

SECTION 10.18 MLU (MIXED LAND USE) ZONE

- A. **PURPOSE:** The purpose of the Mixed Land Use (MLU) Zone is to provide for the combining of offices, commercial uses, retail and service uses, and residential uses within a planned development. Such development is intended to be designed to provide for a related group of activities which are functionally integrated relative to land uses, vehicular and pedestrian circulation, and the arrangement of structures. In addition, the intent of the zone is to promote flexibility in design and planned diversification in the relationships between location of and types of uses and structures; promote the advantages of large scale site planning for community development through the efficient use of land, facilitating a more economic arrangement of buildings, circulation systems, land uses, and utilities; preserve, to the greatest extent possible, the existing landscape features and amenities, and to utilize such features in a harmonious fashion; provide for more usable and suitably located open space facilities and common facilities than would otherwise be provided under conventional land development procedures, but always with the intention of furthering the public health, safety, and general welfare.
- B. **GENERAL:** A Mixed Land Use Zone may be permitted 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 MLU Zone and its proper integration with the surrounding development are met; and a public hearing is held on the MLU application.
- C. **APPLICATION AND PROCESSING:** Applications for a Mixed Land Use Zone shall be processed as follows in two stages:
1. Stage I - Except as provided in Section 17.0, I., applications for a map amendment to zone an area for Mixed Land Use (MLU) shall be accompanied by a development plan, in accordance with the Stage I Plan Requirements, provided for within Section 9.20, A., of this ordinance. If an area, however, is currently zoned MLU, the submission of a 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.
 - a. The planning commission shall hold a public hearing on the proposed application (Stage I Development Plan, and where applicable, the zoning map amendment), in accordance with the requirements of KRS Chapter 424, and review said application with regard to its compliance with the stated purpose of the MLU Zone, the required elements of the Stage I Development Plan and other applicable requirements of this section. Written notice of the

hearing shall be given to the owner of every parcel of property adjoining the property encompassed within the Stage I Development Plan as provided in and in accordance with the provisions of Section 17.0, D., 2. 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 Plan and the bases for their recommendation.

- b. The legislative body shall, within ninety (90) days after receiving the recommendations of the planning commission, review said recommendations and take action to approve, or disapprove said C-PUD application. Such action may incorporate any conditions imposed by the planning commission. However, should the legislative body take action to impose less stringent 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.

The legislative body shall forward a copy of the approved plan to the planning commission for further processing, in accordance with the requirements for Stage II Development Plan and Record Plat.

Zoning Map Amendment - Upon approval of the MLU Zone, the official zoning map shall be amended by adding the area as identified in the application or as shown on the Stage I approved plan.

2. Stage II - Plan And Record Plat - A Stage II Development Plan and record plat shall be developed in conformance with the Stage I approved plan and in accordance with the requirements of Section 9.20, B. and C., 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., for Stage II plans, other applicable elements of this ordinance and other applicable regulations, and its conformity with the Stage I

approved plan. Minor adjustments from the Stage I approved plan may be permitted, provided that the adjustments do not change land uses, increase overall density, significantly alter circulation patterns (vehicular and pedestrian), or 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). 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: approval, approval with conditions, or disapproval. The planning commission, or its duly authorized representative, shall submit, along with their recommendations, a copy of the Stage II Development Plan and the bases for their recommendation.

- b. The legislative body shall, within forty-five (45) days after receiving the recommendations of the planning commission, or its duly authorized representative, review said recommendations 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.

Upon approval of the Stage II Development Plan, by the legislative body, a copy of said plan shall be forwarded to: (1) the zoning administrator, who shall grant permits only in accordance with the Stage II approved plan and other regulations, as may be required by this ordinance; and (2) the planning commission, or its duly authorized representative.

- c. 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., for Record Plats, the applicable requirements of the subdivision regulations, and its conformance with the Stage II approved plan. Upon approval of the Record Plat, by the planning commission, or its duly authorized representative, copies of said plat, certified by the planning commission, and suitable for recording, shall be forwarded by the

planning commission to the office of the county clerk to be recorded.

D. PERMITTED USES: One or more of the following uses may be permitted. Said uses shall be clearly delineated on the Stage I and II Plans:

1. Residential - including single-family and two-family. Residential development shall not occupy a cumulative total of more than ten (10) percent of the area within the MLU. Residential uses which are located above nonresidential uses shall not be considered to be a part of this cumulative total
2. Offices
3. Restaurants, excluding drive-ins and drive-thrus
4. Retail and service uses, excluding drive-ins, as follows:
 - a. Advertising agency
 - b. Antique shop
 - c. Apparel shop
 - d. Appliance shop - electrical and household
 - e. Appliances - office
 - f. Art and art supplies
 - g. Bakery shop
 - h. Banks, finance companies, savings and loans, and financial institutions
 - i. Book shops
 - j. Cafeterias
 - k. Camera supplies
 - l. Candy store
 - m. Clinics - medical and dental
 - n. Clothing store
 - o. Clubs - business, YMCA, YWCA
 - p. Coffee shop
 - q. Computer or internet based game facilities, specifically excluding: (1) electro-mechanical games such as pinball/video machines; (2) coin or paper money operated machines; or (3) the activity, business or content of any such games that contain material which is regulated in Section 9.29 of this ordinance relating to the Regulations of Sexually Oriented Businesses
 - r. Convenience store - drug, fruit, grocery, meat, pharmacy, vegetables
 - s. Craft shops
 - t. Day care facilities
 - u. Dry cleaning pick-up
 - v. Electronics supplies or sales

