ORDINANCE 40-2006

AN ORDINANCE ADOPTING RIGHT-OF-WAY RULES AND REGULATIONS

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Hopkinsville, Kentucky as follows:

SECTION ONE

This ordinance shall be known and may be cited as the Right-of-Way Ordinance of the City of Hopkinsville, Kentucky.

SECTION TWO

The purpose of this ordinance is to protect the integrity of the pedestrian way as it is a direct benefit to adjoining and abutting property owners and the City as a whole. This ordinance provides the procedures for permit application from the City for the placement of structures, facilities, construction, excavation, plantings, encroachment and work activities within, upon or above any right-of-way and to protect the integrity of the road system. This ordinance shall be used in conjunction with the Hopkinsville Public Improvement Specifications, the Kentucky Department of Transportation Standard Specifications for Road and Bridge Construction (as amended), the Hopkinsville Subdivision Regulations, the Hopkinsville Zoning Ordinance, Chapter 162 of the Hopkinsville Code of Ordinances, the Flood Damage Prevention Ordinance, and the Hopkinsville Stormwater Management and Control Ordinance.

SECTION THREE

Definitions. For the purpose of this ordinance, the following words shall have the following meanings:

A. Alley (Public) - A right-of-way of fifteen (15) feet or less in width dedicated to public uses which gives a primary or secondary means of vehicular access to the rear or side of properties and which may be used for public vehicular or utility access.

B. Alley (Private) - A right-of-way of fifteen (15) feet or less in width not dedicated to public uses which gives a primary or secondary means of vehicular access to the rear or side of properties and which may be used for public vehicular or utility access.

C. Applicant - Any individual, agent, utility, firm, association, organization, partnership, trust, company, corporation or any other legal entity requesting permission to perform work within the right-of-way.

D. City - The City of Hopkinsville, Kentucky or its authorized agent or designee.

E. Contractor - An individual, agency, utility, firm, association, organization, partnership, trust, company, corporation or any other legal entity who undertakes to construct, install, alter, move, remove, trim, obstruct, demolish, repair, replace, excavate or add to any improvements covered by this chapter requiring work, workers and/or equipment to be in the right-of-way in the process of performing the above-named operations.

F. Emergency - Any event threatening public health or safety, or resulting in an interruption in the provision of utilities including but not limited to damaged or leaking water or gas conduit systems, damaged, plugged or leaking sewer or storm drain conduit systems or damaged electrical or communication facilities.

G. Equipment - Any tangible asset used to install, repair or maintain facilities in any right-of-way.

H. Facilities - Include without limitation any pipes, conduits, wires, cables, amplifiers, transformers, fiber optic lines, antennas, pole street lights, duct fixtures and appurtenances and other

like equipment used in connection with transmitting, receiving, distributing, offering and providing utility and other services.

I. Holder - The holder of a valid permit issued pursuant to this ordinance.

J. Maintenance - The servicing, repairing or altering of any premises or land to perpetuate the use or purpose for which the premises of land was originally intended.

K. Obstruct - To place any tangible object in a right-of-way so as to hinder free and open passage over the right-of-way or any portion thereof.

L. Patch or Patching - A method of pavement replacement that is temporary in nature. A patch consists of the compaction of the subbase and aggregate base conforming to KDOT standards and the replacement, in kind, of the existing pavement for a minimum of two feet beyond the excavation in all directions. In the instance of a concrete surface, patching shall include the reconstruction of the entire section of concrete surface between expansion spaces.

M. Planning Commission - The Hopkinsville-Christian County Planning Commission.

N. Public Infrastructure - Any improvement that is, or is in the process of becoming maintained by the City, utility agency or franchisee including but not limited to streets, sidewalks, curbs and gutters, ditching and shouldering, utilities, driveway tiles, head walls, decorative street lights, decorative street signs, medians, decorative pavement, stormwater facilities, flood control facilities and fire hydrants.

O. Right-of-Way - The area on, below or above a public roadway, highway street, cartway, bicycle lane and public sidewalk in which the City has an interest including but not limited to other dedicated right-of-ways for travel purposes and utility easements of the City.

P. Right-of-Way Permit - Written governmental permission issued by an authorized official empowering the holder thereof to perform work within the right-of-way.

Q. Sidewalk - The portion of a vehicular thoroughfare not within the roadway and set apart by curbs, barriers, markings or other delineations for pedestrian travel which may be used in conjunction with the placement of utilities and drainage systems.

R. Sign - An identification, description, illustration or device affixed to or represented directly or indirectly upon a building, structure or land and which directs attention to a product, place, activity, service, person, institution or business.

S. Specifications - Hopkinsville Public Improvement Specifications, Kentucky Department of Transportation (KDOT) Standard Specifications for Road and Bridge Construction (latest edition), Hopkinsville Subdivision Regulations, Hopkinsville Zoning Ordinance, Chapter 162 of the Hopkinsville Code of Ordinances and the Hopkinsville Stormwater Management and Control Ordinance.

T. Stop Work Order - A written governmental order stating the cited work shall immediately cease according to the time limitation on the order. The stop work order shall state the reason for the order and the conditions under which the cited will be permitted to resume.

U. Street (Public) - A right-of-way greater than fifteen (15) feet in width dedicated to public uses which gives a primary means of vehicular access and which may be used for public vehicular or utility access.

V. Street (Private) - A right-of-way greater than fifteen (15) feet in width not dedicated to public uses which gives a primary means of vehicular access and which may be used for public vehicular or utility access.

W. Work - Any labor performed on or any use or storage of equipment or materials including but not limited to construction of streets and all related appurtenances, fixtures, improvements, sidewalks, driveway openings, bus shelters, bus loading pads, streets lights and traffic signal devices. It shall also mean construction, maintenance and repair of all underground structures such as pipes, conduits, ducts, tunnels, manholes, vaults, buried cable, wire or any other similar structure located below surface and installation of overhead poles used for any purpose.

X. Utility or Utility Company - Any public or private company that owns, controls, operates or manages any facility used or to be used for uses including but not limited to:

1. The generation, production, transmission or distribution of electricity for light, heat, power or other uses to or for the public for compensation;
2. The production, manufacture, storage, distribution, sale or furnishing of natural or manufactured gas or a mixture of same for light, heat, power or other uses to or for the public for compensation;
3. The transporting or conveying of gas, crude oil or other fluid substance by pipeline to or for the public for compensation;
4. The diverting, developing, pumping, impounding, distributing or furnishing of water to or for the public for compensation;
5. The transmission or conveyance over wire, in air or otherwise, of any message by telephone or telegraph for the public for compensation;
6. The transmission or conveyance over wire, in air or otherwise, of an open video system or data transmission; or
7. The collection, transmission or treatment of sewage for the public for compensation.

Right-of-Way Permits Required.

A. No person except the City or a person exempted by contract with the City shall undertake or permit to be undertaken any construction, excavation or work in a right-of-way without first obtaining a permit from the City. Each permit obtained along with associated documents shall be maintained on the job site and available for inspection upon request of the City.

B. Construction, excavation or work area. No holder shall perform construction, excavation or work in an area larger or at a location different or for a longer period of time than specified in the Permit or Permit Application. If, after construction, excavation or work, it becomes necessary to perform construction, excavation or work in a larger or different area than originally requested under the Application or for a longer period of time, the holder shall notify the City, immediately and within twenty-four (24) hours shall file a supplementary application for the additional construction, excavation or work.

C. Developer Ownership of Public Infrastructure. The physical construction of the public infrastructure in new developments is the responsibility of the developer. Ownership of the infrastructure remains with the developer of the land until acceptance by the City and/or utility. Any development of land where work is undertaken for infrastructure within the right-of-way but prior to acceptance by the City shall obtain a permit from the City. The City will not accept public infrastructure improvements where work performed is not in accordance with the applicable City specifications and applicable provisions of this ordinance.

