

Article 12. Review Procedures

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Section 12.01 Summary of Procedures

The following table provides a summary of the review and approval procedures of this article. In the event of conflict between the summary table and the detailed procedures set forth in this article, the detailed procedures will govern.

Procedure	Zoning Admin.	Building Inspector	PC	UDRB	BOA	CC
Zoning Text Amendment			<R>			DM
Zoning Map Amendment			<R>			DM
PUD Overlay Zone Amendment						
Stage 1			<R>			DM
Stage 2			DM			
Conditional Use Permit					<DM>	
Zoning Permit	DM				<A>	
Building Permit		DM				
Certificate of Occupancy		DM				
Historic Buildings and Zones (Designation)				<R>		DM
Certificate of Appropriateness (Historic)				DM		A
Demolition/Moving of Structures				<DM>		A
Design Review				DM		A
Change of Nonconforming Use					<DM>	
Variance					<DM>	
Appeals of Administrative Decisions					<DM>	

PC = Planning Commission

CC = City Commission

BOA = Board of Adjustment

UDRB = Urban Design Review Board

R = Review Body (review and recommendation)

DM = (Final) Decision-Making Body

A = Authority to hear and decide appeals of DM’s action

< > = Public Hearing Required

Section 12.02 General

12.02.01 Application Submittal Requirements

Applications required under this zoning ordinance must be submitted in a form and in such numbers as required by the official responsible for accepting the application.

12.02.02 Preapplication Meetings

All applicants for development approvals described in this article are encouraged to arrange a preapplication meeting with the Zoning Administrator or Planning Commission staff before completing and filing the required application.

12.02.03 Application Filing Fees

- A. Applications must be accompanied by the fee amount that has been established by the Planning Commission, City Commission, and Board of Zoning Adjustment, as applicable.
- B. Application fees are nonrefundable.

12.02.04 Application Completeness

- A. An application will be considered complete and ready for processing only if it is submitted in the required number and form, includes all required information, and is accompanied by the required application filing fee.
- B. If an application is determined to be incomplete, the official responsible for accepting the application must provide notice to the applicant along with an explanation of the application's deficiencies.
- C. No further processing of the application will occur until the deficiencies are corrected.
- D. If the deficiencies are not corrected by the applicant within 60 days, the application will be considered withdrawn.

12.02.05 Public Hearing Notices

Unless otherwise specified, published public hearing notices must be in accordance with KRS Chapter 424. Pursuant to KRS 424, notice of the time and place of all required public hearings must be published at least

once in a newspaper of general circulation in the county. The required notice must appear in the newspaper a minimum of seven calendar days and a maximum of 21 calendar days before the public hearing.

12.02.06 Continuation of Public Hearings

A public hearing for which proper notice was given may be continued to a later date without providing additional notice as long as the continuance is set for a specified date and time and that date and time is announced at the time of the continuance. If a public hearing is tabled or deferred for an indefinite period of time or postponed more than 3 months from the date of the originally scheduled public hearing, new public notice must be given (in accordance with the notice requirements of the respective procedure) before the rescheduled public hearing. The party requesting the postponement is responsible for paying the cost of re-notification, and payment of re-notification costs must be made before the item is placed on the agenda.

12.02.07 Burden of Proof or Persuasion

In all cases, the burden is on the applicant to show that an application complies with applicable review or approval criteria.

12.02.08 Certificates of Land-Use Restriction

Certificates of land-use restriction, when required in accordance with the provisions of this article, must be filed in the office of the County Clerk by the Planning Commission, City Commission, and/or Board of Adjustment, whichever decision-making body imposes the land-use restriction, pursuant to KRS 100.3681 through 100.3684. The decision-making body that imposes the restriction is authorized to collect a fee from the applicant to cover the costs of recordation and the costs of completing and filing the certificate.

Section 12.03 Zoning Ordinance Text Amendments

12.03.01 Initiation

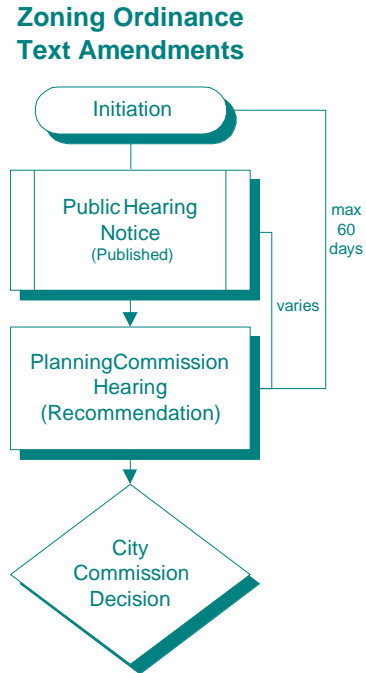
The Planning Commission and City Commission are authorized to initiate amendments to the text of this zoning ordinance.

12.03.02 Public Hearing Notice

Public hearing notices must be published in accordance with Sec. 12.02.05. The ordinance by which the text amendment is adopted may be published by stating the title and general description of the regulations and referring to the place within the city where a copy of the complete ordinance may be examined without charge.

12.03.03 Planning Commission Hearing/ Action

- A. The Planning Commission must hold at least one public hearing on all proposed text amendments.
- B. Following the Planning Commission’s public hearing, the Planning Commission must make a recommendation, by simple majority vote, as to the text of the amendment and whether the amendment is approved or disapproved and must state the reasons for its recommendation. The Planning Commission action must be based on the review and approval criteria of Sec. 12.03.05.
- C. When text amendments have been initiated by the City Commission, the Planning Commission must take action on the proposed amendments within 60 days of receipt of the proposed amendment.



12.03.04 City Commission Action

The City Commission must take final action on the proposed text amendment by a simple majority vote.

12.03.05 Review and Approval Criteria

- A. Before any zoning ordinance text amendment is approved, the Planning Commission and City Commission must find that the proposed amendment is allowed to be included in the text of this zoning ordinance and:
 - 1. the proposed amendment is consistent with the adopted comprehensive plan; or
 - 2. the amendment is necessary to correct an error or inconsistency in the zoning ordinance; or

- 3. the amendment is necessary to meet the challenge of a changing condition that was not anticipated in the comprehensive plan.
- B. Required findings must be in writing and be accompanied by a written report that explicitly describes the reasons for such findings. The findings and written report must be recorded in the minutes and records of the Planning Commission or the City Commission, as applicable.

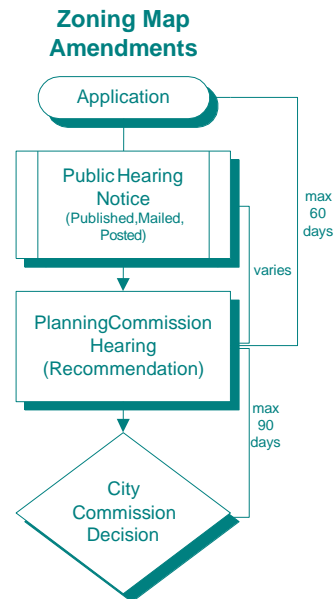
12.03.06 Notice to PDS

Pursuant to KRS 147.705, the City Commission must, within 60 days after adoption of any zoning text amendment, furnish a copy of the adopted amendment to Planning and Development Services of Kenton County.

Section 12.04 Zoning Map Amendments (Rezoning)

12.04.01 Application

- A. An application for an amendment to the zoning map must be filed by the owner of the subject property, the property owner’s authorized agent, the Planning Commission, or the City Commission. An application for a map amendment must be signed by all owners of the property, including all persons who may jointly own the property and the property owner’s authorized agent, if applicable.
- B. The Zoning Administrator must sign the application and the applicant must submit the application to Planning and Development Services of Kenton County.
- C. Zoning map amendment applications proposing rezoning to any Commercial (C), Industrial (I), or RU-2B, RU—1, and RU-0.5 classification, except where the proposed use is single- or two-unit dwellings, must be accompanied by a Stage I development plan, prepared in accordance with Section 12.06. The Zoning Administrator is authorized to waive the submission data requiring detailed engineering studies until such time as the zoning map amendment has been approved. Stage I development plans are



not required with applications submitted by the Planning Commission or the City Commission.

12.04.02 Minimum Area

- A. No zoning map amendment application may be accepted if the proposed amendment would create a free-standing zone that does not meet the following minimum area standards:

Proposed Zone	Minimum Zone Area
RR-40, Rural Residential	10 acres
RS-20, Suburban Residential	5 acres
RS-12.5, Suburban Residential	2 acres
RS-7.5, Suburban Residential	1 acre
RU-5, Urban Residential	20,000 square feet
RU-3.5, Urban Residential	20,000 square feet
RU-2, Urban Residential	20,000 square feet
RU-1, Urban Residential	10,000 square feet
RU-0.5, Urban Residential	10,000 square feet
CN, Commercial–Neighborhood	10,000 square feet
CC, Commercial–Community	10,000 square feet
CG, Commercial–General	10,000 square feet
CBD, Central Business District	10,000 square feet
CT, Commercial–Tourist	10,000 square feet
CO, Commercial–Office	1 acre
CRL, Commercial–Riverfront Limited	10,000 square feet
CRG, Commercial–Riverfront General	10,000 square feet
IP, Industrial Park	1 acre
IL, Industrial–Limited	1 acre
IG, Industrial–General	1 acre
Non-overlay zones not otherwise specified	1 acre
Overlay zones	No Minimum

- B. In computing the area of a proposed rezoning, all of the following must be counted:
1. the area of public rights-of-way within the interior of the area proposed to be rezoned;
 2. one-half the area of public rights-of-way abutting the area proposed to be rezoned; and
 3. the area of any land contiguous with the area proposed to be rezoned if such contiguous land area already bears the zoning classification sought in the rezoning, whether or not such contiguous land area is within the zoning jurisdiction of the city.

- C. For the purpose of this subsection (12.04.02), land will be considered to be contiguous even when separated by a street, alley, or corporation boundary line.

12.04.03 Public Hearing Notices

- A. **Published**

Published public hearing notices must be in accordance with Sec. 12.02.05. The following provisions apply to the published hearing notice:

- 1. Any published notice must include the street address of the property in question, or if one is not available or practicable due to the number of addresses involved, a geographic description sufficient to locate and identify the property, and the names of 2 streets on either side of the property that intersect the street on which the property is located; and
- 2. When the property in question is located at the intersection of 2 streets, the notice must designate the intersection by name of both streets rather than name the 2 streets on either side of the property.

- B. **Mailed**

- 1. Notice of all required public hearings must be given at least 14 days in advance of the public hearing by first class mail, with certification by the Planning Commission Secretary or other officer of the Planning Commission that the notice was mailed to an owner of every parcel of property adjoining the property the classification of which is proposed to be changed. Where the property adjoins a street or alley, property abutting the opposite side of such street or alley will be considered adjoining property.
- 2. It is the duty of the person proposing the amendment to furnish to the Planning Commission the names and addresses of the owners of all adjoining property.
- 3. Records maintained by the Property Valuation Administrator may be relied upon conclusively to determine the identity and address of said owner. In the event such property is in condominium or cooperative forms of ownership, then the person notified by mail must be the president or chairperson of the owner group that administers property commonly owned by the condominium or cooperative owners. A joint notice may be mailed to 2 or more co-owners of an adjoining property

who are listed in the Property Valuation Administrator's records as having the same address.

4. When the Planning Commission or the City Commission initiates a proposed zoning map amendment, notice of all required public hearings must be given at least 30 days in advance of the hearing by first class mail to all owners of property within the area proposed to be rezoned. Records of the Property Valuation Administrator may be relied upon to determine the identity and address of such property owners.
5. If the property, the classification of which is proposed to be changed, adjoins property in a different planning unit, or property which is not part of any planning unit, notice of the hearing must be given at least 14 days in advance of the hearing by first class mail to certain officials as follows:
 - (a) If the adjoining property is part of a planning unit, notice must be given to that planning unit's Planning Commission.
 - (b) If the adjoining property is not part of a planning unit, notice must be given to the mayor of the city in which the property is located, or if the property is an unincorporated area, notice must be given to the judge/executive of the county in which the property is located.
6. All procedures for public notice and publication, as well as for adoption, must be the same for an amendment, as for the original enactment of a zoning regulation.

