



# Kenton County Planning Commission

MANY COMMUNITIES / ONE FUTURE

August 5, 2022

Jessica Fette - Mayor  
City of Erlanger  
505 Commonwealth Avenue  
Erlanger, KY 41018

Dear Mrs. Fette,

NUMBER: PC2207-0001

Attached please find a copy of this Commission's action from its meeting on August 4, 2022, regarding a request for text amendments. Copies of this action have been sent to those persons or agencies which may be affected by this matter.

Please notify Andy Videkovich, Current Planning Manager, of the meeting time and date when this item is placed on your agenda. Once your legislative body acts on this text amendment, please provide our staff at PDS with a copy of your executed ordinance. For questions regarding our action or to request PDS staff representation at your meeting, please contact Andy Videkovich, AICP, Current Planning Manager at PDS 859.331.8980 or [avidekovich@pdskc.org](mailto:avidekovich@pdskc.org).

Thank you.

A handwritten signature in blue ink, appearing to read "Paul J. Darpel". The signature is stylized and cursive.

Paul J. Darpel,  
Chair

pb

attachment

CC: Emi Randall, Director of Community Development / Assistant City Administrator

**KENTON COUNTY PLANNING COMMISSION**  
STATEMENT OF ACTION AND RECOMMENDATION

NUMBER: PC2207-0001

**WHEREAS**

The City of Erlanger per Emi Randall, Director of Economic Development / Assistant City Administrator, HAS SUBMITTED AN APPLICATION REQUESTING THE KENTON COUNTY PLANNING COMMISSION TO REVIEW AND MAKE RECOMMENDATIONS ON: Multiple proposed text amendments to the Erlanger Zoning Ordinance including: (1) allowing greater flexibility with the MU (Mixed Use) District by removing the requirement for multiple uses on one parcel or building and updating the definition of “mixed use”; (2) amending the use specific standards for restaurants, with or without drive-ins or drive-throughs; (3) adding a setback for driveways; (4) removing the location requirements for dumpsters, trash, and recycling storage areas within residential districts; (5) allowing privacy fences in side and rear yards of residential and commercial districts, and removing a redundant regulation for fences on vacant lots; (6) amending the maximum size of detached signs in the CC (Community Commercial) District and changing the name and description of Section 11.09 to better reflect its intent; (7) removing the appeals process and referencing the process set forth in KRS 100; AND

**WHEREAS**

A PUBLIC HEARING WAS HELD ON THIS APPLICATION ON THURSDAY, AUGUST 4, 2022, AT 6:15 P.M.; AND A RECORD OF THAT HEARING IS ON FILE AT THE OFFICES OF THE KENTON COUNTY PLANNING COMMISSION, 1840 SIMON KENTON WAY, COVINGTON, KENTUCKY.

**NOW, THEREFORE,**

THE KENTON COUNTY PLANNING COMMISSION SUBMITS THE FOLLOWING RECOMMENDATIONS, ALONG WITH SUPPORTING INFORMATION AND COMPREHENSIVE PLAN DOCUMENTATION:

**KCPC RECOMMENDATION – TEXT AMENDMENTS:**

Favorable recommendation on the proposed text amendments for the City of Erlanger which include (1) allowing greater flexibility with the MU (Mixed Use) District by removing the requirement for multiple uses on one parcel or building and updating the definition of “mixed use”; (2) amending the use specific standards for restaurants, with or without drive-ins or drive-throughs; (3) adding a setback for driveways; (4) removing the location requirements for dumpsters, trash, and recycling storage areas within residential districts; (5) allowing privacy fences in side and rear yards of residential and commercial districts, and removing a redundant regulation for fences on vacant lots; (6) amending the maximum size of detached signs in the CC (Community Commercial) District and changing the name and description of Section 11.09 to better reflect its intent; (7) removing the appeals process and referencing the process set forth in KRS 100.

**COMPREHENSIVE PLAN DOCUMENTATION:**


- Date of Adoption by the Kenton County Planning Commission: September 5, 2019.

