CITY OF COVINGTON

AGENDA ITEM REQUEST FORM

2026 AIR Submission Deadlines

Dec 26	
Jan 9 & 23	July 2 & 24
Feb 6 & 20	Aug 7 & 21
Mar 6 & 27	Sept 4 & 25
Apr 10 & 24	Oct 9 & 30
May 8 & 22	Nov 13, & 25
June 5	

Caucus Meeting Date	11/10/2026
Legislative Meeting Date	11/17/2026

Order ✓ **Ordinance** ☐ **Resolution** ☐ **Presentation** ☐

Will there be any guests attending the Caucus Meeting? **Yes:** ○ **No:** ◉

Division/Department	Div/Dept Head Signature	Responsible Staff Person
Legal	/s/ Frank M. Schultz	Frank Schultz

Specific Nature of Request

AN ORDER AUTHORIZING STAFF TO SUBMIT A TEXT AMENDMENT TO THE NEIGHBORHOOD DEVELOPMENT CODE RELATED TO THE CITY'S CHANGE IN FORM OF GOVERNMENT FOR CONSIDERATION BY THE KENTON COUNTY PLANNING COMMISSION.

Description of Request Including Background Information if Relevant

Staff is requesting authorization to submit a text amendment to the Kenton County Planning Commission to update the Neighborhood Development Code to align with the Mayor-Council form of government. Update Sections: 01.01.3, 02.03.2, 02.05.2, 02.05.4, 03.07.5, 04.08.1, 06.19.1, 06.19.3, 06.19.9, 07.20.1, 07.20.2, 07.20.4, 07.20.7, 07.20.8, 07.20.9, 07.20.11, 07.20.12, 07.22.1, 07.22.3, 07.22.4, 07.23.5, 07.23.6, 07.23.7, 09.27.2, How to Use This NDC, and Definitions: Board of Adjustment, Board of Architectural Review & Development (BOARD), Citizen Member, City Commission, Fraud and Victimization.

Company/Entity (if multiple, list all)

N/A

Value/Cost **Budgeted - Yes:** ○ **No:** ◉

N/A

Funding Source (Fund Name & Account No.)

N/A

Payment Terms

N/A

Contract/Backup Docs Attached?	YES

Grant Funds Used - Yes: ○ **No:** ◉
(list all grant fund types and the associated grant #, or check no)

N/A

SIGNING ORDER

/s/ Frank M. Schultz 10/30/26

1. LEGAL DEPARTMENT REPRESENTATIVE	DATE
Jerome A. Heist	11/04/26
2. FINANCE DEPARTMENT REPRESENTATIVE	**DATE**
Sharmili Reddy	11/04/26
3. CITY MANAGER	**DATE**

ADDITIONAL AIR FORM SUBMISSION INFORMATION:

Please attach all relevant documents, i.e., draft contracts, resumes, draft development agreements, etc.

For an Order authorizing an expenditure or obligation of funds, you MUST complete the following:

Value/Cost *- The total amount of the expenditure or obligation. Indicate whether or not this has been budgeted.*

Funding Source *- Source fund(s) including G/L account number(s) and amounts; if NOT budgeted type "not budgeted"*

Payment Terms *- The payment terms*

If you do not have room to enter all required information, provide it in the Description of Request box with the designator "Funds Continued:"

For an Order approving a contract, you MUST attach a full, complete, unsigned copy of the contract, including ALL attachments and exhibits.

Contract draft and review requests must be submitted to the Legal Department at least one week prior to the AIR submission due date.

For the approval of a new or amended Ordinance or Resolution, you MUST attach a full and complete copy of the property formatted Ordinance or Resolution. The Legal Department is available to help with ordinance and resolution drafting and review.

For an Order appointing a new employee , you MUST attach a copy of the resume.

For privacy, the resume will be provided directly to the BOC instead of being published in the meeting packets.

If the prospective employee is related to any current city employee, then you MUST prominently disclose this fact.

This information can be found under Rule 9 in the Board of Commissioners Rules of Procedure. (O-04-21)

Sec. 01.01.3 Purposes

The purposes of this NDC are to:

A. *Promote Health, Safety, Morals, and Welfare*.

1. Regulate development to enhance the health, safety, morals, and welfare of Covington; and
2. Facilitate fire, police, and medical first responders to prevent loss of life, health, or property from fire, flood, and other dangers.

B. *Increase Quality of Life and Quality of Place*. Encourage development that protects and increases quality of life and quality of place for Covington residents, commuters, and visitors. Promote the arts and culture, education, tourism, and diversity of Covington.

C. *Implement Adopted Plans*. Incorporate the goals and policies of the plans affecting future development of Covington including comprehensive plans, transportation plans, and thoroughfare plans that are adopted by the Covington City Council and/or Mayor~~Commission~~ and by applicable county agencies.

D. *Support Business Retention, Creation, and Growth*.

1. Increase Covington's economic vitality and competitiveness;
2. Enable and encourage entrepreneurship and local business growth; and
3. Remove development regulation barriers to retention and sensitive expansion of local businesses.

E. *Encourage Contextually Sensitive Development*.

1. Establish development regulations that adapt to each given project context;
2. Promote contextually compatible renovation, reinvestment, and incremental growth within developed properties and infill development of vacant or underutilized properties;
3. Enable and encourage efficient development patterns, including by-right mixed-use development; and
4. Facilitate orderly and harmonious development with the visual and historical character of Covington.

F. *Protect and Enhance Natural Environment Assets*.

1. Promote conservation and enhancement of Covington's scenic and environmental resources;
2. Enhance tree cover to increase property values, reduce storm water runoff and soil erosion, provide noise buffering, reduce energy costs, remove greenhouse gases, and protect Covington's water quality;
3. Provide regulations for sensitively replacing trees when required for development and safety; and
4. Encourage the use of green building principles (such as those published by the United States Green Building Council for the purpose of Leadership in Energy and Environmental Design certification).

G. *Promote Equitable, Affordable Housing*. Encourage location-efficient housing options to increase mobility and lower the combined cost of housing and transportation.

H. *Promote Multi-Modal Transportation*. Encourage and enhance environments that are safe, comfortable, and convenient for pedestrian, bicycle, and transit modes of transportation.

I. *Leverage Legacy Investments*.

1. Legalize, protect, and enhance the character of Covington's established neighborhoods and their historic resources; and

2. Prevent the waste of public infrastructure on far-flung, unimproved, or underutilized sites. Remove development regulation barriers to contextually sensitive adaptions and expansions of historic resources.

J. *Leverage Future Investments*.

1. Provide development regulations that may readily adapt to accommodate unanticipated but compatible businesses and land uses; and
2. Where appropriate and feasible, minimize potential conflicts with development requirements in common financial assistance programs.

K. *Provide Clear Regulations and Processes*. Establish transparent regulations and review procedures for development, the duties and powers of responsible administrative bodies, and reasonable penalties and enforcement mechanisms for violations of the NDC as consistent with the requirements and authorities of KRS Chapter 100.

Sec. 02.03.2 Establishment of Official District Map

A. **Official District Map**.

1. *Adoption*. The location and boundaries of the districts established by this NDC are shown on the Official District Map, entitled "Official District Map of the City of Covington, Kentucky." That map—together with all notations, references, data, and other information shown on the map—is adopted and incorporated into this NDC. The official district map shall remain on file (in paper copy or digital file format) in the offices of Planning and Development Services of Kenton County (PDS) and be available for public inspection.
2. *District Map Amendments*.
   a. Where changes are made to district boundaries in accordance with the procedures of Sec. 07.22.4, *District Map Amendment*, and KRS Chapter 100, such changes shall be made on the Official District Map promptly after the amendment has been approved by the City Council~~Commission~~. The City Council~~Commission~~ shall provide PDS with a certified copy of the amendment so that the official district map may be changed. Failure to comply with the procedures of this paragraph does not affect the validity of an approved district map amendment.
   b. No changes of any nature may be made on the Official District Map that are not in conformity with the procedures set forth in this NDC.
3. *Replacement of Official District Map*. If the Official District Map becomes damaged, destroyed, lost, or is otherwise deemed in need of replacement because of its age or because of inaccurate or outdated base map information (e.g., rights-of-way or subdivision information), PDS may prepare a reproduction of the Official District Map, which will supersede the prior map. Such a replacement shall not have the effect of amending the official map.

B. **Interpretation of District Boundaries**.

1. *Interpretation Criteria*. Where the map appears to be unclear regarding the location of district boundaries, the Administrator shall make a determination using the following criteria:
   a. Boundaries indicated as approximately following the rights-of-way of a street, alley, or other public right-of-way are construed to follow such rights-of-way lines and when the rights-of-way are officially vacated, the zones bordering such rights-of-way will be extended out to the centerline of the vacated rights-of-way.
   b. Boundaries indicated as approximately following platted lot lines are construed as following such lot lines.
   c. Boundaries indicated as approximately following political boundary lines are construed as following such boundary lines.
   d. Boundaries indicated as approximately following the rights-of-way of railroad lines are construed as following such lines.
   e. Boundaries indicated as approximately following the centerlines of streets, streams, rivers, ditches, gullies, ravines or other bodies of water are construed to follow such centerlines.
   f. Boundaries indicated as approximately following a topographic elevation, determined by the scale of the map, are construed as following such ground elevation lines.
   g. Boundaries indicated as approximately parallel to features indicated in paragraph a. through f. of this Subsection are construed as parallel to such features. Boundaries indicated as approximate extensions of features are so construed. Distances not specifically indicated on the Official District Map are determined by the scale of the map, if an accurate legal description cannot be determined.
2. *Board of Architectural Review and Development (BOARD) Interpretation*. The Administrator's boundary interpretation may be appealed to the Board of Architectural Review and Development (BOARD) in accordance with Sec. 07.22.1, *Appeals.*

Sec. 02.05.2 Historic Preservation (HP) (Overlay)

A. **Purpose**. The HP secondary district works in conjunction with the primary district to protect and preserve contributing buildings, structures, appurtenances, and places that are of basic and vital importance for the maintenance and development of the City's culture, because of their:

1. *Importance*. Being a part of or related to a square, park or area of cultural, historical, or architectural importance to the City.
2. *Uniqueness*. Unique architectural style and scale, including color, proportions, form, and architectural details; or
3. *History*. Association with history.

B. **Applicability**. The regulations of this section apply to all development proposed within the boundaries of the HP overlay districts, as shown on the official district map.

C. **Permitted and Conditional Uses**. Any principal or accessory use permitted by right, permitted with limitations, or by Conditional Use Permit in the underlying primary district is allowed if it does not destroy or alter the exterior historic features of the building, structure, appurtenances, or place in accordance with the purpose of this district.

D. **Standards and Guidelines**. No new construction, demolition, or alteration of the exterior appearance of any building, structure, appurtenance, or place, or installation of signage is permitted unless the Historic Preservation Officer or Board of Architectural Review and Development (BOARD), as appropriate, determines it to be consistent with this NDC and the Historic Covington Design Guidelines referenced in Appendix A, *Historic Covington Design Guidelines*, and receives approval in accordance with Sec. 07.21.3, *Certificate of Appropriateness (Staff)*, or Sec. 07.23.7, *Certificate of Appropriateness (BOARD)*, as appropriate.

E. **Protective Maintenance Required**.

1. *Demolition by Neglect*. All buildings and structures in a designated HP overlay shall be properly maintained and repaired at the same level required elsewhere in the City. Should an owner omit essential maintenance and repairs which would eventually result in the building or structure becoming so run down that it would be constitutionally unreasonable for the City to refuse to allow the owner to demolish the building or structure, the Historic Preservation Officer shall bring this matter to the attention of the Code Enforcement Department, who shall immediately require of the owner or agent protective maintenance and repair to further the economy, health, safety, and general welfare of the City.
2. *Emergency Conditions*. In any case where the Code Enforcement Department determines that there are emergency conditions dangerous to life, health, or property affecting a building, structure, appurtenance, or place in a Historic Preservation district, they may order the remedy of these conditions without the approval of the Board of Architectural Review and Development (BOARD). The Code Enforcement Department shall promptly notify the Historic Preservation Officer and the Chairperson of the Board of Architectural Review and Development (BOARD) of the action being taken.

F. **Actions by the City Council~~Commission~~**.

1. *Compliance with Purpose*. If the City Council~~Commission~~ creates an HP district, its action shall include a declaration that the buildings, structures, appurtenances, or places to be preserved do in fact comply with the purpose of the district and require protection against destruction and encroachment.
2. *Noncontributing Buildings and Structures*. It is also the intent of this section that the City Council~~Commission~~ be lenient in its judgment of plans for new construction or for alteration, repair, or demolition of buildings and structures determined to be noncontributing, except where such construction, alteration, repair, or, demolition would seriously impair the historic or architectural value of buildings and structures or the surrounding area. It is not the intent of this NDC to limit new construction, alteration, or repair to any one period of architectural style.

Sec. 02.05.4 12th Street (TS) (Overlay)

A. **Purpose**. The TS secondary district works in conjunction with the primary district to implement the *12th Street Corridor Redevelopment Plan* (June 2004), which is a KRS Chapter 99 Development Plan Area, by:

1. Promoting new development in areas made available by the highway improvement project;
2. Increasing the potential for investment in the area;
3. Assisting in the rehabilitation of eligible historic buildings;
4. Creating open spaces such as parks, plazas and courtyards along the corridor;
5. Providing a strong infrastructure for the above enhancements; and
6. Allowing an opportunity for community participation.

B. **Applicability**. The regulations of this section apply to all development proposed within the boundaries of the TS overlay districts, as shown on the official district map.

C. **Standards and Guidelines**. No new construction, demolition, or alteration of the exterior appearance of any building, structure, appurtenance, or place, or installation of signage is permitted unless the Historic Preservation Officer or Board of Architectural Review and Development (BOARD), as appropriate, determines it to be consistent with this NDC and the 12th Street Design Guidelines referenced in Appendix B, *12th Street Design Guidelines*, and the Historic Covington Design Guidelines referenced in Appendix A, *Historic Covington Design Guidelines*, and the development receives approval in accordance with Sec. 07.21.3, *Certificate of Appropriateness (Staff)*, or Sec. 07.23.7, *Certificate of Appropriateness (BOARD)*, as appropriate.

D. **Protective Maintenance Required**.

1. *Demolition by Neglect*. All buildings and structures in a designated HP overlay shall be properly maintained and repaired at the same level required elsewhere in the City. Should an owner omit essential maintenance and repairs which would eventually result in the building or structure becoming so run down that it would be constitutionally unreasonable for the City to refuse to allow the owner to demolish the building or structure, the Historic Preservation Officer shall bring this matter to the attention of the Code Enforcement Department, who shall immediately require of the owner or agent protective maintenance and repair to further the economy, health, safety, and general welfare of the City.
2. *Emergency Conditions*. In any case where the Code Enforcement Department determines that there are emergency conditions dangerous to life, health, or property affecting a building, structure, appurtenance, or place in a Historic Preservation district, they may order the remedy of these conditions without the approval of the Board of Architectural Review and Development (BOARD). The Code Enforcement Department shall promptly notify the Historic Preservation Officer and the Chairperson of the Board of Architectural Review and Development (BOARD) of the action being taken.

E. **Actions by the City Council~~Commission~~**.

1. *Compliance with Purpose*. If the City Council~~Commission~~ creates a TS district, its action shall include a declaration that the buildings, structures, appurtenances, or places to be preserved do in fact comply with the purpose of the district and require protection against destruction and encroachment.
2. *Noncontributing Buildings and Structures*. It is also the intent of this section that the City Council~~Commission~~ be lenient in its judgment of plans for new construction or for alteration, repair, or demolition of buildings and structures determined to be noncontributing, except where such construction, alteration, repair, or, demolition would seriously impair the historic or architectural value of buildings and structures or the surrounding area. It is not the intent of this NDC to limit new construction, alteration, or repair to any one period of architectural style.

