

Gorton
Blues
Gray
Ellinger
James
Beard
Stevens
Stinnett
Crosbie
McChord

A G E N D A
PLANNING COMMITTEE
September 23, 2008
11:00 A.M

1. Development Plan Adherence - Myers (1-39)
2. Mobile Home Park Quality of Life - James (40-44)
3. Electrical Inspector's Fee Schedule - McChord (45-96)
4. Penalties/Fines for Zoning Ordinance Violations - (97-100)
Henson
5. Restrictions Building Permits When Applicant Has
Violated Zoning Ordinance - Henson (97-105)
6. Time Limits on Building Permits - Henson (97-105)
7. Referred to Committee (106)

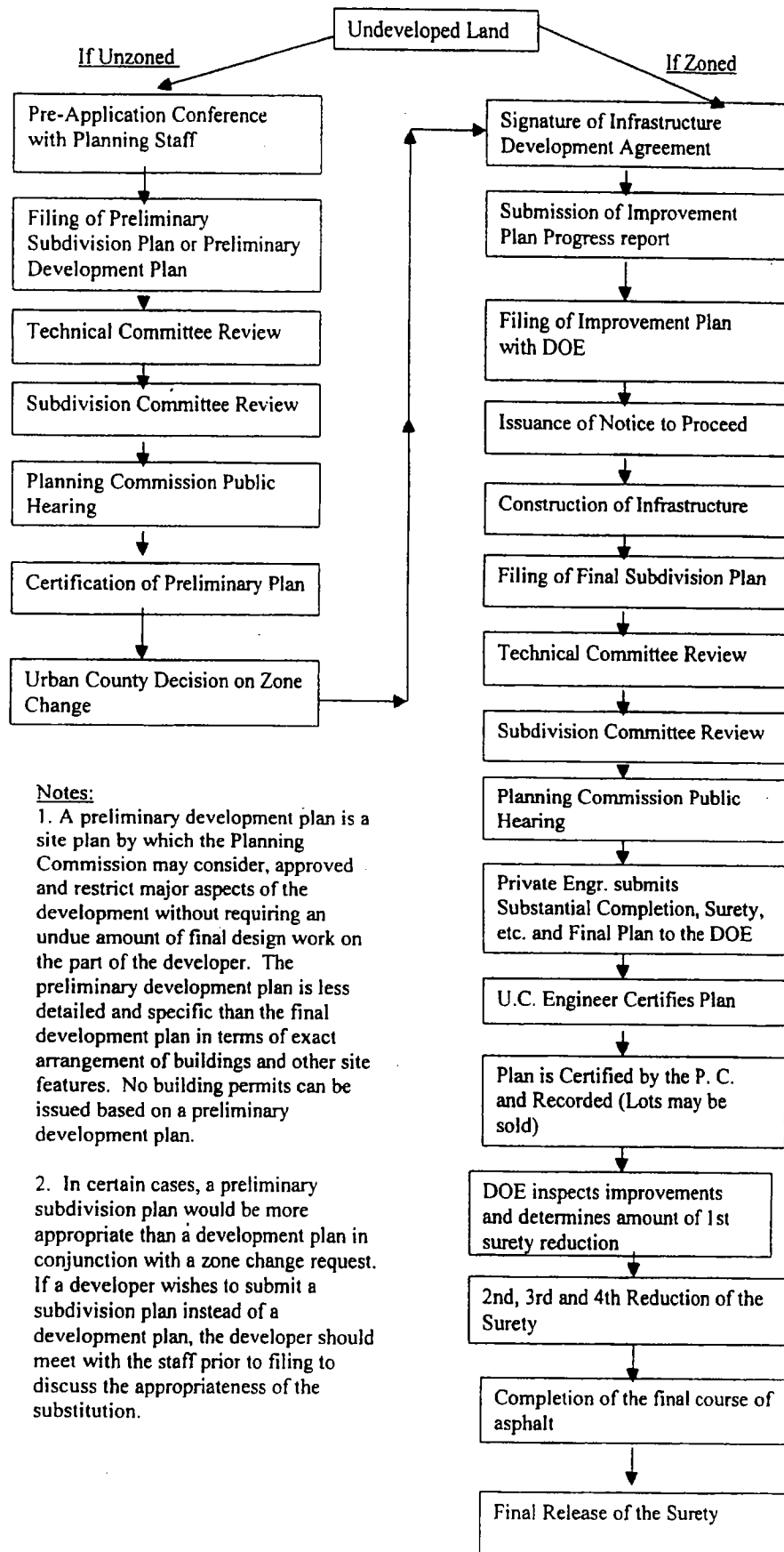
"Planning Committee, to which should be referred matters relating to parks, planning and zoning, housing, transportation, grants, legislation and social services."

Council Rules & Procedures, Section 2.102(1)

Development Plan Adherence

Flow Chart for Land Development Process

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• **What type of accountability measures are in place to ensure that the Engineering Manuals are followed?**

Prior to the start of any development, the developer and the project engineer sign an "Infrastructure Development Agreement" (Attachment 1) acknowledging that the development will be designed and constructed in accordance with the requirements of the Engineering Manuals, Subdivision Regulations, Zoning Ordinance and the requirements of the certified Preliminary Subdivision/Development plan. A Compliance Statement (Attachment 2) is also signed stating that construction plans have been designed in accordance with the Engineering Manuals, Subdivision Regulations, Zoning Ordinance and the certified Preliminary Subdivision/Development Plan.

The design engineer manages the project from preparation of the construction plans through project completion. The LFUCG's Division of Engineering, performs an administrative review of the design engineers' construction plans and supporting documents and performs periodic inspections of the site during construction.

• **What type of accountability is presently in place to ensure that development plans are being adhered?**

Article 21 of the Lexington-Fayette Urban County Government Zoning Ordinance outlines the procedure for submission, review and approval of development plans (Attachment 3). Different plans exist that would qualify as "development plans" such as final development plans and preliminary subdivision plans. There are occasions where a plan is approved as a combination final development plan and preliminary subdivision plan. After the Division of Planning certifies a preliminary subdivision plan, the developer is eligible to submit construction plans to the Division of Engineering. Certain infrastructure is required to be completed before a final subdivision plan (more commonly known as a final record plat) can be recorded. Construction activities commonly included with a preliminary subdivision plan include streets, storm sewers, sanitary sewers, detention basins and grading. After a final subdivision plan (final record plat) is recorded, individual lots are created and the individual lots can be sold. Building permits are obtained from the Division of Building Inspection for structures to be built on the lots.

A final development plan commonly applies to a commercial development on an individual lot. The Division of Engineering reviews items related to publicly maintained infrastructure, stormwater management, entrances, sediment and erosion control, and grading. The Division of Building Inspection monitors plans for structures and other elements of the certified development plan. Building Inspection obtains signoffs from other effected divisions prior to issuing a building permit or Certificate of Occupancy for a structure.

• **What LFUCG entities are responsible to ensure that infrastructure agreements are being followed?**

Prior to development, an Infrastructure Development Agreement is signed by the developer, the project engineer and the Division of Engineering. The Division of Engineering is the principal entity that identifies deficiencies that can occur in accordance with the Infrastructure Development Agreement. Additionally, the Division of Engineering may seek legal guidance from the Department of Law under some circumstances.

• **What types of penalties are in place if infrastructure agreements are not being followed?**

Article 5-9 of the LFUCG Zoning Ordinance provides an avenue for legal recourse in the event there is a violation to the Zoning Ordinance (Attachment 4). Additional penalties would consist of the following:

- Referring a project engineer to the State Board of Licensure for Professional Engineers & Land Surveyors.
- Taking legal action against the developer and/or engineer.
- For some infractions of the Code of Ordinances, Subdivision Regulations and the Zoning Ordinance there is a process for notices of violation and citations.
- There also exists the potential for issuing a stop-work order.

• **Should we hold developers or their engineers responsible if the Manuals/Development Plans are not being followed? What types of sanctions should be placed against developer or their engineer?**

Developers and/or their engineers should be held responsible if the Manuals/Development Plans are not followed. Civil penalties are in place to address and account for violations. In addition to the penalties outlined above, an Infrastructure Hearing Board was established to review the validity of citations issued. The board consists of 5 individuals of varying backgrounds in construction/new development and meets once each month to review violations that have been identified. Since the Spring of 2005, fees in excess of \$20,000 have been collected, and the success rate of correcting violations has been very positive. Additional sanctions would have to be determined by action of the Urban County Council. (Attachment 5) demonstrates how the city of Georgetown, Kentucky placed into ordinance a means of recording a developer's deficiencies with the County Clerk's office.

• **Should a third party be used, like the Infrastructure Review Board to assist parties that are aggrieved by the process?**

Article 5-7 of the LFUCG Zoning Ordinance addresses the issue of complaints regarding violations (Attachment 4). Given the organizational structure of LFUCG, there are many levels (supervisors, managers, directors, commissioners, citizens' advocate, council office, CAO office etc.) to which an aggrieved party can appeal if he/she is not satisfied with the response received through an initial inquiry. This structure provides an adequate level of assurance that an aggrieved party has the opportunity to explain his/her case and an adequate system for the government to ensure that a correct response is delivered.

• **Why isn't Sanitary Sewers included in the Building Inspection Review Board?**

The Division of Engineering attends the Building Inspection Review Board and addresses issues with sanitary sewer extensions, relocations, etc. The Division of Engineering works closely with the Division of Sanitary Sewers to make sure their interests are represented.

• **What is the timetable to attempt to address the development plan adherence issue?**

This will be dependent upon further review of the development process, defining specific deficiencies in the process and taking the appropriate steps to make corrections, either through action of the Urban County Council or amending the Engineering Manuals.

APPENDIX A

Infrastructure Development Agreement for Projects Submitted to LFUCG on or after January 1, 2001

This Agreement is made and entered at Lexington, Kentucky this _____ day of _____ by and between:

hereinafter referred to as the Developer (whether an individual, partnership, or corporation);

hereinafter referred to as the Engineer (whether an individual, partnership, or corporation); and the Lexington-Fayette Urban County Government, hereinafter referred to as LFUCG.

Whereas the Developer intends to develop a parcel of land in Fayette County known as:

hereinafter referred to as the Project; and whereas the Developer intends to construct infrastructure that will be owned, operated, and maintained by the LFUCG (or regulated by the LFUCG);

Whereas the Engineer has been retained by the Developer to provide planning, design, and construction phase engineering services related to the infrastructure, including the provision of a Resident Project Representative;

Whereas the LFUCG intends to furnish urban services to the above described Project and will, upon transfer of ownership to the LFUCG of the infrastructure necessary to provide the services, undertake the operation and maintenance of said infrastructure.

Therefore, the Developer, the Engineer, and the LFUCG agree as follows:

The LFUCG shall:

1. Comply with the requirements of the Procedures Manual for Infrastructure Development.
2. Make decisions and carry out its responsibilities in a timely manner so as not to delay the services of the Engineer or the Developer

The Developer shall:

1. Comply with the requirements of the Procedures Manual for Infrastructure Development.
2. Negotiate the fee for the services of the Engineer. The services of the Engineer shall be provided at the Developer's sole cost. If the Developer changes engineers, the Developer shall notify the Division of Engineering and a new Agreement shall be executed among the LFUCG, Developer, and the Developer's replacement engineer, in which event the Engineer shall have no further obligations under this Agreement.

3. Select a Construction Contractor to construct the infrastructure in accordance with the Contract Documents. The Developer shall bear the full cost for the services of the Construction Contractor.
4. Conduct periodic inspections of the Work during construction to ensure that the Work is proceeding satisfactorily.
5. Deliver to the Division of Engineering a Performance/Warranty Surety in accordance with the requirements of the Procedures Manual for Infrastructure Development.
6. Provide to the Division of Engineering complete access to the work during design and construction.
7. Convey all right, title, and interest in the facilities to the LFUCG without cost to the LFUCG and without encumbrances of any nature in such a form or documents as deemed necessary by the LFUCG, when said infrastructure has been accepted by the Division of Engineering.
8. Obtain all local, state, and federal permits.
9. Procure and maintain Commercial General Liability Insurance providing coverage at least as broad as Insurance Services Office Form CG-0001 (07/98) with:
 - a. Combination of primary and umbrella coverage limits of not less than \$1,000,000 per occurrence and a \$2,000,000 aggregate for bodily injury and property damage.
 - b. Endorsements naming as additional insureds, "The Lexington-Fayette Urban County Government, its elected and appointed officials, employees, agents, boards, consultants, assigns, volunteers and successors in interest."
 - c. Endorsement that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice, to Lexington-Fayette Urban County Government, Division of Risk Management, 121 North Martin Luther King Blvd., Lexington, Kentucky 40507.

The Engineer shall:

1. Comply with the requirements of the Procedures Manual for Infrastructure Development.
2. Prepare Improvement Plans, Construction Specifications, and other Contract Document Items in accordance with the Division of Engineering Technical Manuals.
3. Provide construction phase services as described in Attachment A-1.
4. Prepare record drawings of the infrastructure and submit one copy each to the LFUCG Division of Engineering, LFUCG Division of Sanitary Sewers, the Developer, and the Contractor.
5. Be responsible for the technical accuracy of its services, and the documents resulting therefrom, and acknowledge and agree that the LFUCG shall not be responsible for discovering deficiencies therein.

6. Attend meetings with the Planning Commission, Urban County Council, and neighborhood meetings as required during the course of the project.
7. Meet the following business requirements
 - a. Individual licensure in good standing with the Kentucky Board of Registration for Professional Engineers and Land Surveyors;
 - b. Firm licensure in good standing as an Engineering company in Kentucky, if work is to be accomplished other than as a sole practitioner;
 - c. Coverage under a license to do business in Fayette County;
8. Procure and maintain professional liability insurance providing coverage at least as broad as current ISO form with the following provisions:
 - a. \$1,000,000 per occurrence with Business Interruption exposure covered.
 - b. Endorsement that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice, to Lexington-Fayette Urban County Government, Division of Risk Management, 121 North Martin Luther King Blvd., Lexington, Kentucky 40507.
9. Procure and maintain Commercial General Liability Insurance providing coverage at least as broad as Insurance Services Office Form CG-0001 (07/98) with:
 - a. Combination of primary and umbrella coverage limits of not less than \$1,000,000 per occurrence and a \$2,000,000 aggregate for bodily injury and property damage.
 - b. Endorsements naming as additional insureds, "The Lexington-Fayette Urban County Government, its elected and appointed officials, employees, agents, boards, consultants, assigns, volunteers and successors in interest."
 - c. Endorsement that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice, to Lexington-Fayette Urban County Government, Division of Risk Management, 121 North Martin Luther King Blvd., Lexington, Kentucky 40507.

If all valid and collectible insurance were exhausted, the following indemnification clause shall be invoked:

To the fullest extent permitted by law, each party to this Agreement shall indemnify and hold harmless the other parties, their officers, directors, partners and employees from and against any and all costs, losses and damages (including but not limited to all fees and charges of attorneys and design professionals, and all court, arbitration or other dispute resolution costs) caused by its negligent acts, errors or omissions, or those of its officers, directors, partners, employees, agents or consultants in the performance of its duties and responsibilities under this Agreement. To the fullest extent permitted by law, each party's total liability to the other parties shall not exceed the percentage share that party's negligence bears to the total negligence of all parties hereto and all other negligent entities or individuals.

This Agreement shall be governed and construed in accordance with the laws of the Commonwealth of Kentucky. Any action at law, suit in equity, or judicial proceeding for the enforcement of this Agreement or any provision thereof shall be instituted and maintained in any court of competent jurisdiction only in the County of Fayette, Commonwealth of Kentucky.

The LFUCG, the Engineer, and Developer each binds itself and its partners, successors and assigns to the other parties to this Agreement and neither the LFUCG, the Engineer or the Developer shall assign, sublet, or transfer its interest in this Agreement without the written consent of the others. Nothing herein shall be construed as creating any personal liability on the part of any officer, director, employee, agent, of any public body which may be a party hereto, nor shall it be construed as giving any rights or benefits hereunder to anyone other than the LFUCG, the Engineer, and the Developer.

If any section, clause, or provision of this Agreement shall be held invalid, such holding of invalidity shall not affect the validity of any remaining section, clause, paragraph, portion, or provision of this Agreement.

This Agreement, together with Attachment A-1 hereto, supercedes any previous agreements, oral or written, between the LFUCG, the Engineer, and Developer and represents the entire agreement between the parties regarding the infrastructure constructed under this Agreement; provided, however, that Developer and Engineer may enter into a separate agreement, to which LFUCG is not a party, addressing in greater detail the relationship between Developer and Engineer relative to the project. No other agreements or representations, oral or written, have been made by the LFUCG, the Engineer, or Developer relative to this Agreement.

This Agreement may not be altered, modified, or amended except in writing properly executed by an authorized representative of the LFUCG, the Engineer, and Developer.

Developer:

By: _____

Name: _____

Title: _____

Engineer:

By: _____

Name: _____

Title: _____

LFUCG:

By: _____

Name: _____

Title: _____

For private infrastructure Improvement Plans submitted before 1/1/01

Improvement Plan Compliance Statement.

I hereby certify that the Improvement Plans known as:

have been prepared in accordance with the LFUCG regulations and ordinances in effect at the time of submission; all requirements on the certified Preliminary Subdivision/Development Plan; and that construction will be done in accordance with these Improvement Plans. I agree to retain name of design professional to provide sufficient oversight during construction to enable him/her to certify that the construction was done in accordance with these Improvement Plans.

Developer's Name

I hereby certify that the Improvement Plans known as:

have been prepared in accordance with the LFUCG regulations and ordinances in effect at the time of submission, and all requirements on the certified Preliminary Subdivision/Development Plan. I further certify that we will provide sufficient oversight during construction to enable us to certify that the construction was done in accordance with these Improvement Plans, so long as we are under contract with the Developer for such services.

Design Professional

For private infrastructure Improvement Plans submitted on or after January 1, 2001.

