

Mossotti, Chair
Scutchfield, Vice Chair
Kay
Stinnett
Akers
Gibbs
Lamb
Farmer
Bledsoe
Henson

A G E N D A

Planning & Public Safety Committee

February 10, 2015

1:00 P.M.

1. **January 13, 2015 Committee Summary** (1-4)
2. **Committee Structure & Organization** (5-9)
3. **Design Excellence Ordinance**– Kay (10-27)
4. **Fire Code Amendments** – Farmer (28-39)
5. **Taxi Cab Ordinance** – Henson (40-45)
6. **Building Inspection Civil Offenses**- – Gibbs (46-54)
7. **Items Referred** (55)

“Planning and public safety committee, to which shall be referred matters relating to the division of planning and including, but not limited to, matters relating to housing, infill and redevelopment, purchase of development rights and historic preservation, and any related partner agencies and to which shall be referred matters relating to the department of public safety and its related divisions.”

- Council Rules & Procedures, Section 2.102 (1) Effective January 1, 2015. adopted by Urban County Council September 25, 2014

2015 Meeting Schedule

January 13	February 10
April 14	May 12
June 9	August 11
September 8	October 13
November 10	



Planning and Public Works Committee Meeting
January 13, 2015
Summary and Motions

Vice Mayor Kay called the meeting to order 1:00 p.m. Council Members Akers, Bledsoe, Farmer, Gibbs, Henson, Lamb, Mossotti, Scutchfield, and Stinnett were in attendance. Council Members Moloney, Ford, Evans, Brown, Bledsoe, and Lane were also in attendance.

1. Election of Committee Chair

Vice Mayor Kay made a request for nominations for Chair.

CM Lamb made a Motion to nominate CM Mossotti as Chair, seconded by CM Henson. Motion was approved by a 5-4 vote. (Yay: Akers, Gibbs, Henson, Lamb, Mossotti; Nay: Bledsoe, Farmer, Scutchfield, Stinnett; Abstained-Kay)

CM Farmer made a Motion to nominate CM Scutchfield as Chair, seconded by CM Bledsoe. Motion was denied by a 4-5 vote. (Yay: Bledsoe, Farmer, Scutchfield, Stinnett. Nay: Akers, Gibbs, Henson, Lamb, Mossotti; Abstained-Kay.)

2. Appointment of Vice Chair

Mossotti asked CM Scutchfield to serve as Vice-Chair of the Planning and Public Safety Committee. CM Scutchfield accepted.

3. November 11, 2014 Committee Summary

CM Farmer highlighted Planning and Public Works Committee Summary from November 11, 2014.

Motion to move forward prior request to conduct annual review of the fee structure and schedule of electrical inspections by CM Farmer, seconded by CM Akers. Passed unanimously.

Motion to move forward a prior motion to amend resolution 343-2012 to include zoning enforcement activities in addition to nuisance abatement, made by CM Farmer, seconded by CM Henson. Passed unanimously.

Motion to move forward former motion to allow mobile food vendors as accessory uses if located 500 feet or greater from a property zoned residential, made by CM Farmer, seconded by CM Akers. Passed unanimously.

Motion to move forward former motion for planning commission to consider some P-1 usage for food trucks, made by CM Farmer, seconded by CM Akers. Passed Unanimously.

CM Henson, former Chair, read the summary of the December 2, 2014 Public Safety Committee Meeting.

4. EMS Transport Fees

The EMS fiscal year review presentation was given by Rusty Cook, Director of Revenue. CM Henson inquired about the potential cost to the city if the City did not charge fees above what Medicare pays. Cook stated that would mean giving up the total of all Medicare funds. CM Henson was concerned that the extra cost for individuals would be a burden to seniors, who are the majority of Medicare patients.

CM Henson asked Cook what the cost would be to city be if additional fees were not charged to patients. Rusty stated it was his belief they would have to give up the entire Medicaid revenue.

Bill O'Mara stated that he was concerned about eliminating single insurance providers. In addition, O'Mara raised his concern that the Medicare revenue of 2.3 million would have to be created by other venues. Chair Mossotti stated they would leave item in committee.

5. Ridesharing/Taxicab Services

CM Henson stated that Council is still waiting on state determination regarding transportation network companies, Uber and Lyft. CM Henson inquired if there were any remaining items for the City to address. Glenda George from the Law Department stated that the State has implemented their regulations leaving no further actions at the local level. CM Henson asked if the City would be collecting revenue from ridesharing companies. O'Mara offered that Revenue would be reaching out to register participating corporations/companies.

CM Stinnett asked who would enforce regulations locally and if the responsible parties would be following current ordinances as written. O'Mara stated that enforcing occupational licenses would be handled through the Revenue department and their field inspectors. He also stated that Revenue is in talks with Public Safety to coordinate with divisions appropriately. CM Stinnett raised concerns about having enough staff, in light of the upcoming budget, and voiced his concern about any future staffing needs becoming a financial burden to the City. CM Stinnett inquired when their final plan would be prepared. O'Mara stated he believed this process would be finished within 30 - 60 days.

George reiterated that the City would not handle any of the regulations other than collecting occupational license fees. In response to a question by Chair Mossotti, Rick Curtis, Administrator Officer for Public Safety, informed that there are approximately 70 ridesharing cars currently in the city.

CM Akers requested the date of compliance for rideshare companies. Curtis stated that all companies and their drivers must be in compliance by February 2, 2015. CM Henson stated that public comment regarding ridesharing regulations will be held on February 22, 2015 at the Transportation Cabinet Building in Frankfort, KY. CM Henson request that Council review current taxicab ordinances to ensure that they allow for taxi cabs to be competitive

with ridesharing companies. CM Henson asked for another month to work on these concerns with Public Safety.

6. Current & Future IT Needs in Public Safety

Aldona Valicenti, Chief Information Officer, gave a presentation on current Public Safety IT issues. CM Lamb asked if they had talked about working with other local public safety agencies such as UK Airport and the University of Kentucky. Valicenti says that has not been part of the discussion. Robert Stack, director of 911 for Lexington, confirmed that they do share information with the University of Kentucky Police Department, but states that UK and the Bluegrass Airport are on different dispatch systems and software. Stacks said this could be explored as a future possibility at in the future. CM Lamb stated it is important for public safety throughout the city and all of its agencies be as inclusive as possible.

CM Stinnett inquired about the cost for Phase 2 of the correction system, and the completion timeline for the radio technology updates for Police and Fire. Stack informed that the cost for Phase 2 is \$ 1.5 million, which is the same as for Phase 1 of the project. Police has been updated at this time and Fire updates will be completed by late spring. Stinnett asked for a Council Member to be added to the RFP working group.

Chair Mossotti asked Valicenti to brief new Council Members about recent technology updates in Police and Fire. Valicenti said that former technologies were implemented in the 1990's and that most of the code and systems that are at the end of their life cycle and are no longer relevant or supported, or capable of communicating with one another to share data.

7. Items Referred to Committee

Motion to remove possible revision of sign ordinance from committee, made by CM Farmer, seconded by CM Henson. Motion passed unanimously.

Motion to change H1-Notification Process to CM Farmer and to keep in committee, made by CM Farmer, seconded by CM Henson. Motion passed without dissent.

Motion to change assistance to low-income homeowners with code violations to CM Akers and to keep in committee, made by CM Akers, seconded by CM Farmer. Motion passed without dissent.

Motion to change building inspection fine and civil offences to CM Gibbs, and to keep in committee, made by CM Gibbs, seconded by CM Akers. Motion passed without dissent.

Motion to remove zoning text amendments for food trucks in the P-1 and AU Zones, made by CM Akers, seconded by CM Farmer. Motion passed unanimously.

Motion to remove electrical inspection fees, made by CM Stinnett, seconded by CM Farmer. Motion passed without dissent.

Motion to remove nuisance abatement process, made by CM Stinnett, seconded by CM Farmer. Motion passed without dissent.

Motion to remove electrical inspection fees from committee, made by CM Stinnett, seconded by CM Farmer. Motion passed unanimously.

Motion to remove permanent barricading of Agape Drive from committee, made by CM Farmer, seconded by CM Moloney. Passed without dissent.

Motion to change taxicab ordinance to CM Henson, made by CM Henson, seconded by CM Farmer. Motion passed without dissent.

Motion to remove design excellence update, made by Vice Mayor Kay, seconded by CM Farmer. Motion passed without dissent.

Motion to keep ridesharing regulation in committee, and to have an update in March, made by CM Henson, seconded by Farmer. Motion passed without dissent.

Motion to remove IT needs for public safety and to have a quarterly update, made by CM Henson, seconded by CM Scutchfield. Motion passed without dissent.

Motion to approve summaries made by CM Farmer, seconded by CM Stinnett. Motion passed without dissent.

Motion to adjourn made by CM Farmer, seconded by CM Stinnett. Motion passed without dissent.

Meeting adjourned at 2:02 PM.



Lexington-Fayette Urban County Council

TO: Planning & Public Safety Committee

FROM: Paul Schoninger, Research Analyst

SUBJECT: Background Information for Planning & Public Safety Committee

DATE: January 26, 2015

Chair Mossotti requested that I address three issues for the committee. The requests were

1. Synopsis of the Committee charge;
2. Management of issues referred to the Committee; and
3. Overview of "Rules & Procedures" of the Committee.

Synopsis of the Committee Charge

"Planning and Public Safety committee, to which shall be referred matters relating to the division of planning and including, but not limited to, matters relating to housing, infill and redevelopment, purchase of development rights and historic preservation, and any related partner agencies and to which shall be referred matters relating to the department of public safety and its related divisions."

- (This is taken directly from the Council Rules & Procedures, Section 2.102 (1) Effective January 1, 2015. Adopted by Urban County Council September 25, 2014)

Management of Issues Referred to the Committee

Councilmembers can refer items to any of the standing committees at either a Council Meeting or at a Work Session by majority vote of the Council. The Vice Mayor can refer an item by at any time. (Sec 2.204)

Items are generally removed from the referral list by vote of the Committee, typically after Council action on the item.

Once a Councilmember refers an issue I'll met with that Councilmember to determine when you would like the issue scheduled on a Committee agenda; what information you may need; and to who/what you want involved in the discussion. Please understand that the Chair ultimately determines agenda but I'm sure she will attempt to accommodate your requests. The Chair & I will meet approximately two weeks prior to the Committee

meeting to draft an agenda. The agenda is finalized on the Wednesday prior to the meeting and distributed the next day.

Overview of Rules & Procedures of the Committee

The Urban County Council uses Robert's Rules of Order for its meetings, including Committee meetings. This provides common rules and procedures for deliberation and debate in order to place the whole membership on the same footing and speaking the same language. The conduct of all business is controlled by the general will of the entire membership- the right of the deliberate majority to decide.

Complementary is the right of at least a strong minority to require the majority to be deliberate-to act according to its considered judgment only after a full and fair "working through" of the issues involved. Robert's Rules provides for constructive and democratic meetings, to help, not hinder, the business of the assembly. Under no circumstances should "undue strictness" be allowed to intimidate members or limit full participation.

I've highlighted a few points for your review. I've also attached a brief simplified summary of some of the more pertinent rules the Council follows, including a "cheat sheet" of some of the Rules.

1. The quorum is six for the ten member committees. Councilmembers who are not members can be recognized to fulfill a quorum; Sec 2.201
2. Non members can address issues but cannot make motions or vote unless they are recognized as part of the Committee quorum; Sec 2.203
3. To address the Committee please wait to be recognized by the Chair; Sec. 4.302
4. No member can speak twice to the same issue until everyone else wishing to speak has spoken to the issue once; Sec 4.303
5. All remarks should be directed to the Chair;
6. Members of the public can address the Committee. Their comments shall be limited to 3 minutes; Sec. 4.106
7. Councilmembers are limited to 5 minutes speaking on any issue per occasion; Sec. 4.303
8. Meeting summaries will only be official after they are approved at the next Committee meeting.

If, after reviewing this memo and attached materials, you have any questions, comments or need clarification, please don't hesitate to contact me.

Paul Schoninger
Research Analyst

c: Stacey Maynard

Attachments:

"Simplified Roberts Rules of Order", Cornell University Faculty Senate, 2013
"Roberts Rules Cheat Sheet", University of Minnesota, 2009

Roberts Rules of Order – Simplified

Guiding Principle:

Everyone has the right to participate in discussion if they wish, before anyone may speak a second time.

Everyone has the right to know what is going on at all times.

Only urgent matters may interrupt a speaker.

Only one thing (motion) can be discussed at a time.

A **motion** is the topic under discussion (e.g., "I move that we add a coffee break to this meeting"). After being recognized by the president of the board, any member can introduce a motion when no other motion is on the table. A motion requires a second to be considered. Each motion must be disposed of (passed, defeated, tabled, referred to committee, or postponed indefinitely).

How to do things:

You want to bring up a new idea before the group.

After recognition by the president of the board, present your motion. A second is required for the motion to go to the floor for discussion, or consideration.

You want to change some of the wording in a motion under discussion.

After recognition by the president of the board, move to amend by

- adding words,
- striking words or
- striking and inserting words.

You like the idea of a motion being discussed, but you need to reword it beyond simple word changes.

Move to substitute your motion for the original motion. If it is seconded, discussion will continue on both motions and eventually the body will vote on which motion they prefer.

You want more study and/or investigation given to the idea being discussed.

Move to refer to a committee. Try to be specific as to the charge to the committee.

You want more time personally to study the proposal being discussed.

Move to postpone to a definite time or date.

You are tired of the current discussion.

Move to limit debate to a set period of time or to a set number of speakers. Requires a 2/3rd vote.

You have heard enough discussion.

Move to close the debate. Requires a 2/3rd vote. Or move to previous question. This cuts off discussion and brings the assembly to a vote on the pending question only. Requires a 2/3rd vote.

You want to postpone a motion until some later time.

Move to table the motion. The motion may be taken from the table after 1 item of business has been conducted. If the motion is not taken from the table by the end of the next meeting, it is dead. To kill a motion at the time it is tabled requires a 2/3rd vote. A majority is required to table a motion without killing it.

You believe the discussion has drifted away from the agenda and want to bring it back.
Call for orders of the day.

You want to take a short break.
Move to recess for a set period of time.

You want to end the meeting.
Move to adjourn.

