearly defines and outlines all procedures in one location for easier administration.

- a. **Definitions and Measurements.** Updates and expands the Definitions Section. Many existing definitions are antiquated, and many terms in the existing Zoning Ordinance are undefined, which makes administration difficult. In addition, sub-section 1.1.03 - Calculations, Measurements, & Illustrations - explains and illustrates some of the terms used in the proposed UDO.
- b. **Powers and Duties.** Unlike the current Zoning Ordinance, this Section defines the roles and responsibilities for all staff and boards/commissions charged with administering the UDO.
- c. **Development Plan Review Procedures.** Correlates development review procedures with current practice.
- d. **Appeals and Variances.** Separates the procedures for appeals and variances to clarify the process and to bring the procedures in line with KRS 100.
- e. **Nonconforming Uses, Lots, Structures, & Site Conditions.** Revises criteria governing nonconforming uses, lots, structures, and site conditions to make investing in properties with nonconformities less difficult. Even with the proposed changes to existing zoning standards discussed below, many properties will still be constrained by nonconformities.
- f. **Waivers, Modifications, & Equivalency.** Creates a formal process for the Planning Commission, the Design Review Board, and the Zoning Administrator to consider waivers and modifications to some zoning requirements. The existing Zoning Ordinance permits the Planning Commission to consider waivers for many different standards, such as the maximum height in the Professional Office District, but the current Zoning Ordinance

- lacks a process to consider these waivers. This new Section formalizes the procedures for granting waivers and lists the findings necessary to grant a waiver.
- g. Enforcement and Penalties.**
- i. Clearly lists what constitutes a violation of the UDO, which is not the case in the current Zoning Ordinance.
 - ii. Supplements the enforcement actions listed in the current Zoning Ordinance.
- h. General Revisions.** Article I includes separate Sections clearly outlining the procedures for considering Zoning Permits, Certificates of Zoning Compliance, Conditional Use Permits, and Zoning text and map amendments.
3. Article III – Zoning Districts. This Article includes all of the zoning districts and the regulations for each zoning district.
- a. General Revisions:**
- i. Creates broad, generic categories of land uses, such as Retail Establishments, rather than listing specific uses like Antique Shop or Apparel Shop. Using appropriately defined “generic” land use categories eliminates the need for exhaustive lists of specific uses.
 - ii. Incorporates contemporary land uses, such as an Experiential Retail Establishment, which is an establishment where patrons participate in an activity rather than purchase goods.
 - iii. Includes Intent Statements for all Zoning Districts. Intent Statements provide justification for the regulations and explain the “why” behind the zoning districts.
 - iv. Establishes a process for the Zoning Administrator to declare a use a Similar Use to one specifically listed in the UDO.
 - v. Creates Restricted Uses in addition to Permitted and Conditional Uses.
- A Restricted Use is a Permitted Use provided it complies with the additional specific-use regulations listed in the Ordinance. See the Figure 1 below. Including restrictions for specific uses helps to mitigate the impacts from these uses, tailors uses to zoning districts, and creates transparency because restrictions are listed in the UDO. If a Restricted Use is unable to comply with the specific use regulations, the use is deemed a Conditional Use and will be considered by the Board of Adjustment.