C. Posted

Notice of all required public hearings on map amendments must be posted conspicuously on the subject property for at least 14 consecutive days immediately prior to the hearing. The posting must consist of one or more signs, constructed of durable material, and clearly depicting the following information:

1. the words "ZONING CHANGE" (3-inch high lettering);
2. the existing and proposed zoning classifications of the property (3-inch high lettering);
3. the date, place, and time of the public hearing (one-inch high lettering); and
4. the address, including telephone number, of the Planning Commission where additional information regarding the hearing may be obtained.

12.04.04 Planning Commission Hearing/Action

- A. The Planning Commission must hold at least one public hearing on all proposed zoning map amendments.
- B. Following the public hearing, the Planning Commission must make findings of fact and recommend, by simple majority vote, approval, disapproval or approval with condition(s) of the proposed map amendment. For zoning map amendment applications that must be accompanied by a Stage I development plan, the Planning Commission is authorized to recommend approval with modifications. The Planning Commission's recommendation must be based on the review and decision-making criteria of Sec. 12.04.06.
- C. In the event of a tie vote, the Planning Commission must continue to consider the proposed zoning map amendment for a period not to exceed 30 days. If the tie has not been broken after such reconsideration, the application must be forwarded to the City Commission without a recommendation of approval or disapproval.
- D. The Planning Commission's recommendation must include a statement explicitly setting forth the reasons for its action and a written report as required in Sec. 12.04.06.
- E. The Planning Commission's findings of fact and recommendation must include a summary of the evidence and testimony presented by the proponents and opponents of the proposed amendment.
- F. The Planning Commission must submit to the City Commission, along with their recommendation, a copy of any required development plan (See Sec. 12.04.01, C.).

12.04.05 City Commission Action

- A. The City Commission must take final action on a proposed zoning map amendment within 90 days of the date upon which the Planning Commission takes its final action. In the event of a tie vote of the Planning Commission, this 90-day timeframe runs from the date of the original tie vote, and not from the date the application is forwarded to the City Commission.

- B. A simple majority vote of the entire membership of the City Commission is required to override the recommendation of the Planning Commission.
- C. A simple majority vote of the entire membership of the City Commission is also required to adopt a zoning map amendment when the Planning Commission forwards the application to the City Commission without a recommendation due to a tie vote.
- D. Unless a simple majority of the entire City Commission votes to override the Planning Commission's recommendation, the Planning Commission's recommendation will become final and effective, and if a recommendation of approval or approval with conditions was made by the Planning Commission, the ordinance of the City Commission adopting the zoning map amendment with these conditions will be deemed to have passed by operation of law.
- E. The City Commission's approval of a zoning map amendment that includes a Stage I development plan may incorporate any conditions imposed by the Planning Commission. However, should the City Commission take action to impose different conditions than were reviewed and recommended by the Planning Commission, then the conditions must be resubmitted to the Planning Commission for further review and recommendation in accordance with the process required for the initial review.
- F. Upon approval of a zoning map amendment that includes a Stage I development plan, the City Commission must forward a copy of the approved development plan to the Zoning Administrator.

12.04.06 Review and Decision-Making Criteria

- A. Before any zoning map amendment is recommended for approval, approval with conditions, or is approved, the Planning Commission or City Commission, as applicable, must find that the proposed amendment is consistent with the adopted comprehensive plan, or in the absence of such a finding, that one or more of the following apply:
 - 1. that the existing zoning classification given to the property is inappropriate, and that the proposed zoning classification is appropriate; and/or
 - 2. there have been major changes of an economic, physical, or social nature in the area involved that were not anticipated

in the adopted comprehensive plan and that have substantially altered the basic character of the area.

- B. Required findings must be in writing and accompanied by a written report that explicitly describes the reasons for such findings. The findings and written report must be recorded in the minutes and records of the Planning Commission and the City Commission, as applicable.

12.04.07 Notice to PDS

Pursuant to KRS 147.705, the City Commission must, within 60 days after adoption of any zoning ordinance or zoning map amendment, furnish a copy of the adopted amendment to Planning and Development Services of Kenton County.

12.04.08 Changes/Amendments to Development Plans

A. Minor Changes

1. If the submittal of detailed engineering data was waived by the Zoning Administrator in the initial submission of the development plan, then such data must be submitted for review in accordance with the building permit procedures of Section 12.11 before a permit may be issued for construction.
2. The Zoning Administrator, in reviewing the Stage I development plan, may authorize minor changes from the approved development plan, provided that the adjustments do not significantly affect the spatial relationship of structures, significantly change land uses, increase overall density, significantly alter circulation patterns (vehicular and pedestrian), decrease the amount or usability of open space or recreation areas, or permit activities that do not comply with this zoning ordinance.

B. Amendments

Any amendments to approved Stage I development plans, except for those minor adjustments which are permitted by the Zoning Administrator as noted in Section 12.04.08, A., 2., must be resubmitted as new zoning map applications.

12.04.09 Concurrent Processing of Variances and Conditional Use Permits

- A. In accordance with KRS 100.203, an applicant, at the time of filing an application for a zoning map amendment, may elect to:

1. have any necessary variances or conditional use permits for the subject property be heard and finally decided by the Planning Commission at the public hearing on the proposed zoning map amendment, or
 2. have any necessary conditional use permits or variances for the subject property be heard and finally decided by the Board of Adjustment in accordance with 0 and Section 12.08.
- B. A zoning map amendment application that includes proposed variances or conditional use permits must be accompanied by a Stage I development plan, in accordance with the applicable requirements of Section 12.06.
- C. In acting on variances and conditional use permits processed concurrently with zoning map amendments, the Planning Commission is granted all the powers and duties otherwise exercised by the Board of Adjustment, pursuant to KRS 100.231, 100.233, 100.241, 100.243, 100.247, and 100.251.
- D. Any judicial proceedings to appeal the Planning Commission's actions in granting or denying any variance or conditional use permit must be taken pursuant to KRS 100.347(2).

Section 12.05 Planned Unit Developments (PUDs)

12.05.01 Applicability

Applications for approval of PUD overlay and MHP overlay zones must be processed in accordance with the two-stage procedure set forth in this section.

12.05.02 Stage I—Stage I Development Plan and Zoning Map Amendment

The first stage of the PUD approval process requires concurrent processing of a zoning map amendment and a Stage I development plan.

- A. Application
1. An application for a PUD zoning map amendment and Stage I development plan must be filed by the owner of the subject property or the property owner's authorized agent, the City Commission, or Planning Commission. In the case of joint ownership of a property, an application for a PUD zoning map amendment and Stage I development plan must be signed by all owners of the property.

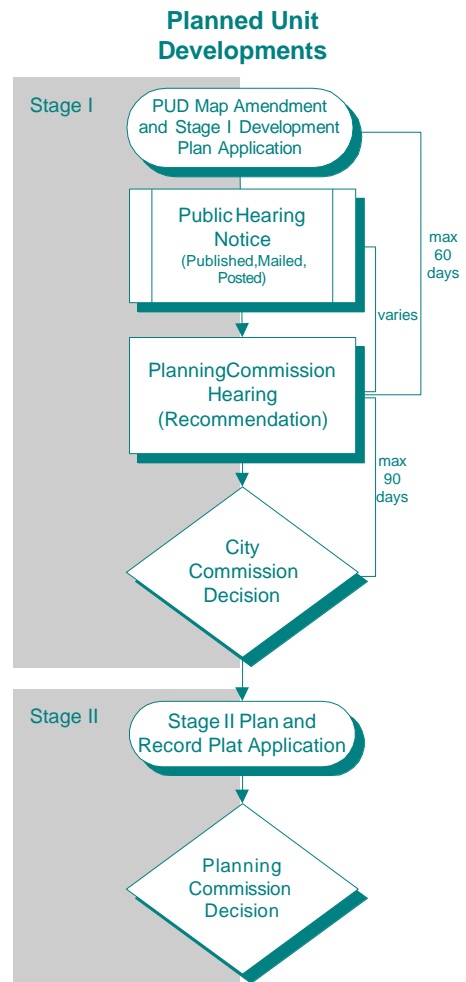
2. The Zoning Administrator must sign and the applicant must submit the application to Planning and Development Services of Kenton County.

3. Contents
 A Stage I development plan must be prepared in accordance with Section 12.06.

B. Public Hearing Notice
 The public hearing notice requirements for Stage I PUD approvals are the same as required for zoning map amendments (See Sec. 12.04.03).

C. Planning Commission Hearing/Action

1. The Planning Commission must hold at least one public hearing on the proposed application. The Planning Commission must review the application with regard to its compliance with the stated purposes of the PUD overlay zone, the required elements of the Stage I Plan, and other applicable requirements of this zoning ordinance.
2. Following the Planning Commission’s public hearing, the Planning Commission must, within 60 calendar days of receipt of the proposed PUD overlay map amendment, make findings of fact and recommend, by simple majority vote, approval or disapproval of the proposed PUD zoning map amendment.
3. In the event of a tie vote, the Planning Commission must continue to consider the proposed zoning map amendment for a period not to exceed 30 days. If the tie has not been broken after such reconsideration, the application must be



forwarded to the City Commission without a recommendation of approval or disapproval.

4. The Planning Commission's recommendation must include a statement explicitly setting forth the reasons for its action and a written report.
5. The Planning Commission's findings of fact and recommendation must include a summary of the evidence and testimony presented by the proponents and opponents of the proposed PUD map amendment.

D. City Commission Action

1. The City Commission must take final action on a proposed zoning map amendment within 90 days of the date upon which the Planning Commission takes its final action. In the event of a tie vote of the Planning Commission, this 90-day timeframe runs from the date of the original tie vote, and not from the date the application is forwarded to the City Commission.
2. A simple majority vote of the entire membership of the City Commission is required to override the recommendation of the Planning Commission.
3. A simple majority vote of the entire membership of the City Commission is also required to adopt a PUD zoning map amendment when the Planning Commission forwards the application to the City Commission without a recommendation due to a tie vote.
4. Unless a simple majority of the entire City Commission votes to override the Planning Commission's recommendation, the Planning Commission's recommendation will become final and effective, and if a recommendation of approval or approval with conditions was made by the Planning Commission, the ordinance of the City Commission adopting the PUD zoning map amendment with these conditions will be deemed to have passed by operation of law.
5. The action of the City Commission may incorporate any conditions imposed by the Planning Commission. However, should the City Commission take action to impose different conditions than those recommended by the Planning Commission, then the conditions must be resubmitted to the Planning Commission for further review and recommendation in accordance with Sec. 12.05.02, C.
6. The City Commission must forward a copy of the approved Stage I development plan to the Planning Commission for

further processing in accordance with the requirement for Stage II plan and record plat (See 12.05.03).

E. Effect of Approval

1. Approval of a PUD zoning map amendment and Stage I development plan authorizes the applicant to proceed to the second stage of the PUD approval process.
2. The PUD zoning map amendment will not become effective until a Stage II plan and record plat has been approved in accordance with Sec. 12.05.03. Upon the effective date of the PUD zoning map amendment, the official zoning map must be amended by adding the prefix “PUD” to the existing zoning map designation for the subject property (e.g., PUD-RS-12.5).

12.05.03 Stage II—Stage II Plan and Record Plat

The second stage of the PUD approval process requires review and approval of a Stage II plan and record plat.

A. Application

Following approval of the PUD zoning map amendment and Stage I development plan, a Stage II plan and record plat must be developed in conformance with the approved Stage I plan.

1. An application for approval of a Stage II plan and record plat must be filed by the owner of the subject property or the property owner’s authorized agent.
2. The Zoning Administrator must sign and the applicant must submit the application to the Kenton County Planning Commission, or its duly authorized representative.
3. Except for the manner of submission and processing, the subdivision regulations may be waived, in lieu of the requirements for submittal of PUD Stage II plans and record plats. Any subdivision requirements not specifically waived by the Planning Commission govern.
4. Contents

The Stage II Plan must be drawn to a scale not smaller than one inch equals 100 feet, identifying and providing the following information:

- (a) The existing and proposed finished topography of the subject property shown by contours with intervals not to exceed five feet. Where conditions

exist that may require more detailed information on the proposed topography, contours with intervals of less than 5 feet may be required by the Planning Commission.