Sec. 03.07.5 Commercial and Office

The following standards apply to commercial and office uses that are Conditional or Permitted with Limitations in Article 158.02, *Character Districts*, and in Table 03.06.3, *Permitted Uses by District*.

A. **Bar or Tavern**.

1. *Accessory Sale of Alcohol for Off-Premises Consumption*. The accessory sale of alcohol for off-premises consumption may be permitted if the following criteria are met:
   a. The seller shall have valid state and local ABC permits authorizing the sale of package liquor; and
   b. The floor area used for the sale of package liquor shall be no larger than 10% of the floor area of the seating area of the primary use or 100 square feet; whichever is less.
2. *Semi-Urban Residential (SU) Districts*. Where permitted with limitations ("L") in the SU district, a bar or tavern shall only be located within a Corner Store building type or a Mixed-Use Building type that is on a lot immediately adjacent to an intersection of two non-alley public rights of way.

B. **Bed and Breakfast Inn**.

1. *Parking*. Parking shall be provided in accordance with Division 11, *Parking, Loading, and Circulation*, except where the applicant demonstrates to the satisfaction of the Administrator or, where required, the Board of Architectural Review and Development (BOARD) that on-street parking is readily available.
2. *Dining*. Food service may be provided for resident guests only.

C. **Body Art Service**. No new body art service establishment may be located within 500 feet of a lot containing an existing body art service establishment.

D. **Currency Exchange (Check Cashing Business) or Payday Loan Business**. No new currency exchange or payday loan business may be established within 1,500 feet of a lot containing an existing currency exchange or payday loan business.

E. **Entertainment, Indoor**. Indoor entertainment uses shall have no openings other than stationary windows and fire exits within 50 feet of any SR or RR district.

F. **Entertainment, Outdoor**.

1. *Bufferyard*. Per Sec. 04.12.5, a Type III bufferyard shall be required adjacent to any abutting residential district or residential use.
2. *Lighting*. After-hours lighting shall be limited to that necessary only for security purposes and shall not spill over onto adjacent properties.

G. **Fuel Sales (Retail)**.

1. *Setback*. All gasoline pumps shall have a minimum front-yard or corner side-yard setback of 25 feet.
2. *Bufferyard*. Per Sec. 04.12.5, a Type III bufferyard shall be required adjacent to any abutting residential district or residential use.
3. *Canopies*. Fuel pump canopies shall be connected to or integrated into the architectural design of the building in terms of color, cladding, roofing, and roof pitch.
4. *Trucks*. Refueling or delivery trucks shall not take ingress and egress from an urban local street as designated in the Kenton County Comprehensive Plan.

H. **Mini-Warehouse**.

1. *Arterial Street*. The site shall be adjacent to an arterial street as designated in Kenton County Comprehensive Plan.
2. *Site Area*. The site shall have a minimum area of two acres. This requirement does not apply to a Mini-Warehouse established as an accessory use to a separate permitted primary use.
3. *Accessibility*. All storage units shall be accessible from inside the building.

I. **Office** or **Retail Repair, Sales, and Service**.

1. *SU and TUR Districts*. Within the Semi-Urban Residential (SU) or Traditional Urban Residential (TUR) character districts, the following restrictions apply:

   a. *Floor Area*. The maximum floor area shall be 2,000 square feet.

   b. *Building Type.*

      1. If associated with a permitted residential building type, the building shall remain or shall be constructed so that the exterior design and ornamentation is of residential character in keeping with the immediate neighborhood, and so that there is no evidence from the street that the use is other than residential (except for the permitted sign).

      2. If associated with a Corner Store building type, an office use type may be on the first floor or an upper floor; a retail repair, sales, and service use type may be located on the first floor.

2. *Drive-In or Drive-Through Facilities*. Where a drive-in or drive-through facility is permitted and provided within or adjacent to a residential or mixed-use character district, the following standards apply:

   a. A Type III, IV, or V bufferyard, in accordance with Sec. 04.12.5, *Bufferyards*, shall be provided between a drive-in or drive-through facility and adjacent or abutting properties that include a residential use.

   b. Drive-in or drive-through facilities may be located only in interior side or rear yards.

   c. Loudspeakers and similar instruments shall not be located within 50 feet of any property that includes a residential use.

J. **Pawn Shop.**

1. *Distance*. No new pawn shop may be established within 1,500 feet of an existing pawn shop.

2. *Enclosed Building*. All activities shall be conducted within a completely enclosed building.

3. *Outdoor Storage or Display*. No outdoor storage or display is permitted.

K. **Package Liquor**. No new package liquor establishment may be located within 500 feet of a lot containing an existing Sober Living Facility or Sober Living Home.

L. **Restaurant** or **Restaurant Drive-in or Drive-through**.

1. *Accessory Sale of Alcohol.* The accessory sale of alcohol for off-premises consumption is permitted if the following criteria are met:

   a. The seller shall have valid state and local ABC permits authorizing the sale of package liquor; and

   b. The floor area used for the sale of package liquor shall be no larger than 10% of the floor area of the seating area of the primary use or 100 square feet; whichever is less.

2. *Drive-In or Drive-Through Facilities*. Where a drive-in or drive-through facility is permitted and provided within or adjacent to a residential or mixed-use character district, the following standards apply:

   a. A Type III, IV, or V bufferyard, in accordance with Sec. 04.12.5, *Bufferyards*, shall be provided between a drive-through or drive-in facility and adjacent or abutting properties that include a residential use.

   b. Drive-in or drive-through facilities may be located only in interior side or rear yards.

   c. Loudspeakers and similar instruments shall not be located within 50 feet of any property that includes a residential use.

M. **Sexually Oriented Business**.

1. *General*. The City~~ Commission~~, along with Kenton County and other municipalities in the county, has adopted ordinances regulating sexually oriented business. In the ordinance adopted by the City~~ Commission~~ regulating the the use of sexually oriented businesses, the City~~ Commission~~ set forth numerous findings regarding these businesses, including the finding that such businesses may have primary and secondary effects involving crimes

related to the activities in these establishments, especially prostitution and crimes of violence. The City ~~Commission~~ found that the location and design of such businesses are important variables in the nature and extent of adverse secondary effects of sexually oriented businesses on the community and that location and design are among the types of issues that are typically addressed through land use regulation, which this Section implements.

2. *Prohibited Uses*. The following uses are prohibited in the City of Covington and county-wide under Kenton County Ordinance No. 451.9 if the City of Covington's ordinance is repealed. No Zoning Permit may be issued for the following prohibited uses:
   a. Sexually oriented motion picture arcade or booth;
   b. Sexually oriented encounter center;
   c. Sexually oriented motel;
   d. Sexually oriented massage parlor or any business offering massages that is operated by a person who is not licensed as a massage therapist in accordance with the provisions of KRS 309.350 et seq.;
   e. Sexually oriented modeling studio;
   f. Sexually oriented nude modeling studio; and
   g. Sexually oriented escort bureau.
3. *Permitted Uses*. The following uses are permitted if they hold an approved Zoning Permit and a valid License approved by Section 111.600 et seq. of the Covington Code of Ordinances or under the county-wide Kenton County Ordinance No. 451.9 if the City of Covington's ordinance is repealed:
   a. Media store with some sexually oriented media (not subject to licensing);
   b. Sexually oriented media store;
   c. Sex shop;
   d. Service oriented escort bureau;
   e. Sexually oriented motion picture theatre; and
   f. Sexually oriented cabaret or theatre.
4. *Permitted Districts*.
   a. A media store carrying some sexually oriented media is permitted in any character district where other Retail Repair, Sales, and Service establishments are permitted.
   b. A sexually oriented media store, sex shop or service oriented escort bureau is permitted in the following districts:
      1. DTC, Downtown Core; and
      2. AUC, Auto Urban Commercial
   c. A sexually oriented business featuring on-premise entertainment such as sexually oriented motion picture theatre, cabaret, or theatre is permitted in the following character districts:
      1. DTC, Downtown Core;
      2. AUC, Auto Urban Commercial;
      3. LI, Limited Industrial; and
      4. GI, General Industrial.

d. Zoning Permit. A sexually oriented business is required to obtain a Zoning Permit and a Sexually Oriented Business License. The applicant shall apply for a Zoning Permit first and a Kenton County License second.

5. *Separation Standards*.

a. *Separation Distances*.

1. Minimum required distances between specified uses, buildings, or properties shall be calculated per Sec. 09.28.7, *Distance Between Uses and Buildings*.
2. No retail-only sexually oriented business (sexually oriented media store or sex shop) or service oriented escort bureau may be located within 500 feet of a residential use or district or within 500 feet of a Civic use in any other district.
3. No sexually oriented business offering on-premise entertainment (sexually oriented motion picture theatre, cabaret or theatre) may be located within 1,000 feet of a residential district or within 1,000 feet of a Civic use.
4. No sexually oriented business may be located within 1,000 feet of any other sexually oriented business. The separation is required regardless of whether it is located within the City or within the County.

b. *Single Use*. There may be no more than one type of sexually oriented business at any one location.

c. *Nonconformity*. No legally established and permitted sexually oriented business will become nonconforming through subsequent establishment of a Civic use; nor may a Zoning Permit for a sexually oriented business be denied based on the filing of a Zoning Permit application for a residential or Civic use after the filing of such application for a sexually oriented business.

6. *Standards for Parking*. Table 03.07.5, *Sexually Oriented Business Parking Ratios*, establishes minimum and maximum parking requirements for such businesses.

Table 03.07.5, *Sexually Oriented Business Parking Ratios*

Use	Minimum Spaces Required	Maximum Spaces Allowed
Sexually oriented media store, sex shop or service oriented escort bureau	1 / 300 sf. GFA	1 / 200 sf. GFA
Sexually oriented cabaret or theatre	1 / 150 sf. for dancing or assembly area, or 1 / 4 persons based on design capacity, whichever is greater + 1 / 2 employees	1 / 100 sf. for dancing or assembly area, or 1 / 3 persons based on design capacity, whichever is lesser + 1 / employee
Sexually oriented motion picture theatre	1 / 4 seats based on maximum seating capacity + 1 / 2 employees	1 / 3 seats based on maximum seating capacity + 1 / employee
Notes: sf. = square feet; GFA = Gross Floor Area		

7. *Standards for Exterior Lighting*.

a. Exterior lighting of the entries and private parking areas shall be a minimum of 15 footcandles as measured 3 feet from the ground or paving.

b. For a business on a single lot or parcel, no lighting may illuminate any property not in control of the business by more than 5 footcandles as measured at the nearest adjacent property.

8. *Individual Business Standards*.

a. *Service Oriented Escort Bureau*. A service oriented escort bureau shall be subject to the following additional standards:

1. *Room Size*. The establishment shall operate all business in an open area of at least 600 square feet of gross floor area. No walls, dividers, curtains, screens, shades or other similar devices may be used to obscure any part of the room where customers are located.
2. *Lighting*. The area occupied by customers shall be well lit at alighting level of least 30 footcandles measured three feet from the floor.

b. *Media Store with Some Sexually Oriented Media*. A retail book, video or other media store that has sexually explicit media that constitutes more than 10 percent but not more than 40 percent of its inventory or that occupies more than 10 percent but not more than 40 percent of its public gross floor area is not classified as a sexually oriented business but is subject to the following standards:

1. *Separate Room*. The sexually explicit media shall be kept in a separate room from the rest of the inventory of the store and may not visible outside the room.
2. *Age Limit*. Persons under 18 years of age may not have access to sexually explicit media.
3. *Access*. Access to the room shall be through a solid door, accessed by an electronic control device monitored by the clerk or manager on duty through direct visual control.
4. *Visibility*. Customers and activities in the room shall be visible at all times to the clerk or manager on duty through a video system located at the clerk's or manager's counter.
5. *Lighting*. The area occupied by customers shall be well lit at alighting level of least 30 footcandles measured three feet from the floor.

c. *Sexually Oriented Media Store or Sex Shop*. A sexually oriented media store or sex shop is subject to the following additional standards:

1. *Room Size*. The establishment shall operate all business in an open area of at least 600 square feet of gross floor area.No walls, dividers, curtains, screens, shades or other similar devices may be used to obscure any part of the room where customers are located.
2. *Displays*. No displays of sexually explicit media or images may be visible from the exterior of the buildings.
3. *Lighting*. The area occupied by customers shall be well lit at a lighting level of least 30 footcandles measured three feet from the floor.

d. *Sexually Oriented Motion Picture Theatre*. A sexually oriented motion picture theater is subject to the following additional standards.

1. *Presentation Area*. All screenings and presentations of motion pictures, videos or other media shall occur in a room open to all customers of the establishment and containing at least 1,000 square feet of gross floor area. No walls, dividers, curtains, screens, shades or other similar devices may be used to obscure any part of the room.
2. *Lighting*. The lighting level in the area occupied by customers shall be at least 5 footcandles as measured at the floor.
3. *Seating*. Seating shall consist of individual, theater-style chairs, with solid arms separating the chairs. No couches, benches, portable chairs, beds, loose cushions or mattresses, or other forms of seating may be provided. Separate spaces for wheelchairs shall be provided in accordance with the applicable provisions of the building code and the Americans with Disabilities Act.

e. *Sexually Oriented Cabaret or Theatre*. A sexually oriented cabaret or theater is subject to the following additional standards:

1. *Presentation Area*. All entertainment shall occur in an unobstructed room of at least 600 square feet of gross floor area with a person in any part of such room having a clear view of all entertainment areas.
2. *Performance Stage*. All entertainment shall take place on stage elevated at least 24 inches above the surrounding floor area, with a minimum area of 100 square feet, and with a horizontal separation of at least 60 inches between the edge of the stage and the nearest space to which customers have access—the horizontal separation shall be physically enforced by a partial wall, rail, or other physical barrier, which may be located either on the stage (to keep the entertainers back from the edge) or on the floor (to keep the customers back from the stage).
3. *Lighting*.The lighting level in the area occupied by customers shall be at least 15 footcandles as measured three feet from the floor.
4. *Seating*. Seating shall consist of chairs or open booths. No couches, beds, or loose cushions or mattresses, or of any form may be provided.

f. *Conflicts with Licensing Ordinance*. If there are any conflicts between the requirements of this Section and the City's licensing ordinance, the requirements of this Section control.

N. **Vehicle Repair, Major** or **Vehicle Service, Minor**.

1. *Servicing*. All servicing shall be conducted wholly within a completely enclosed building.
2. *Arterial Street*. For Vehicle Repair, Major, the use shall be located on a lot adjacent to an arterial street, as identified in the Comprehensive Plan.
3. *Outdoor Storage*. No outdoor storage of any material (usable or waste) is permitted except within enclosed containers.
4. *Vehicle Storage*. No vehicle may be stored more than 10 days while awaiting repairs and shall only be stored on-site. Storage of such vehicles on public or private streets is prohibited.

