
SECTION 10.27 AP (AREA PROTECTION) OVERLAY ZONE

- A. **PURPOSE:** The purposes of the Area Protection (AP) Overlay Zone are to: promote public and private redevelopment efforts; discourage redevelopment efforts on relatively small parcels of land; coordinate access via the limitation of curb cuts and the use of shared off-street parking facilities; discourage redevelopment efforts which would hinder other redevelopment efforts on nearby properties; protect those areas from developing in a manner inconsistent with the adopted Kenton County Comprehensive Plan or other plans which have been adopted by the legislative body; and promote flexibility in design while maintaining the relationships of adjacent uses and structures.
- B. **GENERAL:** An Area Protection (AP) Overlay Zone may be permitted to be superimposed over any zone within the city, provided that all conditions or provisions of this section of the ordinance, the applicable requirements of the subdivision regulations and any additional requirements, as may be determined necessary to provide for the most efficient layout of the site and its proper integration with the surrounding area, are met.
- C. **APPLICATION AND PROCESSING:** Applications for an Area Protection (AP) Overlay Zone shall be processed as follows in two (2) stages:
1. Stage I -- Except as provided for in Section 17.0, I., of this ordinance, applications for a map amendment to zone an area AP shall be accompanied by a development plan, in accordance with the Stage I Development Plan Requirements, provided for within Section 9.20, A. of this ordinance, along with supporting information/documentation pertaining to each of the criteria items identified in Subsection O., below. If an area, however, is currently zoned AP, the submission of the Stage I Development Plan, for review by the planning commission and the legislative body, shall not be required until the area is proposed to be developed. Development shall include the demolition, erection, physical expansion, change of use, or outside remodeling of any structure. Development shall not include the normal maintenance (e.g., cleaning, painting, etc.) of any structure.
 - a. The planning commission shall hold a public hearing on the proposed application in accordance with the requirements of KRS Chapter 424, and review said application with regard to its compliance with the stated purposes of the AP (Area Protection) Overlay Zone, the required elements of the Stage I Development Plan, and other applicable requirements of this section. Upon holding such hearing, the planning commission shall make one of the following recommendations to the legislative body: approval, approval with conditions, or disapproval. The planning commission

- shall submit, along with their recommendations, a copy of the Stage I Development Plan and the bases for their recommendation.
- b. The legislative body shall review said recommendations and take action to approve or disapprove said AP (Area Protection) Overlay Zone application. Such action may incorporate any conditions imposed by the planning commission. However, should the legislative body take action to impose different conditions than were reviewed and considered by the planning commission, then said conditions shall be resubmitted to the planning commission for further review and recommendation, in accordance with Subsection C., 1., a., above. Approval of the AP (Area Protection) Overlay Zone shall require that development be in conformance with the approved Stage I Development Plan.
 - c. The legislative body shall forward a copy of the approved Stage I Development Plan to the planning commission, or its duly authorized representative, for further processing, in accordance with the requirements for Stage II Development Plan and Record Plat.
 - d. Upon approval of the AP (Area Protection) Overlay Zone, the official zoning map shall be amended by adding the suffix "AP" to the existing zones (e.g., AP-NC, AP-R-2, etc.).
2. Stage II - A Stage II Development Plan and Record Plat shall be developed in conformance with the approved Stage I Development Plan and in accordance with the requirements of Section 9.20, B. and C., of this ordinance, and submitted to the planning commission, or its duly authorized representative, for its review and approval. Except for the manner of submission and processing, the subdivision regulations may be waived, where applicable, and the requirements of Section 9.20, B. and C., shall be substituted therefore. Those requirements not specifically waived by the planning commission shall conform with the subdivision regulations.
- a. The planning commission, or its duly authorized representative, shall review the submitted Stage II Development Plan with regard to its compliance with the required elements of Section 9.20, B., of this ordinance, other applicable elements of this ordinance, and its conformity with the approved Stage I Development Plan. Minor adjustments from the approved Stage I Development Plan may be permitted, provided that the adjustments do not change land uses, increase overall density, significantly alter circulation patterns (vehicular and pedestrian), decrease the amount and/or usability of

open space or recreation areas, or conflict with other applicable requirements of this ordinance (e.g., parking requirements, sign regulations, etc.). The planning commission, or its duly authorized representative, upon completion of its review of the proposed Stage II Development Plan, shall make one of the following recommendations to the legislative body, or its duly authorized representative: approval, approval with conditions, or disapproval. The planning commission, or its duly authorized representative, shall submit along with their recommendation, a copy of the Stage II Development Plan and the bases for their recommendation.

