

AN ORDINANCE REQUIRING THAT NO BUILDING PERMIT FOR A NEW STRUCTURE OR EXPANSION OF ANY EXISTING STRUCTURE BY MORE THAN TWENTY-FIVE PERCENT IN FLOOR AREA SHALL BE ISSUED FOR ANY STRUCTURE ON PROPERTY ABUTTING MAN O'WAR BOULEVARD, BETWEEN I-75 AND RICHMOND ROAD, UNLESS THE PLANS SUBMITTED IN CONJUNCTION THEREWITH ARE IN ACCORDANCE WITH A PARTICULAR LANDSCAPE PROFILE; REQUIRING THAT EACH PROPERTY OWNER BE RESPONSIBLE FOR ANY AND ALL LANDSCAPING AND IRRIGATION SYSTEM REQUIRED TO BE INSTALLED UPON HIS PROPERTY UNDER THE TERMS OF THIS ORDINANCE; REQUIRING THAT WHENEVER ISSUANCE OF A BUILDING PERMIT REQUIRES PRIOR APPROVAL OF A DEVELOPMENT PLAN OR SUBDIVISION PLAT, THAT THE REQUIREMENTS OF THIS ORDINANCE BE INCLUDED ON SUCH DEVELOPMENT PLAN OR SUBDIVISION PLAT; AND ENCOURAGING OWNERS OF PROPERTY COVERED BY THE TERMS OF THIS ORDINANCE TO LANDSCAPE ANY AND ALL MEDIANS LOCATED WITHIN THE PORTION OF MAN O'WAR RIGHT-OF-WAY UPON WHICH THEIR PROPERTY HAS FRONTAGE.

WHEREAS, the segment of Man O'War Boulevard between I-75 and Richmond Road represents a major new entryway into Fayette County; and

WHEREAS, the variety of land uses which may develop along Man O'War will impact the visual character of that corridor; and

WHEREAS, it is the desire and intent of this Council to implement a significant landscape theme for that corridor that will identify Man O'War Boulevard as a major entryway to the City; that will enhance and beautify that corridor; and that will provide screening from and for abutting properties; and

WHEREAS, it is the intent of this Council to provide a unified and comprehensive list of acceptable landscape materials and a system by which the significant landscape theme described above shall be implemented and maintained;

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

Section 1 - The preamble to this Ordinance shall be and hereby is incorporated herein by reference.

Section 2 - In order to landscape and beautify Man O'War Boulevard between I-75 and Richmond Road in accordance with the intent of this Ordinance, no building permit for a new structure or expansion of any existing structure by more than 25% in floor area shall be issued for any structure on property abutting Man O'War Boulevard, between I-75 and Richmond Road, unless the plans submitted to the Division of Building Inspection with the application for such permit include landscaping in accordance with

the following requirements:

- (a) Large canopy shade trees shall be planted 50 feet on center in a continuous line parallel to and 8 1/2 feet from the right-of-way line.
- (b) There shall be a 20-foot wide landscape buffer immediately adjacent to and parallel with the Man O'War Boulevard right-of-way line. The 20-foot landscape buffer shall contain the following:
 - (i) a continuous 3' high berm, planted with evergreen and deciduous trees in varying species and sizes and totalling no fewer than 20 plants per 100' of right-of-way frontage.
 - (ii) a horse farm fence to be erected on the boundary of the 20-foot buffer area. As used herein, the term "horse farm fence" shall mean a four-plank fence treated with black creosote. In those areas where a horse farm fence is inappropriate or unfeasible, a wire fence within a hedge may be substituted. No gates or access points to Man O'War Boulevard shall be permitted, however, except as provided in the acquisition agreements for the Man O'War right-of-way.
 - (iii) an irrigation system sufficient to ensure proper moisture for growth and maintenance of plant materials.
- (c) All plant materials shall be of the size and species as set forth in a landscape profile and planting manual on file in the Divisions of Planning and Building Inspection.
- (d) The requirements of this Section 2 are in addition to all other applicable requirements of Article 18 of the Zoning Ordinance of the Lexington-Fayette Urban County Government.

Section 3 - Each property owner shall be responsible and liable for the maintenance of the landscaping and irrigation system

required herein, including mowing, fertilizing, pruning, mulching and all costs of operation of the irrigation system within the 20-foot buffer area upon his property.

Section 4 - A landscape plan illustrating fulfillment of these requirements shall be submitted and approved by the Divisions of Building Inspection and Traffic Engineering prior to the issuance of any building permit. Whenever issuance of a building permit requires prior approval of a development plan or subdivision plat by the Lexington-Fayette Urban County Planning Commission, the requirements of this Ordinance shall be included on such development plan or subdivision plat.

Section 5 - While not required to do so, all owners of property covered by the terms of this ordinance are hereby encouraged to landscape any and all medians located within the portion of Man O'War right-of-way upon which their property has frontage. Said landscaping should consist of a single row of canopy trees spaced 50' on center, a staggered grouping of a minimum of 25 flowering trees located in the taper of the median, and 25 low shrubs located in a bed at the nose of the taper, all as illustrated by a landscape profile on file in the Divisions of Planning and Building Inspection. The Commissioner of Public Works is hereby authorized and directed, on behalf of the Lexington-Fayette Urban County Government, to enter into an Encroachment Agreement to permit the installation of said landscaping, provided, however, that any such agreement shall specify that the property owner shall be responsible for the maintenance of the landscaping and shall indemnify and hold harmless the Lexington-Fayette Urban County Government for any and all claims of whatsoever nature arising from the installation of the landscaping.

Section 6 - Whenever this Ordinance is in conflict with other local ordinances, regulations or law, the more restrictive ordinance, regulation or law shall govern and shall be enforced by appropriate officers and employees of this Government.

Section 7 - The sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared

invalid by judgment or decree of a court of competent jurisdiction, said invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance.

Section 7 - That this Ordinance shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL: January 10, 1991



MAYOR

ATTEST:



CLERK OF URBAN COUNTY COUNCIL

PUBLISHED: January 16, 1991 - 1t

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