

ORDINANCE NO. 2022 - 099

AN ORDINANCE AUTHORIZING AMENDMENTS TO THE CITY OF KENT'S ZONING CODE IN ORDER TO GREATER CLARIFY TEXT OR CORRECT ERRORS IN THE CODE, AND DECLARING AN EMERGENCY.

WHEREAS, on June 16, 2021, Council adopted an updated Zoning Code in order to make the Code more understandable and user friendly; and

WHEREAS, on June 7, 2022 and August 2, 2022, staff met with the Planning Commission to discuss the proposed text amendments and voted unanimously to approve the proposed changes; and

WHEREAS, the following chapters will be amended:

- 1) Chapter 1102: Definitions;
- 2) Chapter 1103: Zoning Districts, Land Use, and Zoning Map;
- 3) Chapter 1106: General Provisions;
- 4) Chapter 1107: Parking, Loading, and Access Management;
- 5) Chapter 1109: Signs;
- 6) Chapter 1110: Nonconformities; and
- 7) Chapter 1111: Administrative Boards and Commissions.


NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Kent, Portage County, Ohio:

SECTION 1. That Kent City Council does hereby authorize the amendments of the City of Kent's Zoning Code, and is more fully set forth in Exhibit "A", attached hereto and incorporated herein.

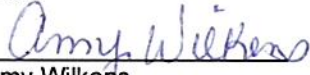
SECTION 2. That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council, and of any of its committees that resulted in such formal action, were in meetings open to the public in compliance with all legal requirements of Section 121.22 of the Ohio Revised Code.

SECTION 3. That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare of the residents of this City, for which reason and other reasons manifest to this Council this Ordinance is hereby declared to be an emergency measure and shall take effect and be in force immediately after passage.

PASSED: September 21, 2022
Date


Jerry T. Fiala
Mayor and President of Council

EFFECTIVE: September 21, 2022
Date

ATTEST: 
Amy Wilkens
Clerk of Council

I, AMY WILKENS, CLERK OF COUNCIL FOR THE CITY OF KENT, COUNTY OF PORTAGE, AND STATE OF OHIO, AND IN WHOSE CUSTODY THE ORIGINAL FILES AND RECORDS OF SAID COUNCIL ARE REQUIRED TO BE KEPT BY THE LAWS OF THE STATE OF OHIO, HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND EXACT COPY OF RESOLUTION NO. 2022-099, ADOPTED BY THE COUNCIL OF THE CITY OF KENT ON September 21, 2022.

(SEAL)


AMY WILKENS
CLERK OF COUNCIL

CHAPTER 1102: DEFINITIONS

(20) Bar, Tavern, Night Club or Saloon: An area primarily devoted to the sale and serving of alcoholic beverages and in which the service of food is only incidental to the consumption of such beverages.

~~**(34) Business, Commercial Entertainment:** A facility for any profit-making activity which is generally related to providing entertainment such as theaters, carnivals, nightclubs, cocktail lounges, and similar entertainment activities, but excluding sexually-oriented businesses.~~

(34) Business, Non-retail: Commercial establishments that provide medical care services, personal care services, or specialized professional services on an appointment or walk-in basis, including, but not limited to:

- Physicians, dentists, orthodontists, optometrists, physical therapists, chiropractors, or any similar medical personnel who provide treatment and examination of patients solely on an outpatient basis, provided that no patients are kept on the premises overnight;
- Beauty salons, barber shops, tattoo parlors, indoor movie theaters, dry cleaning services, mailing/shipping, copying, printing, small appliance or furniture repair, or similar activities, but excluding sexually-oriented businesses;
- Professionals offering services in an area of specialty, including but not limited to, accounting services, legal services, banking/financial services, real estate, insurance, engineering, or architectural services.

