

ARTICLE 13. ADMINISTRATION AND PROCEDURES

13.01. PURPOSE

The purpose of this article is to:

- A. Identify roles and responsibilities of various elected and appointed boards, and the duties of city and county staff, in the administration of these Zoning Regulations; and
- B. Identify the development review procedures used in the administration of these Zoning Regulations.

13.02. SUMMARY TABLE OF PROCEDURES

The following table summarizes the decision making bodies' authority to review, recommend, render decisions, and hear appeals regarding various procedures included in this zoning code. This table includes common planning and zoning procedures but it not inclusive of all requests and procedures within the city. If the table conflicts with the procedures as provided elsewhere in this zoning code, such procedures shall prevail over this Summary Table of Approval Bodies and Procedures.

Procedure	Reference	Planning & Zoning Director	Board of Adjustment	Planning Commission	Architectural Review Board	City Council / Fiscal Court	Franklin County Circuit Court
Zoning Map and Text Amendments	13.06.A	R		H D		A D	A
Conditional Use*	13.06.B	R	H D				A
Variance*	13.06.C	R	H D				A
Appeals	13.06.D	R	H D				A
Development Plan	13.06.E	R D	A D				
Zoning District Boundary Determination	13.06.F	R D	A D				
Local Designations	13.06.G	R			H D		
Certificates of Appropriateness	13.06.H	R			H D		A
Determination of No Exterior Effect	13.06.I	R D			H D		
Demolition Permits in S-CD, S-CBD, and S-HD Districts	13.06.J	R			H D		
* Conditional Use and Variance Requests within the S-CD; S-CBD; and S-HD districts are reviewed by the Architectural Review Board							
H = Public Hearing Required M = Public Meeting Required R = Review and/or Recommendation				D = Final Decision Making Body A = Appeal Body Shaded Box = No Role / Authority			

13.03. REVIEW AND DECISION MAKING BODIES

A. Planning and Zoning Director

1. Roles and Responsibilities

- a. To receive all applications for zoning permits, conditional uses, site plan review, zoning amendments, variances, appeals, and other such applications for processes established in these Zoning Regulations and collect all applicable fees.
- b. The Planning & Zoning Director (or designee(s)) shall promptly review each application that is submitted to determine compliance with the applicable district regulations and submission requirements.

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- c. To maintain a record of all administrative and legislative proceedings under this code, with respect to site plan approval, appeals, variances, and zoning amendments.
- d. Maintain a current copy of the official zoning map, which shall be kept both on permanent display in the City of Frankfort and Franklin County offices, and available electronically.
- e. Conduct inspections of buildings and uses of land to determine compliance with these regulations, and, in the case of any violation, to notify in writing the person(s) responsible, specifying the nature of the violation and ordering corrective action.
- f. Determine the existence of any violations of this code and cause such notifications, revocation notices, or orders for removal of violations to be issued, or initiate such other administrative or legal action as needed, to address such violation.
- g. Other tasks that may be assigned by elected officials or other administrative personnel.

B. Board of Adjustment

1. Establishment

The Board of Adjustment as constituted at the time of the adoption of this zoning regulation shall continue in power. Future appointments shall be made as required by [KRS 100.217](#) and by the county and Frankfort/Franklin County Joint Planning Commission agreement.

2. Membership

a. Composition and Appointment

The Board of Zoning Adjustment shall consist of seven (7) citizen members appointed in the following manner:

- i. Four (4) citizen members shall be appointed by the Mayor of Frankfort and approved by the Frankfort City Commission.
- ii. Three (3) citizen members shall be appointed by the Franklin County Judge/Executive and approved by the Franklin County Fiscal Court.

b. Qualifications and Terms

- i. No more than two (2) members of the Board of Zoning Adjustment may concurrently be members of the Frankfort-Franklin County Planning Commission.
- ii. All members must be citizen members who are not elected officials or public employees, in compliance with KRS 100.217.
- iii. Members shall serve staggered four-year (4-year) terms, with vacancies filled in accordance with local joint agreements and state law.

3. Roles and Responsibilities

The Board of Adjustment shall have the following powers:

a. General Duties

- i. The Board of Adjustment may employ or contract with planners or other persons as it deems necessary to accomplish its assigned duties.
- ii. The Board shall have the right to receive, hold and spend funds which it may legally receive from any and every source in and out of the Commonwealth of Kentucky, including the United States Government, for the purpose of carrying out the provisions of this zoning regulation.

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- iii. The Board shall have the power to issue subpoenas to compel witnesses to attend its meetings and give the evidence bearing upon the questions before it.
- iv. The Chairman of the Board of Adjustment shall have the power to administer oaths to witnesses prior to their testifying before the Board on any issue.
- v. The Board of Adjustment shall have no power or authority to grant any use variance which permits any use of land or structure not permitted by this ordinance, or to grant any conditional use not indicated in these zoning regulations; and it is specifically prohibited from doing.

b. Conditional Use

The Board shall have the power to hear and decide applications for conditional use permits to allow the proper integration into the planning area of uses which are specifically named in this zoning regulation which may be suitable only in specific locations in the zone, only if certain conditions are met.

c. Variances (Dimensional)

The Board shall have the power to hear and decide on applications for the dimensional variances where, by reason of the exceptional narrowness, shallowness or unusual shape of a site on the date of adoption or amendment of this zoning regulation or by reason of exceptional topographic conditions, or some other extraordinary situation or condition of that site, the literal enforcement of the dimensional requirements (height or width of building or size of yards, but not population density) of this zoning regulation would deprive the applicant of reasonable capacity to make use of the land in a manner equivalent to the use permitted other landowners at the same zone. The Board may impose any reasonable conditions or restrictions on any variance it decided to grant.

d. Administrative Review

The Board of Adjustment shall have the power to hear and decide cases where it is alleged by an applicant that there is an error in any order, requirement, decision, grant or refusal made by the zoning official in the enforcement of these zoning regulations. Appeals under this section must be taken within thirty (30) days of the date of official action by the zoning official.

e. Appeals

Appeals to the Board may be taken by any person, or entity claiming to be injuriously affected or aggrieved by an official action or decisions of the zoning enforcement officer.

4. Meeting Proceedings

- a. The Board of Adjustment shall conduct meetings at the call of the Chairman who shall give written or oral notice to all members of the Board at least seven (7) days prior to the meeting, which notice shall contain the date, time and place of the meeting, and the subject or subjects which will be discussed.
- b. A simple majority of the total membership of the Board of Adjustment shall continue a quorum. The Board shall keep minutes and records of all proceedings, including regulations, transactions, findings, determinations, the number of votes for and against each question, whether any member is absent or abstains from voting, all of

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which shall, immediately after adoption, be filed in the office of the Board.

- c. A transcript of the minutes of the Board of Adjustments meeting shall be provided if requested by a party, at the expense of the requesting party, and the transcript shall constitute the record.
- d. All applicants shall be required to provide with their application a list of all property owners adjacent to the subject property, and their mailing addresses. The Office of Planning and Zoning shall send notice of the request, including the date, time and place of the meeting of the Board of Adjustments, to these adjacent property owners. This notice shall be by first class mail and shall be sent at least seven (7) days prior to the meeting.

C. Planning Commission

1. Establishment

The Frankfort-Franklin County Joint Planning Commission as constituted at the time of the adoption of this zoning regulation shall continue in power as a joint city-county planning unit. Future appointments shall be made as required by [KRS 100.133](#), [KRS 100.137](#), and by the joint agreement between the City of Frankfort and Franklin County.

2. Membership

a. Composition and Appointment

The Joint Planning Commission shall consist of nine (9) members consisting of:

- i. Four (4) citizen members shall be appointed by the Mayor of Frankfort and approved by the Frankfort City Commission.
- ii. Four (4) citizen members shall be appointed by the Franklin County Judge/Executive and approved by the Franklin County Fiscal Court.
- iii. One (1) member shall be appointed by the Governor of the Commonwealth of Kentucky in accordance with [KRS 100.133\(2\)](#) due to Frankfort's status as the state capital.

b. Qualifications and Terms

- i. At least two-thirds (2/3) of the total membership of the Planning Commission shall be citizen members who are not elected officials, appointed officials, or public employees.
- ii. Citizen members shall serve staggered four-year (4-year) terms, which shall expire on July 1 of their designated year.
- iii. All members and designated staff of the Planning Commission shall comply with the orientation and continuing education training mandates established under [KRS 100.346](#).

3. Roles and Responsibilities

The Joint Planning Commission was formed in order to carry out the general powers conferred upon it by the Kentucky Revised Statutes, The Frankfort City Ordinance, and the Orders of the Franklin County Fiscal Court.

a. General Duties

- i. The Planning Commission may employ or contract with planners, building inspectors, or other persons as it deems necessary to accomplish its assigned duties.

