

# Attachment #4: Summary of LDC Main Committee's Actions Related to Miscellaneous Research Sub-committee Report & Recommendations

Planning Commission Meeting Date: 8/11/14



<b>Case No:</b>	14AMEND1003
<b>Project Name:</b>	Miscellaneous Research Sub-committee Final Report
<b>Case Manager:</b>	Michael Hill, AICP, Planning Coordinator

**AT THEIR 8/11/14 MEETING THE PLANNING COMMISSION RECOMMENDED APPROVAL OF ALL OFFICIAL RECOMMENDATIONS (#2-7, 9-11, 15-21, 23-25 & 27-29) AND STAFF RECOMMENDATIONS (A-E) LISTED IN THIS REPORT.**

**LDC MAIN COMMITTEE REVIEW & ACTION SUMMARY**

The recommendations of the Miscellaneous Research LDC Sub-committee were discussed at various LDC Main Committee meetings, the last one occurring on 12/3/13. Items #2-7, 9-11, 15-21, 23-25 & 27-29 listed below in this report have all been recommended for approval by the LDC Main Committee. Items #1, 8, 12-14, 22 & 26 listed below were debated by the LDC Main Committee, but did not result in an official recommendation. Six staff recommendations are also included in this report.

## TASKS ASSIGNED TO THE MISCELLANEOUS RESEARCH SUB-COMMITTEE

This sub-committee was charged with reviewing and discussing a variety of topics that were not assigned to one of the other eight LDC sub-committees.

## MISCELLANEOUS RESEARCH SUB-COMMITTEE BACKGROUND INFORMATION

Between June 13, 2012 and July 10, 2013 the Miscellaneous Research Sub-committee met 18 times. The meetings averaged seven participants per meeting. The 35 individuals listed below participated in this sub-committee.

Matt Doyle – Planning & Design Services	Anna Tatman – Commission on Public Art
Bill Seiller – Seiller Waterman LLC	Phil Bills – Planning & Design Services
April Jones – Economic Growth & Innovation	Patti Clare – Economic Growth & Innovation
Beau Baustien – Office of Metro Councilman Jim King	Steve Porter – OPEN Louisville
Carole Bretschneider	Althea Jackson – Economic Growth & Innovation
Gabe Fritz – The Housing Partnership, Inc.	Chris Radtke – Commission on Public Art
Linda Harrett	Samantha Skaggs – Economic Growth & Innovation
Teena Halbig – Floyds Fork Environmental Association	Jim Mims – Codes and Regulations
David Wagner – Planning & Design Services	Joel Dock – Planning & Design Services
Kent Gootee – Mindel Scott & Associates	Ryan Madden – Planning & Design Services
Christy Collins – Codes & Regulations	Glenn Hubbuch - Architect
Cindy Flynn-Piela - Realtor	Eric McCord – University of Louisville
Glenn Price – Frost Brown Todd	John Kielkopf – University of Louisville
Sherie Long – Planning & Design Services	Kevin Young – Land Design & Development
Bradley Coomes – Air Pollution Control District	Bill Friedlander
Dustin Wallen – Economic Growth & Innovation	Martina Kunnecke – Neighborhood Planning & Preservation
Jack Will – Jefferson County League of Cities	Chad McCormick - URS
Lee Wells – Planning & Design Services	

## SUMMARY OF RECOMMENDATIONS

The 29 recommendations listed in this report are the result of the efforts of this sub-committee. All of these items involve either changes to current LDC text or insertions of new proposed text into the LDC. Each item was acted on separately by the LDC Main Committee.

### MISCELLANEOUS RESEARCH LDC SUB-COMMITTEE FINAL RECOMMENDATIONS

The following LDC text amendments were recommended by the Miscellaneous Research LDC sub-committee and have been recommended for approval by the LDC Main Committee:

#### OFFICIAL RECOMMENDATIONS

#### MIS ITEM #2 – Non-Traditional Living Arrangements Definitions (Approved on 7/16/13)

The following definitions related to various non-traditional living arrangements are being amended to improve accuracy and to reference applicable KRS requirements.

##### Section 1.2.2 Definitions

1. **Assisted Living Residence/Community** – ~~A residential development providing assistance to residents not including health services associated with “Health Facilities” as defined in KRS 216B.015.~~ **Assisted-living residence/community means a series of living units on the same site certified by Commonwealth of Kentucky to provide services for five (5) or more adult persons not related within the third degree of consanguinity to the owner or manager.**

Also, the sub-committee suggests that Assisted Living Residences/Communities and Family Care Homes (mini-home) should be allowed in the same zoning districts. Currently Assisted Living Residences are permitted uses in the following zones: R-5A, R-6, R-7, R-8A, OR-1, OR-2, OR-3, OTF, C-N, C-R, C-1, C-2, C-3 & C-M. The following zones are proposed to be added to this list: R-E, R-1, R-2, R-3, R-4, R-5, U-N & PEC. **(The LDC Main Committee decided to recommend that assisted living residences be allowed as conditional uses in the following zones: R-E, R-1, R-2, R-3, R-4, R-5, U-N, and as a permitted use in the PEC zone in addition to the other zones listed above as permitted uses.)**

2. **Family Care Home (Mini-Home)** - A home licensed by the Commonwealth of Kentucky, operated and maintained to provide 24 hour protection and personal care services for residential accommodations for three individuals or less who are not related within the third degree of consanguinity to the licensee and who because of impaired capacity for self-care elect or require a protective environment but do not have an illness, injury, or disability for which constant medical care and skilled nursing services are required.
3. **Residential Care Facility** - A residence, **authorized or licensed by the Commonwealth of Kentucky**, operated and maintained by a sponsoring private or governmental agency to provide services in a homelike setting for persons with disabilities.
4. **Nursing Home** - Any institution, however named, **licensed by the Commonwealth of Kentucky**, maintained for the care or treatment of two or more individuals unrelated to the owner or operator or their spouses, employing nursing services or procedures in the care for such residents, that require treatment, judgment, technical knowledge, and skills beyond that which the untrained person possesses, where there are more than five persons who are not related to any other resident by blood, legal adoption or marriage.
5. **Community Residence** - A residence licensed by the Commonwealth of Kentucky ~~Department for Human Resources~~, operated and maintained to provide a homelike setting for developmentally disabled individuals (see definition), having only one kitchen and only one dining area (both of which must be common to the residence), not adjacent to or part of an institutional campus, operated by a sponsoring agency or individual

for individuals who shall participate in community activities and use community resources, where there are not more than eight persons who are not related to any other resident by blood, legal adoption or marriage.

## **MIS ITEM #2 – VOTE**

Motion to approve MIS Item #2 made by Tom FitzGerald and seconded by Deborah Bilitski at 7/16/13 meeting.

**YES:** John Torsky (alternate for James Peden), Donnie Blake, David Proffitt, Chuck Kavanaugh, Deborah Bilitski (2 votes; also alternate for Pat Dominik), Kathy Linares, Barbara Sinai, Tom FitzGerald, Teena Halbig, Kevin Dunlap, Gabe Fritz and Matt Meunier

**NO:** None

**ABSTAIN:** Cathy Hinko (alternate for Steve Porter)

**ABSENT:** Jim King

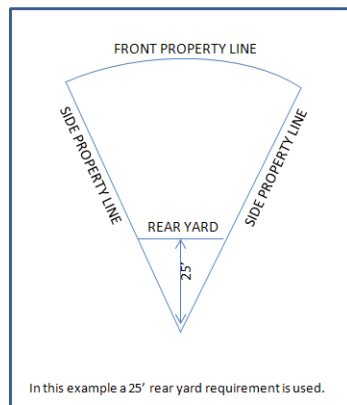
**MIS Item #2 recommended for approval by a vote of: 13 in favor, 0 opposed, 1 abstention and 1 absent.**

## **MIS ITEM #3 – Rear Yard Definition (Approved on 7/16/13)**

Additional clarifying language is being added to the LDC definition of Rear Yard to further explain how required rear yards are determined in cases where a lot that has side property lines that come to a point in the rear. See the proposed text below as well as a new illustration.

### **Section 1.2.2 Definition**

**Yard, Rear** -A yard extending across the rear of a lot, between the side lot lines, and being the minimum horizontal distance between the rear of the principal building or any projections thereof other than the projections of uncovered steps, uncovered balconies or uncovered porches, to the rear lot line. On all corner lots the rear yard shall be at the opposite end of the lot from the front yard. **If the side lot lines come to a point at the rear of the lot creating a lot without an actual rear property line, then the required setback area shall be measured from the rear point the distance required for a rear yard setback in that particular zoning/form district to the midpoint bisecting equally the two side property lines. See adjacent illustration.**



## **MIS ITEM #3 – VOTE**

Motion to approve MIS Item #3 made by Tom FitzGerald and seconded by Kevin Dunlap at 7/16/13 meeting.

**YES:** John Torsky (alternate for James Peden), Donnie Blake, David Proffitt, Chuck Kavanaugh, Deborah Bilitski (2 votes; also alternate for Pat Dominik), Kathy Linares, Barbara Sinai, Cathy Hinko (alternate for Steve Porter), Tom FitzGerald, Teena Halbig, Kevin Dunlap, Gabe Fritz and Matt Meunier

**NO:** None

**ABSTAIN:** None

**ABSENT:** Jim King

**MIS Item #3 recommended for approval by a vote of: 14 in favor, 0 opposed, 0 abstentions and 1 absent.**

## **MIS ITEM #4 – Definitions of Building and Structure (Approved on 8/6/13)**

The current LDC definitions of Building and Structure indicate that these terms mean exactly the same thing and can be used interchangeably throughout the LDC. This has caused problems with building limit lines and signage. The sub-committee proposes to remove the cross-referencing sentence from each definition as shown below.

### **Section 1.2.2 Definitions**

**Building** - Any permanent structures designed or built for the support, shelter or protection of persons, animals, chattel or property of any kind. This term includes ~~mobile homes~~ **all forms of housing**, but does not include awnings, canopies, or similar **features** structures. ~~In these regulations reference to buildings includes structures.~~

**Structure** - Anything constructed or erected, the use of which requires location on the ground, or attachment to something having a location on the ground, including walls or fences exceeding four (4) feet in height, buildings, and signs. ~~In these regulations reference to buildings includes structures and vice versa.~~

## **MIS ITEM #4 – VOTE**

Motion to approve MIS Item #4 made by Teena Halbig and seconded by Barbara Sinai at 8/6/13 meeting.

**YES:** John Torsky (alternate for James Peden), Donnie Blake, David Proffitt, Chuck Kavanaugh, Deborah Bilitski, Pat Dominik, Kathy Linares, Barbara Sinai, Steve Porter, Tom FitzGerald, Teena Halbig, Kevin Dunlap, Gabe Fritz and Matt Meunier

**NO:** None

**ABSTAIN:** None

**ABSENT:** Jim King

**MIS Item #4 recommended for approval by a vote of: 14 in favor, 0 opposed, 0 abstentions and 1 absent.**

## **MIS ITEM #5 – Structures Attached by Breezeways (Approved on 7/16/13)**

The sub-committee realized that additional language is needed to further clarify which building setback requirements apply to accessory structures that are attached to principal structures by enclosed or unenclosed breezeways. The following is a new paragraph proposed to be added as Section 5.1.7.L.

### **Section 5.1.7.L**

**An accessory structure that is attached to a principal structure by an enclosure that includes a roof and walls shall be considered an extension of the principal structure and shall be subject to the same building setback requirements that apply to the principal structure. An accessory structure that is attached to a principal structure by a breezeway that is unenclosed without any walls shall not be considered an extension of the principal structure and shall be subject to the applicable accessory structure setback requirements.**

## **MIS ITEM #5 – VOTE**

Motion to approve MIS Item #5 made by Teena Halbig and seconded by David Proffitt at 7/16/13 meeting.

**YES:** John Torsky (alternate for James Peden), Donnie Blake, David Proffitt, Chuck Kavanaugh, Kathy Linares, Barbara Sinai, Cathy Hinko (alternate for Steve Porter), Tom FitzGerald, Teena Halbig, Kevin Dunlap, Gabe Fritz and Matt Meunier

**NO:** None

**ABSTAIN:** Deborah Bilitski (2 votes; also alternate for Pat Dominik)

**ABSENT:** Jim King

**MIS Item #5 recommended for approval by a vote of: 12 in favor, 0 opposed, 2 abstentions and 1 absent.**

## **MIS ITEM #6 – Blue Line Stream Definition (Approved on 10/15/13)**

Since the United States Geological Survey does not recognize the term “blue line”, it would be appropriate to align the LDC terminology with the correct USGS terminology, which is Perennial Stream and Intermittent Stream. The following sections will be changed as shown.

### **Section 1.2.2 Definitions**

~~Blue Line Stream, Solid Stream, Perennial~~ - A stream defined and designated as such on 7 1/2 minute quadrangle topographic maps published by the U. S. Geologic Survey. **A stream or part of a stream that has flowing water year-round during a typical year. The water table is located above the streambed for most of the year. Groundwater is the primary source of water for stream flow. Runoff from rainfall is a supplemental source of water for stream flow. All streams designated with a solid blue line on the U.S.G.S. 7 1/2 minute quadrangle topographic maps are considered to be perennial, but may be determined in whole or part to be intermittent based on information provided by a qualified professional, the Kentucky Division of Water, or the U.S. Army Corps of Engineers. Additional perennial stream determinations shall be made on a case-by-case basis by a qualified professional with a background in stream hydrology and/or wetland biology. Information concerning an additional designation shall be solicited from the Kentucky Division of Water and the U.S. Army Corps of Engineers.**

~~Blue Line Stream, Intermittent Stream, Intermittent~~ - A stream defined and designated as such on 7 1/2 minute quadrangle topographic maps published by the U. S. Geologic Survey. **A stream or part of a stream that has flowing water during certain times of the year, when groundwater provides water for stream flow. During dry periods, intermittent streams may not have flowing water. Runoff from rainfall is a supplemental source of water for stream flow. All streams designated with a broken blue line on the U.S.G.S. 7 1/2 minute quadrangle topographic maps are considered to be intermittent, but may be determined in whole or part to be perennial or ephemeral based on information provided by a qualified professional, the Kentucky Division of Water, or the U.S. Army Corps of Engineers. Additional intermittent stream determinations shall be made on a case-by-case basis by a qualified professional with a background in stream hydrology and/or wetland biology. Information concerning an additional designation shall be solicited from the Kentucky Division of Water and the U.S. Army Corps of Engineers.**

The following additional LDC sections will be revised to update references to Solid Blue Line Streams and Intermittent Blue Line Streams to Perennial Streams and Intermittent Streams.