- b. The legislative body, or its duly authorized representative, shall review said recommendations of the planning commission, or its duly authorized representative, and take action to approve or disapprove the Stage II Development Plan. Such action may incorporate any conditions imposed by the planning commission, or its duly authorized representative. However, should the legislative body take action to impose different conditions than were reviewed and considered by the planning commission, or its duly authorized representative, then said conditions shall be resubmitted to the planning commission, or its duly authorized representative, for further review and recommendation, in accordance with Subsection C., 2., a., above.
- c. Upon approval of the Stage II Development Plan, by the legislative body, or its duly authorized representative, a copy of said plan shall be forwarded to: (1) the zoning administrator, who shall grant permits only in accordance with the approved Stage II Development Plan and other regulations, as may be required by this ordinance; (2) the planning commission.
- d. Upon approval of the Stage II Development Plan, the planning commission, or its duly authorized representative, shall review the submitted Record Plat, if applicable, with regard to its compliance with the required elements of Section 9.20, C., of this ordinance, the applicable requirements of the subdivision regulations, and its conformance with the approved Stage II Development Plan.
- e. Upon planning commission approval of the Record Plat, copies of said plat, certified by the planning commission, and suitable for recording, shall be forwarded to the office of the County Clerk to be recorded.

D. **PERMITTED USES AND DENSITIES:** Permitted uses shall be as specified within the zone being overlaid. In the case where the underlying zone is a

residential zone, the density of dwelling units in the AP Overlay Zone shall be determined by the density (dwelling units per net acre) as calculated from the existing residential zone being overlaid. This density shall be applied to the total project area excluding that land devoted to streets (public and private).

- E. ACCESSORY USES: Accessory uses shall be as specified within the zone being overlaid.
- F. CONDITIONAL USES: Conditional uses, including any customary accessory buildings and uses, shall be as specified within the zone being overlaid, subject to the approval of the Board of Adjustment, as set forth in Sections 9.14 and 18.7, of this ordinance.
- G. AREA REQUIREMENTS
1. No AP Zone shall be permitted on less than five (5) acres of land. However, an area of less than five (5) acres may be overlain with an AP Zone, provided it is adjacent to an area within an existing approved Stage I Development Plan which is currently overlain with an AP Zone.
 2. The minimum area for submission of a Stage I Development Plan, within an area overlain with an existing AP (Area Protection) Overlay Zone, shall be not less than one (1) acre. However, a Stage I Development Plan may be submitted for an area of less than one (1) acre, provided it is adjacent to and extends the existing approved Stage I Development Plan and conforms to the requirements of this section of the ordinance.
- H. HEIGHT, YARD, AND SETBACK REGULATIONS: Requirements shall be as approved in the plan.
- I. OFF-STREET PARKING AND LOADING AND/OR UNLOADING: Off-street parking and, when applicable, loading and/or unloading facilities, shall be provided in accordance with Articles XI and XII of this ordinance.
- J. FENCES, WALLS, AND SIGNS: The location, height, and type of all fences, walls, and signs, shall be as approved in the plan.
- K. EROSION AND SEDIMENTATION CONTROL: Effective erosion and sedimentation controls shall be planned and applied in accordance with Section 9.7 of this ordinance, and the Kenton County Subdivision Regulations.
- L. OPEN SPACE: Any part of the total building site not used for structures, streets, off-street parking, or off-street loading and/or unloading, shall be landscaped as approved in the approved development plan and in accordance with Section 9.17 of this ordinance. At least twenty percent (20%) of the total acreage of the

proposed AP development shall be retained as open space or recreation area. Such open space/recreation area shall be that part of the total project exclusive of buildings, off-street parking areas, access drives, and streets. At such time as the Stage II Development Plan for a particular development is submitted to the planning commission, or its duly authorized representative, notwithstanding Subsection C., 2., a., open space requirements of less than 20% may be considered for the development if: unusual topographic conditions exist, unique treatment of parking areas is provided for, and unique conditions and circumstances exist on or adjacent to the site.

