

**ORDINANCE 2016-08**

**AN ORDINANCE OF THE CITY OF FORT MITCHELL, KENTUCKY, AMENDING SECTION 10.12, 10.13, 10.14, AND 10.16 OF THE FORT MITCHELL ZONING ORDINANCE RELATING TO THE ADDITION OF BUILDING DESIGN CRITERIA IN THE LHS (LIMITED HIGHWAY SERVICE) ZONE, LSC (LIMITED SERVICE COMMERCIAL) ZONE, NC (NEIGHBORHOOD COMMERCIAL) ZONE AND THE SC (SHOPPING CENTER) ZONE AND ORDERING THIS ORDINANCE TO BE PUBLISHED BY SUMMARY**

**WHEREAS**, the City has submitted an application requesting the Kenton County Municipal and Planning and Zoning Commission (the "Commission") to review and make recommendations on certain proposed text amendments to the City's official zoning code;

**WHEREAS**, pursuant to KRS 100.211, the Commission provided notice and held a public hearing on the application on June 2, 2016, in order to collect information and to discuss the proposed text amendments;

**WHEREAS**, the Commission did, by proper resolution, pursuant to KRS Section 100.211 make a recommendation to approve the proposed text amendment and adopted findings, which the city hereby incorporates by reference.

**NOW THEREFORE**, be it ordered by the City of Fort Mitchell, Kentucky, as follows:

BE IT ORDAINED BY THE CITY OF FORT MITCHELL, KENTUCKY, AS FOLLOWS:

**SECTION I**

Subsection (E) of Section 10.12 of the Fort Mitchell Zoning Ordinance is hereby amended in full to include the following language set forth below regarding an LHS (Limited Highway Service) Zone:

**E. OTHER DEVELOPMENT CONTROLS:**

1. Off-street parking and loading and/or unloading shall be provided in accordance with Articles XI and XII of this ordinance.
2. No outdoor storage of any material (usable or waste) shall be permitted in this zone except within enclosed containers, with the exception of the outdoor displays of vehicles as part of a new luxury car dealership.
3. No lighting shall be permitted which would glare from this zone onto any street,

or into any adjacent property.

4. Where any yard of any use permitted in this zone abuts a residential zone, a minimum yard requirement of fifty (50) feet for each side and/or rear yard which abuts said zone shall be provided, ten (10) feet of which shall be maintained by a screening area, as regulated by Section 9.17, A., 2., d. of this ordinance.
5. A site plan, as regulated by Section 9.19 of this ordinance, shall be required for any use in this zone.
6. No use producing objectionable odors, noise, or dust shall be permitted within five hundred (500) feet from the boundary of any residential zone.
7. Off-street parking and loading and/or unloading areas may be located in front and side yards in this zone, provided that no off-street parking areas shall be closer than fifteen (15) feet to the street, road, highway, or right of - way line or boundary line of any adjacent district. This fifteen (15) foot area shall remain open and unobstructed except by items specifically permitted in yard areas in this ordinance, provided that, for New Luxury Car Dealerships, any portions of off-street parking areas that are immediately adjacent and touching an interstate highway right-of-way-line shall not be required to have a setback and may be built up to the interstate highway right-of-way line.
8. All business activities permitted within this zone shall be conducted within a completely enclosed building with the exception of off-street parking and loading and/or unloading areas, the outdoor display of vehicles as part of a New Luxury Car Dealership, and the outdoor play area of day care facilities.
9. Any service station located within the Limited Highway Service Zone which had an area used for outdoor storage of inoperable vehicles existing at the time of adoption of Ordinance 1978-17 (November 30, 1978) may be permitted to continue temporary outdoor storage of inoperable vehicles, subject to the following requirements:
  - a. No inoperable vehicle may be parked for a period exceeding forty - eight (48) hours or stored outside of a completely enclosed building unless confined within an area effectively screened from view from adjoining properties which has been approved by the Board of Adjustment. Only solid fences, evergreen trees (ten feet in height, as provided by Section 9.17 of the Fort Mitchell Zoning Ordinance), or a combination of fence and evergreen trees may be used to provide screening for the storage area, subject to the approval of the Board of Adjustment; and
  - b. No area used for outdoor storage of inoperable vehicles shall be permitted to be enlarged or expanded beyond the scope and area of its operation existing at the time of adoption of this ordinance; and
  - c. No outdoor storage of inoperable vehicles shall be permitted unless said vehicles are accessory to an existing auto service or towing service operation; and
  - d. No inoperable vehicle may be stored within a screened storage area as provided for within this section, for a period exceeding one hundred twenty (120) consecutive calendar days. In order to ensure that inoperable vehicles shall not be stored for a period exceeding one hundred twenty (120) days, the operator shall be required to maintain a record log available for examination for the Zoning Administrator, to indicate the date at which time each vehicle was initially stored and