I hereby certify that these Improvement Plans known as:

have been prepared in accordance with the LFUCG Subdivision Regulations; Zoning Ordinance; Division of Engineering Technical Manuals; all requirements on the certified Preliminary Subdivision/Development Plan; and that construction will be done in accordance with these Improvement Plans. I agree to retain name of design professional to provide sufficient oversight during construction to enable him/her to certify that the construction was done in accordance with these Improvement Plans.

Developer's Name

I hereby certify that the Improvement Plans known as:

have been prepared in accordance with the LFUCG Subdivision Regulations; Zoning Ordinance; Division of Engineering Technical Manuals; and all requirements on the certified Preliminary Subdivision/Development Plan. I further certify that we will provide sufficient oversight during construction to enable us to certify that the construction was done in accordance with these Improvement Plans, so long as we are under contract with the Developer for such services.

Design Professional

ARTICLE 21

DEVELOPMENT PLANS

21-1 INTENT AND PURPOSE - The purpose of this Article is to establish and define development plans that may be utilized for a wide variety of planning related procedures. This Article outlines the content and procedure for submission, review, and approval of all development plans required by the Zoning Ordinance and Subdivision Regulations unless another procedure or different contents are specified elsewhere in this Zoning Ordinance.

21-2 APPROVAL OF DEVELOPMENT PLAN BEFORE BUILDING PERMIT - For any case where a development plan is required by this Zoning Ordinance, no building permits shall be issued until a final development plan is approved by the Planning Commission and a copy of said plan is certified to the Division of Building Inspection by the Secretary of the Commission. The approval of a development plan shall limit and control the issuance of all building and occupancy permits, and restrict the construction, location and use of all land and structures to the conditions as set forth in the plan.

21-3 WHERE REQUIRED - Development plans shall be required as follows:

21-3(a) DEVELOPMENT PLANS REQUIRED FOR P-2, B-5P, B-6P and M-1P - As authorized by KRS 100.203(2), all applications for zone map amendments to the P-2, B-5P, B-6P and M-1P zones shall require the submission and approval of both a preliminary development plan and a final development plan prior to development of the property. The preliminary development plan shall be required to be submitted in conjunction with the zone map amendment request. The development plan shall be limited to the provisions of the definition contained in KRS 100.111(8). Where agreed upon, this development plan shall be followed.

21-3(b) DEVELOPMENT PLANS REQUIRED FOR MULTIPLE PRINCIPAL STRUCTURES AS PERMITTED BY SECTION 3-1(e) - Development plans required by Section 3-1(e) to permit more than one principal structure and its accessory structures on a lot or parcel of land shall be submitted to the Commission, in accordance with the provisions of this Article.

21-3(c) DEVELOPMENT PLANS REQUIRED IN CONJUNCTION WITH ZONE MAP AMENDMENT REQUESTS - As authorized by KRS 100.203(2), development plans shall be required to accompany any zone map amendment request as set forth in sections 21-3(c)(1), (2), (3) and (4) below. The development plan shall be limited to the provisions of the definition contained in KRS 100.111(8). Where agreed upon, this development plan shall be followed:

- (1) Any map amendment request from an A-R or A-U zone to any nonagricultural zone.
- (2) Any map amendment request to any residential or business zone.
- (3) Any map amendment request from a residential zoning to a nonresidential zoning.
- (4) The Commission, at its discretion, may require the submission and approval of a preliminary development plan, a final development plan, or both, for the subject property of any zoning map amendment proposal if the Commission finds there are existing or potential substantial flood, drainage, traffic, topographic or other similar problems relating to the development of the subject property that could have an adverse influence on existing or future development of the subject property or other property in the neighborhood.

21-4 DEVELOPMENT PLAN PROCEDURES - The following shall be the procedure for Planning Commission consideration of any development plan.

21-4(a) ON-SITE MEETING - Prior to the submission of a development plan, the owner/developer shall contact the Urban Forester, who will determine if an on-site meeting with the developer's design professional and/or other pertinent Urban County Government staff is necessary.

21-4(b) FILING - To formally request Planning Commission action on the development plan, the developer shall file a completed application form, filing fee and copies of the plans as required by the Commission's adopted filing and fee schedules with the Division of Planning. The Division of Planning shall make copies of the plan available to all other concerned agencies.

21-4(c) REVIEW - The Division of Planning and concerned agencies shall review the development plan, and then meet together as a Technical Committee to try to resolve all differences and to make recommendations to the Commission's Subdivision Committee. The Subdivision Committee will review all recommendations, and then forward their recommendations to the Commission. These Committee meetings shall be open to the developer and to any interested citizen; however, each Committee may impose rules which control participation by non-members in attendance. The developer may secure recommendations from the staff at any of the review checkpoints, and proceed to make plan changes so that revised plans may be submitted to the remaining review groups.

21-4(d) COMMISSION ACTION - No development plans shall be considered for action by the Commission until they have been reviewed by, and recommendations made by, the Subdivision Committee unless this requirement is waived by the Commission under its adopted late filing procedures. All development plans shall be approved or disapproved within ninety (90) days of the date they are formally filed for Commission action with the Division of Planning, unless the developer agrees to a longer time period. However, in the case of a development plan filed in conjunction with a map amendment request, the Planning Commission may postpone the development plan until after the Urban County Council has made its decision on the map amendment request. For cases such as these, the Commission shall either approve or disapprove the development plan within sixty (60) days of the date of Council action on the map amendment request unless the developer agrees to a longer time period.

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

21-4(d)(1) APPROVAL - Means the development plan is ready to be certified by the Commission's Secretary with no further corrections or revisions of the plan required by the developer.

21-4(d)(2) CONDITIONAL APPROVAL - Means the development plan cannot be certified by the Commission's Secretary until the developer has complied with the conditions of approval set forth in the Planning Commission's action on the plan.

21-4(d)(3) POSTPONEMENT - Means that the Commission has deferred action until some future Commission meeting in order that certain clarifications can be made in regard to the development plan. No completely new re-submittal is required of the developer as is the case for disapproval.

21-4(d)(4) DISAPPROVAL - Means disapproval of the plan. To request new review and action, the developer must file a new application along with a filing fee, plan

copies, and other material as required under Article 21-4(a).

21-4(e) CERTIFICATION OF APPROVAL - Within fourteen (14) days of the Commission's approval for all development plans filed in conjunction with a map amendment, and for all other development plans, within one (1) year of the Commission's approval, unless a time extension has been granted previous to the expiration date, the following steps shall be completed, or else the Commission's approval becomes null and void: 1) the developer shall fully comply with any conditions of approval placed on the plan by the Commission and submit the completed original tracing of the plan including the signed owners' certification to the Division of Planning; 2) the plan shall be certified by the Commission's Secretary if it is in conformance with all requirements. Required copies of the certified plan shall be made by the Division of Planning at the developer's expense. In conjunction with any request by the developer for a time extension or re-approval of an expired plan, the Commission may require changes in the development plan when it finds that time has necessitated such changes for the health, safety and welfare of the residents of the community, or when applicable ordinances and regulations have been changed.

21-4(f) TIMING RESTRICTIONS - The following timing restrictions shall be applicable to development plans:

- (1) Final development plans shall be submitted for Commission consideration within two (2) years of the date of Commission action on a preliminary development plan; otherwise, the preliminary development plan shall be deemed as disapproved by the Commission.
- (2) The developer shall be required to obtain building permits for all structures shown on a final development plan within five (5) years of the date of Commission action on the development plan; otherwise, no further building permits shall be issued unless and until the plan is reapproved by the Planning Commission.

21-5 TYPES OF DEVELOPMENT PLANS - There shall be a preliminary development plan and a final development plan, defined as follows:

21-5(a) PRELIMINARY DEVELOPMENT PLANS - A preliminary development plan is a site plan by which, at the early stages of development design, the Commission may consider, approve and restrict many major aspects of the development without requiring an undue amount of final design work on the part of the developer. The preliminary development plan is less detailed and specific than a final development plan in terms of exact arrangement of buildings, parking areas, open spaces, access points and any other site design features. No building permits can be issued based

upon a preliminary development plan.

21-5(b) FINAL DEVELOPMENT PLAN - A final development plan is a development plan from which a building permit will be sought. A final development plan is intended to deal with site design issues at a detailed level and to actually dictate the approved locations of buildings, parking areas, open spaces, access points and any other site design features.

21-6 CONTENTS AND FORMAT OF DEVELOPMENT PLANS - All development plans shall be prepared on mylar or other material capable of clear reproduction using ozalid print process. Plans shall be legible and of a size and scale (generally not exceeding 1" = 100') which enables clear presentation of required information. Required plan information shall be as follows:

21-6(a) CONTENTS OF PRELIMINARY DEVELOPMENT PLAN - A preliminary development plan shall contain the following information at a minimum:

- (1) A title block containing the plan name, development plan type, name and address of developer and plan preparer, and written and graphic scale.
- (2) The boundary of the subject property, its record plan designation (if available), and the record plan name or owner's name of all adjoining property.
- (3) A vicinity sketch, oriented in the same direction as the design scheme.
- (4) Topography with contour intervals not greater than five (5) feet.
- (5) Location, arrangement, and approximate dimensions of existing and proposed driveways, walkways, parking areas and arrangement of spaces, points of ingress and egress (including all gates restricting vehicular access), access points for construction vehicles, and other vehicular and pedestrian rights-of-way.
- (6) Location and cross-sections of any proposed or existing streets within or abutting the subject property.
- (7) Screening, landscaping and buffering (as required by Article 18), recreational and other open space areas.
- (8) Approximate size, location, height, floor area, area arrangement and use of proposed and existing buildings and signs.
- (9) Storm drainage areas, floodplains, conceptual drainage controls and storm water retention and any other designated environmentally sensitive or geologic hazard area.
- (10) Proposed and existing easements for utilities or other purposes.
- (11) A tree inventory map as required by Article 26.
- (12) Location of any existing burial grounds and, if required, provisions for their protection, maintenance and accessibility.

- (13) A statistical summary of all pertinent site data, including site area, zoning, building coverage and floor area, parking, open space, etc.
- (14) A note stating that no grading, stripping, excavation, filling or other disturbance of the natural ground cover shall take place prior to approval of an erosion control plan. Such plan must be submitted in accordance with Article 20.
- (15) An owner's certification, signed and witnessed as follows: "I (We) do hereby certify that I am (we are) the only owner(s) of the property shown hereon, do fully agree to all graphic and textual representations shown hereon, and do adopt this as my (our) development plan for the property."
- (16) A Commission's certification to be signed by the Commission's Secretary if and when the plan is fully approved, as follows: "I do hereby certify that this development plan was approved by the Urban County Planning Commission at its meeting held on (date)."
- (17) A note stating that no building permits shall be issued unless and until a final development plan is approved by the Planning Commission.

21-6(b) CONTENTS OF FINAL DEVELOPMENT PLAN

- All information required for preliminary development plans as required under Sections 21-6(a), numbers 1 through 17 above; except that contour intervals shall be at two (2) feet, a tree preservation plan, data block, and tree protection areas shall be required and that the plan information shall be of an exact nature, rather than approximate or general.

21-7 AMENDMENTS TO DEVELOPMENT PLANS - Amendments to approved development plans can be made only by official Planning Commission action in a public hearing. However, amendments which fully meet the requirements set forth hereinafter for minor amendments may be approved and certified by the Commission's Secretary without further action by the Commission.

21-7(a) MINOR AMENDMENTS DEFINED - Minor amendments are intended to expedite approval in those situations where amendments are of minor significance and generally relate to the shifting of previously approved spaces. Such amendments (1) shall not decrease the overall land area in yards, or other open spaces; (2) shall not increase building ground area coverage, floor area, or height, or increase the number of dwelling units; (3) shall not increase the number or size of signs; (4) shall not change the location or cross-section of any street and shall not increase the number, or change the location of street access points, except that shifts in the approved access location not exceeding twenty-five (25) feet may be approved as a minor amendment where the access point is not located on an arterial street and the Divisions of Traffic Engineering and Planning concur that such relocation will not have a negative effect on traffic safety and movement; (5) may include a reduction in parking spaces

only when an associated reduction in floor area or number of dwelling units would permit a lesser number of minimum required off-street parking spaces than required for the original development plan. To qualify as a minor amendment, this reduction may be equal to but not exceed the difference in minimum required parking between the original plan and the proposed minor amended plan. For any case where parking in excess of the minimum requirement was provided on the original development plan, that same number of spaces shall be provided in excess of the minimum requirement for the proposed minor amendment plan.

21-7(b) PROCEDURES FOR MINOR AMENDMENTS - Shall be as follows:

21-7(b)(1) FILING - The developer shall file the following materials with the Division of Planning: a reproducible tracing of the plan prepared on mylar or other material capable of clear reproduction using ozalid print process; three (3) blue or black line prints of the tracing; and a filing fee in the amount determined by the Commission's adopted fee schedule.

21-7(b)(2) REVIEW - The Division of Planning shall review the plan for compliance with all applicable requirements and ordinances and shall consult with the Divisions of Building Inspection, Traffic Engineering, Engineering and others, as appropriate, to ensure proper plan review. Upon determination that all requirements have been met, the Commission's Secretary shall certify the plan as approved. If any question arises as to compliance, or if the Division of Planning feels that the proposed amendment raises issues deserving the attention of the full Commission, however, the plan shall be referred to the full Commission for action.

21-7(b)(3) CERTIFICATION - Upon certification of approval by the Commission's Secretary, the Division of Planning shall have copies of the plan prepared and distributed to other public agencies at the expense of the developer, and return the original plan tracing to the developer.

21-7(c) CONTENT AND FORMAT OF MINOR AMENDMENTS - Minor amendments shall have the same content and format requirements as the original development plan, except that 1) the title shall indicate the plan is a minor amendment, 2) a note shall be added listing the exact nature of the requested changes (no plan change shall be considered in effect unless it is referenced in this note), and 3) the following will be the required language for the Commission's certification: "I do hereby certify that this development plan amendment complies with the provisions of Article 21-7 of the Zoning Ordinance."

21-7(d) CONTENT AND FORMAT OF MAJOR AMENDMENT REQUIREMENTS - Major amendments to

development plans shall have the same content and format requirements as the original development plan, except that 1) the title shall indicate the plan is an amended development plan, and 2) a note shall be added listing the exact nature of the requested changes. No plan change shall be considered in effect unless it is referenced in this note.

21-7(e) MAJOR AMENDMENT PROCEDURES - The procedure for a major amendment to a development plan shall be the same as for the original submission as specified in Article 21-4 above. However, in addition to the standards listed in Article 21-4(c), the Commission may also disapprove or modify the requested amendment if it finds that such amendments will adversely affect the public health, safety and welfare, or alter the essential character of the development as originally approved.

21-8 RELATIONSHIP TO LAND SUBDIVISION REGULATIONS - The relationships between development plans and the Land Subdivision Regulations are established as follows:

21-8(a) APPLICABILITY OF LAND SUBDIVISION REGULATIONS - Although development plans are not subdivision plans, quite often the development plan does indicate a need or intent to subdivide property. For any such development plan, the design and improvement standards contained within the Subdivision Regulations shall be applied to proposals contained on the development plan.

21-8(b) DEVELOPMENT PLANS REQUIRED UNDER ARTICLE 5-2(g) OF THE LAND SUBDIVISION REGULATIONS - Development plans required under Article 5-2(g) of the Land Subdivision Regulations are required to conform with the provisions of this Article 21 of the Zoning Ordinance.

21-8(c) DEVELOPMENT PLANS AND PRELIMINARY SUBDIVISION PLANS MAY BE COMBINED - It is recognized that for certain development situations it can be advantageous to both the developer and the Commission to combine the functions and requirements for development plans and preliminary subdivision plans in order to streamline the development approval process while not reducing the quality of the review. The following provisions shall be applicable to any such combined plan:

- (1) The developer shall meet with the Division of Planning no later than five (5) working days in advance of the filing deadline to discuss the appropriateness of filing a combined plan.
- (2) The plan shall show all information required for a development plan (preliminary or final, as appropriate) and all information required for preliminary subdivision plans as set forth in Article 5-2 of the Land Subdivision Regulations.
- (3) Provisions relating to the timing of public or private streets or other public or common use im-

provements in relation to the timing of building permit issuance may be required.

21-8(d) PRELIMINARY SUBDIVISION PLAN MAY BE SUBSTITUTED FOR DEVELOPMENT PLANS REQUIRED IN CONJUNCTION WITH MAP AMENDMENT REQUEST - It is recognized that, in certain cases, a preliminary subdivision plan would be as appropriate or more appropriate to be considered in conjunction with a map amendment request than a development plan. Generally, such situations involve developments where placement of structures will be tightly controlled by the streets, lot pattern, and the requirements for placement of structures within the zone, and where the developer sees fit to have plans prepared at the required level of detail for subdivision plans prior to receiving a zone change approval. When a developer is required to provide a development plan under Article 21-3(c) herein above, and the developer desires to file a subdivision plan in its place, the developer shall meet with the Division of Planning in advance of filing the map amendment request to discuss the appropriateness of a substitution. In any disputed cases, the Planning Commission shall make the final judgments as to whether a development plan or subdivision plan is required.

ARTICLE 5

ADMINISTRATION, ENFORCEMENT AND VIOLATIONS

5-1 ADMINISTRATION AND ENFORCEMENT - The Director of the Division of Building Inspection, and the Director's authorized agent of the Lexington-Fayette Urban County Government, shall administer and enforce this Zoning Ordinance, except as otherwise 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 of Building Inspection. 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.

5-2 PERMITS REQUIRED FOR CONSTRUCTION, DEMOLITION, AND LOCATION OF STRUCTURES - Permits shall be required for the following activities and shall be issued by the Division of Building Inspection in conformity with the provisions of this Zoning Ordinance.

5-2(a) 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(b) 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 therefore, issued by the Division of Building Inspection.

5-2(c) GRADING PERMITS - Grading permits shall be required as provided in Article 20.

5-2(d) MOBILE HOME LOCATION PERMITS - Prior to any placement or relocation of any mobile home, a location permit shall be required for determination of compliance

with this Zoning Ordinance and the provisions of KRS 100.203(4)(a)(b).