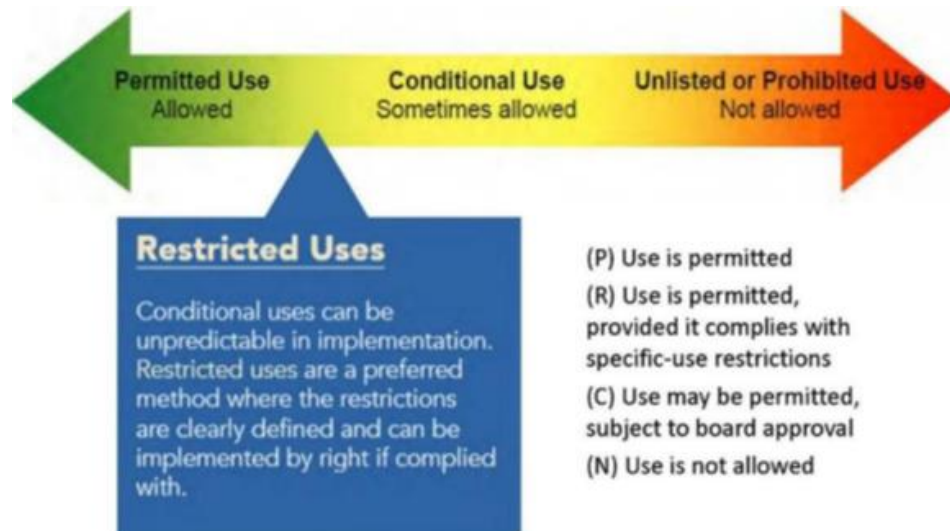


Figure 1 - Spectrum of Uses

- vi. Defines requirements for new development including building materials and design, landscaping, lighting, site access, storage, loading, fencing, etc.
- vii. Eliminates the General Commercial, Highway Commercial, and Light Industrial Park-Research zoning districts. These districts are replaced with the Alexandria Pike Mixed-Use District and the Neighborhood Commercial/Office District, which are described below. The existing Professional Office district is retained, but with some revisions to existing regulations as noted below.
- viii. Retains the River Preservation and Conservation zoning districts.

b. Single-family and Two-family Districts.

- i. Retains all of the existing R-1 Districts, which are the Single-family Residential Districts, in the UDO with the revisions noted below.
- ii. Reduces minimum side and rear setbacks in two R-1 Districts, which are the R-1B and the R-1C districts. This change may assist homeowners who wish to invest in their properties since fewer homeowners will need a variance to construct an addition to their home.
- iii. Includes a Minimum Gross Floor Area per Dwelling Unit requirement that is calibrated for each R-1 and R-2 zoning district.
- iv. Makes existing Two-family Dwellings a Restricted Use in the R-1B, R-1C, and R-1-TC Districts.

This change makes existing two-family dwellings conforming uses. Currently, two-family dwellings are nonconforming uses in the R-1 Districts. This change

legitimizes these existing two-family dwellings but does not permit the construction of new two-family uses or the conversion of existing single-family homes into two-family dwellings.

- v. Creates the R-1-TC District that has two sub-zoning districts. (A sub-zoning district is a sub-category within the Zoning District that serves to refine the uses and standards. In the case of the R-1-TC District, the sub-zoning districts serve to permit the calibrating of development standards to the varying lot sizes that currently exist in this neighborhood.) This new zoning district includes Development Standards that recognize the unique characteristics of the lots located between Hagedorn Lane, Lumley Avenue, Miller Lane, and North Shaw Lane. (Development Standards are requirements such as Minimum Lot Area, Minimum Lot Width, Minimum Principal Building Setback from a lot line etc.)

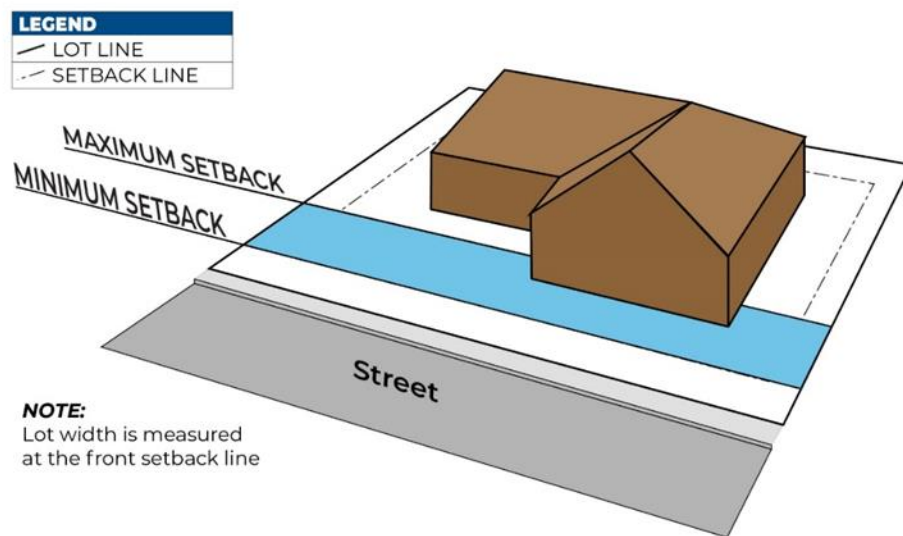


Figure 2 - Illustration of Minimum & Maximum Front Setbacks for Single-Family Detached Dwellings