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- ii. The Commission shall have the right to receive, hold, and spend funds which it may legally receive from any and every source in and out of the Commonwealth of Kentucky, including the United States Government, for the purpose of carrying out the provisions of this zoning regulation.
- iii. The Commission shall have the power to issue subpoenas to compel witnesses to attend its meetings and give evidence bearing upon the questions before it.
- iv. The Chairman of the Planning Commission shall have the power to administer oaths to witnesses prior to their testifying before the Commission on any issue.
- v. The Planning Commission shall have the authority to establish and administer local subdivision regulations and review development plans, but final legislative approval for zoning map amendments shall remain vested in the respective city or county legislative body.

b. **Zoning Map and Text Amendments**

The Planning Commission shall have the power to hear and decide on applications for zoning map amendments. The Commission shall hold a formal public hearing on any proposed amendment to establish findings of fact. The Planning Commission may recommend a change of zone to the City Commission or Fiscal Court, if it, after a public hearing, determines that the new request meets all established criteria. The fee for a change of zone application shall be established by the Planning Commission.

c. **Subdivision Regulations and Plats**

The Planning Commission shall have the power to recommend adoption and amendments of land subdivision regulations to the City Commission and Fiscal Court for legislative approval and shall have the authority to enforce such regulations once enacted. The Commission shall review, approve, or disapprove all plats and development plans within the city and county footprint to ensure compliance with public infrastructure, road access, and environmental guidelines. Construction or division of land without Commission approval is strictly prohibited.

d. **Comprehensive Plan**

The Planning Commission shall have the power and duty to prepare, adopt, and maintain a comprehensive plan to guide development, infrastructure, and land use within the planning area. The Commission shall review and update this comprehensive plan at least once every five (5) years in accordance with KRS Chapter 100.

e. **Review of the Development Code**

Upon adoption of this Development Code, the Planning Commission shall periodically review the code text, subdivision provisions, and official zoning map(s). Such review shall occur on a regular schedule determined by the Commission, but not less than once every five (5) years following any update to the Comprehensive Plan. Upon completing its review, the Planning Commission shall prepare and recommend all appropriate text or map amendments to the City Commission or Fiscal Court for legislative action and final approval.

4. **Meeting Proceedings**

- a. The Planning Commission shall conduct meetings at the call of the Chairman, or at

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such regular intervals as established by its bylaws. Written or oral notice shall be given to all members of the Commission at least seven (7) days prior to any special meeting, containing the date, time, place, and the subject or subjects to be discussed.

- b. A simple majority of the total membership of the Planning Commission shall constitute a quorum. The Commission shall keep minutes and records of all proceedings, including regulations, transactions, findings, determinations, the number of votes for and against each question, and whether any member is absent or abstains from voting, all of which shall, immediately after adoption, be filed in the office of the Commission.
- c. A transcript of the minutes of the Planning Commission meeting shall be provided if requested by a party, at the expense of the requesting party, and the transcript shall constitute the record.

D. Architectural Review Board

1. Establishment

To establish a board to review development proposals and to provide more design controls in designated areas of the City of Frankfort with recognized historic and architectural significance. The actions of the board will aid in the prevention of intrusions of undesirable design characteristics, in the protection of desirable and unique physical features in older neighborhoods, in the protection and stabilization of property values and in the prevention of blighting caused by insensitive redevelopment. In addition, this Board is to expand the knowledge of the community on the historic background of Frankfort. This will be accomplished by an ongoing survey and inventory of historic sites within the City of Frankfort. From this information, sites and districts can receive recognition as local landmarks or National Register of Historic Places status. By accomplishing these goals, the City will demonstrate they meet the requirements of the federal and state Certified Local Government historic preservation program.

2. Membership

The Board of Architectural Review shall consist of:

- a. Seven (7) citizen members all whom are to have a demonstrated interest in historic preservation. Six (6) members shall be appointed by the mayor, with the approval of the Board of Commissioners. One (1) member shall be appointed by the Frankfort-Franklin County Planning Commission.
- b. The members shall serve with compensation in the same amount as that of the Board of Zoning Adjustments members.
- c. The seven (7) members to the Architectural Review Board shall consist of:
 - i. At least two (2) members that are preservation-related professional members (professions of architecture, history, archaeology, architectural history, planning or related disciplines);
 - ii. At least four (4) members that are any combination of property owners, renters, or business owners within of any one of three (Special-Capital District, Special-Historic District, or Special-Central Business District) local historic zone districts;
 - iii. The Planning Commission shall appoint one (1) of its members to the Architectural Review Board (ARB).
- d. All members of the Frankfort Architectural Review Board shall reside within the

corporate limits of the City of Frankfort, Kentucky.

- e. The Mayor, with the approval of the Board of Commissioners, shall seek qualifying members and make the appointment. The term of office of these members shall expire within three (3) years of the date of appointment. These terms are to be staggered. An appointment to fill a vacancy shall be for only the unexpired portion of the term. The term of office for the member representing the Planning Commission shall follow the same term length as when appointed on the Planning Commission.

3. Roles and Responsibilities

a. General Duties

The Architectural Review Board shall be responsible for accomplishing the following:

- i. Review all applications for new construction, including building additions and demolition in the Special-Central Business, Special-Capital and Special Historic zoning districts and advise the zoning administrator regarding the issuance of permits in such districts. The Architectural Review Board shall be guided by the standards and restrictions of the Comprehensive Plan and by the regulations governing the Special-Capital (S-CD), Special-Historic (S-HD), and Special-Central Business District (S-CBD) zoning districts, and by the applicable Design Guidelines for the specific zoning district as listed in [Section 10.07.E. Design Guidelines](#). In making their decision, the ARB shall consider the property's and the zoning districts historic and architectural significance, the key features and architectural integrity of the property, the visibility of the proposal from a public right-of-way, neighborhood character, and preservation goals for the City as outlined in the Comprehensive Plan and zoning regulations.
- ii. In accordance with [KRS 100.217](#), the Architectural Review Board shall act as a Board of Zoning Adjustment in hearing and deciding upon requests for Conditional Use Permits and Variances for property located within the Special – Historic, Special – Capital, and Special – Central Business zone districts.
- iii. Review all applications for honorary Local Landmark and Historic District designations and determine whether they meet the criteria for designation.
- iv. Review applications for National Register of Historic Places designation in accordance with federal and state requirements of the Certified Local Government program and provide recommendations of eligibility.
- v. Act in an advisory role to officials and departments of local government regarding the protection of local cultural resources.
- vi. Act as a liaison between individuals and groups interested in historic preservation and local government agencies.
- vii. Attend at least one informational/educational meeting per year, as approved by the Kentucky Heritage Council. The information gathered from such meetings to be used to further educate the general public on preservation issues and will meet CLG requirements.
- viii. Attend sufficient training annually to satisfy HB-55 requirements. [8 hours of qualifying planning training hours every two (2) years].

b. Reviewing Authority for the following:

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The Architectural Review Board shall be the reviewing authority for the following activities within the Special-Capital, Special-Central Business, and Special-Historic districts:

- i. New Construction;
- ii. Building Additions;
- iii. Exterior Remodeling;
- iv. Moving a structure into or out of the S-CD, S-CBD, or S-HD district(s); or
- v. Demolition within the S-CD, S-CBD, or S-HD district(s).

c. **Local Landmarks and Districts**

The Board shall consider all applications for local designation of individual landmarks and districts within the City of Frankfort. These shall be defined as sites or areas that are significant to the history and/or development of Frankfort. Such a designation is honorary and does not automatically grant the Board review powers for new construction, exterior remodeling and demolition. This designation will be considered for future rezoning requests.

d. **Nominations to the National Register of Historic Places**

As a designated Certified Local Government, the Board shall consider all nominations to the National Register within the City of Frankfort and provide a recommendation as to their eligibility. Once individual sites or districts are listed on the National Register, the Board will not automatically obtain review powers for new Construction, exterior remodeling and demolition. This designation will be considered for future rezoning requests.

e. **Building Permits**

- i. The Board shall not consider any interior alterations or remodeling in their review of permits unless the interior remodeling affects the exterior appearance of the structure.
- ii. Exterior remodeling as governed by this article shall be deemed to include any change in the design, material or exterior treatment of a structure.
- iii. The Planning and Community Development Department shall not issue building permits in the Special-Historic District, Special-Capital District, and Special-Central Business District for any exterior remodeling, new construction, building additions or moving of any structure unless and until:

- (A). The Architectural Review Board shall have reviewed the recommended approval of such plans and specifications of such structures as it deems necessary in the circumstances of the particular case, and
- (B). The Architectural Review Board shall have issued a Certificate of Appropriateness.
- (C). The Department of Planning and Community Development shall have issued a Determination of No Exterior Effect. The Determination of No Exterior Effect shall state the reasons for approval.

f. **Annual Reports**

At the end of each calendar year, the Board shall cause an annual report to be prepared. This report will review all requests reviewed by the Board and action

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taken. The report will be kept on file in the offices of the Department of Planning and Community Development and shall be available to the general public.

4. Meeting Proceedings

a. Bylaws

The Board shall cause a set of bylaws to be adopted. These bylaws shall be kept on file in the offices of the Department of Planning and Community Development and shall be available to the general public.

b. Notice of Meeting

- i. All meetings are to be advertised in the local newspaper at least seven (7) days prior to the meeting. This advertisement shall contain the date, time and location of the meeting, as well as the agenda.
- ii. In addition to the advertisement in the newspaper, all adjoining property owners to a request being considered by the Architectural Review Board shall be given written notice of the request and date, time and location of the meeting which will be held to consider the request. Records of ownership in the Property Valuation Administrator's office shall be used for determining the names of the adjacent and contiguous property owners.

c. Meetings

The Board shall meet on a monthly basis as specified in the bylaws. These meetings shall be held in the Council Chambers of the Frankfort Municipal Building or other public location as required. All meetings shall be open to the general public. The chairman of the Architectural Review Board may call special meetings or work sessions as necessary to conduct the business of the Architectural Review Board. These meetings will aid in obtaining prompt decisions for the applicant or will allow the board to work on Certified Local Government responsibilities.