removed from within said storage area. (Ord. 1979-16, passed 12/3/79).

10. Eating establishments or restaurants of the type permitted in this zone may provide a drive - thru facility for window service, subject to the following conditions:
  - a. The hours of operation of the drive - thru service shall be limited to seven (7:00) A.M. to eleven (11:00) P.M.
  - b. The sound pressure level from any speaker or order station may not exceed 55 decibels, as provided for in Section 15.2, C.
  - c. The speaker or order station shall be located on any wall or in any yard of a building adjacent to any area which is either zoned for or developed in residential use, or located within one hundred (100) feet of such use.
11. Dumpster units and mechanical devices such as air conditioners, heating units, and heat exchangers, shall be screened from residential areas. Noise, which emanates from mechanical devices shall not exceed 55 decibels, as provided for within Section 15.2, C., Noise, of this ordinance.
12. No New Luxury Car Dealership shall be operated, either for sales, leasing, or service, earlier than 7:30 a.m., nor later than 9:00 p.m., Monday through Friday; or 8:30 a.m. to 7:30 p.m. Saturday, or 12:00 p.m. to 6:30 p.m. Sunday. The sound pressure level from any speaker at the New Luxury Car Dealership, used to project announcements, pages, or music, shall not exceed 55 decibels, as provided for in Section 15.2,C. Furthermore, all exterior lighting from this use shall be directed away from residential zones and any light poles or posts shall not extend to a height that is greater than 20 feet above ground level.
13. Additional Construction Standards
  - a. Exterior Wall Materials
    - (i) Primary Building Materials may be used for up to 100% of the exterior wall surface area. Permitted primary materials include the following materials; brick, wood "clapboard" type siding, wood composite "clapboard" type siding or cement board "clapboard" type siding, stone, tile, glass or concrete which is formed to have a masonry unit appearance may be used.
    - (ii) Secondary Building Materials may be used for trim, detailing, and incidental or secondary wall area. These secondary materials may not exceed 40% of the exterior wall surface area. Permitted secondary materials include; architectural grade metals, EIFS/stucco, glass block precast concrete. Only architectural grade materials shall be used.
    - (iii) Prohibited Building Materials may not be utilized at all. These prohibited materials include; plain/smooth faced CMU, flimsy or

synthetic appearing exterior wall materials (such as ribbed, industrial style metal siding, exposed fastener metal wall panels, vinyl siding, T111 or other hard board type materials that are manufactured in sheets) are not permitted.

- b. Roofs- Materials for any pitched roof shall be architectural grade, three dimensional shingles or tiles, slate, or standing seam metal.
- c. Mechanicals
  - (i) All mechanical equipment shall be screened from view of the public street frontage or a private access drive which functions as a street. This does not include equipment that is required by a public utility company (i.e. Electric/ gas meter, etc.).
  - (ii) Ground mounted equipment shall be screened either with landscaping or enclosed within a structure which uses the same materials, colors, or design detailing as the principal building.
  - (iii) If roof mounted, mechanical equipment shall be screened by a parapet wall or stage set roof types (for flat roofed buildings). If used, the parapet wall shall be designed and constructed as an integral part of the overall building. For roof mounted equipment on pitched roofed buildings, the equipment shall be wholly contained within roof structure.

