

**COMMISSIONERS ORDINANCE NO. O-2024-03**

**AN ORDINANCE OF THE BOARD OF COMMISSIONERS OF THE CITY OF NEWPORT, KENTUCKY, PURSUANT TO CHAPTER 153 OF THE CODE OF ORDINANCES, MAKING TEXT AMENDMENTS TO VARIOUS SECTIONS OF THE OFFICIAL ZONING ORDINANCE OF THE CITY AND AMENDING SECTION 153.43 OF THE CODE OF ORDINANCES REGARDING AMENDMENTS IN GENERAL**

WHEREAS, the City of Newport, Kentucky Planning and Zoning Commission, received an application for make text amendments to various sections of the official Zoning Code Ordinance of the City and the Code of Ordinances itself, held a public meeting upon such request after giving notice as required by KRS Chapter 424, on January 22, 2024 (Hearing # PZ-24-01); and,

WHEREAS, the City of Newport, Kentucky Planning and Zoning Commission, during the public hearing, unanimously approved the requested amendments and made recommendation to the Board of Commissioners of the City of Newport, Kentucky to approve all of the requested text amendments to the various sections along with the amendments of the Code of Ordinances; and,

WHEREAS, with the Board of Commissioners of the City of Newport, Kentucky, having accepted all the recommendations of the City of Newport Planning and Zoning Commission at the duly held meeting,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF NEWPORT, KENTUCKY, as follows:

**SECTION I**

That, with regard to the Official Zoning Code Ordinance of the City of Newport, Kentucky:

Section 9.11 Nonconforming Uses, B. extending the time for determination of abandonment and creating various definitions with regard thereto;

Section 9.13 Conditional Buildings and Uses, C. to redefine buildings or structures and their adaptive re-uses, including in D. the necessity for prior approval of the Zoning Administrator with regard to certain repairs and maintenance;

Section 9.12, Residential Zones, Table 4 regarding adaptive re-use as a conditional use within certain zones and to indicate such must be in conformity with the provisions of Section 9:13 C. of the Code;

Section 10.3, Commercial District, Table 6 regarding Personal Service Establishments to include tattoo studios, food trucks and adaptive re-uses as permitted or conditional uses within certain zones and to indicate such must be in conformity with the provisions of Section 9:13 C of the Code, along with creating a definition for Tattoo Studios;

Section 10.4, Industrial Uses, Table 8 regarding adaptive re-uses as a conditional use within certain zones and to indicate such must be in conformity with the provisions of Section 9:13 C. of the Code;

Section 18.7 Decisions of the Board of Adjustments, B. to clarify the necessity of only a quorum of the entire membership to make determinations,

all of which shall be and are hereby amended as set forth in the attached, the language of which is made a part hereof and incorporated by reference as to each and every text amendment addition or change to each of the various official Zoning Code Ordinances sections or provisions so indicated as if fully set forth herein.

## SECTION II

That Section 154.43 of the Code of Ordinances shall be and is hereby amended to include B. regarding who may originate proposals for text amendments and to renumber B. and C., as set forth in the attached, the language of which is made a part hereof and incorporated by reference as if fully set forth herein.

## SECTION III

That this Ordinance shall be signed by the Mayor, attested to by the City Clerk, recorded, published and be effective upon publication.

PASSED: 1<sup>st</sup> Reading: February 26, 2024

PASSED: 2<sup>ND</sup> Reading: March 27, 2024

Thomas L. Guidugli Jr., Mayor

ATTEST:

Tiffany Myers, City Clerk

## SECTION 10.3 COMMERCIAL DISTRICT

Table 6

DISTRICTS						
CB D	NC	SC	PO	RFD	CBD F	1. RETAIL CONVENIENCE GOODS AND/OR SERVICE ESTABLISHMENTS
P	P	P	P	P	P	B. Outdoor dining areas as an accessory to Indoor dining and excluding use of the right-of-way, <u>except by permit</u> .
CBD	NC	SC	PO	RFD	CBD F	2. PERSONAL SERVICE ESTABLISHMENTS
<u>C</u>	X	X	X	<u>P</u>	X	<u>C. Tattoo Studio, Permitted use in CCO district only.</u>
X	X	P	X	X	X	29. FOOD CARTS, <u>FOOD TRUCKS.</u> *
<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>31. ADAPTIVE RE-USE</u>