D. Any person or entity found to be conducting any work activity within the right-of-way without having first obtained the required permit(s) shall immediately cease all activity (exclusive of actions to stabilize the area including signage and/or traffic control) and be required to obtain a permit before work may be restarted.

E. However, any person maintaining pipes, lines or other underground facilities in or under the surface of any street may proceed with an opening without a permit when emergency circumstances demand the work be done immediately provided the permit could not reasonably and practically have been obtained beforehand. The person shall thereafter apply for a permit on the first regular business day of which the City or its designee is open for business and the permit shall be retroactive to the date when the work was begun.

Liability Insurance.

A. In addition to the bond as hereinbefore provided, each person applying for a permit shall be required to give satisfactory evidence of or file a certificate of insurance indicating he is insured against claims for damages for personal injury as well as against claims for property damage which

may arise from or out of the performance of the work whether the performance be by himself, his subcontractor or anyone directly or indirectly employed by him.

B. The insurance shall cover collapse, explosive hazards and underground work by equipment on the street and shall include protection against liability arising from completed operations.

C. The amount of the insurance shall be prescribed by the City or its designee in accordance with the nature of the risk involved.

1. Liability insurance for bodily injury in effect shall not be in an amount less than $100,000 for each person and $200,000 for each accident.

2. Liability insurance for property damages shall be in an amount not less than $50,000 with an aggregate of $100,000 for all accidents.

D. In all events, the City shall be saved harmless from any liability whatsoever.

Plan Review. Right-of-way permit applications shall be subject to a Plan Review. The Plan Review shall consist of a site plan and other exhibits as deemed necessary by the City in order to gain full insight into the developer's intent. A site plan of the proposed project shall be prepared by design professionals such as architects, landscape architects, surveyors or engineers and be submitted to the City with the appropriate fee and application forms. A site plan shall include:

A. three (3) paper copies and one (1) digital copy;
B. map drawn to scale, preferably 1" = 20', 1" = 50' or 1" = 100';
C. existing topography and contour intervals not exceeding five (5) feet;
D. final grade contours with intervals not exceeding five (5) feet;
E. vicinity maps with existing streets;
F. pre- and post-construction surface water drainage patterns;
G. existing natural features;
H. location of existing and proposed utilities including but not limited to water and sewer lines (size), power lines, storm sewers, etc.; and
I. a traffic control and erosion protection plan for the proposed construction, excavation or work (if applicable).

Contents of Application for Right-of-Way Permits. The application for a right-of-way permit shall be signed by the applicant attesting to the truth and exactness of all information supplied by the applicant. Said application shall be submitted to the City or its designee. The following information is the minimum required:

A. name, address, and phone number of applicant;
B. exact location of the proposed construction, excavation or work;
C. type of existing public infrastructure impacted by the construction, excavation or work;
D. purpose of the proposed construction, excavation or work;
E. dates for beginning and ending the proposed construction, excavation or work;
F. proposed hours of work;
G. estimate of construction and restoration costs;
H. type of work proposed including reconstruction;
I. a description of traffic control and erosion protection plans for the proposed construction, excavation or work (if applicable);
J. a statement indicating any proposed joint use or ownership of the facility, any known existing facility at this location and any known existing facilities of others with which the proposed installation might conflict; and
K. an estimated cost of the work to be undertaken. Construction shall include the line items for each component of work to be performed.

Review Process. Upon receipt of the required exhibits, the City shall have ten (10) days to review the site plan, make one of the following decisions and respond to the applicant:

A. Approve the plans as submitted;

B. Grant conditional approval and require the applicant to make changes in order to comply with this ordinance or any other specifications; or

C. Deny approval of the site plan as inappropriate with design standards established in this ordinance or any other specifications.

In instances where minor work within the right-of-way is requested including but not limited to sidewalks less than fifty (50) feet in length, curbs less than fifty (50) feet in length, ditches less than fifty (50) feet in length or driveway drainage tiles, the review and response time for such projects may be reduced to three (3) days.

Surety Instrument for Completion of Public Improvements.

A. A surety instrument of public improvements will be required in an amount and form satisfactory to the City to cover the installation and completion of public improvements in accordance with the Hopkinsville Subdivision Regulations, the Hopkinsville Zoning Ordinance, the Hopkinsville Stormwater Management and Control Ordinance, the Hopkinsville Flood Damage Prevention Ordinance, the Hopkinsville Public Improvement Specifications, and KDOT Standard Specifications for Road and Bridge Construction. Surety instruments are required for but not limited to the following public improvements within the right-of-way:

1. public streets;
2. public sidewalks, curbs and gutters (more than fifty (50) linear feet);
3. ditching and shouldering (more than fifty (50) linear feet);
4. utilities;
5. head wall construction;
6. decorative street lights;
7. decorative street signs;
8. medians;
9. decorative pavement;
10. stormwater facilities;
11. flood control facilities; and
12. fire hydrants.

B. Upon notification of completion by the holder, a final inspection will be conducted by the City, the affected utility and/or any other affected public agency. The release of the surety instrument shall be approved by the City subject to final approval by the affected public agencies.

Obstruction of Streets, Sidewalks Prohibited; Exceptions. It shall be unlawful for any person to maintain any obstruction across, over or upon the streets, alleys or sidewalks of the City for the purpose of displaying or exposing to view for sale any articles of merchandise or to maintain an obstruction or encroachment of any kind without first having obtained authority from the City or its designee to do so.

Using Sidewalk as Temporary Driveway; Permit Required. No person shall use any part of a sidewalk for temporary driveway purposes without first securing a permit from the City or its designee. There shall be no charge for the permit.

A. Before granting a temporary driveway permit, the City or its designee shall require the applicant to deposit with the City a sufficient sum of money to cover the cost of repairing any damage caused to the sidewalk by reason of its temporary use for driveway purposes.

B. If after the expiration of the term for which the temporary permit is issued and upon inspection by the Hopkinsville Street Department Superintendent no damage has been done to the sidewalk, the deposit shall be refunded to the applicant.

C. If damage has been done to the sidewalk by reason of its temporary use as a driveway, the sidewalk shall be repaired by the Hopkinsville Street Department and the cost thereof deducted from the deposit hereinbefore required to be made. Any balance remaining after the cost of repairing damage shall be refunded to the applicant making the deposit.

Duties, Liabilities of Property Owners Abutting on Sidewalks, Pavement.

A. Primary liability is fixed upon abutting property owners of the City for injuries, damages and costs caused to any person by any defective or dangerous condition of any sidewalk servitude existing for the benefit of such adjacent property.

B. Such servitudes are to include those of every kind and nature in sidewalks including but not limited to gratings, coal holes, depressions, excavations, elevations, irregularities, obstacles, obstructions or encroachments, natural or artificial, or which overlap, impinge upon or appropriate any part of the sidewalk area or the space above or below it.

C. The owners of all properties within the City abutting upon or adjacent to sidewalks or pavements are authorized, directed and required to keep such abutting and adjacent sidewalks and pavements in a good and safe condition of repair such as to prevent them from becoming hazardous or dangerous to pedestrians walking thereon.

D. In the event any person sustains injuries and damages by reason of any such defective or dangerous condition in any sidewalk or pavement, the owner of the property immediately adjoining the area where such injury or damage is sustained shall be liable to the City for any and all amounts of damages, interest and costs which the City is required to pay by reason thereof.

E. This section shall not be construed as any attempt by the City to escape or shift the primary liability placed by the law upon it in cases covered by this section but in the exercise of its statutory authority to keep in repair sidewalks or to have the same done. The City establishes this secondary, contributive and indemnifying liability between itself and the owners of property abutting upon sidewalks in cases coming within the purview of this section.

Owners of Abutting Property to Remove Snow. All persons occupying houses, lots or premises abutting on concrete or brick pavements or other improved sidewalks and all owners or agents of unoccupied houses or lots are required to remove any snow that may fall on the pavement or sidewalk within five (5) hours of daylight after same has ceased to fall.

