

ARTICLE XVI

ADMINISTRATION

SECTION 16.0 ENFORCING OFFICER: A zoning administrator shall administer and enforce this ordinance. He/she may be provided with assistance of such other persons as the city directs.

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

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

All questions of interpretation and enforcement shall be first presented to the zoning administrator. Such questions may be presented to the board of adjustment by an applicant or aggrieved party only on appeal from the decision of the zoning administrator, and recourse from the decisions of the board of adjustment shall be to the courts, as provided by the Kentucky State Statutes,

It shall be recognized by the zoning administrator, that consistent with KRS 100.271, where the literal terms of this ordinance are not clear, and unless this ordinance provides otherwise, the zoning administrator shall exercise reasonable discretion in the interpretation of this ordinance.

In determining what are permitted uses within any zone, it shall be recognized that the uses set forth are to serve as a guide to determine the type of uses to be permitted and are not intended to be exclusive. However, the zoning administrator shall, as nearly as possible, follow the literal intent of the permitted uses set forth herein.

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

- A. **ZONING PERMIT REQUIRED:** No land shall be used, or building or other structure shall be erected, moved, added to, structurally altered, or changed from one permitted use to another, nor shall any grading take place on any lot or parcel of ground without a zoning permit, issued by the zoning administrator. No

zoning permit shall be issued except in conformity with the provisions of this ordinance, except after written orders from the board of adjustment.

- B. APPLICATION FOR ZONING PERMITS: All applications for zoning permits shall be accompanied by:
1. A completed application form, provided by the zoning administrator.
 2. The required fee for a zoning permit as provided in Section 19.0 of this ordinance.
 3. A Stage II Development Plan, if required by this ordinance, or a plot plan, in duplicate, drawn at a scale of not less than one (1) inch to fifty (50) feet, showing the following information, where applicable:
 - a. The location of every existing and proposed structure, including dimensions and height, and the number, size, and type of dwelling units.
 - b. All property lines, shape and dimensions of the lot to be built upon.
 - c. Lot width at building setback line.
 - d. Minimum front and rear yard depths and side yard widths.
 - e. Existing topography, with a maximum of five (5) foot contour intervals.
 - f. Total lot area, in square feet.
 - g. Location and dimensions of all access points, driveways, and off-street parking areas
 - h. A drainage plan of the lot and its relationship to adjacent properties, including spot elevations of the proposed finished grade, and provisions for adequate control of erosion and sedimentation, indicating the proposed temporary and permanent control practices and measures which will be implemented during all phases of clearing, grading, and construction.
 - i. All sidewalks, walkways, and open spaces.
 - j. Location, type, and height of all walls, fences, and screen plantings.
 - k. Location of all existing and proposed streets, including rights-of-way and pavement widths.
 - l. All existing and proposed water, sanitary, and storm sewer facilities to serve the lot, indicating all pipe sizes, types, and grades.
- C. ISSUANCE OF ZONING PERMIT: The zoning administrator shall either approve or disapprove the application. If disapproved one (1) copy of the submitted plans shall be returned to the applicant, marked "Disapproved" and shall indicate the reasons for such disapproval thereon. Such disapproval shall be attested by the zoning administrator's signature. The other copy, similarly marked, shall be retained by the zoning administrator.

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

- D. **FAILURE TO COMPLY:** Failure to obtain a zoning permit shall be a violation of this ordinance and punishable under Section 16.9 of this ordinance.
- E. **EXPIRATION OF ZONING PERMIT:** If a building permit, as required herein, has not been obtained within ninety (90) consecutive calendar days from the date of issuance of the zoning permit, said zoning permit shall expire and be canceled by the zoning administrator and a building permit shall not be obtainable until a new zoning permit has been obtained.

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

- A. **BUILDING PERMITS REQUIRED:** No public or other structure shall be erected, moved, added to, or structurally altered without a permit issued by the building inspector. No building permit shall be issued except in conformity with the provisions of this ordinance, except after written orders from the board of adjustment.
- B. **APPLICATION FOR BUILDING PERMITS:** All applications for building permits shall be accompanied by:
 - 1. A complete application form, provided by the building inspector.
 - 2. An approved zoning permit.
 - 3. The required fee for a building permit, as provided for in Section 19.0 of this ordinance.
 - 4. An approved Stage II Development Plan or Plot Plan.
 - 5. Plans in duplicate, indicating information required by the building code and/or building inspector, as may be necessary to determine conformance with, and provide for the enforcement of, the building code and the Kentucky Revised Statutes .
- C. **ISSUANCE OF BUILDING PERMIT:** The building inspector shall either approve or disapprove the application. If disapproved, one (1) copy of the submitted plans shall be returned to the applicant marked "Disapproved" and shall indicate

the reasons for such disapproval thereon. Such disapproval shall be attested by the building inspector's signature. The second copy, similarly marked, shall be retained by the building inspector.