- (b) All housing units on the subject property:
 - (1) Detached Housing
Location, arrangement, and number of all lots, including lot dimensions and setbacks and maximum height of buildings;
 - (2) Attached Housing
Location, height, and arrangement of all buildings indicating the number of units in each building, and where applicable, location, arrangement, and dimensions of all lots.
- (c) Location, height, arrangement, and identification of all nonresidential buildings and uses on the subject property, and where applicable, location and arrangement of all lots with lot dimensions.
- (d) Location and arrangement of all common open-space areas and recreational facilities, including lot dimensions. Methods of ownership and operation and maintenance of such lands must be identified.
- (e) Landscaping features, including identification of planting areas and the location, type, and height of walls and fences.
- (f) Location of signs indicating their orientation, size, and height.
- (g) All utility lines and easements:
 - (1) Water distribution systems, including line sizes, width of easements, type of pipe, location of hydrants and valves, and other appurtenances;
 - (2) Sanitary sewer system, including pipe sizes, width of easements, gradients, type of pipes, invert elevations, location and type of manholes, the location, type, size of all lift or pumping stations, capacity, and process of any necessary treatment facilities, and other appurtenances;

- (3) Storm sewer and natural drainage system, including pipe and culvert sizes, gradients, location of open drainage courses, width of easements, location and size of inlets and catch basins, location and size of retention and sedimentation basins, and data indicating the quantity of storm water entering the subject property naturally from areas outside the property, the quantity of flow at each pickup point (inlet), the quantity of storm water generated by development of the subject area, and the quantity of storm water to be discharged at various points to areas outside the subject property.
 - (4) Other utilities (for example, electric and telephone), including the type of service and the width of easements.
- (h) Location of all off-street parking, loading or unloading, and driveway areas, including typical cross sections, the type of surfacing, dimensions, and the number and arrangement of off-street parking, and loading or unloading spaces.
- (i) Circulation System
- (1) Pedestrian walkways, including alignment, grades, type of surfacing, and width;
 - (2) Streets, including alignment, grades, type of surfacing, width of pavement and right-of-way, geometric details, and typical cross sections.
- (j) Provisions for control of erosion, hillside slippage, and sedimentation, indicating the temporary and permanent control practices and measures that will be implemented during all phases of clearing, grading, and construction;
- (k) A schedule of development, including the staging and phasing of:
- (1) Residential area, in order of priority, by type of dwelling unit;
 - (2) Streets, utilities, and other public facility improvements, in order of priority;

- (3) Dedication of land to public use or set aside for common ownership; and
- (4) Nonresidential buildings and uses, in order of priority.
- (5) The aforementioned required information may be combined in any suitable and convenient manner so long as the data required is clearly indicated.

5. Record Plat Requirements

The applicant must submit a record plat in conformance with the Stage II approved plans. If the record plat is submitted in sections, an index must be developed showing the entire plan area. The particular number of the section and the relationship of each adjoining section must be clearly shown by a small key map on each section submitted. The record plat must conform to the applicable requirements of the subdivision regulations, unless specifically waived by the Planning Commission.

B. Planning Commission Action

1. The Kenton County Planning Commission or its authorized representative must review the Stage II plan to determine if it complies with the approved Stage I development plan and all other applicable requirements of this zoning ordinance.
2. Stage II plans may be approved only if the Planning Commission, or its duly authorized representative, determines that they comply with the approved Stage I development plan and all other applicable requirements of the subdivision regulations and this zoning ordinance.
3. In approving the Stage II plan, the Planning Commission, or its duly authorized representative, is authorized to approve minor deviations from the approved Stage I development plan, provided that such deviations do not significantly affect the spatial relationship of structures, significantly change land uses, increase overall density, significantly alter circulation patterns (vehicles and pedestrian), decrease the amount or usability of open space or recreation areas, or permit activities that do not comply with this zoning ordinance. Any proposed deviation that affects these specified elements of the development plan

- will require an amendment to the Stage I development plan per Sec. 12.05.04.
4. Following approval of a Stage II plan, the Planning Commission, or its duly authorized representative, must forward a copy of the approved Stage II plan to the Zoning Administrator, who is authorized to grant permits only in accordance with the approved Stage II plan and other applicable regulations of this zoning ordinance.
 5. Following approval of a Stage II plan, the Planning Commission, or its duly authorized representative, must review the submitted record plat to determine if it complies with the applicable requirements of the subdivision regulations and the approved Stage II plan.
 6. Record plats may be approved only if the Planning Commission determines that the record plat complies with the applicable requirements of the subdivision regulations and the approved Stage II plan.
 7. Following approval of the record plat, a certified copy of the plat must be forwarded to the office of the County Clerk to be recorded.

12.05.04 Amendments

Any amendments to plans, except for minor deviations that are permitted by the Planning Commission, or its duly authorized representative, must be made in accordance with the procedure required by this section, subject to the same limitations and requirements as those under which the plans were originally approved.

12.05.05 Expiration

Any amendment to the PUD Overlay zone is subject to the time constraints noted below. On expiration of the 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 the PUD Overlay zone should revert to its original zoning designation. A public hearing may be initiated if either of the following conditions applies:

- A. A Stage II Plan has not been approved by the Planning Commission, or its duly authorized representative, within 24 months of the date of the Stage I plan approval and overlay zone amendment by the City Commission. The City Commission is authorized to grant an extension of time if it determines, based on evidence provided by the applicant, that prevailing conditions have not changed appreciably to render the Stage I approved plan obsolete.

- B. Substantial construction has not been initiated within a period of 12 consecutive months from the date of approval of the Stage II plan by the Planning Commission, or its duly authorized representative. The City Commission is authorized to grant an extension of time if it determines, based on evidence provided by the applicant, that 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 that constitutes initiating substantial construction must be as approved in the Stage II approved plan.

Section 12.06 Stage I Development Plan Review

12.06.01 Applicability

A Stage I development plan must accompany all applications for zoning map amendments in any Commercial (C), Industrial (I), or RU-2B, RU-1, and RU-0.5 zoning classification, except for single- or two-unit dwellings, and all applications for planned unit developments.

12.06.02 Application

The Stage I Plan must be drawn to a scale not smaller than one inch equals 100 feet and include on the plan or in accompanying documentation the following information:

- A. The total area in the project;
- B. The present zoning of the subject property and all adjacent properties;
- C. All public and private rights-of-way and easement lines located on or adjacent to the subject property that are proposed to be continued, created, enlarged, relocated, or abandoned;
- D. Existing topography and approximate delineation of any topographical changes shown by contour with intervals not to exceed five feet;
- E. Delineation of all existing and proposed residential areas in the project with a statement indicating net density of the total project:
 - 1. Detached housing
 - Location and approximate number of lots, including typical sections identifying approximate lot sizes

- and dimensions, and setback and height of buildings; and
2. Attached housing
Location and description of the various housing types (such as a townhouse, fourplex, or garden apartment) including approximate heights of typical structures and the approximate number of units by housing type.
- F. Delineation of all existing and proposed nonresidential uses in the project:
1. Commercial uses
Location and type of all uses including approximate number of acres, gross floor area, and heights of buildings.
 2. Open space-recreation
The approximate amount of area proposed for common open space, including the location of recreational facilities and identification of unique natural features to be retained.
 3. Other public and semi-public uses
Location and type of all uses, including approximate number of acreage and height of buildings.
- G. Location of proposed pedestrian walkways, identifying approximate dimensions;
- H. Location of proposed streets, identifying approximate dimensions of pavement, right-of-way widths, and grades;
- I. Location of all existing and proposed water, sanitary sewer, and storm drainage lines, indicating approximate pipe sizes. Indication should also be given regarding the provision of electric and telephone service;
- J. Certification from appropriate water and sewer agencies that services will be available;
- K. Identification of the soil types and geologic formations on the subject property, including anticipated problems and proposed methods of handling those problems;

- L. Other information that may be determined necessary for description or to insure proper integration of the proposed project in the area;
- M. A schedule of development, including the staging and phasing of:
 - 1. Residential area, in order of priority, by type of dwelling unit;
 - 2. Streets, utilities, and other public facility improvements, in order of priority;
 - 3. Dedication of land to public use or set aside for common ownership; and
 - 4. Nonresidential buildings and uses, in order of priority.
- N. The aforementioned required information may be combined in any suitable and convenient manner so long as the data required is clearly indicated. A separate plan of drawing for each element is not necessary, but may be provided at the option of the applicant.

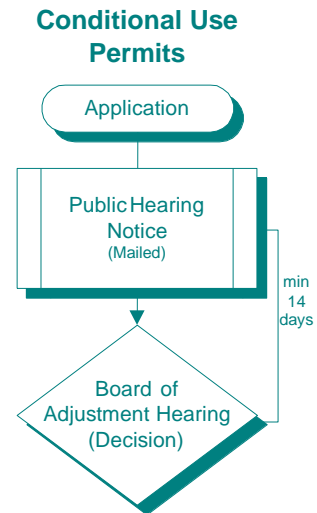
Section 12.07 Conditional-Use Permits

12.07.01 Applicability

The Board of Adjustment has the authority to hear and decide applications for conditional-use permits to allow the proper integration into the community of uses that are specifically named in the zoning regulations that may be suitable only in specific locations in the zone only if certain conditions are met.

12.07.02 Application

- A. An application for a conditional-use permit must be filed by the owner of the subject property or the property owner's authorized agent. In the case of joint ownership of a property, an application for a conditional-use permit must be signed by all owners of the property.
- B. Applications must be filed with the Zoning Administrator and must be accompanied by a site plan prepared in accordance with Section 12.10.02.,C.
- C. Applicants for a zoning map amendment and a conditional-use permit for the same property may elect to have any necessary



conditional- use permits be heard and finally decided by the Planning Commission in accordance with Sec. 12.04.09.

12.07.03 Public Hearing Notice

- A. Published
Published public hearing notices must be in accordance with Sec. 12.02.05.

- B. Mailed
 - 1. When an application is made for a conditional-use permit for land located in or abutting any residential zone, written notice must be given at least 14 days in advance of all required public hearings to:
 - (a) the applicant;
 - (b) administrative official;
 - (c) the owner of every parcel of property within one hundred fifty (150) feet in all directions from the property lines for which the conditional-use permit has been requested; and
 - (d) such other persons as required by this zoning ordinance or Kentucky statutes.

 - 2. Written notice must be sent by first-class mail with certification by the Board of Adjustment’s Secretary or other officer that the notice was mailed. The applicant must furnish to the Board of Adjustment the name and address of owners of each parcel of property within the required notification area.

 - 3. Records maintained by the Property Valuation Administrator may be relied upon conclusively to determine the identity and address of such owners. In the event such property is in condominium or cooperative forms of ownership, then the person notified by mail must be the president or chairperson of the owner group that administers the property commonly owned by the condominium or cooperative owners. A joint notice must be mailed to 2 or more co-owners of an adjoining property who are listed in the Property Valuation Administrator’s records as having the same address.

 - 4. When any property in the required notification area for a public hearing on a conditional-use permit is located in an adjoining city, county, or planning unit, notice of the

hearing must be given at least 14 days in advance of the hearing, by first-class mail, to the following public officials:

- (a) If the adjoining property is part of a planning unit, notice must be given to that planning unit's Planning Commission; or
 - (b) If the adjoining property is not part of a planning unit, notice must be given to the mayor of the city in which the property is located, or if the property is in an unincorporated area, notice must be given to the judge/executive of the county in which the property is located.
- C. Notice of all required hearings for applications for conditional-use and variance permits must be posted conspicuously on the subject property for at least fourteen (14) calendar days prior to the public hearing.