You are unsure that the president of the board has announced the results of a vote correctly.
Without being recognized, call for a "division of the house." At this point a roll call vote will be taken.

You are confused about a procedure being used and want clarification.
Without recognition, call for "Point of Information" or "Point of Parliamentary Inquiry." The president of the board will ask you to state your question and will attempt to clarify the situation.

You have changed your mind about something that was voted on earlier in the meeting for which you were on the winning side.
Move to reconsider. If the majority agrees, the motion comes back on the floor as though the vote had not occurred.

You want to change an action voted on at an earlier meeting.
Move to rescind. If previous written notice is given, a simple majority is required. If no notice is given, a 2/3rds vote is required.

You may INTERRUPT a speaker for these reasons only:
to get information about business – **point of information**
to get information about rules – **parliamentary inquiry**
if you can't hear, safety reasons, comfort, etc. – **question of privilege**
if you see a breach of the rules – **point of order**
if you disagree with the president of the board's ruling – **appeal**

Quick Reference					
	Must Be Seconded	Open for Discussion	Can be Amended	Vote Count Required to Pass	May Be Reconsidered or Rescinded
Main Motion	√	√	√	Majority	√
Amend Motion	√	√		Majority	√
Kill a Motion	√			Majority	√
Limit Debate	√		√	2/3 rd s	√
Close Discussion	√			2/3 rd s	√
Recess	√		√	Majority	
Adjourn (End meeting)	√			Majority	
Refer to Committee	√	√	√	Majority	√
Postpone to a later time	√	√	√	Majority	√
Table	√			Majority	
Postpone Indefinitely	√	√	√	Majority	√

ROBERTS RULES CHEAT SHEET

To:	You say:	Interrupt Speaker	Second Needed	Debatable	Amendable	Vote Needed
Adjourn	"I move that we adjourn"	No	Yes	No	No	Majority
Recess	"I move that we recess until..."	No	Yes	No	Yes	Majority
Complain about noise, room temp., etc.	"Point of privilege"	Yes	No	No	No	Chair Decides
Suspend further consideration of something	"I move that we table it"	No	Yes	No	No	Majority
End debate	"I move the previous question"	No	Yes	No	No	2/3
Postpone consideration of something	"I move we postpone this matter until..."	No	Yes	Yes	Yes	Majority
Amend a motion	"I move that this motion be amended by..."	No	Yes	Yes	Yes	Majority
Introduce business (a primary motion)	"I move that..."	No	Yes	Yes	Yes	Majority

The above listed motions and points are listed in established order of precedence. When any one of them is pending, you may not introduce another that is listed below, but you may introduce another that is listed above it.

To:	You say:	Interrupt Speaker	Second Needed	Debatable	Amendable	Vote Needed
Object to procedure or personal affront	"Point of order"	Yes	No	No	No	Chair decides
Request information	"Point of information"	Yes	No	No	No	None
Ask for vote by actual count to verify voice vote	"I call for a division of the house"	Must be done before new motion	No	No	No	None unless someone objects
Object to considering some undiplomatic or improper matter	"I object to consideration of this question"	Yes	No	No	No	2/3
Take up matter previously tabled	"I move we take from the table..."	Yes	Yes	No	No	Majority
Reconsider something already disposed of	"I move we now (or later) reconsider our action relative to..."	Yes	Yes	Only if original motion was debatable	No	Majority
Consider something out of its scheduled order	"I move we suspend the rules and consider..."	No	Yes	No	No	2/3
Vote on a ruling by the Chair	"I appeal the Chair's decision"	Yes	Yes	Yes	No	Majority

The motions, points and proposals listed above have no established order of preference; any of them may be introduced at any time except when meeting is considering one of the top three matters listed from the first chart (Motion to Adjourn, Recess or Point of Privilege).

Design Excellence



Design Excellence Task Force

Design Excellence Task Force (DETF) Created

DETF Update #1 to Planning Committee: January 24, 2012
DETF Update #2 to Planning Committee: June 19, 2012

August 20, 2010

Subcommittees Created and Work Completed

Downtown Inventory Subcommittee
Existing Guidelines Review Subcommittee
DETF Update #3 to Planning Committee: November 20, 2012

July- November
2012

Standards and Guidelines Drafted & Tested

- Drafted design standards & guidelines and review process
 - Tested draft document
- Design Excellence Standards & Guidelines final draft: November 2013
DETF Update #4 to Planning Committee: November 12, 2013
DETF Public Meeting: November 14, 2013

January -October
2013

Reviews & Approvals

Council Passed Resolution 38-2104 initiating
text amendments: February 13, 2014
Planning Commission held public hearing
Planning Commission unanimously recommended approval: March 27, 2014
Planning Commission's final report to council: April 11, 2014
Council referred text amendment back to Planning Committee: April 22, 2014

November- April
2014

Current Reviews

Council Workshop: February 3, 2015
Presentation to Planning and Public Safety Committee: February 10, 2015
TBD: Presentation to full council

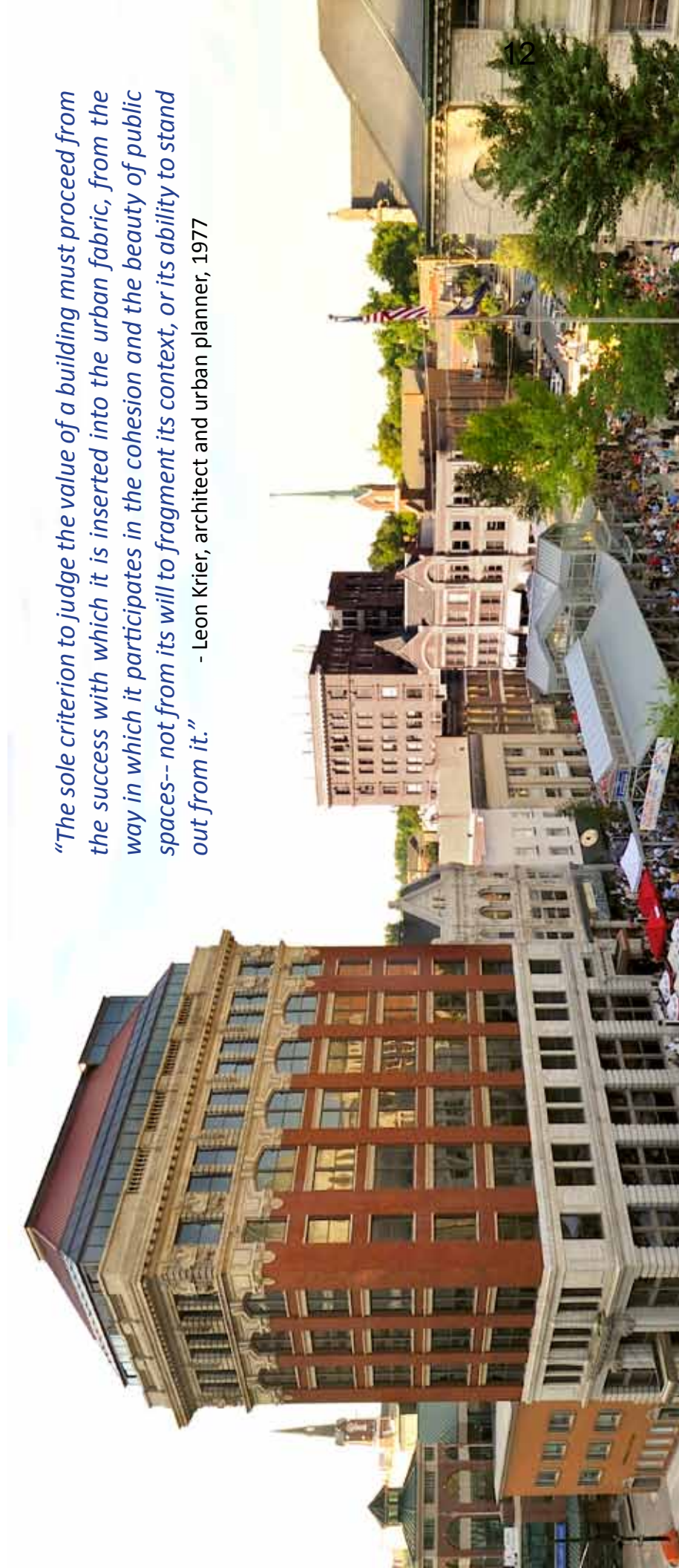
2015

Goals of Design Excellence

The Design Excellence Standards & Guidelines are a **framework** for the future development of downtown Lexington, aimed at **enhancing** the existing built environment and **protecting** economic investments in downtown. It aims to ensure new development, rehabilitation, and adaptive reuse projects are **consistent** with the city's vision while offering a **predictable** and **transparent** process for the applicant.

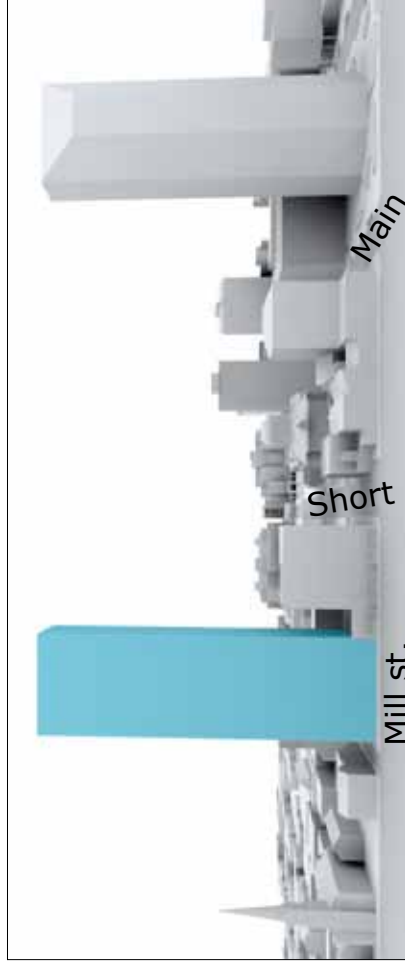
"The sole criterion to judge the value of a building must proceed from the success with which it is inserted into the urban fabric, from the way in which it participates in the cohesion and the beauty of public spaces-- not from its will to fragment its context, or its ability to stand out from it."

- Leon Krier, architect and urban planner, 1977

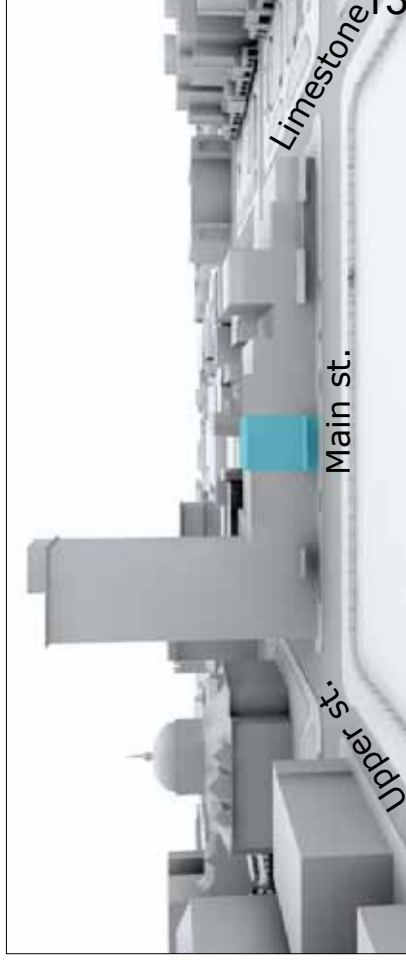
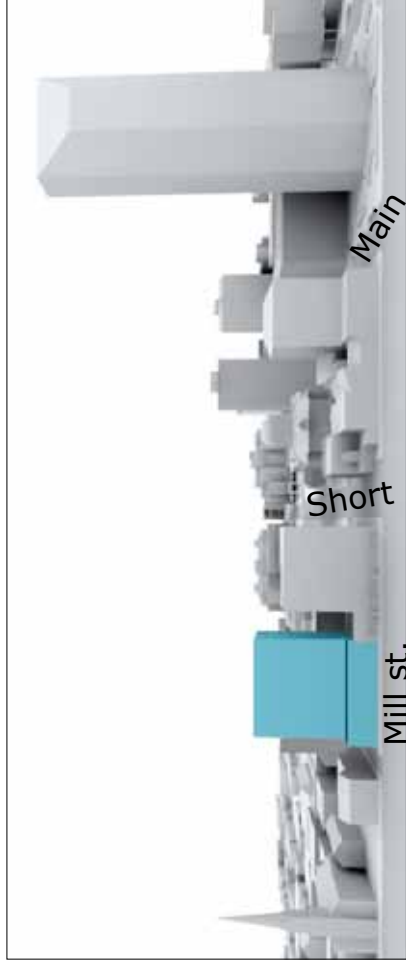


What is allowed now?

