

ORDINANCE NO # 8 - 2024

COUNTY OF FRANKLIN, KENTUCKY

**AN ORDINANCE AMENDING THE FRANKLIN COUNTY CODE OF ORDINANCES
CHAPTER 155, SECTION 155.066 (DISTRICT ESTABLISHED) TO ADD SECTION
155.151 RURAL HERITAGE MIXED USED DISTRICT (HD)**

WHEREAS, The Franklin County Fiscal Court, having heretofore enacted an Ordinance relating to zoning regulations and zoning district maps in accordance with a Comprehensive Plan and Kentucky Revised Statute Chapter 100; and

WHEREAS, the aforesaid Ordinance provides for amendments to the zoning ordinance text and maps and requires the Frankfort/Franklin County Planning Commission to forward their recommendations for approval or denial of the text amendment, along with their findings of fact, to the Franklin County Fiscal Court for action; and

WHEREAS, The Frankfort/Franklin County Planning Commission held a public hearing on July 1, 2024; and

**NOW, THEREFORE, BE IT ORDAINED BY THE FISCAL COURT OF THE
COUNTY OF FRANKLIN, COMMONWEALTH OF KENTUCKY, THAT:**

SECTION I. The Code of Ordinances Chapter 155, Section 155.066 (Definitions), is hereby amended to read as follows:

RURAL HERITAGE MIXED USE DISTRICT (HD)

The Code of Ordinances Chapter 155, Section 155.151, is hereby added to read as follows:

§155.151 Rural Heritage Mixed Use District (HD)

(A) Purpose

The purpose of the Rural Heritage Mixed Use District (HD) is to facilitate the preservation of the county's significant historic resources that are under pressure due to adjacent incompatible development, proposed future development, or existing underutilization and neglect. The goal is to prevent the loss of historic, cultural, and heritage sites by incorporating compatible mixed-use development that promotes tourism, economic vitality, and compliments the historic character of the district. The aim is to allow adaptive re-use of significant historic buildings and introduce new uses at an intensity and scale that fit into the environs in a balanced and compatible manner, fostering a vibrant and sustainable district that celebrates its unique heritage assets.

(B) Intent of General Uses

The intent of the Rural Heritage Mixed Use District (HD) is to function in a compatible manner that enhances the attractiveness of the district as a destination. This regulation does not presuppose all potential permitted used. General uses could include:

- (1) Tourism-oriented facilities such as hotels, bed and breakfasts, inns, conferences centers/meeting halls, amphitheater and museums;
- (2) Commercial activities such as retail, galleries, craft studios, restaurants, and cafes;
- (3) Production facilities such as distilleries, storage/warehousing, breweries, wineries, vineyards, orchards; agricultural and food production;
- (4) Recreational amenities such as hiking trails, parks, gardens, rides/attractions, and other leisure opportunities;
- (5) Other uses not contemplated may be deemed appropriate.

(C) Eligibility to Apply for Zoning Change to HD

A proposed Rural Heritage Mixed Use District (HD) must contain one or more historic resources that are currently listed or eligible for the National Register of Historic Places (NRHP) that are currently vacant, abandoned, underutilized, or located in an area where adjacent future land uses are not favorable to the continued preservation of the resource(s). Eligibility of non-NRHP-listed or non-NRHP-eligible resources shall be determined by a professional meeting or exceeding the professional who 1) is retained by contract or employed by the Fiscal Court or Planning Commission and 2) meets or exceeds qualifications standards set by the Secretary of the Interior. Their analysis shall include an assessment of the levels of significance and integrity of all identified primary and accessory/associated resources existing on the property(ies).

(D) Development Plan and Historic Preservation Review Process

- (1) The Frankfort/Franklin County Planning Commission shall hear applications requesting a Zone Map Amendment to rezone to Rural Heritage Mixed Use District (HD). The request shall include the following items to be considered:
 - (a) Legal descriptions or plat of properties subject to the rezoning to establish district boundaries.
 - (b) A conceptual plan depicting the proposed development layout. The conceptual plan should show approximate placement of new buildings and roads. It should identify existing features that are proposed to be demolished. Uses of the existing and new buildings should be labeled.
 - (c) A detailed written description of the proposed development that includes an explanation of the historic significance and integrity of the primary building, structure, and/or site, as well as any accessory/associated resources, and how the proposed development will incorporate those resources into a cohesive heritage tourism destination.
 - (d) A list containing the proposed uses including primary uses and ancillary uses shall be approved by the Planning Commission.
- (2) Preliminary Development Plan will be required for approval by the Planning Commission. The preliminary development plan shall include roads, parking, new buildings, existing buildings and historic resources, drainage features, topographical slope, and natural features such as streams, woodlands, and wetlands. It shall also include changes such as structures to be demolished, proposed grading, and removal of trees as well as to identify areas that will be preserved for rural and agricultural uses. The Preliminary Development Plan may be submitted in lieu of the conceptual plan under subsection (b) if submitted in conjunction with zone map amendment request and satisfies the requirements of this section herein.
- (3) Final Development Plan and Historic Preservation Review approval is required.
 - (a) Development Plan approval shall include all requirements for a development plan as found in §§155.190 through 155.196. The lot area, lot width, yard and usable open space requirements do