13.04. PUBLIC HEARING NOTICE REQUIREMENTS

A. Applicability

Applications for Zoning Map and Text Amendments, Conditional Uses, Variances, Appeals, Development Plan Review, Certificate of Appropriateness, Planned Development Preliminary Development Plan and Zone Change, and Planned Development Final Development Plan review shall be subject to the Public Hearing Notice Requirements contained herein.

B. Timing of Submittal

Applications shall be submitted to the Planning & Zoning Director no less than 30 days prior to transmittal to the appropriate review and decision making body.

C. Publication

Notice of the public hearing shall be published one (1) time in a newspaper of general circulation in the City, or via an alternative authorized digital or electronic publication platform as permitted by the Kentucky Revised Statutes (KRS), not less than 14 days prior to the date of the hearing. The published notice shall state the time, place, and purpose of the hearing and identify where the application materials may be examined.

D. Mailed Notice

In addition to the published notice, written notice of the public hearing shall be sent by mail or personal delivery not less than 14 days prior to the date of the hearing to all adjoining property owners,

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provided such notice is required for the specific application type under applicable Kentucky Revised Statutes.

E. Notice Content

All notices required by these provisions shall include:

1. A description of the nature of the request;
2. Identification of the subject property; and
3. The date, time, and location of the public hearing.

F. Effect of Failure to Notify

Failure to provide notice to any individual or property owner as required in this Section shall not invalidate any action or recommendation of the review and decision making body, provided that notice has been given in substantial compliance with these provisions.

G. Representatives at the Hearing

At the hearing, any party may appear in person, by attorney or authorized agent.

13.05. COMMON REVIEW REQUIREMENTS

A. Authority to File Applications

Unless otherwise specified in this code, applications may be initiated by:

1. The owner(s) of the property which is subject of the application;
2. The owner's authorized agent; or
3. A representative of the City or County.

B. Fees

1. The City of Frankfort Board of Commissioners or the Franklin County Fiscal Court shall by ordinance establish a schedule of fees for all development applications and procedures pertaining to the administration and enforcement of these zoning regulations. Such fees shall be established after considering the recommendations of Planning & Zoning Director with respect to the actual administrative costs, both direct and indirect.
2. The schedule of fees shall be posted in the Planning & Community Development or Planning & Zoning Department and may be amended only by the Board of Commissioners or Fiscal Court.
3. Until all such appropriate fees, charges, and expenses have been paid in full, no action shall be taken on any application, appeal, or administrative procedure.

13.06. SPECIFIC PROCEDURES

A. Zoning Map and Text Amendments

The Zoning Map and Resolution Amendment process shall follow the specific procedure outlined in this section, which is also summarize on the following flow chart.

1. Initiation

Amendments to the Zoning District Map or the text of the Development Code may be initiated in one of the following ways:

a. Motion

By motion of the Frankfort-Franklin County Planning Commission

b. Resolution

By the passage of a resolution by the Frankfort City Commission or the Franklin County Fiscal Court.

c. **Application**

By the filing of a completed application by one or more owners or lessees of property within the area proposed to be changed.

2. **Application Requirements.**

All applications to amend the zoning ordinance or map shall be submitted to the Planning Director on forms provided by the Department and shall include the following:

a. **Completed Application**

An application form signed by the property owner(s) or an authorized agent, including contact information for the owner, developer, and any professional consultants (engineers, surveyors, architects).

b. **Fees**

A non-refundable filing fee as established by the Frankfort City Commission and Franklin County Fiscal Court.

c. **Property Description**

A metes and bounds legal description of the property and a survey completed not more than 12 months prior to submittal, unless otherwise authorized by the Planning Director.

d. **Notification Materials**

A map of the area including all lots and a corresponding list of the names and mailing addresses of all recorded owners within the area prescribed by KRS 100 for purposes of notification.

e. **Written Justification**

A detailed narrative statement addressing how the proposal meets the criteria established in KRS 100.213, including specific changes in the area and how the proposal agrees with the Comprehensive Plan.

f. **Required Drawings and Plats**

All application materials, including drawings and plats, shall be submitted in a digital form and format determined by the Planning Director. Unless otherwise exempted by the Planning Director as determined inapplicable, applications for a Zoning Map Amendment may include the following:

i. **Zone Change Plat**

- (A). Name of the project, north arrow, date of preparation, acreage, and existing zoning of the property and abutting lands.
- (B). Topography with contour intervals (typically two or five feet).
- (C). Location of existing buildings, structures, and easements.
- (D). Existing streets (both on and within 500 feet) including names,
- (E). right-of-way, and pavement widths.
- (F). Natural features, including the 100-year floodplain, streams, wetlands, and significant tree canopies.
- (G). Location of at least two Geodetic Information System monuments.

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ii. Proposed Development Layout

- (A). Proposed lot or development site lines and building placement/setback lines.
- (B). The size, location, and type of all proposed buildings and uses.
- (C). Density for residential uses and Floor Area Ratio (FAR) for non-residential uses.
- (D). Proposed open spaces, recreation areas, and tracts to be held in common ownership.

iii. Transportation and Access

- (A). Proposed street system including names, location, right-of-way widths, and approximate centerline elevations/grades.
- (B). Location of proposed driveways, sidewalks, pedestrian pathways, and parking layouts.

iv. Infrastructure and Utilities

- (A). Conceptual layout of proposed sanitary sewers, water mains, fire hydrants, and storm water management facilities.

g. Specific Procedural Application Requirements

i. Amendments with Variance or Conditional Use Requests

At the time of filing of an application for a zone map amendment, the applicant may elect to have any variance, or conditional use permits for the same development to be heard and finally decided by the Planning Commission, per [K.R.S. 100.203\(5\)](#), at the same public hearing set for the map amendment. The application requirements for such conditional use permits or variances shall be the same as if it were filed for a decision by the Board of Adjustment.

ii. Commission Initiated Zoning District Map Amendment Requests

Applications for amendment to the Zoning District Map which are initiated by the Planning Commission or applicable Fiscal Court or City Commission, may be exempt from the required traffic study and development plan found in [Section 13.05.B. Development Plan Applicability](#).

iii. Conceptual Development Plan Alternative

Preliminary subdivision plats submitted in conjunction with a proposed zoning map amendment for a residential use, shall be accepted in lieu of the conceptual development plan required in this Article. Regulations pertaining to said plats in the Subdivision and Development Plan Regulations shall be followed in addition to applicable regulations in this Ordinance.

3. Review Criteria

The Planning Commission and Legislative Body shall use the following criteria for a map amendment as per KRS 100.213:

a. Comprehensive Plan Consistency:

The proposed zoning is in agreement with the adopted comprehensive plan; or

b. Existing Zoning Designation Appropriateness

The original zoning classification was inappropriate or improper; or

c. **Unanticipated Changes:**

Major changes of an economic, physical, or social nature have occurred which were not anticipated in the plan and have substantially altered the basic character of the area.

4. **Approval Process**

The following is the chronological approval process for a zoning map or text amendment.

PROCESS CHART TO BE ADDED
Figure 13-1: Zoning Map and Text Amendments Illustrated Process

a. **Step 1: Pre-Application Conference**

Prior to formal application, the applicant and/or their representative shall hold a conference with Planning Commission staff to discuss the proposal's relationship to the Comprehensive Plan, Zoning Ordinance, and Subdivision Regulations. The applicant shall explain the proposed project, including use, density, and general layout.

b. **Step 2: Submit Completed Application**

The applicant shall file a formal application with the Planning Commission, including a written detailed explanation of how the proposal conforms to the Comprehensive Plan or why the original zoning was improper. All required drawings, plats, and fees must be submitted at this time.

c. **Step 3: Staff and Technical Review Team (TRT)**

Upon receipt of a complete application, staff shall review the documents and solicit comments from the Technical Review Team (TRT) and sister agencies, such as fire departments, public works, and utility companies. A staff report will be drafted incorporating these comments.

d. **Step 4: Public Notice**

Notice of the public hearing shall be provided in accordance with KRS Chapter 424. This includes legal notice published in the newspaper, sign(s) posted on the property at least 14 days prior to the hearing, and letters mailed to adjacent property owners.

e. **Step 5: Planning Commission Public Hearing**

The Planning Commission shall hold at least one public hearing. Staff will present the analysis, and the Commission will hear testimony from the applicant and the public.

f. **Step 6: Planning Commission Recommendation**

Within 90 days of the hearing, the Commission shall make a formal recommendation of approval or denial based on findings of fact. This recommendation, along with the staff report and minutes, is forwarded to the appropriate Legislative Body (City Commission or Fiscal Court).

g. **Step 7: Final Action by Legislative Body**

The Legislative Body shall take final action within 90 days of the Commission's recommendation. Action may be taken after two readings of an ordinance finalizing the amendment. If no action is taken within 90 days, the Planning Commission's recommendation becomes law automatically.

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B. Conditional Use

1. Application Requirements

- a. Applications for a Conditional Use Permit shall be filed with the Planning & Zoning Director on forms provided by the department. An application shall not be considered complete or scheduled for a public hearing before the Board of Zoning Adjustment until all required materials, signatures, and fees have been submitted.