Congregating on Sidewalks Prohibited. It shall be unlawful for any person to stand, congregate or assemble upon any sidewalk, street or public way in the City in such manner as to hinder, obstruct or prevent the free and open passage upon the sidewalks, streets or public ways or to fail or refuse to disperse or to clear such sidewalk, pavement or street crossing when requested so to do by any policeman of the City.

Use of Sidewalks. In order to prevent potentially dangerous situations, it shall be unlawful for any person to utilize the sidewalks for any transportation mode other than pedestrian. These uses include motorcycle and all terrain vehicle (ATV) transit.

Traffic Control. When it is necessary to obstruct traffic, a traffic control plan shall be submitted with the application and approved prior to starting construction. No permit shall be issued prior to the approval of the traffic control plan. No holder shall block access to and from private property, emergency vehicles, access to fire hydrants, fire stations, fire escapes, water valves, underground vaults, valve housing structures or any other vital equipment unless the holder provides written

verification of notice delivered to the owner or occupant of the facility affected. The holder shall make all the necessary arrangements to eliminate any disruption of services or usage of equipment of the owner or occupant of the facility affected. Sufficient and proper barricades and lights shall be maintained to protect persons and property from injury by or because of the excavations being made. If any sidewalk is blocked by any such work, a temporary sidewalk, if possible, shall be constructed and provided which shall be safe for travel and convenient for users.

Nuisances. Each holder shall conduct work in such a manner as to avoid unnecessary inconvenience and annoyance to the general public and occupants of neighboring properties. In the performance of work, the holder shall take appropriate measures to reduce noise, smoke, glare, waste, dust or any other nuisance associated with the construction, excavation or work.

Signs.

A. Signs shall be prohibited from being placed within the right-of-way with the sole exception of directional signs identifying major subdivisions in excess of fifteen (15) lots and/or public/semi-public land uses which include:

1. churches;
2. schools;
3. governmental offices; and
4. parks/recreational areas.

B. Signs shall be made and placed by the City at the expense of the property owner/developer. Under no circumstances shall a sign be placed within the right-of-way by any private individual or organization except as expressly provided by City ordinance.

C. The City or its designee reserves the right to remove any sign placed within the right-of-way either permitted or unpermitted that by virtue of adverse placement, deterioration or dilapidation constitutes a nuisance or hazard to public safety.

D. It shall be unlawful for any person to extend any banner or canvas sign across any public street, park or other way of the City.

E. It shall be unlawful for any person to nail, tack or paste any bill, poster, placard or advertisement to any post or pole used for supporting telegraph, telephone, electric light or fire alarm wires located on City streets or alleys.

Standards for Repair and Restoration.

A. Holder Responsibility. The holder shall be fully responsible for the cost and actual performance of all work in a right-of-way. The holder shall do all work in conformance with the Hopkinsville Subdivision Regulations, the Hopkinsville Zoning Ordinance, the Hopkinsville Stormwater Management and Control Ordinance, the Hopkinsville Flood Damage Prevention Ordinance, the Hopkinsville Public Improvement Specifications, Chapter 162 of the Hopkinsville Code of Ordinances and KDOT Standard Specifications for Road and Bridge Construction. The City may where feasible perform the repair and restoration to the site for a fair fee from the holder. The holder shall provide a cost estimate and surety instrument for the repair and restoration to the site to the Hopkinsville Street Department for review. Once approved, the amount of the cost estimate shall be paid to the City for the repair and restoration to the site.

B. All restoration shall result in a work site condition better than which existed prior to construction.

1. Pavement cuts shall be filled with compacted select material. Either concrete or asphalt patches will be placed to match the existing street cross section.
2. Select fill shall be placed in an excavation to the density required by the Hopkinsville Public Improvement Specifications and KDOT Standard Specifications for Road and Bridge

Construction. Flowable fill may be required when it reduces the likelihood of future street degradation.

3. When utility cuts are made within the paved surface of a sidewalk, the City or its designee may require temporary restoration and/or covering to provide for the safe and immediate flow of pedestrian traffic.

C. Removing and Replacing Concrete Driveway Aprons. When curbs/gutters are removed to receive driveways, the curbs/gutters shall be repoured with a driveway apron. When a sidewalk continues across the driveway apron, the sidewalk pattern shall also be continued across the apron. Driveway aprons shall be constructed of six (6) inches of concrete and match the adjacent sidewalk. Replacement of sidewalks shall be in accordance with Section Four of the Hopkinsville Public Improvement Specifications. Under no circumstances shall existing sidewalks be paved over in order to obtain ingress/egress to property.

D. Driveway Tile Replacement. A property owner/developer shall not obstruct a right-of-way or drainage easement. The natural free and clear passage of water through the gutters, ditches or other water ways shall not be impeded. When driveways encroach into an existing stormwater runoff system, a driveway tile shall be installed in accordance with Section 5.4.7 of the Hopkinsville Public Improvement Specifications, Chapters 151 (Flood Damage Prevention Ordinance) and 155 (Stormwater Management and Control Ordinance) of the Hopkinsville Code of Ordinances. A right-of-way permit shall be required for the installation of all driveway tiles within the right-of-way.

1. Tile Size. The minimum size of a driveway tile shall be fifteen (15) inches. The Hopkinsville Street Department and the Planning Commission may in cases where water would be detained by a fifteen (15) inch tile or where a fifteen (15) inch tile would be oversized require a different size driveway tile.

2. Installation. Installation of the driveway tile shall only be performed by the Hopkinsville Street Department or KDOT where applicable. Driveway tiles located within the State right-of-way shall require coordination with KDOT. Exceptions to City installation are:

   a. Installation by KDOT on a State right-of-way;

   b. In cases where tiles are included in a Stormwater Management Plan, the cost of tile replacement/installation shall be included in the approved surety instrument. The proper installation shall be ensured by approved "As-Built" drawings; and

   c. New Construction. Installation of driveway tiles at new construction sites shall be the responsibility of the property owner/developer.

E. Driveway Encroachments on Rights-of-Way. When driveway access is obtained from private property onto a right-of-way a permit shall be obtained from the City. The application for the permit shall contain all exhibits required in the Plan Review section of this ordinance.

F. Sidewalk Maintenance.

1. Sidewalks shall be maintained as to provide a safe and orderly flow of pedestrian traffic. The City may determine a sidewalk does not meet safety standards by reviewing them against:

   a. location of sidewalk (i.e., downtown business district, residential area);

   b. amount of pedestrian traffic;

   c. City resources for replacement or repair;

   d. City resources or appropriateness of temporary repair (i.e., cost of blacktop ramp);

   e. deviations in elevation of ½ inches (13 mm) or greater;

   f. missing section;

   g. holes;

   h. spalling; and

   i. other conditions.

2. Grading Standards for Sidewalks. The City may when determining or prioritizing replacement of sidewalks use the above items to establish a grading/prioritizing procedure. The grade of the sidewalk will determine the priority of replacement.

3. Replacement of sidewalks shall conform to KDOT Standard Specifications for Road and Bridge Construction as well as the ADA Standards for Accessible Design.

4. Any deviation in construction material, i.e. decorative sidewalks, shall be reviewed by the City or its designee for compliance with the intent of this ordinance. The City may at its discretion waive maintenance responsibilities should the proposed deviation result in more rapid degradation of the sidewalk.