not apply to Rural Heritage Mixed Use Districts. The siting and location of buildings, improvements, structures and common open spaces within the area of the Rural Heritage Mixed Use District shall be controlled by the development plans which are approved for the Rural Heritage Mixed Use District.

(b) A report shall be developed by a qualified professional meeting the requirements of §155.151(C) and will include the application of the Development Guidelines contained in Section E to determine the appropriateness of the proposed treatments, alterations, and design of new construction on property of the NRHP-listed or NRHP-eligible resources. The report will be provided to the Planning Commission to assist them with its Historic Preservation review.

(c) The Planning Commission chairperson or Staff will review and have authority for approval of the Final Development plan. If there have been significant changes between the Preliminary and Final Development Plan then the Planning Commission will review and have authority for approval. It will also consider the review report from subsection (b) of Section (D)(3) for conditions to be included in final approval.

(E) Development Guidelines

The character, scale and aesthetics of the proposed development shall be compatible with the cultural and rural nature of the site.

Preservation of NRHP-listed or NRHP-eligible historic buildings and associated contributing elements shall be required and proposed changes to the exterior of these buildings shall be reviewed and approved by the Planning Commission. Demolition of the primary historic resource shall not be permitted. Relocation of accessory or associated resources may be permitted. Demolition of accessory/associated resources may be permitted if the resources lack historic significance or integrity.

Rehabilitation of the exterior of the historic buildings and their environs shall follow these design standards, which are to be applied in a reasonable manner, taking into consideration the significance and integrity of each resource, in addition to economic and technical feasibility:

(1) The adaptive re-use of the historic building should require minimal change to the defining characteristics of the building, the site, and environment immediately adjacent. The placement of mixed-use structures in the district should respect the historic character of the historic site.

(2) The character of the historic buildings should be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property should be avoided, if possible.

(3) Each property should be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, should not be undertaken.

(4) Most properties change over time; those changes that have acquired historic significance in their own right should be preserved.

(5) Distinctive features, finishes and construction techniques or examples of craftsmanship that characterize a historic property should be preserved.

(6) Deteriorated historic features should be repaired rather than replaced. Where the severity of the deterioration requires replacement of a distinctive feature, the new feature should match the old in design, color, texture, and other visual qualities and, where possible, materials. Missing features should be substantiated by documentary, physical, or pictorial evidence.

(7) Consideration for the potential to find significant archeological resources in the vicinity of the rehabilitation should be given.

(8) New additions, exterior alterations, or related new construction should not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.

(9) New additions should be undertaken in such a manner that if removed in the future, the essential form and integrity of the history property and its environment would be unimpaired.

(F) Enforcement

Violations of any portion of this regulation shall be subject to fines, penalties, and enforcement actions in accordance with §155.025 and § 155.031.

SECTION II. CODIFICATION. The provisions of Section I of this Ordinance shall be published as appropriate in the Franklin County Code of Ordinances as soon as practicable.

SECTION III. SEVERABILITY CLAUSE. If any section, part of provision of this Ordinance is declared unconstitutional or invalid by a court of competent jurisdiction, then it is expressly provided and it is the intention of the Franklin County Fiscal Court in passing this Ordinance that its parts shall be severable and all other parts of this Ordinance shall not be affected thereby and they shall remain in full force and effect.

SECTION IV. PUBLICATION AND EFFECTIVE DATE. This Ordinance shall take effect immediately upon its passage and publication according to law.

INTRODUCED AND GIVEN FIRST READING IN SUMMARY at a duly convened meeting of the Fiscal Court of Franklin County, Kentucky, held on the 24th day of July, 2024.

GIVEN SECOND READING AND APPROVED at a duly convened meeting of the Fiscal Court of Franklin County, Kentucky, held on the 10 day of August, 2024 and of record in Fiscal Court Order Book 35, Page 104.