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

- D. COMPLIANCE: It shall be unlawful to issue a building permit, or an occupancy permit, to build, create, erect, change, alter, convert, or occupy any building or structure hereafter, unless a zoning permit has been issued in compliance with this ordinance.
- E. BUILDING PERMITS ISSUED PRIOR TO THE ADOPTION OF THIS ORDINANCE: Building permits issued in conformance with the building code of the City prior to the date of adoption of this ordinance, whether consistent or inconsistent with this ordinance, shall be valid for a period of ninety (90) consecutive calendar days from the time of issuance of the building permit. If construction in connection with such a permit has not been started within such a ninety (90) consecutive calendar day period, the building permit shall be void and a new building permit, consistent with all provisions of this ordinance and the building code, shall be required. For purposes of this section, construction shall be deemed to have been started at the time of completion of the foundation.
- F. EXPIRATION OF BUILDING PERMIT:
1. Building permits, for the complete construction of any principal structure for any use identified as a permitted use, in any zone described and identified as a multi-family residential zone, an overlay zone, a commercial zone, a professional office building zone, an industrial zone, an industrial park zone, or an area protection overlay zone, shall expire, terminate, and be canceled by the building inspector, unless the foundation of the construction, and work authorized thereby, has been completed within ninety (90) consecutive calendar days after the date on which the building permit was issued, and all of the construction, and work authorized thereby, has been completed within five hundred forty (540) consecutive calendar days after the date on which such building permit was issued.
 2. Building permits for the complete construction of any principal structure for any use identified as a permitted use, in any zone described and identified as a conservation zone or a single-family residential zone, or the construction of any additions to any principal structures for any use identified as a permitted use in any zone, shall expire, terminate, and be

canceled by the building inspector, unless the foundation of the construction, and work authorized thereby, has been completed within ninety (90) consecutive calendar days after the date on which the building permit was issued, and all of the construction, and work authorized thereby, has been completed within three hundred sixty-five (365) consecutive calendar days after the date on which such building permit was issued.

3. Building permits for any construction, other than the complete construction of any principal structure for any use identified as a permitted use in any zone, or any additions thereto, shall expire, terminate, and be canceled by the building inspector, unless the construction, and work authorized thereby, is completed within one hundred eighty (180) consecutive calendar days after the date on which the building permit was issued.
 4. Any dates established hereby for the expiration, termination, and cancellation of any building permit may be extended by the building inspector for any circumstances beyond the control of the person to whom the permit was issued, in which event the permit shall expire, terminate, and be canceled by the building inspector at the end of such extended period of time.
- G. **CONSTRUCTION AND USE:** To be as provided in applications, plans, and permits, zoning permits and building permits, issued on the basis of plans and applications, approved by the zoning administrator and/or building inspector, authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Use, arrangement, or construction at variance with that authorized shall be deemed in violation of this ordinance and punishable as provided in Section 16.9 of this ordinance.

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

SECTION 16.4 CERTIFICATE OF OCCUPANCY FOR EXISTING BUILDING: Upon written request from the fee owner, the building inspector shall issue a certificate of occupancy for any structure or land existing at the time of enactment of this ordinance,

certifying, after inspection, the extent and kind of use made of the structure or land, and whether such use conforms with the provisions of this ordinance.

SECTION 16.5 CERTIFICATE OF OCCUPANCY FOR LAWFUL NONCONFORMING USES AND STRUCTURES: A certificate of occupancy shall be required of all lawful nonconforming uses of land or structures created by this ordinance. A fee, as provided for in Section 19.0 of this ordinance, shall be charged for said certificate.

Applications for such certificates of occupancy for nonconforming uses of land and structures shall be filed with the building inspector by the owner or lessee of the land or structure occupied by such nonconforming uses within six (6) consecutive calendar months of the effective date of this ordinance. Failure to apply for such certificate of occupancy will place upon the owner or lessee the entire burden of proof that such use of land or structures lawfully existed on the effective date of this ordinance.

It shall be the duty of the building inspector to issue a certificate of occupancy for lawful nonconforming uses upon application and such certificate shall identify the extent to which the nonconforming use exists at the time of issuance of such certificate.

SECTION 16.6 DENIAL OF CERTIFICATE OF OCCUPANCY: Except as herein stated, a certificate of occupancy shall not be issued unless the proposed use of a structure or land conforms to the applicable provisions of this ordinance and to plans for which the building permit was issued.

SECTION 16.7 CERTIFICATE OF OCCUPANCY RECORDS: A record of all certificates of occupancy shall be kept on file in the offices of the building inspector and copies shall be furnished, on request, to any person having a proprietary structure affected by such certificate of occupancy.

SECTION 16.8 COMPLAINTS REGARDING VIOLATIONS: Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person may file a written complaint with the zoning administrator. The zoning administrator shall maintain a record of such complaints, investigate same, and take action thereon, as provided by this ordinance and in conformity with Kentucky Revised Statutes.

