



**Danville-Boyle County Planning & Zoning Commission**  
**445 West Main Street P.O. Box 670**  
**Danville, Kentucky 40423**

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May 31, 2024

Honorable Trille Bottom  
Boyle County Judge Executive  
321 West Main Street, Room 111  
Danville KY 40422

SUBJECT: Recommendation to Approve Amendment to Joint Zoning Ordinance – Merchant Electric  
Generating Facilities

Dear Judge Bottom:

The Danville-Boyle County Planning and Zoning Commission met in regular session on May 22, 2024, in the Danville City Commission Chambers with six (6) members present for this Text Amendment to the Joint Zoning Ordinance. After a public hearing had been conducted, the Planning Commission's vote was five (5) yeas and one (1) nay for a recommendation for approval to the Boyle County Fiscal Court. This amendment was filed by the Danville-Boyle County Planning & Zoning Commission, as required by KRS 100.211.

Please find enclosed recommendations to amend Articles 4 and 5 of the Joint Zoning Ordinance. The May Hearing Minutes are set to be approved at the regular June Planning Commission meeting.

Sincerely,

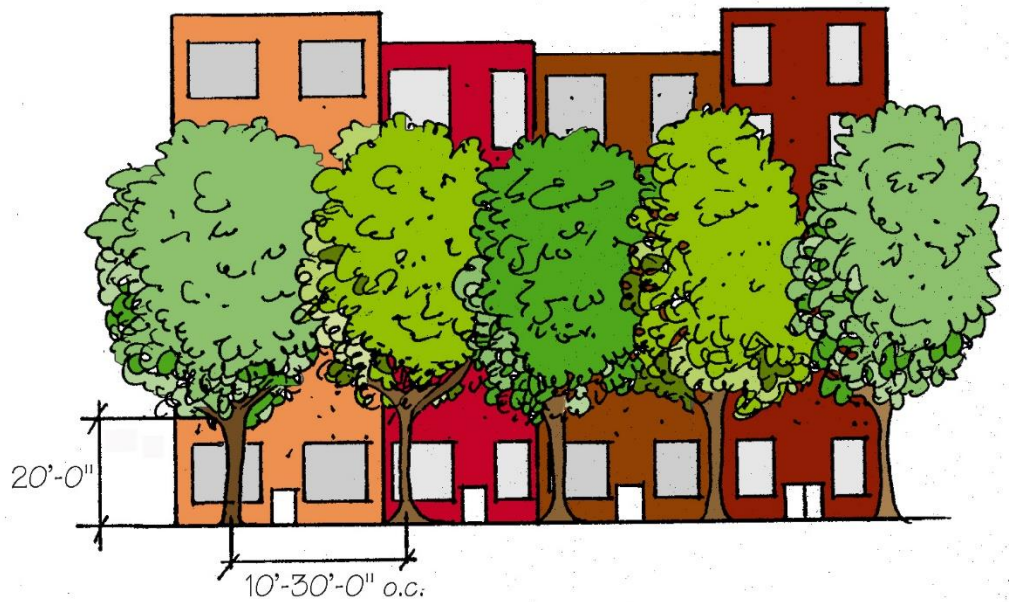
Mikaela Gerry, Director  
Danville-Boyle County Planning & Zoning Commission

Enclosures

DANVILLE-BOYLE COUNTY PLANNING AND ZONING COMMISSION

# JOINT ZONING ORDINANCE

BOYLE COUNTY *AND THE*  
CITIES OF DANVILLE, JUNCTION CITY  
*AND* PERRYVILLE



AS AMENDED JANUARY 1, 2020

ZONING ORDINANCE SECTION 4.7.4 (ZONING DISTRICTS > INDUSTRIAL AND MIXED-USE DISTRICTS > GENERAL INDUSTRIAL AND DEVELOPMENT STANDARDS); PROPOSED NEW TEXT DENOTED BY **FORMATTING** [...]

**B. Property Development Standards.**

1. Development in each District shall comply with the industrial development standards in the following table:

	<b>LI</b>	<b>HI</b>	<b>IBD</b>
<b>Lot Area</b> (minimum)			
Public Sewer	5,000 sf	5,000 sf	217,800 sf
Septic System	N/A*	N/A*	N/A*
<b>Lot Width</b> (min at bldg line)	50 ft	50 ft	100 ft
<b>Lot Frontage</b> (minimum)	50 ft	50 ft	50 ft
<b>Lot Coverage</b> (maximum)	90%	90%	80%
<b>Setback</b> (minimum)			
Front Yard	25 ft	25 ft	25 ft
Side Yard	0 ft	0 ft	0 ft
Rear Yard	0 ft	0 ft	0 ft
<b>Height</b> , (maximum)	100 ft	100 ft	100 ft
<b>Residential Uses Allowed?</b>	No	No	Yes

