ORDINANCE NO. 130, SERIES 2013

AN ORDINANCE AMENDING THE FOLLOWING PROVISIONS OF THE LAND DEVELOPMENT CODE AS PART OF A CONTINUING EFFORT TO UPDATE THE ZONING REGULATIONS FOR LOUISVILLE METRO: 1.2.2, 4.4.9, 5.5.1.A.4.a, 5.5.2.B.2, 5.5.5, 10.2.6, 9.1.2, 9.1.17.A.5, 9.1.17.B, 9.1.17.B.2.b, 9.1.18.B.2, Appendix 9A, 11.1.2.B.2.d, 11.4.3, 11.4.7.E.1, 11.6.5, 11.8.8 and Appendix 11A. (CASE NO. 17064).

Sponsored by: Councilman JAMES PEDEN

WHEREAS, the Planning Commission held a public hearing on March 29, 2012, to consider a number of amendments to various sections of the Land Development Code ("LDC") for the purposes of updating the LDC, resolving potential conflicts in the application of various LDC provisions, and clarifying language that was determined to be potentially confusing on its face or in its application; and,

WHEREAS, the Metro Council concurs in and adopts the findings and recommendations of the Planning Commission in Case No. 17064 as reflected in the Planning Commission's minutes and records, and as more specifically set forth in the attached Proposed LDC Text Amendments;

NOW THEREFORE BE IT RESOLVED BY THE LOUISVILLE METRO COUNCIL

Section I: The Metro Council hereby adopts the amendments to the Land Development Code as contained in the minutes and records of the Planning Commission in Case No. 17064, and as specifically set forth in the attached Proposed LDC Text Amendments.

Section II: This ordinance shall take effect upon its passage and approval.

H. Stephen Ott
Metro Council Clerk

Jim King
President of the Council

Greg Fischer
Mayor

7/30/13
Approval Date

APPROVED AS TO FORM AND LEGALITY:

Michael J. O'Connell
Jefferson County Attorney

BY:

LOUISVILLE METRO COUNCIL
READ AND PASSED
July 25, 2013

PROPOSED LDC TEXT AMENDMENTS-ROUND ONE, PART FOUR-CASE NO. 17064-UPDATED 5/6/13

ISSUE #	LDC SECTION	CURRENT LDC TEXT	PROPOSED LDC TEXT
12	1.2.2	N/A	Refuse Disposal Container – A container used for the temporary storage of trash or recyclable material pending collection. The term refuse disposal container, and the associated Land Development Code regulations pertaining to it, is intended to apply to dumpsters used on a long-term basis by businesses such as restaurants, retail centers, office buildings, etc. The use of temporary, portable trash or debris receptacles or containers on a short-term basis for uses such as construction, renovation, etc. shall not be considered refuse disposal containers and shall not be subject to associated screening requirements contained within the Land Development Code. For location and screening requirements for refuse disposal containers see Section 4.4.9 as well as these additional applicable sections of this code: 5.5.1.A.4.a; 5.5.2.B.2; 5.5.5.A & B; 10.2.6. Also, add the following to definition section: Dumpster – See Refuse Disposal Container.
12	4.4.9	A. No refuse container shall be located in any required vehicular use area, or in any required buffer or landscape area. B. When located on a non-residentially used parcel adjoining a residential use, refuse containers shall be opaquely screened from view from public streets and adjacent properties to a height of at least 6 feet, or 6 inches higher than the height of the container (whichever is higher). This screening may be achieved by walls, landscaping or buffer yards, or by virtue of the location of the container on the building site.	A. No refuse disposal container shall be located in any required vehicular use area, required setback area or in any required buffer or landscape area. B. ~~When located on a non-residentially used parcel adjoining a residential use, r~~ Refuse disposal containers shall be opaquely screened from view from public streets and adjacent properties ~~to a height of at least 6 feet, or 6 inches higher than the height of the container (whichever is higher). This screening may be achieved by walls, landscaping or buffer yards, or by virtue of the location of the container on the building site.~~ The mature height of the screening material shall be one foot greater than the height of the enclosed refuse disposal container, but shall not be required to exceed eight (8) feet in height. Screening shall consist of a continuous fence, a wall constructed of the same building materials as the principal structure, berm or combination thereof designed to blend in with the architecture or character of the area. C. The screening of refuse disposal containers located in the Downtown Form District shall be designed and constructed of the same materials as the primary structure. See Section 5.5.5.B.1. D. The following Land Development Code sections related to refuse disposal containers may also be applicable: 5.5.1.A.4.a; 5.5.2.B.2; 5.5.5.A & B; 10.2.6.
12	5.5.1.A.4.a	a: Loading Areas. Off-street loading and refuse collection areas shall be located and screened so as not to be visible from adjacent public streets and from residential uses.	a: Loading Areas. Off-street loading and refuse collection areas shall be located and screened so as not to be visible from adjacent public streets and from residential uses. See Section 4.4.9 for refuse disposal container location and screening requirements.

