

CITY OF GEORGETOWN
ORDINANCE NO. 2015-014

AN ORDINANCE AMENDING THE GEORGETOWN/SCOTT COUNTY SUBDIVISION AND DEVELOPMENT REGULATIONS REGARDING REQUIREMENTS FOR COVENANTS, DEED RESTRICTIONS AND HOMEOWNERS ASSOCIATIONS.

SUMMARY

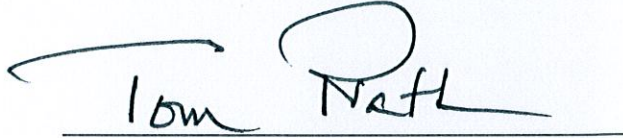
1. Amends the Subdivision and Development Regulations to require applicants for Subdivisions and Developments to provide a Common Scheme of Development (a plan for deed restrictions, covenants and homeowners association requirements) for all new and existing Subdivisions and Developments.
2. Requires new Subdivisions and Developments to set forth the Common Scheme of Development for the entire Subdivision or Development in the Preliminary Development Plan, Preliminary Subdivision Plat, or Master Subdivision Plan, and requires that all future development in the Subdivision or Development be consistent with that Common Scheme of Development.
3. Establishes the Common Scheme of Development for existing Subdivisions or Developments by reference to the existing deed restrictions, covenants, and homeowners association requirements and requires new sections, phases or units within an existing Subdivision or Development to adopt the same deed restrictions, covenants, and homeowners association requirements as the existing section, phase or unit that shares the greatest common border, or, if none adjacent, which is nearest within the Subdivision or Development.
4. Provides a mechanism for the Common Scheme of Development to be amended, upon a showing of a change in market conditions, notice to all lot owners within the Subdivision or Development and a hearing before the Planning Commission.
5. Amends various sections of the Subdivision and Development Regulations to conform.
6. Provides for severability, repeal of inconsistent ordinances and an effective date upon passage and publication.

PUBLICLY INTRODUCED AND READ FIRST TIME: September 8, 2015

PUBLICLY READ SECOND TIME AND PASSED:

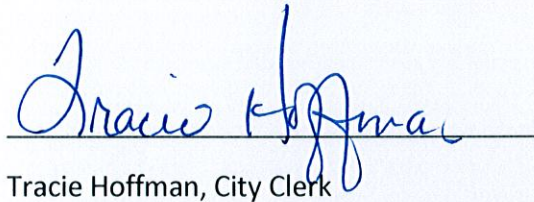
September 9, 2015

APPROVED:

A handwritten signature in black ink that reads "Tom Prather". The signature is written in a cursive style with a large, prominent "P" at the end. It is positioned above a horizontal line.

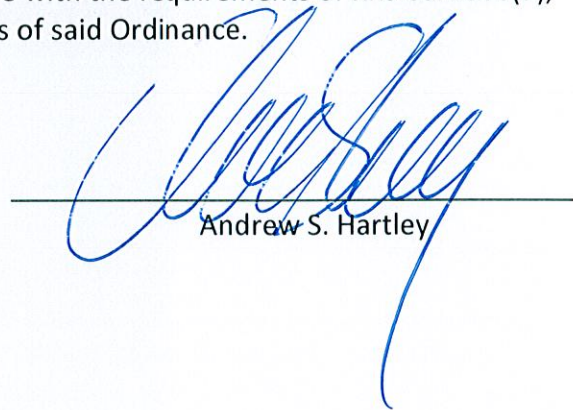
Tom Prather, Mayor

ATTEST:

A handwritten signature in blue ink that reads "Tracie Hoffman". The signature is written in a cursive style. It is positioned above a horizontal line.

Tracie Hoffman, City Clerk

I, Andrew S. Hartley, hereby certify I am an Attorney licensed to practice law in the Commonwealth of Kentucky. My office is located at 100 North Court Street, Georgetown, Kentucky 40324. I further certify the foregoing Summary of Ordinance 15-014 of the City of Georgetown, Kentucky, was prepared in accordance with the requirements of KRS 83A.060(9), and is a true and accurate summary of the contents of said Ordinance.

A handwritten signature in blue ink that reads "Andrew S. Hartley". The signature is written in a cursive style. It is positioned above a horizontal line.

Andrew S. Hartley

CITY OF GEORGETOWN, KENTUCKY

ORDINANCE NO. 15-014

AN ORDINANCE AMENDING THE GEORGETOWN/SCOTT COUNTY SUBDIVISION AND DEVELOPMENT REGULATIONS REGARDING REQUIREMENTS FOR COVENANTS, DEED RESTRICTIONS AND HOMEOWNERS ASSOCIATIONS.