- vi. Incorporates a Maximum Front Setback in the R-1B and R-1C zoning districts to help ensure new homes or renovations to existing homes do not disrupt the alignment of homes on a street. The current Zoning Ordinance and the proposed UDO require a Minimum Front Setback in the Residential Districts, which is either the defined minimum front setback for the zoning district, or it is derived from the average front setback of existing homes within 300 feet. Homes can be placed anywhere behind the Minimum Front Setback, so a required Minimum Front Setback does not specify exactly where on a lot a home must be placed. Therefore, a home may be constructed a noticeable distance from the front lot line and behind the other homes on the street. When viewed from the sidewalk, such placement can disrupt the line of homes on that side of the street. The Maximum Front Setback only applies in the R-1B and R-1C Districts because these Districts are the most compact Single-Family Districts, and therefore, a home out of line will be the most noticeable. Figure 2 depicts the placement of homes when a Maximum Front Setback is required.

- vii. Includes Residential Contextual Standards. These standards help to ensure that new housing is compatible with the character of established neighborhoods. To aid property owners, some of these Residential Contextual Standards are illustrated with photographs.
 - viii. Retains the existing R-2, Two-Family District, with no changes to the Development Standards.
- c. **Multi-family Residential Districts (R-3 and R-5).** The proposed UDO incorporates the existing Multi-family Districts. Major changes include:
- i. Parking located between the principal building and the street is expressly prohibited in the UDO since parking lots located in front yards along streets like Fort Thomas Avenue would greatly change the character of those areas and those streets.
 - ii. Design Standards are required for those R-3 properties with frontage on Fort Thomas Avenue to help safeguard the character of Fort Thomas Avenue if any of the existing multi-family properties are redeveloped or renovated. These Design Standards require:
 - 1) At least one entrance facing Fort Thomas Avenue;
 - 2) A sidewalk from the multi-family building to the public sidewalk; and,
 - 3) A minimum amount of transparent materials, such as windows, facing Fort Thomas Avenue.
- d. **Alexandria Pike Mixed Use District (AP-MX).** Creates a zoning district that is place based and specific to Alexandria Pike with two sub-zoning districts (AP-MX1 and AP-MX-2). The AP-MX District replaces the four zoning districts currently in place from I-471 to the southern corporation boundary. This change lends some development continuity along the corridor. (The four zoning districts currently utilized along US-27 are General Commercial, Highway Commercial, Professional Office, and Light Industrial Park-Research.) The major changes include:
- i. The Maximum Permitted Building Height in the AP-MX is 40 feet while several of the existing zoning districts currently applied along US-27 permit greater building heights.
 - ii. To accommodate the differing contexts along Alexandria Pike, the sub-zoning districts, AP-MX1 and AP-MX2, have different Development Standards. For example, in the AP-MX1, which spans from Pleasant Avenue to the City's southern boundary at Holly Woods drive, the placement of buildings on the parcels is more tightly controlled by the Development and Setback standards, which include a Maximum Front Setback regulation. In addition, in the AP-MX1 sub-zoning district, parking is prohibited between the buildings and

Alexandria Pike. In the AP-MX2 sub-zoning district, which runs from Woodfill Avenue to I-471, the Development Standards are more relaxed since the topography changes in this portion of US-27. For example, a Maximum Front Setback is not prescribed in the AP-MX2.