### **Section 1.2.2 Definition**

**Local Regulatory Conveyance Zone** - The channel of a river or ~~solid blue line~~ **perennial** stream and the land adjacent to that river or stream which if unobstructed will discharge a local regulatory flood without cumulatively increasing the water surface elevation more than one tenth of one foot. The conveyance zone is determined by an equal loss of conveyance (at higher elevation) occurring on each side of the channel.

### **Section 4.3.7 Temporary Activities**

Temporary activities may be permitted by the Planning Director or designee within any form district and zoning district in accordance with the standards set forth below:

- A. Pavement or gravel used for the event shall be removed after the completion of the event and the ground reseeded within 2 weeks of removal of pavement or gravel; and
- B. No activities shall take place on land within the required stream buffer of a ~~blue line~~ **perennial** stream or wetland as specified in Chapter 4 Part 8; and .
- C. A temporary fence shall be provided to prevent access and parking from crossing over into adjacent properties and within environmentally sensitive areas (e.g. wetlands, stream buffers, etc.); and
- D. No event shall exceed 10 days in duration within a residential zoning district. No event shall exceed 30 days in duration in any non-residential zoning district. No more than two events shall be permitted on the same property within a calendar year; and

- E. Permanent changes to the site are prohibited; and
- F. Vehicle ingress and egress to the site shall be approved by the Director of Works or designee. Gravel or other measures to accommodate vehicles and prevent tracking of the public right-of-way may be required; and
- G. No temporary activity within a residential zoning district shall take place within 200 feet of a dwelling unit(s) unless approval is obtained in writing from the owner(s) of the dwelling unit(s).

**Section 4.3.17 Community Gardens**

- A. All structures located on the site shall comply with the location requirements of the form district regulations. Structures shall not exceed 15% of the total lot area. No activities shall take place within a required stream buffer of a ~~blue line~~ **perennial** stream or wetland as specified in Chapter 4, Part 8. For purposes of calculating required open space, areas of the site devoted to garden use and not enclosed in a structure shall be included in the calculation of required yards. Trellises, raised beds, and frames used to assist in the growing of plants and shrubs shall not be considered as structures within the meaning of this section.

**Section 4.3.18 Market Gardens**

- A. All structures, including greenhouses, hoop houses and high tunnels, located on the site shall comply with the location requirements of the form district regulations. No activities shall take place within a required stream buffer of a ~~blue line~~ **perennial** stream or wetland as specified in Chapter 4, Part 8. For purposes of open space, areas of the site devoted to garden use and not enclosed in a structure shall be included in the calculation of required yards. Trellises, raised beds, and frames used to assist in the growing of plants and shrubs shall not be considered as structures within the meaning of this section.

**Section 7.8.20.B.11 Minor Subdivision Plat Content Requirements**

- 11. The location of ~~solid blue line~~ **perennial** streams as designated on topographic maps published by the U.S. Geological Survey.

**Section 10.2.9 Riparian Trees**

- A. Suburban Form Districts. A tree canopy bonus shall be given for tree plantings meeting the minimum requirements of chapter 10 of the LDC. These bonuses shall be given for plantings within the middle and outer areas of the waterway buffer required for ~~solid blue line~~ **perennial** streams as outlined within Chapter 4, Part 8 of the LDC for buffers with little or no existing vegetation. The tree canopy bonuses are outlined below:
  - 1. Middle Buffer – 10%
  - 2. Outer Buffer – 5%
- B. Traditional Form Districts. A tree canopy bonus of 10% may be obtained for additional tree plantings meeting the minimum requirements of Chapter 10 of the LDC and approved by MSD to occur within the 25 foot buffer required adjacent to ~~blue line~~ **perennial** streams. This bonus is applicable to new plantings within buffer areas with little or no existing vegetation. New tree plantings within 100 feet of the top of bank of the ~~blue line~~ **perennial** stream and within an open space area may be approved at the discretion of the staff landscape architect for a 5% bonus for tree canopy calculations.

**MIS ITEM #6 – VOTE**

Motion to approve MIS Item #6 made by Steve Porter and seconded by Barbara Sinai at 10/15/13 meeting.

**YES:** John Torsky (alternate for James Peden), Donnie Blake, David Proffitt, Tara Brinkmoeller (alternate for Chuck Kavanaugh), Pat Dominik (2 votes; also alternate for Tom FitzGerald), Kathy Linares, Barbara Sinai, Steve Porter, Cathy Hinko (alternate for Kevin Dunlap), Gabe Fritz and Matt Meunier

**NO:** None

**ABSTAIN:** None

**ABSENT:** Jim King, Deborah Bilitski and Teena Halbig

**MIS Item #6 recommended for approval by a vote of: 12 in favor, 0 opposed, 0 abstentions and 3 absent.**

## **MIS ITEM #7 – Manufactured Housing (Approved on 8/6/13)**

The following text amendments related to mobile homes and manufactured housing are proposed. 1) Update definition of mobile home to definition suggested by the Kentucky Manufactured Housing Institute. Also, add new definition for manufactured home. 2) Add clarifying language to Section 4.2.36 that allows manufactured homes and other dwellings to be located in mobile home parks.

### 1) **Section 1.2 Definitions**

~~**Mobile Home** – Any vehicle or similar portable structure used, or so constructed as to permit its being used as a conveyance upon the public streets or highways, and designed to permit occupancy thereof as a dwelling place for one or more persons, including camper or vacation trailers; or any structure fabricated in offsite manufacturing facility for installation or assembly at the building site as a permanent structure with transport features removed, bearing a seal certifying that it is built in compliance with the federal Manufactured Housing Construction and Safety Standards Code as set forth in the Code of Federal Regulations, title 24, Part 3280, 3282, 3283, and 42 USC 5401, et seq., and as mandated by the United States of America and as administered by the United States Department of Housing and Urban Development and commonly referred to as the HUD Code, but not meeting the additional standards as required in Section 4.1.2, Factory Built Housing.~~

**Mobile Home – As referenced in KRS 219.320 & 227.550. A mobile home is a structure manufactured prior to June 15, 1976, that was not required to be constructed in accordance with the Federal Manufactured Housing Construction and Safety Standards Act, that is transportable in one (1) or more sections, that, in the traveling mode is eight (8) body feet or more in width and forty (40) body feet or more in length, or when erected on site, four hundred (400) or more square feet, and that is built on a permanent chassis and designed to be used as a dwelling on a temporary or permanent foundation, when connected with permanent required utilities, including plumbing, heating, air conditioning, and electrical systems. A mobile home does not meet the additional standards as required in Section 4.1.2, Factory Built Housing.**

**Manufactured Home – As referenced in KRS 100.348. A manufactured home is a single-family residential dwelling constructed after June 15, 1976, in accordance with the Federal Manufactured Home Construction and Safety Standards Act of 1974, 42 U.S.C Section 5401, et. Seq., as amended, and designed to be used as a single-family residential dwelling with or without permanent foundation when connected to the required utilities, and which includes the plumbing, heating, air conditioning, and electrical systems contained therein.**

### 2) **Section 4.2.36 Mobile Home Parks (Conditional Use Permit)**

Mobile Home Parks may be allowed in the R-6, R-7, R-8A, OR-2, OR-3, C-1, C-2, and CM Districts upon the granting of a Conditional Use Permit and compliance with the listed requirements.

- A. Minimum Area - The minimum area for a mobile home park shall be three acres.
- B. Mobile Home Setbacks - No mobile home shall be located closer than 50 feet to the front property line or closer than 20 feet to any other property line. In an instance where there is a required yard of greater depth, the more restrictive shall apply.
- C. Mobile Home Spaces - Mobile home spaces shall be no smaller than 4,000 Square Feet and minimum 32 feet wide. Each mobile home space shall have unobstructed access at least 15 feet wide to a public or private street within the Mobile Home Development which shall have unobstructed access to an exterior public street. No mobile home space shall be directly accessible from any exterior street or thoroughfare.
- D. Signs - Except in districts where signs are allowed, one stationary non-flashing sign, not to exceed 60 square feet in area, may be located at the vehicular entrance to the park. No sign shall extend into or over a required yard.
- E. Mobile Home Location - Mobile homes shall be so harbored on each space that there shall be at least a 20-foot clearance between each mobile home and mobile homes and structures.
- F. Driveways - All mobile home spaces shall front on a paved driveway of not less than 18 feet in width, which shall have unobstructed access to a public way.

- G. Recreational Vehicles - Recreational Vehicles shall be prohibited as a principal use in any Mobile Home Development.
- H. **Manufactured Homes may be located in approved mobile home parks, but must also comply with all applicable portions of Section 4.1.2 Factory Built Housing.**
- I. **Other types of residential dwellings may be located in mobile home parks, but must also comply with all applicable portions of the Land Development Code.**

## **MIS ITEM #7 – VOTE**

Motion to approve MIS Item #7 made by Steve Porter and seconded by Teena Halbig at 8/6/13 meeting.

**YES:** John Torsky (alternate for James Peden), Donnie Blake, David Proffitt, Chuck Kavanaugh, Deborah Bilitski, Pat Dominik, Kathy Linares, Barbara Sinai, Steve Porter, Tom FitzGerald, Teena Halbig, Kevin Dunlap, Gabe Fritz and Matt Meunier

**NO:** None

**ABSTAIN:** None

**ABSENT:** Jim King

**MIS Item #7 recommended for approval by a vote of: 14 in favor, 0 opposed, 0 abstentions and 1 absent.**

## **MIS ITEM #9 – Floor Area Definition (Approved on 8/6/13)**

Permitting staff asked for further clarification regarding exactly how exterior walls are used in calculating the floor area of a building. The reference to attics in this definition has also been changed to “finished attics” in an attempt to be more consistent with the current references to finished basements. A new definition for “Attic, Finished” is also proposed.

### **Section 1.2.2 Definition**

**Floor Area** - Total area ~~within~~ **of all floors of** a building, measured from the **outside of the** exterior walls of the building, ~~and equal to the sum of the number of square feet on each of the floors of the building.~~ The number of square feet in an **finished** attic shall be counted to the extent that the height of the attic story is equal to or greater than seven feet; and the number of square feet in a finished basement shall be included, but the number of square feet in a basement other than a finished basement shall not be included (See "Basement, Finished".) Accessory portions of a building such as non-enclosed porches, garages, carports and uncovered steps or fire escapes are not included.

**Attic, Finished – An attic (or a portion of an attic) in or for which the distance between the floor and the ceiling is at least seven feet; the floor, finished walls and ceilings is covered by wood, tile, brick, carpeting or other suitable materials; electrical wiring is provided and hidden from view such as by placement behind walls or above ceiling tiles; and is accessible by a conventional stairway or other access. An attic that can only be accessed from a ladder cannot be considered a finished attic.**

## **MIS ITEM #9 – VOTE**

Motion to approve MIS Item #9 made by Steve Porter and seconded by Teena Halbig at 8/6/13 meeting.

**YES:** John Torsky (alternate for James Peden), Donnie Blake, David Proffitt, Chuck Kavanaugh, Deborah Bilitski, Pat Dominik, Kathy Linares, Barbara Sinai, Steve Porter, Tom FitzGerald, Teena Halbig, Kevin Dunlap, Gabe Fritz and Matt Meunier

**NO:** None

**ABSTAIN:** None

**ABSENT:** Jim King

**MIS Item #9 recommended for approval by a vote of: 14 in favor, 0 opposed, 0 abstentions and 1 absent.**

## **MIS ITEM #10 – Rehabilitation Home and Transitional Housing Definitions (Approved on 9/3/13)**

Additional language is proposed to further clarify that in no case can a rehabilitation home be classified as transitional housing, and vice versa.



### Section 1.2.2 Definitions

**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. **A rehabilitation home is not transitional housing.** This definition does not apply to residential care facilities regulated by KRS 100.982.

**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.).

### **MIS ITEM #10 – VOTE**

Motion to approve MIS Item #10 made by Donnie Blake and seconded by Kevin Dunlap at 9/3/13 meeting.

**YES:** Donnie Blake (2 votes; also alternate for David Proffitt), Chuck Kavanaugh (2 votes; also alternate for Pat Dominik), Cliff Ashburner (alternate for Deborah Bilitski), Kathy Linares, Barbara Sinai, Steve Porter, Teena Halbig and Kevin Dunlap

**NO:** None

**ABSTAIN:** None

**ABSENT:** Jim King, James Peden, Tom FitzGerald, Gabe Fritz and Matt Meunier

**MIS Item #10 recommended for approval by a vote of: 10 in favor, 0 opposed, 0 abstentions and 5 absent.**

### **MIS ITEM #11 – Residual Tract and Tract Definitions (Approved on 9/3/13)**

Since Tract and Lot are used interchangeably throughout the LDC and there is no real distinction between the two, elimination of the definition of Tract is proposed and the term Lot along with its definition will remain. Also, the sub-committee agrees with staff's opinion that residual tracts of land, as they are shown on minor subdivision plats, should not have to be larger than five acres. The entire boundary of a residual lot is not required to be graphically shown on a minor subdivision plat. See amended language below.