~~**(35) Business, Medical Professional Office:** Services provided by medical professionals on an appointment or walk-in basis including, but not limited to:~~

- ~~Physicians;~~
- ~~Dentists, orthodontists;~~
- ~~Physical therapists, chiropractors;~~
- ~~Optometrists;~~
- ~~Similar medical personnel who provide treatment and examination of patients solely on an outpatient basis, provided that no patients are kept on the premises overnight.~~

~~**(36) Business, Personal Service:** Commercial establishments that provide personal services on an appointment or walk-in basis including, but not limited to:~~

- ~~Beauty salons, barber shops, tattoo parlors;~~
- ~~Dry cleaning, alterations, shoe repair services;~~
- ~~Mailing/shipping, copying, printing services;~~
- ~~Small appliance repair, furniture repair;~~
- ~~Other similar activities, but excluding sexually-oriented businesses.~~

~~(37) Business, Professional Office: Services provided by professionals, typically licensed or certified in an area of specialty, on an appointment or walk-in basis including, but not limited to:~~

- ~~• Accounting services;~~
- ~~• Legal services;~~
- ~~• Banking, financial services;~~
- ~~• Real estate, insurance services;~~
- ~~• Engineering, architectural services.~~

~~(45) Commercial Entertainment Facilities: See “Business, Commercial Entertainment.”~~

(167) Open Space, Usable: The required portion of a lot, ~~excluding the required setback areas~~, which is unoccupied by principal or accessory buildings and available to all occupants of the building for use for recreational and other leisure activities normally carried on outdoors. Open space calculation can include required rear and side yard setback areas as long as such areas are maintained as green space and/or incorporates amenity(s) associated with outdoor recreation and leisure purposes. Open space must ~~should~~ be unobstructed to the sky and must not include any driveways or off-street parking and loading areas. See [hyperlink to Figure 9](#)

CHAPTER 1103: ZONING DISTRICTS, LAND USE, AND ZONING MAP

- **SECTION 1103.21: ~~I-R: INDUSTRIAL RESEARCH AND OFFICE DISTRICT~~**
R-T-O: RESEARCH, TECHNOLOGY, AND OFFICE DISTRICT
(The zoning district name change will be applied throughout the Zoning Code so R-T-O will be substituted for I-R.)
- **SECTION 1103.21: (E) Dimensional Regulations:** Lot and Building Height Standards
Max. Building Height ~~45 ft.~~ 50 ft.
- Delete from “Permitted Principal Uses” Section 1103.22 (B) ~~12. Storage Units and Storage Locker Facilities~~
Note: This is a “Conditionally Permitted Use” and is correctly listed under Section 1103.22 (C).

CHAPTER 1106: GENERAL PROVISIONS

SECTION 1106.09 (B) Shrubs and other landscape features permitted within this Code may be permitted in the clear vision triangle area provided that they are trimmed and maintained so that they are not more than thirty (30) inches above grade and ~~must not extend into the right-of-way.~~

SECTION 1106.11: OUTDOOR SWIMMING POOLS

Public or private in-ground or above ground swimming, wading or other pools ~~containing one and one-half (1 ½) feet~~ capable of a water depth of more than 24 inches are considered structures for the purpose of permits. The following restrictions apply to such structures as defined above:

- (A) Such structure must not be located within a front or side yard area.
- (B) Such structure must not be located closer than fifteen (15) feet to any side or rear property line.
- (C) Every such structure must be completely ~~surrounded~~ enclosed by ~~a wall or~~ fence or other permanent barrier not less than four (4) feet in height, measured from the ground, and compliant with the Ohio Building Code, as amended. Such fence will not have poles, openings or gaps larger than four (4) inches in any dimension. All ~~fence access~~ doors and gates must be equipped with working locking devices so as to prevent unauthorized intrusion.
- (D) ~~An accessory building may be located within or directly contiguous to such enclosure. Any such building which is not completely located within the confines of the enclosure must comply with any and all other applicable sections of this Code.~~ A pool access gate(s) must open outward from the pool, must be self-closing and have a self-latching device equipped to accommodate a locking device.
- (E) Any ~~a~~ Above ground pools that ~~are~~ is four (4) feet or more above surface grade with a removable ladder or which has a lockable barrier around the ladder or access stairs, is exempt from the permanent barrier requirement in Section 1101.01 (C). ~~are required to have a fence or gate at all points of access to the pool such as from a deck, ladder, or stairs.~~ Non-removal ladders must have a barrier around the ladder and have a self-latching device equipped to accommodate a locking device.

