

ORDINANCE NO. 2408

**AN ORDINANCE OF THE CITY OF ERLANGER, IN KENTON COUNTY, KENTUCKY, AMENDING THE TEXT OF THE TABLE OF CONTENTS AND SECTIONS 7.0 8.2, 9.19, 9.24, 9.26, 9.32, 9.35, 11.3, 17.0, 17.1, AND 17.2 OF THE ERLANGER ZONING ORDINANCE NUMBERED 1850 TO CHANGE VARIOUS TERMS THAT ARE NO LONGER IN USE TO TERMS NOW IN USE; AND TO CLEARLY DEFINE WHO IS THE FLOODPLAIN ADMINISTRATOR**

**WHEREAS**, the Kenton County Planning Commission (KCPC) has proposed various text amendments to the Erlanger zoning ordinance numbered 1850, as previously amended and re-enacted from time to time, to change various terms that are no longer in use to terms now in use; and to clearly define who is the floodplain administrator and

**WHEREAS**, pursuant to the requirements of K.R.S. 100.211, the proposed text amendment was submitted to and reviewed by the KCPC in proceedings numbered PC1410-005 thereof; and, after a public hearing on November 6, 2014, the KCPC recommended approval of the proposed amendment;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF ERLANGER, IN KENTON COUNTY, KENTUCKY, AS FOLLOWS:**

**Section 1.0 – Zoning Text Amendments**

The Table of Contents and Sections 7.0 8.2, 9.19, 9.24, 9.26, 9.32, 9.35, 11.3, 17.0, 17.1, and 17.2 of the Erlanger zoning ordinance numbered 1850, as previously revised and amended from time to time, is hereby again amended to change various terms that are no longer in use to terms now in use; and to clearly define who is the floodplain administrator, all in conformity with the language in the attachments to this ordinance numbered 1 through 10, which are incorporated herein by reference, with the words being deleted indicated by an opening bracket at the beginning and a closing bracket at the end, and with the text between the brackets stricken through with a single solid line, and with the text being added indicated by a single line drawn underneath it, as required by KRS 83A.060(3)

**Section 2.0 – Provisions Severable**

The provisions of this ordinance are severable; and the invalidity of any provision of this ordinance shall not affect the validity of any other provision thereof; and such other provisions shall remain in full force and effect as long as they remain valid in the absence of those provisions determined to be invalid.

**Section 3.0 – Conflicting Ordinances Repealed**

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

**Section 4.0 – Effective Date**

This ordinance shall be effective as soon as possible according to law.

**Section 5.0 - Publication**

This ordinance shall be published in summary pursuant to K.R.S. 83A.060 (9).

**TYSON HERMES, Mayor**

## ATTACHMENT No. 1

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## ATTACHMENT No. 2

### ARTICLE VII

#### DEFINITIONS

##### SECTION 7.0 WORDS AND PHRASES:

For the purposes of this ordinance, certain terms, phrases, words, and their derivatives are herewith defined as follows:

PLANNING AND DEVELOPMENT SERVICES OF KENTON COUNTY (PDS):The area planning commission established pursuant to KRS 147.620 et seq. for Kenton County and formerly known as the Northern Kentucky Area Planning Commission; and now known as Planning and Development Services of Kenton County with the acronym "PDS"

## **ATTACHMENT No. 3**

### **ARTICLE VIII**

#### **ESTABLISHMENT OF ZONES**

**SECTION 8.2 CHANGES ON ZONING MAP:** Where changes are made in zone boundaries in accordance with the provisions of this ordinance and Kentucky Revised Statutes, such changes shall be made on the Official Zoning Map promptly after the amendment to this ordinance has been approved by the legislative body. The ~~[NKAPC]~~ PDS shall be provided a certified copy of the amendment.

No changes of any nature shall be made on the Official Zoning Map (or maps) or matter shown thereon which are not in conformity with the procedures set forth in this ordinance.

Regardless of the existence of purported copies of the Official Zoning Map (or maps), the Official Zoning Map, which shall be located in the office designated by law, shall be the final authority as to the current zoning status of land, buildings, and other structures in the City of Erlanger, Commonwealth of Kentucky.