### Section 1.2.2 Definitions

**Tract** - ~~A parcel of land greater than 40,000 square feet in area, the deed of which was recorded in the office of the Clerk of the Jefferson County Court.~~ **See Lot.**

**Residual Tract Lot** - Any portion of ~~five acres or more~~ of a tract **lot** to be subdivided which portion is not required to be surveyed.

### **MIS ITEM #11 – VOTE**

Motion to approve MIS Item #11 made by Kathy Linares and seconded by Barbara Sinai at 9/3/13 meeting.

**YES:** Donnie Blake (2 votes; also alternate for David Proffitt), Cliff Ashburner (alternate for Deborah Bilitski), Kathy Linares, Barbara Sinai, Steve Porter, Teena Halbig and Kevin Dunlap

**NO:** None

**ABSTAIN:** None

**ABSENT:** Jim King, James Peden, Tom FitzGerald, Gabe Fritz, Matt Meunier, Chuck Kavanaugh and Pat Dominik

**MIS Item #11 recommended for approval by a vote of: 8 in favor, 0 opposed, 0 abstentions and 7 absent.**

### **MIS ITEM #15 – Density Calculation (Approved on 9/3/13)**

Recently it has become apparent that our current LDC does not offer clear guidance as to the use of gross acreage or net acreage when calculating the development potential of a property. PDS staff and the sub-committee have discussed this issue and agree that net density should be used rather than gross density. The added language to the section below further clarifies this decision.

### Section 2.1.3.E Density Calculation

1. General Rule

When determining the number of dwelling units allowed on a particular parcel of land, the **net** land area (**gross land area excluding areas dedicated for public rights-of-way**) is divided by the minimum lot area per dwelling unit as required by the appropriate Form and Zoning District classifications. When this calculation yields a fraction of a dwelling unit, the fractional part may not be considered. (For example, a 5.1 acre or 221,400 square foot parcel, in a zone that requires a minimum lot area of 6,000 square feet per dwelling unit could accommodate 36.9 dwelling units (221,400 divided by 6,000). Thirty-six units would be allowed.)

### **MIS ITEM #15 – VOTE**

Motion to approve MIS Item #15 made by Steve Porter and seconded by Kevin Dunlap at 9/3/13 meeting.

**YES:** Donnie Blake (2 votes; also alternate for David Proffitt), Chuck Kavanaugh (2 votes; also alternate for Pat Dominik), Cliff Ashburner (alternate for Deborah Bilitski), Kathy Linares, Barbara Sinai, Steve Porter, and Kevin Dunlap

**NO:** Teena Halbig

**ABSTAIN:** None

**ABSENT:** Jim King, James Peden, Tom FitzGerald, Gabe Fritz and Matt Meunier

**MIS Item #15 recommended for approval by a vote of: 9 in favor, 1 opposed, 0 abstentions and 5 absent.**

### **MIS ITEM #16 – Appendix 3C – Waterfront Review Overlay Guidelines (Approved on 9/3/13)**

The sub-committee recommends removing the contents of the Waterfront Review Overlay Guidelines from the LDC and replacing it in this same location, Appendix 3C, with a weblink reference that will direct the user to the most current version of the WRO Guidelines. This is part of a movement to remove the full text of various LDC appendices in favor of a web address where the full text can be viewed. The following text will be added to Appendix 3C.

The current Waterfront Review Overlay Guidelines can be found at:

<http://www.louisvilleky.gov/NR/rdonlyres/7F5819D5-7FB9-4B63-9F53-B7AD0A24E0B9/0/Woverlay.pdf>

### **MIS ITEM #16 – VOTE**

Motion to approve MIS Item #16 made by Donnie Blake and seconded by Cliff Ashburner at 9/3/13 meeting.

**YES:** Donnie Blake (2 votes; also alternate for David Proffitt), Chuck Kavanaugh (2 votes; also alternate for Pat Dominik), Cliff Ashburner (alternate for Deborah Bilitski), Kathy Linares, Barbara Sinai, Steve Porter, Teena Halbig and Kevin Dunlap

**NO:** None

**ABSTAIN:** None

**ABSENT:** Jim King, James Peden, Tom FitzGerald, Gabe Fritz and Matt Meunier

**MIS Item #16 recommended for approval by a vote of: 10 in favor, 0 opposed, 0 abstentions and 5 absent.**

### **MIS ITEM #17 – Lighting (Approved on 9/17/13)**

The sub-committee recommends that Louisville Metro conduct a thorough review of Section 4.1.2 Lighting in the near future with the goal of incorporating elements of the recently produced Model Lighting Ordinance which was written by the Illuminating Engineering Society of North America.

Furthermore the sub-committee recommends the following changes to LDC Section 4.1.2 be adopted immediately. The proposed changes involve:

1. Require fully shielded light fixtures for all luminaires that emit more than 3,500 lumens in all form districts. Currently this fully shielded fixture requirement is triggered at 7,000 lumens and only applies in the following form districts: Neighborhood, Traditional Neighborhood, Village or in a transition zone adjacent to one of the above listed form districts.
2. Remove the exemption for street lights.

3. Remove exemption for luminaires used for sign illumination.
4. Maximum illumination levels under canopies, pavilions and drive-through bays has been reduced from 70 to 50 footcandles and will apply in all form districts.
5. Light source for architectural lighting shall be shielded from view.
6. The amount of allowable light trespass has been reduced by 50%.

### Section 4.1.2 Lighting

#### A. Purpose and Intent

The purpose of this section is to appropriately regulate outdoor lighting in Louisville and Jefferson County to reduce the effects of light trespass and glare, provide clear guidelines for the installation of outdoor lighting to maintain and compliment the community's character, and to provide a safe nighttime environment for pedestrians, motorists, and properties. This regulation will implement the following Cornerstone 2020 Community Form Strategy Goals and Objectives: A3.1, A3.4, B2.6, C2.5, C4.6, D4.3, E2.4, E4.3, F4.4, G2.4, G4.3, H2.5, and H4.3.

It is the intent of this regulation to provide for the health, safety and welfare of the residents of Jefferson County by regulating the placement, hours of operation, orientation, distribution patterns, intensity, and fixture types of all outdoor lighting used for the illumination outside the public right-of-way while encouraging lighting that conserves energy, reduces light pollution, and enhances nighttime enjoyment of the property within the County, without decreasing safety, utility, security, and productivity.

#### B. Regulations

1. All public and private outdoor lighting shall be in conformance with the requirements established by this Regulation.
2. Control of Glare – Luminaire Design Factors
  - a. All luminaires shall be aimed, directed, or focused such as to not cause direct light from the luminaire to be directed toward residential uses or protected open spaces (i.e., conservation easements, greenways, parkways) on adjacent or nearby parcels, or to create glare perceptible to persons operating motor vehicles on public streets and right-of-way.
  - b. The following items shall apply to the mounting height of luminaires:
    - i. Within the Neighborhood or Village form district or within a form district transition zone related to a Neighborhood or Village form district, any luminaire with a lamp or lamps rated at a total of more than 1800 lumens, and all flood or spot luminaires with a lamp or lamps rated at a total of more than 900 lumens shall be mounted at a height equal to or less than thirty (30) feet unless otherwise approved by the Planning Commission.
    - ii. Within the Traditional Neighborhood, Traditional Workplace, or Traditional Marketplace Corridor form district or within a form district transition zone related to the Traditional Neighborhood, Traditional Workplace or Traditional Marketplace Corridor form district, any luminaire with a lamp or lamps rated at a total of more than 1800 lumens, and all flood or spot luminaires with a lamp or lamps rated at a total of more than 900 lumens shall be mounted at a height equal to or less than twenty (20) feet unless otherwise approved by the Planning Commission.
    - iii. Luminaires mounted on residential structures shall be exempt from items (i.) and (ii.) above.
  - c. Shielding
    - i. ~~In the Neighborhood, Traditional Neighborhood or Village form districts, or within a form district transition zone related to the Neighborhood, Traditional Neighborhood or Village form districts, luminaires that emit more than 7,000 lumens shall be fully shielded luminaires so that they do not emit any direct light above a horizontal plane through the lowest direct light emitting part of the luminaire.~~
    - ii. ~~In all other form districts or form district transition zones, luminaires that emit more than 7,000 lumens shall be shielded luminaires so that they do not emit more than 2.5 percent of the lamp lumens above the horizontal plane through the lowest direct light emitting part of the luminaire.~~
    - i. **All light fixtures in all form districts that emit more than 3,500 lumens shall be fully-shielded luminaires.**
3. Exceptions to Control of Glare

- ~~a. Street lights, including all lights installed by or funded by government agencies shall be exempt from the provisions of this section.~~
- ~~b. a.~~ All hazard warning luminaires required by Federal regulatory agencies are exempt from the requirements of this article, except that all luminaires must meet all Federal design standards and must be shown to be as close as possible to the Federally required minimum lumen output requirement for the specific task. Strobe lights shall be permitted only if there is no other federally approved hazard warning illumination technique.
- ~~c. Luminaires used primarily for sign illumination shall not extend more than one foot above the sign which they are lighting.~~
- ~~d. b.~~ Decorative luminaires installed in public parks shall be shielded so as to not cause direct light from the luminaire to affect residential uses or to create glare perceptible to persons operating motor vehicles on public streets, ~~however these luminaires are not subject to the shielding requirements of paragraph 2.c, above.~~
- ~~e. c.~~ Law Governing Conflicts. Where any provision of federal, state, county, or city statutes, codes, or laws conflicts with any provision of this code, the most restrictive shall govern unless otherwise regulated by law.
4. Freestanding Business Signs
- a. Lighting fixtures used to illuminate a freestanding business sign shall be mounted on the top of the sign structure and directed towards the ground. Freestanding business signs with bottom-mounted lighting shall only be used if the fixtures are pointed directly at the sign.
- b. Freestanding business signs of the type constructed of translucent materials and wholly illuminated from within do not require shielding.
5. Canopy, Pavilion, or Drive-Through Bays Lighting
- a. All luminaires mounted on or recessed into the lower surface of canopies, pavilions, or drive-through bays shall be fully shielded and utilize flat lenses.
- ~~b. The following maximum illumination levels shall apply to canopy, pavilion or drive-through bay lighting:~~
- ~~i. The level of lighting shall not exceed 50 footcandles at any point beneath a canopy, pavilion, or drive-through bay located in the Neighborhood, Traditional Neighborhood, Traditional Workplace, Traditional Marketplace Corridor and Village form districts.~~
- ~~ii. In all other form districts, the level of lighting shall not exceed 70 footcandles at any point beneath a canopy, pavilion, or drive-through bay.~~
- b. In all form districts, the level of lighting for canopies, pavilions and drive-through bays shall not exceed 50 footcandles at any point beneath a canopy, pavilion or drive-through bay.**
- c. In all form districts, all canopy, pavilion, or drive-through bay lighting shall maintain a uniformity ratio of 4:1.
6. Recreational Facilities
- a. Any light source permitted by this Code may be used for lighting of outdoor recreational facilities (public or private), such as, but not limited to, football fields, soccer fields, baseball fields, softball fields, tennis courts, or equestrian arenas, provided all of the following conditions are met:
- i. All fixtures used for recreational facilities lighting within 500 feet of any residential use shall be fully shielded, or be designed or provided with sharp cut-off capability, so as to minimize up-light, spill-light, and glare.
- ii. Illumination of any playing field, court, or track located within 500 feet of any residential use shall be permitted after 11:00 p.m. only to conclude an event normally expected to end before 11:00 p.m. and circumstances prevented concluding before 11:00 p.m.
- b. Recreational facilities shall be required to submit a lighting plan for review and approval by the Planning Commission.
- The plan shall document the effect of lighting on adjacent residential areas. The Planning Commission may require modification of the lighting plan or impose conditions on its approval as necessary to mitigate the impacts of the lighting.
7. Pedestrian Areas
- a. Pedestrian facilities (sidewalks, paths, etc.) leading from a building to parking facilities shall not exceed an average lighting level of 2.5 footcandles.

- b. Luminaires used only to illuminate pedestrian facilities shall not be mounted higher than 15 feet from the finished grade of the walking surface.
- 8. Temporary Lighting
  - Temporary lighting shall be permitted in accordance with the following guidelines:
    - a. The purpose for which the lighting is proposed is not intended to extend beyond fifteen (15) days.
    - b. The proposed lighting is designed in such a manner as to minimize light pollution and light trespass.
    - c. The proposed lighting will comply with the general intent of this regulation.
    - d. The permit will be in the public's best interest.
- 9. Prohibitions\*
  - a. The use of search lights except by civil authorities is prohibited.
  - b. Fixtures with drop or sag lens lighting are prohibited.
    - Flashing and strobe lights employed to draw attention to business establishments, special events, etc. are prohibited. Please see Section 4.3.2 C.1 for information regarding federal hazard warning luminaries.