12.07.04 Board of Adjustment Hearing/Action

- A. The Board of Adjustment must hold at least one public hearing on all conditional-use permit applications.
- B. Following the Board of Adjustment's public hearing, the Board of Adjustment must make findings of fact and take action, by simple majority vote, on the conditional-use permit application, based on the review and decision-making criteria of Sec. 12.07.05.
- C. In acting on conditional-use permit applications, the Board of Adjustment is authorized to approve, approve with modifications, or deny the application. If the Board of Adjustment approves the application, it may attach necessary conditions such as time limitations, requirements that one or more things be done before the request may be initiated, or conditions of a continuing nature.
- D. Any conditions imposed on the conditional-use permit must be recorded in the Board of Adjustment's minutes and on the conditional-use permit, along with a reference to the specific section in the zoning regulation listing the conditional use under consideration. In addition, a certificate of land-use restriction must be filed pursuant to Sec. 12.02.08.
- E. Granting of a conditional-use permit does not exempt the applicant from complying with all of the requirements of this zoning

ordinance, the Building Code, Housing Code, and other regulations of the city.

12.07.05 Review and Decision-Making Criteria

In acting on any conditional-use permit application, the Board of Adjustment must make the following findings in support of a motion to approve or deny the application:

- A. that the proposed use at the particular location is/is not convenient for the public or desirable to provide a service or facility that will contribute to the general well-being of the neighborhood or the community; and
- B. that such use will/will not be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity.

12.07.06 Notice of Decision to PDS

Pursuant to KRS 147.705, the Board of Adjustment must, within 60 days of an approval of a conditional-use permit, furnish a copy of the approved conditional-use permit to Planning and Development Services of Kenton County.

12.07.07 Expiration

- A. In any case where a conditional-use permit has not been exercised within the time limit set by the Board of Adjustment or within 12 calendar months of the date of approval of the conditional-use permit, the conditional-use permit will not lapse or revert to its original designation until after a public hearing has been held on the matter.
- B. For the purpose of this section (12.07.07), “exercised” means that binding contracts for the construction of the principal building or other improvement has been let, or in the absence of contracts, that the principal building or other improvements is under construction to a substantial degree, or that prerequisite conditions involving substantial investment are under contract, in development, or completed. When construction is not a part of the use, “exercised” means that the use is in operation complies with the conditions set forth in the conditional-use permit.

12.07.08 On-Going Enforcement; Revocation

- A. The Code Enforcement Officer must review all conditional-use permits, except those for which all conditions have been permanently satisfied, at least once annually, and the Code Enforcement Officer has the power to inspect the land or structure where the conditional use is located to ascertain that the landowner is complying with all conditions imposed by the conditional-use permit.
- B. If the landowner is not complying with all of the conditions imposed on the conditional-use permit, the Code Enforcement Officer must report such fact, in writing, to the Chairperson of the Board of Adjustment. The report must specifically describe the manner in which the landowner is not complying with the conditions. A copy of the report must be furnished to the landowner at the same time it is furnished to the Chairperson of the Board of Adjustment.
- C. The Board of Adjustment must hold a hearing on the Code Enforcement Officer's report within a reasonable time after receiving the report. Notice of the time and place of the hearing must be furnished to the landowner at least seven calendar days before the hearing.
- D. If the Board of Adjustment finds that the facts alleged in the report of the Code Enforcement Officer are true and that the landowner has taken no steps to comply with them between the date of the report and the date of the hearing, the Board of Adjustment may authorize the Code Enforcement Officer to revoke the conditional-use permit and take the necessary legal action to cause the termination of the activity covered by the conditional-use permit.
- E. The Board of Adjustment is authorized to revoke conditional-use permits for noncompliance with any conditions imposed on the permit. Furthermore, the Board of Adjustment is authorized to compel offending structures or uses removed at the cost of the violator and may have judgment in person for the cost of removal.
- F. Once the Board of Adjustment has approved a conditional-use permit and all of the conditions imposed are of such type that they can be completely and permanently satisfied, the Code Enforcement Officer, on request of the applicant, may make a determination that the conditions have been satisfied and enter the facts and conclusions in support of that determination in the margin of the conditional-use permit that is on file. From that point

forward, the use will be treated as an allowed use if it continues to meet all other applicable requirements of this zoning ordinance.

Section 12.08 Zoning Variances

12.08.01 Application

- A. An application for a variance must be filed by the owner of the subject property or the property owner's authorized agent.
- B. Applications must be filed with the Zoning Administrator.
- C. Applicants for a zoning map amendment and a variance for the same property may elect to have any necessary variance applications be heard and decided by the Planning Commission in accordance with Sec. 12.04.09.

12.08.02 Public Hearing Notice

- A. Published
Public hearing notices must be published in accordance with Sec. 12.02.05.
- B. Mailed
 - 1. Written notice must be given at least seven days in advance of all required public hearings to:
 - (a) the applicant, and
 - (b) administrative official.

12.08.03 Board of Adjustment Action; Decision-Making Criteria

- A. The Board of Adjustment must hold at least one public hearing on all applications for variances.
- B. In acting on applications for variances, the Board of Adjustment is authorized to approve or deny the application. If the Board of Adjustment approves the application, it may impose any reasonable conditions or restrictions on any variance it decides to grant. Violation of such conditions or restrictions, when made a part of the terms under which the variance is granted, will be deemed a violation of this zoning ordinance.

- C. Before any variance is granted, the Board of Adjustment must find that the granting of the variance will not adversely affect the public health, safety, or welfare, will not alter the essential character of the general vicinity, will not cause a hazard or a nuisance to the public, and will not allow an unreasonable circumvention of the requirements of the zoning regulations. In making these findings, the Board of Adjustment must consider whether:
1. the requested variance arises from special circumstances that do not generally apply to land in the general vicinity, or in the same zone;
 2. the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant; and
 3. the circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.
- D. The Board of Adjustment must deny any request for a variance arising from circumstances that are the result of willful violations of this zoning ordinance by the applicant after adoption of this zoning ordinance from which relief is sought.

12.08.04 Use and Density Variances Prohibited

The Board of Adjustment is not authorized to grant a variance to permit a use of any land, building, or structure that is not permitted by this zoning ordinance in the zone in question, or to alter the density of dwelling-unit requirements in the zone in question.

12.08.05 Variance Runs with Land

A variance applies to the property for which it is granted and not to the individual who applied for it. A variance also runs with the land and is transferable to any future owner of land, but it cannot be transferred by the applicant to a different site.

12.08.06 Notice of Decision to PDS

Pursuant to KRS 147.705, within 60 days, the Board of Adjustment's decision on zoning variance matters must be furnished to Planning and Development Services of Kenton County.

Section 12.09 Appeals

12.09.01 Applicability

Appeals may be taken by any applicant where it is alleged that an error exists in any order, requirement, decision, grant, or refusal made by an administrative official in the enforcement of the zoning regulations. Such appeals may be taken to the Board of Adjustment. Appeals of decisions by the Planning Commission, Board of Adjustment, or City Commission must be taken to the Kenton Circuit Court.

12.09.02 Application

- A. An appeal may be filed, in writing, by any person or entity or his/her authorized agent claiming to be injuriously affected by an official action, order, requirement, interpretation, grant, refusal, or decision of any official charged with enforcing the zoning ordinance. The written notice of appeal must specify the grounds for the appeal. An appeal must be taken within 30 calendar days after the appellant or his agent receives notice of the action of the official that is the subject of the appeal.
- B. Notice of appeals must be filed with the Zoning Administrator, who must transmit the notice to the Board of Adjustment.
- C. The request must include the required fee for an appeal.
- D. Upon receipt of a notice of appeal, the Zoning Administrator must transmit to the Board of Adjustment all documents constituting the record on which the action appealed was taken and must be treated as and be the respondent in such further proceedings.

12.09.03 Public Hearing for Administrative Appeals

- A. **Published**
The Board of Adjustment must publish public hearing notices for appeals in accordance with Sec. 12.02.05.
- B. **Mailed**
The Board of Adjustment must give written notice to the appellant, the administrative official whose action is the subject of the appeal, and all parties of record at least one calendar week prior to the hearing.

- C. The Board of Adjustment must fix a reasonable time for hearing the appeal and decide on the appeal within 60 calendar days. The affected party may appear at the hearing in person or by attorney.
- D. At the public hearing held by the Board of Adjustment, any interested person may appear and enter his/her appearance and all interested persons must be given an opportunity to be heard.
- E. Pursuant to KRS 147.705, within 60 days of the decision, the Board of Adjustment must furnish its decision on this administrative appeal to Planning and Development Services of Kenton County.

12.09.04 Appeals of Planning Commission, Board of Adjustment, or City Commission Decisions

Any appeal from the Planning Commission, Board of Adjustment, or City Commission action may be taken in the following manner:

- A. Any person or entity claiming to be injured or aggrieved by any final action of the Board of Adjustment may appeal the action to the Kenton Circuit Court. Such appeal must be taken within 30 days after the final action of the Board of Adjustment. All final actions which have not been appealed within 30 days will not be subject to judicial review. The Board of Adjustment must be a party in any such appeal filed in the Circuit Court. Any final action of the Board of Adjustment that has not been appealed to the circuit court within 30 days will not be subject to judicial review.
- B. Any person or entity claiming to be injured or aggrieved by any final action of the Planning Commission may appeal the action to the Kenton Circuit Court. Only Planning Commission final actions granting or denying variances or conditional-use permits that were processed concurrently with a map amendment in accordance with Section 0 may be appealed pursuant to this subsection. Planning Commission recommendations made to other governmental bodies may not be appealed under this subsection. The appeal must be taken within 30 days after the final action. The 30-day timeframe for taking an appeal begins to run at the time the City Commission grants or denies the map amendment for the same development. All final actions that have not been appealed to the circuit court within 30 days will not be subject to judicial review. The Planning Commission must be a party in any such appeal filed in the circuit court.

- C. Any person or entity claiming to be injured or aggrieved by any final action of the City Commission on a map amendment may take an appeal from the action to the Kenton Circuit Court. Such appeal must be taken within 30 days after the final action of the City Commission. All final actions that have not been appealed to the circuit court within 30 days will not be subject to judicial review. The City Commission must be a party in any such appeal filed in the circuit court.
- D. After the appeal is taken, the procedure will be governed by the Rules of Civil Procedure. When an appeal has been filed, the Clerk of the Circuit Court must issue a summons to all parties and cause it to be delivered for service as in any other legal action.
- E. The owner(s) of the subject property and applicant(s) who initiated the proceeding will be made parties to all appeals made under this subsection. Other persons speaking at the public hearing are not required to be made parties to such appeal.
- F. For purposes of this zoning ordinance, final action will be deemed to have occurred on the calendar date when the vote is taken to approve or disapprove the matter pending before the body.
- G. The computation of the 30-day timeframe must be in accordance with KRS 446.030.

Section 12.10 Zoning Permits

12.10.01 Applicability

- A. No land may be used and no building or other structure may be erected, moved, added to, structurally altered, or changed from one permitted use to another, nor may any grading take place on any lot or parcel of ground without a permit issued by the Zoning Administrator.
- B. A zoning permit is also required before the demolition of any structure or portion thereof and prior to issuance of a certificate of occupancy.

12.10.02 Application

- A. An application for a zoning permit must be filed by the owner of the subject property and the property owner's authorized agent, if applicable.

- B. Applications must be filed with the Zoning Administrator.
- C. Contents
 - 1. The required fee for a zoning permit.
 - 2. An approved development plan or site plan, if required by this zoning ordinance; or
 - 3. A site plan in duplicate drawing at a scale of not less than one inch to 50 feet, showing the following information as required by this zoning 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, shapes, and dimensions of the lot to be built on.
 - (c) Lot width at front setback line.
 - (d) Minimum front, rear, and side setbacks.
 - (e) Existing topography with a maximum of five-foot contour intervals.
 - (f) Total lot area in square feet.
 - (g) Location and dimensions of all access points, driveways, and 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 that 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 sewer facilities to serve the lot, indicating all pipe sizes, types, and grades.
 - 4. An approved Certificate of Appropriateness if the property is located in a Historic Preservation Overlay zone or a Chapter 99 Development Plan area.

