

Sponsors:	<u>Commissioner Powell</u>
	<u>Commissioner Stewart</u>
Second Reading:	<u>November 9, 2020</u>
Publication Date:	<u>November 12, 2020</u>

ORDINANCE NO. 2020 - 017

**AN ORDINANCE AMENDING LOCAL ZONING REGULATIONS
CONCERNING NON-CONFORMING LOTS WITH EXCEPTIONAL CIRCUMSTANCES
IN FRANKLIN, SIMPSON COUNTY, KENTUCKY**

WHEREAS, with the continued development of real property inside the corporate city limits, there are issues regarding certain properties that have existed for several years;

WHEREAS, there is now a need to address said properties to promote growth and development of said lots in an effort to utilize existing real property and assist in the eradication of blighted areas within the corporate city limits; and

WHEREAS, the Zoning Regulations need to be amended to address said issues.

NOW, THEREFORE, BE IT ORDAINED by the City of Franklin, Kentucky, acting by and through its Board of Commissioners, after the passage, approval, and publication of this ordinance as follows:

1. The Zoning Regulations are hereby amended to create a new article 4.3A to the zoning regulations which shall read as follows:

SEE TEXT ATTACHED AS EXHIBIT 1 AND INCORPORATED HEREIN BY REFERENCE.

2. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions hereof. All ordinances or parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

October 26, 2020 - FIRST READING

November 9, 2020 - SECOND READING

At a meeting of the Board of City Commissioners of the City of Franklin, Kentucky, held on November 9, 2020, on motion made by Commissioner Powell and seconded by Commissioner Stewart, the foregoing ordinance was adopted, after full discussion, by the following vote:

- Yes BROWNIE BENNETT
- Yes JAMIE POWELL
- Yes HERBERT WILLIAMS
- Yes WENDELL STEWART
- Yes LARRY DIXON, MAYOR

APPROVED BY:

Larry Dixon Mayor
Larry Dixon, Mayor

ATTEST:

Cathy Dillard
Cathy Dillard, City Clerk

THERE IS HEREBY CREATED A NEW ARTICLE 4.3A TO THE ZONING REGULATIONS OF THE CITY OF FRANKLIN AND SIMPSON COUNTY, KENTUCKY WHICH SHALL READ AS FOLLOWS:

4.3A Non-Conforming Lots of Record with Exceptional Circumstances

4.3A.1 For purposes of this Article 4.3A, “non-conforming lots of record with exceptional circumstances” shall mean lots of record which do not include sufficient land to conform to the area and/or lot dimensional requirements of Article 8 and/or the zoning district in which they are located, and may not meet the minimum lot size and width requirements as mentioned in Article 4.2 hereinabove. In addition, a “non-conforming lot of record with exceptional circumstances,” as defined above, must be located within the corporate city limits and residentially zoned. Property which has been rezoned to residential within ten (10) years of the request for a **minor development plan** under this Article 4.3A or any parcels of land created after the adoption of this Article 4.3A shall not be considered as qualifying for a **minor development plan** under this Article 4.3A.

4.3A.2 If a lot meets the requirements of Article 4.3A.1 above, when it is found by the administrator that the strict application of these regulations and/or the City’s subdivision ordinance regarding non-conforming lots of record would result in practical difficulties in the productive use of the lot/land because of the exceptional and unique topographic or other physical conditions and or dimensional standards, the administrator is authorized, but is not required, to execute a **minor development plan** to permit the development of the property, but only if it meets one or more of the following requirements:

- a. Lots with grades of 12% (10 inches of rise per foot of distance) or steeper.
- b. Lots with a natural drainage way or a stream, creek or any other waterway contained on the lot. Provided, however, that the developer and administrator shall be required to plan any development to comply with all federal, state and local laws pertaining to natural drainage or streams, creeks, or waterways.
- c. Lots within one hundred feet (100’) of or contained within a flood zone, flood hazard area or flood plain as designated on the Flood Insurance Rate Map. Provided, however, that the developer shall be required to provide sufficient proof that the development will not be reasonably subject to flooding and, in addition, developer shall execute a waiver and release which releases any and all persons and/or parties approving the **minor development plan** including, but not limited to the Franklin-Simpson Planning and Zoning Commission and the City of Franklin, from all liability with regard to said approval in the event of a flooding event on the property.
- d. Developer must submit proof that a residence existed on the property at one time in history, whether it is before or after the creation of the Planning and Zoning Commission. The administrator shall attempt to require or approve a similar or “like kind” building as a replacement dwelling.
- e. The existence of a property lot width which is less than the width required by these regulations or the City’s subdivision ordinance where a variance cannot be requested.
- f. The existence of a property with a minimum lot size which is less than the lot size required by these regulations or the City’s subdivision ordinance where a variance cannot be requested.

4.3A.3 The administrator has full authority to review and approve or deny any requests submitted by and through this Article 4.3A, subject to the approval or denial of the City’s representative, as defined

hereinbelow. This includes, but is not limited to lot size, width, setbacks, topography, and any other applicable issues governed by these Zoning regulations. If the administrator and the City's representative disagree on approval or denial of a particular development project, the project shall be deemed denied.

- 4.3A.4 Prior to issuance of a **minor development plan** in accordance with this Article 4.3A, the administrator and City representative, as defined in Article 4.3A.4 below, shall make a determination that the structure that is approved by and through the plan will enhance the aesthetics and/or character of the immediate vicinity and/or neighborhood as a whole.
- 4.3A.5 Developers/applicants may appeal a denied request pursuant to this Article 4.3A to the Board of Adjustments pursuant to KRS 100.261 and, thereafter, appeals from the decision of the Board of Adjustments shall be maintained as provided in the applicable provisions of the Kentucky Revised Statutes. See KRS 100.347.
- 4.3A.6 Prior to any construction or development on the property proposed for development under this Article 4.3A, the City Manager, or his or her designee, shall also be required to approve the **minor development plan**. The approval shall be designated by said individual signing an approval line on the **minor development plan**.
- 4.3A.7 After approval of the **minor development plan**, development can proceed on the property but only in accordance with the requirements contained in the **minor development plan**. If the developer deviates from the requirements of the plan, the administrator and/or code enforcement officer, with approval of the building inspector, is/are authorized to issue appropriate stop work orders requiring immediate cessation of any work on the property pending resolution of any disputes or hearings and/or appeals with regard to the work being performed on the property.
- 4.3A.8 If two or more adjoining lots that individually meet the criteria of this Article 4.3A in single ownership are of record at the time of passage or amendment of these regulations, and if the individual lots or portions of lots do not meet the requirements, but would conform to the requirements of these regulations if all or parts of the lots were considered together, then said contiguous lots shall be considered or be reconfigured to be an undivided parcel for the purposes of these zoning regulations. No portion of said parcel shall be used or sold in a manner which diminishes compliance with the requirements of this Article 4.3A. nor shall any division of any parcel be made which will create a parcel which meets the requirements stated in this Article 4.3A, as the goal of this Article is to create usable, buildable lots and not to create more substandard lots.
- 4.3A.9 Should a building, structure or dwelling constructed in compliance with the Article 4.3A be damaged, destroyed, or demolished by any means except natural causes (such as damage caused by wind or tornado) to an extent of fifty five (55) percent or more of its replacement cost exclusive of foundation, at time of destruction, it shall not be repaired or reconstructed except in conformity of these Zoning Regulations and in full compliance with the **minor development plan** issued pursuant to this Article 4.3A. If such non-conforming building be damaged, destroyed or demolished by natural causes, it may be reconstructed or repaired but not to exceed the number of cubic feet existing at the time of the natural disaster and not to extend the scope and area of its operation prior to its damage, destruction, or demolition as approved on the **minor development plan** issued pursuant to this Article 4.3A.