*NOTE: This does not prohibit the use of holiday lighting.*

- 10. Architectural Lighting
  - a. Architectural lighting used to illuminate building facades, walls, landscaping, flags, fountains, statues, or other architectural or design items shall be carefully located and aimed so that light is directed only onto the surface of the building façade, wall, landscaping, flag, fountain, statue or other architectural or design item it is intended to light.
  - b. Architectural lighting used to illuminate building facades, walls, landscaping, flags, fountains, statues, or other architectural or design items shall not create glare for traffic on streets or roads.
  - c. **The light source for architectural lighting shall be completely shielded from view from all adjacent properties and streets.**
- 11. Light Trespass
  - a. The following provisions shall apply to light trespass:
    - i. The level of lighting resultant from luminaires installed on a subject site shall not exceed one-half (0.5 **0.25**) footcandles at any property border adjoining a low- to medium-density residentially zoned or used<sup>1</sup> property border, and ~~4-0~~ **0.5** footcandles on any high-density residentially zoned or used<sup>2</sup> property border, or public right of way parcel of land.
    - ii. If the ambient level of lighting at any property border exceeds one-half (0.5) footcandles prior to the development of the subject site, then the level of lighting resultant from luminaires installed on that site shall not increase the ambient level of lighting at any property border by more than one-half (0.5) footcandles.
  - b. In all zoning and form districts, any lighting shall be arranged so as not to shine directly on an adjoining property.
- C. Permit Required
  - 1. Whenever a person is required to obtain a building or electrical permit, a Conditional Use Permit, or any development plan approval by the County, the applicant shall, as a part of said application, submit sufficient information to enable the permit issuing agency to determine whether the proposed lighting will comply with this Regulation.
- D. Enforcement and Penalty
  - 1. The following standards shall be used when measuring and inspecting outdoor lighting complaints:
    - a. When inspecting light fixtures the inspector shall do a visual evaluation to determine whether the fixture meets the requirements established in this Regulation.
    - b. When inspecting light trespass complaints, the inspector shall use an approved instrument to take a footcandle reading to determine whether the light brightness exceeds the standards set in this regulation. The inspector shall stand at the property line (as mapped on PVA

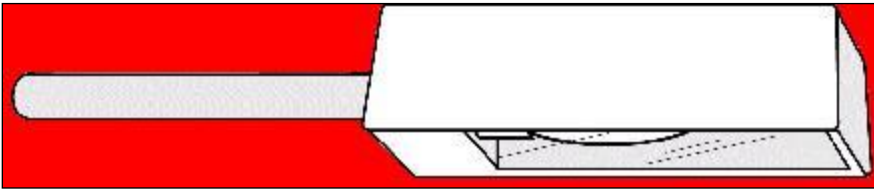
<sup>1</sup> "Low- to medium-density residentially zoned" parcels include R-R, R-E, R-1, R-2, R-3, R-4, R-5, PRD, PVD R-5A, and R-5B.

<sup>2</sup> "High-density residentially zoned" parcels include TNZD, U-N, R-6, R-7, and R-8A.

maps) and hold the detector approximately three (3) feet off the ground. The inspector shall take measurements on the horizontal plane to assure proper measurement of light at the property line. The average of the vertical and horizontal measurements shall be used to determine compliance with applicable standards. (not in effect within Louisville Metro)

b. When inspecting light trespass complaints, the inspector shall use an approved instrument to take a footcandle reading to determine whether the light brightness exceeds the standards set in this regulation. The inspector shall stand at the property line (as mapped on PVA maps) and hold the detector approximately three (3) feet off the ground. The inspector shall take measurements on the horizontal plane to assure proper measurement of light at the property line. ~~The average of the vertical and h~~Horizontal measurements shall be used to determine compliance with applicable standards. Measurement of light brightness under gasoline canopies shall be measured under the canopy at a height of three (3) feet (in effect within.

- E. Severability
  - 1. Should any section, clause or paragraph of this regulation be declared by court of competent jurisdiction to be invalid, the same will not affect the validity of the regulation as a whole or part hereof other than the part declared to be invalid.
- F. Effective Date
  - 1. This regulation shall take effect from and after its passage, approval and publication according to law.
  - 2. Amortization/Alternative Provisions (Reserved)
- G. Installation
  - 1. The owner or contractor of record shall install the approved outdoor lighting fixtures in conformance to the listing, manufacturer's specifications, and all applicable local building and electrical codes. An electrical permit and inspection by the permit-issuing agency is required.
- H. Modifications, Waiver or Variation
  - Waivers may be granted in accordance with Chapter 11 Part 8.
- I. Illustrations
  - Example of a fully-shielded or full-cutoff light.



## **MIS ITEM #17 – VOTE**

Motion to approve MIS Item #17 made by Teena Halbig and seconded by Steve Porter at 9/17/13 meeting.

**YES:** John Torsky (alternate for James Peden), Donnie Blake, David Proffitt, Chuck Kavanaugh, Barbara Sinai, Steve Porter (2 votes; also alternate for Tom FitzGerald), Teena Halbig, Kevin Dunlap and Matt Meunier

**NO:** Pat Dominik, Kathy Linares, Cliff Ashburner (alternate for Deborah Bilitski)

**ABSTAIN:** None

**ABSENT:** Jim King and Gabe Fritz

***MIS Item #17 recommended for approval by a vote of: 10 in favor, 3 opposed, 0 abstentions and 2 absent.***

## **MIS ITEM #18 – Operating Hours (Approved on 9/3/13)**

The sub-committee proposes to add exterior construction activity to the operating hours restrictions below. Parking lot cleaning was also recommended to be added to this section by the sub-committee, but was rejected by the LDC Main Committee. This section was also originally proposed to be amended to be applicable within 200 feet of residentially zoned property or property that is solely used residentially, and 100 feet from mixed use developments containing ground floor residential uses, but the LDC Main Committee rejected that portion of the sub-committee proposal. See the proposed amendments below.

#### Section 4.1.6 Operating Hours

The following operating hour restrictions shall apply to all uses that are within 100 feet of any property that is zoned residential, any solely residential use, or any mixed use development that contains residential uses ~~on the ground floor~~ as measured from the closest property line of the proposed use. **The most current version of the Louisville Metro Noise Ordinance shall also apply to all activities listed below.**

- A. Collection of Garbage and Recyclables - No garbage or recyclables collection services shall be conducted between the hours of 10:00 p.m. and ~~7:00~~ **6:00** a.m. *Staff recommends change to 6:00 am to match LMCO Noise Ordinance.*
- B. Loading Operations - No loading or unloading operations shall be conducted between the hours of 10:00 p.m. and 7:00 a.m. This restriction shall also be applicable to the idling of any heavy or medium trucks on the site for the purpose of conducting loading or unloading operations regardless of whether said activities have already occurred or are scheduled to occur in the future.
- C. **Exterior Construction Activity – No exterior construction activity shall be conducted between the hours of ~~10:00~~ 9:00 p.m. and 7:00 a.m.** *Staff recommends change to 9:00 pm to match LMCO Noise Ordinance.*

#### **MIS ITEM #18 – VOTE**

Motion to approve MIS Item #18 made by Chuck Kavanaugh and seconded by Cliff Ashburner at 9/3/13 meeting.

**YES:** Donnie Blake (2 votes; also alternate for David Proffitt), Chuck Kavanaugh (2 votes; also alternate for Pat Dominik), Cliff Ashburner (alternate for Deborah Bilitski), Kathy Linares, Barbara Sinai, Steve Porter, Teena Halbig and Kevin Dunlap

**NO:** None

**ABSTAIN:** None

**ABSENT:** Jim King, James Peden, Tom FitzGerald, Gabe Fritz and Matt Meunier

**MIS Item #18 recommended for approval by a vote of: 10 in favor, 0 opposed, 0 abstentions and 5 absent.**

#### **MIS ITEM #19 – Non-Residential Fencing Height (Approved on 9/3/13)**

The purpose of this change is to close an existing loophole. Not all zoning districts have required yards, particularly commercial and industrial properties, even though the fence height requirement listed in Section 4.4.3.A.2 below was written as if all properties will have a required yard area. The new text below addresses this issue.

#### Section 4.4.3 FENCES, WALLS AND SIGNATURE ENTRANCES

- A. Fences and Walls
  1. Height and Location:
    - a. In the R-R, R-E, R-1, R-2, R-3, R-4, R-5, PRD, U-N, R-5A, R-5B, TNZD, R-6, R-7, R-8A, OR, OR-1, OR-2, OR-3, PD (residential use) and OTF Districts:
      - i. Fences and walls, up to 48 inches in height in the suburban form districts and 42 inches in the traditional form districts, may be located within required front and street side yards except as provided in Figure 4.4.1.
      - ii. Fences and walls up to 8 feet in height and constructed of a solid material (masonry, wood) with an opacity of at least 80% may be located within required side and rear yards. Fences and walls with an opacity less than 80% (e.g. chain link fences) up to 6 feet in height may be located within required side and rear yards. Exception: Wrought iron fences up to 8 feet in height may be located within the required side and rear yards.
      - iii. The height of fences or walls located in a required side or rear yard shall be measured from the lowest grade within a distance of one foot on either side of the fence to the highest point of any portion of the fence.
      - iv. The total height of fences within 5 feet of a public sidewalk or roadway pavements shall be measured by adding the height of the fence and the height of the change of grade. The total height of fences more than 5 feet from a public sidewalk or roadway pavements shall be measured by measuring the height of the fence only. Refer to Figure 4.4.2 for an example of the correct method of measuring fence heights.

- v. On double frontage lots, where one of the required front yards adjoins a major arterial, minor arterial or collector roadway, and where access is prohibited, a fence or wall may be constructed within that yard up to a height of 8 feet.
- b. In all other zoning districts:
  - i. Fences and walls in all other zoning districts shall be restricted by the maximum building height of that district except when abutting R-R, R-E, R-1, R-2, R-3, R-4, R-5, PRD, U-N, R-5A, R-6, R-7, R-8A, OR-1, OR-2, OR-3, PD (residential use) and OTF Districts in which case a. i), ii) and iii) above shall apply.
- 2. ~~Fences and walls not located within a required yard shall be restricted by the maximum building height of that zoning district.~~ **Fences and walls not located within the required yard shall be restricted by the maximum building height of that zoning district. For properties in zoning districts listed in Section 4.4.3.A.1.a: Fences and walls not located within the required yard shall be restricted by the maximum building height of that zoning district. For properties in zoning districts listed in Section 4.4.3.A.1.b: All fences and walls shall be restricted by the maximum building height of that zoning district.**
- 3. Fences and walls required for swimming pools shall be a minimum height of 4 feet above grade and have a self-closing, self-latching lockable gate.
- 4. No person shall install, construct, maintain, or permit the installation, construction or maintenance of barbed wire fence or fence including barbed wire or razor wire components, partially or wholly upon property owned, occupied or controlled by such person, firm, corporation or other legal entity except in accordance with the following standards.
  - a. Razor wire is permitted only if located at all points at least 8 feet above grade level.
  - b. In residential form districts (TNFD, NFD, VFD), barbed wire fencing located less than six feet above grade level is permissible only when used to enclose livestock.
  - c. In workplace form districts (TWFD, SWFD) barbed wire and razor wire fencing is permitted, provided that paragraphs a and d of this section are met.
  - d. Fences that adjoin residentially used or zoned property in any form district may include barbed wire or razor wire only if reviewed and approved by the Planning Director or designee based on a finding of unique circumstances or exceptional security needs.
  - e. Agricultural uses are exempt from items a through d above.

**NOTE:** Refer to Chapter 5 Part 4 for design standards applicable to fences in traditional form districts.  
**NOTE:** It is important to check a property's deed for restrictions on fences (location, materials and general permissibility).  
**NOTE:** Retaining walls shall be subject to the height and setback requirements of this section.  
**NOTE:** If a fence is mandated by the Land Development Code, the finished side of the fence must face the lower intensity use. See Section 10.4.9

**MIS ITEM #19 – VOTE**

Motion to approve MIS Item #19 made by Donnie Blake and seconded by Steve Porter at 9/3/13 meeting.  
**YES:** Donnie Blake (2 votes; also alternate for David Proffitt), Chuck Kavanaugh (2 votes; also alternate for Pat Dominik), Cliff Ashburner (alternate for Deborah Bilitski), Kathy Linares, Barbara Sinai, Steve Porter, Teena Halbig and Kevin Dunlap  
**NO:** None  
**ABSTAIN:** None  
**ABSENT:** Jim King, James Peden, Tom FitzGerald, Gabe Fritz and Matt Meunier  
**MIS Item #19 recommended for approval by a vote of: 10 in favor, 0 opposed, 0 abstentions and 5 absent.**

**MIS ITEM #20 – Inactive Cemeteries Boundary & Buffer Requirement (Approved on 9/3/13)**

Related to the inactive cemeteries LDC section below, the sub-committee proposes amendments to Section 4.4.6.A.4.a related to the following two items. 1) Boundaries that define inactive cemeteries should also include parcel lines and historic parcel lines along with fences and walls; and 2) Further clarification has been added explaining when pavement may be allowed within the required 30' cemetery perimeter buffer. See changes below.