12.10.03 Zoning Administrator Action

- A. The Zoning Administrator must either approve or disapprove the zoning permit application. If disapproved, one copy of the submitted plans must be returned to the applicant marked “disapproved” with a description of the reasons for such disapproval. The other copy, similarly marked, must be retained by the Zoning Administrator.
- B. If approved, one copy of the submitted plans must be returned to the applicant marked “approved.” The other copy similarly marked, must be retained by the Zoning Administrator. Once approved, the Zoning Administrator must issue a zoning permit to the applicant and retain a duplicate copy for his or her records.
- C. No zoning permit may be issued except in conformity with the provisions of this zoning ordinance, except after written orders from the Board of Adjustment. In the case of demolitions, no zoning permit may be issued unless the proposed use of the site after demolition is in conformity with the provisions of this zoning ordinance, except after written orders from the Board of Adjustment.

12.10.04 Expiration of Zoning Permit

If a building permit, as required herein, has not been obtained within six months of the date of issuance of zoning permit, the zoning permit will expire and be of no further effect. Once a zoning permit has expired, building permits may not be issued until a new zoning permit has been obtained.

Section 12.11 Building Permits

12.11.01 Applicability

No building or other structure may be erected, moved, added to, or structurally altered without a permit issued by the Building Inspector. No building permit may be issued except in conformity with the provisions of this zoning ordinance, except after written orders from the Board of Adjustment.

12.11.02 Application

- A. An application for a building permit must be filed by the owner of the subject property or the property owner’s authorized agent.
- B. Applications must be filed with the Building Inspector.

C. Contents

All applications for building permits must be accompanied by:

1. A complete application form provided by the Building Inspector;
2. An approved zoning permit;
3. The required fee for a building permit;
4. Where required, 2 copies of site plan of the area at a scale no smaller than one inch to 100 feet and bearing the seal of an architect or engineer registered in the Commonwealth of Kentucky must be filed with the Building Inspector setting forth, identifying, and locating the following:
 - (a) Total area in development project, including legal description.
 - (b) Present zoning of property in question and adjacent properties.
 - (c) All public and private right-of-way and easement lines located on or adjacent to the property that are proposed to be continued, created, relocated, or abandoned.
 - (d) Existing topography with a maximum of two-foot contour intervals. Where existing ground is on a slope of less than two percent, either one-foot contours or spot elevations, where necessary, but not more than 50 feet apart in both directions is required.
 - (e) The proposed finished grade of the development area shown by contours with intervals not larger than two feet, supplemented where necessary by spot elevations.
 - (f) The location of every existing and proposed building in the described parcels, the uses to be contained therein, the number of buildings, including dimensions and height, the gross floor area, and number of floors.
 - (g) Location and dimension of all curb cuts, driving lanes, off-street parking, and loading areas, including the number of spaces, angle of stalls, grades, and illumination facilities.
 - (h) All walks, malls, and other open areas.
 - (i) Location of all walls, fences, and screen planting.
 - (j) Location, size, height, and orientation of all signs.

- (k) Types of surfacing proposed on the various off-street parking and driveways, including cross sections and drainage plans.
 - (l) Location of all existing and proposed streets, highways, and alleys.
 - (m) All existing and proposed water and sanitary sewer lines, indicating pipe sizes, types, and grades.
 - (n) A drainage plan of the area showing size and location of each existing and proposed structure. The approximate volume of water generated by development of the subject area and the proposed method of disposing of the water. Provisions must be included for adequate control of erosion and sedimentation, indicating the proposed temporary and permanent control practices and measures that will be implemented during all phases of clearing, grading, and construction.
 - (o) Such other information with regard to the development area as may be required by the Building Inspector to determine conformance with this zoning ordinance. The Building Inspector may also waive the submission of items not affected by the proposed construction or not necessary to determine compliance with this zoning ordinance.
- 5. Plans in duplicate approved by the Building Inspector and including any additional information required by the Building Code and Building Inspector, as may be necessary to determine conformance with and provide for the enforcement of the Building Code and the Kentucky Revised Statutes.
 - 6. An approved Certificate of Appropriateness if the property is located in a Historic Preservation Overlay zone or a Chapter 99 Development Plan area.

12.11.03 Building Inspector Action

A. Issuance of Building Permit

- 1. The Building Inspector must either approve or disapprove the application. If disapproved, one copy of the submitted plans must be returned to the applicant marked “disapproved” and must indicate the reasons for such disapproval thereon. Such disapproval must be attested by the Building Inspector’s signature. The second copy,

similarly marked, must be retained by the Building Inspector.

2. If approved, one copy of the submitted plans must be returned to the applicant marked “approved.” Such approval must be attested by the Building Inspector’s signature. The second copy, similarly marked, must be retained by the Building Inspector. The Building Inspector must also issue a building permit to the applicant at this time and must retain a duplicate copy for his or her records.

B. Compliance

It is unlawful to issue a building permit or certificate of occupancy 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 zoning ordinance.

12.11.04 Expiration

- A. If the work described in any building permit has not begun within 90 consecutive calendar days from the date of issuance thereof, the permit will expire and be cancelled by the Building Inspector and no construction will be permitted until a new building permit has been obtained, except an extension may be granted if sufficient evidence is produced to demonstrate why the work described in the building permit was not begun during the requisite time period.
- B. For purposes of this section, construction will be deemed to have been started at the time of completion of the foundation. After the work described in the building permit has been started, the building permit will expire after a period of 180 days, provided that an extension may be granted if sufficient evidence is produced to demonstrate why the work described in the building permit was not completed during the requisite time period.
- C. Building permits will be issued on the basis of applications and plans approved by the Building Inspector. The building permit will only permit the use, arrangement, and construction set forth in the approved zoning permit, applications, and plans. Use, arrangement, or construction that deviates from the approved zoning permit, applications, and plans will be deemed in violation of this zoning ordinance.

12.11.05 Work Begun Without a Building Permit

Pursuant to KRS 100.267, if no building permit has been issued and a builder begins or continues to build, a stop work order may be issued and/or a restraining order may be obtained upon application to a court of record. The lack of a building permit will be prima facie evidence for the issuance of a restraining order.

Section 12.12 Certificates of Occupancy

12.12.01 Applicability

No land is to be used and no building or part thereof may be occupied, converted, enlarged, or structurally altered, wholly or partly, without a certificate of occupancy, which must be part of the building permit issued by the Building Inspector. No certificate of occupancy will be issued except upon a determination by the Building Inspector that the land or building, or part(s) thereof and the proposed use(s) therein, are conform with the provisions of this zoning ordinance.

12.12.02 Application

- A. An application for a certificate of occupancy must be filed by the property owner, property owner's authorized agent, or lessee of the subject property.
- B. Applications must be filed with the Building Inspector.
- C. Contents
 - All applications for certificates of occupancy must be accompanied by:
 - 1. A complete application form provided by the Building Inspector.
 - 2. An approved zoning permit.
 - 3. An approved building permit, if required by this zoning ordinance.
 - 4. The required fee for a certificate of occupancy.
 - 5. Plans in duplicate approved by the Building Inspector and including any additional information required by the Building Code and Building Inspector, as may be necessary to determine conformance with and provide for the enforcement of the Building Code and the Kentucky Revised Statutes.

12.12.03 Building Inspector Action

A. Issuance of Certificates of Occupancy

1. The Building Inspector must either approve or disapprove the application for a certificate of occupancy. If disapproved, one copy of the submitted application must be returned to the applicant marked “disapproved,” with a description of the reasons for such disapproval. The other copy, similarly marked, must be retained by the Building Inspector.
2. If approved, one copy of the application must be returned to the applicant marked “approved”. The other copy, similarly marked must be retained by the Building Inspector. Once approved, the Building Inspector must issue a certificate of occupancy to the applicant. The certificate must be attested by the Building Inspector’s signature. The second copy, similarly marked, must be retained by the Building Inspector.
3. A certificate of occupancy may not be issued unless the proposed use of a building or land conforms to the applicable provisions of this zoning ordinance and to plans for which the building permit is issued, if applicable.

B. Certificates of Occupancy for Existing Uses

1. A certificate of occupancy is required for all uses of land or buildings existing at the time of enactment of this ordinance, which have not previously been issued a certificate of occupancy.
2. Applications for certificates of occupancy for existing uses must be filed with the Building Inspector by the owner or lessee of the subject property, the property owner’s authorized agent, or lessee of the land or building occupied by the use within six consecutive calendar months of the effective date of this zoning ordinance.
3. For existing uses that conform with the provisions of this ordinance, the Building Inspector must issue a certificate of occupancy for any land or building existing at the time of enactment of this zoning ordinance, certifying, after inspection, the extent and type of use of the land or building.

C. Certificates of Occupancy for Lawful Nonconforming Uses

1. A certificate of occupancy is required for all lawful nonconforming uses of land or buildings created by this ordinance.
2. Applications for certificates of occupancy for lawful nonconforming uses of land and buildings must be filed with the Building Inspector by the owner of the subject property, the property owner's authorized agent, or lessee of the of the land or building occupied by the use within six consecutive calendar months of the effective date of this zoning ordinance.
3. For lawful nonconforming uses, the Building Inspector must issue a certificate of occupancy on application and such certificate must identify the extent to which the nonconforming use exists at the time of issuance of the certificate.

D. Compliance

It is unlawful to issue a certificate of occupancy or building 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 zoning ordinance.

12.12.04 Expiration of Certificate of Occupancy

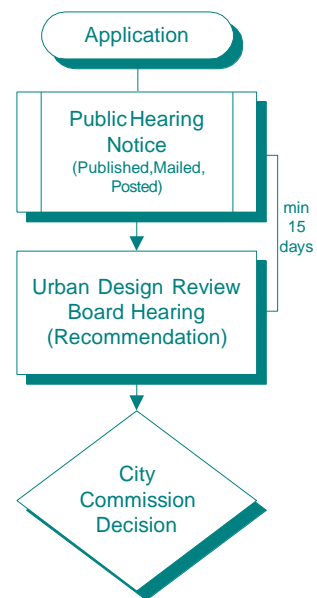
If land or a building for which a certificate of occupancy has been issued is not occupied within six months of the date of issuance of the certificate of occupancy, it will expire and be of no further effect. Once a certificate of occupancy expires, the land or building may not be occupied until a new certificate of occupancy has been obtained.

Section 12.13 Designation of Landmarks and Historic Preservation Overlay Zones

12.13.01 Applicability

The Urban Design Review Board must conduct ongoing surveys of structures, areas, or sites within the city to determine whether their historic or architectural merit warrants their designation as a Landmark or Historic Preservation Overlay zone. Persons from any organization or the general public may recommend a structure, area, or site to the Urban Design Review Board for consideration.

Designation of Historic Buildings/Zones



12.13.02 Application

- A. Applications for designation of historic structures, areas, or sites may be submitted by the owner of the subject property or the property owner's authorized agent, by persons from any organization, including the city, by the general public, or by the Urban Design Review Board.
- B. Applications must be filed with the Urban Design Review Board's Secretary/Historic Preservation Officer.

12.13.03 Public Hearing Notice

- A. Published
Notice of the time and place of all public hearings on the designation of historic structures, areas, and sites must be published at least once in a newspaper of general circulation in the county. The required notice must appear in the newspaper a minimum of 15 calendar days before the public hearing.
- B. Mailed
 - 1. When a party initiates designation of an historic structure, area, or site, written notice must be given at least 15 calendar days in advance of all required public hearings to:
 - (a) the applicant and all owners of property proposed to be designated as an historic structure, site, or area.
 - (b) owner of every parcel of property adjoining the property for which the historic designation is requested. Where the property adjoins a street or alley, property abutting the opposite side of such street or alley will be considered adjoining property.
 - 2. Written notice must be sent by first class mail, with certification by the Urban Design Review Board's Secretary or other officer that the notice was mailed. The applicant must furnish to the Urban Design Review Board the name and address of owners of each parcel of property within the required notification area.
 - 3. Records maintained by the Property Valuation Administrator may be relied upon conclusively to determine the identity and address of said owner. In the

event such property is in condominium or cooperative forms of ownership, then the person notified by mail must be the president or chairperson of the owner group which administers property commonly owned by the condominium or cooperative owners. A joint notice may be mailed to 2 or more co-owners of an adjoining property who are listed in the Property Valuation Administrator's records as having the same address.