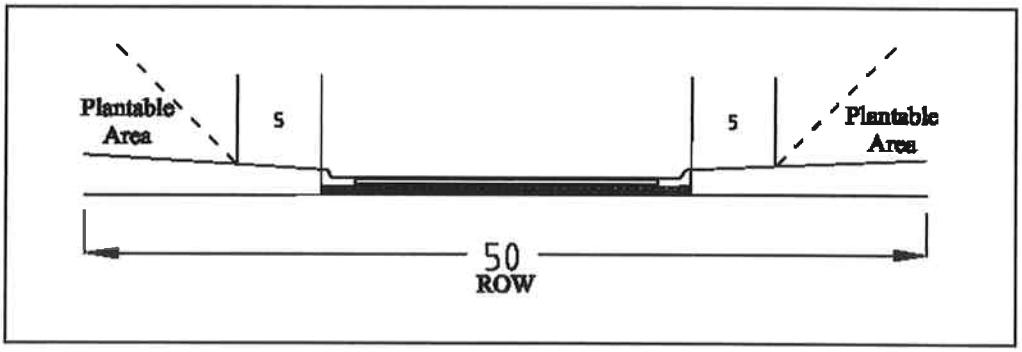
Vegetative Planting Within the Right-of-Way.

A. A permit shall be obtained prior to any vegetative planting excluding grass seeding/sodding within the right-of-way. Vegetative planting shall be subject to a Plan Review as indicated in that section of this ordinance. Maintenance of any vegetative planting including grass shall be Passive Maintenance as defined in Chapter 162.02(2) of the Hopkinsville Code of Ordinances.

1. Standards.

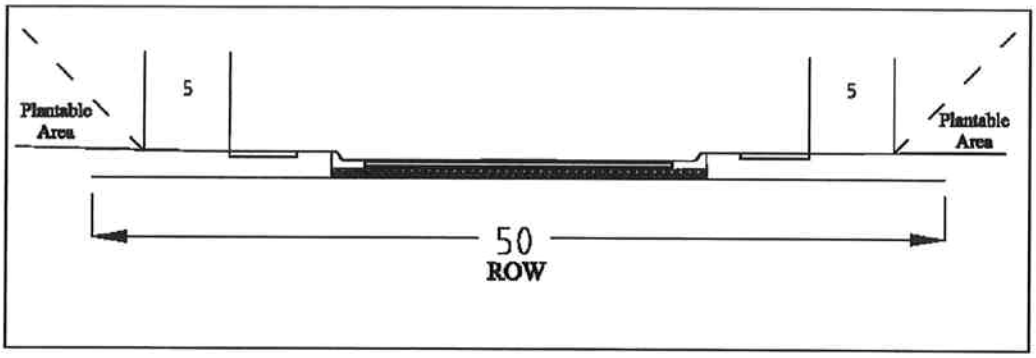
a. Any new planting excluding grass seeding/sodding within the right-of-way shall maintain a minimum setback of five (5) feet from the paved surface. Where sidewalks are located within the right-of-way, the exterior edge of the sidewalk shall be considered the edge of the paved surface. In no case shall vegetative plantings excluding grass seeding/sodding be located between a street and a sidewalk or obstruct the continuity of a sidewalk.

i. Shoulder Landscaping. The measurement of the radius of the planting shall not exceed the distance from the base of the plant to the five (5) foot setback line from the exterior edge of the paved surface. In addition, the height of the plants shall not exceed the distance from the base of the plant to the five (5) foot setback line from the exterior edge of the paved surface (Figure 13-1). In no circumstance shall plantings be placed between the curb and the sidewalks (Figure 13-2).



With Curb and Gutter

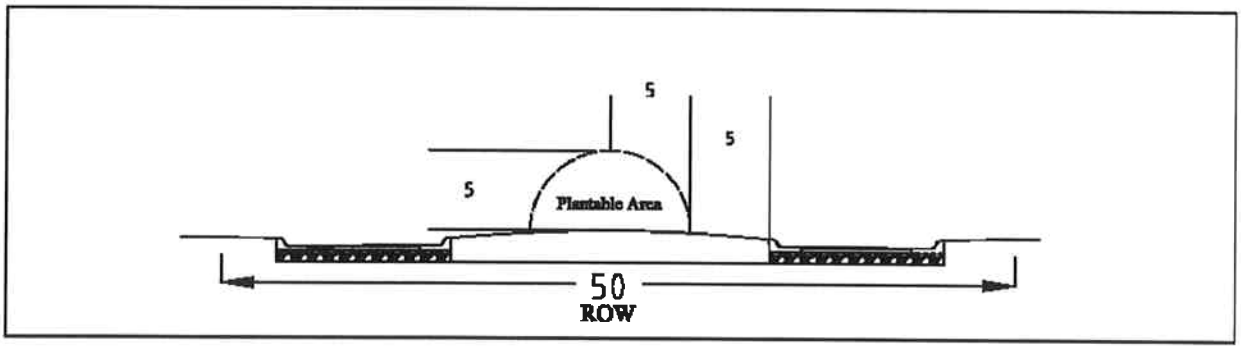
Figure 13-1



With Sidewalks

Figure 13-2

ii. Median Landscaping. The measurement of the radius of the planting shall not exceed the distance from the base of the plant to the five (5) foot setback line from the interior edge of the paved surface. In addition, the height of the plants shall not exceed the distance from the base of the plant to the five (5) foot setback line from the interior edge of the paved surface (Figure 13-2). All medians shall comply with Chapter 162.04(C) of the Hopkinsville Code of Ordinances.



Within Median

Figure 13-3

B. Any existing or new planting within or near the right-of-way including limbs extending into the right-of-way deemed to be a risk to public safety may be removed by the City at any time. Under no circumstances shall any new planting or portion thereof whose base may or may not be located within the right-of-way overhang the paved surface of the street.

C. Planting excluding grass seed/sodding shall not be permitted within the right-of-way utilizing ditches as a means to channel stormwater runoff.

D. Any proposed planting not conforming to the standards within this ordinance shall be reviewed by the City or its designee and other appropriate agencies for a determination of compatibility with the intent of this ordinance.

E. Plantings over three (3) feet at maturity shall not be place within the thirty (30) foot sight-triangle (Figure 13-4).

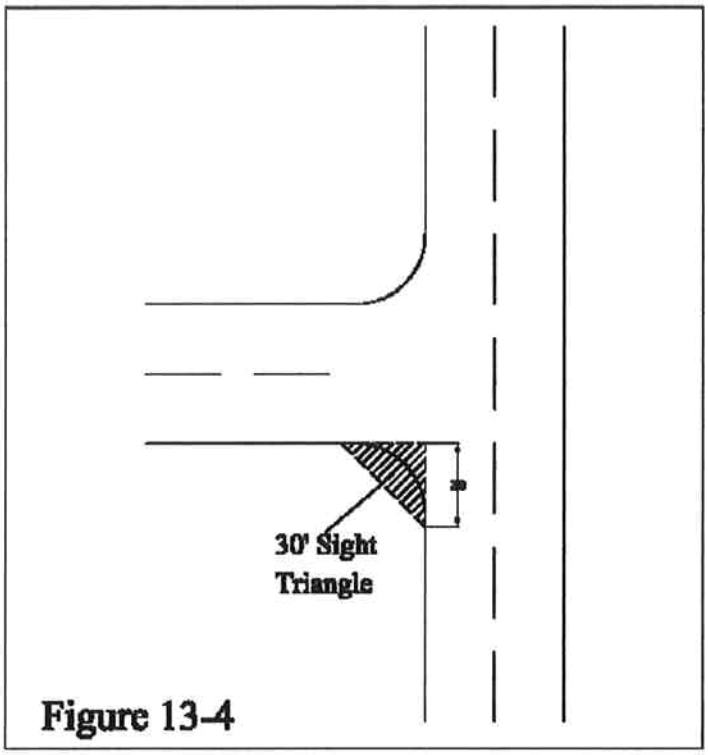


Figure 13-4

Street Construction Specifications to be Met; Certificate of Compliance.

A. Specifications for street construction will be as set forth in this ordinance. All other sources for street construction shall conform to the Hopkinsville Code of Ordinances. All streets as defined by the Hopkinsville Subdivision Regulations shall be constructed in accordance with the material and design specifications as set forth herein and other requirements which have been duly adopted by Hopkinsville City Council.