## ATTACHMENT No. 4

### ARTICLE IX

#### GENERAL REGULATIONS

**SECTION 9.0 PURPOSE:** General regulations apply to all districts. Where requirements of a general regulation and a district regulation differ, the more restrictive requirement shall prevail.

**SECTION 9.19 SITE PLAN REQUIREMENTS:** No building shall be erected or structurally altered nor shall any grading take place on any lot or parcel in zones where a site plan is required, except in accordance with the regulations of this section and an approved site plan as hereinafter required. Before a permit is issued for construction, one (1) copy of the site plan of the area at a scale no smaller than one (1) inch to one hundred (100) feet shall be filed with the building inspector and the zoning administrator. The site plan shall identify and locate, where applicable, the information as listed in Section 9.20, B. -- Stage II Plan Requirements.

All such site plans shall be reviewed by the planning commission, or its duly authorized representative, and the factual determination approving or rejecting such plans shall be made in accordance with requirements of this and other applicable sections of this ordinance, and the comprehensive plan for the city. However, no action of approving or rejecting any site plan shall be taken unless and until a review of the proposal has been made by the [~~Northern Kentucky Area Planning Commission~~] PDS staff.

All site plans approved shall be binding upon the applicants, their successors and assigns and shall limit the development to all conditions and limitations established in such plans.

Amendments to plans may be made in accordance with the procedure required by this ordinance subject to the same limitations and requirements as those under which such plans were originally approved.

After final approval, the subject area may be developed in phases, provided all of the procedures required by the City of Erlanger, or its duly authorized representative, have been complied with.

## ATTACHMENT No. 5

### ARTICLE IX

#### GENERAL REGULATIONS

**SECTION 9.0**      **PURPOSE:** General regulations apply to all districts. Where requirements of a general regulation and a district regulation differ, the more restrictive requirement shall prevail.

#### **SECTION 9.24**      **FLOOD PROTECTION**

##### 2.      BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS

The areas of special flood hazard identified by the Federal Emergency Management Agency (FEMA) in the Flood Insurance Study (FIS) for Kenton County, dated May 16, 2013, with the accompanying Flood Insurance Rate Maps (FIRMS), other supporting data and any subsequent amendments thereto, are hereby adopted by reference and declared to be a part of these regulations by the City of Erlanger, and for those land areas acquired by the City of Erlanger through annexation. This FIS and attendant mapping is the minimum area of applicability of this ordinance and may be supplemented by studies for other areas which allow implementation of this ordinance and which are recommended to the City Council by the Floodplain Administrator and are enacted by City Council pursuant to statutes governing land use management regulations. The FIS and/or FIRM are permanent records of the City of Erlanger and are on file and available for review by the public during regular business hours at the [NKAPC] PDS offices at 2332 Royal Drive, Fort Mitchell, Kentucky, 41091.

##### D.      ADMINISTRATION

##### 1.      ~~DESIGNATION OF LOCAL ADMINISTRATOR~~

~~The legislative body of the City of Erlanger hereby appoints the NKAPC's Deputy Director for Current Planning to administer, implement, and enforce the provisions of this ordinance by granting or denying development permits in accordance with its provisions, and is herein referred to as the Floodplain Administrator.~~

The legislative body of the City of Erlanger hereby appoints the Zoning Administrator to administer, implement and enforce the provisions of this ordinance by granting or denying development permits in accordance with its provisions, and is herein referred to as the Floodplain Administrator.

## ATTACHMENT No. 6

### ARTICLE IX

#### GENERAL REGULATIONS

**SECTION 9.0 PURPOSE:** General regulations apply to all districts. Where requirements of a general regulation and a district regulation differ, the more restrictive requirement shall prevail.