(Ord. No. O-13-21, 09/28/2021; Ord. No. O-25-22, 11/29/2022)

Sec. 04.08.1 Purposes and Timing of Compliance

A. **Purposes.** The purposes of this Article are to:

1. *General*.
   a. *Neighborhood Types*. Establish descriptions of cluster, planned, and tiny house neighborhood types together with dimensional standards that permit their development.
   b. *Building, Frontage, and Open Space Types*. Establish standards for the housing and building types, frontage types, and civic and open space types allowed in each character district or as associated with each building type; and
   c. *Large Development Sites*. Establish standards for large development sites.
2. *Lots*. Consolidate provisions related to lot dimensions and density.
3. *Buildings, Elements, and Utilities*.
   a. *Encourage Safety*. Provide for the structural integrity, safety, durability, and improved maintenance of the facades of buildings;
   b. *Promote Diversity*. Promote coordinated design, authenticity, visual interest, articulation, and human scale for the exterior of a building; and
   c. *Character*. Ensure that buildings include high-quality materials, are well-designed, and contribute to the character of the community.
4. *Parking, Loading, and Circulation*.
   a. *Character*. Protect the character and quality of life in neighborhoods from excessive, obtrusive, or inadequate parking;
   b. *Appropriate Size*. Avoid large expanses of paved areas that disrupt pedestrian circulation, create or worsen flooding issues, and drive up development cost;
   c. *Modes of Transportation*. Accommodate or bolster the use of all modes of transportation including walking, bicycling, transit, and driving;
   d. *Interference*. Ensure that loading areas do not interfere with the function of other vehicular use areas and with surrounding properties; and
   e. *Circulation and Stacking*. Require circulation and stacking areas to ensure safe and efficient circulation and all transportation modes within sites.
5. *Landscaping, Fencing, and Buffering*.
   a. *Environment*. Aid in stabilizing the environment's ecological balance by contributing to the process of air purification, oxygen regeneration, stormwater runoff mitigation, and groundwater recharge;
   b. *Nuisances*. Aid in the abatement of noise and glare;
   c. *Tree Canopy*. Aid in energy conservation by preserving and supplementing the City's tree canopy;
   d. *Fencing*. Establish standards for the placement, height, and design of fences;
   e. *Visual Buffering*. Provide visual buffering between certain uses or developments, and relief from the built environment;
   f. *Property Values and Beautification*. Protect and enhance property values and public and private investment, and enhance the beautification of the City; and
   g. *Installation and Maintenance*. Establish requirements for the installation and maintenance of landscaping on developed properties in order to improve, protect, and preserve the appearance, character and value of such properties and their surrounding neighborhoods.
6. *Signs*. The purpose of Division 13, *Signs*, is to establish a comprehensive scheme for the regulation of signs within the jurisdiction of the City of Covington. These regulations are designed to protect and promote the public health, safety and welfare by controlling the type, number, location and physical

dimensions of signs, to prevent the disruptions, obstructions and hazards to vehicular and pedestrian traffic that signs may cause, and to enhance the quality of the environment in residential and nonresidential districts. As a basis for adopting these regulations, the City of Covington finds:

a. Signs are an essential form of communication in the built environment, providing way-finding guides to residents, visitors, public safety officials, customers and potential customers of local businesses, delivery people and others.

b. Signs also provide communication on public issues, as the U.S. Supreme Court found in City of LaDue v. Gilleo: Signs that react to a local happening or express a view on a controversial issue both reflect and animate change in the life of a community. Often placed on lawns or in windows, residential signs play an important part in political campaigns, during which they are displayed to signal the resident's support for particular candidates, parties, or causes. They may not afford the same opportunities for conveying complex ideas as do other media, but residential signs have long been an important and distinct medium of expression.

c. Retailers and other businesses depend on signs to help people find their businesses, and, in a large and expensive media market like that of Cincinnati (a market which includes Covington), many small businesses depend on signs as one of the most affordable forms of advertising.

d. Although signs thus serve many important purposes in society in general and in Covington in particular, there are other considerations that the City of Covington weighs heavily.

e. Signs may distract drivers and lead to deaths and injuries to pedestrians and cyclists as well as to drivers and passengers and to property damage. Moving, flashing and rapidly changing signs are particularly distracting to drivers. A proliferation of signs on a particular site can have the same effect as moving signs, as drivers try to sort through the visual cacophony to find the information that they want or need.

f. The Covington City Council~~Commission~~, with the advice of the Kenton County Planning Commission and its professional staff, and with input from residents through the Kenton County Comprehensive Plan planning process, has placed an increasing emphasis on preserving the sense of place and the design of the built environment; limiting the size, height and number of signs is an important tool in preserving a sense of place, a tool that accompanies the County's standards for landscaping.

g. The Kenton County Comprehensive Plan recommends that policies, regulations and incentives be developed and implemented that preserve and improve the existing community fabric.

h. Balancing these competing considerations is particularly difficult in residential areas, where people value both their pleasing and visually appealing environments and their ability to communicate their opinions regarding candidates and public issues through yard signs.

i. In updating its ordinance in 2016 after the Supreme Court's landmark decision in Reed v. Town of Gilbert, the Covington City Council~~Commission~~, working with Kenton County Planning and Desgin Services staff and an outside consultant, has made a major effort to limit content as a factor in its sign regulations. After due consideration, however, it has concluded that one way to leave room for extensive free expression through signs in residential areas while limiting total sign clutter is to maintain significant limits on commercial signs in residential areas. Recognizing the importance of "for sale" and "for lease" signs in maintaining the occupancy of healthy neighborhoods (see the U.S. Supreme Court decision in Linmark Associates, Inc. v. Willingboro), those signs must remain. There is a similar utility in providing for yard sale signs, which allow people to dispose of unwanted items without sending them to a landfill.

j. Although as the Court found in Reed v Gilbert, time limits on signs can be arbitrary, as the Court recognized in 2009 in Pleasant Grove v. City of Summum, a significant distinction between speakers expressing an opinion and signs is that "Speakers, however long-winded, will eventually come to the end of their remarks." Members of the Covington City Council~~Commission~~ have long noted that signs for political campaigns as well as those advertising pancake breakfasts and spaghetti dinners for civic organizations are often abandoned after the events, contributing to clutter long after they have served their purpose. Although such signs were once typically paper or cardboard that would eventually decay, many today are plastic and will remain until removed. Thus, despite the expressed concern of the Supreme Court with time limits, the Covington City Council~~Commission~~ finds that it has a substantial

governmental interest in clarifying the status of signs for past events that thus no longer serve a purpose so that there is a legal basis for the City of Covington to remove them or force their removal.

k. The City of Covington has long allowed unlimited numbers of small signs bearing non-commercial messages to allow merchants and others to designate handicapped parking places, provide directions to ATMs and restrooms, warn of guard dogs and other hazards and provide a variety of other place-based information. With the prohibition of commercial messages on such signs, it has been the observation of Covington City Council~~Commission~~ Fiscal Court members and their professional staff members that property owners are judicious and appropriate in posting such signs. The City of Covington thus finds that it has a substantial interest in allowing merchants and property owners freely to post necessary informational signs but without allowing an endless proliferation of commercial messages.

l. Although in findings above the City of Covington has recognized the multiple values of signs in the built environment, Covington officials after consultation with the Planning Commission and representatives of cities and towns in the County concluded several years ago that there is no place for signs of overwhelming size and no relation to context in an urban and urbanizing environment like Covington. Although previous versions of these regulations followed the pattern of state and federal laws by defining such billboard as "off-site" signs, this ordinance addresses the same issue by establishing a form of circuit breaker size limit, prohibiting very large signs on small lots, on vacant lots, or on lots with only small buildings.

m. These are complex public policy issues, and the Covington City Council~~Commission~~ with the help of its professional planners, attorneys and outside consultant, has attempted to balance the competing considerations in a way that it believes best protects the public health, safety and welfare of the citizens of Covington, including its many valued businesses and the tens of thousands of visitors who arrive or pass through the City of Covington each month.

7. *Environment*. Promote the public health, safety, and general welfare and minimize public and private loss due to flooding by provisions designed to address the following elements:

   a. *Uses*. Restrict or prohibit uses which are dangerous to health, safety, general welfare, and property due to water erosion hazards, or which contribute to erosion, flood height, or velocity;

   b. *Flood Damage Protection*. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

   c. *Human Alterations*. Control the alteration of natural floodplains, stream channels, and natural protective barriers which accommodate or channel flood waters;

   d. *Development Activities*. Control filling, grading, dredging, and other development which may increase erosion or flood damage; and

   e. *Flood Hazard Prevention*. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other areas.

B. **Timing of Compliance**. No Certificate of Occupancy shall be issued per Sec. 07.21.4, *Certificate of Occupancy,* until all site improvements required in this Article are constructed in conformance with the approved permit or plan required in Article 158.07, *Development Review Procedures*.

Sec. 06.19.1 Covington City Council~~Board of Commissioners~~

A. **Generally.** The Covington City Council (Council)~~Board of Commissioners (Commission)~~ is the duly elected legislative body of the City of Covington~~, including the Mayor and the Commissioners~~.

B. **Powers and Duties.** The Council~~Commission~~ shall have the authority to make final decisions on the development review applications outlined in Table 07.20.2-1, *Summary of Procedures*.

Sec. 06.19.3 Board of Architectural Review and Development (City)

A. **Established.** This Section establishes a Board of Architectural Review and Development (BOARD) in accordance with and controlled by the provisions of KRS 100.217 to 100.271, the provisions of 36 CFR Part 61.6, and the provisions of the Kentucky Certified Local Government Program Manual.

B. **Purpose**. The BOARD is established for the purposes of:

1. Performing the duties and responsibilities placed upon it by the above statutes and applicable sections of the Covington Neighborhood Development Code; and
2. Holistically applying the regulations of the Neighborhood Development Code and, where applicable, the Historic Covington Design Guidelines, the 12th Street Corridor Design Guidelines, and other similar guidelines that may be adopted by the Covington City Council~~Board of Commissioners~~, to development within the City of Covington; and
3. Encouraging preserving, rehabilitating, and preventing destruction of Covington's buildings, sites, and districts of cultural, architectural, historic, and/or archaeological significance; and
4. Contributing to the stabilization and improvement of property values by encouraging rehabilitation, adaptive reuse, and new construction that will be harmonious with the unique contexts of Covington's neighborhoods; and
5. Regulating development not as a museum but as a vibrant, evolving place with a mixture of people and ideas in which each succeeding generation may grow from the legacy investments in Covington and build with the quality, sensitivity, and long-term view of past generations; and
6. Acting as a liaison on behalf of the City of Covington to individuals and organizations concerned with historic preservation, good context-sensitive design, adaptive reuse and modernization of historic resources, and furthering the education of the public regarding historic preservation issues and concerns; and
7. Deciding on applications for dimensional variances, conditional use permits, change of non-conforming uses, Certificates of Appropriateness (COAs), and appeals of decisions made by the Zoning Administrator, as specified in the Covington Neighborhood Development Code.

C. **Board Size and Appointments**. The BOARD shall consist of seven members who shall be appointed by the Mayor with approval by the City Council~~Board of Commissioners~~.

D. **Member Qualifications**. At least two board members shall be preservation-related professionals (experienced practitioners in fields such as but not limited to architecture, history, archaeology, architectural history, planning, urban planning, or related fields). At least three additional members shall have a demonstrated interest in historic preservation. No more than two of the seven members may also serve as members of the Kenton County Planning Commission. In addition to two out of the seven total seats being at-large, the Mayor may select:

1. One member from a list of names submitted by the local chapter of the American Institute of Architects, the local chapter of the American Planning Association, or the Kentucky Heritage Council; and
2. One member from a list of names submitted by the Kentucky Real Estate Commission or the Kentucky Real Estate Appraisers Board; and
3. One member from a list of names submitted by the Covington Business Council, the Latonia Business Association, or Renaissance Covington; and
4. Two members who are residents of a Historic Preservation Overlay zone or a KRS Chapter 99 Development Plan area.

E. **Terms of Office**. The term of office for members of the BOARD shall be four years, but the term of office of members first appointed shall be staggered so that a proportionate number serve one, two, three, and four years, respectively. After the initial appointments, all new appointments and re-appointments shall be made for four-year terms unless an appointee is completing the term of a vacated seat.

F. **Vacancies**. Vacant seats on the BOARD shall be filled within 60 days of the vacancy. When a vacancy occurs other than through expiration of the term of office, that seat shall be appointed for the remainder of that term.

G. **Quorum**. A simple majority of the total seats of the BOARD shall constitute a quorum.

H. **Powers and Duties**. The BOARD shall have the authority to make final decisions on the development review applications denoted in Table 07.20.2-1, *Summary of Procedures*.

1. In accordance with KRS 100.217 to 100.271, the BOARD shall act as the Board of Adjustment in hearing and deciding upon requests for Appeals of Administrative Decisions, Changes of Nonconforming Use, Conditional Use Permits, and Variances, as indicated in Table 07.20.2-1, *Summary of Procedures*; and
2. The BOARD shall review non-administrative applications for Certificates of Appropriateness and Design Waivers, as indicated in Table 07.20.2-1, *Summary of Procedures*; and
3. The BOARD shall review all proposed National Register of Historic Places nominations for properties within the City of Covington and submit recommendations to the Kentucky Heritage Council; and
4. The BOARD shall submit recommendations on amendments of the Historic Covington Design Guidelines and similar adopted guidelines to the Covington City Council~~Board of Commissioners~~.

I. **Appeals of BOARD Decisions**. A decision by the BOARD shall be subject to appeal, as set forth in Sec 07.20.11.

J. **Number of Meetings**. The BOARD shall meet at least four times per year.

K. **Continuing Education**. Annual continuing education is required for BOARD members per KRS 147A.027 (also known as "Kentucky House Bill 55") and per the Kentucky Certified Local Government Program Manual.

L. **Reporting**. A written annual report of BOARD activities, cases, decisions, special projects and qualifications of the members, etc., kept on file and available for public inspection

M. **Bylaws, Minutes, and Transcripts**. Per KRS 100.221(3), the BOARD shall establish its own bylaws. Such bylaws shall be made public and shall not be in conflict with the laws applicable to the BOARD or the provisions of this NDC. The bylaws shall require that review decisions are made in a public forum, and that applicants are notified of meetings and advised of decisions. The bylaws shall further require keeping minutes and records of all proceedings, including regulations, transactions, findings, and determinations, and the number of votes for and against each question, and if any member is absent or abstains from voting, indicating the fact, all of which shall, immediately after adoption, be filed in the office of the board. Written minutes shall be available for public inspection. A transcript of the minutes of a board of adjustment shall be provided if requested by a party, at the expense of the requesting party, and the transcript shall constitute the record.

(Ord. No. O-13-21, 09/28/2021)

Sec. 06.19.9 Floodplain Administrator (City)

A. **Appointment of the Floodplain Administrator.** The Floodplain Administrator shall administer, implement, and enforce the floodplain provisions of this NDC by granting or denying development permits in accordance with its provisions. The Administrator may serve concurrently as the Floodplain Administrator.

B. **Duties and Responsibilities of the Local Administrator.** The duties and responsibilities of the Floodplain Administrator shall include, but not be limited to the following:

1. *Permit Review.* Review all development permits to ensure that:
   a. Permit requirements of this ordinance have been satisfied;
   b. All other required state and federal permits have been obtained: review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C 1334.
   c. Flood damages will be reduced in the best possible manner;
   d. The proposed development does not adversely affect the carrying capacity of affected watercourses. For purposes of this ordinance, "adversely affects" means that the cumulative effect of the proposed development when combined with all other existing and anticipated development will increase the water surface elevation of the base flood more than one foot at any point.
2. *Review and Use of Any Other Base Flood Data.* When base flood elevation data has not been provided in accordance with Sec. 04.14.2, *General Provisions*, the Floodplain Administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal or state agency, or other source, in order to administer the provisions of Sec. 04.14.3, *Flood Hazard Reduction*. Any such information shall be submitted to the City Council~~Commission~~ for adoption.
3. *Notification of Other Agencies*. The Floodplain Administrator shall notify the following authorities prior to any alteration or relocation or a watercourse:
   a. Adjacent communities;
   b. The Kentucky Division of Water; and
   c. Any other federal and/or state agencies with statutory or regulatory authority prior to any alteration or relocation of the watercourse.
4. *Evidence of Submission*. Evidence of notification to these authorities shall be submitted to the Federal Emergency Management Agency (FEMA).
5. *Assurance of Food Carry Capacity*. The Floodplain Administrator shall assure that the flood carrying capacity within the altered or relocated portion of said watercourse is maintained
6. *Documentation of Floodplain Development.* The Floodplain Administrator shall obtain and maintain for public inspection and make available as needed the following:
   a. Certification required by Subsection 04.14.3.C.1 as shown on an accurately completed and certified Elevation Certificate. Verify and record the actual elevation (in relation to Mean Sea Level) of the lowest floor (including basement) of all new and substantially improved structures, in accordance with Sec. 07.21.5, F*loodplain Development Permit*;
   b. Certification required by Subsection 04.14.3.C.1 as shown on an accurately completed and certified FEMA floodprooofing certificate. Verify and record the actual elevation (in relation to Mean Sea Level) to which the new and substantially improved structures have been flood-proofed, in accordance with Sec. 07.21.5, F*loodplain Development Permit*;
   c. Other certifications required by Sec. 04.14.3;
   d. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained;

e. Review certified plans and specifications for compliance; and

f. Take remedial action to remedy violations of this ordinance as specified in Division 26, *Remedies.*

7. *Map Determinations*. The Floodplain Administrator shall make interpretations where needed, as to the exact location of the boundaries of the special flood hazard areas, for example, where there appears to be a conflict between a mapped boundary and actual field conditions.

   a. Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Sec. 07.23.5, *Variance, Floodplain*;

   b. When base flood elevation data and floodway data have not been provided in accordance with Sec. 04.14.2, *General Provisions,* then the Floodplain Administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other source, in order to administer the provisions of Sec. 04.14.3, *Flood Hazard Reduction*;

   c. When flood-proofing is utilized for a particular structure, the Floodplain Administrator shall obtain certification from a registered professional engineer or architect, in accordance with Subsection 04.14.3.3;

   d. All records pertaining to the provisions of this ordinance shall be maintained in the office of the Floodplain Administrator and shall be open for public inspection.

