
ARTICLE XVI

ADMINISTRATION

SECTION 16.0 ENFORCING OFFICER: A zoning administrator (official or officials appointed by the legislative body for carrying out the provisions and enforcement of this ordinance) shall administer and enforce this ordinance. He may be provided with assistance of such other persons as the legislative body directs.

If the zoning administrator finds that any of the provisions of this ordinance are being violated, he shall take such action as is permitted by law. In any civil or criminal proceeding to enforce any provision of this ordinance, or any amendment thereof, any person in violation thereof shall be liable to the city, and the city shall recover therefrom any and all costs and expenses incurred therein, including, without limitation, court costs, fees of attorneys and experts, and the time and expense of all city employees involved therein, which shall be included in any judgment in regard thereto.

In addition to the foregoing, the zoning administrator shall have the authority to order discontinuance of illegal use of land, buildings, structures, signs, fences, or additions, alterations, or structural changes thereto, discontinuance of any illegal work being done.

All questions of interpretation and enforcement shall be first presented to the zoning administrator, and that such questions shall be presented to the board of adjustment only on appeal from the decision of the zoning administrator, and that recourse from the decisions of the board of adjustment shall be to the courts, as provided by the Kentucky Revised Statutes.

It shall be illegal for any person or entity to interfere with the zoning administrator's performance of his duties, as defined herein.

SECTION 16.1 ZONING PERMITS: Zoning permits shall be issued in accordance with the following provisions:

- A. **ZONING PERMIT REQUIRED:** No land shall be used, or building or other structure shall be erected, moved, added to, structurally altered, or changed from one permitted use to another, nor shall any grading take place on any lot or parcel of ground without a permit, issued by the zoning administrator. No zoning permit shall be issued except in conformity with the provisions of this ordinance, except after written orders from the board of adjustment.
- B. **APPLICATION FOR ZONING PERMITS:** All applications for zoning permits shall be accompanied by:
 - 1. A completed application form, provided by the zoning administrator.

2. The required fee for a zoning permit, as provided for by separate ordinance.
 3. An approved Development Plan or site plan, if required by this ordinance, or
 4. A plot plan, in duplicate, drawn at a scale of not less than one (1) inch to fifty (50) feet, showing the following information as required by this ordinance.
 - a. The location of every existing and proposed building, including dimensions and height, and the number, size, and type of dwelling units.
 - b. All property lines, shape and dimensions of the lot to be built upon.
 - c. Lot width at building setback line.
 - d. Minimum front and rear yard depths and side yard widths.
 - e. Existing topography, with a maximum of five (5) foot contour intervals.
 - f. Total lot area, in square feet.
 - g. Location and dimensions of all access points, driveways, off-street parking spaces.
 - h. A drainage plan of the lot and its relationship to adjacent properties, including spot elevations of the proposed finished grade, and provisions for adequate control of erosion and sedimentation, indicating the proposed temporary and permanent control practices and measures which will be implemented during all phases of clearing, grading, and construction.
 - i. All sidewalks, walkways, and open spaces.
 - j. Location, type, and height of all walls, fences, and screen plantings.
 - k. Location of all existing and proposed streets, including rights-of-way and pavement widths.
 - l. All existing and proposed water, and sanitary, and storm sewer facilities to serve the lot, indicating all pipe sizes, types, and grades.
 - m. Zoning administrator may waive any of the above requirements for items such as: fences; out building, etc.
- C. ISSUANCE OF ZONING PERMIT: The zoning administrator shall either approve or disapprove the application (when required by this ordinance -- e.g., Development Plan submitted required -- the planning commission, or its duly authorized representative, approval or disapproval shall also be required). If disapproved, one (1) copy of the submitted plans shall be returned to the applicant marked "Disapproved" and shall indicate the reasons for such disapproval thereon. Such disapproval shall be attested by the zoning

administrator's signature. The other copy, similarly marked, shall be retained by the zoning administrator.

- D. **FAILURE TO COMPLY:** Failure to obtain a zoning permit shall be a violation of this ordinance and punishable under Section 16.8 of this ordinance.
- E. **EXPIRATION OF ZONING PERMIT:** If a building permit, as required herein, has not been obtained within ninety (90) consecutive calendar days from the date of issuance of zoning permit, said zoning permit shall expire and be canceled by the zoning administrator and a building permit shall not be obtainable until a new zoning permit has been obtained. If the project, for which a zoning permit was obtained but a building permit is not required, has not started within ninety (90) consecutive calendar days from the date of issuance of the zoning permit or if the project is not completed within 365 consecutive calendar days from the date of issuance of the zoning permit, said zoning permit shall expire and be cancelled by the zoning administrator. A new zoning permit shall be received prior to the project restarting.