B. A verified statement of any person, firm or corporation who hereafter constructs any street in the City or in any subdivision subject to City regulations showing compliance with the provisions of this section and recommended by the Planning Commission as to the material and design specifications required shall be submitted to Hopkinsville City Council prior to the final approval of any street by the City.

C. The streets shall also be subject to such further inspection by the City or its agents to include the Planning Commission as Hopkinsville City Council may require before final approval.

D. Pavement specifications for streets. Any developer shall provide street pavements which shall be designed to carry the expected traffic loads and which shall conform with KDOT current standard specifications for concrete pavement or for bituminous pavement.

1. Subgrade. The subgrade shall be constructed in conformance with KDOT Standard Specifications for Road and Bridge Construction. If the compacted subgrade method is used as listed in Section 207 then the finished, compacted thickness shall be at least twelve (12) inches thick with a density of 95% as determined by the Method of Test for Moisture-Density Relation of Soils, A.A.S.H.T.O. Destination: T99. The in-place density will be determined by Method of Test for Density of Soil in Place by the Rubber-Balloon Method, ASTM Designation: D2167 or they may be performed by an acceptable Nuclear Density Meter. Tests will be made at such frequency as deemed necessary by the Planning Commission or the Hopkinsville Public Works Department or their duly assigned representatives to assure the entire subgrade is compacted to the specified density. All density testing shall be the responsibility of the

developer or contractor under the direction and guidance of the Planning Commission or Hopkinsville Public Works Department.

a. If alternative subgrades are approved, they shall be constructed to the applicable standards and strengths specified in KDOT Standard Specifications for Road and Bridge Construction.

b. The subgrade is the foundation upon which the pavement structure is to be constructed. The preparation of the subgrade shall, in addition to compaction include shaping to conform to the required lines, grades and cross-sections, all in accordance with applicable provisions of these regulations.

2. Dense-Graded Aggregate Base. The base courses shall consist of the required depth (compacted) of graded aggregate and water mix placed on the prepared subgrade and shaped and compacted to the lines, grades and cross-sections shown on the drawings, all in accordance with the regulations set out herein and in the Hopkinsville Subdivision Regulations.

a. The aggregate shall be crushed limestone meeting the requirements of KDOT Standard Specifications for Road and Bridge Construction (see Division 300), compacted to a density of not less than 95% of solid oven-dry, bulk specific gravity, ASTM C 127, and the dry weight of the aggregate from the test hold. At least one density test shall be made at intervals of 500 feet or less and as many additional tests shall be made as deemed necessary by the Planning Commission or Hopkinsville Public Works Department to determine the extent of any low density sections.

b. The in-place density will be determined by the Method of Test for Density of Soil in-place by the Rubber Balloon Method, ASTM Designation; C 2167 or an acceptable Nuclear Density meter. The developer/contractor shall provide all necessary labor and equipment for making the test.

3. Bituminous concrete surface. Bituminous concrete shall be used for surfacing new roads of bituminous construction. Bituminous concrete surface shall conform to the applicable requirements of Division 400 of KDOT Standard Specifications for Road and Bridge Construction to the thicknesses set forth in this section.

4. Minimum Street Grade and Thickness by Classification.

1	Residential/Commercial Classification	Maximum Grade	DGA Base	Bituminous Concrete Base Course	Bituminous Concrete Surface Course
2	Major Arterial	6%	8"	3"	1"
3	Minor Arterial	6 - 8%	8"	3"	1"
4	Street/Local Access	10%	8"	3"	1"
5	Street/Local Access - Concrete	10%	8"	6"	
6	Minimum cross slope grade for all classifications shall be ¼" : 1'				

1	Industrial Classification	Maximum Grade	DGA Base	Bituminous Concrete Base Course	Bituminous Concrete Surface Course
2	Minor/Major/Local Street/Cul-De-Sac	8 - 10%	6"	5"	1 1/2"

5. If an alternative type of surface construction is used, it must first be approved by the Planning Commission or Hopkinsville Public Works Department and be constructed in accordance to the applicable sections of KDOT Standard Specifications for Road and Bridge Construction to a strength equivalent to bituminous concrete method for the same type street.

6. Minimum Pavement Widths (in feet). The following pavement widths shall be required:

Improvements	Low Density Residential	Medium Density Residential	High Density Residential	Commercial	Industrial
Frontage Street	20 w/c* 22 wo/c** plus 4 shoulder	20 w/c 22 wo/c plus 4 shoulder	22 w/c 24 wo/c plus 4 - 6 shoulder	26 w/c 26 wo/c plus 4 - 6 shoulder	26 w/c 26 wo/c plus 8 shoulder
Cul-De-Sacs/ Dead Ends	20 w/c 22 wo/c plus 4 - 6 shoulder	22 w/c 24 wo/c plus 4 - 6 shoulder	24 w/c 24 wo/c plus 4 - 6 shoulder	26 w/c 26 wo/c plus 4 - 6 shoulder	26 w/c 26 wo/c plus 8 shoulder
Local Street	22 w/c 22 wo/c plus 4 - 6 shoulder	24 w/c 24 wo/c plus 4 - 6 shoulder	28 w/c 28 wo/c plus 6 - 8 shoulder	30 w/c 30 wo/c plus 6 - 8 shoulder	26 w/c 26 wo/c plus 8 shoulder
Minor Arterial	26 w/c 28 wo/c plus 6 - 8 shoulder	28 w/c 30 wo/c plus 8 - 10 shoulder	30 w/c 32 wo/c plus 10 shoulder	30 w/c 30 wo/c plus 10 shoulder	26 w/c 26 wo/c plus 10 shoulder
Major Arterial	30 w/c 32 wo/c plus 10 shoulder	32 w/c 34 wo/c plus 10 shoulder	34 w/c 34 wo/c plus 10 shoulder	36 w/c 36 wo/c plus 10 shoulder	26 w/c 26 wo/c plus 10 shoulder

*w/c – with curb

**wo/c – without curb-width of vegetative shoulder

Opening of New Streets.

A. It shall be unlawful for any person to open for public travel any new street or alley in the City except as hereinafter provided.

B. Any person wishing to open or have opened any new public street or alley in the City shall make application to Hopkinsville City Council and file with the City Clerk a description of the street or alley to be opened. Should the application be granted by Hopkinsville City Council, the street or alley shall be opened under City supervision.

C. The street or streets shall contain beneath their surface all utility lines available in that particular location and shall be covered with a rock base with bituminous surface and conform to the specifications followed by the City in its construction and maintenance of streets, together with curbs and gutters in place where required.

D. The City will not hereafter accept any new street or alley as a public street or public alley if not opened in conformity with the above-named regulations.

City Maintained Right-of-Ways. Unless otherwise set forth and referenced in this ordinance or by agreement by the City, the City has no maintenance responsibilities for private drives, private alleys and/or private easements platted within the corporate City limits.

A. Streets

1. Dedication and acceptance of City streets shall comply with the provisions of the Hopkinsville Subdivision Regulations, the Hopkinsville Public Improvement Specifications, and this ordinance.