- iii. The Permitted Uses in the Alexandria Pike Mixed-Use District are similar to those in the four zoning districts that currently make up the zoning along this corridor except that no multi-family dwellings will be allowed in the AP-MX. Dwelling units above non-residential uses are currently permitted in the General Commercial and the Professional Office Districts. Typical non-residential uses, like offices and retail uses, will be permitted in the AP-MX.
 - iv. Unlike the current Zoning Ordinance, the AP-MX includes Design Standards that govern, for example, building materials; building orientation; building entrances; and blank walls.
- e. **Neighborhood Commercial/Office District (NC/O)** - Those commercial/office parcels located at Highland and Grand and 100 Alexandria Pike (Fort Thomas Plaza), will be zoned Neighborhood Commercial/Office. Today, these areas are zoned a mixture of Professional Office (PO) and General Commercial (GC). Provisions in the NC/O include:
- i. Under the proposed UDO, typical non-residential uses like offices and retail uses will be allowed in the NC/O. Residential uses above offices and retail spaces will only be permitted if the residential uses exist today. Under the current Zoning Ordinance, residential uses above non-residential uses, like offices and retail establishments, are permitted in both the Professional Office and the General Commercial Districts.
 - ii. The Maximum Permitted Height for buildings is being reduced from 50 feet, which is the Maximum Building Height in the existing General Commercial District, to 40 feet. Today, in the Professional Office District, the Maximum Building Height is six stories, not to exceed 50 feet, except the Planning Commission may waive the maximum number of stories and the maximum height regulations.
 - iii. Building placement is not tightly regulated in the NC/O District since this District will be applied in various locations. There is no Minimum Front Setback, and the Maximum Front Setback is 45 feet. The existing PO and GC Districts do not regulate the Maximum Front Setback and have different Minimum Front Setback requirements. In the PO District, the Minimum Front Setback is 25 feet, and in the GC District, the Minimum Front Setback is 20 feet.
 - iv. Unlike the current Zoning Ordinance, the NC/O District includes Design Standards that govern, for example, building materials; building orientation; building entrances; and blank walls.

- f. **Professional Office District (PO)** – The existing PO District is being retained in the proposed UDO with the following changes:
- i. Residential uses above non-residential uses will no longer be permitted. Today, residential uses are permitted above non-residential uses provided “residential floor space shall not exceed a ratio of 2:1 of the other permitted use(s) in the structure.” As in the current Zoning Ordinance, typical office uses, such as professional and medical office, are permitted. Retail, Restaurant, and Personal Service Establishments are classified as Restricted Uses in order to limit the amount of square footage of these uses, which is similar to the restrictions in the existing Zoning Ordinance.
 - ii. The Maximum Building Height is being reduced from 50 feet to 40 feet. The Maximum Number of Stories is being reduced from 6 to 2 stories for buildings with flat roofs and 2.5 stories for buildings with sloped roofs. The Planning Commission will no longer be permitted to grant waivers for the Maximum Number of Stories or the Maximum Building Height.
 - iii. In the proposed UDO, the Minimum Front Setback is being reduced from 25 feet, which is the current requirement, to 20 feet.
 - iv. Because the PO District will be applied in scattered locations throughout Fort Thomas, limited Design Standards are included in the proposed UDO for the Professional Office District. These include among other requirements that:
 - 1) Principal buildings be oriented to the public street with at least one entrance facing the public street;
 - 2) Transparent area equal at least 50% of the front façade area;
 - 3) Walls devoid of windows include architectural features,
 - 4) Roof top, mechanical equipment be concealed.
- g. **Central Business District (CBD)** - Currently, Downtown/Town Center and Midway are zoned Central Business District (CBD). The current CBD District is a “one size fits all” district that applies equally to all parcels zoned CBD whether the parcel is located in the middle of Downtown or situated on the fringes of Midway along Garrison or Shawnee. In addition, the existing regulations for the CBD are minimal other than the regulation of Maximum Building Height, which leaves considerable ambiguity about future development and redevelopment in the Central Business District. Revisions to the existing CBD District include:
- i. The proposed UDO revises the Central Business District to include associated sub-zoning districts whose requirements are more prescriptive and better tailored to the differing conditions present throughout Downtown and Midway. (A sub-zoning district is a sub-category within the Zoning District

that serves to refine the uses and standards.) Today, under the current regulations for the CBD, whether a lot is occupied with a single-family home or an office building, the same land uses are permitted, and the same regulations apply. The sub-zoning districts differentiate between the differing contexts that exist throughout Downtown and Midway. For example, the proposed CBD-Town Center Residential sub-zoning district permits single-family detached dwellings and includes regulations for setbacks and height that are appropriate for these dwelling units. Currently, these homes are nonconforming uses with no defined regulations that indicate where a home should be placed on the lot.