- b. **Application Materials**

- i. **Application Form and Fee**

A fully executed application form signed by the property owner(s) or an authorized agent, accompanied by the required fee as established by the appropriate body.

- ii. **Deed**

A copy of the current recorded deed for the subject property, providing a complete legal description.

- iii. **Adjoining Property Owner List**

A list of the names and mailing addresses of all adjoining property owners (including those directly across any public or private street, easement, or right-of-way) as reflected in the records of the Franklin County Property Valuation Administrator (PVA), provided in accordance with KRS 100.237.

- iv. **Written Operational Narrative**

A detailed written statement describing the proposed conditional use, including but not limited to:

- (A). Hours and days of operation;
 - (B). Anticipated number of employees, clients, visitors, or students;
 - (C). Expected traffic generation, delivery schedules, and vehicle types (as applicable);
 - (D). A description of operational impacts, including potential noise, odor, glare, dust, vibration, or outdoor storage activities; and
 - (E). An explanation of how the proposed use satisfies each of the review criteria set forth in [B.2. Review Criteria](#) below.

- v. **Site Plan**

A drawn-to-scale site plan or schematic site drawing showing:

- (A). Property boundaries, dimensions, and total acreage;
 - (B). Location, dimensions, height, and footprint of all existing and proposed principal and accessory structures;
 - (C). Existing and proposed vehicular access points, driveways, internal circulation, off-street parking layout, and loading areas;
 - (D). Existing and proposed visual screening, buffering, fencing, and landscaping elements;
 - (E). Location, height, and type of all exterior lighting and proposed signage; and
 - (F). Location of public and private utilities, easements, and significant natural features (such as steep slopes, watercourses, or

floodplains).

c. **Additional Information**

- i. The Planning & Zoning Director or the Board of Zoning Adjustment may require the submittal of additional plans, technical studies, traffic impact analyses, environmental assessments, or operational details as deemed reasonably necessary to evaluate the proposed use against the review criteria of this Development Code.
- ii. Failure to provide requested supplemental information prior to established transmittal deadlines may result in a delay in scheduling or processing the application.

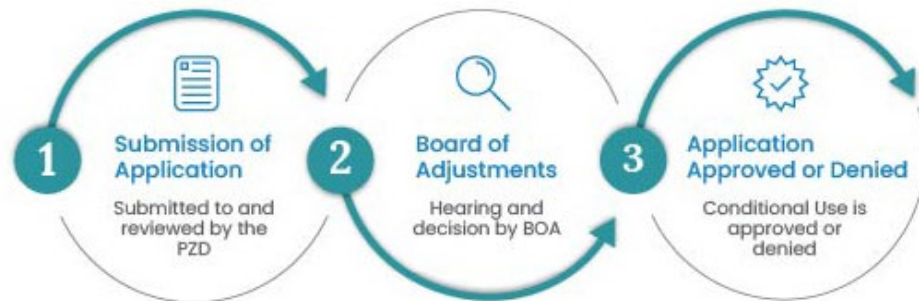
2. **Review Criteria**

Whenever any conditional use is considered by the Board of Zoning Adjustments, the Board shall determine that the following conditions have been met:

- a. Street or road capacity and condition is adequate to serve anticipated additional traffic.
- b. Public facilities required are, or will be, available.
- c. The conditional use proposed is in accordance with the intent of the zoning district within which it will be located.
- d. The proposed use will have no adverse effect upon the adjacent or surrounding property.
- e. Appropriate screening or buffering is provided in accordance with [Article 6. Landscaping and Buffering](#).
- f. Any sign requirement specified in [Article 7. Signage](#) will have been met and that no sign for any conditional use in any residential zoning district exceeds two (2) square feet.
- g. All use specific standards established in [Article 3. Use Regulations](#) as specified in [Table 3.03-1: Use Table](#).

3. **Approval Process**

The following is the approval process for a conditional use permit.



PZD = Planning and Zoning Director | BOA = Board of Adjustments

Figure 13-2: Conditional Use Illustration Process

a. **Step 1: Submit Completed Application**

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The property owner or representative shall submit a completed application and detailed site plan to the Zoning Inspector. The plan must address building setbacks, parking, landscaping, and signage.

b. **Step 2: Administrative Review and Referral**

The Zoning Inspector shall determine if the application is complete and forward it to the Board of Zoning Adjustment (BZA). If the request is filed concurrently with a map amendment, it may be referred to the Planning Commission for a combined hearing.

c. **Step 3: Public Hearing and Notice**

The BZA shall fix a reasonable time for a public hearing and provide notice as required by KRS Chapter 424.

d. **Step 4: Final Action**

The Board shall review the evidence against the established criteria and vote to approve, modify, or deny the permit. The Board may attach additional conditions or safeguards necessary to protect the public interest.

4. Approval

Once the Board of Adjustment has granted a conditional use permit and all of the conditions have been satisfied, then a building or occupancy permit may be issued, and the use will be treated as a permitted use subject to the following limitations:

- a. The permitted use applies only to the specific use approved.
- b. The use is permitted only at the location approved.
- c. The use is permitted only subject to any continuing conditions specified by the Board.

5. Non-Transferability

The permitted conditional use is not transferable with neglect to use, location or person.

6. Non-Exemption from Other Applicable Requirements

The granting of a conditional use permit does not exempt the applicant from complying with all the requirements of building, housing and other regulations.

7. Revocation

The Board shall have the power to revoke conditional use permits or variance for non-compliance with the condition thereof. Furthermore, the Board shall have the right of action to compel offending structures or uses removed at the cost of the violator and may have judgement in persona for such cost.

8. Expiration

In any cases where a conditional use permit has not been exercised within the time limit set by the Board, or within one year, if no specific time limit has been set, the granting of such conditional use permit shall be reconsidered by the Board of Adjustment at a public hearing with notice as required.

C. Variances

1. Application Requirements

Applications for a Variance shall be filed with the Planning & Zoning Director on forms provided by the department. An application shall not be considered complete or scheduled for a public hearing before the Board of Zoning Adjustment until all required materials, signatures, and fees have been submitted. Pursuant to KRS 100.241, variances shall be limited strictly to dimensional regulations (such as setbacks, height, lot width, lot coverage, or

buffer depths) and shall not be granted to permit a use not otherwise allowed in the underlying zoning district.

a. Application Materials

i. Application Form and Fee

A fully executed application form signed by the property owner(s) or an authorized agent (with written power of attorney or owner authorization affidavit), accompanied by the required fee as established by the legislative body.

ii. Deed

A copy of the current recorded deed for the subject property, providing a complete legal description.

iii. Adjoining Property Owners List

A certified list of the names and mailing addresses of all adjoining property owners (including those directly across any public or private street, easement, or right-of-way) as reflected in the records of the Franklin County Property Valuation Administrator (PVA), provided in accordance with KRS 100.243.

iv. Written Findings Narrative

A detailed written statement demonstrating how the requested variance satisfies each of the specific statutory findings set forth in Subsection 2 below, including:

- (A).** The exact nature and extent of the requested dimensional relief (e.g., requested setback vs. required setback);
- (B).** Specific physical, topographical, or geometric conditions unique to the parcel (e.g., severe slopes, irregular lot shape, natural features, or existing historic structures);
- (C).** How the strict application of the code creates an unnecessary hardship or deprives the owner of reasonable use of the property; and
- (D).** An explanation of why the circumstance is not self-created by current or past owners.

v. Boundary Survey / Dimensional Site Plan: A drawn-to-scale site plan, prepared by a licensed professional surveyor or engineer where determined necessary by staff, showing:

- (A).** Exact property line dimensions, total lot area, and baseline setback/yard requirements;
- (B).** Location, footprints, and dimensions of all existing and proposed structures;
- (C).** Exact location and footprint of the requested dimensional variance, explicitly dimensioning the proposed encroachments or deviations relative to property lines, rights-of-way, or required yards;
- (D).** Natural topographic contours, watercourses, floodplains, or rock outcroppings contributing to the physical hardship; and

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- (E). Location of all existing and proposed easements, driveways, off-street parking, and sight-distance triangles, if applicable.

b. Additional Information:

- i. The Planning & Zoning Director or the Board of Zoning Adjustment may require the submittal of additional site cross-sections, elevation drawings, grading plans, floodplain calculations, or environmental studies as deemed reasonably necessary to evaluate the requested variance against the review criteria of this Development Code and KRS Chapter 100.
- ii. Failure to provide requested supplemental information prior to established transmittal deadlines may result in a delay in scheduling or processing the application.

2. Review Criteria

Before any variance is granted, the Board must find all of the following which shall be recorded along with any imposed conditions or restrictions in minutes and records and issued in written form to the applicant to constitute proof of the dimensional variance:

- a. The specific conditions in detail which are unique to the applicant's land and do not exist on other land in the same zone.
- b. The manner in which the strict application of the provisions of this zoning regulation would deprive the applicant of a reasonable use of the land in the manner equivalent to the use permitted over landowners in the same zone.
- c. That the unique conditions and circumstances are not the result of actions of the applicant taken subsequent to the adoption or amendment of this zoning regulation.
- d. Reasons that the variance will preserve, not harm the public safety and welfare, and will not alter the essential character of the neighborhood and, if within a Floodplain Zone would not increase the flood heights.
- e. For dimensional variances of lowest floor elevations (including basement) from the regulatory flood elevation in a Flood Fringe District only: The property on which the structure is to be located is an isolated lot of one-half acre or less, contiguous to and surrounded by existing structures constructed below such required first floor elevation or a structure listed on the National Register of Historic Places or a State Inventory of Historic Places is to be restored or reconstructed.