5-2(e) 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(f) PERMITS AUTHORIZED BY THE BOARD OF ADJUSTMENT - The Division of 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(g) OTHER PERMITS - Additional permits may be required by the Division of Building Inspection 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 Division of Building Inspection deems to be necessary to determine compliance and provide for enforcement of this Zoning Ordinance. After reviewing the application materials, the Director of the Division of Building Inspection 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 Division of Building Inspection.

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(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 shall be issued unless or until the Division of Building Inspection has approved the site plan, upon finding that the development proposed thereon complies with all applicable requirements of the Code of Ordinances, 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) GRADING PERMITS - Requirements for grading permits shall be as provided in Article 20.

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 this Zoning Ordinance. It shall be the duty of the Division of Building Inspection to issue such certificate if it is found that all of the provisions of this Zoning Ordinance have been met, and to withhold such certificate unless all requirements of this Zoning Ordinance have been met.

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 if 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 BUILDING PERMITS, PLANS AND CERTIFICATES OF OCCUPANCY - 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 Building Inspection or the Director's authorized agent or, in the case of grading permits authorized under Article 20, with the Urban County Engineer or the Urban County Engineer's authorized agent. The Director of the Division of 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 - Where violations of this Zoning Ordinance provide for the issuance of a civil citation, such civil citations shall be construed to provide an additional or supplemental means of obtaining compliance with the Zoning Ordinance. 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 - 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 continuation of the violation would be irreparable or irreversible, the government may, without further notice, proceed to abate the conditions. In such cases, the government may, in addition to any fine imposed herein, charge the responsible person, persons or entities with the cost of the 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.

**CITY OF GEORGETOWN
ORDINANCE NO. 06-025****Sponsor: Wallace****AN ORDINANCE RELATED TO THE FILING OF A NOTICE OF VIOLATION PURSUANT TO CITY ORDINANCES 03-030 AND 05-015 IN THE OFFICE OF THE COUNTY CLERK AND THE OBLIGATION ATTENDANT TO THAT NOTICE ON SUBSEQUENT BUYER OR ASSIGNEE OF THE PROPERTY**

Whereas: Pursuant to current regulation, a developer, builder or other person or entity delinquent under local regulation and ineligible for further approvals related to the delinquent application or project and all other applications and projects pending between that person or entity and the City or its agents, may convey properties and plans to third parties, and avoid, in large part, the consequences of the delinquency;

Whereas: Purchasers of the delinquency-related property and plans without notice of the delinquency are disadvantaged if not placed on notice of the delinquency prior to purchase. If the disqualification of property owned by the delinquent person or entity is defeated by that property's conveyance to a third party, the City's ordinance enforcement is weakened and its fairness jeopardized;

Whereas: This Ordinance is not enacted in order to preclude the conveyance of property under disqualification pursuant to Ordinances 03-030 and 05-015, but to preclude the conveyance of property under disqualification pursuant to Ordinances 03-030 and 05-015 without notice to third party purchasers of that disqualification in order to preserve that disqualification despite the conveyance of the disqualified property to third parties and to maintain the fairness and efficacy of the City's enforcement effort.

NOW, THEREFORE, BE IT ENACTED BY THE COUNCIL FOR THE CITY OF GEORGETOWN, KENTUCKY, AS FOLLOWS:

Section One: Upon disqualification of projects and property pursuant to Ordinances 03-030 and 05-015, the City or its agent, including the Planning Commission, shall cause to be filed with the County Clerk's office, a notice that shall contain the following:

- a. Name and address of the owner;
- b. Basis for the delinquency;
- c. List of property included and subject to delinquency restrictions; and
- d. Notice that this property is subject to the City's enforcement order, including the

statement:

"Persons buying or otherwise taking ownership, assignment or control of this property, are notified that they do so subject to the City's Notice of Violation and that this notice and its attendant obligations must be satisfied prior to the new owner making use of the property."

Section Two: Buyers, assignees or other persons or entities receiving the listed property shall receive that property subject to all obligations otherwise applicable to the former owner (seller or assignor) who actually received the original Notice of Violation for that property, which notice is then placed of record in the office of the Scott County Clerk.

The foregoing was read for the first time on Sept 7th, 2006 and for the second time, adopted and approved on Sept. 19th, 2006.

APPROVED BY:

Everette Varney
EVERETTE VARNEY, MAYOR

ATTESTED BY:

Sue Lewis
SUE LEWIS, CITY CLERK



Mayor Jim Newberry

LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT
Department of Law

TO: Members, Council Planning Committee

FROM: Department of Law

DATE: November 19, 2007

RE: Mandatory Adherence to Development Plans
(Log No. 07-CC0118)

This memorandum is provided in response to your request for an opinion regarding the authority of the Urban County Council to exercise oversight of "adherence" to zoning development plans. The request forwarded to the Department of Law was phrased as follows:

I am requesting a legal opinion re this request particularly if the legislative body can require some level of adherence over development plans that are produced due to an approved zone change request as well as what level of oversight can be created over the development plan process.

The request suggests two questions: (1) whether the Council can mandate developer compliance with the zoning development plan (ZDP) presented as part of a zone change or map amendment hearing, and (2) whether the Council can exercise oversight of the development plan process (including preliminary and final development plans). The short answer to both questions is no.

KRS 100.111(8) defines a "development plan" as "written and graphic material for the provision of development, including any or all of the following:"

location and bulk of buildings and other structures, intensity of use, density of development, streets, ways, parking facilities, signs, drainage of surface water, access points, a plan for screening or buffering, utilities, existing manmade and natural conditions, and all other conditions agreed to by the applicant.

HORSE CAPITAL OF THE WORLD

**P. O. Box 34028 Lexington, KY 40588-4028 (859) 258-3500 Fax: (859)258-3538 www.lfucg.com

****Please note new mailing address**

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KRS 100.203(2) authorizes local governments to include in the local zoning ordinance text allowing the planning commission to require the submission of a development plan, limited to the elements contained in the just quoted definition, as a condition of granting any zone change. Greenway Enterprises, Inc. v. City of Frankfort, 148 S.W.3d 298, 301 (Ky.App. 2004). The Urban County Government has exercised this statutory authority by enacting Article 21 of the Zoning Ordinance, a copy of which is attached.

KRS 100.203(2) provides in pertinent part as follows:

(2) The text may provide that the planning commission, as a condition to the granting of any zoning change, may require the submission of a development plan, which shall be limited to the provisions of the definition contained in KRS 100.111(8). Where agreed upon, this development plan shall be followed. As a further condition to the granting of a zoning change, the planning commission may require that substantial construction be initiated within a certain period of time of not less than one (1) year; provided that such zoning change shall not revert to its original designation unless there has been a public hearing;.... (Emphasis added.)

The Kentucky Court of Appeals recently interpreted the scope and nature of the authority granted by KRS 100.203(2) as follows:

The language of the statute is clear that the only condition allowed here is the *submission* of the development plan. The development plan is to be submitted *prior* to the grant of the zone change. The statute does not require submission and *approval* of a development plan, only its submission. Additionally, the statute states that the development plan is to be followed, **only "where agreed upon."** ... Details relating to the specific development of the land are to be addressed later, when the development takes place, not at the grant of the zone change. * * * Requiring a development plan is a uniform regulation. Imposing plot-specific conditions is not. Details relating to the specific development of the land are to be addressed later, when the development takes place, not at the grant of the zone change. (Emphasis added).

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Board of Commissioners of the City of Danville v. Davis, ___ S.W.3d ___ (Ky.App. 2007)(2007 WL 2994337), Ky. Ct. App. No. 2006-CA-001924-MR (October 12, 2007). While the Davis case is not yet final, if it correctly interprets the statute, then both the Council and the Planning Commission lack the authority to mandate final, binding approval of a development plan at the time of the zone change.

Article 21-5 identifies two types of development plans, a preliminary development plan and a final development plan, and Article 21-6 sets forth a detailed list of information that must be contained in each plan. The preliminary development plan is a site plan, it is intended to have less detail and be less specific than the final development plan. Whereas the final development plan is intended to "deal with site design issues at a detailed level and to actually dictate the approved locations of buildings, parking areas, open spaces, access points and any other site design feature." Article 21-5(b). The rationale for the treatment of preliminary plans as merely conceptual designs is to limit the amount of design work imposed on the developer before a decision has been made to grant or deny the requested zone change. Article 21-5(a).

It is important to note that a development plan is not required for all zone changes under the Zoning Ordinances. A ZDP is required only in the following six situations:

- (1) a zone change involving an amendment from any zone to the Office, Industry, and Research Park (P-2), Interchange Service Business (B-5P), Planned Shopping Center (B-6P), and Mobile Home Park (M-1P) zones;
- (2) when more than one principal structure is permitted on one lot or parcel of land;
- (3) a zone change involving an amendment from an Agricultural Rural (A-R) or Agricultural Urban (A-U) zone to any nonagricultural zone;
- (4) a zone change involving an amendment from any zone to a residential or business zone;
- (5) a zone change involving an amendment from a residential zone to a nonresidential zone; or
- (6) Planning Commission finds that existing or potential flood, drainage, traffic, topographic or similar problems related to the development that

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could have an adverse influence on existing or future development of the subject property or other property in the neighborhood.

Article 21-3(a)-(c). Failing to provide a preliminary development plan that includes the elements set forth in the zoning ordinance can be sufficient grounds to deny a zone change. Davis v. Board of Commissioners, 995 S.W.2d 404 (Ky.App. 1999). When one is required, a certified final development plan is a prerequisite for issuance of a building permit. Article 21-2. Because it is only a conceptual plan, no building permits can be issued based solely on a preliminary development plan. Article 21-5(a).

In certain instances, the Planning Commission may allow a developer to combine a development plan with a preliminary subdivision plan in order to streamline the approval process and in other situations the Planning Commission may allow a developer to substitute a preliminary subdivision plan for the development plan. Article 21-8(c), (d).

Although a development plan accompanies the majority of all zone change, it is important to remember that the Council never acts on the development plan and only agrees or disagrees with the Planning Commission's recommendation regarding the requested zone change. This distinction exemplifies the different roles assigned to the Council and the Planning Commission and is critical to the resolution of the questions presented. The traditional statement of the distinct roles played by local legislative bodies and planning commissions was expressed by the Kentucky Supreme Court:

Basically, the function of planning is vested in a planning commission (KRS 100.133, 100.183, 100.197), whereas the function of zoning remains with the governing bodies of the respective cities and counties that are members of the planning unit (KRS 100.201).

Daviess County v. Snyder, 556 S.W.2d 688, 690 (Ky. 1977); *see also City of Lakeside Park v. Quinn*, 672 S.W.2d 666, 669 (Ky. 1984)(planning function of planning commission includes preparing and adopting statement of goals and objectives and remaining elements of comprehensive plan; zoning function of legislative body includes approving, amending, or rejecting the goals and objectives and adopting zoning regulations).

In accord with this division of labor, the Council exercises its authority to promulgate the text of the zoning ordinance, including enacting provisions authorizing the Planning Commission to require the submission of development plans and generally

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defining the contents thereof. KRS 100.203(2) then vests sole authority for approval of development plans in the Planning Commission. The enforcement of a development plan may involve not only the Planning Commission, but also other departments and divisions of the government.

Given this somewhat lengthy explanation of the background regarding development plans, the answer to the questions presented are as follows:

1. Whether the Council can mandate developer compliance with the zoning development plan (ZDP) presented as part of a zone change or map amendment hearing?

Answer: No, unless the Council amended the text of the Zoning Ordinance to require the submission of final development plans with zone change requests. In that instance, KRS 100.203(2) would then require that "where agreed upon, this development plan shall be followed." It is important to note that if the applicant did not agree to a term or condition imposed on the development plan as a condition of approval that the Government might not have the requisite authority to compel compliance with that term or condition. Where the terms and conditions were otherwise agreed upon, the plan would be binding and enforceable.

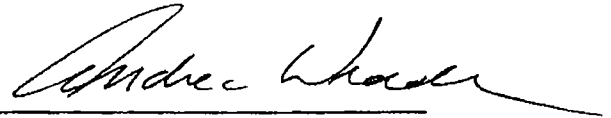
Further, while this course of action is possible, it faces three potential problems. First, it is inconsistent with the overall concept related to the division of the ultimate responsibility for zoning (resting with the Council) and for planning (residing with the Planning Commission). Second, it imposes a substantial burden on zone change applicants who will be forced to expend a sizable amount of resources (monetary and otherwise) to provide the details required of a final development plan when the outcome of the zone change is anything but certain. Third, even though characterized as "final," development plans are always subject to amendment pursuant to Article 21-7(b)(minor amendments) or Article 21-7(e)(major amendments) of the Zoning Ordinance. Moreover, as noted in response to your second question, elevating the level of finality or completeness of the development plan at the time of the zone change would not shift responsibility for the plan to the Council.

2. Whether the Council can exercise oversight of the development plan process?

Answer: No. Under current law, local legislative bodies have no power to review, impose conditions on, or approve development plans.

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Should you have any additional questions about this matter, please contact me at your convenience.



Andrea L. Weddle
Attorney Sr.

Attachment

cc: Jim Newberry, Mayor
Office of the Mayor
Rebecca Langston, Council Administrator
Paul Schoninger, Research Analyst
Council Office
Chris King, Director
Division of Planning

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ARTICLE 21

DEVELOPMENT PLANS

21-1 INTENT AND PURPOSE - The purpose of this Article is to establish and define development plans that may be utilized for a wide variety of planning related procedures. This Article outlines the content and procedure for submission, review, and approval of all development plans required by the Zoning Ordinance and Subdivision Regulations unless another procedure or different contents are specified elsewhere in this Zoning Ordinance.

21-2 APPROVAL OF DEVELOPMENT PLAN BEFORE BUILDING PERMIT - For any case where a development plan is required by this Zoning Ordinance, no building permits shall be issued until a final development plan is approved by the Planning Commission and a copy of said plan is certified to the Division of Building Inspection by the Secretary of the Commission. The approval of a development plan shall limit and control the issuance of all building and occupancy permits, and restrict the construction, location and use of all land and structures to the conditions as set forth in the plan.

21-3 WHERE REQUIRED - Development plans shall be required as follows:

21-3(a) DEVELOPMENT PLANS REQUIRED FOR P-2, B-5P, B-6P and M-1P - As authorized by KRS 100.203(2), all applications for zone map amendments to the P-2, B-5P, B-6P and M-1P zones shall require the submission and approval of both a preliminary development plan and a final development plan prior to development of the property. The preliminary development plan shall be required to be submitted in conjunction with the zone map amendment request. The development plan shall be limited to the provisions of the definition contained in KRS 100.111(8). Where agreed upon, this development plan shall be followed.

21-3(b) DEVELOPMENT PLANS REQUIRED FOR MULTIPLE PRINCIPAL STRUCTURES AS PERMITTED BY SECTION 3-1(e) - Development plans required by Section 3-1(e) to permit more than one principal structure and its accessory structures on a lot or parcel of land shall be submitted to the Commission, in accordance with the provisions of this Article.

21-3(c) DEVELOPMENT PLANS REQUIRED IN CONJUNCTION WITH ZONE MAP AMENDMENT REQUESTS - As authorized by KRS 100.203(2), development plans shall be required to accompany any zone map amendment request as set forth in sections 21-3(c)(1), (2), (3) and (4) below. The development plan shall be limited to the provisions of the definition contained in KRS 100.111(8). Where agreed upon, this development plan shall be followed:

- (1) Any map amendment request from an A-R or A-U zone to any nonagricultural zone.
- (2) Any map amendment request to any residential or business zone.
- (3) Any map amendment request from a residential zoning to a nonresidential zoning.
- (4) The Commission, at its discretion, may require the submission and approval of a preliminary development plan, a final development plan, or both, for the subject property of any zoning map amendment proposal if the Commission finds there are existing or potential substantial flood, drainage, traffic, topographic or other similar problems relating to the development of the subject property that could have an adverse influence on existing or future development of the subject property or other property in the neighborhood.

21-4 DEVELOPMENT PLAN PROCEDURES - The following shall be the procedure for Planning Commission consideration of any development plan.

21-4(a) ON-SITE MEETING - Prior to the submission of a development plan, the owner/developer shall contact the Urban Forester, who will determine if an on-site meeting with the developer's design professional and/or other pertinent Urban County Government staff is necessary.

21-4(b) FILING - To formally request Planning Commission action on the development plan, the developer shall file a completed application form, filing fee and copies of the plans as required by the Commission's adopted filing and fee schedules with the Division of Planning. The Division of Planning shall make copies of the plan available to all other concerned agencies.

21-4(c) REVIEW - The Division of Planning and concerned agencies shall review the development plan, and then meet together as a Technical Committee to try to resolve all differences and to make recommendations to the Commission's Subdivision Committee. The Subdivision Committee will review all recommendations, and then forward their recommendations to the Commission. These Committee meetings shall be open to the developer and to any interested citizen; however, each Committee may impose rules which control participation by non-members in attendance. The developer may secure recommendations from the staff at any of the review checkpoints, and proceed to make plan changes so that revised plans may be submitted to the remaining review groups.

21-4(d) COMMISSION ACTION - No development plans shall be considered for action by the Commission until they have been reviewed by, and recommendations made by, the Subdivision Committee unless this requirement is waived by the Commission under its adopted late filing procedures. All development plans shall be approved or disapproved within ninety (90) days of the date they are formally filed for Commission action with the Division of Planning, unless the developer agrees to a longer time period. However, in the case of a development plan filed in conjunction with a map amendment request, the Planning Commission may postpone the development plan until after the Urban County Council has made its decision on the map amendment request. For cases such as these, the Commission shall either approve or disapprove the development plan within sixty (60) days of the date of Council action on the map amendment request unless the developer agrees to a longer time period.

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

21-4(d)(1) APPROVAL - Means the development plan is ready to be certified by the Commission's Secretary with no further corrections or revisions of the plan required by the developer.

21-4(d)(2) CONDITIONAL APPROVAL - Means the development plan cannot be certified by the Commission's Secretary until the developer has complied with the conditions of approval set forth in the Planning Commission's action on the plan.