Michael Mueller
Franklin County Judge/Executive

ATTESTED TO:



Kim Cox
Fiscal Court Clerk

SUMMARY

This ordinance amends Chapter 155, Section 155.066 (District Established), and adds Section 155.151 (Rural Heritage Mixed Use District) to the Franklin County Code of Ordinances.

FRANKFORT/FRANKLIN COUNTY PLANNING COMMISSION

**July 1, 2024
5:30 PM**

Brent Sweger, Chairman, Presiding

The meeting was called to order at 5:30 p.m.

Chairman Sweger asked the Secretary to Call the Roll.

MEMBERS PRESENT:

Irma Johnson
Timothy Luscher
Todd McDaniel
Reed Mills
Michael Nickles
Darrell Sanderson
Charles Stewart

Brent Sweger, Chairman

(8)

Also Present:

Edwin Logan, Planning Commission Attorney
Eric Cockley, Director, City of Frankfort Dept. of Planning & Community Development
Ben Judah, Interim Director, Franklin County Planning & Building Codes
Tina Peck, Planner, Franklin County Planning & Building Codes

There being a quorum, the meeting was called to order.

Chairman Sweger asked for the approval of the minutes of May 9, 2024 meeting. Without objection, the minutes were approved

Chairman Sweger asked for a motion to approve the Payment of Bills, as amended. Mr. Luscher made a motion to approve the following bills:

Ed Logan (Legal Fee, June 2024)	\$1,500.00
Vickie Sewell (PC)	\$ 300.00
Dawn McDonald (May BZA)	\$ 75.00
Dawn McDonald (June BZA)	\$ 75.00
Logan, Burch & Fox (Inv. #110698 – Big Eddy)	\$ 132.00
Frankfort Newsmedia (Legal Ads)	\$ 712.50
Bryan Douglas (BZA Variance REFUND)	\$ 150.00

The motion was seconded by Mr. Stewart and passed unanimously.

Under Staff Items, Mr. Cockley provided an update on the Comprehensive Plan. He stated that He stated that a slightly amended Goals and Policies had been adopted by Fiscal Court. He stated that the City Commission would be considering them next. He stated that the goal was for the Planning Commission to hold a Public Hearing on the approval of the entire plan in July or August.

Chairman Sweger asked the Secretary to introduce the next item:

CONTINUATION OF PUBLIC HEARING: Amanda McNalley is requesting a zone map amendment from Two Dwelling District "RD" to Limited Commercial District "CL" for property located at 604 Taylor Avenue. The property is more specifically identified as PVA Map Number 062-13-02-002.00. (City Item)

Mr. Luscher made a motion to take the item from the table. The motion was seconded by Mr. Stewart and passed unanimously.

Mr. Nickles made a motion to adopt the Summary of the Public Hearing. The motion was seconded by Mr. Luscher and passed unanimously.

Mr. Luscher made a motion to adopt the findings contained within the staff report. The motion was seconded by Ms. Johnson and passed unanimously.

Mr. Luscher made a motion to recommend to the City of Frankfort Board of Commissioners that the Zone Map Amendment request by Amanda McNalley from Two Dwelling District "RD" to Limited Commercial District "CL" for the property at 604 Taylor Avenue be approved. The motion was seconded by Mr. Stewart and passed unanimously.

CONTINUATION OF PUBLIC HEARING: Marissa Swystun is requesting a zone map amendment from Two Dwelling District "RD" to Limited Commercial District "CL" for property located at 612 Taylor Avenue. The property is more specifically identified as PVA Map Number 062-13-02-004.00. (City Item)

Mr. Luscher made a motion to take the item from the table. The motion was seconded by Mr. Nickles and passed unanimously.

Mr. Luscher made a motion to accept the Summary of the Public Hearing and to approve the Staff's proposed Findings of Fact. The motion was seconded by Ms. Johnson and passed unanimously.

Mr. Luscher made a motion to recommend to the City of Frankfort Board of Commissioners that the Zone Map Amendment request by Marissa Swystun from Two Dwelling District "RD" to Limited Commercial District "CL" for the property located at 612 Taylor Avenue be approved. The motion was seconded by Mr. Mills and passed unanimously.

Chairman Sweger stated that the agenda had more than two Public Hearings and that Commission would have to suspend the bylaws in order to have more than two public hearings.

Mr. Stewart made a motion to suspend the bylaws and to hear the additional Public Hearings at this meeting. The motion was seconded by Mr. Luscher and passed unanimously.

