

ORDINANCE 2021-20

AN ORDINANCE ADOPTING THE BULLITT COUNTY ZONING REGULATIONS TEXT AMENMENT 2021T-02 ADDING A NEW SECTION 6A SITE PLAN REVIEW WITHIN THE CITY OF MT WASHINGTON.

WHEREAS, Mount Washington, as a member of the Joint Planning Unit in Bullitt County, Kentucky has the authority to propose text amendments to the Joint Bullitt County/City Zoning Regulations (“Zoning Regulations”) to the Joint Bullitt County-City Planning Commission;

WHEREAS, the City Council of the City of Mt. Washington passed resolution 2021-08 proposing Site Plan Review Text Amendment in R-3 Zone Classification on July 12th, 2021.

WHEREAS, the Bullitt County Joint Planning Commission has given Text Amendment 2021T-02 a favorable recommendation;

WHEREAS, the Mount Washington City Council has considered the desirability of amending the Joint Bullitt County – City Zoning Regulations (“Zoning Regulations”) to modernize provisions applicable to Site Plan Review in the R-3 Zone Classification, by adding a new Article 6A ("Site Plan Review Text Amendment") based on facts and circumstances discussed below;

WHEREAS, the existing Site Plan Review provisions in the Zoning Regulations has been substantively unchanged for decades;

WHEREAS, the City of Mount Washington has experienced great population growth since adoption of the existing language for Site Plan Review;

WHEREAS, the territory of Mount Washington has greatly expanded by annexation since adoption of the existing language for Site Plan Review;

WHEREAS, multi-family and single-family housing units have greatly expanded in the City of Mount Washington since adoption of the existing language for Site Plan Review;

WHEREAS, as a result of such growth in Mount Washington and surrounding areas, vehicular traffic in the City has also greatly increased since adoption of the existing language for Site Plan Review;

WHEREAS, as a result of such growth in Mount Washington, there has been considerable need for expansion of utility services in the city since adoption of the existing language for the R-3 Zoning Classification and pressure on utility capacity continues with further residential development;

WHEREAS, consumer preferences, market options, and building codes, have led to many new forms of residential development to have been proposed, approved, and constructed in the City of Mount Washington since the adoption of the existing language for Site Plan Review;

WHEREAS, excessively dense development does not provide residents, including senior citizens, children, and persons subject to the protection of the Americans with Disabilities Act, with appropriate amenities and a quality of living environment; and.

WHEREAS, reasonable regulation of density and application of appropriate modern development standards can provide residents with a significantly higher quality of life than available under existing archaic provisions for Site Plan Review.

WHEREAS, as with any ordinance, the adoption of any Text Amendment to Site Plan Review standards applicable in the R-3 Zone Classification should and is proposed to include a severability clause.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MT. WASHINGTON, BULLITT COUNTY, KENTUCKY AS FOLLOWS:

SECTION I.

ARTICLE 6A - SITE PLAN REQUIREMENTS FOR NEW APARTMENT BUILDINGS (LARGER THAN A FOUR-PLEX) & CONDOMINIUM BUILDINGS (MORE THAN FOUR UNITS ATTACHED)

This Article 6A is supplemental to Article 6 of the Bullitt County/City Zoning Regulations (“Zoning Regulations”) in the R-3 Zone Classification and is applicable to proposed developments including Apartment Buildings larger than a four-plex (“4+ Apartment Buildings”) and attached four-unit plus Condominium Buildings (“4+ Condominium Buildings”). In such Zone Classification, the requirements of both Article 6 and 6A are in effect. In the event of any conflict between the two Articles, the more restrictive is effective. It is the intent of this Article 6A that a single proposed SITE PLAN be submitted which is in compliance with both Article 6 and 6A.