Possible today:

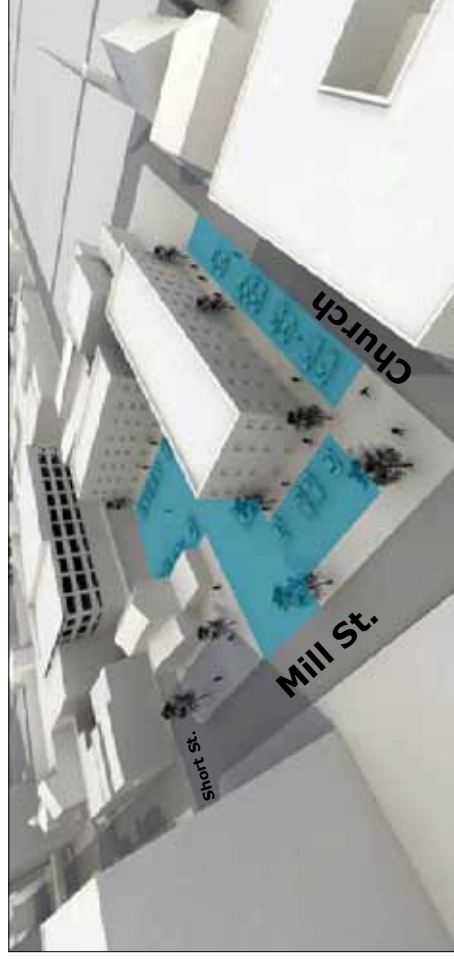
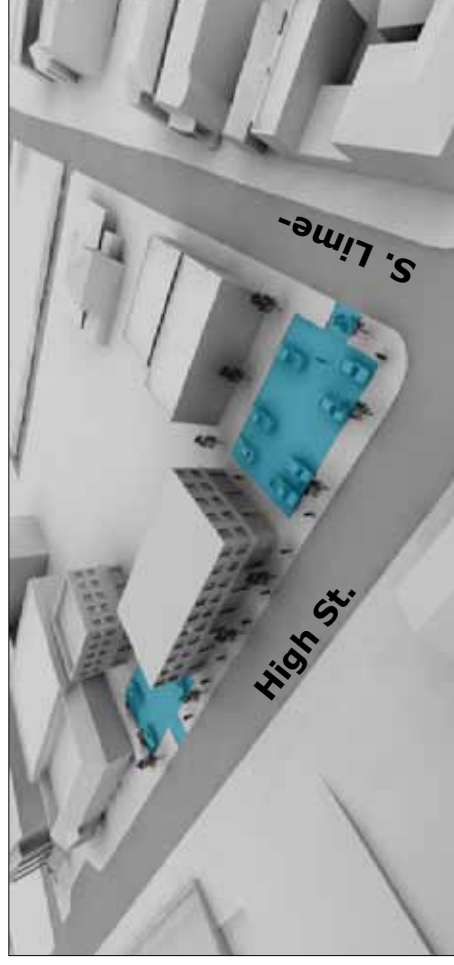


Possible with DE Standards & Guidelines:

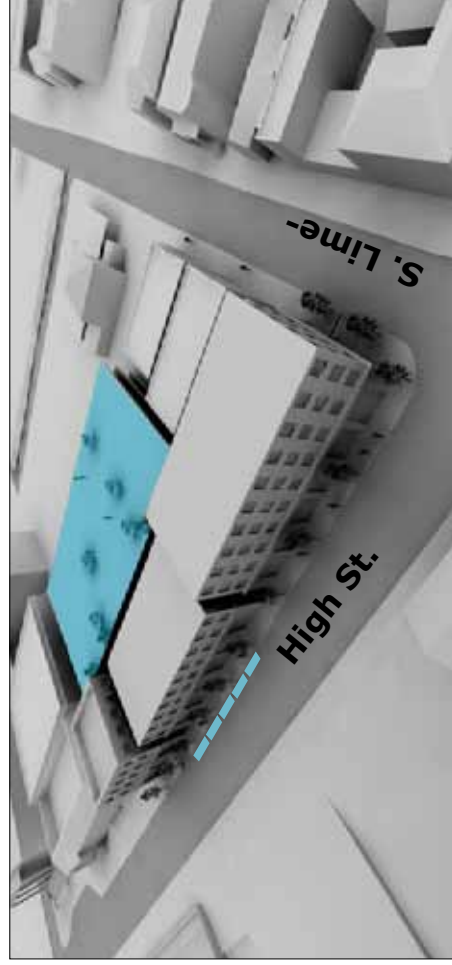


What is allowed now?

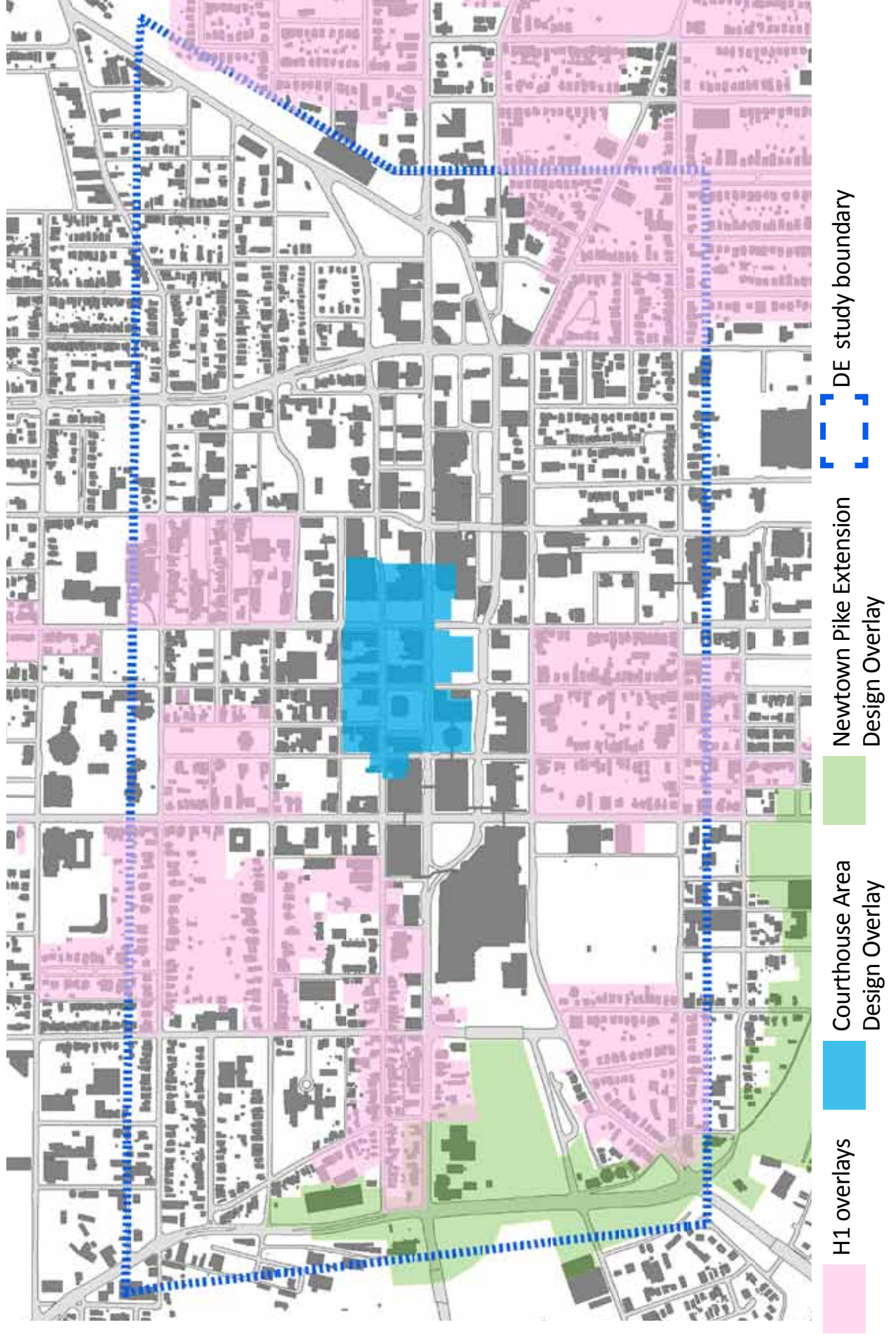
Possible today:



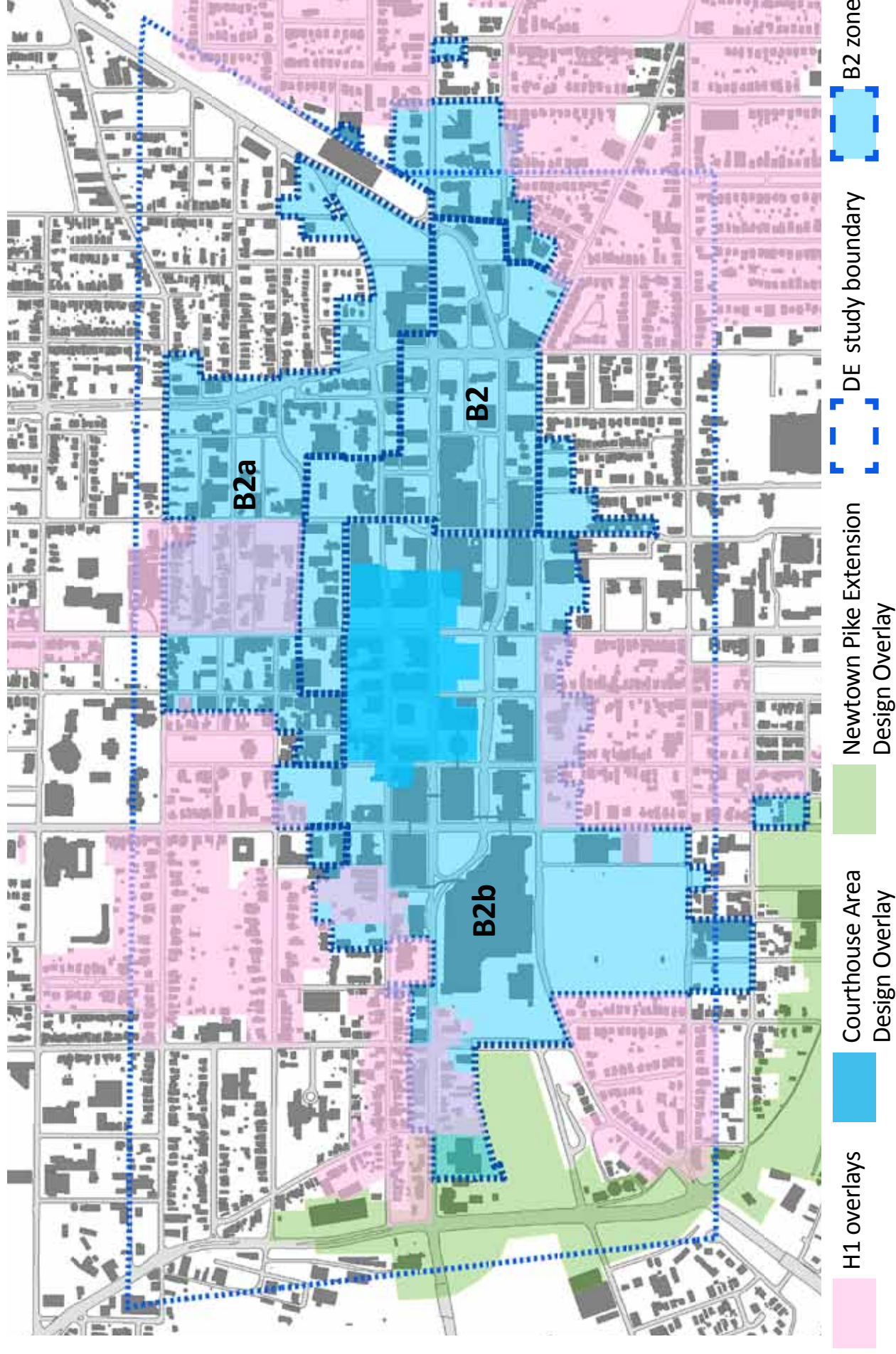
Possible with DE Standards & Guidelines:



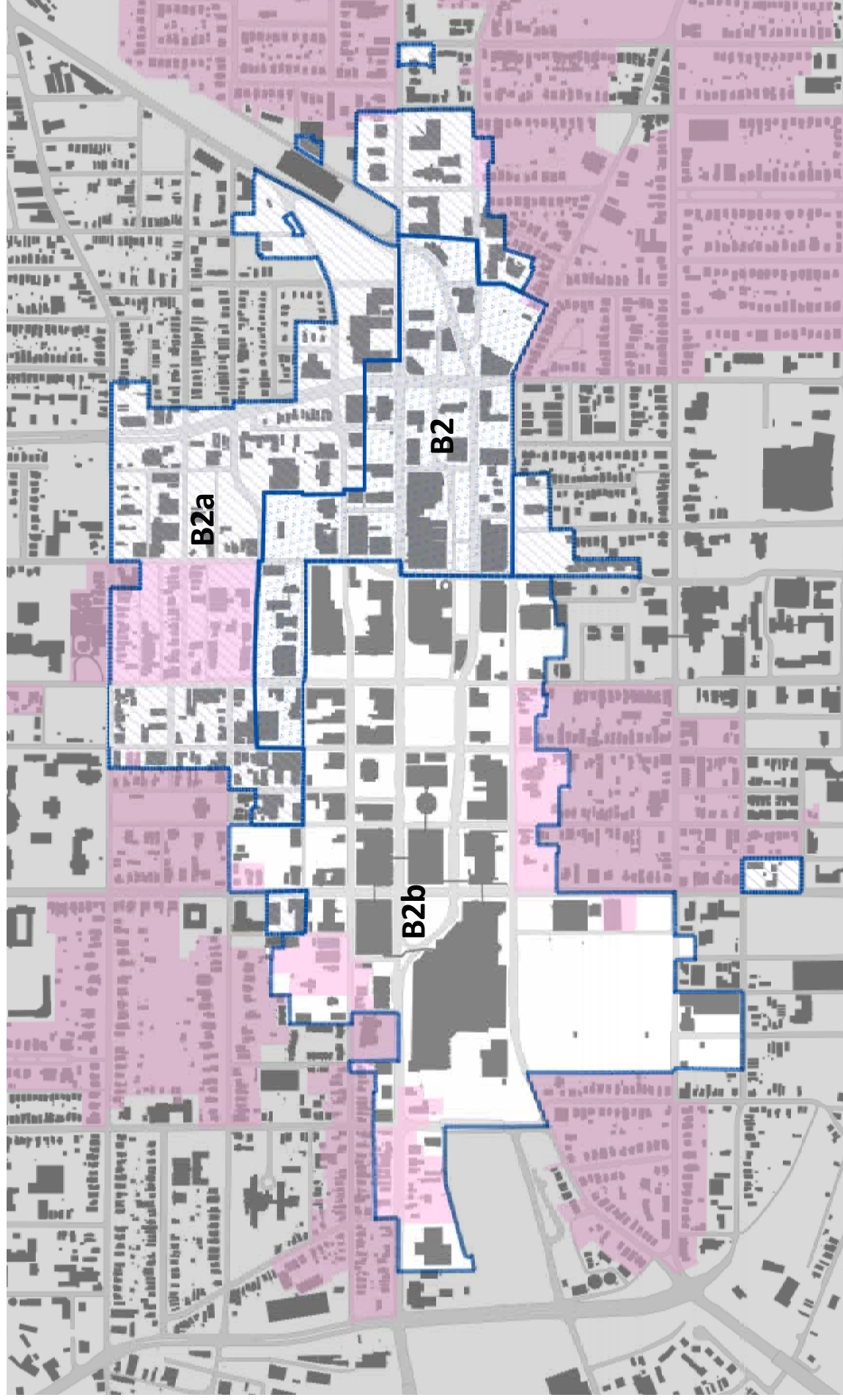
Existing Overlays



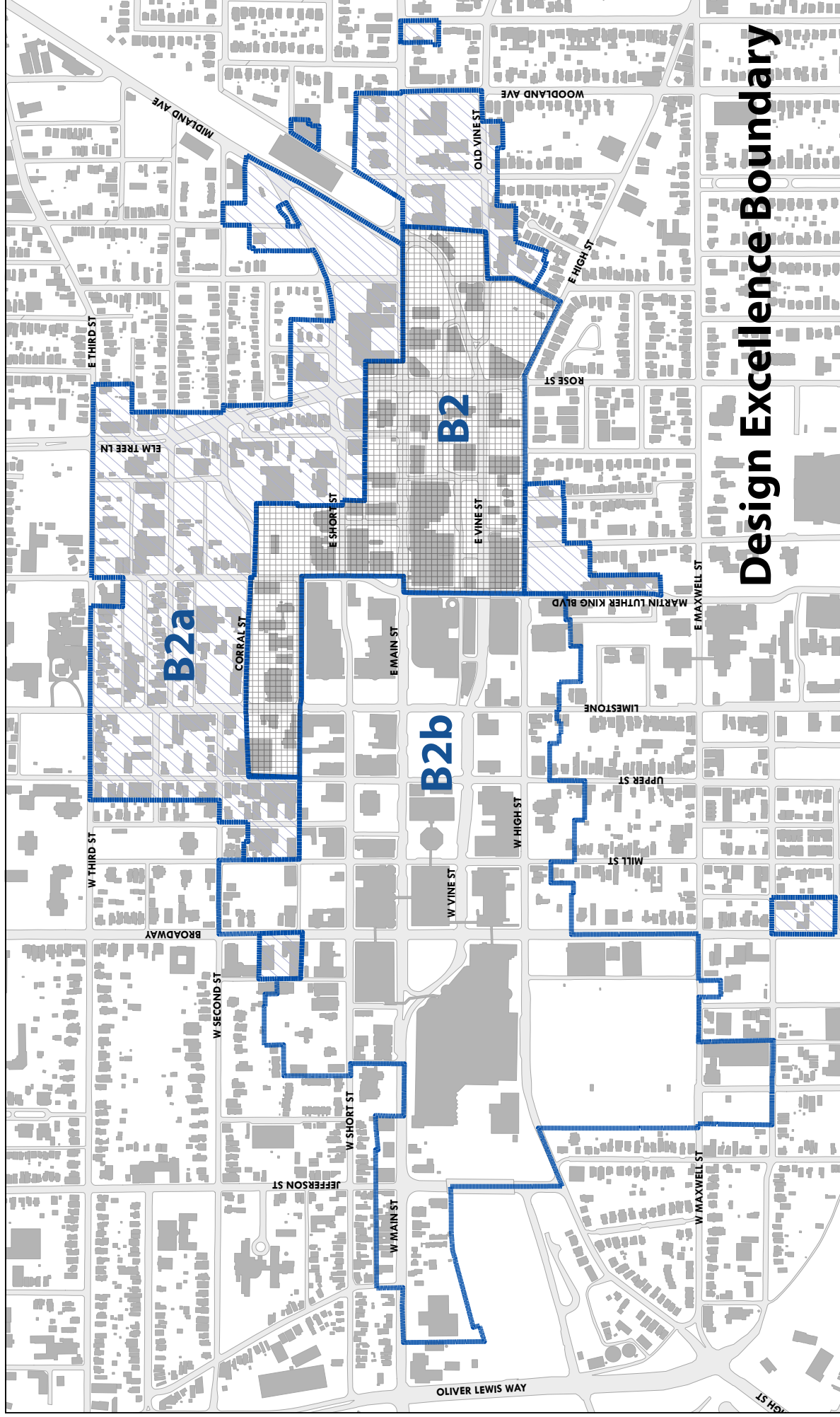
Existing Overlays



DE Boundary



DE Districts & Street Types



DE Standards & Guidelines

STANDARDS

Quantifiable criteria by which the minimum requirements for projects are established. Applicants must demonstrate adherence to each design standard.

Site

- Build-to-Lines
- Height Min. & Max.
- Parking Access
- Parking buffers
- Structured Parking frontage
- Corner building requirements
- Pedways prohibited

Building

- Principal Frontage Orientation
- Principal Frontage Width
- Setback Max
- Ground & Upper Floor Transparency
- Ground Floor Height
- Glazing reflectance
- Prohibited Building Materials
- Pedestrian Entries

Amenities

- Placement of mechanical, utilities, services
- Fence & Wall requirements: height & materials
- Signage: adhere to Article 17
- Public Art: adhere to Article 17
- Balconies

Street

- Streetscape Standards: adhere to Downtown Streetscape Master Plan 2008

GUIDELINES

Flexible criteria not to prescribe specific design solutions but rather to express the preferred design objectives. The intent of each objective is to be met but the method by which the design addresses it may vary.

Site

- Large Scale Development
- Sustainable Site
- Siting and Building Placement
- Height, mass, & scale
- Site access & parking: general
- Drive-thrus & Drop-Offs
- Parking: structured parking
- Parking: surface parking

Building

- Frontages
- Materials
- Entrances
- Existing Buildings: General
- Existing Buildings: Storefronts
- Existing Buildings: Additions

Amenities

- Mechanical, Utilities, Service and Loading
- Fences and Walls
- Signage
- Awnings and Canopies
- Building Lighting
- Public Art

Street

- Streetscape
- Landscaping and Planting
- Public Open Space

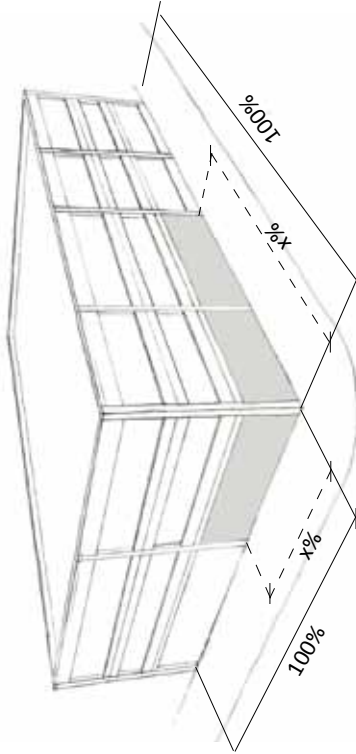
DE Standards & Guidelines Example

STANDARD

DS 1.09

Structure Parking Street Level Frontage (% of facade width)

Wrap parking structures with programmable space on the ground floor as designated. This percentage indicates the width of a parking structure facade dedicated to pedestrian oriented uses (width must be a minimum of 20'). See guidelines for a list of appropriate uses.



DISTRICTS:

DISTRICTS:	Gateway	Core	Neighborhood
Street Types	A	B	
	80%	50%	50%
	80%	50%	50%
	50%		

GUIDELINES

Parking: structured parking

Design structured parking so that it creates a visually attractive and active street edge and integrates into the existing urban fabric.

DG 5.14

Incorporate pedestrian oriented spaces along the primary facade(s) as required by the standards matrix to create an active street edge. Methods include, but are not limited to the following:

- retail/commercial wrap
- murals or public art
- landscaping
- product display cases

DG 5.15

Design structured parking to be architecturally compatible with the rest of the building and streetscape.

- Visually integrate the parking structure with building volumes above, below, and adjacent.
- Maintain alignments and rhythms of architectural elements, as seen along the street.
- Respect the regular window pattern and other architectural elements of adjacent buildings.
- Address the traditional widths of buildings in the area within the design.
- Continue the use of similar building materials.



Incorporate programmable spaces into the ground floor and respect the context using architecture design.



Blank facades with limited interaction to the street leave voids in the urban environment.

DE Standards & Guidelines Example

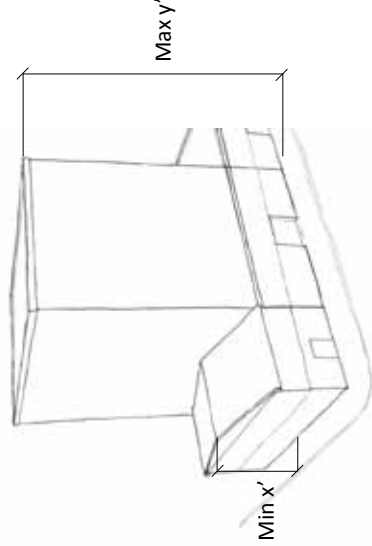
STANDARD

DS 1.03

DS 1.04

Building Height Minimum & Maximum (feet/stories whichever is greater)

Building height is the allowed vertical distance from the sidewalk to the top point of reference for a building facade along the front ROW. The top point of reference is mid-gable, top of the cornice or roofline, or deck line depending on the style of roof in accordance with Article 15-1(b).



DISTRICTS:

Gateway

Core

Neighborhood

Min.

25'2 stories

25'2 stories

25'2 stories

Max.

120'10 stories

360'30 stories

96'8 stories

GUIDELINES

Large Scale Development

Ensure the block is integrated into the existing urban fabric to include appropriately scaled buildings while promoting connectivity.

DG 5.02

Design full block developments so that the scale of the building is consistent with the scale of the buildings in the surrounding context.

- Transition the building mass, height, and scale to that of the less dense adjacent areas.
- Full block developments should increase activity to the adjacent properties; not become a deterrent to surrounding opportunities.

Height, Mass, & Scale

Compose the building's height, mass, and scale in response to existing surrounding elements.

DG 5.14

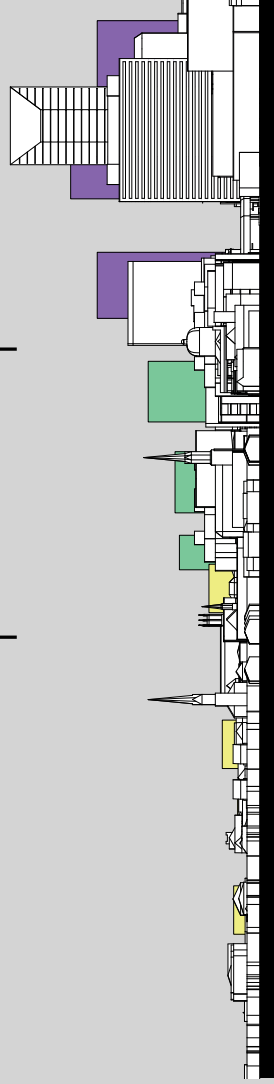
Address the typical height of surrounding structures by designing to a height that reflects the surroundings.

- Design taller buildings to relate to smaller scaled buildings nearby. Consider the following techniques:
 - Design the lower levels to express the alignment of elements seen traditionally in the block.
 - Step upper stories back from the main facade once above the first several floors.
- Transition the building mass, height, and scale to that of the less dense adjacent areas.

Neighborhood

Gateway

Core



DE Review Process

Staff Review

Minor Rehab & Minor Additions

- Modification of exterior existing primary structure < 50% or
- Addition < 25% of the SF of the existing building

Minor Demolition

- Demolition (50% or less of the existing primary structure or an accessory building)

New Infill Construction

- Parcel Sizes < .75 acres (32,670sf) or
- Building footprint of < 30,000 sf or
- Building Height < 96' or 8 stories (whichever is greater)

Board Review

Complete Rehab & Additions

- Modification of exterior existing primary structure > 50% or
- Addition > 25% of the SF of the existing building

Significant Demolition

- Demolition (50% or more of primary structure or the entire structure)

Board Review: Two Phases

Applicant may choose to review Phase I and Phase II sequentially at the same meeting.

New Construction: Large Scale & Iconic

- Parcel Sizes > .75 acres (32,670sf) or
- Building footprint of > 30,000 sf or
- Building Height > 96' or 8 stories (whichever is greater)

**Two Phase Submittal/ Approval Process*

Phase I: Site/Massing Review

Phase II: Comprehensive Review

DE Review Process Illustrated

A sampling of large scale project that are built in the DE boundary today was taken. The buildings that were identified as large scale projects would require board approval to be built today. Of the existing parcels, building footprints, and building heights approximately 5% would require board approval.