8. *Right of Entry*

   a. Whenever necessary to make an inspection to enforce any of the provisions of this ordinance, or whenever the floodplain administrator has reasonable cause to believe that there exists in any structure or upon any premises any condition or ordinance violation which makes such building, structure or premises unsafe, dangerous or hazardous, the floodplain administrator may enter such building, structure or premises at all reasonable times to inspect the same or perform any duty imposed upon the floodplain administrator by this ordinance.

   b. If such structure or premises are occupied, the floodplain administrator shall first present proper credentials and request entry. If such building, structure, or premises are unoccupied, he shall first make a reasonable effort to locate the owner or other persons having charge or control of such request entry.

   c. If entry is refused, the floodplain administrator shall have recourse to every remedy provided by law to secure entry.

   d. When the floodplain administrator shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner or occupant or any other persons having charge, care or control of any building, structure, or premises shall fail or neglect, after proper request is made as herein provided, to promptly permit entry therein by the floodplain administrator for the purpose of inspection and examination pursuant to this ordinance.

9. *Stop Work Orders.* Upon notice from the floodplain administrator, work on any building, structure or premises that is being done contrary to the provisions of this ordinance shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to his agent, or to the person performing the work, and shall state the conditions under which work may be resumed.

10. *Revocation of Permits.*

    a. The floodplain administrator may revoke a permit or approval, issued under the provisions of this ordinance, in case there has been any false statement or misrepresentation as to the material fact in the application or plans on which the permit or approval was based.

    b. The floodplain administrator may revoke a permit upon determination that the construction, erection, alteration, repair, moving, demolition, installation, or replacement of the structure for which the permit was issued is in violation of, or not in conformity with, the provisions of this ordinance.

11. *Liability.* Any officer, employee, or member of the floodplain administrator's staff, charged with the enforcement of this ordinance, acting for the applicable governing authority in the discharge of his/her duties, shall not thereby render personally liable, and is hereby relieved from all personal liability, for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his/her duties. Any suit brought against any officer, employee, or member because of such act performed by him/her in the enforcement of any provision of this ordinance shall be defended by the department of law until the final termination of the proceedings.

Sec. 07.20.1 Purpose and Applicability

A. **Purpose.** The purpose of this Article is to consolidate and standardize the City's development review procedures.

B. **Applicability**. The Sections of this Article apply to all development activity that requires a recommendation or final decision from City staff or a Commission, Council or Board denoted in Table 07.20.2, Summary of Procedure.

Sec. 07.20.2 Summary of Procedures

A. **Generally**. Procedures for obtaining development review approval pursuant to this NDC are summarized in this Section.

B. **Applications and Procedures**. Each application required by this NDC is spelled out in Table 07.20.2-1, *Summary of Procedures*, below.

Table 07.20.2-1, *Summary of Procedures*

Development Application (Reference)	Submittal Timing	Expiration[1]	Review Responsibilities		Public Notice[2]	Applicable Standards[3]
			Recommendation	Final Action		
ADMINISTRATIVE APPLICATIONS: Require final decisions in which City staff apply the standards in this NDC. Administrative applications typically require objective analysis by City staff and may involve the exercise of very limited discretion.						
Administrative Adjustment (Sec. 07.21.1)	In order to make a limited modification to any numerical standard on an application that has already been approved but that has not received a Certificate of Occupancy	Same as application being adjusted	Administrator		N/A	--
Building Permit (Sec. 07.21.4)	Prior to a building or other structure being erected, moved, added to, or structurally altered	150 days	Chief Building Inspector		N/A	--
Certificate of Appropriateness (Staff) (Sec. 07.21.3)	Prior to the alteration of the exterior appearance or demolition of any existing structure, or construction of a new structure or portions thereof, or installation of signs within the boundaries of a Historic Preservation Overlay District or KRS Chapter 99 Development Plan Area where design guidelines are adopted.	1 year	Historic Preservation Officer		N/A	Appendix A, *Historic Covington Design Guidelines*, and any applicable Ch. 99 Development Plan Area guidelines
Certificate of Occupancy (Sec. 07.21.4)	Prior to land being used and prior to a building or addition being occupied, converted, enlarged, or structurally altered, wholly or partly	None	Chief Building Inspector		N/A	--
Floodplain Development Permit (Sec. 07.21.5)	Prior to any construction or other development begins within any special flood hazard area established in Sec. 04.14.2, *General Provisions*	None	Floodplain Administrator		N/A	Division 14, *Environment*
Limited Use Authorization (Sec. 07.21.6)	Prior to the established of a limited use as denoted in Sec. 03.06.3, *Permitted Uses by District Table*.	180 days	Administrator		N/A	Division 07, *Use-Specific Standards*
Sign Plan and Permit (Sec. 07.21.7)	Prior to installing or substantially modifying a sign	1 year	Administrator		N/A	Division 13, *Signs*
Temporary Use Permit (Sec. 07.21.8)	Prior to the operation of any temporary structure or use	30 days	Administrator		N/A	Sec. 03.07.8, *Temporary Uses*, and Sec. 04.08.5, *Temporary Structures*

Table 07.20.2-1, *Summary of Procedures*

Development Application (Reference)	Submittal Timing	Expiration[1]	Review Responsibilities		Public Notice[2]	Applicable Standards[3]
			Recommendation	Final Action		
Zoning Permit (Sec. 07.21.9)	Prior to: a building, or structure being erected, moved or added to, structurally altered, or demolished; a use changing from one permitted use to another; land being used; or grading taking place on any lot or parcel	1 year	Administrator		N/A	--
LEGISLATIVE APPLICATIONS: Require final decisions that establish or change the way the use, design, or development of land will occur on a site-specific, City-wide, or intermediate scale. Elected and appointed administrative bodies make final decisions based on general considerations of fostering and preserving the public health, safety, and general welfare, including the City's fiscal well-being. Such final decisions are characterized by the exercise of broad discretion.						
Landmark and Historic Overlay Designation (Sec. 07.22.1)	Prior to a structure, area, or site being designated as a Landmark or part of a Historic Preservation Overlay Zone.	None	1st: BOARD 2nd: PC	CC	Pu: 15 M: 15 Po: 15	--
Master Development Plan (Sec. 07.22.2)	Prior to any other development activity for a project taking place within a cluster, planned, or tiny house neighborhood type.	180 days	PDS Staff in consultation with the Administrator	PC	N/A	Sec. 04.08.2, *Cluster, Planned, and Tiny House Neighborhoods*
NDC Text Amendment (Sec. 07.22.3)	N/A	None	1st: Administrator 2nd: PC	CC	Pu: 7/21[4]	--
District Map Amendment (Sec. 07.22.4)	Prior to establishing or expanding a building type or use prohibited in the current character district	None	1st: Administrator 2nd: PC	CC[5]	Pu: 7/21[4] M: 14[7] Po: 14	--
Development Plan (Sec. 07.22.5)	Accompanying all applications for a character map amendment to the SU, AUC, SO, or Industrial character districts, except for single- or two-unit dwellings	180 days	1st: Administrator 2nd: PC	CC[5]	Pu: 7/21[4] M: 14[7] Po: 14	--
QUASI-JUDICIAL APPLICATIONS: Require final decisions that establish the way design or development will occur on specific sites in manners that either vary from the standards of this NDC or that are contested by an aggrieved party. Such final decisions are characterized by exercise of discretion.						
Appeal of Administrative Decision (Sec. 07.23.1)	Within 30 days after an appellant or their agent received notice or the action of the official that is the subject of the appeal	N/A	Administrator	BOARD	Pu: 7 M: 7	--
Conditional Use Permit (Sec. 07.23.2)	Prior to the operation of any land use that is designated as a conditional use or to change a minor nonconforming use to a conforming use.	12 months if not exercised[6]	Administrator	BOARD	M: 7	Nonconforming Uses: Sec. 05.16.1, *Uses*. Minor Nonconformities: Division 17
Written Interpretation (Sec. 07.23.3)	N/A	None	Administrator		N/A	--
Variance (Sec. 07.23.4)	Prior to or concurrent with submittal of a Site Development Plan, Building Permit, or Sign Permit	None	Administrator	BOARD	Pu: 7 M: 7	--
Variance, Floodplain (Sec. 07.23.5)	Prior to or concurrent with submittal of a Floodplain Development Permit	None	Floodplain Administrator	BOARD	Pu: 7 M: 7	--

Table 07.20.2-1, *Summary of Procedures*						
Development Application (Reference)	**Submittal Timing**	**Expiration[1]**	**Review Responsibilities**		**Public Notice[2]**	**Applicable Standards[3]**
			Recommendation	**Final Action**		
Design Waiver (Sec. 07.23.4)	Prior to or concurrent with submittal of a Site Development Plan or Building Permit which includes requests for waivers or modifications to applicable standards as identified in the District regulations.	1 year	Historic Preservation Officer	BOARD[8]	Po: 7	Sec. 04.08.3, *Housing and Building Types*, Sec. 04.08.6, *Frontage Types*, and Sec. 04.08.7, *Civic and Open Space Types; and Sec. 04.10.4, Exterior Material Standards*
Certificate of Appropriateness (BOARD) (Sec. 07.23.4)	Prior to the alteration of the exterior appearance or demolition of any existing structure, or construction of a new structure or portions thereof, or installation of signs within the boundaries of a Historic Preservation Overlay District or KRS Chapter 99 Development Plan Area where design guidelines are adopted and where such development is not subject to review per Sec. 07.21.3, *Certificate of Appropriateness (Staff)*.	1 year	Historic Preservation Officer	BOARD[8]	M: 7 Po: 7	Appendix A, *Historic Covington Design Guidelines*, and any applicable Ch. 99 Development Plan Area guidelines

TABLE NOTES:

PC=Planning Commission (County) CC= City Council~~Commission~~, BOARD = Board of Architectural Review and Development, CUP = Conditional Use Permit, COA = Certificate of Appropriateness

Pu#= Published in newspaper with number indicating how many calendar days prior to hearing

Po#= Sign posted on property with number indicating how many calendar days prior to hearing

M#= Mailed notification to adjoining property owners with number indicating how many calendar days prior to hearing

[1] Measured from the date of the issued approval. Expiration occurs if the applicant does not commence the work prior to the expiration, or does not diligently pursue completion of the project or the subsequent required approval. See Sec. 07.20.13, *Inactive and Expired Applications*.

[2] For complete notice requirements see Sec. 07.20.8, *Notice*.

[3] Aside from the standards of the character district for the subject property, as established in Article 158.02, *Character Districts*.

[4] Not less than 7 days nor more than 21 days before the hearing.

[5] In accordance with KRS 100.2111 the recommendation of the Planning Commission shall constitute the final decision except as set forth in Sec. 07.22.4, *District Map Amendment*.

[6] "Exercised" shall have the meaning ascribed to it in KRS 100.237.

[7] 30 days if the Planning Commission or City Council~~Commission~~ proposes the character map amendment.

[8] Subject to appeal to the City Council~~Commission~~, in which case the City Council~~Commission~~ decision shall constitute the final action subject to appeal in accordance with the procedures set forth in Sec. 07.20.11.

C. **General Requirements**. This article applies to the use and development of land. Any person proposing a land use or development shall comply with the procedures of this article. The City or County will not issue a permit for any building, structure, construction or use unless it conforms with all provisions of this NDC, and other applicable ordinances.

D. **Review Steps**. Table 07.20.2-2, *Review Steps*, summarizes the procedures, agencies and public bodies involved in the development proposal process. Detailed information about general procedures and applications are further discussed in this article.

Table 07.20.2-2, *Review Steps*							
General Review Procedures (Section Reference)	**Administrative Applications**	**Legislative**		**Quasi-Judicial**			
		NDC Text Amendment	**All Other**	**Design Waiver**	**Written Interpretation**	**COA, CUP**	**All Other**

Pre-Application Conference (07.20.3)	--	--	•	--	--	•	--
Applications and Fees (07.20.4)	•	--	•	•	--	•	•
Completeness (07.20.5)	•	--	•	•	--	•	•
Staff Review (07.20.6)	•	•	•	•	•	•	•
Basic Review Criteria (07.20.7)	•	•	•	•	•	•	•
Notice (07.20.8)	--	•	•	--	--	•	•
Public Meetings and Hearings (07.20.9)	--	•	•	--	--	•	•
Continuance and Withdrawal (07.20.10)	--	--	•	•	--	•	•
Appeals of Legislative and Quasi-Judicial Decisions (07.20.11)	--	•	•	•	•	•	•
Successive Applications (07.20.12)	--	--	•	•	--	•	•
Inactive or Expired Applications (07.20.13)	•	--	•	•	--	•	•
Approval Extension (07.20.14)	•	--	•	•	--	•	•

KEY:
• = General Review Procedure Required; -- = General Review Procedure Not Required; COA = Certificate of Appropriateness; CUP = Conditional Use Permit

(Ord. No. O-13-21, 09/28/2021)

Sec. 07.20.4 Applications and Fees

A. **Authorization to Initiate Application.** Table 07.20.4-1, *Application Authorization*, denotes those who are authorized to initiate each of the application types.

Table 07.20.4, *Application Authorization*

Application Type	Property Owner or Property Owner's Authorized Agent	Planning Commission or City Council~~Commission~~	Other
Administrative Applications			
All Administrative Applications except as follows	♦		
Certificate of Occupancy	♦		♦[1]
Quasi-Judicial Applications			
All Quasi-Judicial Applications except as follows	♦		
Appeal of Administrative Decision			♦[2]
Written Interpretation			♦[3]
Legislative Applications			
Landmark and Historic Overlay Designation	♦	♦	♦[4]
Master Plan Development	♦		
NDC Text Amendment		♦	
District Map Amendment	♦	♦	

TABLE NOTES:
♦Entity may initiate application

[1]Including lessee of the subject property.

[2]Including any person, entity, or authorized agent claiming to be injuriously affected by an official action, order, requirement, interpretation, grant, refusal, or decision of any official charged with enforcing this NDC.

[3]Any interested party, including an administrative body, may request a Written Interpretation.

[4]Including by persons from any organization, including the City, by the general public, or by the Board of Architectural Review and Development.

B. **Procedures Requiring an Application and Fee**. Table 07.20.2-2, *Review Steps*, denotes the development review procedures that require an application and fee.