- ii. In the Central Business District, the sub-zoning districts are as follows:

Central Business District – Town Center Core (CBD-TCC)
 Central Business District – Town Center Supporting (CBD-TCS)
 Central Business District – Town Center Residential (CBD-TCR)
 Central Business District - Midway Core 1 (CBD-MC1)
 Central Business District - Midway Core 2 (CBD-MC2)
 Central Business District - Midway Core 3 (CBD-MC3)
 Central Business District - Midway Residential 1 (CBD-MR1)
 Central Business District - Midway Residential 2 (CBD-MR2)

These sub-zoning districts have different Permitted Uses and Development Standards.

- iii. Throughout the CBD and its associated sub-zoning districts, the Maximum Permitted Building Height is being reduced. In the current Zoning Ordinance, 50 feet or 4 stories is the Maximum Building Height on all parcels zoned Central Business District. In the proposed UDO, the maximum height is tailored to the desired character of each sub-zoning district. For example, in the CBD-Town Center Core and the CBD-Midway Core 2 sub-zoning districts, the Maximum Permitted Building Height has been reduced from the current permitted height of 50 feet to 40 feet with a Maximum Number of Stories being limited to 2 stories for flat roofed buildings and 2.5 stories for buildings with sloped roofs. Whereas, in the CBD-Midway Residential 1 and 2 sub-zoning districts, the Maximum Permitted Height is 35 feet or 2.5 stories instead of 50 feet, which means buildings 50 feet in height will no longer be permitted on Midway Court for example.
- iv. As noted above, the current Zoning Ordinance includes few Development Standards in the Central Business District. The Minimum Front, Rear, and Side Setbacks are left to the discretion of the Planning Commission, and the size of principal buildings is completely unregulated.

Whereas, as appropriate to the CBD sub-zoning district and the proposed land use, the proposed UDO regulates:

- 1) The Maximum Building Depth;
 - 2) The Maximum Building Width;
 - 3) The Maximum Building Coverage;
 - 4) The Minimum and Maximum Permitted Setback from Fort Thomas Avenue;
 - 5) The location of parking;
 - 6) The minimum amount of transparent materials on the street façade;
 - 7) The spacing of building entrances;
 - 8) The minimum size of dwelling units located over non-residential uses; and,
 - 9) Other dimensional requirements that are listed in Schedule 3.7.03 B. of the proposed UDO.
- v. Unlike the existing Zoning Ordinances which allows the permitted and conditional uses on all parcels zoned CBD, the proposed UDO customizes the Permitted and Conditional Uses to each sub-zoning district. For example, more intense uses are permitted, either by-right or conditionally, in the CBD-Town Center Core, CBD-Midway Core 1, 2, and 3 sub-zoning districts. These more intense uses include, for example, larger, mixed-use buildings; Brewpubs; Restaurants; and Retail Establishments. Less intense uses, such as Shop Houses and Artisanal Workshops are permitted within the residential sub-zoning districts. In addition, specific objectionable land uses, such as Pawn Shops and Alternative Financial Services, are prohibited. For a complete list of the Permitted Uses in the CBD, see Schedule 3.7.02 C.
- vi. Detailed Design Standards are required in the CBD-Core sub-zoning districts. These Design Standards regulate Mass and Scale; Façade Articulation/Design; Materiality and Colors; Windows and Transparency; Building Entries; Awnings; Signs; and Miscellaneous Requirements.
- h. **Traditional Business District (TBD).** The proposed UDO creates the Traditional Business District for Inverness. Today, the Inverness area is zoned General Commercial, which is one of the zoning districts being eliminated in the proposed UDO.