SECTION 16.2 BUILDING PERMITS: Building permits shall be issued in accordance with the following provisions:

- A. **BUILDING PERMITS REQUIRED:** No building or other structure shall be erected, moved, added to, or structurally altered without a permit issued by the building inspector. No building permit shall be issued except in conformity with the provisions of this ordinance, except after written orders from the board of adjustment.
- B. **APPLICATION FOR BUILDING PERMITS:** All applications for building permits shall be accompanied by:
 - 1. A completed application form, provided by the building inspector.
 - 2. An approved zoning permit.
 - 3. The required fee for a building permit, as provided for by separate ordinance.
 - 4. An approved Development Plan or Site Plan, if required by this ordinance:
or
 - 5. Plans in duplicate approved by the zoning administrator and including any additional information required by the building code and/or building inspector, as may be necessary to determine conformance with, and provide for the enforcement of, the building code and the Kentucky Revised Statutes.

- C. **ISSUANCE OF BUILDING PERMIT:** The building inspector shall either approve or disapprove the application. If disapproved, one (1) copy of the submitted plans shall be returned to the applicant marked "Disapproved" and shall indicate the reasons for such disapproval thereon. Such disapproval shall be attested by the building inspector's signature. The other copy, similarly marked, shall be retained by the building inspector.

If approved, one (1) copy of the submitted plans shall be returned to the applicant marked "Approved". Such approval shall be attested by the building inspector's signature. The other copy, similarly marked, shall be retained by the building inspector. The building inspector shall also issue a building permit to the applicant at this time and shall retain a duplicate copy for his records.

- D. **COMPLIANCE:** It shall be unlawful to issue a building permit, or occupancy permit, to build, create, erect, change, alter, convert, or occupy any building or structure hereafter, unless a zoning permit has been issued in compliance with this ordinance.
- E. **BUILDING PERMITS ISSUED PRIOR TO THE ADOPTION OF THIS ORDINANCE:** Building permits issued in conformance with the building code of the legislative body prior to the date of adoption of this ordinance, whether consistent or inconsistent with this ordinance, shall be valid for a period of one hundred eighty (180) consecutive calendar days from time of issuance of the permit. If construction in connection with such a permit has not been started within such a one hundred eighty (180) consecutive calendar day period, the permit shall be void and a new permit, consistent with all provisions of this ordinance and the building code, shall be required. For purposes of this section, construction shall be deemed to have been started at the time of completion of the foundation.
- F. **EXPIRATION OF BUILDING PERMIT**

1. Building permits for the complete construction of any principal building for any use identified as a permitted use or conditional use in any zone described and identified as a Residential Three Zone (R-3), Planned Unit Development Overlay Zone (PUD), Residential Cluster Development Overlay Zone (RCD), Professional Office Building Zone (PO), Neighborhood Shopping Center Zone (NSC), Shopping Center Zone (SC), Neighborhood Commercial Zone (NC), Neighborhood Commercial-Two Zone (NC-2), Highway Commercial Zone (HC), Highway Commercial Two Zone (HC-2), Institutional Zone (INST), Industrial Park-One Zone (IP-1), Industrial Park-Two Zone (IP-2), Industrial Park-Three Zone (IP-3), Industrial Park-Four Zone (IP-4), Business Park One Zone (BP-1), and Area Protection Overlay Zone (AP) in Sections 10.10, 10.11, 10.12, 10.13,

10.14, 10.15, 10.16, 10.17, 10.18, 10.19, 10.20, 10.21, and 10.28 respectively, of the Erlanger Zoning Ordinance Numbered 1850, as amended, shall expire, terminate, and be canceled by the building inspector unless the foundation of the construction and work authorized thereby has been completed within ninety (90) consecutive calendar days after the date on which the permit was issued, and all of the construction and work authorized thereby has been completed within five hundred forty (540) consecutive calendar days after the date on which such permit was issued.