#### SECTION 9.26 HILLSIDE DEVELOPMENT CONTROLS

- B. Areas of land on which development is physically restricted due to excessive hillside slopes shall be limited according to the following requirements:
1. Development proposed on land areas identified on the Comprehensive Plan as [~~Physically Restrictive Development Areas~~] "Developmentally Sensitive Areas", and any other areas which have slopes of 20 percent or greater, shall require approval before development may occur. In those areas which are identified in the Comprehensive Plan as [~~Physically Restrictive Development Areas~~] Developmentally Sensitive Areas and containing slopes less than 20 percent, the requirements contained herein may be waived; if, after review of the proposed site plan by the engineer, it is determined that said development will not result in any significant hillside slippage or soil erosion.
  2. No excavation, removal, or placement of any soil, foundation placement, or construction of buildings or structures of any nature within the area identified as [~~Physically Restrictive Development Area~~] Developmentally Sensitive Areas in (1) above, may occur until plans and specifications for such work have been submitted in the form of a site plan as regulated by Section 9.19 of this ordinance. In addition to site plan requirements, the following shall also be submitted:
    - a. Plan(s) which show existing topography and the proposed physical changes necessary for construction, indicating grading (cutting and filling), compaction, erosion, sedimentation basins, areas to be defoliated, and any other pertinent information which will change the natural physical features of the site or general area.
    - b. Information defining results of subsurface investigation of the area under consideration, including test borings, laboratory tests, engineering tests, and a geological analysis. Such investigation shall be made by a qualified, registered civil engineer and a geologist, indicating that any structural or physical changes proposed in the area will be completed in a manner which will minimize hillside slippage and/or soil erosion.
  3. The site plan and other information required in this Section shall be reviewed by the engineer and the [~~Northern Kentucky Area Planning Commission~~] PDS staff, who will recommend to the planning commission, or its duly authorized representative, what

effect the proposed development will have on hillside slippage and/or soil erosion.

After consideration of the recommendations, the planning commission, or its duly authorized representative, may authorize use of the site in accordance with the submitted plans.

4. If, after review of the plans required by this section of the ordinance, the planning commission, or its duly authorized representative, determines that said proposed plans will not minimize hillside slippage, the planning commission shall deny a permit for the development of said land.



## ATTACHMENT No. 7

### ARTICLE IX

#### GENERAL REGULATIONS

**SECTION 9.0 PURPOSE:** General regulations apply to all districts. Where requirements of a general regulation and a district regulation differ, the more restrictive requirement shall prevail.

#### SECTION 9.32 CONCEPTUAL PLANS

Where any provision of this ordinance, or any amendment thereto, prohibits any use or development of any land, or any construction thereon, which does not conform to a conceptual plan approved by the zoning administrator pursuant to the provisions of this section:

- A. Such conceptual plan shall include a plat of the boundaries of the area of land for which a conceptual plan is required, with an indication thereon of:
  1. The use of the buildings and maximum building height proposed for each area thereof;
  2. The proposed location of streets and sidewalks for the general movement and circulation of vehicles and pedestrians throughout the entire area for which a conceptual plan is required; and
  3. The ownership, maintenance, and location of areas proposed for open spaces, which shall be no less than 20% of the entire area for which a conceptual plan is required, exclusive of proposed streets, parking areas, and buildings.
- B. Such conceptual plans shall be approved by the zoning administrator only if after such conceptual plan has been submitted to the [~~Northern Kentucky Area Planning Commission~~] PDS staff and the Kenton County and Municipal Planning and Zoning Commission, or its duly authorized representative, for review and recommendation, and the zoning administrator determines that such conceptual plan conforms to all city ordinances and other applicable laws.

## ATTACHMENT No. 8

### ARTICLE IX

#### GENERAL REGULATIONS

**SECTION 9.0 PURPOSE:** General regulations apply to all districts. Where requirements of a general regulation and a district regulation differ, the more restrictive requirement shall prevail.

#### **SECTION 9.35 REGULATIONS OF SEXUALLY ORIENTED BUSINESSES**

- A. The Fiscal Court of Kenton County, after consultation among the mayors, councils, commissioners and staffs of the municipalities and the county within the County, found that a substantial need exists to revise significantly the ordinances regarding sexually oriented businesses within Kenton County.
- B. The Fiscal Court, in association with the [~~Northern Kentucky Area Planning Commission~~] PDS and the Fiscal Court of adjacent Campbell County its cities in the Northern Kentucky Community, retained Duncan Associates to conduct a study of existing sexually oriented uses and related businesses in Kenton and Campbell Counties, which is part of a single, larger community.
- E. Duncan Associates has summarized this work and presented recommendations to the [~~Northern Kentucky Area Planning Commission~~] PDS and Kenton and Campbell Counties and their cities in an August 2003 report entitled "Site Visit Analysis: Sexually Oriented and Related Businesses in Kenton and Campbell Counties" (hereinafter called simply the "Kelly and Cooper Study").