21-4(d)(3) POSTPONEMENT - Means that the Commission has deferred action until some future Commission meeting in order that certain clarifications can be made in regard to the development plan. No completely new re-submittal is required of the developer as is the case for disapproval.

21-4(d)(4) DISAPPROVAL - Means disapproval of the plan. To request new review and action, the developer must file a new application along with a filing fee, plan

copies, and other material as required under Article 21-4(a).

21-4(e) CERTIFICATION OF APPROVAL - Within fourteen (14) days of the Commission's approval for all development plans filed in conjunction with a map amendment, and for all other development plans, within one (1) year of the Commission's approval, unless a time extension has been granted previous to the expiration date, the following steps shall be completed, or else the Commission's approval becomes null and void: 1) the developer shall fully comply with any conditions of approval placed on the plan by the Commission and submit the completed original tracing of the plan including the signed owners' certification to the Division of Planning; 2) the plan shall be certified by the Commission's Secretary if it is in conformance with all requirements. Required copies of the certified plan shall be made by the Division of Planning at the developer's expense. In conjunction with any request by the developer for a time extension or re-approval of an expired plan, the Commission may require changes in the development plan when it finds that time has necessitated such changes for the health, safety and welfare of the residents of the community, or when applicable ordinances and regulations have been changed.

21-4(f) TIMING RESTRICTIONS - The following timing restrictions shall be applicable to development plans:

- (1) Final development plans shall be submitted for Commission consideration within two (2) years of the date of Commission action on a preliminary development plan; otherwise, the preliminary development plan shall be deemed as disapproved by the Commission.
- (2) The developer shall be required to obtain building permits for all structures shown on a final development plan within five (5) years of the date of Commission action on the development plan; otherwise, no further building permits shall be issued unless and until the plan is reapproved by the Planning Commission.

21-5 TYPES OF DEVELOPMENT PLANS - There shall be a preliminary development plan and a final development plan, defined as follows:

21-5(a) PRELIMINARY DEVELOPMENT PLANS - A preliminary development plan is a site plan by which, at the early stages of development design, the Commission may consider, approve and restrict many major aspects of the development without requiring an undue amount of final design work on the part of the developer. The preliminary development plan is less detailed and specific than a final development plan in terms of exact arrangement of buildings, parking areas, open spaces, access points and any other site design features. No building permits can be issued based

upon a preliminary development plan.

21-5(b) FINAL DEVELOPMENT PLAN - A final development plan is a development plan from which a building permit will be sought. A final development plan is intended to deal with site design issues at a detailed level and to actually dictate the approved locations of buildings, parking areas, open spaces, access points and any other site design features.

21-6 CONTENTS AND FORMAT OF DEVELOPMENT PLANS - All development plans shall be prepared on mylar or other material capable of clear reproduction using ozalid print process. Plans shall be legible and of a size and scale (generally not exceeding 1" = 100') which enables clear presentation of required information. Required plan information shall be as follows:

21-6(a) CONTENTS OF PRELIMINARY DEVELOPMENT PLAN - A preliminary development plan shall contain the following information at a minimum:

- (1) A title block containing the plan name, development plan type, name and address of developer and plan preparer, and written and graphic scale.
- (2) The boundary of the subject property, its record plan designation (if available), and the record plan name or owner's name of all adjoining property.
- (3) A vicinity sketch, oriented in the same direction as the design scheme.
- (4) Topography with contour intervals not greater than five (5) feet.
- (5) Location, arrangement, and approximate dimensions of existing and proposed driveways, walkways, parking areas and arrangement of spaces, points of ingress and egress (including all gates restricting vehicular access), access points for construction vehicles, and other vehicular and pedestrian rights-of-way.
- (6) Location and cross-sections of any proposed or existing streets within or abutting the subject property.
- (7) Screening, landscaping and buffering (as required by Article 18), recreational and other open space areas.
- (8) Approximate size, location, height, floor area, area arrangement and use of proposed and existing buildings and signs.
- (9) Storm drainage areas, floodplains, conceptual drainage controls and storm water retention and any other designated environmentally sensitive or geologic hazard area.
- (10) Proposed and existing easements for utilities or other purposes.
- (11) A tree inventory map as required by Article 26.
- (12) Location of any existing burial grounds and, if required, provisions for their protection, maintenance and accessibility.

- (13) A statistical summary of all pertinent site data, including site area, zoning, building coverage and floor area, parking, open space, etc.
- (14) A note stating that no grading, stripping, excavation, filling or other disturbance of the natural ground cover shall take place prior to approval of an erosion control plan. Such plan must be submitted in accordance with Article 20.
- (15) An owner's certification, signed and witnessed as follows: "I (We) do hereby certify that I am (we are) the only owner(s) of the property shown hereon, do fully agree to all graphic and textual representations shown hereon, and do adopt this as my (our) development plan for the property."
- (16) A Commission's certification to be signed by the Commission's Secretary if and when the plan is fully approved, as follows: "I do hereby certify that this development plan was approved by the Urban County Planning Commission at its meeting held on (date)."
- (17) A note stating that no building permits shall be issued unless and until a final development plan is approved by the Planning Commission.

21-6(b) CONTENTS OF FINAL DEVELOPMENT PLAN

- All information required for preliminary development plans as required under Sections 21-6(a), numbers 1 through 17 above; except that contour intervals shall be at two (2) feet, a tree preservation plan, data block, and tree protection areas shall be required and that the plan information shall be of an exact nature, rather than approximate or general.

21-7 AMENDMENTS TO DEVELOPMENT PLANS - Amendments to approved development plans can be made only by official Planning Commission action in a public hearing. However, amendments which fully meet the requirements set forth hereinafter for minor amendments may be approved and certified by the Commission's Secretary without further action by the Commission.

21-7(a) MINOR AMENDMENTS DEFINED - Minor amendments are intended to expedite approval in those situations where amendments are of minor significance and generally relate to the shifting of previously approved spaces. Such amendments (1) shall not decrease the overall land area in yards, or other open spaces; (2) shall not increase building ground area coverage, floor area, or height, or increase the number of dwelling units; (3) shall not increase the number or size of signs; (4) shall not change the location or cross-section of any street and shall not increase the number, or change the location of street access points, except that shifts in the approved access location not exceeding twenty-five (25) feet may be approved as a minor amendment where the access point is not located on an arterial street and the Divisions of Traffic Engineering and Planning concur that such relocation will not have a negative effect on traffic safety and movement; (5) may include a reduction in parking spaces

only when an associated reduction in floor area or number of dwelling units would permit a lesser number of minimum required off-street parking spaces than required for the original development plan. To qualify as a minor amendment, this reduction may be equal to but not exceed the difference in minimum required parking between the original plan and the proposed minor amended plan. For any case where parking in excess of the minimum requirement was provided on the original development plan, that same number of spaces shall be provided in excess of the minimum requirement for the proposed minor amendment plan.

21-7(b) PROCEDURES FOR MINOR AMENDMENTS - Shall be as follows:

21-7(b)(1) FILING - The developer shall file the following materials with the Division of Planning: a reproducible tracing of the plan prepared on mylar or other material capable of clear reproduction using ozalid print process; three (3) blue or black line prints of the tracing; and a filing fee in the amount determined by the Commission's adopted fee schedule.

21-7(b)(2) REVIEW - The Division of Planning shall review the plan for compliance with all applicable requirements and ordinances and shall consult with the Divisions of Building Inspection, Traffic Engineering, Engineering and others, as appropriate, to ensure proper plan review. Upon determination that all requirements have been met, the Commission's Secretary shall certify the plan as approved. If any question arises as to compliance, or if the Division of Planning feels that the proposed amendment raises issues deserving the attention of the full Commission, however, the plan shall be referred to the full Commission for action.

21-7(b)(3) CERTIFICATION - Upon certification of approval by the Commission's Secretary, the Division of Planning shall have copies of the plan prepared and distributed to other public agencies at the expense of the developer, and return the original plan tracing to the developer.

21-7(c) CONTENT AND FORMAT OF MINOR AMENDMENTS - Minor amendments shall have the same content and format requirements as the original development plan, except that 1) the title shall indicate the plan is a minor amendment, 2) a note shall be added listing the exact nature of the requested changes (no plan change shall be considered in effect unless it is referenced in this note), and 3) the following will be the required language for the Commission's certification: "I do hereby certify that this development plan amendment complies with the provisions of Article 21-7 of the Zoning Ordinance."

21-7(d) CONTENT AND FORMAT OF MAJOR AMENDMENT REQUIREMENTS - Major amendments to

development plans shall have the same content and format requirements as the original development plan, except that 1) the title shall indicate the plan is an amended development plan, and 2) a note shall be added listing the exact nature of the requested changes. No plan change shall be considered in effect unless it is referenced in this note.

21-7(e) MAJOR AMENDMENT PROCEDURES - The procedure for a major amendment to a development plan shall be the same as for the original submission as specified in Article 21-4 above. However, in addition to the standards listed in Article 21-4(c), the Commission may also disapprove or modify the requested amendment if it finds that such amendments will adversely affect the public health, safety and welfare, or alter the essential character of the development as originally approved.

21-8 RELATIONSHIP TO LAND SUBDIVISION REGULATIONS - The relationships between development plans and the Land Subdivision Regulations are established as follows:

21-8(a) APPLICABILITY OF LAND SUBDIVISION REGULATIONS - Although development plans are not subdivision plans, quite often the development plan does indicate a need or intent to subdivide property. For any such development plan, the design and improvement standards contained within the Subdivision Regulations shall be applied to proposals contained on the development plan.

21-8(b) DEVELOPMENT PLANS REQUIRED UNDER ARTICLE 5-2(g) OF THE LAND SUBDIVISION REGULATIONS - Development plans required under Article 5-2(g) of the Land Subdivision Regulations are required to conform with the provisions of this Article 21 of the Zoning Ordinance.

21-8(c) DEVELOPMENT PLANS AND PRELIMINARY SUBDIVISION PLANS MAY BE COMBINED - It is recognized that for certain development situations it can be advantageous to both the developer and the Commission to combine the functions and requirements for development plans and preliminary subdivision plans in order to streamline the development approval process while not reducing the quality of the review. The following provisions shall be applicable to any such combined plan:

- (1) The developer shall meet with the Division of Planning no later than five (5) working days in advance of the filing deadline to discuss the appropriateness of filing a combined plan.
- (2) The plan shall show all information required for a development plan (preliminary or final, as appropriate) and all information required for preliminary subdivision plans as set forth in Article 5-2 of the Land Subdivision Regulations.
- (3) Provisions relating to the timing of public or private streets or other public or common use im-

provements in relation to the timing of building permit issuance may be required.

21-8(d). PRELIMINARY SUBDIVISION PLAN MAY BE SUBSTITUTED FOR DEVELOPMENT PLANS REQUIRED IN CONJUNCTION WITH MAP AMENDMENT REQUEST

- It is recognized that, in certain cases, a preliminary subdivision plan would be as appropriate or more appropriate to be considered in conjunction with a map amendment request than a development plan. Generally, such situations involve developments where placement of structures will be tightly controlled by the streets, lot pattern, and the requirements for placement of structures within the zone, and where the developer sees fit to have plans prepared at the required level of detail for subdivision plans prior to receiving a zone change approval. When a developer is required to provide a development plan under Article 21-3(c) herein above, and the developer desires to file a subdivision plan in its place, the developer shall meet with the Division of Planning in advance of filing the map amendment request to discuss the appropriateness of a substitution. In any disputed cases, the Planning Commission shall make the final judgments as to whether a development plan or subdivision plan is required.

ORDINANCE NO. _____-2008

AN ORDINANCE CREATING ARTICLE VII IN CHAPTER 5 OF THE CODE OF ORDINANCES OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT TO CREATE THE RELOCATION ASSISTANCE PROGRAM FOR TENANTS TO PROVIDE RELOCATION ASSISTANCE TO ELIGIBLE LOW-INCOME TENANTS DISPLACED BY THE REZONING, REDEVELOPMENT OR CHANGE IN USE OF PROPERTY.

WHEREAS, Lexington-Fayette County has a limited supply of affordable rental housing available to low-income households; and

WHEREAS, the recent development of properties and plans for development in the near future in Lexington-Fayette County resulted in and provide for the development of limited affordable housing opportunities for low-income households; and

WHEREAS, among the most substantial impacts of property development, redevelopment and change of use in Lexington-Fayette County are the loss of affordable housing and the displacement of low-income people who are unable to pay for the costs of relocation; and

WHEREAS, it is often challenging for low-income families who are displaced from affordable housing by rezoning and/or redevelopment and/or change of use to locate replacement affordable housing or to afford the expense of relocation.

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

Section 1 – That Article VII of Chapter 5 of the Code of Ordinances be and hereby is created to read as follows:

Sec. 5-104.

(a) The Relocation Assistance Program for Tenants is hereby created to assist tenants displaced from low-income housing by rezoning, redevelopment or change in use of property with the expenses associated with relocation.

(b) The Relocation Assistance Program for Tenants shall be administered by the Department of Social Services. The Department shall develop the application and procedures necessary for the administration of the program in accordance with this ordinance.

Sec. 5-105.

(a) Any person or family whose income is no more than 40% of the median income in Lexington-Fayette County displaced from rental housing, whether a dwelling or property upon which the dwelling is located, by rezoning and/or redevelopment and/or change in use is eligible for funds from the Relocation Assistance Program for Tenants to assist in locating replacement affordable housing and the costs of relocation.

(b) A person or family eligible for assistance from the Relocation Assistance Program for Tenants may receive up to \$1,000 to assist in payment of utility deposits, security deposits, first month's rent and moving expenses. The assistance provided shall not exceed the actual cost of these expenses. Moving expenses includes only those costs resulting from rental of equipment or hiring of licensed professionals to assist with the move. All payments from the Relocation Assistance Program for Tenants shall be made directly to vendors.

(c) Any monetary assistance provided by the Relocation Assistance Program for Tenants is secondary to any other funds available to a household for relocation. In no event shall the amount of assistance from the Relocation Assistance Program for Tenants combined with any other relocation assistance exceed \$1,000.

Sec. 5-106.

(a) Any person filing an application for a building permit, occupancy permit, zone map amendment, development plan, subdivision plan or appeal to the LFUCG Board of Adjustment that would result in the displacement of any tenant or tenants shall provide the following information along with the application or no less than sixty (60) days prior to the change of use: (1) whether any existing dwelling units will be removed; (2) whether any such dwelling units have been present on the property with the past twelve (12) months; and (3) a written statement setting forth any efforts undertaken or to be undertaken to assist tenants in obtaining alternative housing.

(b) Prior to the granting of any building or occupancy permit by the Division of Building Inspection of a nature that would result in the displacement of any tenant or tenants, the applicant shall distribute to every tenant a packet of information provided by the LFUCG explaining to the tenant how to apply for relocation assistance and what assistance is available. For such cases, the applicant will be required to file an affidavit with the Division of Building Inspection attesting to compliance with the provisions of this section prior to issuance of the permit.

(c) The provisions of this ordinance shall not apply to emergency situations, such as fire or natural disasters, that result in the displacement of tenants.

Sec. 5-107.

Subject to the availability of funds, the LFUCG shall appropriate at least \$50,000 annually to the Relocation Assistance Program for Tenants. Any funds appropriated to the program shall remain available to the program in subsequent fiscal years. Any amount of funding available to the program in excess of \$200,000 that has been appropriated to the program by LFUCG may be re-appropriated to other programs or services provided by the LFUCG. Funds from the program shall be available on a first come-first served basis. If the fund is exhausted in any fiscal year, no further assistance shall be available from or provided by the program and no person or household shall be eligible for assistance from the program unless additional appropriation of funds is made by the LFUCG.

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:

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Mobile Home Park Sub-Committee Meeting
July 28, 2008

Members present: Andrea James, Julian Beard, Tom Blues, Kevin Stinett

Others present: Paul Schoninger, Scott Seymour, Sarah Brown

Purpose of this meeting is to discuss the tenant relocation assistance program draft ordinance on which Cheryl Talbert and Anthony Wright have been working and to decide on next steps.

There was some discussion about the way that this ordinance should go to Council. It was decided that Cheryl, Anthony and others would come back to the group to discuss the possible changes to the ordinance, changes would be made, and then it would go to the Planning Committee.

Some suggestions by the committee are as follows:

- For dollar amounts, look at Federal standards. Don't use numbers, use the Federal standards that adjust every year.
- Define redevelopment. For example, does this ordinance cover public infrastructure?
- Define tenant—stick with that language throughout (several references to family/household made ordinance unclear).
- Issue of ownership—If one owns a trailer, are they considered tenants? This wording needs to be cleared up. If the trailer is sold, that raises the liquid assets.
- Low income owner occupied homes need a relocation package, as well.
- Section 4 should include any gov. agency.
- Section 7—Can not commit a future Council. Division of Social Services should be responsible for submitting this in their annual budget and ask for it to be reappropriated.
- Stability may be an issue. The household may move using the assistance, but may not have the monthly financial resources to continue to stay in that new space.
- Issue of responsibility—what part does the developer play? Should developer play a role in relocating those outside of this ordinance?

Mobile Home Park Sub-Committee Meeting---DRAFT
September 11, 2008 3:00pm

Members present: Kevin Stinnett, Julian Beard, Tom Blues, Andrea James

Staff present: Cheryl Talbert, Keith Horn, Paul Schoninger, Dewey Crowe, Paula King, David Jarvis, Sarah Brown

Meeting was called to order.

CM Stinnett moved to approve the minutes from the July meeting. CM Beard seconded the motion. It was approved.

Cheryl Talbert gave a process overview of the ordinance. In short, during the summer of 2007, Adult Services was informed that Ingleside Mobile Home Park was going to be redeveloped and people would need relocation. She and Commissioner Helm met with the developer to recommend ways to help with the relocation. The developer didn't act, and Adult Services had no recourse. They assisted residents in the ways they could.