3. Approval Process

The following is the approval process for a dimensional variance.

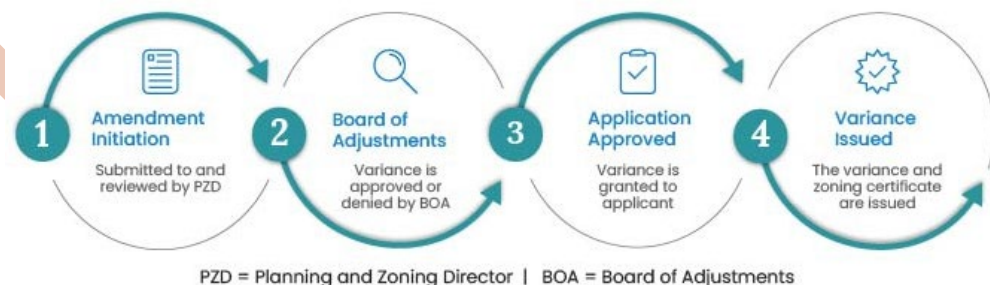


Figure 13-3: Variance Illustrated Process

a. **Step 1: Submit Completed Application**

The applicant shall submit an application to the Zoning Inspector detailing the requested variance and providing a site plan showing the practical difficulty encountered.

b. **Step 2: Public Hearing and Notice**

A public hearing is conducted following notice per KRS Chapter 424. If the variance is part of a subdivision application, the applicant may elect to have it heard by the Planning Commission.

c. **Step 3: Final Action**

The BZA shall issue a written decision supported by findings of fact regarding the uniqueness of the property and whether the variance will harm the public welfare.

4. Appeals

Any person or entity claiming to be injuriously affected or aggrieved by a final action of the Board of Adjustment regarding a variance may appeal the decision to the Franklin County Circuit Court. Pursuant to KRS 100.347 and local code, this appeal must be filed within **thirty (30) days** after the final action of the Board.

5. Non-Transferability

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

6. Revocation

The Board of Zoning Adjustments has the specific power to revoke a dimensional variance. Revocation may occur due to non-compliance with any conditions or restrictions imposed by the Board at the time the variance was granted.

7. Expiration

If the construction or use for which the variance was granted does not begin within one (1) year of approval (or a specific deadline set by the Board), the variance expires and requires a new application.

D. Appeals

1. Application Requirements

The appeal must be taken within thirty (30) days of the date of the official action, order, or decision made by the administrative official (such as the Building Inspector or Zoning Officer). An Application for an Appeal shall include the following:

a. **Notice of Appeal**

A written notice of appeal must be filed with both the administrative officer from whom the appeal is taken and with the Board of Zoning Adjustments (BZA).

b. **Statement of Grounds**

The application must explicitly specify the grounds for the appeal, detailing the alleged error in the order, requirement, or decision.

c. **Fees**

The application must be accompanied by the appropriate non-refundable fee as established by the Planning Commission.

2. Review Criteria

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a. **Administrative Error**

The Board's primary review criterion is whether there is a documented error in an order, requirement, decision, grant, or refusal made by the administrative official in the enforcement of the zoning regulations.

b. **Interpretation Consistency**

The Board reviews the action to ensure the official's decision is consistent with the spirit and purpose of the code and the minimum requirements necessary to promote public health, safety, morals, and general welfare.

c. **Record of Fact**

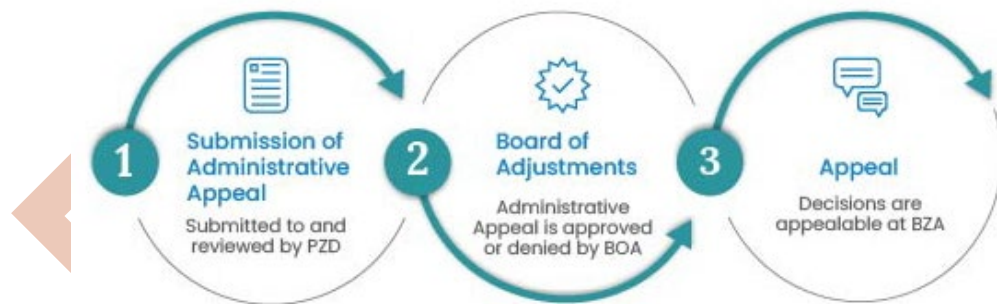
The review is restricted to the record upon which the action appealed from was taken, which the administrative officer must transmit to the Board upon the filing of the appeal.

d. **Historic Districts**

If the appeal involves property in a Special Historic, Special Capitol, or Central Business district, the Architectural Review Board (ARB) acts as the Board of Zoning Adjustment and reviews the appeal based on district-specific design guidelines and historic preservation standards.

3. **Approval Process**

The following is the approval process for an appeal of an administrative official's decision.



PZD = Planning and Zoning Director | BOA = Board of Adjustments

Figure 13-4: Appeals Illustrated Process

a. **Step 1: Filing the Appeal**

The appeal must be filed within 30 days after the applicant receives notice of the official action. A notice of appeal specifying the grounds must be filed with both the officer from whom the appeal is taken and the BZA.

b. **Step 2: Transmission of Record**

The official from whom the appeal is taken shall immediately transmit all papers constituting the record of the action to the BZA.

c. **Step 3: Public Hearing**

The Board shall fix a reasonable time for the hearing and give public notice. Any interested party may appear and be heard.

d. **Step 4: Final Action**

The BZA shall take action on the appeal within 60 days. The Board may reverse, affirm, or modify the original order based on competent evidence.

E. Development Plan**1. Applicability**

Any project, which meets any of the following criteria, shall require review of a development plan by the Planning Commission.

- a. Projects that substantially amend a preliminary or final development plan that had previously been reviewed and approved by the Planning Commission.
- b. Projects that were previously conditioned by any City of Frankfort Board or Commission to undergo a review by the Planning Commission.

2. Application Requirements

- a. Development Plans shall be submitted in accordance with the adopted subdivision and site plan regulations.
- b. The conceptual development plan shall contain the following:
 - i. Survey of the property with written legal description. The survey shall be completed not more than 12 months prior to the submittal of the zone map amendment, unless authorized by the Planning Director; and
 - ii. A site plan drawn to scale showing the proposed building size and location; use; parking layout; setbacks; landscaping buffers; and driveway connections; and
 - iii. Any variance, conditional use, or waiver requests shall also be noted and shown on the plan.
- c. The filing of a concurrent application for any Zoning District Map Amendment shall constitute an agreement by the owner and applicant, their heirs, successors and assigns that if the zoning district map amendment is enacted by the legislative body having zoning authority over the property in question, any building permits for improvement of any such property shall be issued only when the building permit application conforms to the approved development plan and said plan conforms to these regulations and the subdivision and development plan regulations and the following:
 - i. Applicants concurrently requesting a zone map amendment to any Planned Unit Development District, Commercial District or Industrial District shall be required to submit a traffic impact study and a corresponding conceptual Development Plan with the zone change application.

3. Review Criteria

The Planning Commission shall consider, but not be limited to, the following factors in review of a Development Plan:

- a. The conservation of natural resources on the property proposed for development, including: trees and other living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views and historic sites;
- b. The provisions for safe and efficient vehicular and pedestrian transportation both within the development and community;
- c. The provision of sufficient open space (scenic and recreational) to meet the needs of the proposed development;
- d. The provision of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community;

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- e. The compatibility of the overall site design (location of buildings, parking lots, screening, landscaping, and all provisions within article 11) and land use or uses with the existing and projected future development of the area;
- f. Conformance of the development plan with the Comprehensive Plan, Zoning District Regulations, and the Subdivision and Development Plan Regulations.

4. Approval Process

The following is the approval process for a development plan review.

PROCESS CHART TO BE ADDED
Figure 13-5: Development Plan Illustrated Process

a. **Step 1: Optional Pre-Application Review**

The applicant may meet with the Planning Director to discuss boundaries, building prototypes, and drainage patterns prior to formal submittal.

b. **Step 2: Submit Application**

A formal application and conceptual development plan, including a certified survey and site plan, shall be filed with the Planning Director.

c. **Step 3: Staff and TRT Review**

Staff shall review the plan for compliance and forward it to the TRT for technical comments regarding utilities, fire safety, and engineering.

d. **Step 4: Final Action**

The Planning Director or an authorized staff member may take final action if the plan complies with all regulations and TRT comments. Items not appropriate for administrative approval or those involving a concurrent map amendment are referred to the Planning Commission for action.

F. Zoning District Boundary Determination

1. **Application Requirements**

2. **Review Criteria**

a. **Map Interpretation Standards**

The Board of Adjustments shall review all zoning district boundary interpretation requests based upon the guidance established by [Section 2.04.B \(Interpretation of District Boundaries\)](#).

b. **Evidence and Physical Conditions**

- i. Record plats, survey deeds, and rights-of-way records.
- ii. Physical conditions on the ground, including established lot lines, traveled ways, and monumentation.
- iii. GIS parcel data, aerial imagery, and engineering or survey records.

c. **Intent and Purpose Standard**

Where uncertainty remains after application of subsections [2.a](#) and [2.b \(above\)](#), the Board of Adjustment shall interpret the zoning district boundary in such a manner as to carry out the intent and purpose of these zoning regulations, ensure consistent application of district regulations, and prevent the extension of a zoning district in a manner contrary to legislative intent.

d. **Minimum Necessary Adjustment**

Any interpretation affecting a lot or parcel shall represent that minimum adjustment necessary to resolve the boundary dispute and shall not expand or contract a zoning district beyond what is supported by the Official Zoning Map and evidence presented.

