

**A RESPONSE BY PLANNING & DESIGN SERVICES STAFF TO METRO COUNCIL
RESOLUTION NO. 171, SERIES 2013**

WRITTEN: 11/22/13

UPDATED: 12/2/13 & 5/1/14

The following Resolution was approved by Louisville Metro Council on 11/7/13.

A RESOLUTION REQUESTING THE LOUISVILLE METRO PLANNING COMMISSION, THROUGH ITS STAFF IN THE DEPARTMENT OF PLANNING AND DESIGN SERVICES, TO EXAMINE THE RESIDENTIAL, OFFICE AND COMMERCIAL ZONING DISTRICT REGULATIONS WITHIN THE LAND DEVELOPMENT CODE AND EVALUATE WHETHER THE FOLLOWING LAND USES, AS RESPECTIVELY PERMITTED THEREIN, REMAIN CURRENT AND APPROPRIATE: PACKAGE LIQUOR STORES, PAWN SHOPS, CASH ADVANCE STORES, PAYCHECK LOAN SITES, PLASMA/BLOOD COLLECTION CENTERS, REHABILITATION HOMES, PEDDLERS MALLS, GROUP AND TRANSITIONAL HOUSING, AND FLEA MARKETS, AND WHETHER NEW ZONING DISTRICT DESIGNATIONS SHOULD BE CREATED IN THE LAND DEVELOPMENT CODE WHEREIN THESE LAND USES WOULD BE MORE APPROPRIATELY CLASSIFIED; AND FURTHER REQUESTING THAT THE PLANNING COMMISSION HOLD A PUBLIC HEARING AND FORWARDS ITS RECOMMENDATIONS TO THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT REGARDING THE CREATION OF NEW ZONING DISTRICT DESIGNATIONS IN THE LAND DEVELOPMENT CODE WHEREIN THESE USES WOULD BE MORE APPROPRIATELY CLASSIFIED AND ANY ADDITIONAL REGULATORY CHANGES TO THE LAND DEVELOPMENT CODE THAT WOULD HELP ADDRESS THE OVER-CONCENTRATION OF SAID USES WITHIN AREAS OF LOUISVILLE METRO. (AMENDED BY SUBSTITUTION).

Between June, 2012 and April, 2014 the Land Development Code (LDC) Improvement Committee, and its nine sub-committees, have been reviewing various sections of the Land Development Code with the objective of recommending a series of text amendments to the Planning Commission and ultimately Metro Council and other legislative bodies for consideration. The following is a summary of how the LDC committees, particularly the Permitted/Conditional Use (P/CUP) Sub-committee, have discussed each of the land uses mentioned in the above resolution. Any proposed LDC text amendments mentioned in this report will be presented along with other Round Two LDC amendments to the Planning Commission in Summer 2014. The Planning Commission will then make recommendations to Metro Council and other legislative bodies.

1. Package Liquor Stores

- 2/12/13 – The P/CUP Sub-committee discussed various alcohol related land use listings, including package liquor stores, at their meeting on this date. The group discussed possibly consolidating some of the redundant listings where appropriate, but did not feel changing the zones where these uses are allowed is necessary.
- Ultimately, the P/CUP Sub-committee did not recommend any changes related to package liquor stores.
- 12/2/13 – Planning & Design Services staff proposes improving the terminology associated with the various alcohol related LDC land use listings, including package liquor stores. Among the proposed changes are the removal of the references to “ABC licensed establishments” and further clarification regarding the zones that allow and prohibit on-site consumption in package liquor stores. To be presented to Planning Commission in 2014.
- Package liquor stores (*without* on-site consumption) are permitted uses in the following zones: C-1, C-2, C-3, C-M, EZ-1 & PEC.
- Package liquor stores (*with* on-site consumption) are permitted uses in the following zones: C-2, C-3, C-M, EZ-1 & PEC.