12	5.5.2.B.2	2. Loading Areas – Off-street loading and refuse collection areas shall be located and screened so as not to be visible from adjacent public streets and residential uses. Screening may be accomplished through use of a fence with landscaping that at maturity will equal the height of the fence, or a wall constructed of the same building materials as the principal structure.	2. Loading Areas – Off-street loading and refuse collection areas shall be located and screened so as not to be visible from adjacent public streets and residential uses. ~~Screening may be accomplished through use of a fence with landscaping that at maturity will equal the height of the fence, or a wall constructed of the same building materials as the principal structure.~~ **See Section 4.4.9 for refuse disposal container location and screening requirements.**
12	5.5.5	A. Standards for Accessory Structures (other than accessory structures to single-family residential development) 1. Accessory structures (e.g. dumpsters, storage buildings, HVAC equipment, fast food ordering stations/menu boards and similar uses) shall not be constructed or permitted within any required setback/yard. These structures shall be subordinate in size to the principal structure, shall not be visible from the public street, and shall be screened from adjacent residential areas by fencing or walls. When accessory structures are adjacent to residential uses, the accessory structure shall not exceed the scale of the adjacent residential structure(s). Open unenclosed seating, decks or other similar types of areas are permitted to encroach within the required front setback/yard, provided that minimum landscape buffer areas are provided per Chapter 10 Part 2. 2. Setback from Alley or Rear Property Line – The setback shall be the same as for the required landscape buffer area or transition setback/yard if applicable, whichever is greater. B. Form District Specific Requirements 1. Downtown Form District – Accessory structures/screens shall be designed and constructed of the same materials as the primary structure. Accessory structures shall only be permitted at the rear of a principal structure.	A. Standards for Accessory Structures (other than accessory structures to single-family residential development) 1. Accessory structures (e.g. dumpsters, storage buildings, HVAC equipment, fast food ordering stations/menu boards and similar uses) shall not be constructed or permitted within any required setback/yard. These structures shall be subordinate in size to the principal structure, shall not be visible from the public street, and shall be screened from adjacent residential areas by fencing or walls. When accessory structures are adjacent to residential uses, the accessory structure shall not exceed the scale of the adjacent residential structure(s). Open unenclosed seating, decks or other similar types of areas are permitted to encroach within the required front setback/yard, provided that minimum landscape buffer areas are provided per Chapter 10 Part 2. 2. Setback from Alley or Rear Property Line – The setback shall be the same as for the required landscape buffer area or transition setback/yard if applicable, whichever is greater. **3. See Section 4.4.9 for refuse disposal container location and screening requirements.** B. Form District Specific Requirements 1. Downtown Form District – Accessory structures/screens shall be designed and constructed of the same materials as the primary structure. Accessory structures shall only be permitted at the rear of a principal structure. **See Section 4.4.9 for refuse disposal container location and screening requirements.**