#### 4.4.6 INACTIVE CEMETERIES

A. Requirements:

A parcel of land on which an inactive cemetery is located or an adjacent parcel of land may be used as allowed by the site's zoning classification and other applicable regulations, with the following additional restrictions:

1. Preservation: All existing cemeteries and burial grounds shall be preserved and maintained in accordance with applicable Kentucky Revised Statutes, Kentucky Administrative Regulations, and federal laws and regulations state law. Relocation or removal of gravesites shall occur only as specified in applicable federal, state and local laws and regulations. The ~~Jefferson County~~ **Louisville Metro** Office of Historic Preservation and Archives shall be notified in writing by supplying to the office copies of all state and local applications and permits prior to the relocation procedure.
2. Notification: The applicant shall notify the ~~Jefferson County~~ **Louisville Metro** Office of Historic Preservation and Archives and the Kentucky Historical Society of the location of any cemetery or burial ground prior to development or subdivision of the parcel.
3. In preserving a cemetery while at the same time developing a parcel, an applicant, property owner, or developer has the following options:
  - a. Transfer the existing cemetery as part of a buildable lot. Ownership and maintenance of the cemetery shall be transferred to the individual lot owner.
  - b. Make the existing cemetery a separate lot permanently preserved from development of structures or other non-cemetery improvements. Ownership and maintenance of the cemetery shall be transferred by written agreement to either a subdivision Homeowner's Association, a local legislative unit, or an historical organization. A legally created transfer agreement must be finalized and executed, and a copy provided to DPDS, within 90 days of any final approval of a record plat or development plan. The Planning Commission or its designee may grant up to two thirty-day extensions for the execution of said transfer agreement. Failure to execute the agreement or provide the copy may render the final approval of a subdivision plan or district development plan null and void.
  - c. The applicant shall inform the Planning Commission which of the above listed options they choose to pursue prior to approval of any development or subdivision.
4. Building Setbacks
  - a. For cemeteries with defined boundaries (such as **parcel lines or historic parcel lines**, a wall or fence), all **pavement**, buildings and structures other than fences and walls shall be set back at least 30 feet from the perimeter. **Pavement shall be allowed within portions of the 30' buffer only upon the completion and submittal of an archeological survey demonstrating there are no grave sites within the area beneath the proposed pavement.** Land disturbance within 30 feet of the perimeter except as described in number 6 below shall not be allowed. Prior to initiating any site disturbing activities and for the duration of the site preparation and construction processes, the 30-foot buffer area shall be delineated by installation of temporary fencing so as to be readily identifiable.
  - b. For cemeteries with undefined boundaries, the Commission may require certification of a cemetery with undefined boundaries by an archaeologist (as defined in 36 CFR Part 61). Documentation of acceptance of the cemetery boundaries by the Historic Landmarks Commission or delegated staff persons shall be provided for Planning Commission and building permit agency files prior to initiation of any site disturbance activities. After the boundary has been approved, all buildings and structures other than fences and walls shall be set back at least 30 feet, or another distance set by the ~~Jefferson County~~ **Louisville Metro** Historic Landmarks Commission.
5. Security: Existing cemetery fences and walls shall be maintained and repaired. The property owner or developer is required to erect a new permanent enclosure (if one does not exist) surrounding the cemetery. For cemeteries with undefined boundaries, the location of the fence shall be established in accordance with procedures acceptable to the ~~Jefferson County~~ **Louisville Metro** Historic Landmarks Commission. The new permanent fence shall be made of a material compatible with the character of the existing cemetery and surrounding residences. If a portion of an original wall or fence remains, and it is a compatible material (e.g. stone, brick, cast iron, wooden picket) the permanent fence or wall shall be properly repaired using the same

material. If the existing fence is an inappropriate material (e.g. barbed wire or farm fence), it shall be replaced with a new fence of an appropriate material. Although the permanent fence must be erected as soon as practical, a temporary fence must be erected and maintained at all times during site development and construction. The ~~Jefferson County~~ **Louisville Metro** Historic Landmarks Commission shall be responsible for determining the appropriateness of materials.

6. Maintenance: Existing cemetery planting or foliage shall be pruned and generally left in its natural state. The ~~Jefferson County~~ **Louisville Metro** Historic Landmarks Commission shall be responsible for determining the appropriateness of landscaping used in and immediately surrounding all inactive cemeteries. Cemeteries shall be maintained both during site development and after construction is complete in accordance with Chapter 96 of the Jefferson County Code of Ordinances.
7. Public access shall be provided and permanently maintained to an existing cemetery with a minimum 15-foot recorded ingress-egress access easement.
8. A statement by the property owner, applicant, or developer shall be made on the site plan or subdivision plan regarding permanent cemetery ownership and maintenance. This information shall also be included on a Final Plat for a subdivision if recorded after the effective date of this regulation.
9. A deed restriction in a form approved by the Planning Commission legal counsel shall be recorded acknowledging the location, site, ownership, and maintenance of a cemetery.
10. Yard Requirements: No area occupied by graves may be counted toward the area required for front, side, street-side or rear yard requirements.
11. If human remains are discovered during the excavation or development of a site the applicant shall immediately cease excavation activities and notify the Jefferson County Coroner and the ~~Jefferson County~~ **Louisville Metro** Historic Landmarks Commission.

**NOTE:** *The procedure for the removal and relocation of a cemetery is set out in KRS 381.720 - KRS 381.767.*

## **MIS ITEM #20 – VOTE**

Motion to approve MIS Item #20 made by Steve Porter and seconded by Donnie Blake at 9/3/13 meeting.

**YES:** Donnie Blake (2 votes; also alternate for David Proffitt), Chuck Kavanaugh (2 votes; also alternate for Pat Dominik), Cliff Ashburner (alternate for Deborah Bilitski), Kathy Linares, Barbara Sinai, Steve Porter, Teena Halbig and Kevin Dunlap

**NO:** None

**ABSTAIN:** None

**ABSENT:** Jim King, James Peden, Tom FitzGerald, Gabe Fritz and Matt Meunier

**MIS Item #20 recommended for approval by a vote of: 10 in favor, 0 opposed, 0 abstentions and 5 absent.**

## **MIS ITEM #21 – Stream Buffer Across Property Lines/Top of Bank Determination (Parts 1, 3 & 4 approved on 11/5/13; Part 2 approved on 12/17/13)**

The following changes are proposed for the section below, which is the portion of the LDC that explains how the boundaries of required stream buffers are delineated. **1)** The amendment to the definition of perennial stream discussed in MIS Item #6 of this report triggered the elimination of the reference to U.S.G.S maps in Section 4.8.3.A.1 below. **2)** Intermittent streams are now required to have a Type A buffer area (25') as required by this section. **3)** In Section 4.8.3.C.1, additional language has been added that allows the Planning Director, with input from Army Corps of Engineers, United States Geological Survey, Kentucky Division of Water, the Metropolitan Sewer District, the Natural Resources Conservation Service or other informed parties, to make a final determination as to where a certain stream "top of bank" is located. **4)** In Section 4.8.3.D, a new statement is being added to further explain that the stream buffer requirements of this section apply even when streams and their required parallel buffers cross property lines.

### **Section 4.8.3 Establishment of Buffer Areas and their Boundaries**

A. Applicability.

Buffer Areas shall be established along Protected Waterways, which shall include the following waterways:

- 1a. Any perennial stream or river (or portion thereof). ~~that is portrayed as solid on the United States Geological Survey 7.5 minute quadrangle maps, of the most recent edition~~ **Perennial streams are required to have either a Type A or Type B buffer area based on the applicable form district as listed in Table 4.8.1.**
- 1b. **For intermittent streams or rivers (or portions thereof), if the proposed development is covered by a Stormwater Construction General or individual Permit issued under the Kentucky Pollutant Discharge Elimination System (KPDES) program, a buffer area consistent with that required under such permit shall be maintained. For proposed developments not covered under such permit, appropriate storm water best management practices protective of the quality of the intermittent stream will be employed.**
2. Wetlands greater than 0.1 acre and subject to federal jurisdiction of the U.S. Environmental Protection Agency and the Army Corps of Engineers; and
3. Lakes with a permanent pool elevation greater than 3 acres in size if they constitute "waters of the Commonwealth" as defined in KRS 224.
4. Other water bodies that have been designated through nomination and legislative approval. A water body may be nominated as a Protected Water Body by resolution of the legislative body(ies) or by resolution of the Planning Commission. The Planning Commission shall conduct a public hearing and recommend candidates for designation to the legislative body(ies) with jurisdictional control which shall have final designation authority.  
Buffer areas are established by this Part along all protected waterways located in Jefferson County, except that more restrictive buffer areas established in Special Districts pursuant to Chapter 3 of the LDC supersede the requirements of this part.

**NOTE:** *In general, lakes formed by impoundment of streams are subject to this regulation.*

- B. Approval Required.  
Specific and final buffer area boundary delineations shall be determined by the Planning Director, or designee.
- C. The minimum Buffer Area requirements established by this Part for water bodies other than wetlands are either:
  1. The minimum width as set forth in Table 4.8.1 below. Type A Buffer Areas and the Streamside Zone of Type B Buffer Areas are measured from the top of the bank of the protected stream. **Specific and final buffer area boundary delineations shall be determined by the Planning Director, or designee. Input regarding specific top of bank locations shall be provided to the Planning Director, or designee, by Army Corps of Engineers (U.S.A.C.E), United States Geological Survey, Kentucky Division of Water, the Metropolitan Sewer District, the Natural Resources Conservation Service or other informed parties.**
  2. The alternative buffer width and design, approved by the USDA Natural Resources Conservation Service, provided it meets the agency's standards and specifications for riparian buffers. Sites located in form districts otherwise subject to Type B buffer requirement (Table 4.8.1) are eligible for alternative buffer widths, at the applicant's discretion,
- D. **Required stream buffers shall apply to all areas within the buffer width as described in this Part, whether the protected water body is on the subject property or on an adjacent property.**

## **MIS ITEM #21, PARTS 1, 3 & 4 – VOTE**

Motion to approve MIS Item #21, Parts 1, 3 & 4 made by Pat Dominik and seconded by David Proffitt at 11/5/13 meeting.

**YES:** John Torsky (alternate for James Peden), David Proffitt (2 votes; also alternate for Donnie Blake), Chuck Kavanaugh, Pat Dominik, Kathy Linares (2 votes; also alternate for Matt Meunier), Cathy Hinko (alternate for Barbara Sinai), Steve Porter and Teena Halbig

**NO:** None

**ABSTAIN:** None

**ABSENT:** Jim King, Deborah Bilitski, Tom FitzGerald, Kevin Dunlap and Gabe Fritz

**MIS Item #21, Parts 1, 3 & 4 recommended for approval by a vote of: 10 in favor, 0 opposed, 0 abstentions and 5 absent.**

## **MIS ITEM #21, PART 2 – VOTE**

Motion to approve MIS Item #21, Part 2 made by Deborah Bilitski and seconded by Donnie Blake at 12/17/13 meeting.

**YES:** John Torsky (alternate for James Peden), Donnie Blake, Chuck Kavanaugh, Pat Dominik (2 votes; also alternate for Tom FitzGerald), Deborah Bilitski (2 votes; also alternate for Gabe Fritz), Barbara Sinai, Steve Porter and Matt Meunier

**NO:** None

**ABSTAIN:** None

**ABSENT:** Jim King, David Proffitt, Kathy Linares, Teena Halbig and Kevin Dunlap

**MIS Item #21, Part 2 recommended for approval by a vote of: 10 in favor, 0 opposed, 0 abstentions and 5 absent.**

## **MIS ITEM #23 – Non-Conforming Sign Replacement (Approved on 9/17/13)**

The first sentence, regarding replacement of non-conforming signs, contradicts itself completely. The first part of the sentence requires a new sign that is replacing a non-conforming sign to be 100% compliant with current signage regulations. The second part of the same sentence goes on to allow a new non-conforming sign to be installed in place of the previous non-conforming sign as long as the amount of non-conformance is reduced by 50%. The sub-committee feels that non-conforming signs should be treated similar to other non-conforming items, such as buildings or land uses, and be required to come into complete compliance with current regulations upon the replacement of a non-conforming sign. Therefore, the “50% rule” is proposed to be eliminated as shown below.

### **Section 8.1.4 Nonconforming Signs**

- B. At such time as any structural element of a nonconforming sign is replaced, the sign must be brought into compliance with the requirements of current regulations, ~~except that a nonconforming on-premises sign may be replaced by another nonconforming on-premises sign (exception, this provision does not apply to incidental and temporary on-premises signs), provided that all nonconformance in area, height, size, and setback is reduced by fifty percent (50%) of the difference between the existing nonconforming sign and what the regulation allows.~~ Exception: No reduction in nonconformance shall be required for the replacement of signs, awnings, canopies and marquees that were damaged by a weather event or accident (i.e. vehicular accident) unless the damage results from neglect of maintenance or other willful act of the property owner. Replacement of structural elements in this context means the disassembly and subsequent re-assembly or the substantial alteration of the pole, base, or frame. For awnings and canopies any change to the frame shall be considered as a structural change. The replacement of material covers shall not be considered a structural change.

***NOTE:*** ~~The 50% compliance standard does not exempt signage from compliance with other relevant sections of this chapter (e.g. location, lighting, style, etc.).~~

## **MIS ITEM #23 – VOTE**

Motion to approve MIS Item #23 made by Steve Porter and seconded by David Proffitt at 9/17/13 meeting.

**YES:** John Torsky (alternate for James Peden), Donnie Blake, David Proffitt, Chuck Kavanaugh, Barbara Sinai, Steve Porter (2 votes; also alternate for Tom FitzGerald), Teena Halbig, Kevin Dunlap and Matt Meunier

**NO:** Pat Dominik, Kathy Linares, Cliff Ashburner (alternate for Deborah Bilitski)

**ABSTAIN:** None

**ABSENT:** Jim King and Gabe Fritz

**MIS Item #23 recommended for approval by a vote of: 10 in favor, 3 opposed, 0 abstentions and 2 absent.**

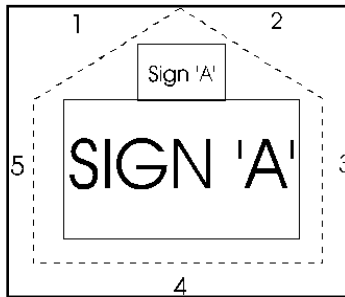
## **MIS ITEM #24 – Signage Area Calculation (Approved on 9/17/13)**

Using our current signage area calculation method, which only allows up to five straight lines to be drawn around attached signs and eight straight lines to be drawn around free-standing signs, we are including blank spaces adjacent to the actual signs into the area calculation. This not only penalizes property owners, but it also hinders creativity in signage design. The sub-committee proposes removing the “five lines” and “eight lines” limitations from the attached and free-standing sign area calculations, respectively. As many lines as necessary should be allowed to be drawn around proposed signage in order to get a truly accurate area measurement. The diagrams below will be deleted from the LDC.