2. Building permits for the complete construction of any principal building for any use identified as a permitted use or conditional use in any zone described and identified as a Conservation Zone (CO), Residential One-B Zone (R-1B), Residential One-C Zone (R-1C), Residential One-D Zone (R-1D), Residential One-E Zone (R-1E), Residential One-F Zone (R-1F), Residential One-G Zone (R-1G), Residential Mobile Home Park (Phased) Zone (R-1M (P)), Residential Two Zone (R-2) described in Sections 10.1, 10.2, 10.3, 10.4, 10.5, 10.6, 10.7, 10.8, and 10.9, respectively, of the Erlanger Zoning Ordinance Numbered 1850, as amended, or the construction of any additions to any principal buildings for any use identified as a permitted use in any zone described in Article X of the Erlanger Zoning Ordinance Numbered 1850, as amended, shall expire, terminate, and be canceled by the building inspector unless the foundation of the construction and work authorized thereby has been completed within ninety (90) consecutive calendar days after the date on which the permit was issued, and all of the construction and work authorized thereby has been completed within three hundred sixty-five (365) consecutive calendar days after the date on which such permit was issued.
3. Building permits for any construction other than the complete construction of any principal building for any use identified as a permitted use or conditional use in any zone described in Article X of the Erlanger Zoning Ordinance Numbered 1850, as amended, or any additions thereto, shall expire, terminate, and be canceled by the building inspector unless the construction and work authorized thereby is completed within one hundred eighty (180) consecutive calendar days after the date on which such permit was issued.
4. Any dates established hereby for the expiration, termination, and cancellation of any building permit may be extended by the zoning administrator for any circumstances beyond the control of the person to whom the permit was issued, in which event the permit shall expire, terminate, and be canceled by the zoning administrator at the end of such extended period of time.

- G. **CONSTRUCTION AND USE:** To be as provided in applications, plans, permits, zoning permits and building permits, issued on the basis of plans and applications, approved by the zoning administrator and/or building inspector, authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Use, arrangement, or construction at variance with that authorized shall be deemed in violation of this ordinance and punishable as provided in Section 16.8 of this ordinance.

SECTION 16.3 CERTIFICATE OF OCCUPANCY: It shall be unlawful for an owner to use or permit the use of any building or land, or part thereof, hereafter created, changed, converted, or enlarged, wholly or partly, until a certificate of occupancy, which shall be a part of the building permit, shall have been issued by the building inspector. Such certificate shall show that such building or land, or part thereof, and the proposed use thereof, are in conformity with the provisions of this ordinance. It shall be the duty of the building inspector to issue a certificate of occupancy, provided that he has checked and is satisfied that the building and the proposed use thereof, conform with all the requirements of this ordinance and the building code.

SECTION 16.4 CERTIFICATE OF OCCUPANCY FOR EXISTING BUILDING: Upon written request from the fee owner, the building inspector shall issue a certificate of occupancy for any building or land existing at the time of enactment of this ordinance, certifying, after inspection, the extent and kind of use made of the building or land, and whether such use conforms with the provisions of this ordinance.

SECTION 16.5 DENIAL OF CERTIFICATE OF OCCUPANCY: Except as herein stated, a certificate of occupancy shall not be issued unless the proposed use of a building or land conforms to the applicable provisions of this ordinance and to plans for which the building permit was issued.

SECTION 16.6 CERTIFICATE OF OCCUPANCY RECORDS: A record of all certificates of occupancy shall be kept on file in the offices of the building inspector and copies shall be furnished, on request, to any person having a proprietary building affected by such certificate of occupancy.

SECTION 16.7 COMPLAINTS REGARDING VIOLATIONS: Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint, stating fully the causes and bases thereof, shall be filed with the zoning administrator. The zoning administrator shall record properly such complaint, immediately investigate, and take action thereon, as provided by this ordinance and the Kentucky Revised Statutes.

SECTION 16.8 PENALTIES: Any person or entity who violates any of the provisions of this ordinance shall upon conviction be fined not less than ten (10) dollars but no

more than five hundred (500) dollars for each conviction. Each day of violation shall constitute a separate offense.