**SUPPORTING INFORMATION/BASES FOR KCPC RECOMMENDATION:**

1. Amending the purpose and definition of the Mixed Use (MU) District is reasonable. The proposed language will allow additional flexibility while still maintaining the original intent of the district of requiring a mix of uses.
2. The proposed text amendment amending the use-specific standards for outdoor seating and dining areas for restaurants is reasonable. In the previous zoning ordinance, these standards applied to all outdoor seating areas, not solely those located near residential areas. Removing the capacity

requirements will also allow for greater utilization of outdoor seating facilities especially in smaller restaurants.

3. The proposed text amendment for driveways is reasonable. The previous zoning ordinance required driveways to be setback one foot from a property line. This setback will allow residents to construct driveways without encroaching on a neighbor's property and allow someone to reasonably open a car door without overhanging onto an adjacent property.
4. The proposed text amendment regarding trash receptacles is reasonable because the requirements to be located within the front or rear yard and screened from view within a residential district did not exist in the previous zoning ordinance but was added in the new zoning ordinance. The City does not wish to have these requirements in residential areas for consistency with the previous ordinance.
5. The proposed text amendment regarding fencing is reasonable. Privacy fences were previously permitted in the side and rear yards of residential and commercial property, but this permission was omitted in the new zoning ordinance. This is a reasonable use of property in the City and the City would like to see this permission returned. Also, removing redundant regulations is logical.
6. The square footage minimum for a detached principal sign within the Community Commercial (CC) District standard existed in the previous ordinance but it was inadvertently omitted from the new ordinance. It is reasonable to reintroduce these standards. The change of the section name and description will also clarify the ordinance's intent.
7. The language related to the process of an appeal of the decision of the Zoning Administrator is redundant and its removal will prevent potential future conflicts if KRS is revised.
8. These proposed text amendments will not have an adverse effect on the public health, safety, or welfare and will not be injurious to the public residing in or moving through the area.
9. Based on testimony provided during the public hearing held on August 4, 2022.



PAUL J. DARPEL, CHAIR  
KENTON COUNTY PLANNING COMMISSION

**General Attachment Notice:**

*For ease of viewing, only those portions of the Zoning Ordinance pertaining to the requests within the submitted application have been included within these attachments. The complete zoning code can be viewed online at: [www.pdskc.org](http://www.pdskc.org).*

**ATTACHMENT A**

Proposed Text Amendments to Erlanger Zoning Ordinance

Words to be **deleted** are ~~[lined through]~~ – Words to be **added** are underlined

# **ERLANGER ZONING ORDINANCE**

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[Ord. No. [2528-2021](#), Adopting new text, 10/12/2021]

## **ARTICLE 3 ZONING DISTRICTS**

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### **3.04 Zoning Districts**

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#### **3.04.R. MIXED-USE (MU)**

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Purpose

The Mixed-Use District is intended to provide a diverse mixture of high-activity uses within walkable and connected districts. Uses shall include retail, office, and residential dwelling units either on the same parcel, ~~or within the same building, or within the overall development or district.~~ It is the intent of the district to integrate multiple uses and that no one use type dominates the district. ~~[Mixed uses shall contain at least two uses, where at least one use is at least 25 percent of the building or development.]~~ Mixed-use developments should have coordinated development patterns at a pedestrian scale, with high-quality architecture, plazas, sidewalks, and pedestrian and bicycle amenities to activate the street and connect these centers to the residential neighborhoods they support.