12	10.2.6	Other Uses And Structures Requiring Screening Screening shall be provided around all service structures (e.g., propane tanks, dumpsters, heating/air conditioning units, electrical transformers, telecommunications boxes) that exceed 42 inches in height and 42 inches in width or are visible from adjoining property when located on roofs. Loading docks and outdoor storage or maintenance yards shall also be screened when adjacent to any right-of-way or residential use or zone. No landscape material shall be planted closer than 5 feet from the sides of any electric transformer box and all landscape material shall be planted a minimum of 10 feet from the door of such boxes. Screening shall consist of a continuous fence, wall, berm, evergreen planting, or combination thereof designed to blend in with the architecture (when roof mounted) or character of the area. (Evergreen plantings are not permitted for dumpster screening.) Planting beds, when provided for screening material, shall be at least 6 feet wide. The mature height of the screening material shall be one foot greater than the height of the enclosed service structure, but shall not be required to exceed eight feet in height.	Other Uses And Structures Requiring Screening Screening shall be provided around all service structures (e.g., propane tanks, **refuse disposal containers or** dumpsters, heating/air conditioning units, electrical transformers, telecommunications boxes) that exceed 42 inches in height and 42 inches in width or are visible from adjoining property when located on roofs. Loading docks and outdoor storage or maintenance yards shall also be screened when adjacent to any right-of-way or residential use or zone. No landscape material shall be planted closer than 5 feet from the sides of any electric transformer box and all landscape material shall be planted a minimum of 10 feet from the door of such boxes. Screening shall consist of a continuous fence, wall, berm, evergreen planting, or combination thereof designed to blend in with the architecture (when roof mounted) or character of the area. (Evergreen plantings are not permitted for dumpster screening.) Planting beds, when provided for screening material, shall be at least 6 feet wide. The mature height of the screening material shall be one foot greater than the height of the enclosed service structure, but shall not be required to exceed eight feet in height. **See Section 4.4.9 for refuse disposal container location and screening requirements.**
NOTES: PDS and the LDC Committee noticed that there were conflicts between various sections of the LDC with regard to how dumpsters (refuse disposal containers) were regulated. The preceding six proposed text amendments will create better consistency and further clarification of this topic throughout the LDC.			

91	9.1.2	The requirements of this Part shall apply to all parking and loading areas in all Form Districts, whether required by this Land Development Code or created for the convenience of property owners or users. No certificate of occupancy shall be provided unless and until the appropriate motor vehicle parking and loading facilities are provided in compliance with this Part.	The requirements of this Part shall apply to all parking and loading areas in all Form Districts, whether required by this Land Development Code or created for the convenience of property owners or users. No certificate of occupancy shall be provided unless and until the appropriate motor vehicle parking and loading facilities are provided in compliance with this Part. **All ADA parking spaces provided must meet ADA requirements in effect at time of construction approval.**
NOTES: This amendment adds a statement reminding the reader of the ADA parking requirements.			

PROPOSED LDC TEXT AMENDMENTS-ROUND ONE, PART FOUR-CASE NO. 17064-UPDATED 5/6/13

ISSUE #	LDC SECTION	CURRENT LDC TEXT	PROPOSED LDC TEXT
92	9.1.17.A.5	The Planning Director, upon consultation with the Director of Works and the agency responsible for approval of off-street parking facilities, requests a Parking Study due to unusual circumstances on or near the site.	The ~~Planning Director~~ **Public Works Director or designee**, upon consultation with the ~~Director of Works~~ **Planning Director or designee** and the agency responsible for approval of off-street parking facilities, requests a Parking Study due to unusual circumstances on or near the site.
92	9.1.17.B	Content. A Parking Study submitted to satisfy the requirements of this Part shall include the following information based upon the reason the Parking Study is required. The Planning Director, upon consultation with the Director of Works and the agency responsible for approval of off-street parking facilities, may waive any of these required contents or require additional information depending upon the specifics of the application. The Parking Study shall be reviewed by, and must be acceptable to, the Planning Director, upon consultation with the Director of Works and the agency responsible for approval of off-street parking facilities.	Content. A Parking Study submitted to satisfy the requirements of this Part shall include the following information based upon the reason the Parking Study is required. The ~~Planning Director~~ **Public Works Director or designee**, upon consultation with the ~~Director of Works~~ **Planning Director or designee** and the agency responsible for approval of off-street parking facilities, may waive any of these required contents or require additional information depending upon the specifics of the application. The Parking Study shall be reviewed by, and must be acceptable to, the ~~Planning Director~~ **Public Works Director or designee**, upon consultation with the ~~Director of Works~~ **Planning Director or designee** and the agency responsible for approval of off-street parking facilities.
NOTES: These amendments are related to situations when a parking study is required in conjunction with a parking waiver request. These amendments change the text to require the Public Works Director or designee, in consultation with the Planning Director or designee, to determine when the requirements of a parking study have been met. Currently the Planning Director is listed first, then the Public Works Director.			