Chairman Sweger asked the Secretary to introduce the next item on the agenda:

PUBLIC HEARING: Proposed Text Amendment to the City of Frankfort Zoning Ordinance to amend Article 2.11.10 regarding utilization of the Alternate Regulations for zoning map amendment in accordance with KRS 100.2111.

The Secretary swore in Mr. Cockley.

Mr. Cockley stated that the adoption of this amendment would allow for a zone change to be approved within thirty days if no one asks for it to go to the City Commission for consideration. He stated that it would make the process faster for projects that are not contentious issues. Mr. Logan stated that it also cuts the time for appeals down, as well.

Under audience testimony, Margaret O'Donnell, a resident of South Frankfort, stated that she had serious issues with the lack of notice and lack of transparency for these types of items. She stated that she understood wanting to make the process easier for non-contentious items.

There was no one else to speak on the item.

Mr. Luscher made a motion to close the Public Hearing and to take action on the item. The motion was seconded by Mr. Stewart and passed unanimously.

Mr. Luscher made a motion to recommend to the City of Frankfort Board of Commissioners that the proposed text amendment to adopt Alternate Regulations for zoning map amendment in accordance with KRS 100.2111 be approved. The motion was seconded by Mr. Stewart and passed by a vote of seven to one. Those voting in favor of the motion were Mr. Luscher, Mr. McDaniel, Ms. Johnson, Mr. Mills, Mr. Stewart, Mr. Nickles and Chairman Sweger. Voting against the motion was Mr. Sanderson.

Chairman Sweger asked the Secretary to introduce the next item on the agenda:

PUBLIC HEARING: Proposed Text Amendment to amend §155.066 of the Franklin County Code of Ordinances and to establish the addition of §155.151 Rural Heritage Mixed Use District (HD). (County Item).

The Secretary swore in Mr. Ben Judah, Interim Director for the Franklin County Planning & Building Codes Department presented the Staff Report.

Mr. Judah stated that Franklin County Fiscal Court had asked staff to prepare the proposed text amendment. Mr. Judah stated that the Zoning Update Committee had reviewed the proposal on May 7, 2024 and had presented a briefing on the Text Amendment to the Planning Commission at the May 9th Planning Commission meeting.

Mr. Judah stated that staff is recommending approval of the proposed text amendment.

Under Commission questioning, Chairman Sweger stated that this is to create a new zone district. Mr. Judah stated that it was. Chairman Sweger stated that it also included historic preservation as a goal, as well. Mr. Judah stated , in some instances it would.

Mr. Luscher asked if it was not working well, could the regulations be amended to make stricter. Mr. Judah stated that they could.

Mr. Luscher asked if it could be limited to one specific property. Mr. Logan stated that would be considered Spot Zoning and that that is illegal.

Mr. Luscher asked, referencing Section D 3, subsection 3, what defines “vicinity.” Mr. Judah stated that it would be immediate area or adjacent to the property.

Under audience testimony, Ms. Jane Julian stated that she had read the rough draft and that the proposed text amendment was the best thing to happen to Franklin County in her lifetime. She stated that it was positive and encouraging to know that the ordinance will be approved.

Mr. John Carlton, stated that he is on the Comprehensive Plan Committee and that he supports the text amendment.

There was no more testimony.

Mr. Luscher made a motion to approve the second draft with change to Section D, Subsection B that changes the term “vicinity” to the wording “on property. The motion was seconded by Mr. Stewart and passed unanimously.

Chairman Sweger asked the Secretary to introduce the next item on the agenda:

PUBLIC HEARING: The City of Frankfort Staff is requesting approval of a Text Amendment to Article 17 of the City of Frankfort Zoning Ordinance for the purpose of amending and adopting Design Guidelines for the Special Capital “SC” District

Mr. Cockley was sworn in. He stated that this proposal is the third and final set of guidelines for the three historic districts in the City of Frankfort. He stated that the Special Historic District guidelines were adopted in 2016 and the Central Business district guidelines were adopted in 2018.

Mr. Cockley stated that these three guidelines will replace Article 17 of the Zoning Ordinance.

Mr. Logan asked if all statutorily required notice had been provided for this item. Mr. Cockley stated that it had. He stated that there had been an on-line survey for residents and interested parties to complete. He stated they had held a Public meeting at South Frankfort so that the Consultant could discuss residents’ concerns directly.

Mr. Luscher stated that the document was good. He asked how strict the guidelines could be. Mr. Cockley stated that the process for exterior changes in Historic Districts that were not structural would be processed using a Zoning Permit just to make sure that they are meeting specific guidelines.