## SECTION II

Subsection (F) of Section 10.13 of the Fort Mitchell Zoning Ordinance is hereby amended in full to include the following language set forth below regarding an LSC (Limited Service Commercial) Zone:

### F. OTHER DEVELOPMENT CONTROLS:

1. Off-street parking and loading and/or unloading shall be provided in accordance with Articles XI and XII of this ordinance.
2. No outdoor storage of any material (usable or waste) shall be permitted in this zone, except within enclosed containers.
3. No lighting shall be permitted which would glare from this zone onto any street, or into any residential zone.
4. Where any yard of any use permitted in this zone abuts a residential zone, a minimum yard requirement of fifty (50) feet for each side and/or rear yard which abuts said zone shall be provided, ten (10) feet of which shall be maintained by a screening area, as regulated by Section 9.17 of this ordinance.
5. No use producing objectionable odors, noise, or dust shall be permitted within five hundred (500) feet from the boundary of any residential zone.

6. All business activities permitted within this zone shall be conducted within a completely enclosed building with the exception of off-street parking and loading and/or unloading areas.
7. A site plan, as regulated by Section 9.19 of this ordinance, shall be required for any use permitted in this zone.
8. Additional Construction Standards
  - a. Exterior Wall Materials
    - (i) Primary Building Materials may be used for up to 100% of the exterior wall surface area. Permitted primary materials include the following materials; brick, wood "clapboard" type siding, wood composite "clapboard" type siding or cement board "clapboard" type siding, stone, tile, glass or concrete which is formed to have a masonry unit appearance may be used.
    - (ii) Secondary Building Materials may be used for trim, detailing, and incidental or secondary wall area. These secondary materials may not exceed 40% of the exterior wall surface area. Permitted secondary materials include; architectural grade metals, EIFS/stucco, glass block precast concrete. Only architectural grade materials shall be used.
    - (iii) Prohibited Building Materials may not be utilized at all. These prohibited materials include; plain/smooth faced CMU, flimsy or synthetic appearing exterior wall materials (such as ribbed, industrial style metal siding, exposed fastener metal wall panels, vinyl siding, T111 or other hard board type materials that are manufactured in sheets) are not permitted.
  - b. Roofs- Materials for any pitched roof shall be architectural grade, three dimensional shingles or tiles, slate, or standing seam metal.
  - c. Mechanicals
    - (i) All mechanical equipment shall be screened from view of the public street frontage or a private access drive which functions as a street. This does not include equipment that is required by a public utility company (i.e. Electric/ gas meter, etc.).
    - (ii) Ground mounted equipment shall be screened either with landscaping or enclosed within a structure which uses the same materials, colors, or design detailing as the principal building.
    - (iii) If roof mounted, mechanical equipment shall be screened by a parapet wall or stage set roof types (for flat roofed buildings). If used, the parapet wall shall be designed and constructed as an

integral part of the overall building. For roof mounted equipment on pitched roofed buildings, the equipment shall be wholly contained within roof structure.

### SECTION III

Subsection (E) of Section 10.14 of the Fort Mitchell Zoning Ordinance is hereby amended in full to include the following language set forth below regarding an NC (Neighborhood Commercial) Zone:

