

1 AN ACT relating to planning and zoning.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 100 IS CREATED TO
4 READ AS FOLLOWS:

5 (1) As used in this section:

6 (a) "Qualifying planning unit" means a planning unit established under this
7 chapter that is composed of:

8 1. A city with a population equal to or greater than ten thousand
9 (10,000);

10 2. Any combination of cities with a collective population equal to or
11 greater than fifteen thousand (15,000);

12 3. A county with population equal to or greater than fifteen thousand
13 (15,000);

14 4. Any combination of cities and counties, parts of counties, or parts of
15 consolidated local governments with a collective population equal to
16 or greater than twenty thousand (20,000);

17 5. A consolidated local government; or

18 6. An urban-county government;

19 (b) "Qualifying residential development" means a tract of land that is:

20 1. Five (5) acres or more;

21 2. Located in an area that is zoned for single-family homes; and

22 3. The subject of a subdivision plat or development plan submitted to a
23 qualifying planning unit after the effective date of this Act;

24 (c) "Service document" means a letter, form, or other document issued by a
25 water and sewer service provider to an owner or developer of a residential
26 development that states that a provider is able and willing to provide water
27 and sewer service to the project or dwelling;

1 (d) "Small lot" means a residential lot that is four thousand (4,000) square feet
2 or less; and

3 (e) "Transitional buffer" means a buffer between residential developments
4 consisting of no more than two (2) of the following elements:

- 5 1. A fence or wall;
- 6 2. A berm or mound;
- 7 3. Vegetation;
- 8 4. Green space; or
- 9 5. Another natural barrier.

10 (2) A qualifying planning unit shall not adopt or enforce any rule or ordinance that
11 would require:

12 (a) A residential lot in a qualifying residential development to be:

- 13 1. Larger than three thousand (3,000) square feet;
- 14 2. Wider than thirty (30) feet; or
- 15 3. Deeper than seventy-five (75) feet; or

16 (b) A small lot in a qualifying residential development to have:

- 17 1. Setbacks greater than:
 - 18 a. Fifteen (15) feet from the front of the property;
 - 19 b. Ten (10) feet from the back of the property; or
 - 20 c. Five (5) feet from the side of the property;
- 21 2. Covered parking;
- 22 3. More than one (1) parking space per unit;
- 23 4. Off-site parking;
- 24 5. More than thirty percent (30%) open space or permeable surface;
- 25 6. Fewer than three (3) full stories not exceeding ten (10) feet in height
26 measured from the interior floor to ceiling;
- 27 7. A maximum building bulk; or

1 8. An articulation or other architectural requirement the only purpose of
2 which relates to aesthetics.

3 (3) Subsection (2) of this section shall not be construed to prohibit a qualifying
4 planning unit from adopting regulations related to environmental features,
5 erosion, stormwater management, waterways, or wastewater management,
6 including a requirement that a qualifying residential development obtain service
7 documents, if the regulation is generally applicable and the qualifying planning
8 unit is otherwise authorized to adopt the regulation under state or federal law.

9 (4) This section shall not be construed to affect, prohibit, preempt, or render
10 unenforceable any property or use restrictions contained in the properly enacted
11 rules or regulations of a homeowners association, condominium association, or
12 other similar property owner association or cooperative.

13 (5) Any person aggrieved by a qualifying planning unit's violation of any provision
14 of this section shall have a cause of action in the Circuit Court in the county in
15 which the person resides. The Circuit Court, in its discretion, may award:

16 (a) A person that prevails against the qualifying planning unit reasonable
17 attorney's fees and court costs to be paid by the qualifying planning unit; or
18 (b) A planning unit that prevails against a person who has brought suit under
19 this section reasonable attorney's fees and court costs to be paid by that
20 person, if the Circuit Court determines that the suit was frivolous or
21 meritless.

22 (6) (a) If a qualifying planning unit determines that a proposed qualifying
23 residential development will have substantial negative impacts on:

24 1. Public safety or the provision of government services, including but
25 not limited to fire protection, emergency medical services, law
26 enforcement access, solid waste collection, snow and ice removal, or
27 the safe movement and operation of emergency vehicles and

equipment;

2. The qualifying planning unit's ability to comply with any requirement to accommodate public utilities or maintain the provision of utilities to a service area;
3. The qualifying planning unit's ability to comply with state or federal laws, regulations, rules, or legal decrees; or
4. Transportation infrastructure, traffic flow, or roadway access standards;

as a result of the standards set out in subsection (2) of this section, the qualifying planning unit may request that a developer modify and resubmit plans for a proposed development to ameliorate or remediate those potential negative impacts.

(b) A qualifying planning unit that makes a request under paragraph (a) of this subsection shall:

1. Articulate a specific negative impact or impacts that the proposed qualifying residential development will have;
2. Articulate the specific requirement under subsection (2) of this section that would cause a specific negative impact; and
3. Provide the developer with sufficient time to modify and resubmit a plan.

(c) A qualifying planning unit may deny a proposed qualifying residential development plan that fails to ameliorate or remediate the negative impacts under paragraph (a) of this subsection.

(d) 1. A developer shall have a cause of action in the Circuit Court in the county in which the qualifying residential development is proposed if a qualifying planning unit denies a qualifying residential development plan pursuant to this subsection. The Circuit Court shall determine if:

- 1 a. The qualifying planning unit complied with this subsection;
- 2 b. The qualifying planning unit's denial is supported by clear and
- 3 convincing evidence; and
- 4 c. Any negative impact was raised by the qualifying planning unit
- 5 for pretextual reasons to improperly deny a proposed
- 6 development.

7 2. a. If the Circuit Court finds in favor of the developer, it shall
8 require the qualifying planning unit to pay the developer's
9 reasonable attorney's fees and court costs.