April meeting of BUILD discussed relocation assistance. Mayor Newberry agreed to come up with an ordinance. Many departments and divisions, with Anthony Wright as the lead, were brought to the table to create this draft ordinance. BUILD has been involved from the beginning. The hope is that the ordinance passes by November 1, 2008.

The committee reviewed each concern/suggestion from the previous meeting with the group. Most of the issues had been addressed within the new draft, which had been changed with input from BUILD.

The question was raised by CM Stinnett about when it would start to be funded and from where the \$50,000 might come. The original allotment needs to be identified before the ordinance is passes.

It was noted that the Department of Social Services would be requesting this allotment each budget cycle starting in the FY2010 budget cycle.

Meeting was adjourned at 3:45pm with the next meeting scheduled for October 21st at 10:00am.

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Of Counsel:
E. Lawson King

September 17, 2008

Urban County Planning Committee
Lexington-Fayette Urban County Government
200 East Main Street
Lexington, Kentucky 40507

Re: Proposed revision to LFUCG Code of Ordinances §5-76

Dear Committee Members:

On behalf of my client, Commonwealth Inspection Bureau, Inc., which I will refer to as "CIB" in the remainder of this letter, I wish to express thanks to this Committee for undertaking a review of the proposed revisions to the electrical inspection fee schedule codified in Section 5-76 of the Code of Ordinances. Since many of you may not be familiar with this ordinance, the goal of this introductory letter is to provide each of you some very relevant information with respect to the ordinance and the practice of electrical inspections in Fayette County for the past 15-20 years. With this information, as well as with any input that you may request and receive from the various departments that deal with the regulation and the procurement of electrical inspections, you can make an informed decision on the proposed amendments to Section 5-76 of the Code of Ordinances.

Historical Background

Throughout the entire time that the Urban County Government has been in existence, a uniform schedule of fees for electrical inspections has been in place. Contrary to many other services and inspection fees that are provided by the Urban County Government, the electrical inspection fees are not paid by anyone to the Urban County Government, the fees are paid to the electrical inspection contractor. Section 5-76 and the other sections of the Code of Ordinances applicable to electrical inspections are the regulatory tools by which the Urban County Government oversees electrical inspection services and exercises its duty and responsibility to provide safe and secure electrical construction and installation for its citizens. In addition, Section 5-76 provides the Urban

Urban County Planning Committee
September 17, 2008
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County Government with the power to establish, to limit and to increase the fees that a private contractor can charge for electrical inspection services.

From an historical perspective, prior to 1998, electrical inspections in Fayette County were performed by several approved, private electrical inspection contractors under the supervision of the Urban County Government. These contractors performed all of the required inspections on behalf of the Urban County Government. In 1998, the Urban County Government chose to grant an exclusive contract for electrical inspection services to a single, private contractor by competitive bid. CIB was fortunate enough to be awarded that first contract and to have been awarded the contract each and every subsequent time competitive bids have been solicited by the Urban County Government for electrical inspection services.

Since CIB began performing electrical inspections in 1993, the fee schedule ordinance has been amended to increase those fees only one (1) time. That revision to the ordinance became effective in January, 2002. Thus, CIB has never been able to raise its fees for services rendered except for one time in 2002. As this Committee is well aware, the price of every facet of operating a business has increased dramatically in the past 15 years. To complicate that issue further, under the terms of its exclusive contract with the Urban County Government, CIB must maintain minimum staffing, minimum office space, minimum fleet capacity as well as a maintain a performance bond to meet its contractual obligations to the Urban County Government. All of the mandated expenses are in addition to the ordinary fixed and variable costs that any private business ordinarily requires.

There is no doubt that over the past 15 years, the schedule of fees in Section 5-76, even with the one increase in 2002, has failed to keep up with the rate of inflation, the cost of living, the various consumer price index reports and every other economic indicator that can be found. Despite that fact, CIB has been providing superior, quality service to the Urban County Government both before and after it became the sole electrical inspection contractor. To CIB's credit, the quality of its services to this community has hopefully had an impact in CIB being awarded the electrical inspection services contract each and every time that it has been advertised for bid. Over and above that success, CIB has performed its work under some of the most stressful and inclement weather conditions, including the ice storms and the tornados that have caused devastation to innumerable Fayette County businesses

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and residences in the past ten (10) years. To its further credit, CIB has accomplished all of this success without a single complaint being filed by any Fayette County citizen, electrical contractor or licensed electrician that it serves. Although CIB enjoys the status of being the sole electrical inspection contractor in Fayette County, that status also places CIB in the unenviable position of being the sole voice for seeking an increase in the electrical inspection fees set out in Section 5-76.

Economic Effect of the Proposed Amendment

The entire Urban County Council, not just each of you, is very budget conscious at this time of the year. It may surprise some of you to know that the fees authorized by Section 5.76 of the Code of Ordinances are not charged by or paid to the Urban County Government by any taxpayer. These fees are charged to the licensed electrical contractor performing the electrical work. To further ease the burden on the Urban County Government and its taxpayers, CIB does not charge any fees when performing electrical inspections on any project that is performed by Urban County Government employed electrical contractors and owned by the Urban County Government. However, CIB does not expect you to believe that its fees for electrical inspections are not ultimately borne by the taxpayers and citizens that make up your constituencies. There is no question that the fees for electrical inspections are factored into any bid by an electrical contractor and whether the job is commercial or residential, the costs of the electrical inspections do trickle down to and become a factor in determining the amount of rent charged to a tenant, the amount to be paid for electrical work to someone's home or the total cost of any construction or remodeling job performed in Fayette County. For that very reason, CIB wants to supply you with not only the changes to the ordinance that are being proposed but also with some examples of how those changes might affect the citizens of Fayette County and how those changes compare to other municipalities in the vicinity and in Louisville, our closest, most comparable community in Kentucky.

The current fee schedule of Section 5-76 of the Code of Ordinances is attached hereto as Exhibit 1. That ordinance sets out each and every element that comprises the fees charged for an electrical inspection. The new version of the ordinance in Section 5-76 that CIB has proposed is attached hereto as Exhibit 2. As you can see by comparing these two (2) documents, there are increases in rates except for certain circumstances involving the rates to be charged in subsection (2) of the ordinance. An examination of

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these exhibits, without additional information, will more than likely fail to provide you with enough data to fully consider the proposed amendment to the ordinance.

To assist you in this process, CIB has provided some examples of the effect that the proposed amendment to this ordinance would have on various projects that citizens of Fayette County may undertake to construct. In Exhibit 3, you will find examples of projects and the typical cost of the "roughwire" and "final" electrical inspections for projects in which the electrical contract is under \$50,000.00. These figures include calculations of costs under the current ordinance and the proposed new ordinance and also includes that same comparison for the cost of electrical construction contracts in excess of \$50,000.00. The goal of CIB in putting this exhibit together is to provide you with very relevant data to evaluate this proposal.

In an attempt to allow you to compare the fee schedules in some of the surrounding areas and in Louisville, you will find the electrical inspection fee schedules for Scott County/Georgetown; City of Richmond; Madison County; Frankfort; Louisville/Jefferson County; Winchester/Clark County; and Nicholasville/Jessamine County; set out in Exhibit 4. These fees were those in effect in January, 2008, and do not reflect any increases in those fees that have been subsequently adopted by any of those local governments. To further assist you in this process, the information in Exhibit 5 contains a listing of the fees that would be charged in each of those municipalities for each of the project examples set out in Exhibit 3 for such projects in Fayette County. As you can see, the fees charged in these other counties are generally higher than the fees to be charged here in Fayette County under the proposed new ordinance.

Previous Efforts to Amend the Ordinance

For your information, CIB has been attempting to effect this change in Section 5-76 for quite some time. These efforts have not been directed to the members of this committee but, based upon the recommendations of others, have been submitted to various personnel within the Urban County Government. Specifically, in November, 2005, CIB sent the written proposal contained in Exhibit 6 to Mr. Dewey Crowe, the Director of the Division of Building Inspection. CIB was advised that Mr. Crowe forwarded this proposal for a rate increase to the then Commissioner for Public Safety, Mrs. Rebecca Langstan. At that time, Mrs. Langstan took the position that since

Urban County Planning Committee
September 17, 2008
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the contract for electrical inspection services was going out for bid in 2006, she felt that the fee increase proposal was not appropriate at that time. CIB did not necessarily agree with the position of the Commissioner, but chose not to pursue the matter any further at that time.

The electrical inspection services contract was advertised for bids in the fall of 2006 and Commonwealth was again the successful bidder. However, as you may be aware, the award of that bid was challenged by the unsuccessful bidder in a civil action filed in Fayette Circuit Court. This lawsuit was dismissed pursuant to a motion filed by CIB and the Urban County Government. The unsuccessful bidder then appealed that order of dismissal and that appeal was recently decided in favor of CIB and the Urban County Government and since no further appeals were filed, the decision upholding the award of the electrical inspection services contract to CIB is now final. That issue should no longer play a part in any decision by this Committee to look into the proposed amendment to the fee schedule in Section 5-76. In fact, CIB believed that regardless of the outcome of the appeal of the lawsuit challenging the 2006 award of the contract, the Urban County Government should look at this amendment.

Based upon that belief, in February, 2007, after the Fayette Circuit Court dismissed the suit brought by the unsuccessful bidder for the electrical inspection contract, CIB resubmitted its earlier request for a fee increase to Mr. Crowe, who then forwarded that proposal to the then Commissioner for Public Safety, Mr. Tim Bennett. A copy of CIB's letter to Mr. Crowe is attached as Exhibit 7. Contrary to the view of the former Commissioner for Public Safety, Mr. Bennett basically rejected the proposal outright and indicated to Commonwealth that the fee increase should have been sought prior to the new contract being offered for bid to the public. Faced with an opinion that was completely opposite of the advice of the prior Commissioner, CIB elected not to pursue the amendment any further at that time.

In June, 2007, with the rising price of fuel as its most prominent cost increase since being awarded the contract in the fall of 2006, CIB resubmitted its request for a fee increase to Mr. Brian Marcum as shown by the letter attached as Exhibit 8. CIB was advised that Mr. Marcum forwarded it to Mr. Bennett which again was done without success. Finally, on August 29, 2007, CIB sent the request shown on Exhibit 9 to Mr. Crowe. CIB was advised that the request for the fee increase was referred by Mr. Crowe to Mr. Don

Urban County Planning Committee
September 17, 2008
Page -6-

Kelly, Commissioner of Building and Construction. CIB was informed that Mr. Kelly agreed with Mr. Bennett's position that the proposal needed to have been considered before the contract had been awarded. Despite that position, it was CIB's belief that Mr. Kelly was still going to consider making some type of proposal to the mayor regarding the request to amend Section 5.76. Several months have now passed without any word and since CIB did not wish to "upset the apple cart", I was contacted by CIB to make an attempt to present this matter to the Urban County Government. CIB felt that its efforts to seek an increase, while directed at appropriate personnel, were meeting with too strong of an opposition based just on one person's opinion of the timing of the issue, not the opinion of this Committee or the Urban County Council, who should have the final say on whether such an amendment is appropriate.

Another Factor to Consider

In further support of this request, CIB believes that in order for the electrical inspection contractor to adequately perform its duties under the Urban County Government contract, that inspection contractor must be financially stable. Similarly, in order for the Urban County Government to continue to attract viable, competitive bidders able to meet its contract specifications, the fees for electrical inspections must be competitive with the fees charged in surrounding counties and other municipalities in Kentucky. CIB asks this Committee not only to look at this proposed amendment based on its financial effect on the citizens of Fayette County but also on the benefit to those citizens from the quality of the services they will receive from more viable and competitive service providers that want to perform electrical inspection services in Fayette County.

Conclusion

In conclusion, CIB submits to this Committee that even a small increase in the fee schedule in Section 5-76 provides benefits to the citizens of Fayette County that counterbalance the added cost of electrical contractor services. A fee schedule that is comparable to similar schedules in surrounding counties and municipalities fosters competition and thus, should attract quality service providers in the future. In addition, the increased fees insure that the current service provider is able to maintain the quality of its services as well as maintain the minimum safety, availability and readiness requirements of the Urban County Government contract.

Urban County Planning Committee
September 17, 2008
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As a final note, CIB wishes to express a note of appreciation to councilperson Jay McChord who recommended that my client should seek guidance in getting this matter submitted to the appropriate council committee for consideration. With the assistance of the Law Department and numerous other personnel of the Urban County Government, my client has been provided an opportunity to present this matter to this Committee after several years of unsuccessful attempts to have this matter addressed. My client and I look forward to making a presentation to this Committee at its September, 2008 meeting and answering any questions that you may have concerning this proposal.

Very truly yours,

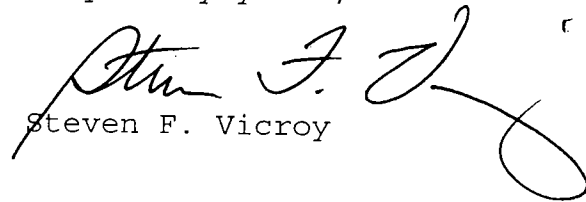

Steven F. Vicroy

Exhibit 1

DIVISION 3. INSPECTIONS

Sec. 5-76. Required; fees.

Any person making any construction, alteration or repairs of any electrical wiring shall have same inspected by an electrical inspector employed in the division of building inspection or pursuant to contract with the urban county government as to compliance with all standards established by law, including ordinances of this government. Fees for electrical inspections required by this division shall be paid in accordance with the following schedule:

- (1) For inspection of electrical wiring work not exceeding fifty thousand dollars (\$50,000.00) in cost:

Rough wire inspection:

\$35.00 for first 10 circuits.

\$ 0.65 each circuit over 10 and up to 20.

\$ 0.40 each for all over 20.

Rewire inspection:

\$35.00 for service change inspection.

Reinspection because of turndown:

\$35.00 per inspection.

Final inspection:

\$35.00 for service and fixtures up to 10 circuits.

\$ 0.40 for each fixture over 10.

\$1.10 each for 240-volt motor and appliance circuits.

Temporary inspection:

\$35.00.

Trailer services:

\$35.00 for inspection of trailers without state approval.

Apartments--rough wire:

\$35.00 for first unit--1 building.

\$9.00 for each additional unit.

Apartments--final inspection:

\$35.00 for first unit.

\$9.00 for each additional unit.

\$1.10 for each 240-volt appliance circuit.

- (2) The rate for inspection for electrical wiring work costing more than fifty thousand dollars (\$50,000.00) shall be one (1) percent of the total cost for the first three hundred thousand dollars (\$300,000.00). The rate shall be downward seventy-five-hundredths (0.75) of a percent for three hundred thousand and one dollars (\$300,001.00) through six hundred thousand dollars (\$600,000.00). The rate shall be five-tenths (0.50) of a

percent on construction cost in excess of six hundred thousand dollars (\$600,000.00).

(Ord. No. 15-75, § 1, 1-16-75; Ord. No. 217-87, § 1, 9-3-87; Ord. No. 181-91, § 1, 8-29-91; Ord. No. 314-98, § 1, 11-12-98; Ord. No. 256-2001, § 5, 10-11-01)

Exhibit 2

Sec. 5-76. Required; fees.

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Any person making any construction, alteration or repairs of any electrical wiring shall have same inspected by an electrical inspector employed in the division of building inspection or pursuant to contract with the urban county government as to compliance with all standards established by law, including ordinances of this government. Fees for electrical inspections required by this division shall be paid in accordance with the following schedule:

(1) For inspection of electrical wiring work not exceeding forty thousand dollars (\$40,000.00) in cost:

Rough wire inspection:

\$ 50.00 base price
\$ 0.50 for each circuit

Rewire inspection:

\$ 50.00 for service upgrades and repairs

Reinspection fee:

\$ 40.00 per inspection

Final inspection:

\$ 50.00 base price
\$ 0.50 for each fixture
\$ 1.50 for each 240-volt circuit
\$ 1.50 for each small appliance circuit

Temporary on Permanent inspection:

\$ 50.00

Mobile Home Service:

\$ 50.00

Apartments – rough wire and temporary on permanent:

\$50.00 for first unit – 1 building
\$25.00 for each additional unit

Apartments – final inspections:

\$50.00 for first unit – 1 building
\$25.00 for each additional unit
\$ 1.50 for each small appliance circuit

(2) The rate for inspection for electrical wiring work, including owner furnished materials, costing more than \$40,000.00 shall be one percent (1%) of the total cost, including the electrical contract and owner furnished materials. The electrical contractor shall provide copies of all contracts, including the contracts, invoices, purchase orders or other documents evidencing the price paid for owner furnished materials, upon the request of the electrical inspector.

Exhibit 3

Current Prices Compared To Proposed Price Increase

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		<u>Current Price</u>	<u>Proposed Price</u>
Residential			
3 Bedroom, 2 Bathroom with Garage			
Roughwire	20 circuits	\$41.50	\$60.00
Final	20 circuits 22 fixtures 3 small appliance circuits 5 240-volt circuits	\$48.60	\$73.00
Home Owner Remodeling a Kitchen			
Roughwire	5 circuits	\$35.00	\$52.50
Final	3 fixtures	\$39.40	\$57.50
1,000 Square Foot Space in Strip Mall			
Roughwire		\$35.00	\$50.00
Final	20 fixtures 1 water heater 1 air conditioner 20 circuits	\$42.30	\$64.50
8 Unit Apartment Building – 3 Bedrooms			
Roughwire	20 circuits per unit plus common area	\$107.00	\$250.00
Final	20 fixtures 5 small appliance circuits 5 240-volt circuits	\$195.00	\$320.00
Contract Jobs			
Contract job less than \$50,000 is priced by count.			
Contact Job over	\$ 50,000	\$ 500.00	\$ 500.00
	\$100,000	\$1,000.00	\$1,000.00
	\$300,000	\$3,000.00	\$3,000.00
	\$600,000	\$5,250.00	\$6,000.00
	\$800,000	\$6,250.00	\$8,000.00

Exhibit 4

SCOTT CO./GEORGETOWN ELECTRICAL INSPECTIONS

EFFECTIVE JULY 1, 2004

Fees below are for a typical 3 bedroom, 2 bath residence (up to 1300 square feet) with a basement and garage. Any residence over 1300 square feet, an addition of .7 cents per square foot will be added on the final inspection.