C. **Forms**. Every application required by this NDC shall be submitted in a format and in numbers established by the Administrator, the Historic Preservation Officer, or Kenton County Planning and Development Services (PDS) , as applicable. Applications that require Planning Commission review or final action may be submitted to either the Administrator or the Historic Preservation Officer or to the PDS . All other applications shall be submitted to the Administrator or the Historic Preservation Officer.

D. **Fees.**

1. *Generally.* Applications shall be accompanied by the fee amount that has been established by the City Council~~Commission~~ and staff as applicable.
2. *Refunds.* Fees for a rejected, denied, expired, voided, or revoked application are not refundable.

E. **Application Deadlines**.

1. *Applicability*. Application deadlines apply to Legislative Applications and Quasi-Judicial Applications as identified in Table 07.20.2-1.
2. *Adopted Deadlines*. Application deadlines are adopted by appropriate administrative bodies identified in Division 19, *Administrative Bodies*, and are generally posted in City Hall, available on the City website, or available upon request from City staff. A deadline is considered close of business of City Hall on an identified day unless otherwise stated in adopted deadlines.
3. *Application Completeness and Public Hearings*. Where a deadline applies, a City staff shall receive a complete application as identified in Sec. 07.20.5, *Completeness*, before Staff may place the application on the agenda for the next related public meeting or public hearing.

F. **Continuing Review Process**. After the application submittal, applications shall subsequently undergo the processes established in Sec. 07.20.5, *Completeness*.

Sec. 07.20.7 Basic Review Criteria

A. **Generally**. In determining whether to approve, approve with conditions or modifications, or deny an application, the applicable review bodies shall consider the basic review criteria denoted in Table 07.20.7-1, *Basic Review Criteria Applicability*. Additional review criteria may apply and are enumerated in the specific review procedures of this Article.

Table 07.20.7, *Basic Review Criteria Applicability*

Basic Review Criteria	All Applications[1]	Legislative Applications	Quasi-Judicial Applications[1]
The request complies with the applicable standards of this NDC and the City Code, and the applicant has provided proof of compliance with any preceding and applicable county, state, or federal requirements.	♦		
The request substantially conforms to any associated prior approval for the development, including, but not limited to, a Conditional Use Permit, Master Plan Development, or Site Development Plan.	♦		
The request promotes the purposes of this NDC as established in Sec. 01.01.3 *Purposes,* and in other applicable purpose statements in this NDC.	♦		
The administrative body has considered the recommendation of Staff in the public meeting or hearing.		♦	♦
The request is consistent with applicable policies of the most recently adopted Kenton County comprehensive plan and applicable utility plans and capital improvements plans; or, if it addresses a topic that is not contained or not fully developed in the comprehensive plan, the request does not impair the implementation of the comprehensive plan.		♦	♦
Adequate facilities, including public or private utilities, solid waste service, roads, drainage, and other improvements are present or are planned to be provided.		♦[2]	♦[3]
The request demonstrates compatibility with surrounding conforming and permitted land uses and structures and with the essential character of the general vicinity of design, façade treatment, setbacks, building materials, and reasonably anticipated negative impacts.		♦[2]	♦

TABLE NOTES:
♦ = Basic review criteria applies
[1] Excluding Appeals of Administrative Decisions
[2] Excluding NDC Text Amendments
[3] Excluding Variances

B. **Procedures With Basic Review Criteria**. Table 07.20.2-2, *Review Steps*, denotes the development review procedures that have basic review criteria.

C. **Written Findings**. Required findings for a legislative or quasi-judicial decision, based on basic and specific review criteria for an application, shall be in writing and shall be recorded in the minutes and records of the Planning Commission, Board of Architectural Review and Development (BOARD), or the City Council~~Commission~~, as applicable.

D. **Burden of Proof or Persuasion**. In all cases, the burden is on the applicant to show that an application complies with applicable review criteria.

Sec. 07.20.8 Notice

A. **Generally**. Public notice of public hearings required in this NDC shall be provided as required by Table 07.20.2-1, *Summary of Procedures*.

B. **Procedures Requiring Notice**. Table 07.20.2-2, *Review Steps*, denotes the development review procedures that require notice.

C. **Published.** The PDS Director for the Planning Commission hearing and the City Clerk for the City Council~~Commission~~ hearing shall arrange for notice of a required public hearing to be published in one issue of an official newspaper of general circulation in the City in accordance with KRS Chapter 424.

D. **Posted**. Notice of all required public hearings shall be posted conspicuously on the subject property. The posting shall consist of one or more signs, constructed of durable material and clearly depicting the following information:

1. The type of application in three-inch high lettering; (eg. "District Map Amendment")
2. For District Map Amendment applications, the existing and proposed character districts of the property in three-inch high lettering;
3. The date, place, and time of the public hearing in one-inch high lettering; and
4. The address, including telephone number, of the Planning Commission, Administrator, or Historic Preservation Officer, as appropriate, where additional information regarding the hearing may be obtained.

E. **Mailed**. The required mailings as denoted in Table 07.20.2-1, *Summary of Procedures,* shall meet the following standards:

1. The City staff member denoted in Table 07.20.2-1 shall send by United States Postal Service certified mail, return receipt requested, written notice to all owners of property adjacent to the subject property, except that for a Conditional Use Permit application, the staff member shall mail notice to owners of property located within 150 feet of the subject property. The list of recipients of the notice shall be based on addresses listed on the City or County tax roll, as applicable.
2. The applicant shall furnish the names and addresses of the owners of all adjoining property to the Planning Commission the names and addresses of the owners of all adjoining property; and
3. Records maintained by the Property Valuation Administrator may be relied upon conclusively to determine the identity and address of said owner.

F. **Constructive Notice**. Failure of a surrounding property owner to receive notice of a hearing shall not affect the validity of the final decision. For example, a mailed notice returned to the sender shall not prevent an administrative body from holding a public hearing nor shall it prevent the body from making a recommendation or final decision for a given application.

G. **Continuing Review Process**. Applications with required notice provided shall subsequently undergo the processes established in Sec. 07.20.9, *Public Meetings and Hearings*.

(Ord. No. O-13-21, 09/28/2021)

Sec. 07.20.9 Public Meetings and Hearings

A. **Generally**.

1. *Meetings and Hearings*. All public meetings and hearings related to applications in the NDC shall be open to the public. However, not all decisions require public hearings. Therefore, recommendations and decisions that are authorized by this NDC are classified as requiring a "public meeting" or "public hearing."
2. *Votes*. A vote shall be conducted in such manner that the public may know the vote of each person entitled to vote.

B. **Procedures Requiring Public Meetings and Hearings**. Table 07.20.2-2, *Review Steps*, denotes the development review procedures that require public meetings and hearings.

C. **Public Meetings**.

1. *Public Meeting Required*. Any legislative or quasi-judicial application that does not require a public hearing prior to a recommendation or final decision requires a recommendation or final decision to be made at a public meeting.
2. *Consent Agenda*. Any appointed or elected administrative body may establish a consent agenda. The consent agenda may consist of all matters brought before the body for final decision that do not require a public hearing. All items on the consent agenda may be approved simultaneously by motion without comment or debate. An item may be removed from the consent agenda prior to the approval at the request of any member of the administrative body present at the meeting, or by the Administrator. Items removed from the consent agenda shall be considered on the regular agenda.

D. **Public Hearings**.

1. *Generally*. All meetings of the City Council~~*Commission*~~, Planning Commission, and the Board of Architectural Review and Development (BOARD) shall be open to the public except as otherwise provided in KRS 61.810.
2. *Procedures.* Elected and appointed administrative bodies may adopt rules of procedure for the conduct of public hearings. The adopted rules of procedure shall reflect the following general procedures:
   a. The Chairperson may impose a reasonable time limit on speakers and may limit testimony that is irrelevant or redundant.
   b. Citizens, applicants, and the City have the right to present expert witnesses.
   c. Persons appearing at a public hearing shall identify themselves and state their address and similar information about any organization they represent.
   d. If a speaker represents an organization, the body conducting the hearing may request written evidence of that person's authority to speak on behalf of the group in regard to the matter under consideration.
   e. Any person may appear at a public hearing, submit evidence, and be heard.
3. *Attendance by Applicant at Public Hearing.* An applicant or representative is not required to attend the public hearing at which the subject application is to be considered; however, failure on the part of the applicant or representative to appear at a properly noticed public hearing may constitute grounds for a continuance of the hearing to a certain new date or closing of the public hearing with public re-notification required.

E. **Final Action**. An administrative body with authority to take final action on an application according to Table 07.20.2-1, *Summary of Procedures*, may approve, approve with modifications (in the case of an NDC Text Amendment), approve with conditions (in the case of all other applications), or disapprove an application.

F. **Conditional Approval**.

1. *Ability*. At a public meeting or hearing, an administrative body may attach special conditions to any decision it is authorized to make in order to ensure that the intent of the NDC will be carried out.

2. *Requirements*. Conditional approval requires that the specific conditions and the reasons be stated in writing and be agreed to by the applicant. Such conditions are binding upon the applicant.

G. **Continuing Review Process**.

1. *No Final Decision*. Applications not decided upon at a public meeting or hearing may be subject to Sec. 07.20.10, *Continuance and Withdrawal*.
2. *Final Decision*. Applications decided upon at a public meeting or hearing may be subject to Sec. 07.20.11, *Appeals of Legislative and Quasi-Judicial Decisions*, through Sec. 07.20.14, *Approval Extension*.

Sec. 07.20.11 Appeals of Legislative and Quasi-Judicial Decisions

A. **Generally**. Table 07.20.2-2, *Summary of Procedures Table*, denotes the development review applications that are subject to appeal.

B. **Procedures Subject to Non-Administrative Appeal**. Table 07.20.2-2, *Review Steps*, denotes the development review procedures that are eligible for non-administrative appeal.

C. **Appeal of City Commission or Board of Architectural Review and Development (BOARD) Decision**.

1. ***Generally.*** Any party aggrieved by or alleging an error in a final decision of the City Council~~Commission~~ or Board of Architectural Review and Development (BOARD) may appeal to a court of competent jurisdiction. Such a petition shall be presented to the court within 30 days after *the vote is taken to approve or disapprove the matter pending before the body,* in accordance with KRS 100.347.
2. ***Specific Procedures.*** Board of Architectural Review and Development (BOARD) decisions on certain quasi-judicial applications must be appealed to the City Council~~Commission~~ and the decision of the City Council~~Commission~~ shall be the action appealable to a court of competent jurisdiction. Refer to the specific review procedures in Sec. 07.23.6, Design Waiver, and Sec. 07.23.7, Certificate of Appropriateness (BOARD).

D. **Appeal of Planning Commission Decision**. Except for decisions and appeals described in Sec. 07.22.4.E, *Alternative Review Procedure*, any party aggrieved by or alleging an error in a final decision of the Planning Commission may appeal to a court of competent jurisdiction within 30 calendar days of the Planning Commission's decision in accordance with KRS 100.413.

E. **Appeal of Administrative Decision**.

1. *Generally*. Any party aggrieved by or alleging error in a final decision of an administrative official on a matter addressed in this NDC may appeal in accordance with Sec. 07.23.1, *Appeal of Administrative Decisions*.
2. *Specific Procedures*. Decisions on certain administrative applications may be appealed to the City Council~~Commission~~. Refer to the specific review procedures in Division 21, *Administrative Applications*.

Sec. 07.20.12 Successive Applications

A. **Generally.** It is the policy of the City not to hear successive applications for the same proposal after an application is denied or disapproved. The limitations of this Section prevent the consideration of successive applications.

B. **Procedures for Successive Applications**. Table 07.20.2-2, *Review Steps*, denotes the development review procedures with successive application provisions.

C. **Time Required Between Substantially Similar Applications.** The City shall not accept any application that is substantially similar to an application that was denied within the previous 360 days.

D. **Appeal and Waiver of Restrictions.**

1. *Appeal*. The Zoning Administrator's determination that an application is substantially similar to a denied application is subject to administrative appeal (see Sec. 07.23.1, *Appeal of Administrative Decision*).
2. *Waiver*. In the alternative to an appeal, the applicant may seek a waiver of the successive application rules from the City Council~~*Commission*~~, which may grant the waiver for good cause shown.

Sec. 07.22.1 Landmark and Historic Overlay Designation

A. **Generally**. In addition to the applicable required procedures in Sec. 07.20.2, *Summary of Procedures*, the following shall apply to Historic Landmark or Historic Overlay Designation.

B. **Purpose**. The procedures of this section are used for the petition of any persons from any organization or the general public to designate historic property or districts as Historic Preservation Overlay (HP) districts to be regulated by the standards in Sec. 02.05.2, *Historic Preservation (HP) (Overlay).*

C. **Applicability**. The Board of Architectural Review and Development shall conduct ongoing surveys of structures, areas, or sites within the city to determine whether their historic or architectural merit warrants their designation as a Landmark or Historic Preservation Overlay District.

D. **Historic Designation Report.**

1. A study of the structures, areas, or sites proposed to be designated either a Historic Landmark or a Historic Preservation Overlay zone shall be compiled in a report ("Historic Designation Report"). The report shall establish and define the Historic Landmark or Historic Preservation Overlay zone boundaries as well as the historic or architectural significance of the buildings, structures, or sites to be protected, and describe present trends, conditions, and desirable public objectives for preservation. For Historic Preservation Overlay Districts, a list of which structures, areas, or sites within the boundaries are determined to be contributing and which are determined to be non-contributing shall be included in the report.
2. In addition, such report shall include the following elements:
    a. A survey of existing structures by period of construction, architectural style, condition, and other matters relating to planning or regulating future development, such as location on lots, location of yards and other open spaces, access to the interior of lots, and off-street parking provided. In addition to general analysis, two specific detailed descriptions shall be entered:
        1. A description of existing contributing structures and premises of substantial public interest, with maps, photographs, and other data indicating the public importance of their preservation and the particular features it is desirable to preserve; and
        2. A description of existing non-contributing structures, premises, and uses likely to have an adverse effect on the desired character of the district, including those near and visually related to the district with maps, photographs, and other data indicating the reasons for such an effect.
    b. An analysis of lands not occupied by structures, including lands near and visually related to the zone. For public lands, ownership, use, and location shall be indicated. For private lands, the assessed valuation shall be added as well as existing character district and planned land use.
    c. Recommendations concerning detailed regulations to be applied in the district, to supplement or modify general regulations set forth herein, may include the following:
        1. Permitted and prohibited principal and accessory uses and structures;
        2. Minimum lot and setback requirements;
        3. Maximum lot coverage by all buildings;
        4. Maximum height of structures;
        5. Off-street parking and loading requirements;
        6. Control of signs and exterior illumination;
        7. Control of exterior character of buildings and sites when visible from a public way only, and
        8. Recommended character district amendments, closing of public rights-of-way, creation of pedestrian walkways or common areas and control of additions to or removal of existing buildings where the controls and regulations are only for the express purpose of preventing changes which are architecturally incompatible with the buildings, structures, or sites to be preserved.

3. A review of the survey or study shall be completed every five years or earlier if necessary.
4. Once the Historic Designation Report is compiled, the Board of Architectural Review and Development shall propose to the City Council~~*Commission*~~ that the findings be available to the general public by a printed copy available at the public library and an accessible version hosted on a City website.
5. Historic area boundaries may not be extended beyond 100 feet of the historic area.
6. Historic areas may be defined by specific boundaries. Both sides of the street may be included when desirable.

E. **Specific Review Criteria.** In determining whether to approve, approve with conditions, or deny an application for a Landmark or Historic Overlay Designation, the review body shall consider the applicable common decision criteria in Sec. 07.20.7, *Basic Review Criteria*, and the following:

1. Its value as a reminder of the cultural or archeological heritage of the city, state, or nation;
2. Its location as a site of a significant local, state, or national event;
3. Its identification with a person or persons who significantly contributed to the development of the city, state, or nation;
4. Its identification as the work of a master builder, designer, or architect whose individual work has influenced the development of the city, state, or nation;
5. Its value as a building that is recognized for the quality of its architecture, and that retains sufficient elements showing architectural significance;
6. Its value as a strong representation of an architectural style;
7. Its identification as a contributing resource within a Historic Designation Report or within a National Register of Historic Places district;
8. Its character as a geographically definable area possessing a significant concentration of sites, buildings, objects or structures united by architectural style, by a plan, or by physical development; and
9. Its character as an established and geographically definable neighborhood united by culture or past events.