2. Pawn Shops

- 10/9/12 – At the P/CUP Sub-committee meeting the idea of limiting the number of certain uses in a given area was briefly discussed. Uses mentioned included pawn shops, cash advance stores and paycheck loan sites, but the discussion was intended to include other similar land uses that are perceived by some to have a negative impact on a neighborhood. There were concerns raised about whether this tactic would be legally defensible.
- 1/8/13 – At the P/CUP Sub-committee meeting the group discussed the possibility of changing pawn shops from a permitted use to conditional use. CUP standards would need to be written if this is the direction the group wants to move in.
- 1/22/13 – The P/CUP Sub-committee decided not to propose any changes to how pawn shops are currently addressed in the LDC. The consensus of the group with regard to pawn shops is that they are too similar to other types of retail establishments to be treated differently.
- Ultimately, the P/CUP Sub-committee did not recommend any changes related to pawn shops.
- Pawn shops are permitted uses in the following zones: C-1, C-2, C-3, C-M, EZ-1 & PEC.

3. Cash Advance Stores

- 10/9/12 – At the P/CUP Sub-committee meeting the idea of limiting the number of certain uses in a given area was briefly discussed. Uses mentioned included pawn shops, cash advance stores and paycheck loan sites, but the discussion was intended to include other similar land uses that are perceived by some to have a negative impact on a neighborhood. There were concerns raised about whether this tactic would be legally defensible.
- 1/22/13 – The P/CUP Sub-committee decided this land use activity needed to be researched further before any decisions could be made.
- Ultimately, the P/CUP Sub-committee decided that while this use is not specifically listed in the LDC it is too similar to banks, credit unions, savings and loans, check cashing services and similar financial institutions to treat them any differently. Previous interpretations by Planning & Design Services also supports this position. No change was proposed.
- Banks, credit unions, savings and loans, check cashing services and similar financial institutions are permitted uses in these zones: C-N, C-1, C-2, C-3, CM, EZ-1, PEC & W-2; also allowed as auxiliary use in: M-1, M-2, M-3, & PRO.

4. Paycheck Loan Sites

- 10/9/12 – At the P/CUP Sub-committee meeting the idea of limiting the number of certain uses in a given area was briefly discussed. Uses mentioned included pawn shops, cash advance stores and paycheck loan sites, but the discussion was intended to include other similar land uses that are perceived by some to have a negative impact on a neighborhood. There were concerns raised about whether this tactic would be legally defensible.
- Ultimately, the P/CUP Sub-committee decided that while this use is not specifically listed in the LDC it is too similar to banks, credit unions, savings and loans, check cashing services and similar financial institutions to treat them any differently. Previous interpretations by Planning & Design Services also supports this position. No change was proposed.
- Banks, credit unions, savings and loans, check cashing services and similar financial institutions are permitted uses in these zones: C-N, C-1, C-2, C-3, CM, EZ-1, PEC & W-2; also allowed as auxiliary use in: M-1, M-2, M-3, & PRO.

5. Plasma/Blood Collection Centers

- 12/11/12 – At the P/CUP Sub-committee meeting the group briefly mentioned the idea that plasma centers should be listed as conditional uses rather than permitted uses. It was pointed out by staff that while plasma centers may have been permitted uses in the past, they were changed to conditional uses only in C-2, C-3 & C-M (excluding Neighborhood, Traditional Neighborhood and Village Form Districts) in Feb. 2009.
- 1/22/13 – The P/CUP Sub-committee confirmed their decision not to propose any changes to the blood/plasma collection center land use listing since a change was made as recently as 2009 to significantly further restrict the locations where this use is allowed. No longer are blood/plasma collection centers listed as permitted uses in any zoning district, but instead are now only allowed in the C-2, C-3 or C-M zoning districts (excluding Neighborhood, Traditional Neighborhood and Village Form Districts) after the granting of a conditional use permit by the Board of Zoning Adjustments after a public hearing.
- LDC definition of Blood/Plasma Collection Center: The collection of blood/plasma as a principal use on a property. Accessory blood/plasma collection associated with an emergency relief charity (such as the Red Cross), medical office, medical laboratory, medical clinic, hospital, government agency, nursing home or other medical facility shall not be considered a Blood/Plasma Collection Center.