92A	9.1.17.B.2.b	The results of at least three separate site surveys, conducted on different days, that depict the usage of the existing parking spaces hourly during the peak hour of usage and hourly four hours before and after that time for a similar or like facility. Site surveys are not needed for any portion of the period four hours before and after the peak hour in which the use is not in operation. One of the days surveyed should be the peak day or busiest day of operation, if one can be determined for the specific use(s); and	The results of at least three separate site surveys, conducted on different days, that depict the usage of the existing parking spaces hourly during the peak hour of usage and hourly four hours before and after that time ~~for a similar or like facility~~. Site surveys are not needed for any portion of the period four hours before and after the peak hour in which the use is not in operation. One of the days surveyed should be the peak day or busiest day of operation, if one can be determined for the specific use(s); and
NOTES: This amendment corrects a grammatical error.			

ISSUE #	LDC SECTION	CURRENT LDC TEXT	PROPOSED LDC TEXT
93	9.1.18.B.2	The proposed building or use may fulfill minimum loading requirements by providing a combination of both off-street loading berths and on-street loading zones. The Director of Works, upon consultation with the agency responsible for approval of off-street parking facilities, shall make a determination of the minimum number and size of off-street loading berths based on a review of the development and circulation plans and other supporting documentation submitted by the applicant.	The proposed building or use may fulfill minimum loading requirements by providing a combination of both off-street loading berths and on-street loading zones. The Director of Works, upon consultation with the agency responsible for approval of off-street parking facilities, shall make a determination of the minimum number and size of off-street loading berths based on a review of the development and circulation plans and other supporting documentation submitted by the applicant. **Peak hour restrictions and a license agreement for on-street loading/maneuvering areas may be required by Metro Public Works.**
NOTES: This amendment was suggested by the staff of Transportation Planning (Public Works) to alert the reader that a license agreement may be required in certain situations for on-street loading and maneuvering areas.			
95	Appendix 9A	Bicycle Parking Design Manual, 2002 version	**The current Bicycle Parking Design Manual can be found at http://www.louisvilleky.gov/PublicWorks/Engineering/ and http://www.louisvilleky.gov/BikeLouisville/bikefriendly/2010bikemasterplan.htm**
NOTES: PDS staff and the LDC Committee feel it is more appropriate to provide a link to the website location where the most current version of the Bicycle Parking Design Manual is located, rather than the entire document which may change periodically.			
104B	11.1.2.B.2.d	Jefferson County Environmental Health and Protection	~~Jefferson County Environmental Health and Protection~~ **Louisville Metro Public Health & Wellness**
NOTES: The purpose of this change is to update outdated terminology.			