F. **Amendments or Rescission**. The amendment or rescission of any historic designation shall be made in accordance with the procedure required by this section for the original designation.

(Ord. No. O-13-21, 09/28/2021)

Sec. 07.22.3 NDC Text Amendment

A. **Generally**. In addition to the applicable required procedures in Sec. 07.20.2, *Summary of Procedures*, the following shall apply to NDC Text Amendments.

B. **Purpose**. The purpose of a NDC Text Amendment is to change the text of this NDC.

C. **Planning Commission Hearing/ Action**.

1. The Planning Commission shall hold at least one public hearing on all proposed text amendments.
2. Following the Planning Commission's public hearing, the Planning Commission shall make a recommendation, by simple majority vote, as to the text of the amendment and whether the amendment is approved or disapproved and shall state the reasons for its recommendation. The Planning Commission action shall be based on the review and approval criteria detailed in Sec. 07.20.7, *Basic Review Criteria*.
3. When text amendments have been initiated by the City Council~~Commission~~, the Planning Commission shall take action on the proposed amendments within 60 days of receipt of the proposed amendment.

D. **City Council~~Commission~~ Action**. The City Council~~Commission~~ shall take final action on the proposed text amendment by a simple majority vote.

E. **Specific Review Criteria.** In determining whether to approve, approve with modifications, or deny an NDC Text Amendment, the review bodies shall consider the applicable common decision criteria in Sec. 07.20.7, *Basic Review Criteria* and the following:

1. *Errors*. The amendment is necessary to correct an error or inconsistency in the NDC; or
2. *Changing Condition*. The amendment is necessary to meet the challenge of a changing condition that was not anticipated in the Comprehensive Plan.

F. **Notice to PDS**. Pursuant to KRS 147.705, the City Council~~Commission~~ shall, within 60 days after adoption of any NDC Text Amendment, furnish a copy of the adopted amendment to Planning and Development Services of Kenton County.

G. **No Retroactive Cure of Violations**. The amendment of the text of this NDC may transform a legally nonconforming situation into a conforming one. However, no text amendment shall be proposed for the sole purpose of curing a violation of any part of this NDC.

Sec. 07.22.4 District Map Amendment

A. **Generally**. In addition to the applicable required procedures in Sec. 07.20.2, *Summary of Procedures*, the following shall apply to District Map Amendments.

B. **Purpose**. The purpose of a District Map Amendment is to change the character district of a property on the official district map from one character district to another.

C. **Specific Review Criteria**. In determining whether to approve, approve with conditions, or deny a District Map Amendment, the review bodies shall consider the applicable common decision criteria in Sec. 07.20.7, *Basic Review Criteria* and the following:

1. *Compatibility*. The range of uses and the character of development that is allowed by the proposed character district will be compatible with the properties in the immediate vicinity of the subject property.
2. *Property Dimensions*. The subject property has sufficient dimensions to accommodate reasonable development that complies with the requirements of this NDC, including parking and buffering requirements.
3. *Need*. The pace of development and the amount of vacant land currently mapped and designated for comparable development in the vicinity of the subject property or properties suggests a need for the proposed character district amendment in order to:
   a. Ensure an appropriate inventory of land to maintain a competitive land market that promotes economic development; or
   b. Support the transitioning of a surrounding area's character due to the impact of factors such as a change in traffic patterns, civic or institutional uses, adjoining uses, or environmental issues;
4. *Mitigate Arbitrary Designations*. The amendment, if approved, would be compatible with the surrounding area and would not constitute an unequal or arbitrary distribution of small and limited ownership and use.

D. **Additional Conditions**. A request for a District Map Amendment may be conditioned upon adherence to an applicant's Development Plan, which may limit the uses on or design of the site. The Development Plan may be processed concurrently with the District Map Amendment request and may be approved, approved with conditions, or denied in accordance with Sec. 07.22.5, *Development Plan Review*.

E. **Alternative Review Procedure**.

1. *Recommendation and Final Action.* In accordance with KRS 100.2111, the recommendation of the Planning Commission shall have the effect of final action of a District Map Amendment.
2. *Protest*. The Planning Commission's recommendation shall not become the final action on a District Map Amendment if, within 21 days after the final action by the Planning Commission:
   a. Any aggrieved person files a written request with the Planning Commission that the final decision shall be made by the City Council~~Commission~~; or
   b. The City Council~~Commission~~ files a notice with the Planning Commission that the City Council~~Commission~~ shall take final action on the request.
3. *Majority Vote*. It shall take a majority of the entire City Council~~Commission~~ to override the recommendation of the Planning Commission

F. **Minimum Area**. No district map amendment application may be accepted if the proposed amendment would create a free-standing zone that does not meet the following minimum area standards of Table 07.22.4-1, *Minimum Area Standard per Character District*.

Table 07.22.4, *Minimum Area Standard per Character District*		
District Name	**Designation**	**Minimum Area**
Primary Districts		
Residential		
Rural Residential	RR	10 acres
Suburban Residential	SR	5 acres
Semi-Urban	SU	10,000 sq. ft.
Commercial and Office		
Auto-Urban Commercial	AUC	10,000 sq.ft.
Suburban Office	SO	1 acre
Mixed-Use		
Central Riverfront Mixed-Use	CRM	37 acres
Traditional Urban Residential	TUR	20,000 sq. ft.
Traditional Urban Mixed-Use[2]	TUMU	10,000 sq.ft.
Commercial Mixed-Use	CMU	10,000 sq.ft.
Urban Mixed-Use	UMU	10,000 sq.ft.
Downtown Core	DTC	10,000 sq.ft.
Downtown Riverfront	DTR	10,000 sq.ft.
Industrial		
Suburban Industrial	SI	1 acre
Limited Industrial	LI	1 acre
General Industrial	GI	1 acre
Special Purpose		
Resource Protection	RP	1 acre
Recreation	REC	1 acre
Secondary Districts (Overlays)		
Historic Preservation	HP	No minimum
Hillside Stability	HS	No minimum

F. **Notice to PDS**. Pursuant to KRS 147.705, the City Council~~Commission~~ shall, within 60 days after adoption of any character district ordinance or district map amendment, furnish a copy of the adopted amendment to Planning and Development Services of Kenton County.

G. **Changes/Amendments to Development Plans.**

1. *Minor Changes.*

   a. If the submittal of detailed engineering data was waived by the Administrator in the initial submission of the development plan, then such data shall be submitted for review in accordance with the building permit procedures of Sec. 07.21.2, *Building Permit,* before a permit may be issued for construction.

   b. The Administrator, in reviewing the Stage I development plan, may authorize minor changes from the approved development plan, provided that the adjustments do not significantly affect the spatial relationship of structures, significantly change land uses, increase overall density, significantly alter circulation patterns (vehicular and pedestrian), decrease the amount or usability of open space or recreation areas, or permit activities that do not comply with this NDC.

2. *Amendments*. Any amendments to approved Stage I development plans, except for those minor adjustments which are permitted by the Administrator as noted in Paragraph 1.b above, shall be resubmitted as new character district map applications.

Sec. 07.23.5 Variance, Floodplain

A. **Generally**. In addition to the applicable required procedures in Sec. 07.20.2, *Summary of Procedures*, the following shall apply to Floodplain Variances.

B. **Purpose**. The purpose of this Section is to create a review procedure that protects its citizens from flooding. This need is so compelling and the implications of the cost of insuring a structure built below flood level is so serious that variances from the flood elevation or from other requirements in the flood ordinance are quite rare. The long-term goal of preventing and reducing flood loss and damage can only be met if variances are strictly limited. Therefore, the variance guidelines provided in this ordinance are more detailed and contain multiple provisions that shall be met before a variance can be properly granted. The criteria are designed to screen out those situations in which alternatives other than a variance are more appropriate.

C. **Flood Plain Construction Variance Procedures**. The Board of Architectural Review and Development (BOARD) shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and the following specific criteria:

1. Danger that materials may be swept onto other lands to the injury of others;
2. Danger to life and property due to flooding or erosion damage;
3. Susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the existing individual owner and future owners of the property;
4. Importance to the community of the services provided by the existing or proposed facility;
5. Necessity that the facility be located on a waterfront, in the case of functionally dependent use;
6. Availability of alternative locations, which are not subject to flooding or erosion damage;
7. Compatibility of the proposed use with existing and anticipated development;
8. Relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
9. Safety of access to the property in times of flood for ordinary and emergency vehicles;
10. Expected height, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
11. Costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water systems, streets, and bridges and culverts.

D. **Conditions for Variances.** Upon consideration of the factors listed above and the purposes of this Section, the BOA shall consider the following conditions during the review of variance applications:

1. *Mapped Floodway*. Variances shall not be issued within any mapped regulatory floodway if any increase in flood levels during the base flood discharge would result.
2. *Minimum Relief Necessary*. Variances shall only be issued upon a determination that the variance is the "minimum necessary" to afford relief considering the flood hazard. "Minimum necessary" means to afford relief with a minimum of deviation from the requirements of this ordinance. For example, in the case of variances to an elevation requirement, this means the City Council~~Commission~~ need not grant permission for the applicant to build at grade, or even to whatever elevation the applicant proposes, but only to that elevation which the City Council~~Commission~~ believes will both provide relief and preserve the integrity of the local ordinance.

E. **Issuance of Floodplain Variances**. Floodplain variance shall only be issued upon a:

1. Showing of good and sufficient cause;

2. Determination that failure to grant the variance would result in exceptional hardship to the applicant; and
3. Determination that the granting of a variance will not result in increased flood height, additional threats to public safety, cause extraordinary public expense, create nuisance (as defined in the definition section under "Public safety and nuisance"), cause fraud or victimization of the public (as defined in the definition section) or conflict with existing local laws or ordinances.

F. **Variance New Construction or Substantial Improvement.** Variances new construction or substantial improvement, or other proposed new development necessary for the conduct of a functionally dependent use provided that the provisions of this Section are satisfied and that the structure or other development is protected by methods that minimize flood damages during the base flood and does not result in additional threats to public safety and does not create a public nuisance.

G. **Written Notice**. Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the structure is to be built and stating that the cost of flood insurance will be commensurate with the increased risk resulting from the lowest floor being situated below the base flood elevation.

H. **Records and Reporting**. The Floodplain Administrator shall maintain a record of all variance actions, including:
1. Justification for their issuance or denial; and
2. A biennial report submitted to the Federal Emergency Management Agency (FEMA) stating all variances issued.

I. **Variance Notification.** Any applicant to whom a variance is granted shall be given written notice over the signature of a community official that:
1. The issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance up to amounts as high as $25 for $100 of insurance coverage;
2. Such construction below the base flood level increases risks to life and property. A copy of the notice shall be recorded by the Floodplain Administrator in the Office of the Covington Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.

J. **Historic Structures**. Variances may be issued for the repair or rehabilitation of “historic structures” (see definition) upon determination that the proposed repair or rehabilitation will not preclude the structure’s continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

Sec. 07.23.6 Design Waiver

A. **Generally**. In addition to the applicable required procedures in Sec. 07.20.2, *Summary of Procedures*, the following shall apply to applications for a Design Waiver.

B. **Applicability**.

1. *Design Waiver*. Design Waiver procedures are applicable to requests to develop a housing or building type, frontage type, or civic and open space type, or to use exterior materials in a manner not otherwise permitted, or to develop a vehicular access point in a manner not otherwise permitted for the following Sections:
   a. Sec. 04.08.3, *Housing and Building Types*: All requirements with the exception of measurements pertaining to lot dimensions, building placement, and height as specified in the subsections of Sec. 04.08.3, *Housing and Building Types*;
   b. Sec. 04.08.6, *Frontage Types*;
   c. Sec. 04.08.7, *Civic and Open Space Types*;
   d. Sec. 04.10.4, *Exterior Material Standards*; or
   e. Subsec. 04.11.4.C, *Driveway Location and Width*.
2. *Administrative Adjustment*. Refer to Sec. 07.21.1, *Administrative Adjustment*, for proposed adjustments of a certain extent from the numerical standards of this NDC.

C. **Contents**.

1. Every Design Waiver application shall be accompanied by drawings that contain sufficient information to enable the Board of Architectural Review and Development (BOARD) to determine whether the plans meet the review and decision-making criteria of Subsection F. below. These plans and drawings shall indicate all proposed buildings and other site improvements.
2. As used in this Section, "drawings" mean site plans, elevations, and/or perspectives drawn at a scale with sufficient detail to show the location of existing improvements on the site (if applicable) and the architectural design and exterior appearance of the proposed buildings and structures on the site. These drawings shall include the following information (unless waived by the Historic Preservation Officer):
   a. Existing and proposed principal and accessory buildings, including location, dimensions and height;
   b. Front building elevations (facing the street), including dimensions and locations of doors, windows, garages, porches, and other architectural features;
   c. Driveways, sidewalks, walkways, terraces, and other paved surfaces;
   d. Accessory structures, including walls, fences, lighting, signs, and other site improvements;
   e. All properties immediately adjacent to the site shall also be included in the site plan; a site section and/or site elevations, including any adjacent properties, may be required; and
   f. Access points and off-street parking spaces.
3. A Design Waiver application is not considered complete until all illustrative material necessary to adequately describe the proposed project has been submitted to City staff.

D. **Specific Review Criteria**. In determining whether to approve, approve with conditions, or disapprove an application for a Design Waiver, the Board of Architectural Review and Development (BOARD) shall consider the applicable basic review criteria in Sec. 07.20.7, *Basic Review Criteria* and the following, as applicable:

1. The proposal respects the character of the context, reinforcing its identity through design that is sympathetic to the architectural context of the surrounding area in terms of massing, form, materials, texture, scale, architectural treatment, and pedestrian- or auto-orientation;
2. The front building elevations facing the street(s) and the overall massing of the building emphasize human scale and the pedestrian environment;
3. The proposed building has been designed to form part of a larger composition of the surrounding area by being of similar scale, height, architectural treatment, and orientation;
4. Building silhouettes (scale and pitch of rooflines) are consistent with the context created by nearby buildings;
5. The proportion of windows, bays, and doorways is consistent with the context created by nearby buildings;
6. The proposed development uses lighting and related structures as an integrated element in architectural treatment and the pedestrian environment;
7. The location and design of parking, curb cuts, driveways, and/or drive-through facilities (as applicable) minimize potential negative impacts on the pedestrian environment, both physically and visually, and maintain, to the greatest degree possible, building massing and orientation toward street frontage(s);
8. Ingress and egress (including vehicular access points) to parking, driveways, and/or drive-through facilities (as applicable) is designed and oriented to minimize potential negative impacts on the pedestrian environment, both physically and visually, and maintain, to the greatest degree possible, building massing and orientation toward street frontage(s); and
9. The proposed vehicular access point does not encourage auto-oriented development.

E. **Coordination with Variance Application.** Where an application requires a Design Waiver per this Section for certain aspects, and a Variance per Sec. 07.23.4 for other aspects, a Design Waiver may be approved conditionally upon the granting of a Variance.