Apartment Buildings larger than a four-plex (“4+ Apartment Buildings”) and attached four-unit plus Condominium Buildings (“4+ Condominium Buildings”) present certain unique land use issues which can and should be addressed in the SITE PLAN Process beyond the general requirements of Article 6 of the Zoning Regulations, particularly in high traffic areas. Sound future development of Bullitt County and its political subdivisions requires that certain high intensity development, and development in certain critical areas, receive special site plan review by the Planning Commission. Site plan review and approval are required for dense residential uses which are not intrinsically objectionable, but which have inherent characteristics that, if not properly handled, have the potential for yielding unsatisfactory results of some type. They are uses which depend upon sound site planning and design to prevent them from becoming

detrimental to the health, safety, or general welfare of the public, or to neighboring land uses

A SITE PLAN for any of the foregoing new or Substantially Expanded 4+ Apartment Buildings or 4+ Condominium Buildings which are privately owned (collectively “4+ Buildings”), shall, in addition to the requirements of Article 6, comply with the following:

A. The Applicant shall file a copy of any permit application for such 4+ Buildings required to be filed with a federal, state, or other local government agency and a copy of any final decision made by such agency whether obtained before or after filing the application for a SITE PLAN. Obtaining and/or complying with such permits shall be a condition to the continued validity of the SITE PLAN.

B. A SITE PLAN shall identify the primary and Accessory Structures for the proposed 4+ Building, including routes for vehicular and pedestrian ingress and egress and circulation within the property. Locations and scale of playgrounds, golf courses, walking or bike riding trails, other recreational facilities, tennis courts, outdoor dining areas, pools, parking lots and sidewalks shall be identified. Parking lots should be sufficient to accommodate planned residents and invitees and maintenance or employee vehicles and meet the parking space requirements of the Zone Classification and the SITE PLAN should note that drainage shall be in compliance with applicable law, be consistent with best management practices, and avoid standing water in parking lots or adjoining unpaved areas as a result of runoff. Locations of clubhouses, meeting rooms, fire protection, utility connections, and first aid facilities shall be identified. Such Site Plan shall identify drainage, run off, waste and sewage disposal for the facility as well as utility access and easements. The Site Plan shall further illustrate fencing, exterior lighting, any signage required at an entrance or exit, school bus stops, location and screening of any dumpsters or similar temporary refuse storage, and any buffering or landscaping. Locations of ponds, streams, and forested areas should be generally identified. An Applicant may identify an area for one or more alternative uses for all or part of a property, so the Planning Commission has the opportunity to approve all alternative uses to allow a certain level of flexibility in the SITE PLAN process.

C. A Site Plan shall indicate the distance of any 4+ Buildings or Accessory Structures from the boundary of the nearest platted residential subdivision or residential structure to such 4+ Building or Accessory Structure and the distance from the nearest Commercial and Industrial Building. Buildings and Accessory Structures shall meet the setback and other dimensional requirements of the Zone Classification.

D. A Site Plan shall identify the location and authority under which the development shall access a public right-of-way. If a 4+ Building development

includes twelve (“12”) or more residential units, the Applicant shall explain in a textual supplement to the request for Site Plan approval whether a second method of ingress and egress to a public right-of-way is feasible and in the interests of reasonable reduction in traffic congestion and safety concerns.

E. A SITE PLAN for a 4+ Building development shall describe and/or depict the property’s compliance with the federal Americans with Disabilities Act, as it may be amended, to the extent applicable, particularly as to building entrance, sidewalks, and parking for disabled persons.

F. A SITE PLAN for a 4+ Building project shall be in compliance with the following:

1. Open Space Requirements.

a. Recreational Open Space is that portion of a project site not divided into individual lots and made available to residents for the purpose of outdoor living space for residents and may include lawn areas, walkways, sitting areas, courtyards, pools, and outdoor recreation facilities. Buildings, structures, or other impervious surfaces devoted to recreation or common open space uses shall also be considered as Recreational Open Space. This space shall be a central focus of the project and must be easily accessible. Driveways, parking areas, and an area not usable for recreation (ditch, berm, etc.) shall not be considered as Recreational Open Space. ***Recreational Open Space shall consist of the greater of 15% of the parcel subject to a Site Plan or the amount of Recreational Open Space otherwise required by the R-3 Zone Classification.***

b. Private outdoor space is that portion of the unit or lot devoted to outdoor recreational use by the individual resident(s) of the unit or lot. This area is provided in addition to the recreational open space. Private outdoor space shall be provided in the form of private yards, patios, or balconies. Patios or balconies shall be a minimum size of sixty (60) square feet per unit and a minimum dimension of six (6) feet.