## **ARTICLE 4 USE REGULATIONS & STANDARDS**

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### **4.05 Use-Specific Standards**

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C. Commercial

23. Restaurant, with or without Drive-in or Drive-Through

1. Any restaurants with drive in or drive through shall comply with Section [10.21](#), Parking and Loading Standards - Drive-In or Drive-Through Lanes and Stacking Spaces.
2. Bars are permitted in restaurants provided they are less than 50 percent of the serving area. If the bar portion of the restaurant occupies greater than 50 percent of the serving area, the use shall be considered a Bar Or Drinking Place and shall be subject to the conditions of Section [4.05, C., 5.](#), Bar or Drinking Place.
3. Restaurants with outdoor seating or dining ~~[adjacent to residential districts]~~ shall

meet the following criteria:

- i. Such an area shall be designed to clearly identify the limits of the outdoor seating area with a decorative fence, wall or similar barrier, separating the outdoor seating area from a public right of way, access drive or parking lot.
- ii. ~~[Outdoor seating shall not exceed forty percent (40%) of the maximum seating capacity of the indoor seating area.]~~
- iii. Outdoor waste receptacles for customers shall be provided, conveniently located, regularly serviced and maintained.
- iv. If a pedestrian walkway is provided around an outdoor seating area, then it must be a minimum of five (5) feet wide, to allow pedestrians unobstructed passage around the outdoor seating area.
- v. Outdoor seating areas shall not be permitted to locate within any required setbacks.
- vi. Outdoor seating area shall be calculated into the off-street parking requirements.
- vii. Outdoor seating areas adjacent to a residential zone shall not be operated later than:
  1. 10:00 PM - Sunday through Thursday
  2. 11:00 PM - Friday and Saturday
- viii. Outdoor seating areas, without amplified music, shall not be permitted within three hundred forty (340) feet of a residence.
- ix. Outdoor seating areas, with amplified music, shall not be permitted within six hundred fifty (650) feet of a residential zone. However, the decibel level, at a residential zone, shall not exceed sixty (60) db.

## ARTICLE 5 DIMENSIONAL REQUIREMENTS

### 5.08 Permitted Encroachments

#### D. Other Permitted Setback Encroachments

1. Walls and perimeter fencing as regulated in Section 7.06, Fences and Walls.
2. Sidewalks, multi-use paths and other pedestrian amenities.
3. Driveways and other vehicular access points, which are addressed in Article 10, Parking & Loading Standards, provided they are not closer than one foot to the property line to which they run approximately parallel.
4. Landscaping as regulated by Section 7.07, Landscaping, Screening, and Buffers.

## ARTICLE 7 DEVELOPMENT STANDARDS

### 7.04 Character Standards

#### TABLE 7.1 - ZONING DISTRICTS

**Remove Xs indicating the following requirement within all residential districts and the residential to office conversion zone.**

D. Character Standards—Services, Utilities, and Minor Accessory Uses  
 To subordinate the appearance of services, utilities, and minor accessory uses on individual sites and throughout the City’s jurisdiction, the following standards shall apply.

3. All dumpster, trash and recycling receptacle storage areas shall be located in the side or rear yard. Dumpsters shall also be screened per Section 7.07, N.

**7.06 Fences and Walls**

**Add X to allow this fence type within all residential and commercial districts in the side and rear yard only. Add a - (Dash) to indicate this fence type is not permitted in the front yard area.**

**TABLE 7.3 - FENCE TYPES LIMITED**

E. Wood or other, less than 50% open.

**7.06 Fences and Walls**

**A. General Regulations**

The following standards shall apply to all fences and walls in all zoning districts unless otherwise noted.

1. Fences and walls shall be maintained in good order.
2. Fences shall not contain advertising, signs, logos or other lettering unless it complies with the sign regulations.
3. Where a fence or wall is used as part of required screening, all required vegetation shall be planted on the exterior side of the fence or wall (exterior to the lot). See Section 7.07, [Landscaping, Screening, and Buffers](#).
4. Any fence located within a required sight triangle shall not exceed three feet in height.
5. Fences and walls shall be constructed such that the “finished” part of the fence or wall is located to the exterior of the property.
6. Walls and fences used for landscaping or screening shall be constructed of masonry, stone, wood, vinyl or a material similar in composition and appearance as the principal building. Such walls and fences shall be opaque.
7. Nothing in this subsection shall preclude the installation of temporary fences around construction works, erected or maintained pursuant to the International Building Code or Soil Erosion and Sedimentation Control Act requirements.
8. Prohibited Fences
  - a. Fences or walls topped with or containing broken glass or similar material are prohibited.
  - b. Fences constructed of readily flammable material (traditional wood fences excluded) such as paper, cloth, or canvas are prohibited.