F. **Issuance of Final Action by the Board of Architectural Review and Development (BOARD).**

1. *Deadline for Final Action*. The Board of Architectural Review and Development (BOARD) shall act within 75 days of receipt of a Design Waiver application that is considered complete per this Section and Sec. 07.20.5, *Completeness*. The failure of the Board of Architectural Review and Development (BOARD) to approve, approve with conditions, or disapprove such an application within such time, unless otherwise mutually agreed upon by the applicant and the Board of Architectural Review and Development (BOARD), shall be deemed a disapproval of the application and the issue shall be considered resolved.
2. *Approval*. If the Board of Architectural Review and Development (BOARD) approves an application, the Historic Preservation Officer shall issue a Design Waiver on behalf of the Chairperson or acting Chairperson. The Design Waiver shall be attached to any documents that were approved by the Board. This document shall state the findings of the decision and be considered the final action for approval. The Historic Preservation Officer shall transfer the approval to the office of the Administrator and/or Building Inspector, as appropriate. Any changes from the approved application shall require additional review by City staff.
3. *Approval with Conditions*. If the Board of Architectural Review and Development (BOARD) approves an application with conditions, the Historic Preservation Officer shall issue a Design Waiver on behalf of the Chairperson or acting Chairperson. Where a condition specifically requires additional review by the Historic Preservation Officer of amended documents, the Design Waiver may be issued after such additional review is completed. Conditions are binding on an approval and have the effect of altering drawings and/or plans as described. This document shall state the findings of the decision and be considered the final action for approval with conditions. The Historic Preservation Officer shall transfer the approval with conditions to the office of the Administrator and/or Chief Building Inspector, as appropriate. Any changes from the approved application or required conditions shall require additional review by City staff.
4. *Disapproval*. If the Board of Architectural Review and Development (BOARD) disapproves an application, the Historic Preservation Officer shall issue a notice of disapproval on behalf of the Chairperson or acting Chairperson. This document shall state the findings of the decision and be considered the final action

for disapproval. The Historic Preservation Officer shall transfer the disapproval to the office of the Administrator and/or Chief Building Inspector, as appropriate. No further action may be taken by the Administrator or the Chief Building Inspector on the application.

5. *Additional Compliance Required*. The issuance of a final action by the Board of Architectural Review and Development (BOARD) does not exempt the application from any of the other requirements in this NDC or other regulations of the City.

G. **Appeal of Final Action on Design Waiver by the Board of Architectural Review and Development (BOARD).**

1. *Appeal to City Council~~Commission~~.* A decision by the Board of Architectural Review and Development (BOARD) on an application for a Design Waiver shall first be appealed to the City Council~~Commission~~ in accordance with the following review procedures.
   a. *Application.* An application for appeal of a decision by the Board of Architectural Review and Development (BOARD) on an application for a Design Waiver shall be made by the property owner or property owner's authorized agent in writing and filed with the Historic Preservation Officer within 30 days after the BOARD vote is taken to approve or disapprove the pending application before the BOARD.
   b. *City Council~~Commission~~ Action.*
      1. The City Council~~Commission~~ shall be notified of the appeal and it shall be placed on the agenda for a regular or special meeting of the City Council~~Commission~~.
      2. In reviewing an appeal, the City Council~~Commission~~ shall review the record of the Board of Architectural Review and Development regarding the issue appealed and determine whether the procedures and criteria established in this section have been followed and/or whether the decision of the BOARD was arbitrary, based on the record.
         a. If the City Council~~Commission~~ finds that an error has been made, it has the authority to order the issuance of a Design Waiver or may remand the issue to the BOARD for further consideration, stipulating certain facts.
         b. If the City Council~~Commission~~ finds no cause of action, it shall uphold the decision of the BOARD.
2. *Appeal to Circuit Court.* The final action by the City Council~~Commission~~ on the Design Waiver may be appealed to a court of competent jurisdiction per the provisions in Sec. 07.20.11, Appeals of Legislative and Quasi-Judicial Decisions.

(Ord. No. O-13-21, 09/28/2021)

Sec. 07.23.7 Certificate of Appropriateness (BOARD)

A. **Generally**. In addition to the applicable required procedures in Sec. 07.20.2, *Summary of Procedures*, the following shall apply to Certificate of Appropriateness (BOARD).

B. **Purpose**. The intent of review by the Board of Architectural Review and Development (BOARD) for applications of a Certificate of Appropriateness is to ensure that the integrity and character of Covington's historic areas are maintained through alterations and new development.

C. **Applicability**. Applications for a Certificate of Appropriateness that do not qualify for staff review per Sec. 07.21.3 and are not otherwise exempted from review per Sec. 07.21.3 require review by the Board of Architectural Review and Development (BOARD) and are subject to the provisions of this Section.

D. **Pre-Application Conference**.

1. *Generally*. In addition to the standards and stipulations in Sec. 07.20.3, *Pre-Application Conference*, the following shall apply.
2. *Optional Pre-Application Conference*. Prior to either the preparation of working drawings and specifications or calling for proposals or bids from contractors, applicants are encouraged to prepare preliminary scale drawings and outline specifications, including color samples, for review and informal discussion with the Historic Preservation Officer. The purpose of this review is to identify any inconsistencies between the proposed work and the Historic Covington Design Guidelines and/or any applicable Chapter 99 Development Plan guidelines, and allow for discussion of alternative treatments.

E. **Application Contents and Completeness.**

1. In addition to the provisions in Sec. 07.20.5, *Completeness*, the following shall apply to Certificate of Appropriateness applications to be considered complete and ready for action by City staff and final action by the Board of Architectural Review and Development (BOARD).
2. Every Certificate of Appropriateness application for alterations or additions to existing structures, sites, and signs, or the erection of any new structure, site, or sign shall be accompanied by photographs of the existing conditions and drawings of the proposed exterior alterations, additions, or changes. For new construction, all buildings and other site improvements shall be indicated on the drawings. For demolition, all proposed changes to any remaining structures and any site improvements shall be indicated on the drawings.
3. As used in this Section, “drawings” mean site plans, elevations, and/or perspectives drawn at a scale with sufficient detail to show the location of improvements on the site (if applicable) and the architectural design and exterior appearance of buildings and structures on the site. These drawings shall include the following information (unless waived by the Historic Preservation Officer):
   a. All properties immediately adjacent to the site shall also be included in the site plan; a site section and/or site elevations, including any adjacent properties, may be required for new construction.
   b. Proposed materials, textures, and colors, including samples of materials or color samples;
   c. Accessory structures, including walls, fences, porches, lighting, signs, and other site improvements;
   d. Driveways, sidewalks, walkways, terraces, and other paved surfaces;
   e. Existing and proposed principal and accessory buildings, including location, dimensions, and height;
   f. Access points and off-street parking spaces;

F. **Specific Review Criteria for Non-Demolition Applications.**

1. In addition to the provisions of Sec. 07.20.7, *Basic Review Criteria*, the following provisions apply to non-demolition applications for a Certificate of Appropriateness subject to review by the Board of Architectural Review and Development (BOARD).
2. *Economic Hardship*. Where an applicant proposes an exterior alteration to a resource that does not meet applicable guidelines based on an economic hardship, the Board of Architectural Review and Development (BOARD) shall make a finding determining if at least one of the following criteria (a. or b.) is

met:

a. The applicant has presented, and the Board finds compelling, documentation stating:
    1. The need for the alteration is the minimum or maximum work, as appropriate, required for the continued viability of the resource; and
    2. That the costs of repair or replacement that meets the minimum standard of the applicable guideline(s), as prepared by an expert in historic preservation and/or restoration trades, exceeds the costs of the proposed work by 50%; or

b. The applicant has presented, and the Board of Architectural Review and Development (BOARD) finds compelling, documentation from experts in historic preservation, restoration trades, and appraisals which states:
    1. The costs of completing the work to the minimum standard of the applicable guideline(s); and
    2. That the costs exceed the projected market value of the resource post work that meets the guidelines.

c. Evidence submitted as part of a review to determine economic hardship may include, but is not limited to:
    1. Mortgage balance and debt service for the prior two years
    2. Appraisals
    3. Assess value
    4. Real estate taxes
    5. Form of ownership
    6. Attempts to sell (listings or contracts)
    7. Reasonableness of price or rent
    8. Advertisements to sell or rent
    9. Economically feasible alternatives to reuse the property
    10. Structural reports
    11. Estimated market value of the property
    12. Evidence that a hardship was not self-created
    13. Incentives available for rehabilitation
    14. Financial analysis by an independent third party
    15. Proposed plans for the property
    16. Estimated mothballing costs

3. *Approval*. To approve all or part of a non-demolition application, the Board of Architectural Review and Development (BOARD) shall make a finding that the application, in whole or in part, meets at least one of the following criteria:
    a. The application is consistent with specific sections of the *Historic Covington Design Guidelines* (Appendix A) and/or applicable specific sections of the *12th Street Design Guidelines* (Appendix B), and/or specific applicable guidelines from other KRS Chapter 99 Development Plan Area guidelines; or
    b. The application meets a criterion of an economic hardship and the application establishes the minimum or maximum work, as appropriate, necessary to overcome the economic hardship and continue the viability of the resource.
4. *Approval with Conditions*. To approve all or part of a non-demolition application, and where the Board of Architectural Review and Development (BOARD) finds that a particular alteration or condition would cause an application, in whole or in part, to meet specific applicable guidelines in the Historic Covington

Design Guidelines and/or KRS Chapter 99 Development Plan guidelines, and the applicant agrees to such alterations or conditions, the Board of Architectural Review and Development (BOARD) shall:

a. State the specific alterations or conditions, including any related timelines; and

b. Make a finding that the condition establishes the minimum or maximum adjustment, as appropriate, necessary to make the application consistent with specific guidelines; and

c. Make a finding that the application with adjustments stipulated in the conditions is consistent with specific Historic Covington Design Guidelines and/or any specific applicable KRS Chapter 99 Development Plan guidelines.

5. *Disapproval*. To disapprove all or part of a non-demolition application, the Board of Architectural Review and Development (BOARD) shall make a finding that the application, in whole or in part, is not consistent with specific Historic Covington Design Guidelines and/or specific applicable KRS Chapter 99 Development Plan guidelines.

G. **Specific Review Criteria for Demolition Applications.**

1. In addition to the provisions of Sec. 07.20.7, *Basic Review Criteria*, the following provisions apply to demolition applications for a Certificate of Appropriateness subject to review by the Board of Architectural Review and Development (BOARD).

2. *Contributing/Non-Contributing*. For all applications for demolition subject to review by the Board of Architectural Review and Development (BOARD), the Board shall make a finding determining if an application involves a resource that is contributing or non-contributing to the character of its context based on one or more of the following criteria:

a. Its value as a reminder of the cultural or archeological heritage of the city, state, or nation;

b. Its location as a site of a significant local, state, or national event;

c. Its identification with a person or persons who significantly contributed to the development of the city, state, or nation;

d. Its identification as the work of a master builder, designer, or architect whose individual work has influenced the development of the city, state, or nation;

e. Its value as a building that is recognized for the quality of its architecture and that retains sufficient elements showing architectural significance;

f. Its value as a strong representation of an architectural style; or

g. Its identification as a contributing resource within a Historic Designation Report or within a National Register of Historic Places district.

3. *Economic Hardship*. Where an applicant proposes demolition based on an economic hardship, the Board of Architectural Review and Development (BOARD) shall make a finding determining if at least one of the following criteria (a. or b.) is met:

a. The applicant has presented, and the Board finds compelling, documentation from experts and practitioners in historic preservation and restoration trades which state:

1. The resource cannot be adapted to modern use; and

2. The rationale for this determination; or

b. The applicant has presented, and the Board finds compelling, financial information from experts and practitioners in historic preservation, restoration trades, and appraisals which states the costs of repairing a resource to a safely occupiable state along with evidence that these costs of repairing a resource (excluding acquisition costs) to a safely occupiable state exceed:

1. 75% of the current market value of the resource as identified in a professionally certified appraisal; or

2. 50% of the projected market value appraisal of the resource post repair work.

c. Evidence submitted as part of a review to determine economic hardship may include, but is not limited to:

1. Mortgage balance and debt service for the prior two years
2. Appraisals
3. Assess value
4. Real estate taxes
5. Form of ownership
6. Attempts to sell (listings or contracts)
7. Reasonableness of price or rent
8. Advertisements to sell or rent
9. Economically feasible alternatives to reuse the property
10. Structural reports
11. Estimated market value of the property
12. Evidence that a hardship was not self-created
13. Incentives available for rehabilitation
14. Financial analysis by an independent third party
15. Proposed plans for the property
16. Estimated mothballing costs

4. *Approval*. To approve a demolition application, the Board of Architectural Review and Development (BOARD) shall make a finding determining at least one of the following criteria is met:
   a. The application does not involve a contributing resource; or
   b. The extent of the demolition only involves non-contributing elements of a resource; or
   c. The demolition has been ordered by a responsible public official for reasons of public health and safety; or
   d. The demolition meets a criterion of an economic hardship; or
   e. The demolition is consistent with plans or policies adopted by the Mayor and the City Council~~*Commission*~~.
5. *Disapproval*. To disapprove a demolition application, the Board of Architectural Review and Development (BOARD) shall make a finding that the application does not meet the specific criteria for approval of a demolition application.
6. *Conditions*. Where the Board of Architectural Review and Development (BOARD) approves a Certificate of Appropriateness for demolition per this subsection, the Board may require the applicant to perform mitigating actions including (1) preparing archival documentation of the resource, and (2) salvaging or re-using historic elements.
7. *Alternative to Demolition*. As an alternative to demolition, the Board of Architectural Review and Development (BOARD) may approve the relocation of an existing resource where:
   a. The historical and/or architectural character of the resource would be harmonious with the proposed new context; and
   b. The relocation would help preserve and extend the life of a resource of historical and/or architectural interest.

H. **Issuance of Final Action by the Board of Architectural Review and Development.**

1. *Approval*. If the Board of Architectural Review and Development (BOARD) approves an application, the Historic Preservation Officer shall issue a Certificate of Appropriateness on behalf of the Chairperson or acting Chairperson. The Certificate of Appropriateness shall be attached to any documents that were approved by the Board. This document shall state the findings of the decision and be considered the final action for approval. The Historic Preservation Officer shall transfer the approval to the office of the Administrator and/or Chief Building Inspector, as appropriate. Any changes from the approved application shall require additional review by City staff.
2. *Approval with Conditions*. If the Board of Architectural Review and Development (BOARD) approves an application with conditions, the Historic Preservation Officer shall issue a Certificate of Appropriateness on behalf of the Chairperson or acting Chairperson. Where a condition specifically requires additional review by the Historic Preservation Officer of amended or additional documents, the Certificate of Appropriateness may be issued after such additional review is completed. Conditions are binding on an approval and have the effect of altering drawings and/or plans as described. This document shall state the findings of the decision and be considered the final action for approval with conditions. The Historic Preservation Officer shall transfer the approval with conditions to the office of the Administrator and/or Chief Building Inspector, as appropriate. Any changes from the approved application or required conditions shall require additional review by City staff.
3. *Disapproval*. If the Board of Architectural Review and Development (BOARD) disapproves an application, the Historic Preservation Officer shall issue a notice of disapproval on behalf of the Chairperson or acting Chairperson. This document shall state the findings of the decision and be considered the final action for disapproval. The Historic Preservation Officer shall transfer the disapproval to the office of the Administrator and/or Chief Building Inspector, as appropriate. No further action may be taken by the Administrator or the Chief Building Inspector on the application.
4. *Additional Compliance*. The issuance of a final action by the Board of Architectural Review and Development (BOARD) does not exempt the application from any of the other requirements in this NDC or other regulations of the City.