<u>TYPE</u>	<u>FEE</u>
ROUGH	\$45.00
FINAL (+ .07/PER SQ' OVER 1300)	45.00
TEMPORARY	40.00
TEMPORARY PERMANENT	40.00
TRAILER SERVICE	45.00
SERVICE UP-GRADE	45.00
DUPLEX - ROUGH & FINAL	90.00 PER UNIT
TOWN HOUSES - ROUGH & FINAL	90.00 PER UNIT
APARTMENTS PER BLDG (ROUGH & FINAL)	
3-8 UNITS	70.00 PER UNIT
9-12 UNITS	60.00 PER UNIT
13-16 UNITS	50.00 PER UNIT
17-20 UNITS	40.00 PER UNIT
ELECTRICAL PERMITS	5.00

REINSPECTIONS \$25.00

LIGHT COMMERCIAL WORK UP TO \$30,000.00

EACH PANEL	40.00
EACH CIRCUIT	3.00
EACH DISCONNECT	8.00
SERVICE	60.00

HEAVY COMMERCIAL WORK OVER \$30,000.00

1% OF TOTAL ELECTRIC INCLUDING FIXTURES, EQUIPMENT AND LABOR REGARDLESS WHETHER CONTRACTOR OR OWNER IS FURNISHING EQUIPMENT AND/OR FIXTURES.

City of Richmond

Electrical Permit Fees

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Single Family	
Light Commercial, Churches, (up to \$50,000)	
200 amp Service	\$150.00/ Service includes temp service and all trips
400 amp Service	\$200.00/ Service includes temp service and all trips
600 amp Service	\$300.00/ Service includes temp service and all trips
800 amp Service	\$400.00/ Service includes temp service and all trips
1000 amp Service	\$500.00/ Service includes temp service and all trips
1200 amp Service	\$600.00/ Service includes temp service and all trips
Multi-Family	
Duplex or Apartments	\$125.00 per Unit/ Includes temp service and all trips
Additions / Swimming Pools / Re-wires, Etc.	
Service, Panel, Etc.	\$150.00 includes all trips
Service Changes / Mobile Homes / Barns	
New Service and Service Changes	\$75.00 includes all trips
Heavy Commercial/Churches over \$50,000/ Industrial	
50,000 – 1,000,000	.01 Times the Cost
1,000,001 - Up	.0075 Times the Cost

**Madison County
Planning and Development
Fee Structure**

PLAT FEES	
Preliminary Plat	75.00 + 2.50 per lot
Final Plat	50.00 + 2.50 per lot
Development Plan	100.00
Minor Plat	40.00 + 2.50 per lot
Consolidation Plat	40.00
ZONING BOARD FEES	
Zone Change	250.00 + notice + newspaper notice
Special Called Planning Meetings (members, attorney, secretary, Administrative Official)	100.00 per meeting attended
Compensation to Planning Commission Members, Secretary and Administrative Official	100.00 per meeting attended
BOARD OF ADJUSTMENT FEES	
Conditional Use Permit	250.00 -- certified letters -- newspaper notice
Variance Request	250.00 -- certified letters -- newspaper notice
Appeal Request	200.00 -- certified letters -- newspaper notice
Compensation to Board of Adjustment Members, Secretary and Administrative Official	100.00 per meeting attended
MISCELLANEOUS FEES	
Zoning Regulations	7.50
Subdivision Regulations	7.50
Zoning Maps (Large)	15.00
Comprehensive Plan	15.00
County Map	10.00
ELECTRICAL INSPECTION FEES	

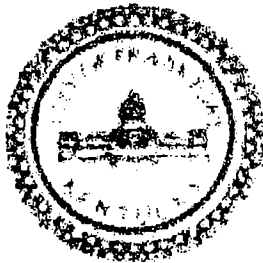
SINGLE-FAMILY DWELLINGS	
200 amp Service	100.00/ Service includes temp service and all trips
400 amp Service	125.00/ Service includes temp service and all trips
600 amp Service or larger	150.00/ Service includes temp service and all trips
ADDITIONS / SWIMMING POOLS / RE-WIRES, ETC	
Service, Panel, etc.	100.00 includes all trips
SERVICE CHANGES / MOBILE HOMES / BARNs	
New Service and Service Changes	50.00 includes all trips
LIGHT COMMERCIAL, CHURCHES (up to \$50,000) and MULTI-FAMILY DWELLINGS	
200 amp Service	150.00/service, plus 25.00 per unit, includes all temp service and all trips
400 amp Service	175.00/service, plus 25.00 per unit, includes all temp service and all trips
600 amp Service and larger	200.00/service, plus 25.00 per unit, includes all temp service and all trips
HEAVY COMMERCIAL/ CHURCHES over \$50,000 / INDUSTRIAL	
50,000 - 100,000	.01 Times the Cost
100,001 - 200,000	.0095 Times the Cost
200,001 - 300,000	.0090 Times the Cost
300,001 - 400,000	.0080 Times the Cost
400,001 - 500,000	.0070 Times the Cost
500,001 - 1,000,000	.0060 Times the Cost
1,000,001 - Up	.0050 Times the Cost

BUILDING PERMIT FEE SCHEDULE

(Based upon the estimated construction cost of the project)

PENALTIES: If a building construction project is started without first obtaining a building permit, the building permit fee shall be doubled. If, in the opinion of the building inspector, the valuation on any application appears to be understated, the permit shall be denied unless the owner/contractor can verify the projected costs of the project.

\$100.00 and less	No Fee except where inspections are required, in which case a 50.00 fee for each inspection shall be charged
\$101.00 to \$2,000.00	\$50.00
\$2001.00 to \$15,000.00	\$50.00 for the first \$2,000.00 plus \$3.00 for each additional thousand or fraction thereof, up to and including \$15,000.00
\$15001.00 to \$50,000.00	\$100.00 for the first \$15,000.00 plus \$2.50 for each additional thousand or fraction thereof, up to and including \$50,000.00
\$50,001.00 to \$100,000.00	\$200.00 for the first \$50,000.00 plus \$2.00 for each additional thousand or fraction thereof, up to and including \$100,000.00
\$100,001.00 to \$500,000.00	\$275.00 for the first \$100,000.00 plus \$1.00 for each additional thousand or fraction thereof, up to and including \$500,000.00
\$500,001.00 and up	\$675.00 for the first \$500,000.00 plus \$.50 for each additional thousand or fraction thereof.
Change of Use and Certificate of Occupancy Fee	
	\$10.00
Moving Permit Fee (including Mobile/manufactured homes)	
	\$50.00
Blasting Permit Fee	
	\$10.00
Demolition Permit Fee	
	\$15.00
Minimum Permit Fee	
	\$50.00
MECHANICAL PERMIT FEES	
Residential Buildings	\$25.00 per unit
Commercial Buildings	\$50.00 per tenant
Schools, Factory, Churches and similar Structures	\$75.00 per unit



CITY OF FRANKFORT
PLANNING & BUILDING CODES DEPARTMENT
P.O. Box 697
Frankfort, Kentucky 40601

Phone: (502) 352-2138 Fax: (502) 875-3579

To: Brenda
From: Angie R. Willoughby

Fax: 859-263-7887
Pages including cover sheet: 2

Date: 04/16/2007

Re: Electrical Inspection Fee's

☐ Urgent ☐ For Review ☐ Please Comment ☐ Please Reply ☐ FYI ☐ As Requested

Comments: Per your request

Planning & Building Codes

FEE SCHEDULE: Inspection fees:

Temporary service	\$35.00
Residential New service (at rough-in and final)	\$2.00 per circuit or \$50.00, whichever is more.
Residential service associated with additions (at rough-in and final)	\$30.00
Commercial New service (at rough-in and final)	\$2.00 per circuit or \$50.00, whichever is more plus \$20.00 for each site visit requested by the applicant.
Any service associated with accessory structures	\$35.00
Complete rewire and Service Change	Same as residential or commercial new service, as applicable
Re-Inspection (after first inspection turned down)	\$35.00 for first \$50.00 for second and each additional re-inspections
Service only, upgrades, or re-service when off over 30 days by Frankfort Water & Electric Plant Board	\$30.00

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Louisville

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[Residents](#)
[Visitors](#)
[Business](#)
[Your Government](#)
[Departments](#)

Electrical

This division is responsible for monitoring permitted installations of electrical wiring in new and existing buildings to ensure that work performed meets code and ordinance regulations.

[Contractor Application Form](#)
[Home Owner Application Form](#)

(PDF Format, includes application form and fees schedule.)

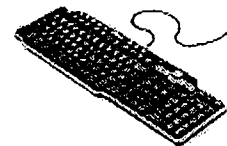


ELECTRICAL FEES

- A. New One & Two family - the fees for the initial installation of electrical wiring in one or two family residence shall be \$130.00. This permit fee shall include two (2) inspections.
- B. Existing One & Two family - the fee for a rewire, burnout, new service, repairs or additional wiring in an existing one or two family residence shall be \$40.00. This permit fee shall include one (1) inspection.
- C. New Multi-family & Commercial - the fee for the initial installation of new electrical wiring other than in a one or two family residence shall be \$40.00 for the base permit, \$20.00 for each sub-panel, \$20.00 for each dwelling unit in residential structures and \$.25 for each ampere at the service entrance up to and including 600 amperes and \$.50 for each ampere over 600 amperes. This permit fee shall include two (2) inspections.
- D. Existing Multi-family & Commercial - the fee for a rewire, burnout, new service or repairs in other than one or two family residences shall be \$40.00 for the base permit, \$20.00 per each sub-panel specifically involved in the work for commercial property, or \$20.00 for each dwelling unit specifically involved in the work for residential property. This permit fee shall include one (1) inspection.
- E. Temporary Pole - the fee for the installation of a temporary pole shall be \$40.00. This permit fee shall include one (1) inspection.
- F. Additional Inspections - the fee for any additional inspections not covered by the initial permit fee shall be \$30.00. The Department shall have the right not to issue any additional permits to the applicant until the additional inspection fees have been paid in

eCustomer Services

Permitting, Searches & Reports



full.



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Winchester/Clark County, Kentucky**ARTICLE III. INSPECTIONS GENERALLY***

*State law references: Inspection standards, KRS 227.480.

Sec. 6-29. Inspections required.

Every installation required by this chapter to be inspected shall be inspected at least twice with the two (2) required inspections being the "rough" inspection to be made when the basic wiring has been installed and before the fixtures have been connected and the final inspection to be made when the installation is ready to be connected to the power supply.

(Ord. No. 911, § 3, 2-13-73)

Sec. 6-30. Application for inspection; payment of fees.

It shall be the duty of any person installing work under this article to file with the electrical inspector an application for inspection, with a copy of the electrical permit prescribed in section 6-5, when the work is ready for inspection and to pay the fees prescribed in section 6-35 prior to the inspection.

(Ord. No. 911, § 4, 2-13-73; Ord. No. 9-95, § 1, 4-4-95)

Sec. 6-31. Concealed wiring.

It shall be unlawful for any person to conceal electrical wiring until after the wiring shall have been inspected and a certificate of approval issued, and no work so concealed shall be accepted.

(Ord. No. 911, § 5, 2-13-73)

Sec. 6-32. Inspector to detail violations.

Upon the inspection, if the electrical inspector shall find any work that is not in compliance with the standards prescribed, he shall issue to the party being inspected, a detailed list of the violations required to be corrected.

(Ord. No. 91, § 6, 2-13-73)

Sec. 6-33. Duplicate inspection reports to be supplied to building inspection office.

The electrical inspector shall, at least once each month, turn over to the building official a duplicate of each electrical inspection report, including reinspections for that month.

(Ord. No. 911, § 7, 2-13-73)

Cross references: Building official, § 5-2 et seq.

Sec. 6-34. Power not to be supplied without certificate of approval.

It shall be unlawful for any electric light or power company to connect with or furnish current to any electric installation coming within the ambit of this chapter until after such electric installation shall have been subjected to a final inspection and a certificate of approval issued.

(Ord. No. 911, § 8, 2-13-73)

Sec. 6-35. Fees for all electrical inspections.

(a) Fees for residential electrical inspections for all electrical work with a cost of less than fifty thousand dollars (\$50,000.00) per unit shall be:

TABLE INSET:

Type of inspection	Fee	
Rough in	\$45.00	(for the first unit and \$10.00 for each additional attached unit)
Temporary on permanent (turn on water)	45.00	
Final	45.00	(for the first unit plus \$1.00 per circuit exceeding 20 circuits and \$10.00 for each additional attached unit)
Construction service	45.00	
Mobile home	45.00	
Reinspection (due to turndown, concealment of work, unapproved materials or for any other reason)	45.00	
Service change only	45.00	
All other inspections	45.00	

(b) Fees for residential electrical inspections for all electrical work with a cost of greater than \$50,000.00 per unit shall be:

Fee

Cost of Work (Percent)

\$50,000-\$ 100,000 . . .	1.00
\$101,000-\$200,000 . . .	0.95
\$201,000-\$300,000 . . .	0.90
\$301,000-\$400,000 . . .	0.80
\$401,000-\$500,000 . . .	0.70
\$501,000-\$1,000,000 . . .	0.60
Over-\$1,000,000 . . .	0.50

(c) Inspection fee for preconstructed or prefabricated structures which are not affixed with a Commonwealth of Kentucky Electrical Inspection Certificate shall be the amount of one hundred

(\$100.00).

(d) All industrial and commercial electrical inspection fees shall be charged per KRS 227.487 and as adopted by the Kentucky State Office of Housing, Building and Construction, Division of Fire Prevention.

(Ord. No. 911, § 11, 2-13-73; Ord. No. 4-75, § 1, 2-25-75; Ord. No. 9-18, § 1, 5-9-78; Ord. No. 5-97, § I, 1-21-97; Ord. No. 24-2005, § I, 11-15-05; Ord. No. 27-2005, § I, 11-21-05)

State law references: Fees for electrical inspections, KRS 227.487.

Sec. 6-36. Hazardous conditions; discovery and report by inspector; corrective action.

(a) Should the electrical inspector at any time discover an electrical condition constituting an immediate threat to the life of or of injury to any person, the inspector shall notify the owner or custodian of the premises involved who shall proceed immediately with corrective action.

(b) Should the owner or other person responsible for correcting such conditions refuse to take immediate corrective action, or if the identity of such person is not immediately ascertainable, or if the hazardous condition cannot be corrected immediately, the electrical inspector shall notify the supplier of electrical power, in writing of the condition, the hazard created thereby and that the condition constitutes an immediate danger. Upon delivery of such notice, the electrical inspector may, in his discretion, issue a written order to the supplier of electrical power to the premises involved to disconnect all electric power from such premises until the hazardous condition is corrected.

(Ord. No. 911, § 13, 2-13-73; Ord. No. 27-84, § III, 11-13-84)

Sec. 6-37. City not liable for death or injury resulting from hazardous condition.

Failure of the electrical inspector or fire chief to take action as provided in section 6-36 shall in no way render either of them or the city liable for any death or injury which might result from any electrical condition whatsoever, it being the intent of the board of commissioners as expressed in this section and section 6-36 to provide for the exercise of the police powers of the city for the protection of persons from such hazards and not to subject the city to liability for death or injury resulting therefrom.

(Ord. No. 911, § 13, 2-13-73)

Sec. 6-38. Liability for damages generally.

This article shall not be construed to relieve from or lessen the responsibility or liability of any person owning, operating, controlling, or installing any electric wiring, electric devices, or electric material or furnishing electric current for damages to person or property caused by any defect therein nor shall the city be held as assuming any such liability by reason of the inspection authorized herein, or certificate of inspection issued as herein provided.

(Ord. No. 911, § 10, 2-13-73)

Sec. 6-39. Penalties.

(a) Any property owner or other person subject to the provisions of section 6-36 who refuses or negligently fails to take the corrective action required by that section within ten (10) days after receipt of notice shall, upon conviction, be fined not less than one hundred dollars (\$100.00) nor more than five hundred (\$500.00) or jailed for not less than one month nor more than six (6)

WALLACE M. BROWN

P O Box 32

Nicholasville, Ky. 40340

Price Schedule Electrical Inspections Jessamine County

Single Family and Two Family Dwellings

Rough Wire \$35.00 including first 10 circuits, .65 cents each for the next 10 circuits, .40 cents each for the remaining circuits.

Final Inspection \$35.00 including first ten light fixtures, .40 cents each for the remaining light fixtures, and \$1.10 each for each 240 volt and appliance circuit.

Temporary Construction Service	\$35.00
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Service Change	\$35.00
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Temporary on Permanent Service	\$35.00
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Mobile Home Service	\$35.00
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Re-inspection because of turn down	\$35.00
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Multi-Family and Apartment Buildings (more than 4 units in one building)

Rough Wire	\$35.00 first unit then \$25.00 each for the remaining units.
------------	---

Final Inspection	\$35.00 first unit then \$25.00 each for the remaining units and \$1.10 for each 240 volt and appliance circuit.
------------------	--

ALL INSPECTION FEES MUST BE PAID IN FULL BEFORE FINAL INSPECTION IS ISSUED. ALL ACCOUNTS 30 DAYS PAST DUE MUST BE PAID IN FULL BEFORE OTHER INSPECTIONS ARE DONE. THE INSPECTION FEE FOR A BUILDING THAT IS OCCUPIED BY PERSONS AND/OR FURNITURE WILL BE 5 (FIVE) TIMES THE NORMAL FEE.

ELECTRICAL PERMIT FEE WILL BE 10 (TEN) DOLLARS PER PERMIT. ELECTRICAL PERMITS ARE MANDATED BY STATE LAW.