\* Except otherwise by special permit

#### D. CONDITIONAL USES:

2. The adaptive re-use of buildings shall conform to the provisions of section 9:13 C of this ordinance.

#### G. TATTOO STUDIOS:

1. No person shall control, operate, conduct, maintain or manage any tattoo or body-piercing establishment or shall perform tattooing or body piercing on any person without complying with the requirements of this section. Failure to comply with any government regulation, health regulation, or zoning condition may result in the revocation of the occupational license and/or conditional use permit.

2. The Kentucky Administrative Regulations (902 KAR 45:065, 45:070) establishes rules regulating the construction, operational, and sanitation practices of tattoo studios to ensure services are provided in a safe and effective manner.

3. No person shall control, operate, conduct or manage any tattoo or body-piercing establishment, whether or not actually performing the work of tattooing or body piercing, without first obtaining a permit from the Northern Kentucky Independent Health District and occupational license.

4. When permitted as a conditional use, tattoo studios shall conform to the following conditions:

a. A tattoo studio shall be located a minimum of 1,000 feet from any other tattoo studio.

b. Tattoo studios must be located in existing principal commercial buildings and tenant spaces.

c. Tattoo Studios must be located entirely within their own tenant space, separated from any other businesses, and have direct access to the public right-of-way without entering other tenant spaces.

d. Tattoo Studios are subject to operating hours between 8AM and 8PM.

e. All application of tattoos and body piercing shall be done in an area not readily visible from the public rights-of-way in a manner approved by the Zoning Administrator.

f. Tattoo Studios shall subject to signage regulations contained in Section XV of this code.

## SECTION 10.2 RESIDENTIAL ZONES

TABLE 4:

<b>R-1</b>	<b>R-2H</b>	<b>R-2</b>	<b>R-3</b>	<b>R-4</b>	<b>R-5</b>	<b>PERMITTED USES</b>
P	P	P	P	X	X	Single Family Dweller (Detached)
X	P	P	P	P	P	Single Family Dweller (Attached)
X	X	P	P	P	X	Two Family Dwelling
X	X	X	X	P	P	Multi Family Dwelling
P	P	X	X	P	P	Planned Unit Development
<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>Adaptive Re-use</u>

### D. CONDITIONAL USES:

6. The adaptive re-use of buildings or structures shall conform to the provisions of section 9:13 C of this ordinance.

## SECTION 10.4 INDUSTRIAL DISTRICTS

**TABLE 8**  
**PERMITTED USES: INDUSTRIAL ZONES**  
(P signifies Permitted; X signifies not permitted; C signifies Conditional use)

I 1	I 2	PERMITTED USES:
<u>C</u>	<u>C</u>	<u>15. Adaptive Re-Use</u>

F. The adaptive re-use of buildings or structures shall conform to the provisions of section 9:13 C of this ordinance.

## SECTION 9:13 CONDITIONAL BUILDINGS AND USES

C. RE-USE OF PREVIOUSLY APPROVED OR "GRANDFATHERED" CONDITIONAL USE ~~EXISTING NON-CONFORMING BUILDINGS OR STRUCTURES~~: To prevent the abandonment of conditional use previously approved or existing non-conforming structures and to promote their adaptive re-use all zones within the city, previously approved or "grandfathered" conditional use structures may, subject to the approval of the Board of Adjustments, be approved as a new conditional use allowing higher residential density than the underlying zone would permit, the operation of a commercial, non-industrial, use or a combination of both subject to the following restrictions:

1. The adaptive reuse of a building or structure that existed prior to the effective date of this code may be considered by the Board of Adjustment through the conditional use permit process.
2. Screening pursuant to Section [9.16](#);
3. Development Plan requirements of Section [9.19](#);
4. Fences, walls and obstruction to view requirements of Article XII;
5. Sign regulations pursuant to Article XV;
6. In residential zones, the permitted commercial uses shall be compatible with the surrounding zone;
7. The adaptive re-use shall be located within the existing conditional use structure; and
8. The adaptive reuse of such pre-existing building shall only be allowed where the Board of Adjustment makes a determination that an existing building on the site cannot be readily used for a principal use that is otherwise allowed in the applicable zoning district, due to the design of the building.