**Section 8.3.1 Sign Calculation**

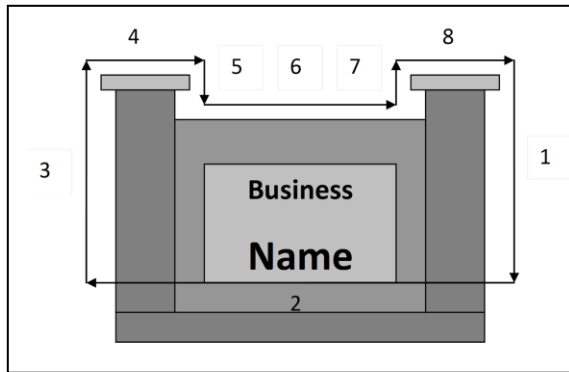
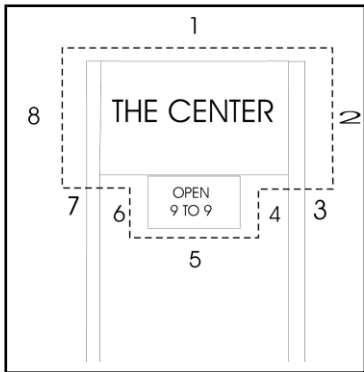
**A. Attached Signs**

1. The maximum allowed area for all signs other than freestanding on-premises signs shall be determined by drawing ~~five or fewer~~ straight lines encompassing the extremities of the sign within the smallest possible area.
2. A composite group of signs integrated into one framed unit or compact structure constitutes one sign.



**B. Freestanding Signs**

1. The maximum allowed area for freestanding on-premises signs shall be measured by drawing ~~eight (8) or fewer~~ straight lines encompassing the extremities of the sign within the smallest possible area, provided, however, that the area of a freestanding sign shall not include the structural framework (e.g. poles, supports, columns or other structures) which is solely for support and as long as the structural framework is clearly incidental to the display itself and does not contain any advertising. The area of a freestanding sign shall not include the space between the business identification portion of a freestanding business sign and the reader board/changeable copy portion.
2. A back-to-back or V-shaped sign constitutes one sign if it has a common set of supports. If the interior angle between the two sign faces is less than 120 degrees, the sign area is of one sign face only. If the angle between the two sign faces is greater than or equal to 120 degrees, the sign area is the sum of the areas of the two sign faces.
3. No sign shall have more than four faces. Signs with more than two sign faces shall be calculated for compliance with this section in the following manner. The maximum allowable size of each sign face shall be calculated by taking the maximum allowable square footage for a two-sided freestanding sign (from Table 8.3.2 and Table 8.3.2) and dividing it by the total number of sign faces.



**MIS ITEM #24 – VOTE**

Motion to approve MIS Item #24 made by Teena Halbig and seconded by Barbara Sinai at 9/17/13 meeting.

**YES:** John Torsky (alternate for James Peden), Donnie Blake, David Proffitt, Chuck Kavanaugh, Barbara Sinai, Steve Porter (2 votes; also alternate for Tom FitzGerald), Teena Halbig, Kevin Dunlap, Matt Meunier, Pat Dominik, Kathy Linares and Cliff Ashburner (alternate for Deborah Bilitski)

**NO:** None

**ABSTAIN:** None

ABSENT: Jim King and Gabe Fritz

**MIS Item #24 recommended for approval by a vote of: 13 in favor, 0 opposed, 0 abstentions and 2 absent.**

## **MIS ITEM #25 – Projecting Signs (Approved on 9/17/13)**

It was recently brought to the attention of PDS staff that permanent projecting banner signs are not regulated in the LDC. Chapter 155 of the Louisville Metro Code of Ordinances specifically regulates *temporary* banners, but there is a recent trend for businesses particularly in the downtown and urban areas to utilize projecting banner style signage on a permanent basis. The following text amendments are proposed to resolve this issue. **Since the date this item was approved by the LDC committee PDS staff has revisited the proposal with Louisville's Urban Design Administrator and decided to make some adjustments to the dimensional limitations for projecting banners. 24" is being changed to 25" due to the fact that the standard industry size for banners is 24", so in order to accommodate a 24" wide banner an extra inch is needed for the framing/structural support. Additionally, based on real world observations of these projecting banners the 12 square feet area per side allowed is too small, so staff proposes to increase that requirement to 24 square feet per side. See changes below.**

### **New Definition for Section 1.2.2**

**Projecting Banner Sign – A permanent non-illuminated double sided sign that uses a printed material fabric background for images, messages, or logos and is supported with brackets or a framework that enables it to project from the sides of a building or structure. The material or fabric background area of the sign can have a maximum width of 18" and a sign may have a total supported projection of 24" 25" from the face of a building or structure. The maximum allowable signage area for a projecting banner sign excluding the area of support brackets or framework shall not exceed 42' 24' square feet in total area for each side of the sign.**

### **Revisions to Section 8.3.3.A.6**

Projecting Signs **or Projecting Banner Signs**: Buildings on lots which contain no permanent freestanding on-premises sign ( other than incidental signs) may not have more than one sign which projects perpendicularly from the façade ( but not the roof) of the building providing that the sign does not exceed thirty-two (32) square feet in area, does not extend below nine (9) feet above the ground or sidewalk, or more than (8) feet from the façade of the building, or closer than two feet to the abutting roadway. **EXCEPTION: projecting banner signs are limited to a maximum width of 18", may have a total supported projection of 24" 25", and a maximum allowable area of signage not to exceed 42' 24 square feet in total area of each side of the projecting banner sign.** The area of the projecting sign or **projecting banner sign** shall be part of the total allowable signage allowed on any one façade of the building as listed in Table 8.3.2. Multiple use buildings may have one projecting sign or **projecting banner sign** for each business, subject to the total maximum sign area permitted in Table 8.3.2. EXCEPTION: Buildings within the Downtown Form District are not restricted by the number of projecting sign limit(s) or the 32 square foot limit listed above, however these buildings are subject to the overall attached sign allowance as listed in Table 8.3.2.

## **MIS ITEM #25 – VOTE**

Motion to approve MIS Item #25 made by Pat Dominik and seconded by Barbara Sinai at 9/17/13 meeting.

**YES:** John Torsky (alternate for James Peden), Donnie Blake, David Proffitt, Chuck Kavanaugh, Barbara Sinai, Steve Porter (2 votes; also alternate for Tom FitzGerald), Teena Halbig, Kevin Dunlap, Matt Meunier, Pat Dominik, Kathy Linares and Cliff Ashburner (alternate for Deborah Bilitski)

**NO:** None

**ABSTAIN:** None

**ABSENT:** Jim King and Gabe Fritz

**MIS Item #25 recommended for approval by a vote of: 13 in favor, 0 opposed, 0 abstentions and 2 absent.**

## **MIS ITEM #27 – Adult Entertainment Provisions Consistent with LMCO Chapter 111 (Approved on 9/17/13)**

The Jefferson County Attorney's Office notified PDS staff that the references to 1,000 feet in the adult entertainment regulations below should be changed to 500'. According to the County Attorney's office this particular distance requirement was changed in the Louisville Metro Code of Ordinances Chapter 111 on adult entertainment right before merger from 1,000 feet to 500'. The change was made as a result of a lawsuit that included an analysis that showed that there were zero suitable locations at the 1,000' requirement in Jefferson County. For some reason the Land Development Code was never changed to match the revised LMCO Chapter 111. See proposed changes below.

### **Section 4.4.1 ADULT ENTERTAINMENT ACTIVITIES**

- A. Adult entertainment activity may be permitted in the M-3 Industrial zoning district provided it is in conformance with all applicable federal, state, and local laws and regulations, including the provisions of this Land Development Code, and the following requirements:
1. The public entrance to an establishment engaging in adult entertainment activity shall not be located within ~~4,000~~ **500** feet of any building containing a public or private elementary, middle, or secondary school, institution of higher education or business college, or any park-mall or park-like area of open space under the control of a governmental agency, or any building used for a place of religious worship, or any building used for a governmental function or public library. Such distance shall be measured along a straight line from the nearest property line of the property on which the building or public park-like area is located to the entrance to such establishment engaging in adult entertainment activity.

**NOTE:** *Persons engaging in or intending to engage in the business of conducting an adult entertainment activity are advised to consult the applicable ordinance of the jurisdiction regulating such activity to ascertain the extent of zoning and licensing regulations of such activities and whether the premises on which they are conducting or intending to conduct adult entertainment activities conform with said ordinances.*

2. The public entrance to an establishment engaging in adult entertainment activity shall not be located within ~~4,000~~ **500** feet of any area zoned R-R, R-E, R-1, R-2, R-3, R-4, R-5, R-5A, R-5B, R-6, R-7, R-8A, UN, OR, OR-1, OR-2, OR-3, OTF, TNZD, PRD, PVD, PD or any property used for residential purposes. Such distance shall be measured along a straight line from the boundary line of the nearest area zoned R-R, R-E, R-1, R-2, R-3, R-4, R-5, R-5A, R-5B, R-6, R-7, R-8A, UN, OR, OR-1, OR-2, OR-3, OTF, TNZD, PRD, PVD, PDD or used for residential purposes to the entrance to such establishment engaging in adult entertainment activity.
3. The public entrance to an establishment engaging in adult entertainment activity shall not be located within ~~4,000~~ **500** feet of the public entrance of another adult entertainment activity establishment.
4. The public entrance to an establishment engaging in adult entertainment activity shall not be located within ~~4,000~~ **500** feet of the public entrance of an establishment licensed to serve alcoholic beverages.

## **MIS ITEM #27 – VOTE**

Motion to approve MIS Item #27 made by Teena Halbig and seconded by David Proffitt at 9/17/13 meeting.

**YES:** John Torsky (alternate for James Peden), Donnie Blake, David Proffitt, Chuck Kavanaugh, Barbara Sinai, Steve Porter (2 votes; also alternate for Tom FitzGerald), Teena Halbig, Kevin Dunlap, Matt Meunier, Pat Dominik, Kathy Linares and Cliff Ashburner (alternate for Deborah Bilitski)

**NO:** None

**ABSTAIN:** None

**ABSENT:** Jim King and Gabe Fritz

**MIS Item #27 recommended for approval by a vote of: 13 in favor, 0 opposed, 0 abstentions and 2 absent.**

## **MIS ITEM #28 – Pedway Definition (Approved on 9/17/13)**

New definition to be inserted in Section 1.2.2

**Pedway – A pedestrian walkway, tunnel, ground level concourse, or bridge that connects buildings and/or public spaces.**

## **MIS ITEM #28 – VOTE**

Motion to approve MIS Item #28 made by Teena Halbig and seconded by Kevin Dunlap at 9/17/13 meeting.

**YES:** John Torsky (alternate for James Peden), Donnie Blake, David Proffitt, Chuck Kavanaugh, Barbara Sinai, Steve Porter, Teena Halbig, Kevin Dunlap, Matt Meunier, Pat Dominik, Kathy Linares and Cliff Ashburner (alternate for Deborah Bilitski)

**NO:** None

**ABSTAIN:** Tom FitzGerald

**ABSENT:** Jim King and Gabe Fritz

**MIS Item #28 recommended for approval by a vote of: 12 in favor, 0 opposed, 1 abstentions and 2 absent.**

## **MIS ITEM #29 – Signature Entrance Sign Definition (Approved on 9/17/13)**

Section 4.4.3.B of the LDC regulates signature entrances as typically found at major entrances to residential subdivisions. This section specifies what type of signage is allowed to be placed on a subdivision signature entrance, but the LDC does not have a clear definition of what a signature entrance sign is.

- The definition below proposed by the sub-committee was rejected by main committee.
  - ~~**Signature Entrance Sign – A sign attached to a signature entrance. The signature entrance sign must comply with all requirements listed in Section 4.4.3.B.**~~
- The LDC Main Committee instead decided to recommend changes to the following section:
  - LDC Section 4.4.3
    - B. Signature Entrances
      - 1. Definition:

Signature entrance: Any wall(s), fence(s), guard house, or similar structures exceeding 4 feet in height, constructed at an entrance to a major ~~single family~~ **residential or non-residential** subdivision or to a multi-family complex of ten units or more.

## **MIS ITEM #29 – VOTE**

Motion to approve MIS Item #29 made by Tom FitzGerald and seconded by David Proffitt at 9/17/13 meeting.

**YES:** John Torsky (alternate for James Peden), Donnie Blake, David Proffitt, Chuck Kavanaugh, Barbara Sinai, Steve Porter, Tom FitzGerald, Teena Halbig, Kevin Dunlap, Matt Meunier, Pat Dominik and Kathy Linares

**NO:** None

**ABSTAIN:** None

**ABSENT:** Jim King, Deborah Bilitski and Gabe Fritz

**MIS Item #29 recommended for approval by a vote of: 12 in favor, 0 opposed, 0 abstentions and 3 absent.**



## **NON-RECOMMENDATIONS**

**Items below were discussed, but proposed changes were either rejected or not voted on and did not achieve official recommendation status.**

### **MIS ITEM #1 – Intent Statement (Deferred indefinitely on 7/16/13; no action taken)**

Additional language has been added to the Land Development Code's intent statement as outlined below.

#### **Section 1.1.5 Legislative Purpose and Intent**

The provisions of this Code are intended to be the minimum requirements to promote the public health, safety, comfort, good order, appearance, morals and general welfare; to conserve the taxable value of land and buildings and to protect the character and maintain the stability of residential, business and industrial areas within the planning unit and to promote the orderly and beneficial development of such areas.

Among other purposes, this Code is intended to provide adequate light, air, privacy and convenience of access to property; to avoid undue concentration of population by regulating and limiting the height and bulk of buildings; to regulate the size and open spaces surrounding buildings; to establish building lines; to divide the planning unit into use districts restricting and regulating therein the construction, reconstruction, alteration and use of buildings, structures and land for residence, business, industrial and other specified uses; to divide the planning unit into form districts to ensure appropriate site and community design to protect the character of neighborhoods and shopping areas and ensure compatible development; to limit congestion in the public streets by providing off-street parking of motor vehicles; to preserve **and enhance** the natural environment, the value of land, buildings and structures; to facilitate adequate provision for traffic, transportation, water, sewerage, schools, parks and other public requirements; ~~and~~ to define the powers and duties of the administrative officers, Boards and Commissions provided herein; **to conserve environmental and historic resources which define our heritage and enhance the livability of our community; to promote and strengthen Louisville; and to provide neighborhoods which are culturally and economically diverse.**

### **MIS ITEM #8 – Roadway Definition (Decided no action needed at 9/17/13 meeting)**

The term "roadway" is used frequently throughout the Land Development Code, but lacks a definition. The following definition is proposed to be inserted into Chapter One of the LDC.