	Parcel Size (acres)	Footprint (sf)	Stories (#)	Staff	Board
Townhouses (541 W Short)	2.01	31,910	2		x
Artek	1.22	22,500	4		x
500's on Main	0.79	26,775	5		x
Main & Rose	3.01	60,937	4		x
Ballard Place	1.86	15,900	8		x
Christ Church Apartments	1.12	8,300	13		x
Ballard-Griffith	2.97	27,140	10		x
Park Plaza Apartments	0.6	26,136	19		x
Central Bank Building	2.05	52,500	24		x
Victorian Square	1.4	60,775	3		x
PNC Bank	1.4	34,804	12		x
KU	0.71	18,500	9		x
Hyatt	1.22	45,500	15		x
Hilton	0.75	30,000	21		x
Chase Tower & Annex	1.53	39,200	14		x
Bluegrass Corporate Center	0.39	15,800	17		x
5/3 Building	0.78	12,500	31		x
Nunn Lofts	0.34	12,200	4	x	
City Court	0.59	22,580	4	x	
Newpast on Main	0.6	11,500	3	x	
Federal Court Building	0.344	12,800	5	x	
Parlay Social	0.08	3,400	3	x	
Gray Construction	0.42	16,340	4	x	
Arts Place	0.154	6,600	4	x	

 Indicates that this meets the established thresholds triggering board review

DE Review Process Illustrated

Existing Building Samples:

*If built today they would require **BOARD APPROVAL***



DE Review Process Illustrated

Existing Building Samples:
If built today they may be **STAFF APPROVED**



Staffing

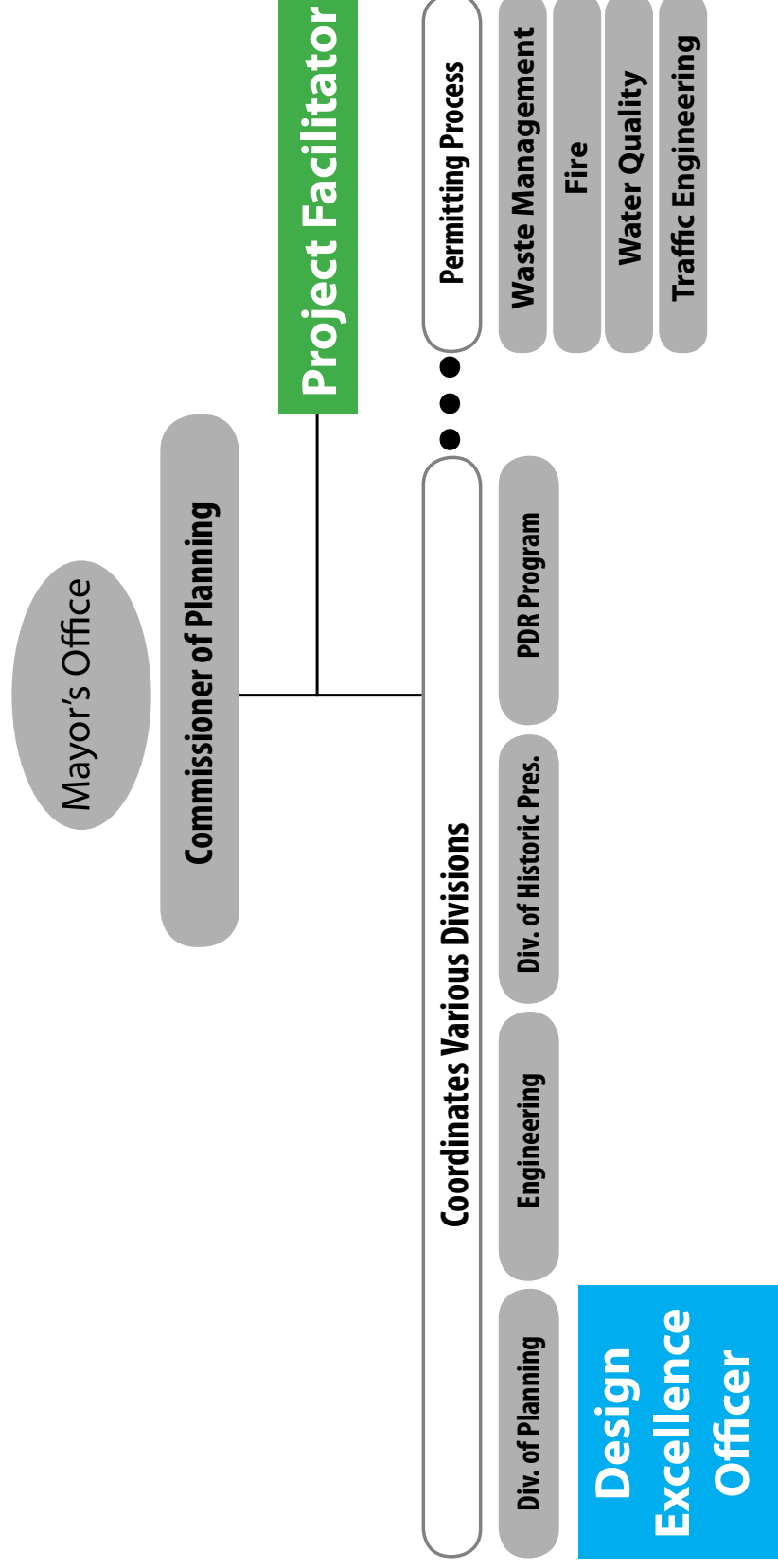
To assist with development projects in downtown and around the city the DE Task Force has proposed two staff positions aimed at moving projects efficiently through the required processes.

Design Excellence Officer

- Approves DE projects
- Provides design assistance on community projects throughout Fayette County

Project Facilitator

- Oversees the review process of all projects, with an emphasis on downtown projects
- Coordinates with various divisions to ensure timely review process
 - Acts as the “go to” person/ fixer
 - Staffs Land Bank
 - Staffs Vacant Property Review Commission



Enabling Legislation

Changes to be made to Article 27 and Article 8

H-1 parcels in DE boundary

Only have to comply with H-1 requirements.

Board

- 7 member board appointed by the Mayor including:
 - 3 representatives of the design community (including one architect and one landscape architect), one real estate or development representative, one resident in the DE boundary, one owner of a business within the DE boundary, and one at-large Lexington resident.
- Quorum is simple majority.
- Board chair votes in all cases.
- Monthly board meetings scheduled - cancelled if not needed.
- Written minutes and recommendations so that items are not re-reviewed unless there is a material change.

Appeal

Appeal to the Circuit Court.

Design Excellence Officer

The Design Excellence Officer shall have a professional degree in architecture, design, or a similar field. There was not consensus regarding the qualifications of the design review officer.

There is an intent to give the Design Excellence officer a significant amount of authority to review projects with specific authority set forth in Article 27 and the power for the Board to delegate additional authority.



Lexington-Fayette Urban County Government
DIVISION OF FIRE & EMERGENCY SERVICES

Jim Gray
Mayor

Keith L. Jackson
Fire Chief

MEMO

To: Mayor Jim Gray
Clay Mason, Public Safety Commissioner
LFUCG Council Members

From: Chief Keith Jackson

Date: December 4, 2014

The Division of Fire & Emergency Services is requesting to amend sections 9-11, 9-13, 9-3 (a) (4), 9-3(a) (8), 9-21, and creating section 9-22 of the Code of Ordinance related to the division of Fire Prevention. These changes will update requirements of the Lexington Fire Departments Fire Marshals Office.

ORDINANCE NO. _____ - 2014

AN ORDINANCE AMENDING SECTION 9-11(a) OF THE CODE OF ORDINANCES RELATED TO FIRE PREVENTION TO INCLUDE NIGHTCLUBS, BARS AND HOTELS; AMENDING SECTIONS 9-11(c), (d), (e), (f), (g) AND (h) OF THE CODE OF ORDINANCES RELATED TO FIRE PREVENTION TO REPLACE THE WORD NOTICE WITH ORDER TO REMEDY.

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

Section 1 – That Section 9-11 of the Code of Ordinances of the Lexington-Fayette Urban County Government be and hereby is amended to read as follows:

- (a) It shall be the duty of the fire chief or his designated inspectors in the division of fire and emergency services, under the direction of the mayor, to inspect or cause to be inspected all buildings, premises and public thoroughfares, especially theaters, nightclubs, bars, schools, hotels and office buildings, for the purpose of ascertaining and causing to be corrected any condition liable to cause fire or endanger lives and property.
- (b) Private dwellings are exempt from the provisions of this section, except or unless there are reasonable grounds to believe by the officers or inspectors or other officials of the urban county government that conditions existing in such private dwellings are reasonably liable to cause fire, or that there is any violation of the standards of safety or other ordinances of the urban county government affecting fire hazards.
- (c) When any inspector shall find in any building or upon any premises or other place a deficiency of the standards of safety or of other ordinances of the urban county government with respect to fire hazard, the fire chief or other officer designated in the division of fire and emergency services shall give to the owner of such premises or his/her agent a written notice of deficiencies. Such written notice will be called an "Order to Remedy", and may be delivered personally by the inspector to the owner or agent of such premises; or, in the event such owner or agent cannot be found at the premises, the Order ~~notice~~ may be posted by affixing it to the door or near the door of such building. In addition, the Order ~~notice~~ shall be directed in writing and mailed to the address of the owner of the premises; and the posting of the letter to such owner directed to the place of his/her residence shall be considered sufficient notice hereunder.
- (d) The inspector giving such written Order to Remedy ~~notice~~ shall mark on the copy of the Order ~~notice~~ the manner in which such Order ~~notice~~ was given and the date given, and shall file such Order ~~notice~~ in a file to be kept in the division of fire and emergency services for the purpose of preserving the Order ~~notice~~ so long as it is required to be kept as a record.
- (e)

Whenever a deficiency of this chapter is observed and the “Order to Remedy” ~~notice~~, hereinabove provided for, is given to correct such deficiency, the inspector giving the Order ~~notice~~ shall set out the specific sections of the standards of safety prescribing the regulations to be observed by such person to whom the Order ~~notice~~ is sent, and shall also set out a direction as to the time within which the deficiency shall be corrected and such other advice to such person as the inspector may consider advisable to give to assist such person to comply with this chapter, and the standards of safety. The time, however, given for the correction of the deficiency shall in no event be longer than such reasonable time as ordinary prudent persons would usually require to conform to the applicable rules and regulations.

(f)

Such Order to Remedy ~~notice~~ shall comply with the following format:

(1)

Be in writing.

(2)

Include a description of the real estate sufficient for identification.

(3)

Include a statement of reasons why it is being issued.

(4)

Include a reasonable time for repairs and improvements required to bring the dwelling unit or structure into compliance with the provisions of this Code.

(5)

Specify appropriate acceptable alternatives, which afford a substantially equivalent margin of safety, to correct any or all deficiencies, where available.

(6)

Include an explanation of the owner's right to seek modification, clarification, or withdrawal of the Order ~~notice~~ by contacting the inspector who issued the Order ~~notice~~.

(g)

The owner or agent, who has received a notice to comply with the standards of safety or other regulations as set out in the Order ~~notice~~, shall forthwith comply with such Order ~~notice~~ and remedy the deficiencies and notify the inspector within a reasonable time that the defects, violations or hazards have been corrected; and the inspector shall cause another inspection to be made to verify the assertion that the correction has been satisfactorily made; and, if the correction has been satisfactorily made and the premises rendered safe in accordance with the Order ~~notice~~, the copy of such Order ~~notice~~ may be taken from the files and destroyed unless, in the opinion of the fire chief, it is needed for future record.

(h)

In any case where such a notice is given to an owner or agent to comply with the standards of safety or other ordinance of the urban county affecting fire hazards and the deficiency is not eliminated or corrected within a reasonable amount of time and the owner and inspector are unable to come to any agreeable solution, said notice of deficiency shall be reviewed by the fire marshal. Following this review, and where appropriate, the fire marshal may issue ~~an~~ a Fire Marshal's Order to correct the deficiency and specify the time within which the deficiency is to

be corrected. Consideration may be given to the nature of the deficiency, previous time allowed under the notice and other relevant factors which go to the reasonableness of the time allowed. Said orders shall include an explanation of the owner's right to seek an appeal of the order by petition to the fire chief.

(i)

Such an order shall comply with the following format:

- (1) Be in writing.
- (2) Include a description of the real estate sufficient for identification.
- (3) Include a statement of reasons why it is being issued.
- (4) Include a reasonable time for repairs and improvements required to bring the dwelling unit or structure into compliance with the provisions of this Code.
- (5) Specify appropriate acceptable alternatives, which afford a substantially equivalent margin of safety, to correct any or all deficiencies, where available.
- (6) Include an explanation of the owner's right to seek modification, clarification or withdrawal of the order by appeal to the fire chief.

Such order shall be mailed to the address of the owner or agent of the premises, and the posting of the letter to such owner directed to the place of residence shall be considered sufficient notice hereunder.

(j)

The owner or their agent, who has received an order to comply with the standards of safety or other regulations as set out in the order, shall forthwith comply with such order and remedy the deficiencies and notify the fire marshal within a reasonable time that the defects, violation or hazards have been corrected; and the fire marshal shall cause another inspection to be made to verify the assertion that the correction has been satisfactorily made; and, if the correction has been satisfactorily made and the premises rendered safe in accordance with the order, the copy of such order may be kept in accordance with the state's requirements for records retention

Section 2 - That this Ordinance shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL:

MAYOR

ATTEST:

CLERK OF URBAN COUNTY COUNCIL

PUBLISHED:

X:\Cases\FIRE\14-LE0001\LEG\00461832.DOC

ORDINANCE NO. _____ - 2014

AN ORDINANCE AMENDING SECTION 9-3(a)(4) OF THE CODE OF ORDINANCES RELATED TO FIRE PREVENTION TO DELETE ESTABLISHMENT OF FIRE ESCAPES; AMENDING SECTION 9-3(a) (8) OF THE CODE OF ORDINANCES RELATED TO FIRE PREVENTION TO DELETE SECTION (8)..

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

Section 1 – That Section 9-3, of the Code of Ordinances of the Lexington-Fayette Urban County Government be and hereby is amended to read as follows:

- (a) It shall be the duty of the officers of the division of fire and emergency services to enforce all laws and ordinances of the state and the urban county government covering among other things the following:
 - (1) The prevention of fires.
 - (2) The storage and use of explosives and flammables.
 - (3) The installation and maintenance of automatic and other fire alarm systems and fire extinguishing equipment.
 - (4) The establishment, maintenance and regulation of fire escapes-
 - (5) The investigation of the cause, origin and circumstances of fires.
 - (6) The investigation of buildings especially susceptible to fires.
 - (7) The investigation of hazardous occupancies.
 - ~~(8) The installation of heating and electrical installations, as necessary.~~

Section 2 - That this Ordinance shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL:

MAYOR

ATTEST:

CLERK OF URBAN COUNTY COUNCIL

PUBLISHED:

ORDINANCE NO. _____ - 2014

AN ORDINANCE AMENDING SECTION 9-13 OF THE CODE OF ORDINANCES OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT RELATED TO FIRE PREVENTION TO REDEFINE THE BUILDINGS THAT CAN BE CLOSED ON PROPER ORDER.

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

Section 1 – That Section 9-13, of the Code of Ordinances of the Lexington-Fayette Urban County Government be and hereby is amended to read as follows:

Section 9-13. Same – Closing ~~places of public assembly~~ of buildings, premises and public thoroughfares.

The fire chief, under the direction of the Mayor, is authorized to close ~~a place of public assembly, or any other commercial property~~ buildings, premises, and public thoroughfares, especially theaters, nightclubs, bars, schools, hotels and office buildings, by padlocking such place of by placing a notice, “Closed to the Public by Order of the Fire Chief” on the entrance doors, immediately upon the expiration of time given in writing to correct any designated fire hazard, or immediately upon the discovery of any condition where there is such imminent peril to life or property that delay in giving notice or issuing an “Order to Remedy” will be reasonably calculated to increase the chances of loss of life or property or endanger the safety of the occupants of such premises.