3. Approval Process

a. Initial Determination by Planning & Zoning Director

- i. Where uncertainty arises regarding the location of a zoning district boundary as shown on the Official Zoning Map, the Planning & Zoning Director shall make an initial administrative interpretation.
- ii. The interpretation shall be based on the map depiction, recorded plats, GIS parcel data, applicable map interpretation rules (as established by [Section 2.04.B \(Interpretations of District Boundaries\)](#)), and physical conditions existing on site.
- iii. The Planning & Zoning Director's written interpretation shall be issued within 30 days of a complete request.

b. Appeal of Determination

- i. Any person aggrieved by the Planning & Zoning Director's interpretation may appeal to the Board of Adjustments within 30 days of the written decision.
- ii. The Board of Adjustments shall conduct a public hearing after providing notice as established by [Section 13.04 \(Public Hearing Notice Requirements\)](#).
- iii. The BZA may affirm, modify, or overturn the administrative interpretation.

c. Direct Referral to Board of Adjustments

In the event that the Planning & Zoning Director determines that the location of the zoning district boundary is undefined, uncertain, or cannot be resolved by the criteria established by [Section 2.04.B \(Interpretations of District Boundaries\)](#), the matter may be referred directly to the Board of Adjustment for interpretation following the same notice and hearing procedures established above.

d. Record and Findings

The Board of Adjustment shall issue a written decision establishing findings of fact, reference to applicable standards, and the basis for the interpretation. The decision shall be entered into the public record and shall constitute the official determination of the zoning district boundary unless overturned by a court of competent jurisdiction.

G. Local Designations

1. Applicability

- a. The Architectural Review Board shall hear applications for honorary designations for local landmarks and districts with historic or cultural significance to the community. These honorary designations are for landmarks and districts that are not currently zoned historic and are not currently on the National Register of Historic Places.
- b. Such a designation is honorary and does not automatically grant the Board review powers for new construction, exterior remodeling and demolition. This designation will be considered for future rezoning requests.

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2. Application Requirements

The applicant shall submit a report to the board demonstrating the proposed landmark or district's significance and how it meets the eligibility criteria. The report should be completed by a historian, preservation professional, or other professionally qualified individual and should include representative photographs of the property and any other documentation that helps to demonstrate the property's significance.

3. Review Criteria

A landmark or historic district shall qualify for designation when it meets one or more of the following criteria that shall be discussed in a report to the Board:

- a. Its value as a reminder of the cultural or archeological heritage of the City, state, or nation;
- b. Its location as a site of significant local state, or national event;
- c. Its identification with a person or persons who significantly contributed to the development of the City, state, or nation;
- d. Its identification as the work of a master builder, designer, or architect whose individual work has influenced the development of the City, state, or nation;
- e. Its value as a building or buildings that are recognized for the quality of their architecture and that retain sufficient elements showing their architectural significance;
- f. Its distinguishing characteristics of an architectural style valuable for the study of a period, method of construction, or use of materials;
- g. Its character as a geographically definable area possessing a significant concentration of buildings, structures, or sites united by past events or aesthetically by plan or physical development;
- h. Its character as an established and geographically definable residential neighborhood, united by culture, architecture styles, physical plan, or development.

4. Approval Process

PROCESS CHART TO BE ADDED

Figure 13-6: Local Designations Illustrated Process

a. Initiation and Submittal

- i. Whenever an application for a local designation is received, the Board shall be notified.
- ii. The Board shall promptly notify the applicant of the date, time and place of a public hearing within 60 days of the filing of such application.
- iii. The board shall require the submission of a completed nomination form and representative photographs of the property (electronic jpeg format is acceptable), as well as any other documentation the Board may deem necessary.

b. Review

- i. The Board shall vote to approve or disapprove the application within 90 days after the application has been filed.
- ii. Unless a mutual agreement exists between the Board and the applicant, the application shall be deemed disapproved if not acted on in 90 days.

c. Approval

If the Board approves the honorary designation of a landmark or district, the applicant will be notified by letter of the action.

d. **Disapproval**

If the Board disapproves the application for a site or district, it shall promptly transmit a written report stating the reasons for such action to the applicant.

5. **Appeals**

In the event the Board disapproves an application for designation, the applicant may appeal the decision to the City Commission.

H. **Certificate of Appropriateness**

1. **Applicability**

Whenever application for a building permit is made for new construction, building addition, or the demolition of any structure, or the moving of a structure in a designated Special-Historic District, Special-Capital District, or Special-Central Business District, the Architectural Review Board shall be notified of such application, and the Board or its designee shall promptly notify the applicant of the date, time and place of a public hearing and shall hold the hearing within sixty (60) days of the filing of such a complete application.

2. **Application Requirements**

- a. An application is determined as complete upon sufficient submittal of all required documentation required within this section, the application, and associated fees.
- b. The Board, or its designated representative, where it deems necessary in order to review a particular application, may require the submission of any or all of the following items:
 - i. Architectural plans, plot plans, landscape plans, plans for off street parking, elevations of all portions of proposed structures facing streets, and elevation photographs or perspective drawings showing proposed structures and all such existing structures as are substantially related to it visually or by function, traffic generation or other influencing characteristics. Additional submissions may be required for an application to demolish a principal structure.

3. **Review Criteria**

- a. In making their decision, the Architectural Review Board shall consider the following:
 - i. The subject property's historic and architectural significance individually as well as its contribution to the district;
 - ii. The architectural integrity of the property;
 - iii. The visibility of the proposal from a public right-of-way;
 - iv. Neighborhood character in the vicinity of the property;
 - v. Preservation goals as outlined in the zoning regulations and Comprehensive Plan; and
 - vi. The design guidelines specific to each of the special historic districts (S-HD, S-CBD, and S-CD).
- b. Where an applicant proposes an exterior alteration to a property in the S-HD, S-CBD, or S-CD that does not meet the applicable guidelines based on an economic hardship, the ARB shall make a finding determining at least one of the following criteria (i. or ii.) is met:

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- i. The applicant has presented, and the board finds compelling, documentation that 1) the alteration is the minimum or maximum work, as appropriate, required for the continued viability of the resource, **and** 2) the costs of repair or replacement that meets the minimum standard of the applicable design guidelines, as prepared by an expert in historic preservation and/or restoration trades, exceeds the cost of the proposed work by 75%; or
- ii. The applicant has presented, and the board finds compelling, documentation from experts in historic preservation, restoration trades, and appraisals which states the costs of completing the work to the minimum standards of the applicable design guidelines exceeds the projected market value of the property, including the use of any available financial incentives for historic preservation.
- iii. Evidence submitted as part of a review to determine economic hardship may include, but is not limited to, mortgage balance and debt service for the prior two years; appraisals; assessed value; real estate taxes; form of ownership; attempts to sell (listings or contracts; reasonableness of price or rent; economically feasible alternatives to use the property; structural reports; estimated market value; evidence that the hardship was not self-created; incentives available for rehabilitation; financial analysis by an independent third party; proposed plans for the property; estimated mothballing costs.

4. Approval Process

PROCESS CHART TO BE ADDED

Figure 13-7: Development Plan Illustrated Process

a. Initiation and Submittal

The applicant shall submit their completed application to the Historic Preservation Officer, including a description of the work proposed, and other documents listed in 13.H.2b as required.

b. Review

The Architectural Review Board will review the materials in the application along with the criteria for granting a Certificate of Appropriateness in Section 13.06.H.3.a.

c. Approval

- i. The Board shall vote to approve or disapprove the application within ninety (90) days after the hearing is held.
- ii. Unless a mutual agreement between the Architectural Review Board and the applicant has been made for an extension of said time, the application shall be deemed to be disapproved if not acted upon within ninety (90) days.
- iii. If the Architectural Review Board approved the application for a building permit or demolition permit, it shall promptly cause a Certificate of Appropriateness to be issued to the applicant and shall at the same time transmit a copy of said Certificate to the Building Inspector.

- iv. Upon receipt of the Certificate of Appropriateness or Determination of No Exterior Effect, the Building Inspector shall issue the building permit or demolition permit if it meets all other requirements of law.

d. **Disapproval**

If an application has been denied by the Architectural Review Board, an applicant shall not be allowed to submit an application for the same work proposed for a period of one (1) calendar year.

5. **Expiration**

- a. The Certificate of Appropriateness shall be valid for two (2) year from the date of approval by the Architectural Review Board. If, after that time frame, the proposed work has not been completed, the Certificate of Appropriateness shall be null and void,.
- b. If the Certificate of appropriateness has been voided, the Office of Planning and Community Development shall notify the applicant of that fact and indicate that a new application must be submitted and approved by the Architectural Review Board prior to any work commencing on the project.

6. **Appeals**

Any person or entity claiming to be injuriously affected or aggrieved by a final action of the Architectural Review Board (ARB) regarding a Certificate of Appropriateness may appeal the decision to the Franklin County Circuit Court. Pursuant to KRS 100.347, the appeal must be filed within thirty (30) days after the final action of the Board.