- A. A violation of this ordinance occurs upon any noncompliance with any provisions of this ordinance, by either act or omission; and each and every separate non-continuing occurrence thereof, and each and every day of any continuing occurrence thereof is a separate violation of this ordinance.
- B. Each separate violation of this ordinance is hereby classified as a criminal offense and made a misdemeanor, for which there is hereby imposed a criminal fine, not to exceed the maximum of five hundred dollars (\$500.00), as set forth in K.R.S. 534.050 (2), or a term of imprisonment not to exceed the maximum period of twelve (12) months, as set forth in K.R.S. 532.090 (1), or both.
- C. Each separate violation of this ordinance is hereby classified as a civil offense, for which:
 - 1. The maximum civil fine required by K.R.S. 65.8802 (2) (b) that may be imposed for each separate violation of this ordinance, is hereby established as five hundred dollars (\$500.00); and
 - 2. The specific civil fine required by K.R.S. 65.8808 (2) (c), that will be imposed for each separate offense and violation of this ordinance if the person who has committed the violation and offense does not contest a citation therefore, is hereby established as one hundred dollars (\$100.00); and
 - 3. An enforcement officer may, in lieu of immediately issuing a civil citation therefore, give notice that the violation of this ordinance shall be remedied within a specific period of time.

SECTION 16.9 INTENT CONCERNING DETERMINATIONS INVOLVED IN ADMINISTRATION AND ENFORCEMENT OF PERFORMANCE STANDARDS: It is the intent of this ordinance that:

- A. Where investigation can be made by the zoning administrator, or other designated employee, using equipment normally available to the legislative body, such investigation shall be so made before notice of violation is issued.
- B. Where technical complexity, nonavailability of equipment, or extraordinary expense makes it unreasonable, in the opinion of the zoning administrator, for the legislative body to maintain the personnel or equipment necessary for making difficult or unusual determinations, procedures shall be established for:
 - 1. Causing corrections in apparent violations of performance standards;

2. For protecting individuals from arbitrary, capricious and unreasonable administration and enforcement of performance standard regulations; and
 3. For protecting the general public from unnecessary costs for administration and enforcement.
- C. If the zoning administrator finds, after investigations have been made by qualified experts, that there is a violation of the performance standards, he shall take, or cause to be taken, lawful action to cause correction to, within limits set by such performance standards.

SECTION 16.10 DUTIES OF ZONING ADMINISTRATOR REGARDING PERFORMANCE STANDARDS: If, in the judgment of the zoning administrator, there is probable violation of the performance standards as set forth, the following procedures shall be followed:

- A. The zoning administrator shall give written notice, by registered mail or certified mail, to the person or persons responsible for the alleged violation. The notice shall describe the particulars of the alleged violation and the reasons why the zoning administrator believes there is a violation in fact, and shall require an answer or correction of the alleged violation, to the satisfaction of the zoning administrator, within thirty (30) consecutive calendar days of receipt of such notification. The notice shall state that failure to reply or to correct the alleged violation, to the satisfaction of the zoning administrator within thirty (30) consecutive calendar days of receipt of said notice, constitutes admission of violation of the terms of this ordinance.
- B. The notice shall further state that, upon request of those to whom said notice is directed, a technical investigation will be made by a qualified expert or experts and that, if violations as alleged are found, costs of such investigations shall be charged against those responsible for the violations, in addition to such other penalties as may be appropriate, but that if it is determined that no violation exists, the cost of the investigation will be paid by the legislative body.
- C. If there is no reply within thirty (30) consecutive calendar days of receipt of said notice, but the alleged violation is corrected to the satisfaction of the zoning administrator, he shall note "violation corrected" on his copy of the notice, and shall retain it among his official records, taking such other action as may be warranted.
- D. If there is no reply within thirty (30) consecutive calendar days of receipt of said notice and the alleged violation is not corrected to the satisfaction of the zoning administrator within the established time limit, he shall proceed to take, or cause

to be taken, such action as is warranted by continuation of a violation after notice to cease.

- E. If a reply is received within thirty (30) consecutive calendar days of receipt of said notice indicating that the alleged violation will be corrected to the satisfaction of the zoning administrator, but requesting additional time, the zoning administrator may grant an extension if he deems it warranted in the circumstances of the case and if the extension will not, in his opinion, cause imminent peril to life, health, or property.
- F. If a reply is received within thirty (30) consecutive calendar days of receipt of said notice requesting technical determination as provided in this ordinance, and if the alleged violations continue, the zoning administrator shall call in properly qualified experts to investigate and determine whether violations exist.

If expert findings indicate violations of the performance standards, the costs of the investigations shall be assessed against the properties or persons responsible for the violations, in addition to such other penalties as may be appropriate under the terms of Section 16.9 of this ordinance.

If no violation is found, the cost of the investigation shall be paid by the legislative body without assessment against the properties or persons involved.