Section 2 - That this Ordinance shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL:

MAYOR

ATTEST:

CLERK OF URBAN COUNTY COUNCIL

PUBLISHED:

ORDINANCE NO. ____-2014

AN ORDINANCE DELETING SECTION 9-21 OF THE CODE OF ORDINANCES OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT PERTAINING TO A FIRE PREVENTION BOARD OF APPEALS; AN ORDINANCE AMENDING SECTION 9-22(a) OF THE CODE OF ORDINANCES RELATED TO FIRE PREVENTION TO CREATE A NEW SECTION 1 WHICH DEFINES THE APPLICABILITY OF THIS SUBSECTION; AMENDING SECTION 9-22(a)(2) OF THE CODE OF ORDINANCES RELATED TO FIRE PREVENTION TO RENUMBER THE OLD SECTION 1 TO SECTION 2 AND TO INCLUDE THE ORDERS OF OTHER MEMBERS OF THE DEPARTMENT, TO PROVIDE FOR A WRITTEN APPEAL WITHIN 10 BUSINESS DAYS INSTEAD OF 30 AND TO PROHIBIT THE FIRE MARSHALL WHO ISSUED THE ORDER FROM BEING THE HEARING OFFICER; AMENDING SECTION 9-22(a)(3) OF THE CODE OF ORDINANCES RELATING TO FIRE PREVENTION TO RENUMBER THE EXISTING SECTION 2 TO BE A NEW SECTION 3 AND TO INCLUDE THE FIRE CHIEF'S DESIGNEE IN THIS SECTION; AMENDING SECTION 9-22(a) OF THE CODE OF ORDINANCES RELATED TO FIRE PREVENTION TO RENUMBER THE OLD SECTION 3 TO NEW SECTION 4 AND TO PROVIDE FOR A WRITTEN DECISION WITHIN 5 BUSINESS DAYS; AMENDING SECTION 9-22(b) OF THE CODE OF ORDINANCES RELATED TO FIRE PREVENTION TO DELETE THE EXISTING SECTION AND REPLACE IT WITH AN APPEAL OF THE FIRE CHIEF'S ORDER AS PROVIDED UNDER STATE LAW; AMENDING SECTION 9-22 OF THE CODE OF ORDINANCES RELATING TO FIRE PREVENTION TO DELETE THE EXISTING SECTION (c) AND REPLACE IT WITH A NEW SECTION (c) PROVIDING THAT ALL ORDERS NOT TIMELY APPEALED SHALL BECOME FINAL.

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

Section 1 - That section 9-21 of the Code of Ordinances be and hereby is deleted in its entirety.

Section 2 - That section 9-22 of the Code of Ordinances be and hereby is amended to read as follows:

Sec. 9-22.

(a) *Appeal of Fire Marshal's Order.*

(1) *Application.* This subsection shall not apply in instances in which the order is issued by the fire chief. In addition, this subsection shall not apply in instances in which an emergency order is issued pursuant to state law that directs the property to be closed to the public or vacated by its occupants until the violation is corrected.

(2) *Authorized.* Where any person seeks relief from an order of the fire marshal or other officer or member of the department acting in an official capacity enforcing provisions of this code, including but not limited to matters of code interpretations, that person may request reconsideration of the fire marshal's decision by appealing in writing to the fire chief within ten (10) business [thirty (30)] days of the receipt of the order stating the reasons why relief is sought and what decision the person feels should be forthcoming. The fire chief or his designee shall act as a hearing officer and hear such appeals filed. In no instance shall the designee be the fire marshal issuing the order. A hearing on such an appeal shall be held within thirty (30) days after it is received by the fire chief.

(3) *Notice of hearings.* The fire chief or his designee shall give written notice of hearings not less than ten (10) days in advance. The notice shall state the date, time and place of the hearing and specify the matters to be considered at the hearing. The fire chief shall give such notice to all persons whose pecuniary interests, to the fire chief's knowledge or belief, are to be directly and immediately affected by the hearing. Notice of hearing may ~~may~~ be given by delivery to the person to be notified or his agent or by mailing it, postage prepaid, addressed to him at his principal place of business or residence as last of record in the fire chief's office.

(4) *Conduct of hearing.* Any party to the hearing shall have the right to appear in person and to present evidence in support of his interest. The fire chief shall consider all relevant evidence presented at the hearing and shall render a written decision within five (5) business days after the hearing is completed.

(b) *Appeal of Fire Chief's Order.*

Any appeal of the fire chief's order shall be as provided under the applicable state law.

(c) All orders of the fire department which have not been timely appealed shall become final.

~~[(1)~~

~~After an appeal to the fire chief, any person seeking relief from a decision of the fire chief regarding provisions of this code may appeal to the board of appeals ("board") within thirty (30) days after receipt of written notice of the fire chief's decision. Such appeal shall be in writing and directed to the fire chief. Copies of the appeal shall be promptly transmitted to the board by the fire chief. The appeal shall be prosecuted and considered by the board within forty five (45) days after the filing of an appeal. Upon giving not less than ten (10) business days' notice to the persons interested, a hearing shall be held. The board may, after such hearing, by a majority vote, affirm, annul or modify the action of the fire chief. The decision of the board shall be in writing, and a copy shall be mailed to the appellant within seven (7) business days after the conclusion of the hearing, and any decisions made shall be final.~~

~~(2)~~

~~(i)~~

~~A quorum of the board shall be present at the hearing and shall expedite the hearing and all procedures involved therein. The hearing shall be a *de novo* public hearing.~~

~~(ii)~~

~~Any party to the hearing shall have the right to appear in person and by counsel, to be present during the giving of all evidence, to have a reasonable opportunity to inspect all documentary and other evidence, to examine and cross-examine witnesses, to present evidence in support of his interest. Testimony may be taken orally or by deposition, and any party shall have such right of introducing evidence by interrogatories or deposition as may apply in a circuit court.~~

~~(iii)~~

~~Upon good cause shown, the board shall permit to become a party to the hearing by intervention, if timely, such persons, not original parties thereto, whose pecuniary interests are to~~

~~be directly and immediately affected by the board's order made upon the hearing.~~

~~(iv)~~

~~Formal rules of pleading or evidence need not be observed at any hearing for so long as procedural due process is afforded all parties.~~

~~(v)~~

~~If transcribed, a copy of such record shall be part of the board's record of the hearing; and a copy shall be furnished to any other party to the hearing, at the request and expense of such other party. If no such record is transcribed, the board shall prepare a summary record of the proceeding and evidence.~~

~~(vi)~~

~~The validity of any hearing held in accordance with the notice thereof, or waiver of notice, shall not be affected by the failure of any person to attend or remain in attendance.~~

~~(vii)~~

~~The board may adjourn any hearing from time to time and from place to place but shall give notice as required by KRS 61.805 et seq.~~

~~(3)~~

~~Hearings; orders.~~

~~(i)~~

~~In the conduct of hearings under this section and making this order thereon, the board shall act in a quasi-judicial capacity.~~

~~(ii)~~

~~The order may affirm, modify or rescind action theretofore taken.~~

~~(iii)~~

~~The board shall make appropriate findings to support its decision(s).~~

~~(c)~~

~~Appeal of Orders of Board.~~

~~(1)~~

~~An appeal from the board shall be taken only from an order on hearing.~~

~~(2)~~

~~Any person who was a party to such a hearing and who is aggrieved by such order may appeal from such order within thirty (30) days after the order on hearing has been mailed to the persons entitled to receive the same.~~

~~(3)~~

~~The appeal shall be granted as a matter of right, and shall be taken to the Fayette Circuit Court.~~

~~(4)~~

~~The appeal shall be taken by filing in the court a verified petition setting forth the grounds for appeal, and by serving a copy of the petition on the board.~~

~~(5)~~

~~Upon receiving the petition on appeal, the board shall forthwith prepare an official certified record which shall contain a copy of all proceedings and orders appealed from and a summary record of testimony and evidence thereof made. Within thirty (30) days after~~

~~the petition was served upon it, the board shall file such official record with the court. It shall be the responsibility of the person filing the appeal to procure and pay for a transcript if required. The board shall cooperate in making any tapes available.~~

(6)

~~Upon filing of the petition on appeal the court shall have full jurisdiction of the proceeding. Such filing shall not stay the enforcement of the board's order or action appealed from unless so stayed by order of the court in which the appeal is pending.~~

(7)

~~A case shall be set down by the court for briefs to be filed. A day shall be set for oral arguments if requested by either party or on the court's own motion. The case shall in all respects be expedited as a declaratory judgment suit. No new or additional evidence shall be introduced in the circuit court except as to fraud or misconduct of some party engaged in the administration of this chapter and affecting the order appealed from, but the court shall otherwise hear the case upon the record as attested by the board and shall in all respects dispose of the appeal in a summary manner. Its review shall be limited to determining whether or not:~~

(a)

~~The board acted within or in excess of its powers.~~

(b)

~~Legal or procedural due process was afforded the appellant; and~~

(c)

~~If questions of fact are in issue, whether or not any substantial evidence supports the order appealed from.~~

(8)

~~The court shall enter a judgment sustaining or setting aside the order of the board appealed from; or, in its discretion, the court may remand the case to the board for the purpose of taking additional testimony or other proceedings.~~

(9)

~~From the judgment of the circuit court the board or other party to the appeal may appeal to the Kentucky Court of Appeals in the same manner as provided in civil cases.~~

~~All orders of the fire marshal, fire chief or board which have not been appealed within thirty (30) days shall become final.]~~

Section 3 - If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unlawful by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

Section 4 - That this Ordinance shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL:

MAYOR

ATTEST:

CLERK OF URBAN COUNTY COUNCIL
PUBLISHED:
00435547

PROPOSED AMENDMENTS TO ORDINANCE 18A (TAXICAB ORD.) FOR THE PLANNING/PUBLIC SAFETY COMMITTEE CONSIDERATION

- 18A-1 Definition of “Taxicab”. Definition of “Wheelchair Accessible”.
- 18A-3 Reduce Minimum Number of Vehicles from 25 to 10 to Apply for a Taxicab Permit
- 18A-16 Eliminate Taximeter Requirement If Company Has Electronic Alternative
- 18A-21 Eliminate Requirement of a 24 Hr/7 Day A Week Central Dispatch Requirement
- 18A-22 Eliminate Paper Manifest if Electronic Alternate is “Immediately” Available 24/7/365 (Investigative follow up in serious cases involving cabs or drivers)
- Add Wheelchair Accessible Incentive by Eliminating/Reducing a Vehicle Fee

In addition to Councilmember Henson and myself being available to address questions; Rick Curtis, in the Public Safety Commissioner’s Office and Melissa Murphy, in the Department of Law will be at the Committee Meeting to answer questions as well.

ORDINANCE NO. _____ 2015

AN ORDINANCE AMENDING CHAPTER 18A OF THE CODE OF ORDINANCES RELATING TO VEHICLES FOR HIRE AS FOLLOWS: AMENDING SECTION 18A-1(6) TO INCLUDE THE DEFINITION OF TAXICAB AND TRANSPORTATION NETWORK COMPANY SERVICES; CREATING SECTION 18A-1(10) TO DEFINE WHEELCHAIR ACCESIBLE TAXICAB; AMENDING SECTION 18A-3 TO LOWER THE REQUIRED MINIMUM NUMBER OF TAXICABS IN A FLEET FROM TWENTY-FIVE (25) TO TEN (10) AND TO ALLOW THE ADDITION OF TAXICABS IN A FLEET BY INCREMENTS OF ONE (1); AMENDING SECTION 18A-6 TO ALLOW A WAIVER OR REDUCTION IN ANNUAL PERMIT FEES FOR WHEELCHAIR ACCESIBLE TAXICABS; AMENDING SECTION 18A-16 TO ALLOW A MOBILE APPLICATION TO BE USED IN PLACE OF TAXIMETER; AMENDING SECTION 18A-21 TO DELETE THE TWO-WAY COMMUNICATION AND CENTRAL DISPATCH AND TWENTY-FOUR (24) HOUR SERVICE, THREE HUNDRED SIXTY-FIVE (365) DAYS PER YEAR REQUIREMENTS; AND AMENDING SECTION 18A-22 TO ALLOW FOR ELECTRONIC MAINTENANCE OF MANIFESTS.

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

Section 1 - That Section 18A-1(6) of the Lexington-Fayette Urban County
Government Code of Ordinances be and hereby is amended to read as follows:

(6) "*Taxicab*" means any form of motor vehicle operating under a certificate of convenience and necessity issued by the bureau of vehicle regulation, a local taxicab permit or any form of a motor vehicle providing transportation within Fayette County that is not affiliated with a licensed taxi company that accepts any form of compensation including but not limited to: per time or per distance rates, tips, donations, money for fuel or an exchange of goods for service. This section shall not apply to carpooling situations by private citizens or any local, state or federal ridesharing program or to any vehicle providing Transportation Network Company Services for a licensed Transportation Network Company as defined by 601 KAR 1:112E.

Section 2 - That Section 18A-1(10) of the Lexington-Fayette Urban County Government Code of Ordinances be and hereby is created to read as follows:

(10) "Wheelchair accessible taxicab" means any form of motor vehicle defined as a taxicab, which is a minivan or a similar vehicle specially adapted to wheelchair users.

Section 3 - That Section 18A-3 of the Lexington-Fayette Urban County Government Code of Ordinances be and hereby is amended to read as follows:

All persons previously issued a certificate of public convenience and necessity from the Transportation Cabinet, Commonwealth of Kentucky to operate a taxicab business in the urban county shall automatically be issued a local taxicab permit for the number of vehicles in effect on the date the urban county government is granted regulatory authority from the Transportation Cabinet, Commonwealth of Kentucky. No local taxicab permit shall be issued if the vehicles do not meet the safety requirements set forth in this chapter. All persons applying for or renewing a local taxicab permit shall have a minimum of ~~ten (10)~~ ~~twenty-five (25)~~ taxicabs in their fleet before a local taxicab permit shall be issued unless the applicant was previously issued a certificate of public convenience and necessity from the Transportation Cabinet, Commonwealth of Kentucky, for a fleet of less than the minimum requirement for this chapter. All persons in possession of a local taxicab permit may increase the number of taxicabs in their fleet in increments of one (1). Upon addition or removal of vehicles, the manager/owner of each company shall also report the changes to the public safety commissioner or his designee.

Section 4 - That Section 18A-6 of the Lexington-Fayette Urban County Government Code of Ordinances be and hereby is amended to read as follows:

The holder of a local taxicab permit shall pay an annual permit fee of one hundred twenty dollars (\$120.00) for each vehicle operated under a local taxicab permit.