4. When any property in the required notification area for a public hearing on historic designation is located in an adjoining city, county or planning unit, notice of the hearing must be given at least 15 days in advance of the hearing, by first class mail, to the following public officials:
 - (a) If the adjoining property is part of a planning unit, notice must be given to that planning unit's Planning Commission; or
 - (b) If the adjoining property is not part of a planning unit, notice must be given to the mayor of the city in which the property is located or, if the property is in an unincorporated area, notice must be given to the judge/executive of the county in which the property is located.

C. Posted

Notice of all required public hearings on historic designations must be posted conspicuously on the subject property or in the proposed historic area for at least 15 calendar days prior to the public hearing. The posting must consist of one or more signs, constructed of durable material and clearly depicting the following information:

1. the words "HISTORIC DESIGNATION" (3-inch high lettering);
2. the date, place, and time of the public hearing (one-inch high lettering); and
3. the address, including telephone number, of the Historic Preservation Officer or other designated officer where additional information regarding the hearing may be obtained.

12.13.04 Urban Design Review Board Hearing/Action

- A. The Urban Design Review Board must hold at least one public hearing on all applications for designation of historic structures, areas, or sites.
- B. Following the Urban Design Review Board’s public hearing, it must recommend, by simple majority vote, approval of the historic designation of the structures, areas, or sites to be designated as either Historic Landmarks or Historic Preservation Overlay zones to the City Commission. The Urban Design Review Board’s recommendation must be based on the review and decision-making criteria of Sec. 12.13.07.

12.13.05 City Commission Action

- A. The structures, areas, and sites selected by the Urban Design Review Board for historic designation under Sec. 12.13.04 must be submitted to the City Commission for final approval and designation as historic structures, areas, and sites. The Urban Design Review Board must notify owners and city departments of any decisions by the City Commission to designate an historic structure, area, or site.
- B. When the City Commission creates Historic Landmarks or Historic Preservation Overlay zones , its action must include a declaration that the landmarks, buildings, structures, or sites to be preserved are in fact of historical or of architectural significance requiring protection against destruction and encroachment.

12.13.06 Historic Designation Report

- A. A study of the structures, areas, or sites proposed to be designated either a Historic Landmark or a Historic Preservation Overlay zone must be compiled in a report (“Historic Designation Report”). The report must establish and define the Historic Landmark or Historic Preservation Overlay zone boundaries as well as the historic or architectural significance of the buildings, structures, or sites to be protected, and describe present trends, conditions, and desirable public objectives for preservation. For Historic Preservation Overlay zones, a list of which structures, areas, or sites within the boundaries are determined to be contributing and which are determined to be non-contributing must be included in the report.
- B. In addition, such report must include the following elements:

1. A survey of existing structures by period of construction, architectural style, condition, and other matters relating to planning or regulating future development, such as location on lots, location of yards and other open spaces, access to interior of lots, and off-street parking provided. In addition to general analysis, 2 specific detailed descriptions must be entered:
 - (a) A description of existing contributing structures and premises of substantial public interest, with maps, photographs, and other data indicating the public importance of their preservation and the particular features it is desirable to preserve;
 - (b) A description of existing non-contributing structures, premises, and uses likely to have an adverse effect on the desired character of the zone, including those near and visually related to the zone with maps, photographs, and other data indicating the reasons for such an effect.
2. An analysis of lands not occupied by structures, including lands near and visually related to the zone. For public lands, ownership, use, and location must be indicated. For private lands, assessed valuation must be added as well as existing zoning and planned land use.
3. Recommendations concerning detailed regulations to be applied in the zone, to supplement or modify general regulations set forth herein, may include the following:
 - (a) Permitted and prohibited principal and accessory uses and structures;
 - (b) Minimum lot and setback requirements;
 - (c) Maximum lot coverage by all buildings;
 - (d) Maximum height of structures;
 - (e) Off-street parking and loading requirements;
 - (f) Control of signs and exterior illumination;
 - (g) Control of exterior character of buildings and sites when visible from a public way only, and;
 - (h) Recommended zoning amendments, closing of public rights-of-way, creation of pedestrian walkways or common areas and control of additions to or removal of existing buildings where the controls and regulations are only for the express purpose of preventing changes which are

architecturally incompatible with the buildings, structures, or sites to be preserved.

- C. A review of the survey or study must be completed every 5 years or earlier if necessary.
- D. Once the Historic Designation Report is compiled, the Urban Design Review Board must propose to the City Commission that the findings be printed and a copy be made available to the public library.
- E. Historic area boundaries may not be extended beyond 100 feet of the historic area.
- F. Historic areas may be defined by specific boundaries. Both sides of the street may be included when desirable.

12.13.07 Review and Decision-Making Criteria

To be designated as historic, structure, area, or site must meet one or more of the following criteria:

- A. Its value as a reminder of the cultural or archeological heritage of the city, state, or nation;
- B. Its location as a site of a significant local, state, or national event;
- C. Its identification with a person or persons who significantly contributed to the development of the city, state, or nation;
- D. Its identification as the work of a master builder, designer, or architect whose individual work has influenced the development of the city, state, or nation;
- E. Its value as a building that is recognized for the quality of its architecture, and that retains sufficient elements showing architectural significance;
- F. Its characteristic of an architectural style of a period;
- G. Its character as a geographically definable area possessing a significant concentration of sites, buildings, objects or structures united by architectural style, by a plan, or by physical development;

- H. Its character as an established and geographically definable neighborhood united by culture or past events.

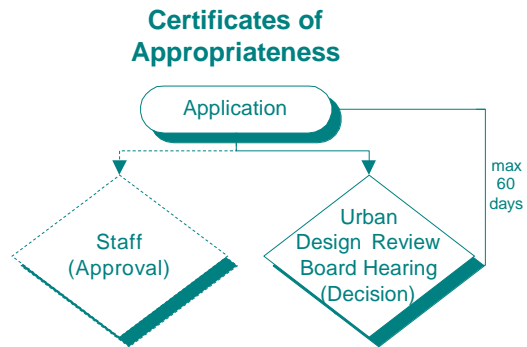
12.13.08 Amendments or Rescission

The amendment or rescission of any historic designation must be made in accordance with the procedure required by this section for the original designation.

Section 12.14 Certificates of Appropriateness (Historic)

12.14.01 Applicability

Within the boundaries of a Historic Preservation Overlay zone or a Chapter 99 Development Plan that calls for the application of design guidelines in the Development plan area or within Subdistrict 5 of the Linden Gateway District Zone, the alteration of the exterior appearance or demolition of any existing structure, or construction of a



new structure, or portions thereof, may not be undertaken until a Certificate of Appropriateness has been issued. However, a Certificate of Appropriateness is not required for:

- A. Ordinary maintenance and repair where the purpose of the work is to correct deterioration to the structure or where no change is made to the appearance of a building or site. Ordinary maintenance and repair includes:
 1. Repainting a building the same color;
 2. Replacement of window glass (but not the style or type of windows);
 3. Caulking and weather-stripping;
 4. Installation of minor landscaping, including the planting vegetable and flower gardens, shrubs, and trees, except when part of overall landscaping or replanting of yard space;
 5. Pruning trees and shrubbery and removal of trees less than 6 inches in diameter;
 6. Repairs to walks, patios, fences, and driveways, provided that replacement materials match the original or existing materials in detail and color;

7. Replacement of small amounts of missing or deteriorated original or existing siding, trim, roof coverings, porch flooring, steps, and the like, as long as replacement materials match the original or existing materials in detail and color;
 8. Replacement of gutters and downspouts as long as the color and shape matches the original;
 9. Erection of temporary signs such as real estate and political signs;
 10. Installation of house numbers and mailboxes that are compatible with the original in style, size and material;
 11. Repair of existing street or yard lighting.
 12. Any construction, alteration, or demolition duly approved prior to the effective date of this section.
- B. Any construction, alteration, or demolition that only affects the interior of the structure.
- C. Any alteration or demolition undertaken by the City, or any alteration or demolition that is necessary to correct or abate a condition that has been declared unsafe by the Fire Department or the Code Enforcement Department after notification to the Historic Preservation Officer and where emergency measures have been declared necessary by such departments.

12.14.02 Application

- A. An application for a Certificate of Appropriateness must be filed by the owner of the subject property or the owner's authorized agent.
- B. Applications must be filed with the Historic Preservation Officer, who must forward the application to the Urban Design Review Board, unless staff approval is authorized by Sec. 12.14.03.
- C. There is no application fee for a Certificate of Appropriateness; however, a Certificate of Appropriateness must be obtained before any work is initiated.
- D. Any person who performs work without a Certificate of Appropriateness may be required to have their application heard before the Urban Design Review Board and will be required to pay a \$50.00 application fee to cover administrative costs.
- E. Contents

1. Prior to either the preparation of working drawings and specifications or calling for proposals or bids from contractors, applicants are encouraged to prepare preliminary scale drawings and outline specifications, including color samples, for review and informal discussion with the Historic Preservation Officer. The purpose of this review is to identify any inconsistencies between the proposed work and Covington Design Guidelines and any applicable Chapter 99 Development Plan guidelines, and allow for discussion of alternative treatments.
2. Every application for alterations or additions to existing structures or the erection of any new structure within the boundaries Historic Preservation Overlay zone or Chapter 99 Development Plan area or within Subdistrict 5 of the Linden Gateway District Zone must be accompanied by drawings of the proposed exterior alterations, additions, or changes. For new construction, all buildings and other site improvements must be indicated on the drawings. For demolition, all proposed changes to any remaining structures and any site improvements must be indicated on the drawings.
3. As used herein, “drawings” mean site plans, elevations, and/or perspectives drawn at a scale with sufficient detail to show the location of improvements on the site (if applicable) and the architectural design and exterior appearance of buildings and structures on the site. These drawings must include the following information (unless waived by the Historic Preservation Officer):
 - (a) Existing and proposed principal and accessory buildings, including location, dimensions, and height;
 - (b) Access points and off-street parking spaces;
 - (c) Driveways, sidewalks, walkways, terraces, and other paved surfaces;
 - (d) Accessory structures, including walls, fences, porches, lighting, signs, and other site improvements;
 - (e) Existing and proposed landscape areas and materials, if proposed to be altered;
 - (f) Proposed materials, textures, and colors, including samples of materials or color samples.
 - (g) All properties immediately adjacent to the site must also be included in the site plan; a site section

and/or site elevations, including any adjacent properties, may be required for new construction.

4. An application for a Certificate of Appropriateness is not considered complete until all illustrative material necessary to adequately describe the proposed project has been submitted to the Historic Preservation Officer. The Urban Design Review Board may refuse to consider an application for a Certificate of Appropriateness if it judges that insufficient information has been provided by the applicant.

12.14.03 Staff Approval

The Historic Preservation Officer is hereby authorized to issue Certificates of Appropriateness without review by the Urban Design Review Board, under the following circumstances:

- A. An application may be approved by the Historic Preservation Officer only if it is for an alteration to an existing structure and the procedures and criteria outlined in Sec. 12.14.06, A. are followed. The application must be determined to be consistent with the Covington Design Guidelines and any applicable Chapter 99 Development Plan guidelines.
- B. The Historic Preservation Officer may not approve any application for any new construction or for the demolition of a principal or contributing structure.
- C. The Historic Preservation Officer may refer any project to the Urban Design Review Board upon which it may otherwise act, due to the complexity of the project or uncertainty as to its consistency with the Covington Design Guidelines and any applicable Chapter 99 Development Plan guidelines.
- D. The Historic Preservation Officer may not disapprove any project. Any application which is not approved by staff must be forwarded to the Urban Design Review Board in accordance with Sec. 0.
- E. Upon issuance of a Certificate of Appropriateness by the Historic Preservation Officer, all other provisions of this section must be followed, and the Historic Preservation Officer must notify the Urban Design Review Board of such action at its next regular meeting.