After further discussion, Mr. Luscher made a motion to close the Public Hearing, and to recommend to the City of Frankfort Board of Commissioners that the Special Capital "SC" District Design Guidelines be adopted. The motion was seconded by Mr. Stewart and passed unanimously.

The Chairman asked the Secretary to introduce the next item:

PUBLIC HEARING: Dewey and Candice Woods are requesting approval of a zone map amendment from Rural Residential "RR" to Rural Residential "B" District "RB" for a 0.759 acre property located on 110 and 112 Hawkeegan Drive. The tract is more specifically identified as PVA Map Number #049-20-03-002.01 (County Item)

Ms. Tina Peck, Staff Planner, was sworn in.

Under questioning, Ms. Peck stated that the zone change would allow the property owners to subdivide the property. She stated that currently there are two residences on one lot. She stated that the current Rural Residential zoning requires that each lot be 1.5 acres. She stated that the zone change would bring the property more in compliance. She stated that she was recommending approval of the request.

Under audience questioning, Mr. Krista Jackson asked how the change would affect her property value. Ms. Peck stated that it would not affect her values.

Mr. Dewey Woods stated that currently no one is living in 112 Hawkeegan Drive. He stated that his intention is to fix them up and sell one of them. In order to do that they have to be on separate tracts.

Mr. Luscher made a motion to close the Public Hearing, to adopt the Staff Report as the Summary and to adopt Staff's proposed Findings of Fact. The motion was seconded by Mr. Stewart and passed unanimously.

Mr. Luscher made a motion to recommend to the Franklin County Fiscal Court that the property located at 110 and 112 Hawkeegan Drive and identified as PVA Map Number 049-20-03-002.01 be rezoned from "RR" – Rural Residential to "RB" – Rural Residential "B" Density be approved. The motion was seconded by Mr. Stewart and passed unanimously.

Chairman Sweger asked the Secretary to introduce the next item on the agenda:

In accordance with Article 1.09 of the Frankfort Zoning Ordinance, Thomas & Michelle Schubert are requesting approval of a Modification of Standards of Article 15.022 of the Frankfort Zoning Ordinance to allow the extension, enlargement or

relocation of a non-conforming use on the property located at Fields Avenue to include the construction of a garage larger than the existing garage structure. The property is more particularly described as PVA Map #074-12-10-016.00.

Mr. Cockley presented the staff report. He stated that the applicants want to construct a larger garage on the property. He stated that there is no primary residence on the lot, which is required in that zone district. He stated that the property has never been served with water or sewer. He stated that the extension of sewer would be most likely cost prohibitive. He stated that there will be two garages on the structure.

Mr. Logan stated that the drawing appears to have four garage doors. Mr. Cockley stated that that was correct.

The applicant, Michelle Schubert, stated that they want to build the garage so that they can park their cars in the garage and two tractors and trailers can be parked inside.

Mr. Luscher made a motion to adopt the Staff Report and to adopt Staff's recommendation and to approve the requested Modification of Standards. The motion was seconded by Ms. Johnson and passed by a vote of seven to one. Those voting in favor were Mr. Luscher, Ms. Johnson, Mr. McDaniel, Mr. Nickles, Mr. Stewart, Mr. Mills and Chairman Sweger. Mr. Sanderson voted against the motion.

There being no further business, Mr. Stewart made a motion to adjourn. The motion was seconded by Mr. Nickles and passed unanimously.

Brent Sweger, Chairman

Vickie Sewell, Recording Secretary

REPORT AND RECOMMENDATION



TO: FRANKFORT-FRANKLIN COUNTY
PLANNING COMMISSION

FROM: Ben Judah, Interim Director, Planning & Building Codes Department

SUBJECT: Proposed Text Amendment to amend §155.066 of the Franklin County Code of Ordinances and to establish the addition of §155.151 Rural Heritage Mixed Use District (HD).

DATE: June 24, 2024

MEETING DATE: July 1, 2024

Background/Analysis:

On February 15, 2024, the Franklin County Fiscal Court directed Staff to establish the Rural Heritage Mixed Use District (HD). Initial draft versions have been vetted via preservation experts from both local and State entities. Other pertinent stakeholders have been consulted for input and direction.

ZONING ORDINANCE UPDATE COMMITTEE MEETING:

The Zoning Update Committee held a special meeting on May 7, 2024 to consider the proposed text amendment. Staff initially presented a briefing of the text amendment to the Planning Commission at the May 9, 2024 meeting in order to gain additional feedback.

Recommendation:

Staff: **APPROVAL** of the proposed text amendment as submitted.