SECTION 16.9 PENALTIES

- A. Any person or entity who violates any of the provisions of this ordinance, except for Section 16.12 of this ordinance, shall, upon conviction, be fined not less than ten dollars (\$10.00) but no more than five hundred dollars (\$500.00) for each conviction. Each day of violation shall constitute a separate offense.
- B. Any person who intentionally violates any of the provisions of Section 16.12 of this ordinance shall be guilty of a misdemeanor, punishable by a fine of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00).

- C. In addition to any provisions set forth in subsections A. and B. above, the violator of this ordinance shall be assessed as civil penalty any costs attributable to the enforcement of this ordinance by the zoning administrator, including attorney fees, expert witness fees, and court costs.

SECTION 16.10 INTENT CONCERNING DETERMINATIONS INVOLVED IN ADMINISTRATION AND ENFORCEMENT OF PERFORMANCE STANDARDS FOR INDUSTRIAL ZONES: It is the intent of this ordinance that:

- A. Where investigation can be made by the zoning administrator, or other designated employee, using equipment normally available to the legislative body, such investigation shall be so made before notice of violation is issued.
- B. Where technical complexity, nonavailability of equipment, or extraordinary expense makes it unreasonable, in the opinion of the zoning administrator, for the legislative body to maintain the personnel or equipment necessary for making difficult or unusual determinations, procedures shall be established for:
 - 1. Causing corrections in apparent violations of performance standards;
 - 2. For protecting individuals from arbitrary, capricious and unreasonable administration and enforcement of performance standard regulations; and
 - 3. For protecting the general public from unnecessary costs for administration and enforcement.
- C. If the zoning administrator finds, after investigations have been made by qualified experts, that there is a violation of the performance standards, he shall take, or cause to be taken, lawful action to cause correction to, within limits set by such performance standards.

SECTION 16.11 DUTIES OF ZONING ADMINISTRATOR REGARDING PERFORMANCE STANDARDS FOR INDUSTRIAL ZONES: If, in the judgment of the zoning administrator, there is probable violation of the performance standards as set forth, the following procedures shall be followed:

- A. The zoning administrator shall give written notice, by registered mail, to the person or persons responsible for the alleged violation. The notice shall describe the particulars of the alleged violation and the reasons why the zoning administrator believes there is a violation in fact, and shall require an answer or correction of the alleged violation, to the satisfaction of the zoning administrator, within thirty (30) consecutive calendar days of receipt of such notification. The notice shall state that failure to reply or to correct the alleged violation, to the satisfaction of the zoning administrator within thirty (30) consecutive calendar

days of receipt of said notice, constitutes admission of violation of the terms of this ordinance.

- B. The notice shall further state that, upon request of those to whom said notice is directed, a technical investigation will be made by a qualified expert or experts and that, if violations as alleged are found, costs of such investigations shall be charged against those responsible for the violations, in addition to such other penalties as may be appropriate, but that if it is determined that no violation exists, the cost of the investigation will be paid by the legislative body.
- C. If there is no reply within thirty (30) consecutive calendar days of receipt of said notice, but the alleged violation is corrected to the satisfaction of the zoning administrator, he shall note "violation corrected" on his copy of the notice, and shall retain it among his official records, taking such other action as may be warranted.
- D. If there is no reply within thirty (30) consecutive calendar days of receipt of said notice and the alleged violation is not corrected to the satisfaction of the zoning administrator within the established time limit, he shall proceed to take, or cause to be taken, such action as is warranted by continuation of a violation after notice to cease.
- E. If a reply is received within thirty (30) consecutive calendar days of receipt of said notice indicating that the alleged violation will be corrected to the satisfaction of the zoning administrator, but requesting additional time, the zoning administrator may grant an extension if he deems it warranted in the circumstances of the case and if the extension will not, in his opinion, cause imminent peril to life, health, or property.
- F. If a reply is received within thirty (30) consecutive calendar days of receipt of said notice requesting technical determination as provided in this ordinance, and if the alleged violations continue, the zoning administrator shall call in properly qualified experts to investigate and determine whether violations exist.

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

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

SECTION 16.12 FILING OF CERTIFICATE OF LAND USE RESTRICTIONS

- A. FILING OF CERTIFICATES OF LAND USE RESTRICTIONS: A "Certificate of Land Use Restriction" shall be filed in the office of the county clerk by the planning commission, legislative body, and/or board of adjustment, whichever body(s) impose(s) any land use restrictions according to the provisions of KRS 100.3681 to 100.3684. The actual recording fee, per statute, for recording such filing shall be collected by the body imposing the restriction. This fee shall be paid over to the county clerk. An additional fee, not to exceed the maximum administrative fee, permitted by statute, may be imposed by the body imposing the restriction for costs of completing and filing the certificate.