10 b. If the Circuit Court finds in favor of the planning unit and
11 determines that the suit was frivolous or meritless, it may in its
12 discretion require the developer to pay the planning unit's
13 reasonable attorney's fees and court costs.

14 (7) Notwithstanding subsection (2) of this section, a qualifying planning unit may
15 require a developer to install a transitional buffer when a qualifying residential
16 development abuts existing residential property developed at a lesser density than
17 the qualifying residential development, but a transitional buffer shall not be
18 required that creates more than seventy-five (75) feet of separation between
19 developments.

20 ➔ SECTION 2. A NEW SECTION OF KRS CHAPTER 100 IS CREATED TO
21 READ AS FOLLOWS:

22 (1) A planning unit shall not adopt or enforce any ordinance or regulation that
23 would require:

24 (a) More than one (1) parking space per residential unit;

25 (b) Any minimum parking requirements for:

26 1. Existing buildings undergoing a change of use;

27 2. Licensed child-care facilities;

1 3. Deed-restricted affordable housing; or

2 4. Assisted living facilities; or

3 (c) More than one-half (1/2) parking space for each residential unit that is

4 under twelve hundred (1,200) square feet.

5 (2) This section shall not alleviate a developer or planning unit's obligations to

6 provide accessible parking spaces as required by the Americans with Disabilities

7 Act, 42 U.S.C. sec. 12101 et seq. An accessible parking space shall not count

8 towards the minimums set out in this section.

9 (3) This section shall not prohibit a developer from providing more parking spaces

10 than the minimum number of parking spaces required in any ordinance or

11 regulation adopted pursuant to this section.

12 (4) (a) If a planning unit determines that the parking spaces for a proposed

13 development plan would have substantial negative impacts on:

14 1. Public safety or the provision of government services, including but

15 not limited to fire protection, emergency medical services, law

16 enforcement access, solid waste collection, snow and ice removal, or

17 the safe movement and operation of emergency vehicles and

18 equipment;

19 2. The planning unit's ability to comply with any requirement to

20 accommodate public utilities or maintain the provision of utilities to a

21 service area;

22 3. The planning unit's ability to comply with state or federal laws,

23 regulations, rules, or legal decrees; or

24 4. Transportation infrastructure, traffic flow, or roadway access

25 standards;

26 as a result of the standards set out in subsection (1) of this section, the

27 planning unit may request that a developer modify and resubmit

1 development plans for a proposed development to ameliorate or remediate
2 those potential negative impacts.

3 (b) A planning unit that makes a request under paragraph (a) of this subsection
4 shall:

- 5 1. Articulate a specific negative impact or impacts that the proposed
6 development plan would have;
- 7 2. Articulate the specific requirement under subsection (1) of this section
8 that would cause a specific negative impact; and
- 9 3. Provide the developer with sufficient time to modify and resubmit a
10 development plan.

11 (c) A planning unit may deny a proposed development plan that fails to
12 ameliorate or remediate the negative impacts under paragraph (a) of this
13 subsection.

14 (d) 1. A developer shall have a cause of action in the Circuit Court in the
15 county in which the development plan is proposed if a planning unit
16 denies a development plan pursuant to this subsection. The Circuit
17 Court shall determine if:

- 18 a. The planning unit complied with this subsection;
- 19 b. The planning unit's denial is supported by clear and convincing
20 evidence; and
- 21 c. Any negative impact was raised by the planning unit for
22 pretextual reasons to improperly deny a proposed development.

23 2. a. If the Circuit Court finds in favor of the developer, it shall
24 require the qualifying planning unit to pay the developer's
25 reasonable attorney's fees and court costs.

- 26 b. If the Circuit Court finds in favor of the planning unit and
27 determines that the suit was frivolous or meritless, it may in its

discretion require the developer to pay the planning unit's reasonable attorney's fees and court costs.

3 ➔ SECTION 3. A NEW SECTION OF KRS CHAPTER 100 IS CREATED TO
4 READ AS FOLLOWS:

5 (1) As used in this section:

6 (a) "Mixed-use residential development" means a development consisting of
7 residential and nonresidential uses in which the nonresidential uses
8 constitute less than fifty percent (50%) of the total square footage of the
9 development and includes condominiums;

10 (b) "Multifamily residential development" means a development with three (3)
11 or more dwelling units within one (1) or more buildings and includes
12 condominiums; and

13 (c) *"Qualifying planning unit"* means a planning unit established under this
14 chapter that is composed of:

15 1. A city with a population equal to or greater than ten thousand
16 (10,000);

17 2. Any combination of cities with a collective population equal to or
18 greater than fifteen thousand (15 000):

19 3. A county with population equal to or greater than fifteen thousand
20 (15 000):

21 4. Any combination of cities and counties, parts of counties, or parts of
22 consolidated local governments with a collective population equal to
23 or greater than twenty thousand (20,000):

²⁴ **5** A consolidated local government; an

25 6 An urban county government

26 (2) In a qualifying planning unit, mixed-use residential developments and
27 multifamily residential developments shall be permitted uses in all commercial

1 zones.

2 (3) A qualifying planning unit shall not adopt or enforce any regulation or
3 ordinance that:

4 (a) Prohibits mixed-use residential developments or multifamily residential
5 developments in commercial zones;

6 (b) Imposes requirements on mixed-use residential developments or multifamily
7 residential developments that are more restrictive than those placed on
8 other comparable uses within the commercial zone; or

9 (c) Requires mixed-use residential developments or multifamily residential
10 developments to have on the property or share via a parking agreement
11 more than one (1) off-street parking space for each unit in addition to any
12 accessible parking spaces required by the Americans with Disabilities Act,
13 42 U.S.C. sec. 12101 et seq.

14 ➔Section 4. This Act takes effect July 1, 2027.