#### E. OTHER DEVELOPMENT CONTROLS

1. Off-street parking and loading and/or unloading shall be provided in accordance with Articles XI and XII of this ordinance.
2. No outdoor storage of any material (usable or waste) shall be permitted in this zone except within enclosed containers. No outdoor storage of any usable material shall be permitted except in accordance with Section 10.12, E., 6., below.
3. No lighting shall be permitted which would glare from this zone onto any street, or into any residential zone.
4. Where any yard of any use permitted in this zone abuts a residential zone, a minimum yard requirement of fifty (50) feet for each side and/or rear yard which abuts said zone shall be provided, ten (10) feet of which shall be maintained by a screening area, as regulated by Section 9.17 of this ordinance.
5. No use producing objectionable odors, noise, or dust shall be permitted within five hundred (500) feet from the boundary of any residential zone.
6. All business activities permitted within this zone shall be conducted within a completely enclosed building with the exception of off-street parking and loading and/or unloading areas, and outdoor dining facilities. The display of merchandise is permitted on sidewalks only subject to the following restriction:
  - a. Only merchandise for sale, including plants and gardening materials, may be displayed.
  - b. Displays are limited to the area directly in front of a commercial establishment offering the items for sale. The front of a commercial establishment shall be that side of a building where there is a public entrance.
  - c. Displays may not be located within six feet of the edge of the sidewalk nearest the curb, and shall allow for six feet of clear width on the sidewalk in any case.
  - d. Displays shall not block ingress or egress to any entrances or exits or adjoining buildings or properties.
  - e. No stacks of any material or pallets higher than five (5) feet.
  - f. No such displays shall engage the use of electricity nor shall such displays be animated or use lights or noise making devices.

- g. Cooking or grilling is not permitted anywhere on sidewalk nor in the parking areas.
7. A site plan, as regulated by Section 9.19 of this ordinance, shall be required for any use permitted in this zone.
8. Additional Construction Standards
- a. Exterior Wall Materials
    - (i) Primary Building Materials may be used for up to 100% of the exterior wall surface area. Permitted primary materials include the following materials; brick, wood "clapboard" type siding, wood composite "clapboard" type siding or cement board "clapboard" type siding, stone, tile, glass or concrete which is formed to have a masonry unit appearance may be used.
    - (ii) Secondary Building Materials may be used for trim, detailing, and incidental or secondary wall area. These secondary materials may not exceed 40% of the exterior wall surface area. Permitted secondary materials include; architectural grade metals, EIFS/stucco, glass block precast concrete. Only architectural grade materials shall be used.
    - (iii) Prohibited Building Materials may not be utilized at all. These prohibited materials include; plain/smooth faced CMU, flimsy or synthetic appearing exterior wall materials (such as ribbed, industrial style metal siding, exposed fastener metal wall panels, vinyl siding, T111 or other hard board type materials that are manufactured in sheets) are not permitted.
  - b. Roofs- Materials for any pitched roof shall be architectural grade, three dimensional shingles or tiles, slate, or standing seam metal.
  - c. Mechanicals
    - (i) All mechanical equipment shall be screened from view of the public street frontage or a private access drive which functions as a street. This does not include equipment that is required by a public utility company (i.e. Electric/ gas meter, etc.).
    - (ii) Ground mounted equipment shall be screened either with landscaping or enclosed within a structure which uses the same materials, colors, or design detailing as the principal building.
    - (iii) If roof mounted, mechanical equipment shall be screened by a parapet wall or stage set roof types (for flat roofed buildings). If used, the parapet wall shall be designed and constructed as an

integral part of the overall building. For roof mounted equipment on pitched roofed buildings, the equipment shall be wholly contained within roof structure.

#### SECTION IV

Subsection (D) of Section 10.16 of the Fort Mitchell Zoning Ordinance is hereby amended in full to include the following language set forth below regarding an SC (Shopping Center) Zone:

#### D. OTHER DEVELOPMENT CONTROLS

1. Off-street parking and loading and/or unloading shall be provided in accordance with Articles XI and XII of this ordinance.
2. No outdoor storage of any material (usable or waste) shall be permitted in this zone except within enclosed containers. No outdoor storage of any usable material shall be permitted except in accordance with Section 10.14, D., 6., below.
3. No lighting shall be permitted which would glare from this zone onto any street, or into any residential zone.
4. Where any yard of any use permitted in this zone abuts a residential zone, a ten (10) foot wide screening area, as regulated by Section 9.17 of this ordinance, shall be provided.
5. No use producing objectionable odors, noise, or dust shall be permitted within five hundred (500) feet from the boundary of any residential zone.
6. All business activities permitted within this zone shall be conducted within a completely enclosed building, with the exception of off-street parking and loading and/or unloading areas. The display of merchandise is permitted on sidewalks only subject to the following restriction:
  - a. Only merchandise for sale, including plants and gardening materials, may be displayed.
  - b. Displays are limited to the area directly in front of a commercial establishment offering the items for sale.
  - c. Displays may not be located within six feet of the edge of the sidewalk nearest the curb, and shall allow for six feet of clear width on the sidewalk in any case.
  - d. Displays shall not block ingress or egress to any entrances or exits or adjoining buildings or properties.
  - e. No stacks of any material or pallets higher than five (5) feet.
  - f. No such displays shall engage the use of electricity nor shall such displays be animated or use lights or noise making devices.
  - g. Cooking or grilling is not permitted anywhere on sidewalk nor in the parking areas.
7. A site plan, as regulated by Section 9.19 of this ordinance, shall be required for any use permitted in this zone. Such site plan shall include the layout of the entire area of the proposed shopping center and shall take into consideration good shopping center design (i.e., internal and external good pedestrian and vehicular access) and functional relationship of uses within



the shopping center.

8. Additional Construction Standards

a. Exterior Wall Materials

- (i) Primary Building Materials may be used for up to 100% of the exterior wall surface area. Permitted primary materials include the following materials; brick, wood "clapboard" type siding, wood composite "clapboard" type siding or cement board "clapboard" type siding, stone, tile, glass or concrete which is formed to have a masonry unit appearance may be used.
- (ii) Secondary Building Materials may be used for trim, detailing, and incidental or secondary wall area. These secondary materials may not exceed 40% of the exterior wall surface area. Permitted secondary materials include; architectural grade metals, EIFS/stucco, glass block precast concrete. Only architectural grade materials shall be used.
- (iii) Prohibited Building Materials may not be utilized at all. These prohibited materials include; plain/smooth faced CMU, flimsy or synthetic appearing exterior wall materials (such as ribbed, industrial style metal siding, exposed fastener metal wall panels, vinyl siding, T111 or other hard board type materials that are manufactured in sheets) are not permitted.

b. Roofs- Materials for any pitched roof shall be architectural grade, three dimensional shingles or tiles, slate, or standing seam metal.

c. Mechanicals

- (i) All mechanical equipment shall be screened from view of the public street frontage or a private access drive which functions as a street. This does not include equipment that is required by a public utility company (i.e. Electric/ gas meter, etc.).
- (ii) Ground mounted equipment shall be screened either with landscaping or enclosed within a structure which uses the same materials, colors, or design detailing as the principal building.
- (iii) If roof mounted, mechanical equipment shall be screened by a parapet wall or stage set roof types (for flat roofed buildings). If used, the parapet wall shall be designed and constructed as an integral part of the overall building. For roof mounted equipment on pitched roofed buildings, the equipment shall be wholly contained within roof structure.

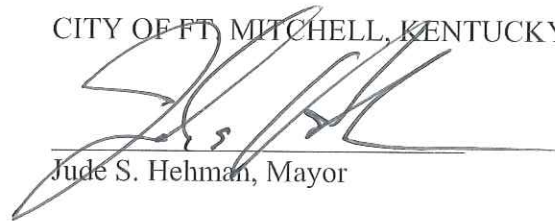
SECTION V

All ordinances or parts thereof in conflict herewith are to the extent of such conflict hereby repealed.

SECTION VI

This ordinance is hereby ordered to be published by summary.

CITY OF FT. MITCHELL, KENTUCKY



Jude S. Hehman, Mayor

ATTEST:



Linda Bartels, City Clerk

Date of First Reading: 6-20-16

Date of Second Reading and Enactment: 7-18-2016

Date of Publication: 07-28-16