WALLACE M. BROWN

P O Box 32

Nicholasville, Ky. 40340

Price Schedule Electrical Inspections

COMMERCIAL AND INDUSTRIAL

\$1.00 to \$15,000.00 minimum charge \$250.00

\$15001.00 to \$30,000.00 2% of total electrical cost

\$30,001.00 to \$75,000.00 1 ½ % of total electrical cost

over \$75,000.00
1% of the first \$300,000.00
¾ of 1% of the next \$400,000.00
½ of 1% of the balance of the contract

Electrical Contractor shall provide copies of all contracts pertaining to electrical costs and shall provide total costs of electrical materials and labor provided by others to obtain the total inspection fee. The inspection fee shall be calculated based on the total cost of the electrical system including all emergency power equipment, fire alarm systems, and all data and communications systems. Electrical Permits will not be issued until the Electrical Contractor complies with this requirement. A separate permit will be required for each contract.

One half of the inspection fee is due when the power is turned on, balance is due when final inspection is made. Certificates of Compliance will not be issued until all fees are paid in FULL.

Exhibit 5

Georgetown & Scott County

Residential

Current Price

3 Bedroom, 2 Bathroom with Garage

Roughwire	20 circuits	\$45.00
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Final	20 circuits 22 fixtures 3 small appliance circuits 5 240-volt circuits	\$45.00
-------	---	---------

Home Owner Remodeling a Kitchen

Roughwire	5 circuits	\$45.00
-----------	------------	---------

Final	3 fixtures	\$45.00
-------	------------	---------

1,000 Square Foot Space in Strip Mall

Roughwire

Final	20 fixtures 1 water heater 1 air conditioner 20 circuits	\$200.00 includes roughwire and final
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8 Unit Apartment Building – 3 Bedrooms

Roughwire	20 circuits per unit plus common area	
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Final	20 fixtures 5 small appliance circuits 5 240-volt circuits	\$560.00 includes roughwire and final
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Contract Jobs of \$30,000 or more

Contract Job up to	\$ 50,000	\$ 500.00
	\$100,000	\$1,000.00
	\$300,000	\$3,000.00
	\$600,000	\$6,000.00
	\$800,000	\$8,000.00

Residential**Current Price****3 Bedroom, 2 Bathroom with Garage**

Roughwire	20 circuits	\$150.00 up to 200 amp service which includes all trips.
Final	20 circuits 22 fixtures 3 small appliance circuits 5 240-volt circuits	\$200.00 for 400 amp service which includes all trips.

Home Owner Remodeling a Kitchen

Roughwire	5 circuits	\$150.00 includes all trips.
Final	3 fixtures	

1,000 Square Foot Space in Strip Mall

Roughwire		\$150.00 up to 200 amp service which includes all trips.
Final	20 fixtures 1 water heater 1 air conditioner 20 circuits	\$200.00 for 400 amp service which includes all trips.

8 Unit Apartment Building – 3 Bedrooms

Roughwire	20 circuits per unit plus common area	\$1,000.00 includes all trips.
Final	20 fixtures 5 small appliance circuits 5 240-volt circuits	

Contract Jobs

Contact Job over	\$ 50,000	\$ 500.00
	\$100,000	\$1,000.00
	\$300,000	\$3,000.00
	\$600,000	\$6,000.00
	\$800,000	\$8,000.00

Residential

Current Price

3 Bedroom, 2 Bathroom with Garage

Roughwire	20 circuits	\$100.00 up to 200 amp service which includes all trips.
Final	20 circuits 22 fixtures 3 small appliance circuits 5 240-volt circuits	\$125.00 for 400 amp service which includes all trips.

Home Owner Remodeling a Kitchen

Roughwire	5 circuits	\$100.00 includes all trips.
Final	3 fixtures	

1,000 Square Foot Space in Strip Mall

Roughwire		\$150.00 up to 200 amp service which includes all trips.
Final	20 fixtures 1 water heater 1 air conditioner 20 circuits	\$175.00 for 400 amp service which includes all trips.

8 Unit Apartment Building – 3 Bedrooms

Roughwire	20 circuits per unit plus common area	\$400.00 includes all trips.
Final	20 fixtures 5 small appliance circuits 5 240-volt circuits	

Contract Jobs

Contact Job over	\$ 50,000	\$ 500.00
	\$100,000	\$1,000.00
	\$300,000	\$2,700.00
	\$600,000	\$3,600.00
	\$800,000	\$4,000.00

Frankfort, Kentucky

		<u>Current Price</u>
Residential		
3 Bedroom, 2 Bathroom with Garage		
Roughwire	20 circuits	\$50.00
Final	20 circuits	\$50.00
	22 fixtures	
	3 small appliance circuits	
	5 240-volt circuits	
Home Owner Remodeling a Kitchen		
Roughwire	5 circuits	\$50.00
Final	3 fixtures	\$50.00
1,000 Square Foot Space in Strip Mall		
Roughwire		\$50.00
Final	20 fixtures	\$50.00
	1 water heater	
	1 air conditioner	
	20 circuits	
8 Unit Apartment Building – 3 Bedrooms		
Roughwire	20 circuits per unit plus common area	\$400.00
Final	20 fixtures	\$400.00
	5 small appliance circuits	
	5 240-volt circuits	

Contract Jobs

Frankfort, KY charges \$2.00 per circuit or \$50.00 whichever is more plus \$20.00 for each visit.

Louisville & Jefferson County

		<u>Current Price</u>
Residential		
3 Bedroom, 2 Bathroom with Garage		
Roughwire	20 circuits	
Final	20 circuits 22 fixtures 3 small appliance circuits 5 240-volt circuits	\$130.00 which includes both the roughwire and the final
Home Owner Remodeling a Kitchen		
Roughwire	5 circuits	\$40.00
Final	3 fixtures	\$40.00
1,000 Square Foot Space in Strip Mall		
Roughwire		\$110.00 which includes both the roughwire and the final
Final	20 fixtures 1 water heater 1 air conditioner 20 circuits	
8 Unit Apartment Building – 3 Bedrooms		
Roughwire	20 circuits per unit plus common area	
Final	20 fixtures 5 small appliance circuits 5 240-volt circuits	\$750.00 which includes both the roughwire and the final

Contract Jobs

They do not figure contract jobs on a percentage basis.
See Electrical Fees Paragraph C.

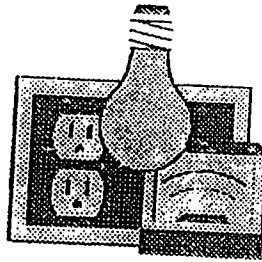
		<u>Current Price</u>
Residential		
3 Bedroom, 2 Bathroom with Garage		
Roughwire	20 circuits	\$45.00
Final	20 circuits 22 fixtures 3 small appliance circuits 5 240-volt circuits	\$45.00
Home Owner Remodeling a Kitchen		
Roughwire	5 circuits	\$45.00
Final	3 fixtures	\$45.00
1,000 Square Foot Space in Strip Mall		
Roughwire		\$45.00
Final	20 fixtures 1 water heater 1 air conditioner 20 circuits	\$45.00
8 Unit Apartment Building – 3 Bedrooms		
Roughwire	20 circuits per unit plus common area	Percentage of all work over \$50,000
Final	20 fixtures 5 small appliance circuits 5 240-volt circuits	
Contract Jobs		
Contact Job over	\$ 50,000	\$ 500.00
	\$100,000	\$1,000.00
	\$300,000	\$2,700.00
	\$600,000	\$3,600.00
	\$800,000	\$4,000.00

Nicholasville & Jessamine County

		<u>Current Price</u>
Residential		
3 Bedroom, 2 Bathroom with Garage		
Roughwire	20 circuits	\$41.50
Final	20 circuits 22 fixtures 3 small appliance circuits 5 240-volt circuits	\$48.60
Home Owner Remodeling a Kitchen		
Roughwire	5 circuits	\$35.00
Final	3 fixtures	\$39.40
1,000 Square Foot Space in Strip Mall		
Roughwire		Refer to Jessamine County price schedule as all commerical pricing is done on a percentage.
Final	20 fixtures 1 water heater 1 air conditioner 20 circuits	
8 Unit Apartment Building – 3 Bedrooms		
Roughwire	20 circuits per unit plus common area	\$235.00
Final	20 fixtures 5 small appliance circuits 5 240-volt circuits	\$323.00
Contract Jobs		
Contract Job up to	\$15,000	\$ 250.00
	\$ 50,000	\$ 750.00

\$100,000	\$1,000.00
\$300,000	\$3,000.00
\$600,000	\$5,250.00
\$800,000	\$6,500.00

Exhibit 6



COMMONWEALTH INSPECTION
BUREAU, INC.

501 DARBY CREEK ROAD
#63
LEXINGTON, KY 40509

859-263-7800 OFFICE
859-263-7887 FAX

November 17, 2005

Dewey Crowe
Director of Building Inspections
LFUCG
101 East Vine Street
Lexington, KY 40507

Dear Dewey:

I would like to make a request to increase the minimum fee for electrical inspections by ten dollars (\$10.00). This would increase the charge from thirty-five dollars (\$35.00) to forty-five dollars (\$45.00). The last rate increase for electrical inspections went into effect on January 1, 2002, five years ago. At this time the rate was increased by ten dollars (\$10.00) and was the first price increase since 1991.

I am making this request due to the rising costs of health insurance (up 20% since 2002), fuel (up 57% since 2002) and the cost of living (up 11% since 2002). In addition to these rising costs, we are now required to purchase our inspection stickers. They are no longer supplied to electrical inspectors at no charge by the state of Kentucky. We now have to pay six dollars and eighty-five cents (\$6.85) per pack of two hundred (200) stickers.

In October 2005, Commonwealth Inspection Bureau, Inc. added another electrical inspector which is one more than our contract calls for. The addition of another electrical inspector was due to the increased number of electrical inspections being performed by Commonwealth Inspection Bureau, Inc. which was due to the increase in sales of both commercial and residential building permits.

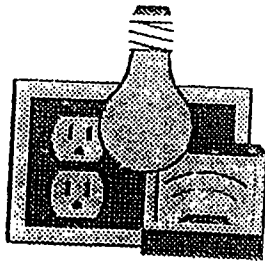
If you have any questions or need to discuss any of this with me, please feel free to call me at 263-7800.

Sincerely,

Marshall Jones, Jr.
President

MJJ/lbs

Exhibit 7



COMMONWEALTH INSPECTION
BUREAU, INC.

501 DARBY CREEK ROAD
#63
LEXINGTON, KY 40509

859-263-7800 OFFICE
859-263-7887 FAX

86

February 19, 2007

Dewey Crowe
Director of Building Inspections
LFUCG
101 East Vine Street
Lexington, KY 40507

Dear Dewey:

I am resubmitting my request to increase the minimum fee for electrical inspections that I originally submitted on November 17, 2005. My original request was tabled due to the electrical inspection contract going out for bid in 2006.

I would like to make a request to increase the minimum fee for electrical inspections by ten dollars (\$10.00). This would increase the charge from thirty-five dollars (\$35.00) to forty-five dollars (\$45.00). The last rate increase for electrical inspections went into effect on January 1, 2002, five years ago. At this time the rate was increased by ten dollars (\$10.00) and was the first price increase since 1991.

I am making this request due to the rising costs of health insurance (up 20% since 2002), fuel (up 57% since 2002) and the cost of living (up 11% since 2002). In addition to these rising costs, we are now required to purchase our inspection stickers. They are no longer supplied to electrical inspectors at no charge by the state of Kentucky. We now have to pay six dollars and eighty-five cents (\$6.85) per pack of two hundred (200) stickers.

In October 2005, Commonwealth Inspection Bureau, Inc. added another electrical inspector which is one more than our contract calls for. The addition of another electrical inspector was due to the increased number of electrical inspections being performed by Commonwealth Inspection Bureau, Inc. which was due to the increase in sales of both commercial and residential building permits. Inspections have decreased the last couple of months but we anticipate that inspections will be back up once the weather breaks this spring.

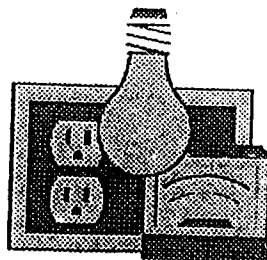
If you have any questions or need to discuss any of this with me, please feel free to call me at 263-7800.

Sincerely,

Marshall Jones, Jr.
President

MJJ/bs

Exhibit 8



COMMONWEALTH INSPECTION
BUREAU, INC.

501 DARBY CREEK ROAD
#63
LEXINGTON, KY 40509

859-263-7800 OFFICE
859-263-7887 FAX

June 21, 2007

Brian Marcum
Purchasing Director
200 East Main Street
Room 338
Lexington, KY 40507

Dear Brian:

I am resubmitting my request to increase the minimum fee for electrical inspections that I originally submitted on November 17, 2005. At the suggestion of the Commissioner of Public Safety, Rebecca Langston, I decided to put my original request on hold due to the fact that the electrical inspection contract was going out for bid in 2006.

I am making this request due to the following rising costs:

- Health insurance (up 20% since 2002)
- Fuel (up 57% since 2002)
- Cost of living (up 11% since 2002)
- Vehicle insurance (up 36% since 2002)
- Worker's Comp insurance (up 51% since 2002)
- Office expense (up 40% since 2002)
- Postage expense (up 20% since 2002)
- Repairs & Maintenance (up 59% since 2002)

In addition to these rising costs, we are now required to purchase our electrical inspection stickers. They are no longer supplied to electrical inspectors at no charge by the state of Kentucky. We now have to pay six dollars and eighty-five cents (\$6.85) per pack of two hundred (200) stickers.

Now that the contract has been awarded to Commonwealth Inspection Bureau, I am resubmitting this proposal at the suggestion of Rebecca Langston for this contract period, which will run until December 1, 2012. The last rate increase for electrical inspections went into effect on January 1, 2002, five years ago. At this time the rate was increased by ten dollars (\$10.00) and was the first price increase since 1991. In my opinion, this particular price increase made up for the time frame between 1991 and 2002. I feel that this price increase was only a catch-up fee until 2001 since it did not cover all the additional costs of doing business after 2002. The increased fees will be at no cost to Lexington Fayette Urban County Government. I would like to request that the new fee schedule to go into effect immediately upon approval by Lexington Fayette Urban County Government. I have attached a copy of the current fee schedule along with a copy of the new fee schedules showing the new proposed rate increase.

Brian Marcum
June 21, 2007
Page 2

As you can see by the above listing of rising costs, the fee increase that I am asking for is based on the cost of doing business today. By the end of the current contract in 2012, no one knows what the rate of inflation will be. In addition to the price increase that I am currently asking for, I would also like to propose that effective January 1, 2010 the base price of an electrical inspection be increased from \$45.00 to \$55.00 for a ten dollar (\$10.00) increase.

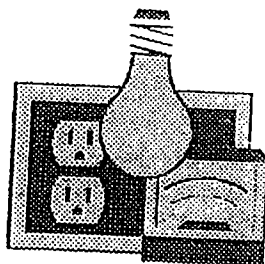
If you have any questions or need to discuss any of this with me, please feel free to call me at 263-7800.

Sincerely,

Marshall Jones, Jr.
President

MJJ/bs

Exhibit 9



COMMONWEALTH INSPECTION
BUREAU, INC.

501 DARBY CREEK ROAD
#63
LEXINGTON, KY 40509

859-263-7800 OFFICE
859-263-7887 FAX

August 29, 2007

Dewey Crowe
Director of Building Inspections
LFUCG
101 East Vine Street
Lexington, KY 40507

Dear Dewey:

I am resubmitting my request to increase the minimum fee for electrical inspections that I originally submitted on November 17, 2005. At the suggestion of the Commissioner of Public Safety, Rebecca Langston, I decided to put my original request on hold due to the fact that the electrical inspection contract was going out for bid in 2006.

I am making this request due to the following rising costs:

- Health insurance (up 20% since 2002)
- Fuel (up 57% since 2002)
- Cost of living (up 11% since 2002)
- Vehicle insurance (up 36% since 2002)
- Worker's Comp insurance (up 51% since 2002)
- Office expense (up 40% since 2002)
- Postage expense (up 20% since 2002)
- Repairs & Maintenance (up 59% since 2002)

In addition to these rising costs, we are now required to purchase our electrical inspection stickers. They are no longer supplied to electrical inspectors at no charge by the state of Kentucky. We now have to pay six dollars and eighty-five cents (\$6.85) per pack of two hundred (200) stickers.

Now that the contract has been awarded to Commonwealth Inspection Bureau, I am resubmitting this proposal at the suggestion of Rebecca Langston for this contract period, which will run until December 1, 2012. The last rate increase for electrical inspections went into effect on January 1, 2002, five years ago. At this time the rate was increased by ten dollars (\$10.00) and was the first price increase since 1991. In my opinion, this particular price increase made up for the time frame between 1991 and 2002. I feel that this price increase was only a catch-up fee until 2001 since it did not cover all the additional costs of doing business after 2002. The increased fees will be at no cost to Lexington Fayette Urban County Government. I would like to request that the new fee schedule to go into effect immediately upon approval by Lexington Fayette Urban County Government. I have attached a copy of the current fee schedule along with a copy of the new fee schedules showing the new proposed rate increase.

Dewey Crowe
August 29, 2007
Page 2

As you can see by the above listing of rising costs, the fee increase that I am asking for is based on the cost of doing business today. By the end of the current contract in 2012, no one knows what the rate of inflation will be. In addition to the price increase that I am currently asking for, I would also like to propose that effective January 1, 2010 the base price of an electrical inspection be increased from \$45.00 to \$55.00 for a ten dollar (\$10.00) increase.

If you have any questions or need to discuss any of this with me, please feel free to call me at 263-7800.

Sincerely,

A handwritten signature in cursive script, appearing to read "M. Jones Jr.", written in dark ink.