ISSUE #	LDC SECTION	CURRENT LDC TEXT	PROPOSED LDC TEXT
104D	11.4.3	**Neighborhood Meeting Requirement** Prior to filing a change in zoning request and after the pre-application conference (if one was conducted) a letter shall be sent from the developer/owner stating that a pre-application has been filed with PDS and announcing a public meeting held by developer/owner to discuss the proposed project. The letter shall be mailed no less than 10 days prior to the neighborhood meeting. The letter shall be sent to: • 1st and 2nd tier property owners, • neighborhood groups who have registered with PDS to receive notice of development actions, • 2nd through 6th class city if the development is located within such a municipality, • Metro Council district representative; and • PDS staff. The neighborhood meeting shall be held no less than seven (7) days and no more than 90 days prior to the filing of an application. At time of filing a change in zoning request, the applicant shall provide a summary of a public meeting between the applicant and the parties listed above. The summary shall include a list of those invited, those in attendance and a summary of the issues discussed.	**Neighborhood Meeting Requirement** Prior to filing a change in zoning request and after the pre-application conference (if one was conducted) a letter shall be sent from the developer/owner stating that a pre-application has been filed with PDS and announcing a public meeting held by developer/owner to discuss the proposed project. **The neighborhood meeting shall not occur before 6:00 PM.** The letter shall be mailed no less than 10 days prior to the neighborhood meeting. The letter shall be sent to: • 1st and 2nd tier property owners, • neighborhood groups who have registered with PDS to receive notice of development actions, • 2nd through 6th class city if the development is located within such a municipality, • Metro Council district representative; and • PDS staff. The neighborhood meeting shall be held ~~no less than seven (7) days and~~ no more than 90 days prior to the filing of an application. At time of filing a change in zoning request, the applicant shall provide a summary of a public meeting between the applicant and the parties listed above. The summary shall include a list of those invited, those in attendance and a summary of the issues discussed.
NOTES: Applicants of Change in Zoning, Conditional Use Permits and Major Subdivision Plan applications are required to wait at least seven days after their required neighborhood meeting to file their formal application. PDS staff and the LDC Committee do not believe this waiting period is beneficial to any party involved, therefore in order to shorten the review process by one week the Committee proposes to eliminate the seven day waiting period to file applications. Also, being added is a requirement that the neighborhood meeting must occur after 6:00 PM.			
105	11.4.7.E.1	Review of amendments to binding elements shall follow Category 3 Review Procedures (Section 11.6.6), except notice also shall be given to those who spoke at a Planning Commission public hearing.	Review of amendments to binding elements shall follow Category 3 Review Procedures (Section 11.6.6**4**), except notice also shall be given to those who spoke at a Planning Commission public hearing.
NOTES: This amendment corrects a numbering error.			
105A	11.6.5	Note: See Section 11.4.6 Plan Certain Development.	Note: See Section 11.4.6**7** Plan Certain Development.
NOTES: This amendment corrects a numbering error.			

ISSUE #	LDC SECTION	CURRENT LDC TEXT	PROPOSED LDC TEXT
105B	11.8.8	N/A	**11.8.8 Designation to Planning Director** **In the event of a direct conflict between two requirements in the Land Development Code, the Planning Director shall have the authority to resolve the conflict by waiving one of the requirements or a portion thereof, provided such action does not create additional conflicts with: other Land Development Code requirements; policies of the Cornerstone 2020 Comprehensive Plan, or ;applicable sections of the Kentucky Revised Statutes. The Planning Director shall provide information, including any facts or other details used to justify their decision, ~~regarding these decisions~~ to the appropriate body (i.e.-Planning Commission or one of its sub-committees, Board of Zoning Adjustments).**
NOTES: PDS staff and the LDC Committee felt it would be appropriate to add language to the LDC that, in the event of a direct conflict between two requirements, would give the Planning Director the authority to waive one of the requirements, rather than require the applicant to choose which requirement to comply with and which one to complete the waiver process for. The Planning Commission requested that the Planning Director provide them with information anytime a decision such as this is made.			

106	Appendix 11A (third paragraph)	LDC Section 11.8.1 GeneralThe Planning Commission may modify, reduce or waive those standards...	LDC Section 11.8.1 ~~General~~The Planning Commission may modify, reduce or waive those standards...
NOTES: This amendment corrects a grammatical error.			