2. The City may, in cases where a private drive has been opened to unrestricted use of the general public for five (5) years, dedicate and accept the drive into public maintenance without formal dedication or record dedication plat. When a request is made to accept a drive for maintenance, the following procedures apply.

a. A written request shall be submitted to the Planning Commission and shall state the use and purpose to base maintenance responsibilities. The request shall also state any other information regarding past use or history of the drive(s).

b. The location of the drive(s) will be placed on a map showing adjoining property owners.

c. The Planning Commission will determine the history of the drive(s) as it pertains to:

i. past use;
ii. public purpose;
iii. utility use;
iv. drainage use;
v. future use or need; and/or
vi. any other information.

d. The information will be forwarded to the City with a recommendation regarding the disposition of the drive(s) and whether the City should assume maintenance. The recommendation will be based on findings that:

i. The acceptance of the drive(s) fulfills a public purpose; or
ii. The City has maintained the drive(s) in the past.

e. The City can either accept the recommendation or adopt its own determination.

f. Adoption of a recommendation by Hopkinsville City Council shall authorize the appropriate department or agency to take the necessary action.

g. The City of Hopkinsville Street Maintenance Map (Map No. M-1, attached) and Database shall be amended to include the drive(s) and the degree of maintenance authorized, if any. The City of Hopkinsville Street Maintenance Map and Database shall be maintained and updated by the Planning Commission.

h. The accepted drive(s) shall be appropriately identified by a green-colored street sign. Private alleys/drives shall utilize blue-colored street signs for identification.

B. Alleys.

1. Maintenance. Where a public purpose exists and/or a demonstration of past maintenance work performed by City employees, the City will assume maintenance responsibilities for the alley to a level or degree of maintenance which satisfies the public purpose or to the level of past maintenance activities.

2. Utilities. In situations where a public utility has utilized an alley for the construction or routing of a utility service, the public utility is responsible to maintain the alley to the degree necessary to service or access the utilities in question. The City will not be responsible for maintaining the alley unless there is evidence of past City maintenance or a public purpose. In circumstances where there are dual or multiple uses of an alley, each perspective entity (e.g. City and/or a public utility) will maintain the alley to the degree or level needed to meet its uses or needs.

3. Procedure. When a request is made to accept an alley for maintenance, the following procedures apply.

a. A written request shall be submitted to the Planning Commission and shall state the use and purpose to base maintenance responsibilities. The request shall also state any other information regarding past use or history of the alley(s).

b. The location of the alley will be placed on a map showing adjoining property owners.

c. The Planning Commission will determine the history of the alley as it pertains to:

i. past use;
ii. public purpose;
iii. utility use;
iv. drainage use;
v. future use or need; and/or
vi. any other information.

d. The information will be forwarded to the City with a recommendation regarding the disposition of the alley and whether the City should assume maintenance. The recommendation will be based on findings that:

i. The acceptance of the alley fulfills a public purpose; or
ii. The City has maintained the alley in the past.

e. The City can either accept the recommendation or adopt its own determination.

f. Adoption of a recommendation by Hopkinsville City Council shall authorize the appropriate department or agency to take the necessary action.

g. The list of alleys found in this ordinance shall be amended to include the alley and the degree of maintenance authorized, if any.

4. Maintained Alleys.

a. The list below is a list of alleys currently maintained by the City. The list shall be used in conjunction with the City Maintained Alleys Map (Map No. M-2, attached). The City Maintained Alleys Map and Database shall be maintained and updated by the Planning Commission.

i. 20th Street Alley
ii. King-Durrett Street Alley
iii. East 13th Street Alley
iv. South Vine Street Alley
v. Bentley Street Alley
vi. Hipkins-Young Street Alley
vii. Kirby Lane
viii. Long Alley
ix. St. Michaels Way

5. Alley Acceptance and Closing Procedures.

a. The City shall not be responsible for any cost associated with an acceptance or alley closing. The proponents and/or applicant(s) shall be responsible to pay any cost incurred by the City to accept or close an alley.

b. The proponents and/or applicants shall indemnify and hold harmless the City, the Planning Commission and their elected or appointed officials, agents or employees of any damages which occur as a result of the alley closing.

State Owned/Maintained Right-of-Ways.

A. Whenever the State Commissioner of Highways, by authority of State law, designates any streets or portions thereof including viaducts and bridges as connecting links of state or federal maintained highways or necessary feeder streets thereto and thereby undertakes the future maintenance, repair, construction or reconstruction of such streets, bridges or viaducts in the manner provided by the aforesaid statutes, the Mayor is expressly authorized, instructed and directed to enter into any and all contracts and agreements with KDOT necessary to carry out the purposes and provisions of the statutes.

B. Should KDOT construct or reconstruct any streets in the City, such work shall be done by the Department as the agent of the City.

C. Work done within a State maintained right-of-way shall require review and approval by KDOT, unless otherwise exempted. A list of State maintained roads can be found in Appendix A of this ordinance. The list of roads should be used in conjunction with the State Maintained Roads Map (Map No. M-3, attached). Portions of City or privately maintained roads sharing names with State maintained roads but not indicated as a State maintained road on the State Maintained Roads Map or official records of KDOT shall not be considered or utilized as a State maintained road. Nothing herein shall be construed as to limit the sovereignty of the Commonwealth of Kentucky over public right-of-ways.

Franchisees.

A. In consideration of the grant of authority to utilize the streets and public places of the City for the provision of telecommunication services and in accordance with applicable laws and ordinances, a franchisee shall pay such franchise fees, business license taxes and administrative fees as may be enacted and imposed by the City.

B. The privilege granted to the franchisee by this ordinance does not exempt or excuse the franchisee from the police power and all other municipal authority and laws including but not limited to those relating to zoning, permitting, traffic control, construction, excavation and planning.

C. Any utility or franchisee owning utility poles and operating within the City shall, as a condition of using the City's right-of-ways, provide nondiscriminatory access under standard arrangements and applicable safety codes to those poles by other utilities and franchisees lawfully permitted to operate within City limits.

D. Any utility or franchisee requesting to use another's pole must provide evidence of $1,000,000 liability insurance, adequate aerial equipment and properly-trained maintenance personnel capable of responding to any emergency service request within a one (1) hour period, twenty-four (24) hours a day, seven (7) days a week.

E. Requests for usage shall be filed in writing with the owner of the pole along with certification of insurance and adequate maintenance capability. A copy of which shall be sent to the City or its designee. The owner of the pole shall respond to the request within thirty (30) calendar days.

On-Street Parking Spaces. The City may, in cases where public safety and/or traffic circulation would benefit, remove on-street parking spaces within the public right-of-way. The process for removal will be:

A. A written request shall be submitted to the Planning Commission by the City or elected officer of the same or by a private property owner having interest in or abutting said on-street parking.

B. The location of the parking space(s) will be placed on a map showing adjoining property owners.

C. The Planning Commission will collect information pertaining to the parking space(s) as it relates to:

1. past use;
2. ownership/jurisdiction. If within a State right-of-way, the request will be forwarded to KDOT for review;
3. public purpose;
4. future use or need; and/or
5. any other information.

D. The information will be forwarded to the City with a recommendation regarding the disposition of the parking space(s). The recommendation will be based on findings that:

1. There is a public safety issue concerning the parking space(s); or
2. There are traffic circulation concerns regarding the continued use of the parking space(s).

E. The City can either accept the recommendation or adopt its own determination.

F. Adoption of a recommendation by municipal order of Hopkinsville City Council shall authorize the appropriate department or agency to take the necessary action to remove the parking spaces.

Revocation of Permits and Stop Work Orders.

A. Any permit may be revoked or suspended after written notice to the holder for:

1. Violation of any material condition of the permit or of any material provision of this ordinance.
2. Violation of any material provision of any other City ordinance.
3. Performance of any act which the City determines, constitutes or feels causes a condition endangering life or damage to property.

B. Stop Work Order. A stop work order may be issued to any person or persons doing or causing any work to be done in the right-of-way for:

1. Working without a permit except for routine maintenance or emergency repairs to existing facilities as provided for in this ordinance.
2. Doing work in violation of any provisions of this ordinance or any other City ordinance.
3. Performing any act which the City determines constitutes or causes a condition that either endangers life or property or causes a public nuisance.

C. A suspension or revocation and a stop work order shall take effect immediately upon notice to the person performing the work in the right-of-way. For the purpose of this ordinance, constructive notice shall be obtained by posting the site with a stop work order. Upon notification of permit suspension or revocation, all activity shall immediately cease exclusive of actions to stabilize the area including signage and/or traffic control.