#### **Section 1.2.2 Definition**

**Roadway – The paved portion of a public or private street designed to carry vehicles or bicycles. Residential driveways shall not be considered a roadway.**

### **MIS ITEM #12 – Appendix 1A Adoption Status (Decided no action needed at 9/17/13 meeting)**

Staff will update this table as needed. Since it is an appendix Planning Commission action is not required. No action needed by the LDC Main Committee.

### **MIS ITEM #13 – LDC Notes (Decided no action needed at 9/17/13 meeting)**

Staff will improve the formatting and labeling of various LDC notes when inserting the Round Two changes into the code. No action needed by the LDC Main Committee.

### **MIS ITEM #14 – LDC Illustrations (Decided no action needed at 9/17/13 meeting)**

Staff will improve the formatting and labeling of various LDC illustrations when inserting the Round Two changes into the code. No action needed by the LDC Main Committee.

**MIS ITEM #22 – Outdoor Amenity Public Art Fee-in-Lieu Option (Item rejected at 8/20/13 meeting; See alternate staff recommendation under MIS STAFF ITEM #A below in this report)**

The sub-committee along with Planning & Design Services staff worked with representatives of Louisville's Commission on Public Art (COPA) to revise the LDC section on the outdoor amenity public art fee-in-lieu option. The intent is to increase the opportunities in which the public art fee-in-lieu option may be utilized in association with future development proposals in the community. Although not specifically included in the proposed LDC text below, the sub-committee strongly recommends that the agencies involved with the collection of the funds generated from this program are invested geographically in the vicinity surrounding the subject property.

Changes include:

- Making the public art fee-in-lieu option available to developments in all form districts, rather than only in four select form districts.
- This section now applies to industrial developments, in addition to retail, office and mixed-use developments.
- The building area threshold is changing from "buildings with a total footprint greater than 100,000 square feet" to "buildings with a total building area greater than 60,000 square feet."
- Three options are now offered:
  1. Provide only an outdoor amenity feature on site.
  2. Provide an outdoor amenity feature and a public art fee-in-lieu.
  3. Provide only a public art fee-in-lieu.

**Section 5.12.2 Outdoor Amenities/Focal Point(s)**

- A. Developments **in all form districts** within the ~~Neighborhood, Suburban Marketplace Corridor, Suburban Workplace and Regional Center Form Districts~~ shall meet the following standard.
1. Retail, Office, **Industrial** and Mixed-Use developments that involve construction of a building or buildings with a total footprint **building area** greater than 400,000 **60,000** square feet shall **comply with one of the three options listed below (a, b or c):**
    - a) Set aside an area equivalent to a minimum of 10% of the total building **area** footprint for outdoor amenities. Outdoor amenities may be used as a way of fulfilling the focal point requirement for activity centers listed within the Cornerstone 2020 comprehensive plan. The applicant shall provide outdoor amenities that include any one or a combination of the following (Note: Final design of outdoor amenities shall require approval from the Planning Commission or designee):
      - i. Sidewalks, plaza or patio area, at least 15 feet wide and providing seating
      - ii. Outdoor dining
      - iii. Water feature
      - iv. Landscaped green area with seating
      - v. Outdoor playground area
      - vi. Multi-purpose trails/paths
    - b) Set aside an area equivalent to a minimum of 5% of the total building area for outdoor amenities as described in Section 5.12.2.A.1.a above AND contribute a 5% fee-in-lieu to the Louisville Public Space Art Fund. Calculation method: a minimum of 5% of the total building area multiplied by the per square foot value of the parcel of land, as determined by its actual documented value at the time of development. See Section 5.12.2.A.3 below.**
    - c) Contribute a 10% fee-in-lieu to the Louisville Public Space Art Fund. Calculation method: a minimum of 10% of the total building area multiplied by the per square foot value of land, as determined by its actual documented value at the time of development. See Section 5.12.2.A.3 below.**
  2. Any such areas shall be accessible by walkways linking with the various uses within the development and/or with adjacent development. Amenities may be centralized or dispersed, but shall be located no more than 600 feet (measurement based on the pedestrian walkways) from the buildings required to provide the amenities. Outdoor open space may contain food service areas. The outdoor space shall include seating at a rate on not less than 1 seat per 200 square

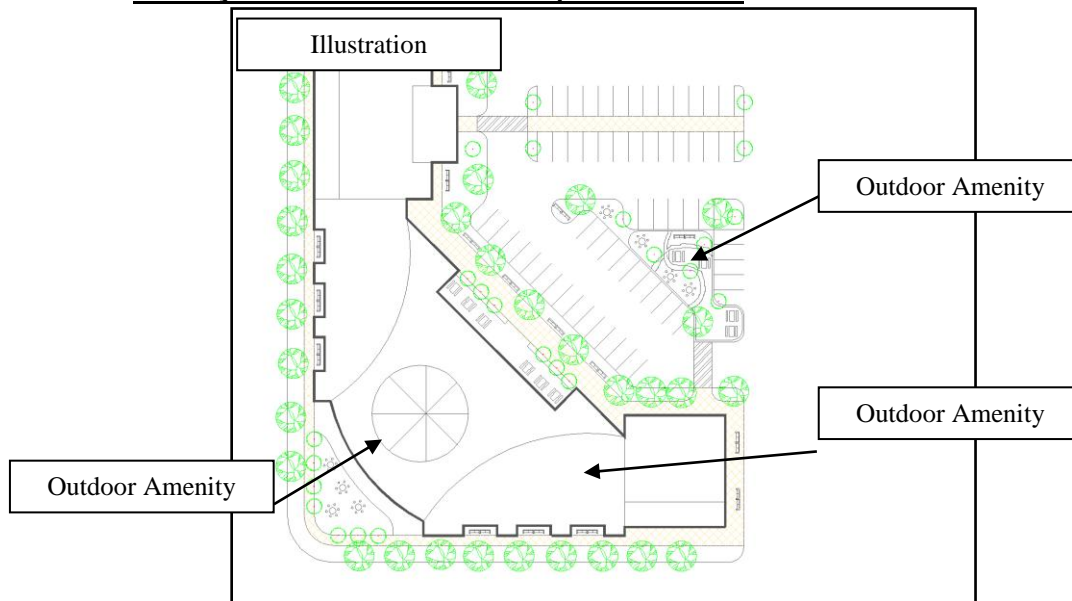
feet of outdoor amenity. To enhance usability, at least 25% of the open space shall be shaded or used for landscaping.

3. As an applicant option to the requirements set forth above, a fee in lieu of the Outdoor Amenity/Focal Point requirements may be provided with approval of the Planning Commission or designee. The fee in lieu shall be calculated based on the square footage required for the outdoor amenity area multiplied by the per square foot value of the parcel of land, as determined by its actual documented value at the time of development. This fee-in-lieu shall be calculated as part of the development review and payable at the time of building construction permitting. The fee shall be directed to the Louisville Public Space Art Fund. In June of every year, the Mayor's Commission on Public Art shall come before the Parks and Libraries Committee or other committee designed by the Metro Council President to provide information regarding the expenditure of funds from the Louisville Public Space Art Fund. Such presentation shall include information regarding the amount of money collected from the fee-in-lieu, and what percentage of such money was spent on the maintenance of existing art and the installation of new art. **See applicable parking reduction in Section 9.1.3.F.10.**

**NOTE:** An excerpt from the Louisville Public Art Master Plan, Pg. 53 – “It is important for the longevity and dynamism of the public art program for the City to site existing works in all areas of the city and for COPA (Commission on Public Art) to recommend grants for a range of new projects in all urban and suburban communities of Louisville.”

#### Section 9.1.3.F.10 Parking Reductions

10. **A five (5) percent reduction in the minimum number of parking spaces required shall apply to any development that contributes a 5% fee-in-lieu of a required outdoor amenity to the Louisville Public Space Art Fund. A ten (10) percent reduction in the minimum number of parking spaces required shall apply to any development that contributes a 10% fee-in-lieu of a required outdoor amenity to the Louisville Public Space Art Fund.**



## **MIS ITEM #22 – VOTE**

Motion to approve MIS Item #22 made by Steve Porter and seconded by Tom FitzGerald at 8/20/13 meeting.

**YES:** Steve Porter, Tom FitzGerald (2 votes; also alternate for Teena Halbig)

**NO:** John Torsky (alternate for James Peden), Donnie Blake, David Proffitt, Chuck Kavanaugh, Cliff Ashburner (alternate for Deborah Bilitski), Pat Dominik and Kathy Linares

**ABSTAIN:** Barbara Sinai and Cathy Hinko (alternate for Kevin Dunlap)

**ABSENT:** Jim King, Gabe Fritz and Matt Meunier

**Motion to recommend approval of MIS Item #22 failed by a vote of: 3 in favor, 7 opposed, 2 abstentions and 3 absent. No further motions were offered by the committee nor have there been any revised proposals presented to the committee since the 8/20/13 meeting. However, staff suggests an alternate proposal. See MIS STAFF ITEM #A below.**

## **MIS ITEM #26 – Community Facility Reviews (Decided no action needed at 9/17/13 meeting)**

After discussing the topic of Community Facility Reviews (CFR's), the sub-committee requests the LDC Main Committee adopt the following recommendation:

Request the Policies & Procedures Committee of the Planning Commission review current policies related to Community Facility Reviews, particularly how staff determines when CFR's can be reviewed at staff level and when they should receive a public meeting, which committee should review CFR's, and the notification procedures for CFR's should be reviewed.

The LDC Main committee decided at their 9/17/13 meeting not to address this item.

## **STAFF RECOMMENDATIONS**

### **MIS STAFF ITEM A - Outdoor Amenity Public Art Fee-in-Lieu Option**

Although the changes proposed to the Outdoor Amenity section were rejected by the LDC Main Committee on 8/20/13 (See MIS ITEM #22), there was one component of the proposal that the committee seemed to agree on. Staff proposes the following change that would apply the section below to certain developments in all form districts, rather than only a select few as the language currently reads. No other changes to Section 5.12.2 are proposed by staff.

#### **5.12.2 Outdoor Amenities/Focal Point(s)**

- A. Developments **in all form districts** ~~within the Neighborhood, Suburban Marketplace Corridor, Suburban Workplace and Regional Center Form Districts~~ shall meet the following standard.
1. Retail, Office and Mixed-Use developments that involve construction of a building or buildings with a total footprint greater than 100,000 square feet shall set aside an area equivalent to a minimum of 10% of the total building footprint for outdoor amenities. Outdoor amenities may be used as a way of fulfilling the focal point requirement for activity centers listed within the Cornerstone 2020 comprehensive plan. The applicant shall provide outdoor amenities that include any one or a combination of the following (Note: Final design of outdoor amenities shall require approval from the Planning Commission or designee):
    - a. Sidewalks, plaza or patio area, at least 15 feet wide and providing seating
    - b. Outdoor dining
    - c. Water feature
    - d. Landscaped green area with seating
    - e. Outdoor playground area
    - f. Multi-purpose trails/paths
  3. Any such areas shall be accessible by walkways linking with the various uses within the development and/or with adjacent development. Amenities may be centralized or

dispersed, but shall be located no more than 600 feet (measurement based on the pedestrian walkways) from the buildings required to provide the amenities. Outdoor open space may contain food service areas. The outdoor space shall include seating at a rate on not less than 1 seat per 200 square feet of outdoor amenity. To enhance usability, at least 25% of the open space shall be shaded or used for landscaping.

3. As an applicant option to the requirements set forth above, a fee in lieu of the Outdoor Amenity/Focal Point requirements may be provided with approval of the Planning Commission or designee. The fee in lieu shall be calculated based on the square footage required for the outdoor amenity area multiplied by the per square foot value of the parcel of land, as determined by its actual documented value at the time of development. This fee-in-lieu shall be calculated as part of the development review and payable at the time of building construction permitting. The fee shall be directed to the Louisville Public Space Art Fund. In June of every year, the Mayor's Commission on Public Art shall come before the Parks and Libraries Committee or other committee designed by the Metro Council President to provide information regarding the expenditure of funds from the Louisville Public Space Art Fund. Such presentation shall include information regarding the amount of money collected from the fee-in-lieu, and what percentage of such money was spent on the maintenance of existing art and the installation of new art.

## **MIS STAFF ITEM B – Correction in Lighting Section**

Since the last sentence in the section below refers to a non-existent section of the LDC, and staff could find no adequate replacement section, the last sentence is proposed to be eliminated.

### **Section 4.1.3.B.9 Lighting**

9. Prohibitions
  - a. The use of search lights except by civil authorities is prohibited.
  - b. Fixtures with drop or sag lens lighting are prohibited.
  - c. Flashing and strobe lights employed to draw attention to business establishments, special events, etc. are prohibited. ~~Please see Section 4.3.2 C.1 for information regarding federal hazard warning luminaries.~~**

## **MIS STAFF ITEM C – Demolition Definition**

The Urban Design Team within Planning & Design Services suggests the need for a Land Development Code definition for the term "demolition." Oftentimes they have to determine whether a project should be considered a remodel or new construction.

Below is a proposed LDC definition for Demolition; structures that do not meet these criteria are considered to be remodel projects.