12.14.04 Public Hearing Notice

When an application is made for a Certificate of Appropriateness that consists of new construction, demolition, or moving of a principal or contributing structure, substantial alteration of a structure, or is forwarded by the Historic Preservation Officer, a public hearing must be held by the Urban Design Review Board. Applications for minor alterations or additions to existing structures, construction of accessory structures, or other site improvements and major landscaping do not require a public hearing.

A. Mailed

1. When a public hearing is required, written notice must be given at least seven calendar days in advance to the applicant and all owners of the property. All adjacent neighbors will be notified in cases of demolition of a principal or contributing structure, new construction, or substantial alterations to a building.
2. Written notice must be sent by first class mail.
3. Records maintained by the Property Valuation Administrator may be relied upon conclusively to determine the identity and address of said owner. In the event such property is in condominium or cooperative forms of ownership, then the person notified by mail must be the president or chairperson of the owner group which administers property commonly owned by the condominium or cooperative owners. A joint notice may be mailed to 2 or more co-owners of an adjoining property who are listed in the Property Valuation Administrator's records as having the same address.

B. Posted

Notice of all required public hearings for requests for demolition of principal structures, new construction, or substantial alteration to an existing structure must be posted conspicuously on the subject property for at least seven calendar days prior to the public hearing. The posting must consist of one or more signs, constructed of durable material and clearly depicting the following information:

1. the words "CERTIFICATE OF APPROPRIATENESS" (3-inch high lettering);
2. the date, place, and time of the public hearing (one-inch high lettering); and

3. the address, including telephone number, of the Historic Preservation Officer where additional information regarding the hearing may be obtained.

12.14.05 Urban Design Review Board Hearing/Action

- A. The Urban Design Review Board must hold regular meetings, at least once a month, and review applications that have been received by the staff 10 business days or more prior to each meeting. The Urban Design Review Board must hold at least one public hearing on all applications for Certificates of Appropriateness that involve new construction, demolition of principal or contributing structures, or substantial alterations to a building. The applicant must be informed of the time and place at which the Urban Design Review Board will consider the application and the applicant will be heard.
- B. Following the Urban Design Review Board's review and public hearing, if required, the Board must take action, by simple majority vote, on applications for Certificates of Appropriateness, based on the review and decision-making criteria of Sec. 12.14.06.
- C. In acting on an application for a Certificate of Appropriateness, the Urban Design Review Board is authorized to approve, approve with modifications, or disapprove the application.
- D. If the Urban Design Review Board approves an application, it must cite the appropriate section(s) of the Covington Design Guidelines or any applicable Chapter 99 Development Plan guidelines. A Certificate of Appropriateness must then be issued to the applicant and signed by the Historic Preservation Officer on behalf of the Chairperson or Vice-Chairperson. The Certificate of Appropriateness must be attached to the application, along with documents approved by the Urban Design Review Board, and must be transferred to the office of the Zoning Administrator and Building Inspector. All documents approved by the Urban Design Review Board must be stamped accordingly. The Zoning Administrator or Building Inspector must thereupon process the application in the usual manner.
- E. If the Urban Design Review Board disapproves an application, it must cite the appropriate section(s) of the Covington Design Guidelines or any applicable Chapter 99 Development Plan guidelines, for such disapproval and must transmit a record of such action and the reasons therefore in writing to the Zoning

Administrator and Building Inspector and to the applicant. No further action may be taken by the Zoning Administrator or Building Inspector on the application. The applicant may modify the application to make it acceptable to the Urban Design Review Board and has the right to resubmit the application at any time.

- F. The Urban Design Review Board must act within 60 days of receipt of a complete application. The failure of the Urban Design Review Board to approve or disapprove such application within such time, unless otherwise mutually agreed by the applicant and the Urban Design Review Board, will be deemed to constitute disapproval and the issue will be considered to have been resolved. The applicant has the right to re-apply to the Urban Design Review Board again, if they so choose.
- G. After a Certificate of Appropriateness has been issued in accordance with this section, the project must, from time to time, be inspected in the field to review the construction, reconstruction, alteration, maintenance, or repair as authorized and such action as is necessary must be taken to assure compliance with the approved application.
- H. Approval of a Certificate of Appropriateness does not exempt the applicant from complying with all of the requirements of this zoning ordinance, the Building Code, Housing Code, and other regulations of the City.

12.14.06 Review and Decision-Making Criteria

In acting on any application for a Certificate of Appropriateness, the Urban Design Review Board must follow the procedures and make findings regarding the applicable criteria as follows:

- A. If the work involves the alteration of an existing structure or site, including demolition of additions, the staff or Urban Design Review Board must first determine whether the structure or site is contributing based on:
 - 1. Its value as a reminder of the cultural or archeological heritage of the city, state, or nation;
 - 2. Its location as a site of a significant local, state, or national event;
 - 3. Its identification with a person or persons who significantly contributed to the development of the city, state, or nation;

4. Its identification as the work of a master builder, designer, or architect whose individual work has influenced the development of the city, state, or nation;
 5. Its value as a building that is recognized for the quality of its architecture and that retains sufficient elements showing architectural significance;
 6. Its characteristic of an architectural style of a period; or
 7. Its character as a contributing element in a Historic Preservation Overlay zone or in a Historic Designation Report.
- B. If the structure or site is determined to be contributing, the Urban Design Review Board must state the basis for such determination and must make the following findings to approve the proposed work:
1. That the proposed work is consistent with the Covington Design Guidelines or any applicable Chapter 99 Development Plan guidelines, and the historic and architectural character of the building, structure, appurtenance, or site will be properly preserved;
 2. That the proposed project will not have a detrimental impact on the historic or architectural character of the property; and
 3. That the proposed project is compatible with other properties in the Historic Preservation Overlay zone or Chapter 99 Development Plan area in terms of form, proportion, mass, texture, configuration, building materials, color, the location of the building on the lot, and the land use.
- C. If the structure or site is not determined to be significant or contributing, to approve the proposed work, the Urban Design Review Board must find 12.14.06, B., 3. above and it must further find that the proposed work will not increase the incompatibility of an existing structure.
- D. If the Urban Design Review Board fails to make positive finding(s) as required above, a Certificate of Appropriateness may not be issued unless the Urban Design Review Board finds:
1. That the proposed alterations are necessary for the continued viability of the structure and the cost of making these improvements in such a manner as to meet the above finding(s) will result in the building being incapable of

- earning an economic return upon its value at that time, or upon future sale of the property in the case of an owner/occupant. The Urban Design Review Board may require cost estimates for an alternative that would comply with the design guidelines; or
2. The proposed project is required for the physical functioning of the building or health or safety reasons and no reasonable alternative is available to meet this need.
- E. If the Urban Design Review Board finds that either of the latter two circumstances exists, every effort must be made to minimize the adverse impact of the proposed work and to allow for the work to be reversed in the future.
- F. If the proposed work involves new construction (both infill and additions to existing structures), the Urban Design Review Board must make the following findings to approve the work:
1. That the proposed work is consistent with the Covington Design Guideline or any applicable Chapter 99 Development Plan guidelines; and
 2. That the proposed project is compatible with other buildings in the Historic Preservation Overlay zone or approved Chapter 99 Development Plan area or within Subdistrict 5 of the Linden Gateway District Zone in terms of form, proportion, mass, texture, configuration, building materials, color, and location of the building on the lot.
- G. Requests for approval of demolition, in whole or in part, or relocation of a contributing structure must also follow the procedures established in Sec. 12.14.07.

12.14.07 Procedure and Criteria for Demolition and Moving of Structures

The demolition or moving of all or part of a designated Historic Landmark or an existing building in a designated a Historic Preservation Overlay zone requires the approval of the Urban Design Review Board, in accordance with the following procedures:

- A. The Urban Design Review Board must approve the Certificate of Appropriateness to demolish the structure if any one of the following circumstances is found to exist:
1. Demolition has been ordered by a responsible public official for reasons of public health and safety. In the case

- of imminent danger, such demolition may occur prior to approval by the Urban Design Review Board; or
 2. The demolition is requested for an inappropriate addition or a noncontributing building, and the Urban Design Review Board determines that the demolition will not adversely affect the character of the area, including the appearance of the streetscape in terms of the overall scale, rhythm, design, or unity; or
 3. The proposed replacement structure and development will strengthen the viability of the area as a whole and will not adversely affect the character of the area, including the appearance of the streetscape in terms of the overall scale, rhythm, design, or unity; or
 4. The demolition is consistent with plans or policies adopted by the Mayor and the City Commission.; or
 5. In approving the Certificate of Appropriateness to demolish the structure, the Urban Design Review Board must state the basis for approval, pursuant to one of the above findings.
- B. If none of the circumstances listed in Sec. 12.14.07, A. are found to exist, the Urban Design Review Board may approve the permit to demolish the structure only if it finds that the structure cannot be reused or cannot earn an economic return upon its value. If an owner requests a demolition permit for this reason, the Urban Design Review Board must hold a public hearing in accordance with Sec. 0 and the following procedures:
1. Unless otherwise agreed by the applicant, the hearing must be held at the next regular meeting of the Urban Design Review Board. In every case, however, the hearing must be held within 45 days of the date of the original application.
 2. At the hearing, the owner must present reasons why the structure cannot be reused or cannot earn an economic return upon its value. Any other persons may speak at this hearing and may present evidence to demonstrate reuse potential or opportunities for an economic return upon its value.
 3. Within no more than 90 days of the date of the hearing, the Urban Design Review Board must identify a satisfactory plan for the preservation of the structure. If such a plan is presented, the demolition may not be approved. In the event the Urban Design Review Board does not identify an economically feasible plan, or otherwise concurs with the showing by the owner, the demolition must be approved. If,

prior to the expiration of the 90-day period, the Urban Design Review Board identifies a preliminary plan for the preservation of the structure, the Urban Design Review Board must be given an additional period of time not to exceed 90 days to recommend a final plan.

4. If the Urban Design Review Board has taken no action to approve or disapprove the request within the 90-day period (or 180-day period if extended), the demolition must be allowed and permits must be issued by the Zoning Administrator and the Building Inspector.
- C. If the Urban Design Review Board approves a Certificate of Appropriateness for demolition as per this subsection, it may require the applicant to perform mitigating actions, such as archival documentation of the structure and/or salvage and re-use of historic elements.
- D. As an alternative to demolition that has been approved pursuant to Sec. 12.14.07, A. or Sec. 12.14.07, B., the Urban Design Review Board may approve the moving of an existing building where:
1. The new surroundings would be harmonious with the historical and architectural character of the building; and
 2. The relocation would help preserve and protect a building of historical interest.

12.14.08 Features not Subject to Review

In reviewing an application for a Certificate of Appropriateness, the Urban Design Review Board may not consider interior arrangement or features that are not subject to any public view. The Urban Design Review Board may not impose any requirements except for the purpose of preventing development that is architecturally incompatible with the Historic Preservation Overlay zone or Chapter 99 Development Plan area or within Subdistrict 5 of the Linden Gateway District Zone.

12.14.09 Expiration of Certificate of Appropriateness

A Certificate of Appropriateness is valid for six calendar months from the date of issue. Work on the project must commence within that six-month time period, or the Certificate of Appropriateness will expire and be of no further effect. Once a Certificate of Appropriateness has expired, the applicant will be required to apply for a new Certificate of Appropriateness prior to initiating any work.

12.14.10 Work Performed Without a Certificate of Appropriateness

- A. The City Manager has the right to revoke the occupational license of any person performing work without a required Certificate of Appropriateness.
- B. Any work completed without a Certificate of Appropriateness that cannot be approved by the Historic Preservation Officer must be reviewed by the Urban Design Review Board and the owner will be required to pay a \$100.00 application and review fee to cover administrative costs thereof.
- C. Any violation of provisions within this article is subject to the provisions of Article 15.