I. **Determination of No Exterior Effect**

1. **Applicability**

- a. A Determination of No Exterior Effect may be issued by the Department of Planning and Community Development for all work, including exterior remodeling  property, proposed within the Special-Capital, Special-Historic, and Special-Central Business zone districts, except for new construction, building additions, moving a structure, or demolition of a principal or contributing building or accessory building.
- b. **Special Additional Situations for a Determination of No Exterior Effect.**
 - i. The proposal is for a restoration of an original feature or material that previously existed on the building, and the applicant has archival documentation in the form of photographs as evidence to support the change;
 - ii. The proposal does not involve new construction or construction of new landscape features that have the potential to impact the historic significance and integrity of the district as a whole and has been approved for a federal or state historic preservation tax credit, provided that the applicant submits documentation in the form of an official Part 2 approval, including any conditions, from the National Park Service and/or State Historic Preservation Office when applying for a permit.
 - iii. The proposal involves a demolition of a secondary or accessory building that is evaluated as noncontributing to the special zoning district.

2. **Review Criteria**

- a. The Historic Preservation Officer shall use the Design Guidelines contained within

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each separate zone district for a Determination of No Exterior Effect.

- b. In the event that the Department of Planning and Community Development finds that an application does not meet the design guidelines required for a Determination of No Exterior Effect, the application shall be forwarded to the Architectural Review Board for its consideration and recommendations.

J. Demolition Hits in the S-CD, S-CBD, and S-HD

1. Applicability

- a. No permit for the demolition of a principal structure or a contributing secondary structure in a Special-Historic District, Special-Capital District or the Special-Central Business District shall be issued by the Planning and Community Development Department unless:
- b. Ordered by a Court; or
- c. The applicant has received a Certificate of Appropriateness from the Architectural Review Board.

2. Application Requirements

- a. Applications for demolition must be filed at least 45 days prior to the regularly scheduled meeting. In addition to the application, the following items must be included with the application materials:
 - i. An architect's or architectural historian's report on the architectural and historical importance of the building, including its contribution to the significance, history and character of the district.
 - ii. An architect's or structural engineer's report on the physical and structural integrity of the building.
 - iii. A detailed estimate of the cost to rehabilitate the building, prepared by an architect or professional estimator of construction costs, including the use of any available historic preservation financial incentives, such as the State Historic Preservation Tax Credit.
 - iv. A report on the existing and/or potential usefulness of the building (including potential economic return) prepared by an experienced real estate professional.
 - v. A report containing the following financial information about the property:
 - (A). The amount paid in any sales of the property in the previous five (5) years;
 - (B). The current assessed value of the land and improvements; the annual debt service, if any;
 - (C). The value according to appraisals obtained within the previous two (2) years; the annual operating and maintenance expenses for the previous two (2) years; and
 - (D). The annual rental income received in the previous two (2) years.
- b. The Architectural Review Board chairman, may, at their discretion, waive the submission of some or all of the items listed in 2.a.i-v above when the application is for demolition of a contributing accessory building.
- c. Accessory or secondary buildings that are evaluated as noncontributing to the district may be demolished per I.1.b.iii

3. Review Criteria

In addition to the documentation submitted with the application, all requests for demolition shall be reviewed using the design guidelines specific to S-HD, S-CBD, and S-CD

4. Approval Process

a. Initiation and Submittal

Applications for demolition must be filed with the Planning and Community Development Department at least 45 days prior to a regularly scheduled Architectural Review Board (ARB) meeting. The application must include all required documentation, including architectural/historical reports, structural integrity assessments, rehabilitation estimates, and detailed property financial data

b. Review Proceedings

- i. All requests for demolition are reviewed by the ARB using the specific design guidelines established for the **S-HD**, **S-CBD**, and **S-CD** districts.
- ii. If the request is found to be appropriate, the ARB issues a **Certificate of Appropriateness**. The Board must state its specific reasons for approval, establishing exactly how the proposed demolition aligns with the guidelines for the respective zoning district.

5. Expiration

Once issued, the Certificate of Appropriateness is valid for one (1) year. If demolition work has not been initiated within this timeframe, the approval becomes null and void.

6. Re-Submittal Timing

In the event a demolition application is denied, the applicant is prohibited from submitting a new application for the same work for a period of one (1) calendar year.

7. Appeals

Decisions made by the ARB regarding these permits may be appealed to the Franklin County Circuit Court within 30 days of the final action.

13.07. WAIVERS AND MODIFICATION

Within the general limitations of the Comprehensive Plan, the spirit and intent of the regulations and the public interest, safety and welfare, the Planning Commission may adjust or modify these regulations only when:

- A.** The request for modifications has been reviewed by the Technical Review Team (when deemed necessary by the Planning Official) and their comments have been forwarded to the Planning Commission for review; and
- B.** The waiver or modification is consistent with the stated purpose and intent of these regulations and with the adopted Comprehensive Plan; and
- C.** The modification would not have a significantly adverse impact on the public interest; and
- D.** The modification would not overburden or otherwise adversely impact public facilities.
- E.** The applicant has clearly shown the existence of one or more of the following circumstances:
 - 1. Superior Alternatives**
Where the proposed waiver/modification will provide an alternative that will achieve the purposes of the requirement through clearly superior design, efficiency, or performance.
 - 2. Protection of Significant Features**

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Where the waiver/modification is necessary to preserve or enhance significant existing environmental or cultural features, such as trees, scenic areas, historic sites or public facilities, related to the development site.

3. Deprivation of Reasonable Use

Where the strict application of the requirement would effectively deprive the applicant of all reasonable use of the land, due to its unusual size, shape, topography, natural conditions, or location; provided:

- a. Such effect upon the owner is not outweighed by a valid public purpose in imposing the requirement in a specific case, and
- b. The unusual conditions involved are not personal to, nor the result of actions of the developer or property owner, which occurred after the effective date of these regulations.

4. Technical Impracticability

Where strict application of the requirement would be technically impractical in terms of engineering, design, or construction practices, due to the unusual size, shape, topography, natural conditions, or location of the land or due to improved efficiency, performance, safety, or construction practices which will be realized by deferral of the installation of required improvements; provided:

- a. The development will provide an alternative adequate design to achieve the purposes of the requirement, including performance guarantee for the current construction cost, adjusted for inflation, of any required improvements which may be deferred; and
- b. Any unusual conditions creating the impracticability are not personal to, nor the result of the actions of the developer or property owner that occurred after the effective date of these regulations.

5. No Relationship to the Development or Its Impacts

- a. Where all or any part of the requirement has no relationship to the needs of the development, or to the impact of the development on the public facilities, land use, traffic, public safety or environment of the neighborhood and the general community, due to the location, scale, or type of development involved; provided that any specific modification requirements set forth in these regulations are met.
- b. The Planning Commission may make reasonable conditions and additional or alternative requirements, including but not limited to those relating to the provision of adequate security to assure compliance, the dedication or reservation of land, or the provision of funds in lieu of installation of improvements or dedication or reservation of land, may be imposed in connection with the approval of any waiver/modification of any requirements under this zoning ordinance.

13.08. NONCONFORMING USES AND NONCOMPLYING STRUCTURES

A. Non-Conforming Uses

Non-conforming uses are any lawful use, whether of a building, structure or tract of land existing at the time of the enactment of this chapter which does not conform to one or more of the provisions of this chapter.

1. Continuance of Non-Conforming Uses

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A non-conforming use existing lawfully at the time of enactment of this chapter may be continued, except as restricted in this chapter.

- a. Repairs, alterations.
 - i. Nothing in this chapter shall be interpreted to prevent normal or maintenance of any building occupied by a non- conforming use.
 - ii. Alterations may be made in such a building when necessary in the interest of public health or safety or appearance.
- b. Extension, enlargement or relocation.
- c. A non-conforming use shall not be extended, enlarged or placed on a different portion of the lot occupied by such use on date of enactment of the ordinance.

2. Changes to Other Uses

- a. A non-conforming use may be changed to any conforming use.
- b. A non-conforming use may be changed to a non-conforming use; provided, the new use is less non-conforming than the original use.
 - i. Any change to a less non-conforming use shall be interpreted to be a change to any use which is first listed in the use table at least one column left of the column in which the non-conforming use is first listed.
 - ii. Any change to another, less non-conforming use must be approved by the Board of Zoning Adjustments.
 - iii. In considering changes to a lesser non-conforming use, the Board shall consider the impact upon the surrounding area, the site design of the proposed use and the rehabilitation of the structure.

3. Cessation

If, for a continuous period of six (6) months, a non-conforming use has ceased or the furnishings of a non-conforming use are removed and not replaced, the building or land shall, thereafter, be used only for a conforming use or less non-conforming use as provided in [Section 13.08.A.2. Changes to Other Uses](#) of these provisions, unless an extension has been granted by the Board of Zoning Adjustments.

4. District Changes

Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district of a different classification, the foregoing provisions shall also apply to any non- conforming uses existing therein.

5. Amortization of Land and Structures

The non-conforming use of land where no building is involved shall be discontinued within five years from the date of adoption of these regulations, except where farming is the primary use lawfully existing at the time this subchapter became effective.