- w. Florist shop
 - x. Food store
 - y. Garden supplies
 - z. Gift shop
 - aa. Glass store
 - bb. Hair stylist
 - cc. Hardware store
 - dd. Hobby shop
 - ee. Ice cream store
 - ff. Interior decorator
 - gg. Jewelry store
 - hh. Laboratory - medical and dental
 - ii. Laundry pick-up
 - jj. Leather goods
 - kk. Locksmith shop
 - ll. Luggage shop
 - mm. Music shop
 - nn. Office furniture
 - oo. Office supplies
 - pp. Optical goods and supplies
 - qq. Optician and optometrist
 - rr. Paint store
 - ss. Pet shop
 - tt. Pharmacy
 - uu. Photographic supplies
 - vv. Pottery store
 - ww. Record shop
 - xx. Shoe repair shop
 - yy. Shoe store with incidental repair
 - zz. Soda fountain
 - aaa. Souvenir shop
 - bbb. Sporting goods
 - ccc. Stationary shop
 - ddd. Studio - decorating, photo
 - eee. Tailor shop
 - fff. Toy store
 - ggg. Travel agency
 - hhh. Video rental
 - iii. Wallpaper store
5. Public and semi-public structures and uses as delineated on the plan and limited to one or more of the following uses:
- a. Fire and police station
 - b. Post office branch

- c. Schools (elementary and secondary)
- d. Libraries

E. ACCESSORY USES:

- 1. Customary accessory buildings and uses

F. CONDITIONAL USES: The following uses, or any customary accessory buildings or uses, subject to the approval of the board of adjustment, as set forth in Sections 9.14 and 18.7 of this ordinance:

- 1. Outdoor dining, in connection with a restaurant, provided that such area meets the following requirements:
 - a. Such area shall be designated to clearly identify the limits of the outdoor dining area, which shall not include any drive-thru facility.
 - b. Such area shall not exceed twenty five percent of the maximum seating capacity of the indoor dining area.
 - c. Entertainment, unamplified music shall be permitted between the hours of 6:00 pm and 11:30 pm.
 - d. Outdoor dining areas shall be operated no later than Midnight, Sunday through Thursday, and 2:30 am on Friday and Saturday.

- 2. Home improvement store

G. AREA REQUIREMENTS:

- 1. No MLU Zone shall be permitted on less than fifteen (15) acres of land. However, an area of less than fifteen (15) acres may be zoned MLU, provided it is adjacent to an area that is currently zoned MLU.
- 2. The minimum area for submission of a Stage I Development Plan, within an existing MLU Zone, shall be not less than five (5) acres. However, a Stage I Development Plan may be submitted for an area of less than five (5) acres, provided it is adjacent to and extends the existing Stage I Development Plan and conforms to requirements of the MLU Zone.

H. ACCESS REGULATIONS: Access shall be provided to the site via a major arterial or collector street, as identified within the locally adopted comprehensive plan. In addition to access to the site via a major arterial or collector street, other connections to a local street network may be permitted as approved in the Stage I Development Plan.

I. HEIGHT, YARD, AND SETBACK REGULATIONS: Requirements shall be as approved in the plan.

- J. 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.
- K. FENCES, WALLS, AND SIGNS: The location, height, and type of all fences, walls, and signs shall generally be in accordance with Articles XIII and XIV of this ordinance and as approved in the plan.
- L. EROSION AND SEDIMENTATION CONTROL: Effective erosion and sedimentation controls shall be planned and applied in accordance with Section 9.7 of this ordinance.
- M. RECREATION AND OPEN SPACE: At least twenty (20) percent of the total acreage of the proposed MLU development shall be retained as open space or recreation areas. Such open space/recreation areas shall be physically situated so as to be readily accessible, available to, and usable by all activities within the MLU development. Open space and recreation areas shall be that part of the total project exclusive of buildings, 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 twenty (20) percent may be considered for the development if unique topographic conditions exist, unique treatment of parking areas is provided for, and unique conditions and circumstances exist on or are adjacent to the site.
- 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, and where applicable, any KRS Chapter 99 approved Urban Renewal Development Plan.
 2. Extent to which the proposed development plan is consistent with the purpose of the MLU Zone.
 3. 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 (e.g., topography, natural features, streets, relationship of adjacent uses, etc.).
 4. 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.
 5. Extent to which the proposed design, as indicated in the Stage I Plan, is compatible and coordinated with existing and/or proposed development

- contiguous to the site. Compatibility and coordination with existing and/or proposed development shall be reviewed in terms of intensity of land use type in relation to the general character of the surrounding areas, 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; provisions 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.
6. Amount of traffic that would be generated by the proposed operation and the ability of the existing street system to adequately handle said traffic. Where deficiencies exist, proposed traffic improvements that would correct such deficiencies may be considered.
 7. 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.
 8. 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 planning commission, shall be made in accordance with the procedure required by Subsection C., of this section.
- P. EXPIRATION: Development plans within the MLU Zone shall be subject to the time constraints, as noted below. Upon expiration of said time constraints, 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 the appropriateness of the approved development plan. A public hearing may be initiated if either of the following condition apply:
1. Stage II Plan has not been submitted to the planning commission or its duly authorized representative within a period of twenty-four (24) consecutive months from the date of the Stage I approved plan, except as agreed upon for the phasing of development by the legislative body; provided that an extension may be permitted upon approval of the legislative body, or their duly authorized representative, if sufficient proof can be demonstrated that prevailing conditions have not changed appreciably to render the Stage I approved 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 Plan by the planning commission; 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 Stage I approved plan obsolete. The amount of construction constituting initiating substantial construction shall be as approved in the Stage II approved plan.