SECTION 1106.12: FENCES AND WALLS

Fences and walls are permitted in a yard or along the edge of any yard provided:

- (A) **Fences and walls.** No fence or wall in a front yard area exceeds four (4) feet in height in front of the primary structure.
 - (1) Fences or walls ~~extending along any side or rear property lines~~ must not exceed a height of six (6) feet above the grade.
 - (2) ~~Informal plantings~~ Shrubs and other landscape features may be higher than six (6) feet along any side, rear or front property line, but any such plantings must be well maintained, not extend into the right-of-way, and must not be hazardous or disturbing to existing or future abutting uses.
 - (3) All fences, walls, and barriers (collectively referred to as a fence) of any nature or description must conform to the following:
- (B) **Permit and Approving Authority.** The erection, construction or alteration of any fence or wall requires a permit and must be approved by the Zoning Inspector for compliance with the provisions of this Code.

(1) The Community Development Director may in his/her sole discretion, determine what qualifies as fencing and/or waive the permit fee. Factors to be considered prior to waiving the permit fee include, but are not limited to:

- (a) The fence is designed to delineate the location of a driveway;
- (b) The fence is a single panel primarily designed for privacy;
- (c) The replacement or repair of an existing fence with one of similar size and material;
- (d) The fence is primarily designed to provide screening for garbage containers, recycling containers, or a rainwater collection system;
- (e) Any other factor deemed relevant by the Community Development Director;
- (f) A vegetative fence, such as arborvitae or a row of pine trees, does not require a permit.

(C) Clear Vision Triangle Area. Walls, ~~and~~ fences, and informal plantings must be in compliance with [1106.09 \(hyperlink\)](#).

(D) Maintenance. Walls and fences must be maintained in good condition. Rotten, crumbled, or broken material or compound must be replaced, repaired, or removed.

(E) Orientation of Finished Side. ~~Where a fence or wall has a single finished or decorative side, it must be oriented to face outward toward adjacent parcels or road rights-of-way (i.e., away from the interior of the lot to which the fence or wall is associated).~~ Any solid fence must be installed so that the finished side presents (faces) the abutting property(s) and/or road right-of-way. Finished side is defined as the side without any visible supports and/or brackets.

(F) Security Fencing. Unless explicitly permitted elsewhere in this Code, barbed wire, spikes, nails, or any other sharp instrument of any kind are prohibited on top of or on the sides of any fence, except that barbed wire cradler may be placed on top of fences enclosing public utility buildings or equipment in any district. Electric fences and similar energized fences that could cause injury are prohibited, except that low voltage fences are permitted on a commercial farm that meets all of the requirements of the Ohio Right to Farm Law. This Section does not apply to underground invisible fences designed for household pets. The Planning Commission may permit barbed wire, spikes, nails, or any other sharp instrument on top of or on the sides of a fence in the I-R, and I Districts, provided the Planning Commission determines that the barbed wire, spikes, nails, or other sharp instrument is necessary for the safety and security of the site.

(G) Maximum Height. No fence or wall hereafter erected may be in excess of six (6) feet in height above the grade of the surrounding land, except that the Planning Commission may approve a height of up to eight (8) feet if the Planning Commission determines that a higher fence is necessary for the safety and security of the site based on the use of the site or any use of an adjoining site.

(H) Fence Material and Design. A fence must be constructed of a material or compound customarily manufactured for such a purpose, including, but not limited to pressure treated wood, vinyl, galvanized and/or coated chain link, or ornamental metal. The use of scrap lumber, plywood, snow fence, chicken wire, wood pallet, plastic material less than 1", tarp, or other unapproved material is prohibited.

CHAPTER 1107: PARKING, LOADING, AND ACCESS MANAGEMENT

SECTION 1107.15 DRIVEWAYS.