6. Rehabilitation Homes

- 6/13/12 – The Miscellaneous Research Sub-committee indicated that several non-traditional living arrangement related LDC land use listings, including rehabilitation homes, needed to be further researched and discussed to ensure they are being addressed adequately.
- 7/12/12 – The Misc. Research Sub-committee discussed a comment received regarding making sure it is clear that rehabilitation homes and transitional housing are two entirely different land use activities and are addressed independently of each other within the LDC.
- 8/23/12 – The Misc. Research Sub-committee decided to add the following clarifying statement to the definition of rehabilitation home: “A rehabilitation home is not to be included in the Land Development Code definition of Transitional Housing.” A similar statement already is included within the LDC definition of transitional housing.
- 1/24/13 – The Misc. Research Sub-committee had a lengthy discussion related to the following land uses: Assisted Living Residences, Family Care Homes (mini-home), Community Residences, Residential Care Facilities, Nursing Homes, Homes for the Infirm and Aged,

Rehabilitation Homes and Transitional Housing. The definitions and zones in which each use is allowed were discussed.

- 4/30/13 – The Misc. Research Sub-committee confirmed the change proposed to the rehabilitation home definition.
- 9/3/13 – The LDC Main Committee adopts the sub-committee’s recommendation to add clarifying language to the rehabilitation home definition.
- Ultimately, the Misc. Research Sub-committee did not recommend any changes related to rehabilitation homes (other than clarifying language added to definition).
- The LDC currently allows rehabilitation homes in any zoning district only after the granting of a conditional use permit by the Board of Zoning Adjustments following a public hearing.
- LDC definition of Rehabilitation Home: A building or group of buildings providing residence for persons recovering from the effects of drug or alcohol abuse, psychiatric disorders, or as a condition of their parole or probation. Such homes may provide counseling in educational, vocational, or other areas by a paid or volunteer staff and generally have 24-hour-a-day supervision. This definition does not apply to residential care facilities regulated by KRS 100.982.

7. Peddler’s Malls

- This land use is not specifically mentioned in the LDC. During the meetings of the P/CUP Sub-committee anytime a use similar to a peddler’s mall was mentioned it was equated to one of the other existing LDC land use listings (flea markets, antique shops/malls, general retail).
- The P/CUP Sub-committee did not propose any changes related specifically to “peddler’s malls.”

8. Group and Transitional Housing

- 6/13/12 – The Miscellaneous Research Sub-committee indicated that several non-traditional living arrangement related LDC land use listings, including transitional housing, needed to be further researched and discussed to ensure they are being addressed adequately.
- 7/12/12 – The Misc. Research Sub-committee discussed a comment received regarding making sure it is clear that rehabilitation homes and transitional housing are two entirely different land use activities and are addressed independently of each other within the LDC.
- 8/23/12 – The Misc. Research Sub-committee decided to add the following clarifying statement to the definition of rehabilitation home: “A rehabilitation home is not to be included in the Land Development Code definition of Transitional Housing.” A similar statement already is included within the LDC definition of transitional housing.
- 1/24/13 – The Misc. Research Sub-committee had a lengthy discussion related to the following land uses: Assisted Living Residences, Family Care Homes (mini-home), Community Residences, Residential Care Facilities, Nursing Homes, Homes for the Infirm and Aged, Rehabilitation Homes and Transitional Housing. The definitions and zones in which each use is allowed were discussed.
- Ultimately, the Misc. Research Sub-committee did not recommend any changes related to transitional housing. The sub-committee felt that since there was a rather thorough task force created as recently as 2010 to create the current LDC language for transitional housing that it is not necessary at this time to propose any revisions.
- The LDC currently allows a transitional housing facility (with more restrictive limitations on density, signage, parking, etc.) as a permitted use with special standards in the following zones: R-R, R-E, R-1, R-2, R-3, R-4, R-5, R-5B, UN, R-5A, R-6, R-7, R-8A, OR, OR-1, OR-2, OR-3, OTF, C-R, C-N, C-1, C-2, C-3, C-M, EZ-1, PRO, PEC & TNZD. Additionally, a conditional use permit may be requested for a transitional housing facility (with less restrictive limitations on density, signage, parking, etc.) in any zoning district.

- LDC definition of Transitional Housing: A temporary residential living arrangement for persons participating in a program that provides supportive services (such as counseling, education, training, etc.) to help persons achieve personal independence. Staff is available as needed. Transitional housing is not a rehabilitation home. These facilities are not subject to the Uniform Residential Landlord Tenant Act (KRS 383.500 et seq.).