9. The proposed use of the building shall be limited to principal uses that are specifically allowed in Table 6 and Table 4 of the Newport Zoning Code.
10. The proposed reuse of the building shall be one that the Board of Adjustment finds will have minimal impact on the surrounding neighborhood based on the consideration of the conditional use criteria contained herein.
11. The adaptive reuse application must demonstrate that the exterior appearance of the building shall not be altered unless otherwise approved by the Board of Adjustment as part of a conditional use approval. This shall not prevent the applicant from renovating the building so that it complies with all applicable building and fire codes.
12. If the pre-existing building is demolished or damaged more than 60 percent of the market value of the building, then the remainder of the building shall be demolished and the adaptive reuse approval shall expire. After such expiration, only a permitted use in the applicable zoning district may be authorized in accordance with this code.

D. REPAIRS AND MAINTENANCE: On any building devoted in whole or in part to any nonconforming use, work may be done on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing, to an extent not exceeding ten percent (10%) of the market value of the building, without prior approval of the zoning administrator, provided that the cubic content of the building as it existed at the time of passage or amendment of this ordinance shall not be increased. Nothing in this Ordinance herein shall be deemed to prevent the strengthening or restoring, to a safe condition, of any building, structure, or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

SECTION 9.11 NONCONFORMING LOTS, NONCONFORMING USES,  
NONCONFORMING STRUCTURES, REPAIRS AND MAINTENANCE:

B. NONCONFORMING USES:

3. TERMINATION: Any one of the following acts or conditions shall terminate, immediately, the right to operate a public or private nonconforming use:
  - b. Abandonment. Abandonment shall be deemed to have occurred when the nonconforming activity ceases to operate and/or the premises are vacated so as to leave the property unoccupied for a period of at least one (1) calendar year, six (6) consecutive calendar months.

Definitions:

ADAPTIVE RE-USE: The re-use or conversion of existing buildings or structures built prior to the effective date of this code, into a new use other than what it was originally intended or designed for.

FOOD CART: Mobile unit which cannot independently travel on its own power, including trailers, set up on streets utilized to prepare or dispense food or food items for sale.

FOOD TRUCK: Motorized vehicle, able to operate on its own power, equipped to cook, prepare, sell, and dispense food or food items.

TATTOOING: The act of producing scars on a human being or the act of inserting pigment under the surface of the skin of a human being, by pricking with a needle or otherwise, to produce indelible marks or figures visible through the skin. Tattooing shall also include body piercing and body modification.

TATTOO STUDIO: A facility in which tattooing, body piercing, or body modification is applied and certified by the Northern Kentucky Health Department as compliant with all regulations and state statutes.

TATTOO ARTIST: The person certified by the Northern Kentucky Health Department to engage in tattooing.

**SECTION 18.7 DECISIONS OF THE BOARD OF ADJUSTMENT:**

B. A simple majority of the total membership quorum of the Board of adjustment as established by regulation or agreement, shall be necessary to reverse any order, requirement, decision or determination of the Zoning Administrator, or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance, or to effect any variation in the application of this Ordinance.

**§ 153.43 AMENDMENTS GENERALLY.**

(A) A proposal for amendment to any zoning regulation may originate with the Commission, or with the Board of Commissioners or with the owner of the property in question. Regardless of the origin of the proposed amendment, it shall be referred to the Commission before adoption. The Commission shall then hold at least one public hearing after notice as

required by KRS 424 and make recommendations to the Board of Commissioners to override the recommendation of the Commission.

*(B) A proposal to amend the text of any zoning regulation which must be voted upon by the city commission may originate with the planning commission or the city commission.*

(B-C) All procedures for public notice, publication and adoption shall be made pursuant to the Kentucky Revised Statutes.

(1995 Code, § 2.60.180)