The commissioner of public safety or his designee may reduce or waive the annual permit fee for all wheelchair accessible taxicabs operated by a holder of a local taxicab permit. The wheelchair accessible taxicab must meet the definition in Section 18A-1(10).

Section 5 - That Section 18A-16 of the Lexington-Fayette Urban County Government Code of Ordinances be and hereby is amended to read as follows:

All taxicabs operated under the authority of this chapter shall be equipped with taximeters or shall have a mobile application comparable to a taximeter designed to accurately measure the distance traveled by a taxicab, to record the time said taxicab travels or is waiting and to indicate the fare to be charged. The taximeters or mobile application shall be fastened in front of the passengers. The taximeter or mobile application shall be visible to [them] passengers at all times, day and night; and, after sundown, [the face of the taximeter] shall be illuminated. Taximeters shall be operated mechanically by a mechanism of standard design and construction, driven either from the transmission or from one (1) of the front wheels by a flexible and permanently attached driving mechanism. They shall be sealed at all points and connections which, if manipulated, would affect their correct reading and recording. Each taximeter shall have thereon a device to denote when the vehicle is employed and when it is not employed. Mobile applications shall be operated by a specifically designed application for the driver and company that is operated from a mobile device large enough to be visible to a passenger and controlled by global positioning systems. It shall be the duty of the driver to activate the taximeter or mobile application at the time the taxicab is employed and to deactivate the taximeter or mobile application at the termination of each trip. The meter or mobile application shall be operated on a mileage basis except when the driver is instructed to wait or stopped in traffic, at which time the meter or mobile application shall be operated on a time basis. Taximeters or mobile application shall be subject to inspection from time to time by the division of police. Any inspector or other officer of the division of police is hereby authorized, either on complaint of

any person or without such complaint, to inspect any meter or mobile application, and upon discovery of any inaccuracy therein, to notify the person operating said taxicab to cease operation. Any taxicab ordered to cease operation shall be kept off the highways until the taximeter or mobile application is repaired and operates in accordance with this chapter.

Section 6 - That Section 18A-21 of the Lexington-Fayette Urban County

Government Code of Ordinances be and hereby is amended to read as follows:

All persons engaged in the taxicab business in the urban county operating under the provisions of this chapter shall render an overall service to the public desiring to use taxicabs and shall offer service to all geographic locations of the urban county. Holders of local taxicab permits shall maintain a central place of business in the urban county. ~~[for two-way communication and dispatch of taxicabs and shall offer twenty-four hour service, three hundred sixty-five (365) days per year].~~ The central place of business shall be in compliance with the zoning ordinance for the urban county. They shall answer all calls received by them for services inside the boundaries of the urban county as soon as they can do so; and if said services cannot be rendered within a reasonable time, they shall then notify the prospective passengers how long it will be before the call can be answered and give the reason therefore. Any holder who shall refuse to accept a call anywhere within the boundaries of the urban county when such holder has available cabs, or who shall fail or refuse to give overall service, or any driver or independent contractor operating pursuant to a holder's local taxicab permit who refuses to accept a call anywhere within the boundaries of the urban county area, shall be deemed a violator of this chapter.

Section 7 - That Section 18A-22 of the Lexington-Fayette Urban County

Government Code of Ordinances be and hereby is amended to read as follows:

Every driver shall maintain a daily manifest, upon which are recorded all trips made each day, showing

time and place of origin and destination of each trip and amount of fare; such manifest shall be kept in either paper form or electronically by the driver or owner, and all such completed manifests shall be returned to the owner by the driver at the conclusion of his tour of duty. The forms for each manifest shall be furnished to the driver by the owner and shall be of a character approved by the commissioner of finance, and subject to inspection or review on demand by a law enforcement officer.

Every holder of a local taxicab permit shall retain and preserve all driver manifests in a safe place for at least one (1) year, and said manifests shall be available to the commissioner of finance.

Section 8 – That this Ordinance shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL:

MAYOR

ATTEST:

CLERK, URBAN COUNTY COUNCIL
PUBLISHED:



Lexington-Fayette Urban County Council

TO: CM Mossotti, Chair, Planning & Public Safety Committee
Members of the Planning & Public Safety Committee

FROM: Craig Bencz
Research Analyst

DATE: February 2, 2015

This is in response to your recent request for information regarding options for increasing civil fines related to zoning enforcement. This request was made during the November 11, 2014 meeting of the Planning and Public Works Committee.

The information presented herein specifically addresses violations to the LFUCG Zoning Ordinance. Code Enforcement violations are separate and distinct from zoning violations, and are addressed through separate processes. Zoning enforcement addresses, but is not limited to, the following:

- Conversion of structures;
- Sight triangles for traffic visibility;
- Regulations regarding the repair and storage of vehicles;
- The operation of businesses and other activities in zones that do not allow these activities; and
- Other items regulated by the Zoning Ordinance.

LFUCG Zoning Enforcement Civil Penalties

Article 5 of the Zoning Ordinance of Lexington-Fayette County establishes civil fines for zoning enforcement as follows:

Zoning Citations Within 12-Month Period

	1	2	3	4+
Fine	\$75-200	\$150-300	\$225-450	\$300-500

Fines are generally assessed at the minimum of the range unless the citation is unsuccessfully appealed to the Infrastructure Hearing Board.

Article 5, Section 5-9(a) of the Zoning Code establishes the procedural requirements for the issuance of a civil citations. Prior to the issuance of the first civil citation for a Zoning Ordinance violation, a notice of violation must be issued with a specified time period – no less than 24 hours – for correction of the violation.

In calendar year 2014, a total of 654 valid zoning violation cases were addressed. Of those, 612 (93.6%) were resolved. The remaining 42 cases remained active in 2015.

Of the 654 valid zoning violation cases in 2014, only 36 (5.5%) required one or more citations to gain compliance:

- 24 citations were issued at \$75, 3.7% of the total cases;
- 5 citations were issued at \$150 (2nd violation);
- 4 citations were issued at \$225 (3rd violation); and
- 1 citation was issued at \$525, presumably for multiple repeat violations.

Section 5-9(d) of the Zoning Code also establishes an abatement process for zoning violations “when there is reason to believe that the violation poses a serious threat to the public health, safety or welfare; or in situations where damage resulting from continuation of the violation would be irreparable or irreversible; or if the violation represents a continuing public nuisance.” The responsible person must reimburse the LFUCG for the cost of the abatement action, in addition to applicable fines and an administrative fee of \$75.

Comparison with Other Cities

Ten cities closest in population to Lexington-Fayette County per July 2013 U.S. Census Bureau estimates were surveyed in order to obtain information regarding zoning enforcement fines. Seven of the cities surveyed responded by phone or email, or clearly published zoning fine information online. A summary of these responses follows:

Zoning Enforcement Fines

City	Population	1st Citation	2nd Citation	3rd Citation	4th+ Citation	Notes
Anaheim, CA	345,012	\$100	\$200	\$300	n/a	30 day compliance timeline
Santa Ana, CA	334,227	(no response)				
St. Louis, MO	318,416	\$250	n/a	n/a	n/a	Fine implemented 10 days after violation
Riverside, CA	316,619	\$100	\$200	\$500	n/a	
Corpus Christi, TX	316,381	(no response)				
Lexington, KY	308,428	\$75-200	\$150-300	\$225-450	\$300-500	Fines generally assessed at minimum
Pittsburgh, PA	305,841	No civil fines	No civil fines	No civil fines	No civil fines	
Anchorage, AK	300,950	\$50-\$300	n/a	n/a	n/a	Varies, depending on specific violation
Stockton, CA	298,118	(no response)				
Cincinnati, OH	297,517	\$500	\$1,000	n/a	n/a	Subject to 50% reduction for compliance
St. Paul, MN	294,873	No civil fines	No civil fines	No civil fines	No civil fines	

Source: US Census Bureau estimates, July 1, 2013. Referenced city governments.

Please note that “n/a” is indicated where the Code does not address subsequent citations, or the fine does not escalate.

Of the respondent cities that enforce the zoning ordinance through civil fines, the fine ranges are as follows:

- 1st Citation: \$50-\$500
- 2nd Citation: \$150-\$1000
- 3rd Citation: \$225-\$1,000

The cities surveyed generally did not include a fine structure for 4 or more citations. Two of the surveyed cities – Pittsburgh, PA and St. Paul, MN – do not use a civil fine structure, and rely only on non-civil penalties for compliance.

Options for Consideration

The Planning and Public Safety Committee’s options for action include, but are not limited to, the following actions:

1. Retain the existing schedule of civil penalties as established in Article 5, Section 5-9(c) of the Zoning Code;
2. Increase the minimum fines associated with civil citations within the existing range;
or
3. Increase the current range of fines associated with civil citations.

If, after reviewing this memo you have any questions, comments, or need clarification, please don’t hesitate to contact me.

Craig Bencz
Research Analyst

ARTICLE 5

ADMINISTRATION, ENFORCEMENT AND VIOLATIONS

5-1 ADMINISTRATION AND ENFORCEMENT - The Director of the Division of Planning, and the Director's authorized agent of the Lexington-Fayette Urban County Government, shall administer and enforce this Zoning Ordinance, except where other Divisions of the Lexington-Fayette Urban County Government have been assigned such responsibility as provided herein. The Director, or the Director's authorized agent, shall promptly investigate all written complaints of violations and record all findings and actions in the official records, which shall be available in the Offices of the Division holding enforcement responsibility. The Director shall use the best efforts to prevent violations. If the Director, or the Director's agent, finds any of the provisions of this Zoning Ordinance are being violated, the Director, or the Director's agent, may cite the violator to district court, may assess civil penalties through an administrative process, may seek a restraining order or injunctive relief, may order the stoppage of work which is determined to have created or contributed to conditions that pose a threat to the public health, safety or welfare, or may order the action necessary to correct the violation and to enforce the provisions of the Zoning Ordinance. The Director shall make records of all official actions relating to the administration and enforcement of the provisions of this Zoning Ordinance, including, but not limited to, written records of all complaints and actions taken with regard thereto, all violations discovered with actions taken thereto, and the final disposition of all such matters.

5-1(a) RIGHT OF ENTRY - The Director or his authorized agent is authorized to enter upon property, land, structures or buildings, at reasonable times for the purpose of inspecting, ascertaining and causing to be corrected, any violation of this Zoning Ordinance. The Director is hereby empowered to prescribe, adopt, promulgate and enforce reasonable rules, regulations, and/or guidelines pertaining to administrative inspections of properties for zoning violations which are not otherwise inconsistent with the Zoning Ordinance and constitutional restrictions of unreasonable searches and seizures. Whenever the Director or his authorized agent is denied entrance to any property, land, structure or building, he may apply to the district court for a warrant allowing entrance and inspection. This authority shall apply to the interior of occupied, private dwellings only when the inspecting agent has reason to believe that a zoning violation exists in the dwelling.

5-2 PERMITS REQUIRED FOR CONSTRUCTION, DEMOLITION, AND LOCATION OF STRUCTURES - Permits shall be required for the following activities and shall

be issued by the designated Division in conformity with the provisions of this Zoning Ordinance.

5-2(a) ZONING COMPLIANCE PERMIT - After January 1, 2012, no building or premises shall be occupied for any use, nor any use be changed, unless a zoning compliance permit has been issued by the Division of Planning. Such permits shall not be required for agricultural uses as defined in KRS, single family or two-family residences; however, this provision shall not be construed as to exempt such uses from the requirements of the Zoning Ordinance, conditional zoning restrictions, development plan restrictions, or other similar duly enacted restrictions.

5-2(b) BUILDING PERMITS - No building or other structures shall be erected, moved, added to, or structurally altered; nor shall any of said activities be commenced without a building permit therefore, issued by the Division of Building Inspection.

5-2(c) WRECKING PERMITS - No building or other structures shall be razed, demolished or removed, either entirely or in part; nor shall any of said activities be commenced without a wrecking permit, issued by the Division of Building Inspection, and any required land disturbance permit has been obtained from the Division of Engineering.

5-2(d) LAND DISTURBANCE PERMITS - Land Disturbance permits shall be required as provided in Chapter 16 of the Code of Ordinances.

5-2(e) MOBILE HOME LOCATION PERMITS - Prior to any placement or relocation of any mobile home, a location permit shall be issued by the Division of Building Inspection for determination of compliance with this Zoning Ordinance and the provisions of KRS 100.203(4)(a)(b).

5-2(f) SIGN PERMITS - No sign shall be created, erected, moved, added to, or structurally altered; nor shall any of said activities be commenced without a permit therefore, issued by the Division of Building Inspection.

5-2(g) PERMITS AUTHORIZED BY THE BOARD OF ADJUSTMENT - The Divisions of Planning and Building Inspection shall issue permits in conformance with the written authorization of the Board of Adjustment concerning administrative review appeals, conditional use permit appeals, variance appeals, or other appeals as authorized in this Zoning Ordinance.

5-2(h) SANITARY SEWER CAPACITY PERMIT - No development shall commence without a permit from the Division of Water Quality, in conformance with the LFUCG Capacity Assurance Program, documenting that adequate sanitary sewer service is available.

5-2(i) OTHER PERMITS - Additional permits may be required by the responsible Divisions to enforce the provisions of this Ordinance.

5-3 COMPLIANCE WITH OTHER CODES, STATUTES AND REGULATIONS - Nothing in this section or other sections of the Zoning Ordinance shall be construed to exempt any applicant for a permit from compliance with all local, state and federal codes, statutes and regulations.

5-4 PERMIT APPLICATION REQUIREMENTS AND PROCEDURES - All applications for permits shall be accompanied by such plans and information as the responsible Division deems to be necessary to determine compliance and provide for enforcement of this Zoning Ordinance. After reviewing the application materials, the Director of the responsible Division shall mark the application either as "Approved" or "Disapproved" and attest to the same by signature on such copy. The original, similarly marked, shall be retained by the responsible Division.

5-4(a) BUILDING PERMITS FOR SINGLE FAMILY AND TWO-FAMILY DWELLINGS - All applications for permits for detached single family and two-family dwellings and their accessory buildings shall be accompanied by plans showing the location and dimension of any existing or proposed principal or accessory buildings on the lot; the location and dimension of all required yards; height of the building; and the location and dimension of the required parking, as well as any other information deemed necessary by the Division of Building Inspection to determine compliance with this Zoning Ordinance.