I. **Public Hearings**.

1. In addition to the provisions of Sec. 07.20.9, *Public Meetings and Hearings*, the following provisions apply to Certificate of Appropriateness applications subject to review by the Board of Architectural Review and Development (BOARD).
2. *Action Required for Non-Demolition Applications*. The Board of Architectural Review and Development (BOARD) shall act within 75 days of receipt of a non-demolition application that is considered complete per this section and Sec. 07.20.5, *Completeness*. The failure of the Board to approve, approve with conditions, or disapprove such an application within such time, unless otherwise mutually agreed upon by the applicant and the Board of Architectural Review and Development (BOARD), shall be deemed a dismissal of the application and the issue shall be considered resolved.
3. *Action Required for Demolition Applications*. The Board of Architectural Review and Development (BOARD) shall act within 75 days of receipt of a demolition application that is considered completed per this section and Sec. 07.20.5, *Completeness*. The failure of the Board to approve, approve with conditions, or disapprove such an application within such time, unless otherwise mutually agreed upon by the applicant and t Board of Architectural Review and Development (BOARD), shall be deemed an approval of the application. The Historic Preservation Officer shall issue a final action for approval on behalf of the Chairperson or acting Chairperson and transfer the approval to the office of the Administrator and/or Chief Building Inspector, as appropriate. Any changes from the approved application shall require additional review by City staff.

J. **Appeal of Final Action *on Certificate of Appropriateness* by the Board of Architectural Review and Development.**

1. Appeal to City Council~~*Commission.*~~ A decision by the Board of Architectural Review and Development (BOARD) on an application for a Certificate of Appropriateness shall first be appealed to the City Council~~*Commission*~~ in accordance with the following review procedures.
   a. *Application.* An application for appeal of a decision by the BOARD of Architectural Review and Development (BOARD) on an application for a Certificate of Appropriateness shall be made by the property owner or property owner's authorized agent in writing and filed with the Historic Preservation Officer within 30 days after the BOARD vote is taken to approve or disapprove the pending application before the BOARD.
   b. *City Council~~Commission~~ Action.*

1. The City Council~~*Commission*~~ shall be notified of the appeal and it shall be placed on the agenda for a regular or special meeting of the City Council~~*Commission*~~.
2. In reviewing an appeal, the City Council~~*Commission*~~ shall review the record of the Board of Architectural Review and Development regarding the issue appealed and determine whether the procedures and criteria established in this section have been followed and/or whether the decision of the BOARD was arbitrary, based on the record.
    a. If the City Council~~*Commission*~~ finds that an error has been made, it has the authority to order the issuance of a Certificate of Appropriateness or may remand the issue to the BOARD for further consideration, stipulating certain facts.
    b. If the City Council~~*Commission*~~ finds no cause of action, it shall uphold the decision of the BOARD.

2. *Appeal to Circuit Court.* The final action by the City Council~~*Commission*~~ on the Certificate of Appropriateness (BOARD) may be appealed to a court of competent jurisdiction per the provisions in Sec. 07.20.11, Appeals of Legislative and Quasi-Judicial Decisions.

K. **Expiration of Certificate of Appropriateness.** A Certificate of Appropriateness is valid for one year from the date of issuance. Work on the project shall commence within that time period, or the Certificate of Appropriateness will expire and be of no further effect. Once a Certificate of Appropriateness has expired, the applicant shall be required to apply for a new Certificate of Appropriateness prior to initiating any work. Prior to the expiration of a Certificate of Appropriateness, the applicant may request an extension per Sec. 07.20.14, *Approval Extension*.

L. **Work Performed Without a Certificate of Appropriateness.** Work performed without a Certificate of Appropriateness is subject to the provisions of Sec. 07.21.3.I, *Work Performed Without a Certificate of Appropriateness*.

(There are no ordinances associated with this section.)

Sec. 09.27.2 Acronyms and Abbreviations

ADA = Americans with Disabilities Act

ADU = Accessory Dwelling Unit

AUC = Auto Urban Commercial

BFE = Base Flood Elevation

BOARD = Board of Architectural Review and Development

C = Conditional Use Permit

CC = City Council~~Commission~~

CMU = Commercial Mixed Use

CRM = Central Riverfront Mixed-Use

CUP = Conditional Use Permit

DTC = Downtown Core

DTR = Downtown Riverfront

FEMA = Federal Emergency Management Agency

FHBM = Flood Hazard Boundary Map

FIRM = Flood Insurance Rate Map

FIS = Flood Insurance Study

Ft = Feet

GI = General Industrial

GFA = Gross Floor Area

HVAC = Heating, Ventilation, and Air Conditioning

HP = Historic Preservation

HPO = Historic Preservation Overlay

HS = Hillside Protection

ITE = Institute of Traffic Engineers

KCPC = Kenton County Planning Commission

KRS = Kentucky Revised Standards

L = Permitted subject to limitations

LI = Light Industrial

LOMA = Letter of Map Amendment

Max = Maximum

Min = Minimum

NDC = Neighborhood Development Code

NFIP = National Flood Insurance Program

P = Permitted by Right

PC = Planning Commission

REC = Recreation

RP = Resource Protection

RR = Rural Residential

Sec = Section

SHFA = Special Flood Hazard Area

SI = Suburban Industrial

SO = Suburban Office

Sq Ft = Square Feet

SR = Suburban Residential

SU = Semi-Urban

Subsec = Subsection

TUMU = Traditional Urban Mixed Use

TUR = Traditional Urban Residential

~~**Board of Adjustment** means The Board of Adjustment of the City Commission. See section Sec. 06.19.3, Board of Adjustment (City) for powers and duties.~~

Board of Architectural Review and Development (BOARD) means the Board of Architectural Review and Development (BOARD) of the City ~~Commission~~. See section Sec. 06.19.3, *Board of Architectural Review and Development (City)*, for powers and duties.

Citizen Member means any member of the Planning Commission or Board of Architectural Review and Development (BOARD) who is not an elected or appointed official or employee of the City. ~~Commission .~~

City Council~~Commission~~ means the duly elected legislative body of the City of Covington.~~, including the Mayor and the other members of the Covington Board of City Commissioners.~~

Fraud and Victimization means as related in Sec. 07.22.5, *Variance, Floodplain*, of this ordinance, means that the variance granted shall not cause fraud on or victimization of the public. In examining this requirement, the City Council~~Commission~~ will consider the fact that every newly constructed structure adds to government responsibilities and remains a part of the community for fifty to one hundred years. Structures that are permitted to be constructed below the base flood elevation are subject during all those years to increased risk of damage from floods, while future owners of the property and the community as a whole are subject to all the costs, inconvenience, danger, and suffering that those increased flood damages may incur. In addition, future owners may purchase the property, unaware that it is subject to potential flood damage, and can be insured only at very high flood insurance rates.

HOW TO USE THIS NDC

Does this Neighborhood Development Code (NDC) apply to my property?

If you own property in Covington, yes. The provisions in this NDC apply to the development, redevelopment, new construction, renovation, or addition to all structures and land within the city limits of Covington. You will find provisions related to the subdivision of land and the installation of infrastructure, such as streets, sidewalks, and utilities, in the Kenton County Subdivision Regulations.

What kind of provisions are in this NDC?

This NDC:

- Establishes character districts and shows what housing and building types (mixed use building, corner store, single-family detached, etc.) and land uses (residential, mixed-use, nonresidential) are allowed in those districts;
- Sets standards for lot area, building placement (how close to or far from a property line a building has to be), building height, and building activation (for example, the amount of windows required to front on a street);
- Provides standards for frontages (porch, stoop, shopfront, etc.) that are allowed on various building and housing types;
- Establishes rules for parking, landscaping, signs, and building materials on private property;
- Shows the process for obtaining various type of permits and approvals such as a change in character district, zoning permits, and variance requests;
- Sets rules for expansions of land uses or structures that do not comply with the rules in this NDC; and
- Provides definitions for various terms used in this NDC.

Which approvals do the City oversee and which do the County oversee?

Approvals	City of Covington			Kenton County	Kenton County with City Representation
	Administrator	City Council~~Commission~~ (CC)	Board of Architectural Review and Development	Chief Building Inspector	Planning Commission
Appeals			♦		
Building Permit				♦	
Certificate of Appropriateness (Historic)	♦		♦		
Certificate of Occupancy				♦	
Change of Character Districts		♦			♦ (Recommendation)
Conditional Use Permit			♦		
Historic Buildings and Districts (Designation)		♦	♦ (Recommendation)		

Neighborhood Development Code Text Amendment		♦		♦ (Recommendation)
Variance Request			♦	
Zoning Permit	♦			
TABLE NOTE: ♦ = Decision Maker				

How may my property be used?

To determine how your property may be used, take the following steps:

- Find your property on the Character District Map to determine its character district.
- To see what uses are allowed, refer to the applicable permitted land uses table in Article 158.02, *Character Districts*.
- Follow the row across each column to determine what uses are permitted by right (P), permitted subject to limitations (L), permitted with a Conditional Use Permit (C), or prohibited (-).
- If a use is indicated with a "P," then the use is permitted by right, according to the general standards and procedures in this Code, without the need for a public hearing. If the use has a "L," then that means that the use is permitted without a public hearing, but is limited by the standards in Division 07, *Use-Specific Standards*. A "C" in the table indicates that the NDC requires a Conditional Use Permit from the Board of Architectural Review and Development (BOARD) for the use. A dash (-) indicates that the use is prohibited in the given character district.
- Each character district has permitted building types that are allowed. Details on the standards for these building types are in Sec. 04.08.3, *Housing and Building Types*.

I have a use in mind. Where can I build it?

To determine where a specific use is permitted, take the following steps:

- Refer to Sec. 03.06.3, *Permitted Uses by District Table*.
- Find the listed use on the left-hand side of the table.
- Follow the row across each column to determine in what character districts the use is permitted by right (P), permitted subject to limitations (L), permitted with a Conditional Use Permit (C), or prohibited (-).
- If a use is indicated with a "P," then the use is permitted by right, according to the general standards and procedures in this Code, without the need for a public hearing. If the use has a "L," then that means that the use is permitted without a public hearing, but is limited by the standards in Division 07, *Use-Specific Standards*. A "C" in the table indicates that the NDC requires a Conditional Use Permit from the Board of Architectural Review and Development (BOARD) for the use. A dash (-) indicates that the use is prohibited in the given character district.
- Consult the Character District Map in order to find the location of applicable character districts.
- If the use you have in mind is not listed in the use tables, contact the Planning Staff at 859-292-2135.

I have a specific building type in mind. Where can build it?

To determine where a specific building type can be located, take the following steps:

- Find your property on the Character District Map to determine its character district.
- To see what building types are allowed, refer to the Permitted Building Types table for your character district in Article 158.02, *Character Districts*.
- Refer to Sec. 04.08.3, Housing and Building Types, for your desired building type or refer to

I want to change my character district. How do I?

Only the City Council~~Commission~~ may change the character district of a property, following public notice and hearings. Generally, the process goes like this:

1. You have to obtain and fill out a pre-application form.
2. Submit the completed form along with the application fee, other materials describing the property, and what you propose to do.
3. After a review, the Planning Staff will arrange for a pre-application conference with you.
4. After the pre-application conference, you may submit the formal application for the change in district.
5. The Planning Staff, and other agencies, will review your submittal and provide comments. Your case manager will notify you of any modifications required to your submitted materials.
6. Once Planning Staff and all other agencies are satisfied, your case manager will schedule a public hearing with the Planning Commission.
7. Public notification is required for any public hearing, in the form a mailed notice to nearby property owners and a sign posted on the subject property in accordance with KRS 100.212.
8. At the Planning Commission's public hearing, Planning Staff will make a recommendation to the Commission, and the Commission will hear testimony from anyone in favor of, against, or neutral to your request.
9. After the Planning Commission hears public testimony, and has heard from you regarding your request, the Planning Commission will vote to recommend to the City Council~~Commission~~ approval, approval with conditions, or denial of your change in district.
10. The City Council~~Commission~~ will consider your request, the Staff and Planning Commission recommendation, public testimony from the Planning Commission hearing, and testimony from its own hearing, and will approve, approve with conditions, or deny your request.

See Sec. 07.22.4, *District Map Amendment*, for details on the procedure.

How much (or how little) parking does a residence or business need?

The table in Sec. 04.11.3, *Required Parking Ratios,* shows various land uses and the minimum and/or maximum number of parking spaces required or allowed. In addition, Division 11, *Parking, Loading, and Circulation*, establishes the amount of loading spaces a business needs and, under certain circumstances, it lets a residence or business reduce the amount of parking it has to provide.

How much landscaping does a residence or business need?

Division 12, *Landscaping, Fencing, and Buffering*, generally requires four types of landscaping that need to be provided on a site:

- Building foundation plantings - Shrub and ornamental plantings along the base of a building
- Streetscape plantings / Street trees - Tree plantings between a sidewalk and a street
- Parking and loading area plantings - Tree, shrub, and ornamental plantings within and on the edge of a parking area
- Bufferyards - Tree and shrub plantings on the edge of a site

The first three types of landscaping are required for multifamily, nonresidential, and mixed-use developments. The fourth type, bufferyards, are required for multifamily, nonresidential, and mixed-use developments and certain single- and two-family developments.

What kind of signs can a residence or business have?

Division 13, *Signs*, allows various sign types and sizes within the various character districts. Most signs require a sign permit, and the permit shall be reviewed and acted upon according to Sec. 07.21.7, *Sign Plan and Permit*.

What does nonconforming mean and what are my options?

Existing uses, buildings and structures, lots, landscaping and buffering, signs, and parking and loading areas that complied with the regulations when they were established or built, but do not comply with the current provisions of this NDC are considered nonconforming. Article 158.05, *Nonconformities*, of this NDC allows these uses, structures, and site elements to remain and undergo routine maintenance and repair, but limits or prohibits their expansion.

A use deemed a minor nonconformity may be converted from a nonconforming use to a conforming one according to the process in Division 17, *Conversion of Minor Nonconformities.*

An illegal use (one not permitted in the character district at the time the use was established) or a structure built without a valid permit are not considered nonconforming uses or structures and do not benefit from nonconformity protections described above.

May I request a variance or appeal a decision, and how?

If, due to a hardship or unique circumstances related to your property, you cannot comply with certain development or design standards, you may request a variance from the Board of Architectural Review and Development (BOARD). Sec. 07.23.4, *Variance,* provides the details for this procedure.

You may appeal a City staff member's decision or a formal interpretation of this NDC to the Board of Architectural Review and Development (BOARD), in the manner spelled out in Sec. 07.23.1, *Appeals*. An appeal of a decision of the City Council~~Commission~~, Planning Commission, or Board of Architectural Review and Development (BOARD) generally shall go to a court of competent jurisdiction. Consult your attorney for further details.

When two tables have conflicting information, which one applies?

If any discrepancies or conflicts result from the provisions of this NDC, the following list of tables are the governing and final authority on the specific issue unless other explicitly stated. Other tables may specifically call out modification or additions to the requirements of these governing tables.

- Table 03.06.3, *Permitted Uses by District*
- Table 04.08.3.A, *Permitted Buildings Types by District*
- Table 04.08.6.A, *Permitted Frontage Types by Building Type*
- Table 04.08.7.A-1, *Minimum Open Space*
- Table 04.09.2-1, *Lot and Building Area Standards (Mixed-Use and SU Districts)*
- Table 04.09.2-2, *Lot and Building Area Standards (Non-Mixed-Use or SU Districts)*
- Table 04.10.2, *Building Placement and Massing Standards by District*
- Table 04.10.3, *Permitted Setback and Height Encroachments*
- Table 04.10.4-1, *Primary Materials*
- Table 04.11.3, *Minimum and Maximum Vehicle Parking Spaces*
- Table 04.11.4.E, *Vehicle Surface Parking Location*
- Table 04.11.4.F-1, *Permitted Parking Structure Types*
- Table 04.11.4.G, *Bicycle Space Requirements*
- Table 04.11.4.H, *Loading Space Requirements*
- Table 04.11.6-1, *Shared Parking Table*
- Table 04.11.6-2, *Illustrative Shared Parking Reduction Calculation*
- Table 04.12.3, *Tree Preservation Credit*
- Table 04.12.4, *Maximum Fence and Wall Height*
- Table 04.12.5-2, *Character District Bufferyard Requirements*
- Table 07.20.2-1, *Summary of Procedures*
- Table 07.20.4, *Application Authorization*