9. Flea Markets

- 12/11/12 – At the P/CUP Sub-committee the group identified the need for an LDC definition for flea markets.
- 1/22/13 – The P/CUP Sub-committee discussed language for new definitions for indoor and outdoor flea markets as well as potential CUP standards needed and the zones in which the use should be permitted or conditional.
- 11/19/13 – The LDC Main Committee accepted the P/CUP sub-committee’s recommended changes related to flea markets. See changes below.
 - The Land Development Code currently allows flea markets (no distinction between indoor and outdoor) as a permitted use in the C-2, C-3, CM, EZ-1, M-2, M-3 & PEC zoning districts however there is no definition to explain exactly what a flea market technically is. The sub-committee reviewed this land use and proposed the following changes:
 - New definition – Flea Market, Indoor – Involves the setting up of two or more booths, tables, platforms, racks or similar display areas for the purpose of selling, buying, or trading merchandise, goods, materials, products, or other items offered for sale entirely within an enclosed building.
 - New definition – Flea Market, Outdoor – Involves the setting up of two or more booths, tables, platforms, racks or similar display areas for the purpose of selling, buying, or trading merchandise, goods, materials, products, or other items offered for sale outdoors and not within an enclosed building.
 - Allow Indoor Flea Markets as a permitted use in the C-1, C-2, C-3, CM, EZ-1, M-1, M-2, M-3 & PEC zones.
 - Allow Outdoor Flea Markets as a permitted use in the EZ-1, M-1, M-2, M-3 & PEC zones.
 - Allow Outdoor Flea Markets as a conditional use in the C-1, C-2, C-3 & CM zones.
 - New section for Outdoor Flea Market conditional use permit shown below:
 - Outdoor Flea Markets may be allowed in the C-1, C-2, C-3 & C-M zoning districts upon the granting of a Conditional Use Permit and compliance with the listed requirements.
 - All buildings and structures shall be at least 30 feet from any property line.
 - Parking requirements to be determined by the Planning Director upon consultation with the Director of Public Works.
 - All activities shall be in compliance with the Metro Noise Ordinance (LMCO Chapter 99).
 - The Board may require additional and more restrictive requirements than those listed above based on the conditions of the specific location and the characteristics of the specific auction sales operation.

Other concerns mentioned in the Resolution:

1. Creation of new zoning classifications designed to specifically allow the aforementioned land uses.
 - a. 9/25/12 – At a meeting of the P/CUP Sub-committee Councilman Peden introduced the concept of having many more commercial zoning districts than we currently have. C-1 through C-10 for example. C-1 would include the lightest intensity commercial uses while C-10 would be designated for only the most obnoxious or potentially offensive uses.
 - b. 10/9/12 – At the P/CUP Sub-committee Councilman Peden shared his idea for the regrouping of the commercial land uses into five new zoning districts, C-1 through C-5. C-1 would be mostly indoor uses, C-2 would be mostly outdoor uses, C-3 would include uses that are known to generate potential noise issues, C-4 would be known obnoxious uses and C-5 would include some uses currently listed in the C-M Commercial Manufacturing zoning district.
 - c. 12/11/12 – At the P/CUP Sub-committee the group discussed how they would proceed reviewing the commercial land uses and specifically how they would address Mr. Peden's proposed expanded commercial zoning districts idea. Concerns were raised related to the possibility of hundreds or even thousands of new non-conforming use situations that could be created if the commercial zoning classifications were drastically re-categorized. The group decided against adding or removing any commercial zoning districts, but rather to keep the current classifications. The group also decided to add many of the objectionable land uses listed in Mr. Peden's proposal to a running list of land uses to be further analyzed in future meetings.

2. Ideas to help address the over-concentration of the land uses listed in the Resolution.
 - a. 10/9/12 – At the P/CUP Sub-committee meeting the idea of limiting the number of certain uses in a given area was briefly discussed. Uses mentioned included pawn shops, cash advance stores and paycheck loan sites, but the discussion was intended to include other similar land uses that are perceived by some to have a negative impact on a neighborhood. There were concerns raised about whether this tactic would be legally defensible.
 - b. 12/11/12 – At the P/CUP Sub-committee meeting the group decided as they proceeded in reviewing the various commercial land uses listed in the LDC, it would be beneficial to make a list of potentially objectionable land uses to set aside for further discussion and examination at future meetings. The idea of converting several potentially objectionable permitted uses to conditional uses to add another layer of control was discussed.