M. OTHER DEVELOPMENT CONTROLS

1. No outdoor storage of any material (usable or waste) shall be permitted in this zone except within enclosed containers.
2. No lighting shall be permitted which would glare from this zone onto any street, or into any adjacent property.
3. No use producing objectionable odors, noise, or dust shall be permitted within five hundred (500) feet from the boundary of any residential zone.
4. All business activities permitted within this zone shall be conducted within a completely enclosed building with the exception of off-street parking and loading and/or unloading areas and the outdoor play area of child care centers.
5. All utilities must be underground when redevelopment occurs.
6. A minimum of one attached or detached garage shall be required for each dwelling unit.
7. Access to the site shall meet the requirements of Section 11.3 of this ordinance.

N. CRITERIA: Evaluation of the proposed development plan shall be based upon the following criteria:

1. Agreement with the various elements of the Kenton County Comprehensive Plan.
2. Agreement with any KRS Chapter 99 approved Urban Renewal Development Plan
3. Agreement with any conceptual development plan/study which has been adopted/approved by the legislative body.
4. Extent to which the proposed development plan is consistent with the stated purposes of the AP (Area Protection) Overlay Zone.
5. Adequacy of the proposed site, considering such factors as the sufficiency of the size of the site to comply with the established criteria, the configuration of the site, and the extent to which the site is formed by logical boundaries (based on topography, natural features, streets, relationship of adjacent uses, etc.).

6. Nature and extent of the proposed uses in relation to the unique characteristics of the site; the current or anticipated need for such use(s) and the specific size and locale of the market area from which the specific uses of the site will draw or serve.
 7. Extent to which the proposed design, as indicated in the Stage I Development Plan, is compatible and coordinated with existing or proposed development contiguous to the site. Compatibility and coordination with existing or proposed development shall be reviewed in terms of intensity of land use type in relation to the general character of the surrounding area, including coordination of vehicular and pedestrian circulation; the scale (e.g., height and mass of structures) of the proposed development; location of open spaces and size of setbacks; provision of screening areas or utilization of natural features; the transition of land use types based on the proposed design; and the impact of the proposed development on adjacent uses, such as noise, visual impact, hours of operation, traffic circulation, etc.
 8. Amount of traffic that would be generated by the proposed operation and the ability of the existing highway system to adequately handle said traffic. Where deficiencies exist, proposed traffic improvements that would correct such deficiencies may be considered.
 9. Extent to which the design of the internal street system provides for the efficient and safe movement of traffic within and adjacent to the site.
 10. Extent to which all necessary public utilities and facilities are available to service the development including police and fire protection, water and sewer services, and other services normally provided within the area. Where deficiencies exist, improvements that would correct such deficiencies may be considered.
- O. AMENDMENTS: Any amendments to plans, except for the minor adjustments which may be permitted by the legislative body, or its duly authorized representative, shall be made in accordance with the procedure required by Subsection C., subject to the same limitations and requirements as those under which such plans were originally approved.
- P. EXPIRATION: Development plans within the AP Overlay Zone shall be subject to the time constraints, as noted below. Upon expiration of said time period, and any extensions thereto, the legislative body may initiate a request for a public hearing by the planning commission, in accordance with the requirements of KRS Chapter 100, for the purpose of determining whether said AP Overlay Zone should revert to its original zoning designation. A public hearing may be initiated if either of the following conditions apply:
1. Stage II Development Plan has not been approved by the legislative body, or its duly authorized representative, within a period of twelve (12) consecutive months from the date of approval of the Stage I Development

Plan by the legislative body, except as agreed upon for the phasing of development: provided that an extension may be permitted upon approval of the legislative body, or its duly authorized representative, if sufficient proof can be demonstrated that prevailing conditions have not changed appreciably to render the approved Stage I Development Plan obsolete.

2. Substantial construction has not been initiated within a period of twelve (12) consecutive months from the date of approval of the Stage II development plan by the legislative body, or its duly authorized representative, provided that an extension may be permitted upon approval of the legislative body, or its duly authorized representative, if sufficient proof can be demonstrated that the construction was delayed due to circumstances beyond the applicant's control, and that prevailing conditions have not changed appreciably to render the approved Stage II Development Plan obsolete. The amount of construction constituting initiating substantial construction shall be as approved in the approved Stage II Development Plan.