12.14.11 Maintenance of Historic Structures; Emergency Conditions

- A. **Maintenance of Historic Structures**

All contributing buildings and structures in Historic Preservation Overlay zones or any Chapter 99 Development Plan areas or within Subdistrict 5 of the Linden Gateway District Zone must be properly maintained and repaired, in accordance with applicable city ordinances and codes. Should an owner deliberately omit essential maintenance and repairs, which would eventually result in the building becoming so run down that it would be constitutionally unreasonable for the City to refuse to allow the owner to demolish the building, the Urban Design Review Board will bring this matter to the Historic Preservation Officer and/or the Code Enforcement Department, which will immediately require the owner or agent to undertake protective maintenance and repair to further the economy, health, safety, and general welfare of the City and nothing in this section should be construed to prevent ordinary maintenance or repairs of any structures.
- B. **Emergency Conditions**

In any case where the Code Enforcement Department determines that there are emergency conditions dangerous to life, health, or property affecting an historic structure or area, he or she may order these conditions remedied without the approval of the Urban Design Review Board. The Historic Preservation Officer must promptly notify the Chairperson of the Urban Design Review Board of the action being taken.

Section 12.15 Design Review

12.15.01 Applicability

Design review procedures are applicable to:

- A. Applications for waivers or modifications of the residential Infill Development Standards of Section 2.04, the commercial Character Standards of Section 3.05, the Mixed Use Corridor Overlay standards of Section 5.08, and the Linden Gateway District Zone of Section 4.07.
- B. Applications for demolition, erection, physical expansion, or exterior remodeling of building or premises, including accessory uses or appurtenances to the principal use, in Area Protection Overlay zones.

12.15.02 Application

- A. An application for design review must be filed by the owner of the subject property or the owner's authorized agent.
- B. Application must be filed with the Historic Preservation Officer.
- C. Contents
 - 1. Every application for waiver or modification of the residential infill development standards of Section 2.04 or commercial character standards of Section 3.05 must be accompanied by drawings that contain sufficient information to enable the Urban Design Review Board to determine whether the plans meet the review and decision-making criteria of Section 12.15.04. These plans and drawings must indicate all proposed buildings and other site improvements.

As used herein, "drawings" mean site plans, elevations, and/or perspectives drawn at a scale with sufficient detail to show the exterior appearance of proposed buildings and structures and location of existing and proposed improvements on the site. These drawings must include the following information:

- (a) Existing and proposed principal and accessory buildings, including location, dimensions and height;

- (b) Front building elevations (facing the street), including dimensions and locations of doors, windows, garages, porches, and other architectural features.
 - (c) Access points and off-street parking spaces;
 - (d) Driveways, sidewalks, walkways, terraces, and other paved surfaces;
 - (e) Accessory structures, including walls, fences, lighting, signs, and other site improvements;
 - (f) Existing and proposed landscape areas and materials, if proposed to be altered.
 - (g) All properties immediately adjacent to the site must also be included in the site plan; a site section and/or site elevations, including any adjacent properties, may be required.
2. An application for design review is not considered complete until all illustrative material necessary to adequately describe the proposed project has been submitted to the staff. The Urban Design Review Board may refuse to consider an application for design review if it judges that insufficient information has been provided by the applicant.

12.15.03 Urban Design Review Board Action

- A. The Urban Design Review Board must review complete applications for design review that have been received by the staff 10 or more business days prior to each regular meeting. The applicant must be informed of the time and place at which the Urban Design Review Board will consider the application and the applicant will be heard.
- B. Following the Urban Design Review Board's review, it must take action, by simple majority vote, on applications for design review, based on the review and decision-making criteria of Sec. 12.15.05.
- C. In acting on an application for design review, the Urban Design Review Board is authorized to approve, approve with modifications or conditions, or disapprove the application. Where necessary, the Urban Design Review Board may recommend a variance be requested from the Board of Adjustment. Any recommendation by the Urban Design Review Board for approval that requires a variance from the Board of Adjustment must be conditioned on the granting of the variance to the applicant.

- D. If the Urban Design Review Board approves an application, it must be signed by the Historic Preservation Officer on behalf of the Chairperson or Vice-Chairperson, and transferred to the office of the Zoning Administrator and Building Inspector. All prints and other documents approved by the Urban Design Review Board must be stamped accordingly. The Zoning Administrator or Building Inspector must thereupon process the application in the usual manner.
- E. If the Urban Design Review Board disapproves an application for a waiver or modification, it must state its reason for doing so and must transmit a record of such action and the reasons therefore in writing to the Zoning Administrator and Building Inspector and to the applicant. No further action may be taken by the Zoning Administrator or Building Inspector on the application. The applicant may modify the application to make it acceptable to the Urban Design Review Board and has the right to resubmit the application at any time.
- F. Any action taken by the Urban Design Review Board on applications from Area Protection Overlay zones must be forwarded as a written recommendation to the City Commission within 14 days. The basis for the recommendation and any conditions thereto are to be included.
- G. The Urban Design Review Board must act within 60 days of receipt of a complete application. The failure of the Urban Design Review Board to approve or disapprove such application within such time, unless otherwise mutually agreed by the applicant and the Urban Design Review Board, will be deemed to constitute disapproval and the issue will be considered to have been resolved. The applicant has the right to resubmit another application at any time.
- H. Approval of an application for design review does not exempt the applicant from complying with all of the requirements of this zoning ordinance, the Building Code, the Housing Code, and other ordinances and regulations of the City.

12.15.04 Area Protection Overlay Zone Action

For applications involving Area Protection Overlay zones, the City Commission, after receiving the report of the Urban Design Review Board, must, within 60 days after receipt of the report, review the recommendations of the Urban Design Review Board and take action to

approve or disapprove the proposal. If approved, the proposal must be forwarded to the Zoning Administrator for further processing, in accordance with the requirement of this or other applicable city ordinances. In the event the application is disapproved by the City Commission, notice of the action and the basis for disapproval must be forwarded to the applicant.

12.15.05 Decision-Making and Review Criteria

These guidelines and review criteria must be used by the Urban Design Review Board in considering all applications for design review:

- A. whether the proposal respects the character of the neighborhood or business district, reinforcing its identity through design that is sympathetic to the architectural context of the surrounding area in terms of massing, form, materials, texture, scale and architectural treatment;
- B. whether the front building elevations (facing the street) and the overall massing of the building emphasize human scale and the pedestrian environment;
- C. whether the proposed building has been designed to form part of a larger composition of the surrounding area by being of similar scale, height, architectural treatment, and orientation;
- D. whether building silhouettes (scale and pitch of rooflines) are consistent with the context created by nearby buildings;
- E. whether the proportion of windows, bays, and doorways is consistent with the context created by nearby buildings;
- F. whether the proposed development uses lighting and related structures as an integrated element in landscaping, architectural treatment, and pedestrian environment;
- G. for commercial developments, whether the location and design of parking, curb cuts, driveways, and/or drive-through facilities minimize potential impact on the pedestrian environment, both physically and visually, and maintain, to the greatest degree possible, building massing and orientation toward street frontage(s).
- H. for commercial developments that are located at an intersection of both arterial and collector streets, ingress and egress to parking, driveways, and/or drive-through facilities shall be oriented to

minimize potential impact on the pedestrian environment, both physically and visually, and maintain, to the greatest degree possible, building massing and orientation toward street frontage(s).

- I. for applications in Area Protection Overlay zones, whether the proposal is consistent with the adopted goals and objectives for future development within the area as noted by the City in identifying the area for consideration as a development plan project under KRS Chapter 99.
- J. for applications in the MUC-O zone, whether the proposal is consistent with the adopted goals, objectives, and purposed for future development as established in Section 5.08.01.
- K. for applications in the LGD zone, whether the proposal is consistent with the adopted goals, objectives, and purposed for future development as established in Section 4.07.01.

Section 12.16 Appeals of Urban Design Review Board Decisions

12.16.01 Applicability

A decision by the Urban Design Review Board to deny a Certificate of Appropriateness or an application for waiver or modification may be appealed to the City Commission.

12.16.02 Application

An application for an appeal from a decision by the Urban Design Review Board must be filed by the owner of the subject property or the property owner's authorized agent. Such appeal must be made in writing and must be filed with the Historic Preservation Officer within 30 days after the Urban Design Review Board takes final action on the application.

12.16.03 City Commission Action

- A. The Mayor and the City Commission will be notified of the appeal and it will be placed on the agenda for a regular or special meeting of the City Commission.
- B. In reviewing an appeal, the City Commission must review the record of the Urban Design Review Board regarding the issue appealed and determine whether the procedures and criteria established in Section 12.14 or Section 12.15 have been followed and/or whether the decision of Board was arbitrary, based on the

record. If the City Commission finds that an error has been made, it has the authority to order the issuance of a Certificate of Appropriateness or approve an application for design review, in accordance with the applicable procedures and criteria, or may remand the issue to the Urban Design Review Board for further consideration, stipulating certain facts.

- C. If the City Commission finds no cause of action, it must uphold the decision of the Urban Design Review Board.
- D. It is the intent that the City Commission will be lenient in its judgment of plans for new construction or for alteration, repair, or demolition of structures determined to be non-contributing, except where such construction, alteration, repair, or demolition would seriously impair the historic or architectural value of the surrounding structures or area. It is not the intent of this subsection to limit new construction, alteration, or repair to any single period of architectural style.

12.16.04 Appeal to Circuit Court

A decision of the City Commission may be appealed to the Kenton Circuit Court within 30 days after the final decision of the City Commission on the appeal from the Urban Design Review Board decision. The appeal to the Circuit Court must follow the procedures set forth in the Kentucky Revised Statutes if it is alleged that there is an error in any order, requirement, decision, or determination made by the City Commission or Urban Design Review Board in carrying out their duties as set forth in this section. The computation of the 30-day timeframe must be in accordance with KRS 446.030.

SECTION 12.17 Administrative Adjustments

12.17.01 Purpose

Administrative adjustments are minor specified deviations from otherwise applicable quantitative standards as specified below

12.07.02 Applicability

- A. Any adjustment greater than those listed below shall be reviewed by the Board of Adjustment as provided in Section 12.08 Zoning Variances.
- B. The Zoning Administrator shall have authority to authorize an adjustment of up to 10% of the quantitative standards of Section 2.03; Section 3.04; and Section 3.05 subject to the following standards:

1. Such adjustment shall not increase the degree of any nonconformity
2. No adjustment shall be allowed for work that originally occurred without the appropriate permits

12.07.03 Petition

A petition for an administrative adjustment shall include an explanation of the reason for the requested administrative adjustment, the specific administrative adjustment requested and any other material necessary to ensure the criteria in Section 12.07.02 above

12.07.04 Affidavit Required

Where a proposed administrative adjustment is for a rear or side yard setback along a property line that abuts another parcel or alley (but not a public right-of-way), the applicant shall submit an affidavit from the owner of any abutting property expressing whether such owner consents to or opposes the proposed adjustment. If consent is not given, the proposed setback adjustment shall be denied and the applicant will therefore require the request of a variance which will be reviewed and decided by the Board of Adjustment as provided in Section 12.08 Zoning Variances.

12.07.05 Review and Action by Zoning Administrator

The Zoning Administrator shall review the petition in conjunction with a site plan or other proposal and approve, approve with conditions, deny, or refer the petition to the Board of Adjustment based upon the criteria below. A written decision shall be provided to the applicant by certified mail. The applicant must obtain the appropriate City permit reflecting an approved administrative adjustment.

12.07.06 Administrative Adjustment Criteria

To approve a petition for an administrative adjustment, the Zoning Administrator shall make an affirmative finding that all of following criteria are met:

- A. The adjustment requested will be the minimum adjustment necessary for reasonable use of the property; and
- B. Granting the administrative adjustment will not have an adverse impact on land use compatibility; and
- C. Granting the administrative adjustment will not materially and adversely affect adjacent land uses and the physical character of uses in the immediate vicinity of the proposed development because of inadequate buffering, screening, setbacks and other land use considerations; and

- D. Granting the administrative adjustment will be consistent with the purposes and intent of these zoning regulations

12.07.08 Further Relief

The decision of the Zoning Administrator is final. However, if the applicant is aggrieved by the decision, then in lieu of petitioning for another administrative adjustment, the applicant may apply for a variance as provided in Section 12.08 Zoning Variances. If a variance is sought, then any relief that may have been provided by the administrative adjustment shall not be a factor in the consideration of the variance.