B. Non-Conforming Structures

Any structure which does not comply with one or more of the applicable district height, bulk and density regulations or off- street parking requirements either on date of enactment of this chapter or as a result of any subsequent amendments to this subchapter shall be subject to the provisions of this subchapter.

1. Continuance of Non-Complying Structures.

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The use of a non-complying structure may be continued subject to provisions of this subchapter.

a. **Maintenance, Repairs.**

Nothing in this subchapter shall be interpreted to prevent normal maintenance and repair when necessary in the interest of public health, safety or appearance.

b. **Enlargement.**

A non-complying structure shall not be enlarged in any way which would either:

- i. Create a new non-compliance; or
- ii. Increase the degree of non-compliance with respect to bulk regulations and off-street parking requirements.

c. **Ground and Pole Signs (Freestanding Signs):**

Freestanding signs that are non-conforming due to the size, height, or location shall adhere to subsections 1.a. and 1.b. above, with the following exception:

- i. The cabinet frame that holds the sign panel is not considered part of the structural integrity of the sign and therefore, may be removed and/or replaced with a new cabinet provided it does not increase the applicable non-conforming element of height, size or location of the sign. These cabinets may be altered to reduce the non-conformity by reducing the size, changing the shape, or may be identical to the previous cabinet.

d. **Replacing Damage Buildings.**

Any non-complying building or structure damaged more than 60% of its then fair market value (as determined by an insurance company's appraiser) by fire, collapse, explosion or acts of God shall not be restored or reconstructed in any non-complying form; except that, such building may be rebuilt but not to exceed its original non-conformity. If damage is less than 60%, it may be reconstructed as before; provided that, a building permit is issued within six months.

e. **Exceptions**

This section does not apply to a sign cabinet/frame for freestanding signs, see [13.08.B.1.c. Ground and Pole Signs \(Freestanding Signs\)](#) above

C. Non-Conforming Lots of Record

1. Substandard Lots

In any residential zone or district, permitted uses may be erected or enlarged on any single lot of record at the date of adoption of these zoning regulations even though such lot fails to meet the requirements for area or frontage or both.

- a. Such lot must be in separate ownership and not of continuous frontage with other lots of the same ownership; and
- b. Dimensional requirements of the lot, other than those applying to area and/or frontage shall conform to the regulations of the zone or district in which such lot is located, with the following exception:
 - i. Any such lot may have reduced side yard requirements as follows:

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Table 13.08-1: Non-Conforming Lots Allowable Setback Reduction	
BASE DISTRICT SIDE YARD SETBACK MINIMUM OF...	MAY BE REDUCED TO A MINIMUM OF...
6'	4'
8'	5'
10'	6'

- ii. In any non-residential district, the side yard setback may be reduced to half of the minimum side yard setback requirement.

2. Combination of Lots

In any residential zone or district permitted uses may be erected or enlarged on any single lot of record at the date of adoption or amendment of these zoning regulations and do not meet the requirements established for lot width or area, the land involved shall be considered to be an undivided parcel for the purposes of this code.

3. Subdivision of Lots

No subdivision of such parcel shall be made which creates a lot with width or area below the requirements stated in this chapter.

D. Conditional Uses Not Non-Conforming Uses

Any existing principal permitted use at the date of the adoption or amendment of this chapter, which would, thereafter, require a conditional use permit shall without further action be deemed a conforming use, but any enlargement or replacement of such use in buildings or on land, shall require a conditional use permit as provided.

13.09. ADMINISTRATION AND ENFORCEMENT

A. Administration and Enforcement

The Planning Director and/or Zoning Enforcement Officer shall administer and enforce this Development Code except as otherwise provided herein.

1. The Planning Director and/or the Zoning Officer shall promptly investigate complaints of violations and report their findings and actions to complainants. They shall use best efforts to prevent violations and to detect and secure the correction of violations.
2. If they shall find any of the provisions of this Development Code are being violated, they shall notify in writing, the person responsible for such violations indicating the nature of the violation and ordering the action necessary to correct it.
3. The following orders may be issued:
 - a. Discontinuance of Illegal use of land, buildings, or structures;
 - b. Removal of illegal buildings or structures or of illegal additions, alterations, or structural changes;
 - c. Discontinuance of any illegal work being done.
4. They shall take or cause to be taken any other action authorized by this Article to ensure compliance with, and prevent violations of, the provisions thereof, including the assessment of civil penalties and fines as prescribed by Section 13.09.G. Penalty.

B. Building Permit Required

1. General

- a. No building for human habitation shall be erected, moved, added to or structurally altered, nor shall any of said activities be commenced without a building permit therefor issued by the Building Inspector having properly vested authority under the

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Kentucky Building Code and this chapter. No building permit shall be issued by him or her, except in conformity with the provisions of this chapter unless he or she has a written order from the Board of Zoning Adjustments in the form of an administrative review decision, a conditional use permit or dimensional variance.

- b. In other such cases as building activities will commence which do not fall under the jurisdiction of the Kentucky Building Code, the Planning Director and/or Zoning Enforcement Officer of the county may require zoning permits or other instruments to ensure the building activities compliance with the entirety of this chapter.

2. Application for Building Permits

All applications for building permits shall be accompanied by plans in duplicate, drawn to scale and showing:

- a. The actual shape and dimensions of the lot to be built upon;
- b. The exact size and location on the lot of any existing principle buildings and accessory buildings;
- c. The lines within which the proposed building or structure is to be erected or altered;
- d. The proposed height;
- e. The existing and intended use of each building or part of building and the number of families or housekeeping units the building is designed to accommodate; and
- f. Such other information with regard to the lot and neighboring lots as may be necessary to determine and provide for the enforcement of this Zoning Regulation.

3. Copy of Plans

One copy of the plans shall be returned to the applicant by the Building Inspector, after he or she shall have marked such copy either as "Approved" or "Disapproved" and attested to same by signature on such copy. The original, similarly marked, shall be retained by the Building Inspector.

C. Certificate of Occupancy Required

1. General

Except as allowed by this Regulation, 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 Building Inspector having properly vested authority under the Kentucky Building Code. Such certificate shall show that the structure or use, or both, on the premises, or the affected part thereof, are in conformity with the provisions of this Zoning Regulation. It shall be the duty of the Building Inspector to issue such certificate if he finds that all of the provisions of this Zoning Regulation have been met, and to withhold such certificate unless all requirements of this Zoning Regulation have been met.

2. Temporary Certificates of Occupancy

Temporary certificate of occupancy may be issued by the Building Inspector for a period not exceeding six (6) months during alterations or partial occupancy of a building pending its completion

3. Certificate of Occupancy for Existing Uses or Structures

Upon written application from the owner or tenant, and upon inspection to determine the facts in the case, the Building Inspector shall issue a certificate of occupancy for any building, premises or use, certifying that the building, premises or use is in conformity with the provisions of this chapter or that a legal non-conformity exists as specified in the certificate.

4. Structures and Uses to be Provided in Building Permits, Plans and Certificates of Occupancy

- a. Building permits or certificates of occupancy issued on the basis of plans and applications approved by the Building Inspector authorize only the use, arrangement and construction set forth in such permits, plans and certificates and no other.
- b. The use, arrangement or construction at variance with that authorized shall be deemed a violation of this Development Code.

D. Reconstruction of Unsafe Walls

Nothing in this article shall prevent the reconstruction of a wall or other structural parts of a building declared unsafe by the State Fire Marshal.

E. Enforcement

All departments, officials, and public employees of the city and county which are vested with the duty or authority to review, and issue permits or licenses shall do so in conformance with the provisions of these regulations. Any permit or license issued for any use, building or purpose which is in conflict with the regulations shall be considered null and void.

F. Interpretation

In interpreting and applying the provisions of this Development Code, it shall be held to be the minimum requirements for the promotion of health, safety, morals, convenience or the general welfare. The Planning Commission or its agent is responsible for all interpretations. Whenever this code imposes a greater restriction than is imposed or required by other provisions of law or by other rules or regulations or resolutions, the provisions of this chapter shall govern.

G. Penalty

Violation of the provisions of this Development Code or failure to comply with any of requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) shall constitute:

1. Within the City of Franklin

A misdemeanor, and each day such violation or non-compliance continues shall be a separate offense.

- a. Any person who so violates this Development Code or fails to comply with any of its requirements except as provided in [Section 13.09.1.1.b](#) herein ([below](#)) shall upon conviction thereof be fined not less than Ten Dollars (\$10.00) but no more than Five Hundred Dollars (\$500.00) for each conviction. Each day of violation shall constitute a separate offense.
- b. Any person shall upon conviction be fined not less than One Hundred Dollars (\$100.00) but no more than Five Hundred Dollars (\$500.00) for each lot or parcel which was the subject of sale or transfer, or contract therefor, which constitutes a violation of this Development Code.

2. Within Franklin County

- a. A violation punishable by a fine not to exceed \$250 and each day such violation or non-compliance continues shall be a separate offense.
- b. Violation of the provisions of [Section 155.295 through 155.317 \(Flood Damage Prevention\)](#) of the Franklin County Code of Ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in

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connection with granting of a variance or special exceptions, shall constitute a misdemeanor civil offense. Any person who violates [Section 155.295 through 155.317 \(Flood Damage Prevention\)](#) of the Franklin County Code of Ordinance chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined no less than \$100 or imprisoned for not more than one year, or both, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Floodplain Administrator from taking such other lawful action as is necessary to prevent or remedy any violation

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