- c. Fence material not listed in Table 7.2, Fence and Wall Types Described and Illustrated are not permitted unless approved by the Zoning Administrator as a like-material that meets or exceeds the intent of the fence standards.
- 9. Barbed wire and electric fencing are permitted only in the Agriculture district where it is accessory to a permitted agricultural use.
- 10. ~~[The construction of walls or fences is allowed on a property with no principal structure provided that a principal structure or principal use with the same ownership as the vacant property abuts the vacant property (without a street or alley separating). The fence constructed must meet all regulations of this section. Fence material must be consistent all the way around the property. Chain link fences are prohibited on vacant properties in all Residential and Commercial Districts.]~~
- 10. In addition to a zoning permit, certain walls and fences may also require a building permit.

**ARTICLE 11 SIGNS**

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**11.09 Signs Requiring a Permit Allowed Signs**

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- |         |              |    |          |
|---------|--------------|----|----------|
| A. Sign | Requirements | by | District |
|---------|--------------|----|----------|
- ~~[The following table contains relevant regulations by sign type for signs requiring a permit.]~~ The following table contains relevant regulations for signs within each district. A sign permit is required, unless identified in Section 11.06 as a sign allowed without a permit.

**TABLE 11.1 - PERMITTED SIGNS**

***Add the following language to the table under CC Zone - Detached principal signs - Maximum Sign Area (Sq Ft)***

25 square feet or 2 per 1,000 sq ft gross leasable area, not to exceed 300, whichever is greater

**ARTICLE 13 PROCESS AND PROCEDURE**

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**13.12 Appeals**

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- |   |    |     |        |               |
|---|----|-----|--------|---------------|
| A. Appeals from an Official Action, Order, Requirement, Interpretation, Grant, Refusal, or Decision | of | the | Zoning | Administrator |
|---|----|-----|--------|---------------|

Per KRS 100.257 ~~[and]~~ KRS 100.261, and KRS 100.236, appeals to the Board may be taken by any person or entity claiming that there is an error in, or that they are injuriously affected or aggrieved by, an official action, order, requirement, interpretation, grant, refusal, or decision of the Zoning Administrator.

1. ~~[An appeal shall be made within 30 calendar days after the applicant or its agent receives notice of the action of the Zoning Administrator, by filing a notice of appeal with the Board of Adjustment, that specifies the grounds of the appeal and gives notice of the appeal to any and all parties of record.]~~
2. ~~[The applicable fee required by the Board of Adjustment shall accompany the notice of appeal at the time it is filed with the Zoning Administrator.]~~
3. ~~[The Zoning Administrator shall transmit all records pertaining to the decision that is being appealed.]~~
4. ~~[The Board of Adjustment shall hear the appeal within 30 days and give public notice in accordance with [KRS Chapter 424](#) as well as written notice to the applicant and the Zoning Administrator at least one calendar week prior to the hearing.]~~
5. ~~[The affected party may appear at the hearing in person or by attorney and all shall be given an opportunity to be heard.]~~
6. ~~[The Board shall decide on the appeal within 60 calendar days from the date the appeal was filed with the Zoning Administrator and the Board.]~~
7. ~~[In determining that an appeal may be granted, the Board must find that there was an error in, or that the applicant was injuriously affected or aggrieved by, an order, requirement, interpretation, grant, refusal, or decision of the Zoning Administrator.]~~

## **ARTICLE 14 DEFINITIONS**

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### **14.02 Definitions**

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#### **M**

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**Mixed Use** - A land use where three or more significant uses are permitted (such as retail/entertainment, office, residential, hotel, light industrial and/or civic/cultural/recreation) that, in well planned projects, are mutually supporting. These uses may be combined on a lot, within a structure, development or within an overall ~~[development]~~ district.