## ATTACHMENT No. 9

### ARTICLE XI

#### OFF-STREET PARKING AND ACCESS CONTROL REGULATIONS

In all zones, off-street parking facilities for the storage or parking of motor vehicles for use of occupants, employees, and patrons of the building hereafter erected, altered, or extended, and all uses of the land after the effective date of this ordinance, shall be provided and maintained as herein prescribed. However, where a building permit has been issued prior to the date of adoption of this ordinance, and provided that construction has not begun within ninety (90) consecutive calendar days of such effective date, off-street parking facilities in the amounts required by this ordinance shall prevail.

##### SECTION 11.3 ACCESS CONTROL REGULATIONS

In order to promote greater safety of passage between highway and land, improve the convenience and ease of movement of travelers on the highway, permit reasonable speeds and economy of travel, and increase and protect the capacity of the highway, the location and design of access points shall be in accordance with the following access control requirements. These requirements shall apply to all arterial and collector type streets, as identified in the adopted comprehensive plan.

- J. APPROVAL OF ACCESS POINTS REQUIRED: Plans for all access points, and modifications thereto (including plans to use existing access points where a change of use for any tract of land would generate more traffic than the previous use, thus producing an adverse effect on the adjacent roadway), shall be submitted to the zoning administrator and the ~~Northern Kentucky Area Planning Commission~~ PDS staff, at a scale not less than 1 inch = 100 feet. No action of approving or rejecting these plans by the zoning administrator shall be taken until a review and recommendation of said plans has been made by the ~~Northern Kentucky Area Planning Commission~~ PDS staff. Such plans shall show the location of all access points, and access points within six hundred (600) feet in either direction. The proposed access point shall include typical cross-sections of pavement, the base and subbase, proposed grade, and storm drainage, and such other information or plans as the circumstances may warrant. If such access points are being located in conjunction with off-street parking and/or loading and unloading facilities, then said plans shall also include parking and off-street loading and/or unloading plans, in accordance with Sections 11.0 and 12.0 of this ordinance.

## ATTACHMENT No. 10

### ARTICLE XVII

#### AMENDMENT PROCEDURE

##### SECTION 17.0 AMENDMENT PROCEDURE

- A. FILING OF AMENDMENT APPLICATION: All applications for amendments to this ordinance shall be filed with the [~~Northern Kentucky Area Planning Commission~~] PDS. The [~~Northern Kentucky Area Planning Commission~~] PDS staff shall immediately notify the city promptly forwarding the application to the local planning commission. A public hearing shall be scheduled to be held within forty-five (45) days of the date of receipt of the application by the [~~Area Planning Commission~~] PDS. The fee required for applying for such amendment shall be as provided for by the local planning commission and/or the legislative body.

##### SECTION 17.1 [~~NORTHERN KENTUCKY AREA PLANNING COMMISSION~~] PDS STAFF REVIEW AND RECOMMENDATION REQUIRED PRIOR TO OR AT THE SCHEDULED PUBLIC HEARING:

The ~~Northern Kentucky Area Planning Commission~~ PDS staff, pursuant to KRS 147.673, shall review and make recommendations upon all applications to the local planning commission and the applicant, along with supporting information and comprehensive plan documentation, prior to or at the scheduled public hearing.

##### SECTION 17.2 ACTIONS OF LOCAL GOVERNMENTAL UNITS TO BE FURNISHED TO THE [~~NORTHERN KENTUCKY AREA PLANNING COMMISSION~~] PLANNING AND DEVELOPMENT SERVICES OF KENTON COUNTY:

Pursuant to KRS 147.705, the legislative body shall, after final adoption of any zoning ordinance or resolution, including amendments thereto, furnish, or cause to be furnished, within sixty (60) days after adoption, a copy of same to the ~~Northern Kentucky Area Planning Commission~~ PDS.