D. Any suspension, revocation or stop work order may be appealed by the holder to the City by filing a written notice of appeal within thirty (30) days of action. The holder of the permit is responsible for any deterioration or damage of the site during the appeal process.

Administration, Enforcement and Penalty.

A. Administration. The responsibility for the administration of this ordinance shall rest with the Planning Commission and any other regulatory agency, department or utility agency which is responsible for the maintenance and operation of the public improvement installed.

B. The provisions of this ordinance may be enforced by the Code of Ordinance Enforcement Board established in Chapter 33 of the Hopkinsville Code of Ordinances or in the alternative, the Christian District Court as a misdemeanor and/or violation. The decision on where the ordinance will be enforced shall be at the City's discretion.

C. Any person violating any provisions of this ordinance shall be charged with a misdemeanor and/or violation in the event this ordinance is enforced through the Christian District Court. If charged and enforced through the Code of Ordinance Enforcement Board, the offense shall be a civil offense. A first offense under this chapter shall result in a fine of not greater than three hundred dollars ($300.00). A second offense shall result in a fine of not greater than four hundred dollars ($400.00). All other offenses shall result in a fine of not greater than five hundred dollars ($500.00). Each day that a violation continues shall constitute a separate offense.

Interpretation. The City shall decide on all questions which may arise as to the interpretation of all questions as to the acceptable fulfillment of the work performed. The City shall decide any and all questions which may arise as to the quality and acceptability of materials furnished and work performed and as to the manner of performance of the work.

SECTION FOUR

If any section, subsection, sentence, clause or phrase of this ordinance is held unconstitutional or otherwise invalid, such infirmity shall not affect the validity of the remaining portions of this ordinance.

SECTION FIVE

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

SECTION SIX

Pursuant to KRS 83A.060(9), Hopkinsville City Council designates this ordinance be published in summary format. This ordinance will take effect upon such publication.

ORDINANCE 40-2006
ADOPT RIGHT-OF-WAY RULES AND REGULATIONS

PUBLICLY READ AND PASSED FIRST TIME: October 3, 2006

PUBLICLY READ AND PASSED SECOND TIME: October 17, 2006

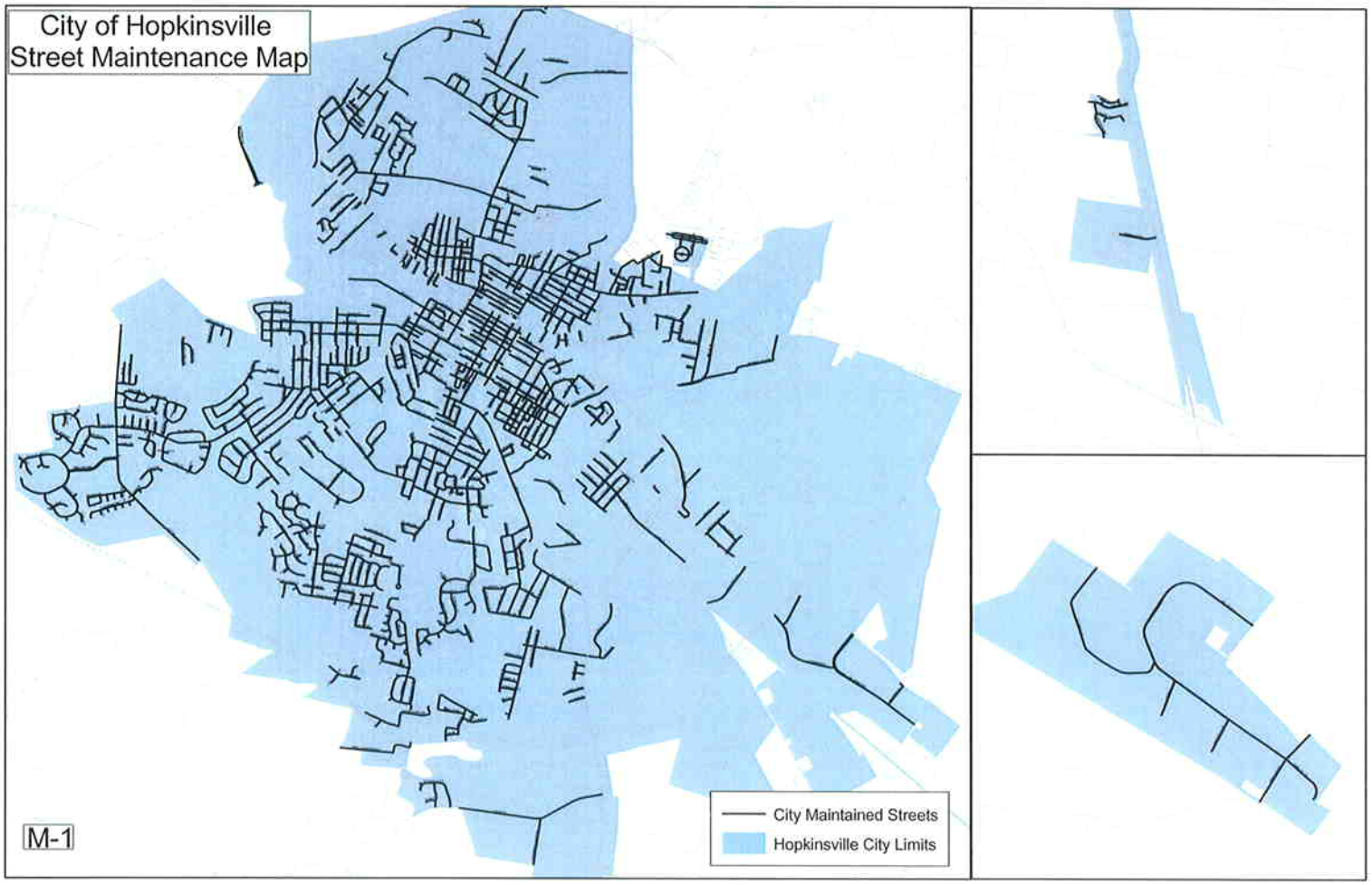
APPROVED: Richard G. Liebe
Richard G. Liebe
Mayor