SPONSOR: CHUCK BRADLEY

WHEREAS, the existing Subdivision & Development Regulations must be updated to reflect current best practices to ensure that the expectations of purchasers, whether owner-occupied, investor owned or otherwise, of residential properties in common property developments are protected;

WHEREAS, purchasers of residential properties in common property developments rely on developers to timely develop and to subject the entire common property development to consistent deed restrictions, restrictive covenants, and common property association (i.e. homeowner's association) requirements;

NOW THEREFORE, be it ordained by the City of Georgetown:

SECTION ONE

The Georgetown/Scott County Subdivision and Development Regulations are amended to add Section 702, which shall read as follows

702 Common Scheme of Development Required

- A. It is the intent of this section to promote consistency, market stability, and reduced consumer risk within subdivisions in the City of Georgetown, and the provisions of this Section and the entire Subdivision and Development Regulations shall be interpreted consistent with this intent.
 1. New or Proposed Development or Subdivision. For purposes of this Ordinance, "New or Proposed Development or Subdivision" means a Development or Subdivision for which a Preliminary Development Plan, Preliminary Subdivision Plat or Master Subdivision Plan has not been approved by the Planning Commission prior to the effective date of this Ordinance. The provisions of this section shall not be read to prohibit different sections, units or phases within a New or Proposed Development or Subdivision from being subject to or submitted into different or non-uniform covenants, conditions, easements, servitudes, deed restrictions and homeowners association requirements (hereinafter, the "Common Scheme of Development"). Rather, in order to ensure

consistency with the Common Scheme of Development (or Common Schemes of Development if the Preliminary Development Plan, Preliminary Subdivision Plat or Master Subdivision Plan identifies different sections, units or phases that are subject to the different or non-uniform Common Schemes of Development) over the life of the Development or Subdivision, the intent of this Section is to require applicants to establish such Common Scheme(s) of Development at the time of filing the Preliminary Development Plan, Preliminary Subdivision Plat or Master Subdivision Plan and to submit and subject such property into the Common Scheme of Development prior to the subdivision of any Lots for sale and prior to the sale of Lots within the Development or Subdivision.

2. Existing Development or Subdivision. For purposes of this Ordinance, “Existing Development or Subdivision” means a Development or Subdivision for which a Preliminary Development Plan, Preliminary Subdivision Plat or Master Subdivision Plan was approved by the Planning Commission prior to the effective date of this Ordinance. In order to ensure consistency with the Common Scheme of Development for Existing Developments or Subdivisions, the provisions of this Section are intended to require an applicant to subject and to submit all additional, new, annexed or future sections, units or phases within the Development or Subdivision in and to the Common Scheme of Development existing for all other Lots in said Existing Development or Subdivision.

B. New or Proposed Development or Subdivision.

1. For a New or Proposed Development or Subdivision the Preliminary Development Plan, Preliminary Subdivision Plat or Master Subdivision Plan shall set forth the Common Scheme of Development requirements for the Development or Subdivision. If a Common Scheme of Development contains different or non-uniform covenants, conditions, easements, servitudes, or deed restrictions or different homeowners associations intended for different sections, units or phases of the Development or Subdivision, then the Preliminary Development Plan, Final Development Plan, or Master Subdivision Plan shall (i) identify each such section, unit or phase, and (ii) set forth the applicable Common Scheme of Development applicable to each such section, unit or phase. The Common Scheme of Development for each section, unit or phase set forth in any Final Development Plan or Final Subdivision Plat shall not substantially or materially deviate from the same as set forth in the Preliminary Development Plan, Preliminary Subdivision Plat or Master Subdivision Plan;
2. Following the final approval of a Preliminary Development Plan, Preliminary Subdivision Plat or Master Subdivision Plan, an applicant may seek an amendment, modification or change to the Common Scheme of Development for any section(s), unit(s) or

phase(s) set forth in the Preliminary Development Plan, Preliminary Subdivision Plat or Master Subdivision Plan only upon:

- i. A showing that market conditions have changed substantially, necessitating a change in the Common Scheme(s) of Development for the particular Development or Subdivision; and
 - ii. A sworn statement that the applicant has notified in writing every owner of every Lot within the existing Development or Subdivision (as identified on the Preliminary Development Plan, Final Development Plan, or Master Subdivision Plan) and any homeowners association created pursuant to the Common Scheme of Development, of the proposed amendment, modification or change, which notification shall include a written statement setting forth:
 1. The material changes proposed; and
 2. The date at which the Planning Commission will hear the application for the amendment, modification or change; and
 3. The right of the owners of Lots and the homeowners association to appear before the Planning Commission to support or oppose the proposed amendment, modification or change.
3. An amendment to any Common Scheme of Development set forth in the Preliminary Development Plan, Preliminary Subdivision Plat or Master Subdivision Plan shall require approval of the Planning Commission, which shall allow testimony of the owners of Lots within the Development or Subdivision and the homeowners association prior to the Planning Commission's vote on whether or not to approve the proposed amendment, modification or change. The Planning Commission shall deny any application for amendment that does not meet the conditions set forth in Subsections (B)(2)(i) and (ii) and (D) of this Section.
 4. The Planning Commission shall review the Common Scheme of Development set forth in the Preliminary or Final Development Plan, Preliminary or Final Subdivision Plat or Master Subdivision Plan to ensure compliance with this Section, prior to approval of any Preliminary or Final Development Plan, Preliminary or Final Subdivision Plat or Master Subdivision Plan.

C. Existing Development or Subdivision.

1. For Existing Developments or Subdivisions that have not received approval from the Planning Commission for at least one Final Subdivision Plat or Final Development Plan, the Common Scheme(s) of Development for the entire Development or Subdivision shall be the same as set forth in the Preliminary Development Plan, Preliminary Subdivision Plat or Master Subdivision Plan. Provided, however, that an applicant may seek to

amend the Preliminary Development Plan, Preliminary Subdivision Plat or Master Subdivision Plan to change the Common Scheme of Development prior to the approval of the first Final Subdivision Plat or Final Development Plan. The Planning Commission shall review such an application in the same manner as and the application shall be subject to the requirements for a Preliminary Development Plan, Preliminary Subdivision Plat or Master Subdivision Plan for a New or Proposed Development or Subdivision as set forth in Subsection (B)(1) of this Section.

2. For Existing Developments or Subdivisions that have received approval from the Planning Commission for at least one Final Subdivision Plat or Final Development Plan (regardless of whether the sale of any Lots has occurred), the Common Scheme of Development for the entire Subdivision or Development shall be determined by incorporation of all existing covenants, conditions, easements, servitudes, deed restrictions and homeowners association requirements set forth in the Preliminary Development Plan, Preliminary Subdivision Plat, Master Subdivision Plan, Final Subdivision Plat(s), Final Development Plan(s) or as filed of record in the County Clerk's office.
3. In every application for a Final Development Plan or Final Subdivision Plat within an Existing Development or Subdivision, the Common Scheme of Development shall not substantially or materially deviate from the same as determined in Subsection C(1) or C(2), as applicable. Where the Common Scheme of Development as determined in Subsection C(2) contains different or non-uniform covenants, conditions, easements, servitudes, deed restrictions and homeowners association requirements for different sections, units or phases of the Development or Subdivision, the Common Scheme of Development applicable to each proposed section, unit or phase as set forth in the Final Development Plan or a Final Subdivision Plat shall be the same as the Common Scheme of Development applicable to the existing section, unit or phase which is immediately adjacent to the proposed section, unit or phase. Where more than one section, unit or phase is immediately adjacent to the proposed section, unit or phase, the Common Scheme of Development applicable to the proposed section, unit or phase shall be the same as the Common Scheme of Development applicable to the adjacent section, unit or phase with the greatest common border measured by length, where such common border includes borders common to a public right of way, such as a street or road. Where the proposed section, unit or phase is not adjacent to any existing section, unit or phase, then the Common Scheme of Development applicable to the proposed section, unit or phase shall be the same as the Common Scheme of Development that is applicable to the nearest existing section, unit or phase.