### **Section 1.2 Definitions**

#### **Demolition – A structure meeting any of the following criteria items:**

1. **A structure which has more than 50% of its exterior perimeter walls voluntarily removed.**
2. **More than 50% of a structure's structural roof system is voluntarily removed.**
3. **More than 50% of a structure's floor slab or foundation has been voluntarily removed to grade level.**

## **MIS STAFF ITEM D – In-Home Day Cares, Conflicts Resolved**

There are two sections in the LDC that relate to day cares in the home (4.3.9 In-Home Day Cares & 4.4.5 Home Occupations – Day Cares). The fact that there are two similar yet separated LDC sections is confusing. Staff recommends the following changes related to these conflicting sections on In-Home Day Cares.

1. Eliminate Section 4.3.9 In-Home Day Cares (Permitted Use w/ Special Standards). Staff does not see the benefits of this recently created section and it seems unnecessary and causes more confusion than anything else.

2. Within the list of home occupation examples that are allowed in Section 4.4.5, change “Day Care Facilities (6 or less individuals)” to “In-Home Day Cares (6 or less individuals plus up to four individuals related to the operator. 922 KAR 2:100 defines “related” as having one of the following relationships with the provider: child, grandchild, niece, nephew, sibling, step-child, or child in legal custody of the provider.)” This will clear up the confusion of what type of childcare facility is allowed as a home occupation (“In-Home Day Cares (6 or less individuals plus...)” vs. what type of childcare facility is prohibited as a home occupation (“Day Care Facilities (except as otherwise permitted)).”
3. Under 4.4.5.H (Hours of Occupation) we propose to add a specific entry for In-Home Day Cares that clarifies that 24 hour day cares are allowed, but associated outdoor activity other than pick-up and drop-off of children shall be prohibited between 9 P.M. and 7 A.M.
4. Section 4.4.5.G, which restricts the operation of a home occupation to the dwelling unit and accessory structure, while also restricting the size to 500 SF or 25%, will not apply to day care home occupations.

#### ~~4.3.9~~ **In-Home Day Care**

~~The occupant of a single family dwelling may provide day care services for no more than (6) six individuals at one time provided by the occupant of a single family residence and in accordance with the following standards:~~

- ~~A. Associated outdoor activity other than pick up and drop off of children shall be prohibited between 9 P.M. and 7 A.M.~~
- ~~B. Home Occupation Registration shall be completed and filed with the Department of Planning and Design Services.~~
- ~~C. One non-resident employee is permitted.~~
- ~~D. In-home day care facilities serving between four and six children shall be certified by the Kentucky Cabinet for Families and Children (CFC). Proof of certification shall be submitted at time of Home Occupation registration.~~

#### **4.4.5 HOME OCCUPATIONS**

**NOTE:** *Some subdivisions may restrict or prohibit home occupations through deed of restrictions.*

- A. Intent.  
The intent of this Section is to allow an occupant or occupants of a residence located on residentially zoned property to engage in a home occupation, trade, profession or business within said residence and its accessory structure(s) provided that such an activity does not adversely affect adjacent or nearby residents or the neighborhood as a whole.
- B. Employees.
  1. Employees working or meeting at the home occupation site shall be limited to persons who reside in the dwelling unit except that one nonresident employee shall be permitted to be at the site at any one time.
  2. The owner/operator of a home occupation may apply for a conditional use permit to allow up to two additional nonresident employees (up to three total) if the following criteria are met:
    - a. The property on which the home occupation is located must be at least three acres in size to apply for one additional nonresident employee (two total).
    - b. The property on which the home occupation is located must be at least five acres in size to apply for two additional nonresident employees (three total).
- C. Exterior Appearance.  
There shall be no change to the exterior appearance of the dwelling unit that houses the home occupation and there shall be no visible evidence of the conduct of a home occupation as viewed from the public-right-of-way and adjacent properties.
- D. Number of Customers, Clients and Pupils Permitted.  
No more than two customers, clients or pupils shall be permitted on the site at any one time except that an occupant of a single-family dwelling may provide group or professional therapy for no more than four individuals at one time. Appointments for clients must be scheduled with an allowance of time for one client or group of clients to leave before the succeeding client or group of clients arrive so as to avoid parking conflicts.
- E. Signage.

No signage associated with a home occupation shall be permitted. This includes, but is not limited to, the placement of a business sign on or near the site. This shall not preclude the placement of a sign on a vehicle owned or leased by a resident that is parked on the premises in accordance with applicable regulations.

F. Parking and Deliveries.

1. Any parking needed to accommodate the customers, clients or pupils being served by a home occupation shall be provided off-street on the dwelling unit's existing parking area/ driveway, except as provided in (2) below. The permit issuing authority shall determine whether the site has enough parking available in the parking area/ driveway to accommodate the parking generation expected from the proposed home occupation. Driveways may not be expanded or altered in any way to accommodate the expected parking needs of a home occupation.
2. On-street parking spaces may be used to accommodate a home occupation only if the owner/operator provides the Planning Director with a parking study that meets the requirements of Section 9.1.17 (Parking Studies) of the Land Development Code and the Planning Director finds that the use of the on-street parking spaces by the home occupation will not adversely affect adjacent or nearby residences. If the Planning Director is unable to make such a determination, he/she may forward the request to the Planning Commission or its designee for final approval.
3. Deliveries associated with the home occupation shall not be made using tractor- trailers. No more than two commercial deliveries (e.g. UPS, Federal Express, US Postal Service Express Mail) shall be made in any 24-hour period.

G. Permitted Locations and Maximum Size/Area. **(This section does not apply to In-Home Day Care Home Occupations.)**

1. The operation of home occupations shall be limited to the dwelling unit (including the basement and attached garage) and one roofed and fully enclosed accessory structure located on the site.
2. The area occupied by home occupations shall not exceed the limits specified below. The maximum area calculation shall include the space in which the home occupation is conducted as well as any areas that the home occupation's employees, customers, clients or pupils typically use including hallways, bathrooms and kitchens, when applicable. When all or a portion of the activity associated with a home occupation is proposed to occur in an accessory structure then the floor area of that accessory structure may be included in the calculation of the residence's floor area.
  - a. A home occupation situated on a lot of less than one acre shall occupy no more than 25% of the floor area of the residence or 500 square feet in area, whichever is less.
  - b. A home occupation situated on a lot greater than one acre shall occupy no more than 25% of floor area or 1,000 square feet, whichever is less.
3. All activities associated with a home occupation are prohibited from occurring outside of the residence and its accessory structure except as specifically permitted.

H. Hours of Operation.

1. Any home occupation that accommodates customers, clients or pupils on the site shall not be permitted to operate between the hours of 9 P.M. and 7 A.M.
2. No nonresident employee may work at a home occupation between the hours of 9 P.M. and 7 A.M.
3. **While In-Home Day Care Home Occupations may operate 24 hours a day, all associated outdoor activity other than pick-up and drop-off of children shall be prohibited between 9 P.M. and 7 A.M.**

I. Other Requirements.

1. No machinery, equipment, or process used or conducted in association with a home occupation shall create any noise, vibration, fumes, odors, dust or electrical interference that is detectable:
  - a. Off the lot if the home occupation is conducted in a single family dwelling unit; or
  - b. Outside the dwelling unit if the home occupation is conducted in something other than a single-family dwelling unit.
2. No equipment discernibly identified with a home occupation may be stored outside the residence unless it is located within an accessory structure.
3. The sale of agricultural goods (e.g. flowers and vegetables) that are grown on the site shall be permitted as a home occupation as long as the other requirements of this Section are met.
4. More than one home occupation may be permitted within a dwelling unit, however the cumulative impact of the home occupations shall not exceed the maximum limits for the number

of employees, number of customers, clients and pupils, parking and delivery restrictions, and maximum size/ area limits prescribed by this Section.

**NOTE: Uses generally acceptable as home occupations include:**

~~Day care facilities~~ **In-Home Day Cares** (6 or less **fewer** individuals)\* (in effect within Louisville Metro only)

~~Day care facilities~~ **In-Home Day Cares** (7 or less **fewer** individuals)\* (not in effect within Louisville Metro and the City of Prospect)

Mail Order Operations

Woodshops

Beauticians

**The offices of the following professionals:**

Accountants, Architects, Attorneys, Engineers, Real estate brokers, Sales and Manufacturing

Representatives, Financial advisors, Insurance agents, Landscape architects Counselors, Mediators, Travel agents, Therapists, Chiropractors, Psychologists, and Psychiatrists

**\* Plus up to four individuals related to the operator. 922 KAR 2:100 defines “related” as having one of the following relationships with the provider: child, grandchild, niece, nephew, sibling, step-child, or child in legal custody of the provider.**

J. Prohibited Home Occupations.

The following uses/activities are prohibited as home occupations unless expressly permitted by other provisions of this Section. If, in the opinion of the permit issuing authority, a use or activity that is proposed as a home occupation is not specifically listed as prohibited, but has characteristics of a use or uses that are listed and could negatively impact the residential character of the neighborhood in which it is proposed, then that use/activity shall be prohibited as a home occupation. Such determinations may be appealed to the Board of Zoning Adjustment.

Any use or activity that does not meet the requirements of this Section;

Adult Entertainment;

Auto or Other Vehicle Sales, Service, Rental or Repairs (excluding minor repairs made to vehicles owned or leased by residents of the site);

Bed and Breakfast;

Daycare Facilities (except as otherwise permitted)

Clubs;

Dentistry;

Drive-In Facilities;

Eating and Drinking Establishments;

Escort Services

Group Instruction or Therapy with more than four students or clients on the premises at a time;

Health Spas (excluding personal trainers / massage therapist);

Hospitals and Clinics;

Hotels/Motels;

Kennels;

Large appliance repair

Lawn mower repair

Machine shop

Medical examinations or treatment (other than psychiatry as expressly permitted herein);

Plasmapheresis;

Retail Advertising;

Retail and Wholesale Sales (except as otherwise permitted);

Taxi or Limousine Service;

Whole Blood Facilities;



Manufacture of Goods;  
Distribution of Goods (excluding mail order operations);  
Storage of Goods to be Offered for Sale;  
Display of Goods

K. Registration of Home Occupations.

Prior to the establishment of any home occupation that (i) serves customers, clients or pupils at the site, or (ii) has one or more non-resident employees, the proprietor shall register the occupation. Day care centers as a home occupation shall require a home occupation registration. The registration shall not be transferable and shall not run with the land; it shall terminate upon sale or transfer of the property to a new owner or tenant. The Planning Director shall maintain records of registered home occupations. The registration form shall be the basis for determining compliance with the requirements of this section 4.4.5. Home occupation proprietors shall be responsible for updating their registration forms, at such time as their operations change from the activities described in the registration documents. Any home occupation meeting either criteria (i) or (ii) above that was established before the effective date of this Section shall have one year from the effective date of this Section to register the home occupation.

## **MIS STAFF ITEM E – Digital Signage Adjacent to Olmsted Parks/Parkways**

Issues related to how the Land Development Code fails to address the allowance of digital signage within close proximity to our Olmsted Parks system have recently been raised by members of the community. The LDC prohibits changing image signs within 300 feet of residential zoned property, but even though many parks are zoned residential they are specifically exempt from this prohibition because they are not used for residential purposes. The Olmsted Parks Conservancy proposes the language shown below. PDS staff supports this change. Any existing changing image signs with 300 feet of an Olmsted Park or Olmsted Parkway would be considered legally non-conforming and would be allowed to remain as is, but may not be expanded in a way that would increase the level of non-conformity.

### **Section 8.2.1 Sign Illumination and Movement**

- D. Changing image signs (includes electronic changeable copy signs and time and temperature signs) shall conform to the following standards:
1. Number Permitted on a property: No more than one changing image sign shall be permitted on a property.
  2. All changing image signs under five (5) square feet in area with no more than one line of text shall not exceed a rate of change of once per four (4) seconds.
  3. All changing image signs over five (5) square feet in area and/or with more than one (1) line of text shall not exceed a rate of change of once per 20 seconds.
  4. Changing image signs may be included and shall be integrated within the overall design of a freestanding or attached sign. The amount of an attached or freestanding sign that may be composed of a changing image sign shall be restricted as follows:
    - a. 30% within the Neighborhood, Village and Traditional Neighborhood Form Districts
    - b. 60% within all other form districts.
  5. Changing image signs with a rate of change in excess of the restrictions set forth in numbers 2 & 3 above shall require approval from the Planning Commission or designee. The Planning Commission review shall include at a minimum the following issues:
    - a. Characteristics of the adjacent street (traffic speed, number of lanes, functional class, etc.)
    - b. Proximity to another changing image sign or sign with a video display
    - c. Dimensions of the proposed signs
    - d. Number of lines of text
    - e. Proximity to residential development
    - f. Legibility of text
  6. Freestanding or attached signs that include changing image signs shall not be closer than 300 feet to a residentially zoned district unless the residentially zoned property is used for a non-residential purpose (e.g. church or school) or the changing image sign is not visible to the residentially zoned property.

7. All changing image signs (including signs with a video display method) shall come equipped with automatic dimming technology which automatically adjusts the sign's brightness based on ambient light conditions. The purpose of this auto dimming technology is to decrease the light level output from a day time level to a night time level, which is typically 0.3 footcandles above ambient light levels.
8. **Freestanding or attached signs that include changing image signs shall not be located closer than 300 feet to an Olmsted Park boundary or Olmsted Parkway right-of-way.**

## **MIS STAFF ITEM F – Digital Billboards – More Research Needed**

Issues related to how the Land Development Code addresses digital signage in association with outdoor advertising signs (billboards) have recently become apparent to PDS staff as well as others in the community. Specifically, the LDC's treatment of digital signage technology including the video display method in association with outdoor advertising signs (billboards) needs to be further researched.

PDS staff recommends this topic be further researched with findings and possible additional text amendments presented to the Planning Commission at a future hearing.