5-4(a)(1) DIVISION OF ENGINEERING APPROVAL REQUIRED - The building permit shall not be issued unless and until the Division of Engineering has approved an erosion control plan.

5-4(b) BUILDING PERMITS FOR ALL OTHER BUILDINGS - All applications for building permits, including associated paving permits, other than those for single family or two-family dwellings and their accessory buildings, shall be accompanied by a site plan, drawn to scale, showing information with regard to the lot and neighboring lots as may be necessary to determine compliance with the Zoning Ordinance and the Code of Ordinances. No building permit application shall be accepted by the Division of Building Inspection until the Division of Planning has approved the site plan, upon finding that the development proposed thereon complies with all applicable requirements of the Subdivision Regulations and the Zoning

Ordinance. The following additional requirements shall be applicable to site plans required under this section:

5-4(b)(1) DIVISION OF ENGINEERING - The building permit shall not be issued unless and until all required information has been submitted to the Division of Engineering as it relates to storm drainage, erosion and sediment control, and sanitary sewers. Off-site improvements may be required if an adequate drainage outfall is not available to the site. The site plan shall include sufficient existing and proposed site elevations to demonstrate that damage to adjacent properties shall not occur, or that an existing off-site problem will not be aggravated. Storm drainage detention on the lot in conformance with the Stormwater Manual will be required, if not provided as a part of the subdivision development.

5-4(b)(2) DIVISION OF TRAFFIC ENGINEERING APPROVAL REQUIRED - The building permit shall not be issued unless and until the Division of Traffic Engineering has approved the site plan as it relates to access point design details and parking lot circulation layout.

5-4(b)(3) OTHER APPROVALS - If this Zoning Ordinance or the Code of Ordinances requires approval by another agency of certain site plan features, such approval shall be obtained prior to issuance of a building permit.

5-4(b)(4) DEVELOPMENT PLAN AS SITE PLAN - In any case, where the Planning Commission has approved a detailed final development plan showing essentially the same information as required above for the property seeking a building permit, no separate site plan shall be required to be prepared. The applicant shall be required to supply such supplementary information as necessary to comply with all requirements of this Section 5-4(b).

5-4(c) MOBILE HOME LOCATION PERMITS - All applications for mobile home location permits shall be accompanied by plans showing the location of the mobile home, as well as any permanent structure on the lot, the location and dimension of all required yards, and the location and dimension of the required parking.

5-4(d) WRECKING PERMITS - Requirements for wrecking permits in Historic Districts shall be as provided in Article 13. Requirements for wrecking permits in all other zones shall be as provided in the Code of Ordinances.

5-4(e) LAND DISTURBANCE PERMITS - Requirements for land disturbance permits shall be as provided in Chapter 16 of the Code of Ordinances.

5-4(f) SIGN PERMITS - Requirements for sign permits shall be as provided in Article 17.

5-4(g) SATELLITE DISH ANTENNAS - In lieu of a permit to install a satellite dish antenna, the following regulations shall control the installation of satellite dish antennas:

- (1) Within ten (10) days of the completion of the installation of the antenna, the owner of the property shall submit a signed statement to the Division of Building Inspection, specifying the details of the installation so that compliance with this Zoning Ordinance can be determined. In addition, when the antenna is installed by an agent of the property owner, a signed statement of the owner shall be submitted, indicating that a copy of this Ordinance has been provided to the property owner.
- (2) It shall be the responsibility of the property owner to properly install the satellite dish antenna in compliance with all requirements of this Zoning Ordinance.

5-5 CERTIFICATE OF OCCUPANCY REQUIRED - No person shall use or permit the use of any structure or premises or part thereof hereafter created, erected, changed, converted, enlarged or moved, wholly or partly, until a certificate of occupancy shall have been issued by the Division of Building Inspection. Such certificates shall show that the structure or use, or both, or the premises, or the affected part thereof, are in conformity with the provisions of applicable state and local building codes.

5-5(a) TEMPORARY CERTIFICATES OF OCCUPANCY - A temporary certificate of occupancy may be issued by the Division of Building Inspection for a period not exceeding six (6) months during alterations or partial occupancy of a building, pending its completion, in accordance with general rules or regulations concerning such temporary certificate; and with such additional conditions or safeguards as are necessary in the circumstances of the case to protect the safety of the general public.

5-5(b) CERTIFICATE OF OCCUPANCY FOR EXISTING USES OR STRUCTURES - Upon request from the owner or tenant; and upon inspection to determine the facts in the case, the Division of Building Inspection shall issue a certificate of occupancy for any building, premises or use that is in conformity with the provisions of any applicable building codes, regulations or ordinances.

5-5(c) ZONING PERMIT FOR EXISTING USES OR STRUCTURES - Upon request from the owner or tenant; and upon inspection to determine the facts in the case, the Division of Planning shall issue a zoning permit for any

building, premises or use that is in conformity with the provisions of this Zoning Ordinance or that is a legal non-conforming use as specified in the certificate.

5-6 STRUCTURES AND USES TO BE AS PROVIDED IN ZONING PERMITS, BUILDING PERMITS, PLANS AND CERTIFICATES OF OCCUPANCY - Zoning permits, building permits or certificates of occupancy, issued on the basis of plans and applications approved by the Division of Building Inspection, authorize only the use, arrangement and construction set forth in such permits, plans and certificates, and no other. The use, arrangement or construction at variance with that authorized shall be deemed a violation of this Zoning Ordinance.

5-7 COMPLAINTS REGARDING VIOLATIONS - Whenever a violation of the provisions of this Zoning Ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint, stating fully the causes and basis thereof, shall be filed with the Director of the Division of Planning or the Director's authorized agent. The Director shall initiate an investigation of each case. Complaints involving building code matters shall be referred to the Divisions of Building Inspection or Code Enforcement, depending upon appropriate jurisdiction; or, in the case of land disturbance permits authorized under Chapter 16 of the Code of Ordinances, the complaint shall be referred to the Urban County Engineer or the Urban County Engineer's authorized agent for investigation and, if warranted, enforcement action. The Directors of the Divisions of Planning, Building Inspection, or the Urban County Engineer, or their authorized agents (as appropriate) shall record properly such complaint, immediately investigate, and take action thereon as provided by this Zoning Ordinance.

5-8 PENALTIES FOR VIOLATIONS - Unless otherwise provided herein, violation of the provisions of this Zoning Ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) shall constitute an offense for which the penalty shall be as follows:

- (a) Any person who so violates this Zoning Ordinance or fails to comply with any of its requirements, except as provided in Section 5-8(b) herein below, shall upon conviction thereof be fined not less than \$10, but no more than \$500, for each conviction. Each day of violation shall constitute a separate offense.
- (b) Any person shall, upon conviction, be fined not less than \$100, but no more than \$500, for each lot or parcel which was the subject of sale or transfer, or a contract for sale or transfer, where such sale or transfer, or contract therefore, constitutes a violation of this Zoning Ordinance.

5-9 CIVIL CITATIONS AND CIVIL PENALTIES - To the extent allowable by law, any violations of this Zoning Ordinance may be enforced through the issuance of a civil citation, pursuant to KRS 65.8801, et seq., as an additional or supplemental means of obtaining compliance. All citations issued pursuant to this Zoning Ordinance shall be issued by the citation officers cited in Section 14-10 of the Code of Ordinances and referred to the Infrastructure Hearing Board with the citations and the civil process to conform to Sections 16-76 through 16-83 of the Code of Ordinances.

5-9(a) ISSUANCE OF A CIVIL CITATION - Prior to the issuance of the first civil citation for a violation of a section of the Zoning Ordinance, the Urban County Government shall issue a notice of violation, which shall specify a time period of at least twenty-four (24) hours for the correction of the violation. The time period specified shall not impose unrealistic requirements under prevailing weather and site conditions. If the violation is not corrected as specified in the written notice, the Urban County Government may issue a civil citation. A notice of violation shall precede the issuance of the first civil citation for such offense unless the violation is deemed to be a serious threat to the public health, safety and welfare; or, if in the absence of immediate action, the effects of the continuation of the violation would be irreparable or irreversible. No notice of violation shall be required prior to the issuance of a citation for any offense which occurs after the first citation is issued to a person or entity.

5-9(b) APPEALS OF CIVIL CITATIONS - An appeal of the civil citation may be made to the Infrastructure Hearing Board, as provided in Section 16-79 of the Code of Ordinances.

5-9(c) CIVIL PENALTIES - For violations of the Zoning Ordinance, the civil fines associated with the issuance of a civil citation are as follows:

- (1) Upon issuance of the first citation within any 12-month period shall be a maximum of two hundred dollars (\$200.00), but shall be seventy-five dollars (\$75.00) if the person committing the offense does not appeal the citation in accordance with Section 16-79 of the Code of Ordinances.
- (2) The civil fine imposed upon the issuance of the second citation for the same section of the Zoning Ordinance within any 12-month period shall be a maximum of three hundred dollars (\$300.00), but shall be one hundred fifty dollars (\$150.00) if the person committing the offense does not appeal the citation in accordance with Section 16-79 of the Code of Ordinances.
- (3) The civil fine imposed upon issuance of the third citation for the same section of the Zoning Ordinance within any 12-month period shall be a

maximum of four hundred fifty dollars (\$450.00), but shall be two hundred twenty-five dollars (\$225.00) if the person committing the offense does not appeal the citation in accordance with Section 16-79 of the Code of Ordinances.

- (4) The civil fine imposed upon issuance of the fourth or more citation for the same section of the Zoning Ordinance within any 12-month period shall be a maximum of five hundred dollars (\$500.00), but shall be three hundred dollars (\$300.00) if the person committing the offense does not appeal the citation in accordance with Section 16-79 of the Code of Ordinances.

5-9(d) ABATEMENT - When there is reason to believe that the violation poses a serious threat to the public health, safety or welfare; or in situations where damage resulting from continuation of the violation would be irreparable or irreversible; or if the violation represents a continuing public nuisance, the government may, without further notice, proceed to abate the conditions. In the case of a continuing public nuisance, abatement involving the removal of structures or materials shall only take place after a civil citation has been issued and has not been appealed to the Infrastructure Hearing Board, or after an appealed civil citation has been upheld by the Infrastructure Hearing Board. The government may, in addition to any fine imposed herein, charge the responsible person, persons or entities with the cost of abatement, including equipment expense; disposal fee, if any; and an administrative fee of seventy-five dollars (\$75.00). The Urban County Government may file a lien for such abatement, in accordance with Section 16-81 of the Code of Ordinances and KRS 65.8835. Citations, if issued, shall not preclude the government from abating the conditions and billing the responsible person, persons or entities for the cost of abatement.

5-9(e) ENFORCEMENT - Nothing contained herein shall prohibit the Urban County Government from enforcement of this Zoning Ordinance by any means authorized by law.

RESOLUTION NO. 737 - 2014

A RESOLUTION AMENDING RESOLUTION NO. 343-2012 TO ALSO INCLUDE AS A VALID AND AUTHORIZED EXPENDITURE OF FUNDS ANY ZONING ENFORCEMENT ABATEMENT RELATED ACTIVITIES OF THE DIVISION OF PLANNING.

BE IT RESOLVED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 - That Resolution No. 343-2012, which created a special fund for abatement related activities, is hereby amended to also include any zoning enforcement abatement activities conducted, undertaken or overseen by the Division of Planning as a valid and authorized expenditure of these funds.

Section 2 – That Resolution No. 342-2013 shall otherwise remain unchanged.

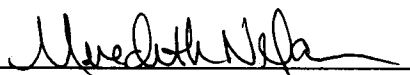
Section 3 - That this Resolution shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL: December 4, 2014

MAYOR



ATTEST:


CLERK OF URBAN COUNTY COUNCIL

RESOLUTION NO. 343 -2012

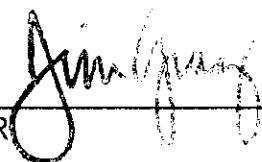
A RESOLUTION AUTHORIZING AND DIRECTING THE DEPARTMENT OF FINANCE, BEGINNING FISCAL YEAR 2013 AND THE BEGINNING OF EACH FISCAL YEAR THEREAFTER (JULY 1), TO DESIGNATE A FUND OF AT LEAST \$200,000.00 TO FUND ABATEMENT RELATED ACTIVITIES, DEFINED AS MOWING, WEEDS, TRASH AND DEBRIS, BY THE DIVISION OF CODE ENFORCEMENT.

BE IT RESOLVED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 - That in order to fund abatement related activities, defined as mowing, weeds, trash and debris, conducted by the Division of Code Enforcement, the Department of Finance is authorized and directed to designate a fund of at least \$200,000.00 per fiscal year beginning FY 2013 and each fiscal year thereafter (July 1).

Section 2 - That this Resolution shall become effective on the date of its passage

PASSED URBAN COUNTY COUNCIL: June 21, 2012



MAYOR

ATTEST:



CLERK OF URBAN COUNTY COUNCIL

Planning & Public Safety Committee Referrals

Items	Referred By	Date Referred	Status
H-1 Notification Process	Farmer	1.19.13	November 2014
Greenway Manual & Plan	Mossotti	10.8.13	April 2015
Explore Providing Assistance to Low Income Homeowners with Code Compliance	Akers	12.5.13	May/Nov. 2014
Code Enforcement Fines	Gibbs	2.11.14	May/Nov. 2014
Building Inspection Civil Offenses	Gibbs	2.11.14	Nov. 2014, Feb. 2015
Design Excellence Ordinance	Kay	4.22.14	February 2015
Downtown Traffic Study	Farmer	4.13.12	April 2014
Taxi Cab Ordinance	Henson	2.11.14	Dec. 2014, Jan. 2015
Merge Division of Emergency Management (DEM) into Fire & Em. Management Services	Public Safety Link	6.19.14	Winter-Spring 2015
Ridesharing Regulations	Henson	6.22.14	March 2015
Scrap Metal Dealers UCG Code 13.54-3	Farmer	6.23.14	Winter-Spring 2015
Sky Lanterns	Farmer	6.24.14	Winter-Spring 2015
Status of Small Area Plans	Stinnett	2.3.15	Spring 2015

PAS 2.5.15