c. Required yards and landscaping setback areas fronting onto public streets shall be entirely landscaped except for necessary driveways and walkways. Parking is not permitted within the required setback area, including driveway area.

d. No more than fifty (50) percent of the required front yard landscaped area or any other street frontage area may be used for storm water retention purposes. ***Side slopes of basins shall not exceed a 6:1 slope. The maximum side slope ratio shall be 4:1 ratio.***

2. Building Separation.

a. The following shall apply for 4+ Buildings that include two (2) or more related buildings in which the buildings have a common entrance, such as 4+ Apartments or 4+ Condominiums. The minimum distance between the principle entrance of one building and any other buildings shall be according to the following schedule:

| <u>Building:</u> | <u>Minimum Distance:</u> |
|------------------|--------------------------|
| <u>1 story</u> | <u>20 feet</u> |
| <u>2 story</u> | <u>30 feet</u> |

b. Except as provided above, the minimum separation between 4+ Buildings on a multi-family site shall be twenty (20) feet.

3. Relationship of Project to Surrounding Land Uses.

The relationship between a 4+ Building development and adjacent land uses shall take into account the type of adjacent uses, building scale, density, and building heights. Particular sensitivity shall be displayed to the relationship between a multi-family project and adjacent residential uses of lesser density to minimize the impact on those less dense areas.

a. Multi-family buildings two (2) stories in height or greater shall not be placed within **seventy-five (75) feet** of a platted residential subdivision or single-family residential structure.

b. Individual design situations may present adjudicative facts requiring Additional Conditions to minimize the impact of a 4+ Building on adjacent residential uses. The Planning Commission may request Applicant to **AGREE** to one or more of the following in such circumstances:

1. use of one-story 4+ Buildings in up to **1/4th** of the development;
2. additional landscaping to expand buffer area up to **1/3** in width from Zone Classification requirement;
3. Up to **1/3rd** wider setbacks from property line;
4. modify orientation of buildings;
5. modify the orientation of windows and balconies;
6. provide screen walls

Applicant shall be requested to agree to one or more of any Additional Conditions in public meeting or hearing by Planning Commission, and applicant shall have the

opportunity to submit revisions to Site Plan at next regular meeting of Commission and agree to such conditions or may reject such conditions at or before the next regular meeting of the Commission. The Commission shall then approve or deny the original SITE PLAN or an amended SITE PLAN to the extent modified by Applicant at such next regular meeting and make appropriate findings of adjudicative facts supporting its decision.

c. Common recreation facilities in a project shall be located to minimize the intrusion of noise on adjacent platted residential subdivisions or concentrations of multiple residential structures, which would violate any applicable local noise ordinance, or statutory or common law.

4. 4+ Building Design. The following elements of design shall be considered and encouraged in the architecture of 4+ Buildings:

1. The architectural detailing and treatment of windows and doorways should be strongly considered through the use of bay windows, recessed windows, raised borders, shutters, and trellises.

3. Entryways and stairwells should be an integral part of 4+ Building design. Consideration should be given to screening stairwells or using unique architectural treatments so that they blend in with the overall building elevation

4. Patio and balcony walls and fences should be an integral part of building design and should match the main building design.

A Site Plan shall include notes illustrating how the development complies with these elements of design.

G. Approval of an original SITE PLAN or application for an additional 4+ Building or other amendment of the original SITE PLAN shall require the Applicant to file a copy of any subsequent notice of violation and any final determination or order of a government agency alleging or finding a violation of law as to sanitary conditions, environmental conditions, public safety, or air or water quality with the Administrative Official within seven days of receipt by the Applicant. Within ten (“10”) days of written request from the Administrative Official, the holder of any SITE PLAN for a 4+ Building subject to such notice, determination, or order, shall provide a written report to the Administrative Official detailing any corrective measures taken or to be taken. A copy of such written report shall be simultaneously sent to the Clerk of any City in which the property is located via U.S. Postal Service Certified Mail, Return Receipt Requested at the appropriate City Hall.

H. The Application shall file an estimate of the annual vehicular traffic count for patrons anticipated from the operation of the 4+ Building development depicted on a SITE PLAN if *twenty-four (“24”)* or more residential units are involved. Applicants should expect that the larger the number of residential units constructed in 4+ Buildings, the more significant will be the conditions imposed because of the health, safety, and welfare

interests and other interests recognized in KRS Chapter 100 and the Comprehensive Plan to be protected and/or based on findings of adjudicative facts.