4. An applicant may seek an amendment, other than an amendment pursuant to Subsection C(1), to the Common Scheme of Development set forth in the Existing Development or Subdivision only upon:
 - i. A showing that market conditions have changed substantially, necessitating a change in the Common Scheme of Development for the Existing Development or Subdivision;
 - ii. A sworn statement that the applicant has notified in writing every owner of every Lot within the existing Development or Subdivision (as identified on the Preliminary Development Plan, Final Development Plan, or Master Subdivision Plan) and any homeowners association created pursuant to the Common Scheme of Development, of the proposed amendment, modification or change, which notification shall include a written statement setting forth:
 1. The material changes proposed; and
 2. The date at which the Planning Commission will hear the application for the amendment, modification or change; and
 3. The right of the owners of the Lots and the homeowners association to appear before the Planning Commission to support or oppose the proposed amendment, modification or change.
 - iii. An applicant shall submit and subject the additional, new, annexed or future sections, units or phases to the same homeowners association created by the existing Common Scheme of Development, or its successor(s) in interest; unless the designated homeowners association is defunct or has otherwise been dissolved by the Members thereof or the Kentucky Secretary of State, in which case the applicant may designate a new homeowners association to be created in conformity with Subsection D of this Section.
5. An amendment to the Common Scheme of Development in an Existing Development or Subdivision shall require approval of the Planning Commission, which shall allow testimony of the owners of Lots within the Development or Subdivision and the homeowners association prior to the Planning Commission's vote on whether or not to approve the proposed amendment, modification or change. The Planning Commission shall deny any application for amendment, modification or change that does not meet the conditions set forth in Subsections (C)(4)(i) and (ii) and (D) of this Section.
6. The Planning Commission shall review the Common Scheme of Development that is applicable to the Existing Development or Subdivision to ensure compliance with this Section, prior to

approval of the subdivision of any Lots from or within the Existing Development or Subdivision.

- D. The Common Scheme of Development, whether for New or Proposed Developments or Subdivisions or for Existing Developments or Subdivisions, before approval by the Planning Commission, shall be perpetual in nature (unless terminated or changed with the approval of all owners of land within the Subdivision or Development), run with the land, and be binding on all successors and assigns, and shall be recorded prior to or contemporaneously with Final Subdivision Plat or Final Development Plan approval. No application for a Final Subdivision Plat or Final Development Plan approval for New or Proposed Developments or Subdivisions shall be approved unless it creates an applicable “Responsible Entity” under Ordinance No. 15-001 and complies with the requirements of Section 7(E) of said Ordinance No. 15-001.

SECTION TWO

Section 305(A)(4) of the Georgetown/Scott County Subdivision and Development Regulations is amended to add a new subparagraph, e, as follows:

- e. Plan for application of Common Scheme of Development, consistent with section 702.

SECTION THREE

Section 405(A)(4) of the Georgetown/Scott County Subdivision and Development Regulations is amended to add a new subparagraph, d, as follows:

- d. Plan for application of Common Scheme of Development, consistent with section 702.

SECTION FOUR

Section 705 of the Georgetown/Scott County Subdivision and Development Regulations is amended as follows:

- F. List any special conditions, specifically including the Common Scheme of Development, that run with the plat or plan.

SECTION FIVE

Section 710 of the Georgetown/Scott County Subdivision and Development Regulations is amended to add a new paragraph, F, as follows:

- F. Explanation of application of Common Scheme of Development, consistent with section 702. Provide a copy of such covenants, conditions, easements, servitudes, deed restrictions

and homeowners association requirements where required by these regulations or by ordinance.

SECTION SIX

Section 715(B)(1) of the Georgetown/Scott County Subdivision and Development Regulations is amended as follows:

1. ~~[If deed restrictions or covenants or homeowner's association requirements apply.]~~ Explanation of application of Common Scheme of Development, consistent with section 702, if applicable. Provide a copy of such covenants, conditions, easements, servitudes, deed restrictions and homeowners association requirements where required by these regulations or by ordinance.

SECTION SEVEN

If any portion of this Ordinance is for any reason held invalid or unlawful such portion shall be deemed a separate provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

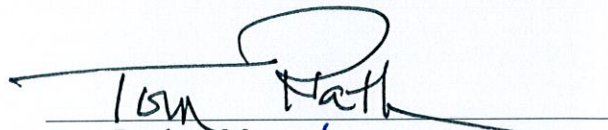
SECTION EIGHT

This Ordinance shall be in full force and effect upon passage and publication.

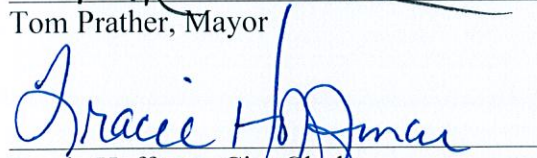
PUBLICLY INTRODUCED AND READ FIRST TIME: September 8, 2015

PUBLICLY READ SECOND TIME AND PASSED: September 9, 2015

APPROVED:


Tom Prather, Mayor

ATTEST:


Tracie Hoffman, City Clerk