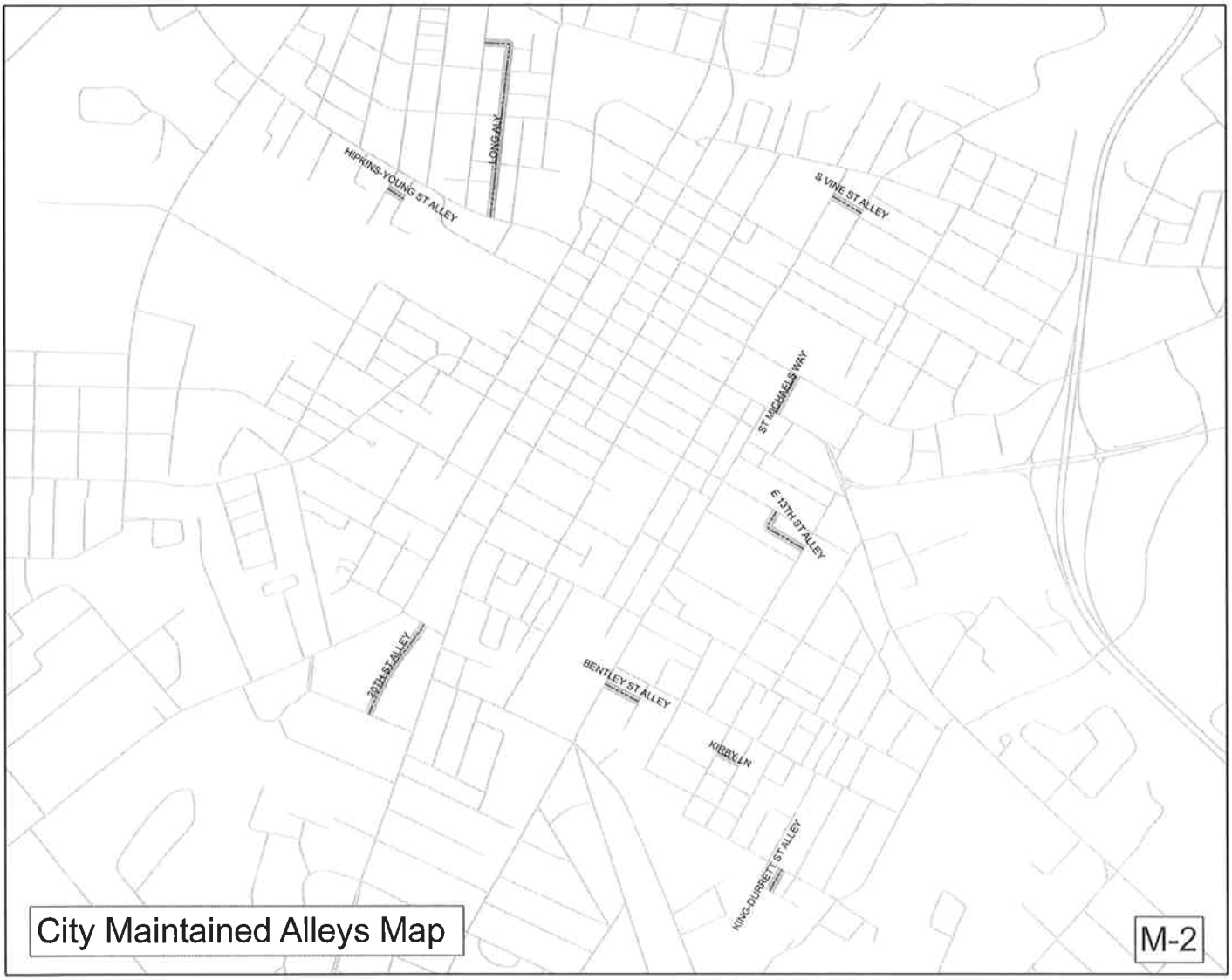
ATTEST: Christine F. Upton
Christine F. Upton, CMC
City Clerk

Appendix A

State maintained roads within the city limits of Hopkinsville

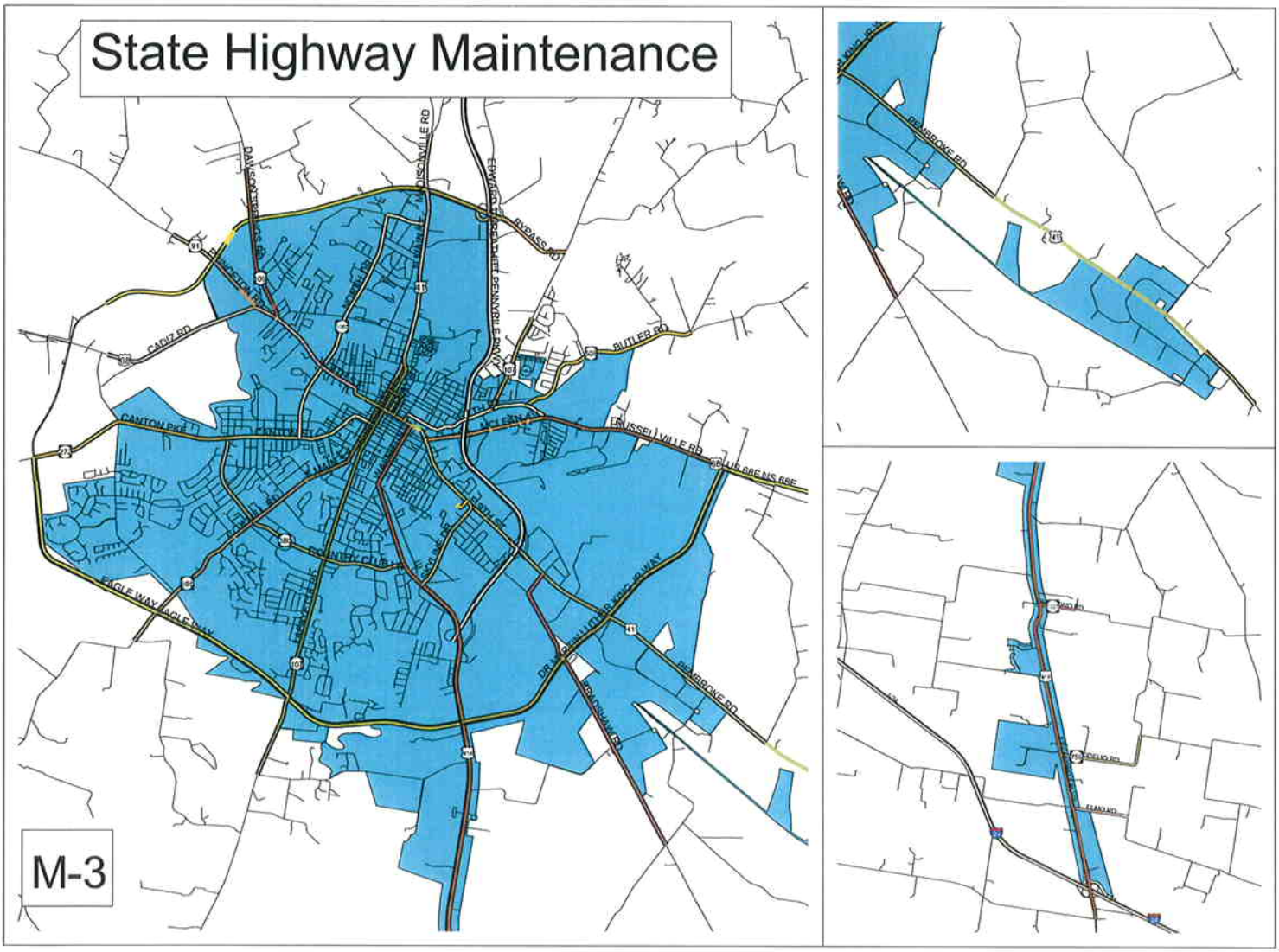
1. Bradshaw Road
2. Butler Road
3. By Pass Road
4. Bypass Road
5. Cadiz Road
6. Canton Pike
7. Canton Street
8. Country Club Lane
9. Cox Mill Road
10. Dawson Spring Road
11. Dr. Martin Luther King Jr. Way
12. East 14th Street
13. East 18th Street
14. East Fourth Street
15. East Seventh Street
16. East Ninth Street
17. Eagle Way
18. Edward T. Breathitt Pennyrile Parkway
19. Elmo Road
20. Fidelio Road
21. Fort Campbell Boulevard
22. Greenville Road
23. I-24
24. Lafayette Road
25. Liberty Street
26. Long Pond Road
27. Lovella Lane
28. Madisonville Road
29. McLean Avenue
30. North Main Street
31. North Virginia Street
32. North Drive
33. Pembroke Road
34. Princeton Road
35. Russellville Road
36. South Campbell Street
37. South Clay Street
38. South Main Street
39. South Virginia Street
40. Sanderson Drive
41. Skyline Drive
42. US 68E
43. West 14th Street
44. West Seventh Street
45. West Ninth Street
46. Walnut Street


City of Hopkinsville
Street Maintenance Map
M-1
City Maintained Streets
Hopkinsville City Limits



City Maintained Alleys Map

M-2


State Highway Maintenance
M-3
DAWSONVILLE RD
DISONVILLE RD
EDWARD E. CRAIG JR. CHIEF PENNINGTON BYPASS
BYPASS RD
CADIZ RD
CANTON PKY
BUTLER RD
TRUSSELLVILLE RD
US 68E MS 68E
COUNTRY CLUB
EAGLE WAY
DRUID HILLS
PEMBROKE RD