I. Applicants should expect grant of a SITE PLAN for a 4+ Apartment Building to be conditioned on maintaining levels of liability insurance consistent with the numbers of residents and expected invitees. Applicants are encouraged to file evidence of industry standards and what other local governments in Kentucky have imposed in the way of insurance requirements on such facilities and what they propose for the subject facility when filing their Application. The Board shall condition approval of a SITE PLAN on an obligation to provide proof of insurance to the Administrative Official either annually or upon written request of the Administrative Official. A copy of any proof of insurance documentation sent to the Administrative Official shall be simultaneously sent to the City Clerk of the City in which the subject property is located at such Clerk's normal business address in City Hall.

J. Applicants shall file any proposed rules and regulations for a 4+ Apartment development and/or proposed 4+ Condominium covenants, conditions, and restrictions ("CCR") or Condominium Association bylaws and/or rules along with any application for approval of a 4+ Building. Approval of a SITE PLAN shall be conditioned on copies of subsequent amendments or replacements to such rules, regulations, or CCRs being sent to the Administrative Official and City Clerk of the City in which the subject property is located at their normal business addresses within ten ("10") days after their adoption.

K. Any decision by the Board on a SITE PLAN request for a 4+ Condominium Building shall be consistent with the Kentucky Condominium Act, KRS 381.9101 to 381.9207, as it may be amended.

L. Any decision by the Board on a SITE PLAN request for a 4+ Building shall be consistent with KRS 100.982 and 100.984, as such statutes may be amended, governing residential care facilities for persons with a disability.

M. The Administrative Official shall be responsible for certifying that the requirements of this Article have been met in the same manner as such Official is responsible in connection with Article 6.

N. Action shall be taken by the Planning Commission on a SITE PLAN submitted pursuant to Article 6A and a decision rendered thereon within sixty (60) days of the date the application is received by the Administrative Official.

O. SITE PLANS or any portion thereof, involving engineering, architecture or land surveying, shall be prepared and certified and/or signed and sealed as required by applicable law by an engineer, architect, landscape architect, or land surveyor duly authorized by the Commonwealth of Kentucky.

P. Notwithstanding anything else in this Article 6A, publicly owned 4+ Apartment Buildings are exempt from land use regulation by the Planning Commission pursuant to

state statute except for adequate information being provided to a planning commission per KRS 100.361.

Q. Notwithstanding anything else in this Article 6, a Site Plan for 4+ Apartment Buildings or 4+ Condominium Buildings limited to one extent or another to occupancy by persons over a specified age pursuant to federal or state law, may be approved for **fifteen percent (15%)** less stringent dimensional requirements than otherwise provided in this Article 6A upon appropriate Planning Commission findings of lesser need for dimensional standards which would otherwise be applicable.

R. Any appeal of a final decision by the Planning Commission on a SITE PLAN shall be made by an applicant or other aggrieved person as appellant to the Bullitt County Board of Adjustments within thirty days after the vote of the Planning Commission making such decision and be otherwise in compliance with KRS Chapter 100 and the Zoning Regulations. An appellant shall simultaneously with filing any such appeal mail a copy of such appeal document to the City Clerk of the City in which the subject property is located at the normal City Hall address of such City Clerk. The Administrative Official shall provide at least seven days written notice to such City Clerk at the normal City Hall address in advance of any Board of Adjustment hearing on such appeal.

SECTION II: Should any section, clause, line, paragraph, or any other part of the ordinance be held unconstitutional or invalid for any reason, the same shall not affect the remainder of this ordinance.

SECTION III: All Ordinances or parts of Ordinances in conflict with this Ordinance or any part of this Ordinance are hereby repealed.

SECTION IV: This Ordinance shall take effect upon passage and publication as required by law.

First Reading: October 25, 2021

Second Reading: November 8, 2021

Adopted this 8th day of November 2021 by a vote of 5 in favor 0 against 0 abstain.

Barry Armstrong, Mayor

ATTEST:

Elizabeth D. Hardin, City Administrator