Driveways ~~may~~ must comply with the following:

(a) Not exceed twenty-four (24) feet in width;

(b) ~~and~~ Must be of equal width from the traveled portion of the public or private road right-of-way to the driveway terminus ~~of the improved area~~.

(a) (c) In R-1, R-2, R-3, R-3A and R-4 Zoning Districts, driveways must not exceed forty percent (40%) of the total required front yard on the lot.

(b) (d) An applicant may seek a zoning permit from the Community Development Department if the applicant is only seeking to expand the width of the driveway at the terminus only in order to service a multicar garage.

(e) (e) In R-1, R-2, R-3, R-3A, and R-4 Zoning Districts, an applicant may seek a zoning permit from the Community Development Department if the applicant is only seeking to install a "bump-out" or "turn-around" in the applicant's driveway.

(e) (f) The Community Development Department is not obligated to grant such a zoning permit requested under Section 1107.15(b) or Section 1107.15(c) and must review

applications in accordance with any standards set forth by the Community Development Director. If an application is denied, the applicant may seek a variance.

CHAPTER 1109: SIGNS

SECTION 1109.07: EXEMPT SIGNS.

- (I) Electronic menu and order summary boards primarily visible to the person(s) placing an order in a drive-thru lane.

SECTION 1109.08 PROHIBITED SIGNS.

- (F) Any sign, structure, support, or frame that was previously part of an on-premise commercial sign, but no longer supports or contains a sign relating to a commercial activity, business, or usage on the premises, which has been discontinued for ~~one hundred eight (180) days~~ at least ninety (90) days must be removed in accordance with Section 1109.165 ([hyperlink](#)) or brought into compliance with this Chapter.

SECTION 1109:10(C) Wall Signs. Amend the maximum area in the table from the current two (2) square feet per linear foot of building frontage to “one (1) sq. ft. per linear foot of building frontage to a maximum of sixty (60) square feet” (applies in the C, C-D, N-C, IC-R and C-R Zoning Districts).

SECTION 1109:10(D) Wall Signs. Amend the maximum area in the table from the current two (2) square feet per linear foot of building frontage to “one (1) sq. ft. per linear foot of building frontage to a maximum of sixty (60) square feet” (applies in the I-R (to be amended to R-T-O) and I Districts).

CHAPTER 1110: NONCONFORMITIES

SECTION 1110.05 (E): Previously Approved Construction. Nothing in this Code prohibits the completion of construction and use of a nonconforming structure for which a zoning permit was issued prior to the effective date of this Code, or any amendment thereto, provided that the occupancy permit is obtained within ~~four (4)~~ two (2) years of the Planning Commission granting the site plan approval.

SECTION 1110.06 (D) Discontinuance or Abandonment. In the event a dispute over the lapse of a nonconforming use arises, a presumption is hereby created that a lapse has occurred. The individual or entity claiming the nonconforming use then bears the burden of proving the use has been continuous by a preponderance of the evidence. Continuous use is defined as no interruption of use for more than two (2) consecutive calendar years.

CHAPTER 1111: ADMINISTRATIVE BOARDS AND COMMISSIONS

SECTION 1111.01 (A)(2) Maintenance of Records.

(d) Zoning Code and Text Amendments. An original or master copy of the Code must be retained by the Community Development Department, maintained current with amendments, and must be available to the public. All revisions or amendments must be incorporated into the original master text within a period of two (2) weeks from the effective date of the revision or amendment. Copies of each revision or amendment must be retained.

(e) Zoning Map and District Amendments. The original or master of the Zoning Map must be retained by the Community Development Department, maintained current with amendments, and must be available to the public. All revisions or amendments must be incorporated on the master map within a period of two (2) weeks from the effective date of the revision or amendment.

Section 1111.01 (B)(2) Procedures for Zoning Code Text Amendment Public Hearings.

SECTION 1111.01(4): Zoning Permit Expiration. The Zoning Permit becomes void at the expiration of ~~one (1)~~ two (2) years after the date of issuance, unless construction has begun. If no construction is started within ~~one (1)~~ two (2) years of the date of the Permit, a new permit is required and reapplication must be made.