Many of the uses currently permitted in Inverness will continue to be permitted in the proposed UDO. The biggest change is that the Maximum Permitted Building Height is being decreased from 50 feet, which is currently permitted in the General Commercial District, to 40 feet. Also, the regulations for the TBD allow buildings to

be built at the sidewalk like the existing buildings in order to reinforce the existing character of Inverness.

- i. **Historic Overlay Districts.** (An overlay zone is a zoning district that is applied over one or more zoning districts, establishing additional or stricter standards and criteria for covered properties, in addition to those of the underlying zoning district.)
 - i. **Central Business District Historic Overlay District (CBD-O)** – Establishes an overlay district that memorializes and references the local historic district for the Central Business District that was created in the City of Fort Thomas’ Code of Ordinances in 2002. By establishing this overlay district, the CBD local historic district is shown on the Zoning Map, which makes the district more visible to all stakeholders.
 - ii. **Tower Park Historic Overlay District (TP-O)** – Creates a local historic district for the historic houses in Tower Park, which are somewhat protected today due to restricted covenants and other legal instruments. Creation of this Tower Park Overlay District formalizes the review and enforcement of exterior alterations to the historic homes in the Park.
- j. **Fort Thomas Avenue Overlay District (FTA-O).** The Fort Thomas Avenue Overlay District (FTA-O) is a zoning overlay district dedicated to the protection of traditional development patterns and the neighborhood character along Fort Thomas Avenue. The regulations promote and protect the character of the existing built environment for the existing single-family detached and two-family dwellings along Fort Thomas Avenue. The regulations in the FTA-O apply to Single-family Detached Dwellings and Two-family dwellings but do not apply to the Multi-family Dwellings along Fort Thomas Avenue.

The regulations in the Overlay District seek to reduce conflicts between new construction and existing development. The new construction of Single-family Detached Dwellings or Two-family Dwellings and renovations to any façade of a dwelling facing Fort Thomas Avenue must comply with the regulations in the Fort Thomas Avenue Overlay District. The Fort Thomas Avenue Overlay District regulates the front setback, garage placement, the placement of carports, roof design, and the enclosing of porches. The FTA-O District also requires windows and doors on the façade of any home with frontage on Fort Thomas Avenue.

4. Article V – Regulations Applicable to All Districts. This Article includes a diverse set of regulations that apply across all zoning districts. Much of the City’s existing regulations are included in this Article with significant revisions and additions noted below.
 - a. **Conditional Use and Restricted Use Regulations.** This new Section:
 - i. Includes individualized standards for every Conditional and Restricted Use listed in the Permitted Uses Schedules in each Zoning District, which will assist the Board of Adjustment when they consider Conditional Uses.

- ii. Places all specific-use standards for a particular land use in one Section, not distributed throughout the Ordinance, which is the case in the current Zoning Ordinance.
- b. **Off-Street Parking, Loading, and Access Regulations.** Reduces the parking requirements for most uses. These parking reductions “right-size” the existing parking requirements and reduce impervious surfaces, which assists with both storm water quantity and quality.
 - c. **Wireless Telecommunication Facilities.** Replaces the City’s regulations for Cellular Telecommunications in order to comply with the Kentucky Revised Statutes and with the 2018 rulings from the Federal Communications Commission regarding small cell facilities.
 - d. **Sign Regulations.** The proposed Sign Regulations:
 - i. Align with *Reed v. Town of Gilbert*, 576 U.S. 155 (2015). This US Supreme Court case requires Sign Regulations to be content neutral. Modifying the City’s existing Sign Regulations to achieve content neutrality requires regulating signs only based on the time, placement, and manner of sign display. Regulations based on the sign message, either expressly or implicitly, are no longer permitted.
 - ii. Prohibit ground signs in the R-3 - Multi-family District so that signs, like the one shown in Figure 3, will not be allowed in the future.
 - iii. Prohibit Electronic Message Centers in the City’s Residential Districts. Currently, Electronic Message Centers, also known as Digital Signs, are permitted for public and parochial schools located in Residential Zoning Districts. Any existing Electronic Message Centers may remain and be maintained.



Figure 3 - Example of a Prohibited Ground Sign in the R-3 District