Marshall Jones, Jr.
President

MJJ/bs

Rough wire inspection:

\$35.00 for first 10 circuits
\$ 0.65 each circuit over 10 and up to 20
\$ 0.40 each circuit over 20

Rewire inspection:

\$35.00 for service change inspection

Reinspection because of turndown:

\$35.00 per inspection

Final inspection:

\$35.00 for service and fixtures up to 10 circuits
\$ 0.40 for each fixture over 10
\$ 1.10 for each 240-volt circuit
\$ 1.10 each small appliance circuit

Temporary on Permanent inspection:

\$35.00

Mobile Home Service:

\$35.00

Apartments – rough wire and temporary on permanent:

\$35.00 for first unit – 1 building
\$ 9.00 for each additional unit

Apartments – final inspection:

\$35.00 for first unit
\$ 9.00 for each additional unit
\$ 1.10 for each 240-volt circuit
\$ 1.10 for each small appliance circuit

Contracts of \$50,000 and more:

The rate for inspection for electrical wiring work including owner furnished materials costing more than \$50,000.00 shall be 1% of the total cost for the first \$300,000.00. The rate shall be downward $\frac{1}{4}$ of 1% for \$300,001.00 through \$600,000.00. The rate shall be $\frac{1}{2}$ of 1% on on construction cost in excess of \$600,000.00.

PROPOSED FEE SCHEDULE FOR 2010

94

Commonwealth Inspection Bureau, Inc.
Lexington & Fayette County Price Listing

Single & Multi-family dwellings, Town Homes & Light Commercial

Rough wire inspection:

\$55.00 for first 10 circuits
\$ 0.50 for each circuit over 10

Rewire inspection:

\$55.00 for service change inspection

Reinspection fee:

\$55.00 per inspection

Final inspection:

\$55.00 for service and fixtures up to 10
\$.50 for each fixture over 10
\$ 1.25 for each 240-volt circuit
\$ 1.25 for each small appliance circuit

Temporary on Permanent inspection:

\$55.00 for one service disconnect
\$ 5.00 for each additional service disconnect

Mobile Home Service:

\$55.00

Contracts of \$50,000 and more:

The rate for inspection for electrical wiring work including owner furnished materials costing more than \$50,000.00 shall be 1% of the total cost for the first \$300,000.00. The rate shall be downward 3/4 of 1% for \$300,001.00 through \$600,000.00. The rate shall be 1/2 of 1% on on construction cost in excess of \$600,000.00.

Sec. 5-75. Promulgation of regulations.

The mayor, the commissioner of public safety and their designees shall promulgate regulations which may be necessary to carry out and effectuate the provisions of this article.

(Ord. No. 247-88, § 1, 10-20-88; Ord. No. 219-91, § 1, 10-17-91)

Sec. 5-76. Required; fees.

Any person making any construction, alteration or repairs of any electrical wiring shall have same inspected by an electrical inspector employed in the division of building inspection or pursuant to contract with the urban county government as to compliance with all standards established by law, including ordinances of this government. Fees for electrical inspections required by this division shall be paid in accordance with the following schedule:

- (1) For inspection of electrical wiring work not exceeding fifty thousand dollars (\$50,000.00) in cost:

Rough wire inspection:

\$35.00 for first 10 circuits.

\$ 0.65 each circuit over 10 and up to 20.

\$ 0.40 each for all over 20.

Rewire inspection:

\$35.00 for service change inspection.

Reinspection because of turndown:

\$35.00 per inspection.

Final inspection:

\$35.00 for service and fixtures up to 10 circuits.

\$ 0.40 for each fixture over 10.

\$1.10 each for 240-volt motor and appliance circuits.

Temporary inspection:

\$35.00.

Trailer services:

\$35.00 for inspection of trailers without state approval.

Apartments--rough wire:

\$35.00 for first unit--1 building.

\$9.00 for each additional unit.

Apartments--final inspection:

\$35.00 for first unit.

\$9.00 for each additional unit.

\$1.10 for each 240-volt appliance circuit.

(2) The rate for inspection for electrical wiring work costing more than fifty thousand dollars (\$50,000.00) shall be one (1) percent of the total cost for the first three hundred thousand dollars (\$300,000.00). The rate shall be downward seventy-five-hundredths (0.75) of a percent for three hundred thousand and one dollars (\$300,001.00) through six hundred thousand dollars (\$600,000.00). The rate shall be five-tenths (0.50) of a percent on construction cost in excess of six hundred thousand dollars (\$600,000.00). 96

(Ord. No. 15-75, § 1, 1-16-75; Ord. No. 217-87, § 1, 9-3-87; Ord. No. 181-91, § 1, 8-29-91; Ord. No. 314-98, §

Sec. 5-77. Penalty.

Any person who fails to obtain an electrical inspection required by this division shall be fined not less than ten dollars (\$10.00), nor more than one hundred dollars (\$100.00), or imprisoned not more than fifty (50) days, or both.

(Ord. No. 15-75, § 2, 1-16-75; Ord. No. 181-91, § 1, 8-29-91)

ARTICLE 5

ADMINISTRATION, ENFORCEMENT AND VIOLATIONS

5-1 ADMINISTRATION AND ENFORCEMENT - The Director of the Division of Building Inspection, and the Director's authorized agent of the Lexington-Fayette Urban County Government, shall administer and enforce this Zoning Ordinance, except as otherwise 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 of Building Inspection. 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.

5-2 PERMITS REQUIRED FOR CONSTRUCTION, DEMOLITION, AND LOCATION OF STRUCTURES - Permits shall be required for the following activities and shall be issued by the Division of Building Inspection in conformity with the provisions of this Zoning Ordinance.

5-2(a) 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(b) 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 grading permit has been obtained from the Division of Engineering.

5-2(c) GRADING PERMITS - Grading permits shall be required as provided in Article 20.

5-2(d) MOBILE HOME LOCATION PERMITS - Prior to any placement or relocation of any mobile home, a location

permit shall be required for determination of compliance with this Zoning Ordinance and the provisions of KRS 100.203(4)(a)(b).

5-2(e) 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(f) PERMITS AUTHORIZED BY THE BOARD OF ADJUSTMENT - The Division of 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(g) OTHER PERMITS - Additional permits may be required by the Division of Building Inspection 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 Division of Building Inspection or the Division of Engineering deems to be necessary to determine compliance and provide for enforcement of this Zoning Ordinance. After reviewing the application materials, the Director of the Division of Building Inspection or the Director of the Division of Engineering 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 Division of Building Inspection.

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 shall be issued unless or until the Division of Building Inspection has approved the site plan, upon finding that the development proposed thereon complies with all applicable requirements of the Code of Ordinances, 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) GRADING PERMITS - Requirements for grading permits shall be as provided in Article 20.

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 this Zoning Ordinance. It shall be the duty of the Division of Building Inspection to issue such certificate if it is found that all of the provisions of this Zoning Ordinance have been met, and to withhold such certificate unless all requirements of this Zoning Ordinance have been met.

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 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 BUILDING PERMITS, PLANS AND CERTIFICATES OF OCCUPANCY - 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 Building Inspection or the Director's authorized agent or, in the case of grading permits authorized under Article 20, with the Urban County Engineer or the Urban County Engineer's authorized agent. The Director of the Division of 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 - Where violations of this Zoning Ordinance provide for the issuance of a civil citation, such civil citation shall be construed to provide an additional or supplemental means of obtaining compliance with the Zoning Ordinance. 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 continuation of the violation would be irreparable or irreversible, the government may, without further notice, proceed to abate the conditions. In such cases, the government may, in addition to any fine imposed herein, charge the responsible person, persons or entities with the cost of the 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.

Kentucky Information on Code Enforcement

The *Kentucky Building Code*, now in its 27th year, is essentially the 2006 *International Building Code* published by the International Code Council, Inc., with the specific Kentucky code. Amendments to the code will be published as a separate document. It provides minimum standards to ensure the public safety, health and welfare insofar as they are affected by building construction and to secure safety to life and property from all hazards incident to the occupancy of buildings, structures or premises. This edition presents the code with changes approved by the Kentucky Board of Housing, Buildings and Construction through November, 2006.

The *Kentucky Building Code* may be amended from time to time by proposals from code enforcement officials, industry and design professionals, and other interested persons and organizations. Changes are discussed in an open meeting of the board. Changes approved are printed in the Kentucky Administrative Register and posted on the OHBC website.

* The *Kentucky Building Code* is a "mini/maxi" code, meaning
that it is a statewide uniform mandatory building code and no local
government shall adopt or enforce any other building code; except
* that the *Kentucky Residential Code* shall govern detached single
family dwellings, two-family dwellings and townhouses.

actuated by motors of 1 horsepower (746 W) or less.

Plumbing: The stopping of leaks in drains, water, soil, waste or vent. If any concealed trap, drainpipe, water, soil, waste or vent pipe becomes defective and it becomes necessary to remove and replace the same with new material, such work shall be considered as new work and a permit shall be obtained and inspection made as provided in this code.

The clearing of stoppages or the repairing of leaks in pipes, valves or fixtures, and the removal and reinstallation of water closets, provided such repairs do not involve or require the replacement or rearrangement of valves, pipes or fixtures.

105.2.1 Emergency repairs. Where equipment replacements and repairs must be performed in an emergency situation, the permit application shall be submitted within the next working business day to the building official.

105.2.2 Repairs. Application or notice to the building official is not required for ordinary repairs to structures, replacement of lamps or the connection of approved portable electrical equipment to approved permanently installed receptacles. Such repairs shall not include the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or load-bearing support, or the removal or change of any required means of egress, or emergency escape windows, or rearrangement of parts of a structure affecting the egress requirements; nor shall ordinary repair include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, soil, waste, vent or similar piping, electric wiring or mechanical or other work affecting public health or general safety.

105.2.3 Public service agencies. A permit shall not be required for the installation, alteration or repair of generation, transmission, distribution or metering or other related equipment that is under the ownership and control of public service agencies by established right.

105.3 Application for permit. To obtain a permit, the applicant shall first file an application therefore in writing on a form furnished by the department of building inspection for that purpose. Such application shall:

1. Identify and describe the work to be covered by the permit for which application is made.
2. Describe the land on which the proposed work is to be done by legal description, street address or similar description that will readily identify and definitely locate the proposed building or work. New buildings or additions shall be accompanied by a copy of the current site survey bearing the seal and signature of a Kentucky Registered Land Surveyor, except the code official may, at the official's discretion, accept other proof of location.

3. Indicate the use and occupancy for which the proposed work is intended.

4. Be accompanied by construction documents and other information as required in Section 106.3.

5. Give such other data and information as required by the building official.

105.3.1 Action on application. The building official shall examine or cause to be examined applications for permits and amendments thereto within a reasonable time after filing. If the application or the construction documents do not conform to the requirements of pertinent laws, the building official shall reject such application in writing, stating the reasons therefore. If the building official is satisfied that the proposed work conforms to the requirements of this code and laws and ordinances applicable thereto, the building official shall issue a permit therefore as soon as practicable.

105.3.2 Time limitation of application. An application for a permit for any proposed work shall be deemed to have been abandoned 180 days after the date of filing, unless such application has been pursued in good faith or a permit has been issued; except that the building official is authorized to grant one or more extensions of time for additional periods not exceeding 90 days each. The extension shall be requested in writing and justifiable cause demonstrated.

105.4 Validity of permit. The issuance or granting of a permit shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this code or of any other ordinance of the jurisdiction. Permits presuming to give authority to violate or cancel the provisions of this code or other ordinances of the jurisdiction shall not be valid. The issuance of a permit based on construction documents and other data shall not prevent the building official from requiring the correction of efforts in the construction documents and other data. The building official is also authorized to prevent occupancy or use of a structure where in violation of this code or of any other ordinances of this jurisdiction.

105.5 Expiration. Every permit issued shall become invalid unless the work on the site authorized by such permit is commenced within 180 days after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of 180 days after the time the work is commenced. The building official is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each. The extension shall be requested in writing and justifiable cause demonstrated.

105.6 Suspension or revocation. The building official is authorized to suspend or revoke a permit issued under the provisions of this code wherever the permit is issued in error or on the basis of incorrect, inaccurate or incomplete information, or in violation of any ordinance or regulation or any of the provisions of this code.

198B.050 Uniform State Building Code.

- (1) Within one (1) year from its initial meeting, after adequate notice in accordance with KRS Chapter 13A, the board shall adopt and promulgate a mandatory Uniform State Building Code which shall establish standards for the construction of all buildings, as defined in KRS 198B.010, in the state. The code shall provide that the review and approval, as necessary, of building plans for conformance with the Uniform State Building Code prior to construction approval shall be conducted only by the office or a local government or governments delegated such responsibilities by this chapter, and any exceptions to this policy shall be explicitly stated in the code.
- (2) The code shall be comprehensive and shall include but not be limited to provisions for general construction; structural quality; mechanical systems to include heating, cooling, and ventilation; electrical systems; and life safety from hazards of fire, explosion, and other disasters, whether caused by acts of nature or man. The code shall encompass the Kentucky State Plumbing Code promulgated pursuant to KRS 318.130, boiler rules and regulations issued pursuant to KRS 236.030, and the national electrical code.
- (3) This code shall be designed after and may be selected from the models offered by such model code agencies as the Building Officials and Code Administrators, International, Inc.; the International Conference of Building Officials; the Southern Building Code Congress; and other nationally recognized organizations which may include governmental agencies. The code shall:
 - (a) Provide uniform standards and requirements for construction and construction materials;
 - (b) To the extent practicable, set forth standards, specifications and requirements in terms of performance objectives, so as to facilitate the use of new technologies, techniques, and materials. The code shall not discriminate in favor of particular suppliers' materials, techniques, or technologies;
 - (c) Protect the public health, safety, and welfare within the state.
- (4) Adoption of a code shall include provisions for the continuing review of, and the board shall adopt when deemed justified to fulfill the purposes of this chapter, new materials, technologies, and techniques in the building industry. The board may adopt a model code promulgated by a model code agency only if that agency provides a method for democratic participation by the board and any local governments which may enforce the code, in a continuing review and possible adoption of new materials, technologies, and techniques in the building industry.
- (5) The board shall issue regulations, after notice in accordance with KRS Chapter 13A, which are necessary to implement the Uniform State Building Code or to carry out any other responsibility assigned to said board by this chapter.
- (6) The board shall monitor the effectiveness of agencies designated by local governments to enforce the provisions of the Uniform State Building Code.
- (7) If the board determines that an agency is not enforcing the provisions of the Uniform State Building Code, it shall direct the office to determine where

deficiencies exist. The office shall require the local government to correct the deficiencies within sixty (60) days and report to the office its method of correcting the deficiencies.

- (8) If the local government fails to correct the deficiencies, the office shall recommend to the board that the office be permitted to preempt the local program as provided for in KRS 198B.060(4).
- (9) The board shall provide for the supply, including amendments and revisions thereto, of sufficient copies of the Uniform State Building Code for all interested parties.

Effective: July 15, 1982

History: Amended 1982 Ky. Acts ch. 308, sec. 2, effective July 15, 1982. -- Created 1978 Ky. Acts ch. 117, sec. 5, effective June 17, 1978.

Legislative Research Commission Note (10/5/90). Pursuant to KRS 7.136(1), KRS Chapter 13A has been substituted for the prior reference to KRS Chapter 13 in this statute. The sections in KRS Chapter 13 were repealed by 1984 Ky. Acts ch. 417, § 36 and KRS Chapter 13A was created in that same chapter of the 1984 Ky. Acts.

Legislative Research Commission Note (6/20/2005). 2005 Ky. Acts chs. 11, 85, 95, 97, 98, 99, 123, and 181 instruct the Reviser of Statutes to correct statutory references to agencies and officers whose names have been changed in 2005 legislation confirming the reorganization of the executive branch. Such a correction has been made in this section.

198B.080 Amendments to the Uniform State Building Code.

- (1) Any interested party may suggest amendments to the Uniform State Building Code to the Office of Housing, Buildings and Construction. The office shall transmit all suggested amendments to the board with recommendations on the advisability of the suggested amendments.
- (2) The board may amend the Uniform State Building Code at any time, but only after notice in accordance with KRS Chapter 13A. Such amendments shall be effective statewide.
- (3) No amendment shall violate the performance orientation of the code, favor certain materials or suppliers, or weaken the life safety features of the Uniform State Building Code as specified in KRS 198B.050(3).

Effective: June 17, 1978

History: Created 1978 Ky. Acts ch. 117, sec. 8, effective June 17, 1978.

Legislative Research Commission Note (10/5/90). Pursuant to KRS 7.136(1), KRS Chapter 13A has been substituted for the prior reference to KRS Chapter 13 in this statute. The sections in KRS Chapter 13 were repealed by 1984 Ky. Acts ch. 417, § 36 and KRS Chapter 13A was created in that same chapter of the 1984 Ky. Acts.

Legislative Research Commission Note (6/20/2005). 2005 Ky. Acts chs. 11, 85, 95, 97, 98, 99, 123, and 181 instruct the Reviser of Statutes to correct statutory references to agencies and officers whose names have been changed in 2005 legislation confirming the reorganization of the executive branch. Such a correction has been made in this section.

Planning Committee- Issues Outstanding

Issue	Member Referred	Date Referred
• Liberty Road Project Status	Stinnett	Jan 06
• Newtown Pike Status	Blues	Feb 06
• Loudon Avenue Phase 1 Status	James	Oct 06
• Buffering ED Zone	DeCamp	Jan 07
• Development Plan Adherence	Myers	Jan 07
• Land Bank	James	June 07
• Student Housing Issues	Stevens	Sept 07
• Social Services Report	Stinnett	Oct 07
• Fence Regulations	Blues	Dec 07
• Mobile Home Trailer Park Quality of Life	James	Dec 07
• Infill Redevelopment Committee Recommendations	DeCamp	Feb 08
• Tree Protection Ordinance	James	Mar 08
• Streetscape Plan	Stevens	Mar 08
• Downtown Master Plan	DeCamp	Apr 08
• Electrical Inspector's Fee Schedule	McChord	May 08
• Management Audit Recommendations	Stevens	May 08
• Family Care Center Audit	Stevens	May 08
• Review Civil Penalties/Impose Fines on Property Owners Who Operate a Home Office/Occupation in Violation of the Zoning Ordinance	Henson	July 08
• Impose Restrictions on Issuing Permits to Individuals/Property Owners When There are Pending Written Complaints Regarding Violations of Zoning Ordinances	Henson	July 08
• Place Reasonable Time Limits for Completion of construction projects approved for existing 1/2 Family Residential Building Permits and Fence/Retaining Wall Permits	Henson	July 08

09/18/2008