**\* In the case of Merchant Electric Generating Facilities, where no plumbing is installed, public sewer shall not be required, and the Lot Area minimums for parcels on public sewer shall apply, along with all other Development standards set out above. This exception from the sewer requirement shall not apply to other uses in the Industrial and Mixed-Use Districts. Any subsequent use that requires the installation of plumbing shall require connection to public sewer.**

2. **Minimum Lot Area Above 100-Year Flood Level Required.** No lot served by public sanitary sewer shall be created or developed which does not have at least 5,000 square feet of lot area above the 100-year frequency flood level.
3. **Measurement of Lot Coverage.** Lot coverage shall include all areas of the lot covered by buildings, structures (including accessory structures), patios, walkways, travelways, and parking areas, including gravel parking areas. Lot coverage does not include pervious material or similar permeable paving material. The percent of lot coverage shall be determined by dividing the total covered area by the gross area of the lot.

# ARTICLE 5 USE REGULATIONS

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## SEC. 5.1 USE TABLE

The table on the following pages lists the uses allowed within zoning districts.

### 5.1.1 Use Categories

All of the Use Categories and Specific Use Types listed in the following Use Table are explained in Section 5.2, Use Categories, additionally Section 5.2 includes any Exceptions or Specific Use Standards for the uses contained in the Use Table.

### 5.1.2 **P** Uses Permitted By-Right

A “P” indicates that a use category is allowed by-right in the respective zoning district. These permitted uses are subject to all other applicable regulations of this Zoning Ordinance.

### 5.1.3 **C** Conditional Uses

A “C” indicates that a use category is allowed only if reviewed and approved as a conditional use, in accordance with the Conditional Use Permit procedures of Section 3.8, Conditional Use Permit. Conditional uses are subject to all other applicable regulations of this Zoning Ordinance.

### 5.1.4 **P\*** or **C\*** Uses Subject to Specific Conditions

A “P” or a “C” that is accompanied by the symbol “\*” indicates that the listed use type is subject to use-specific conditions. The standards are listed in each category in Section 5.2.

### 5.1.5 **■** Uses Not Allowed

A blank or empty cell indicates that a use type is not allowed in the respective zoning district, unless it is otherwise expressly allowed by other regulations of this Zoning Ordinance. Any use not allowed is deemed prohibited.

### 5.1.6 New or Unlisted Uses

If an application is submitted for a use type that is not listed in the use table, the Planning Commission Director shall be authorized to make a similar use interpretation based on the use category descriptions of Section 5.2, Use Categories, and the similar use interpretation criteria of Section 5.2B. If the Director determines that the proposed use does not fit any of the use category descriptions of Section 5.2, no similar use interpretation shall be made. The Director shall make a determination as to the use category for the application which has been made.

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Use Regulations

AG (Agriculture)		NB (Neighborhood Business)		P (Public)																
RR (Rural Residential)		GB (General Business)		LI (Light Industrial)																
R1 (Single Family Residential)		CB (Central Business)		HI (Heavy Industrial)																
RM-2 (Two Family Residential)		HB (Highway Business)		IBD (Industrial Business Development)																
RM-3 (Multi-Family Residential)		OP (Office and Professional)		HD (Historic Overlay)																
RM-4 (Multi-Family Residential)		ICD (Institutional Campus Development)																		
Use Category	Page #	Specific Use Type	A G	R R	R 1	R M 2	R M 3	R M 4	N B	G B	C B	H B	O P	I C D	P	L I	H I	I B D	H D	
<b>P = Permitted Use    C = Conditional Use    * = Specific Use Standards Apply</b>																				
<b>OTHER (See Section 5.2.6)</b>																				
<b>Agriculture</b>	5-41	Farming Crop and Livestock Production (Cities of Danville, Junction City, Perryville)	P																	
		Farming Crop and Livestock Production (Unincorporated Area of Boyle County)	P														P	P	P	
		Confined Animal Feeding Operation, Livestock Auction	P*																P*	
		Roadside Stand	P*								P*		P*							
		Agritourism Uses permitted under KRS 247.800	P*								P*		P*							
		Limited Meat or Poultry Processing	C*																P*	
<b>Aviation, Surface Passenger Terminals</b>	5-44	Light Aviation	C*												P*	P*	P*	P*		
		Commercial Aviation	C*												P*	P*	P*	P*		
		Ground Transportation									P		P			P	P		P	
<b>Burial Related Use</b>	5-44	Commercial Cemeteries and Crematories	C*							P*	P*	P*				P*	P*			
<b>Merchant Electric Generating Facility (Unincorporated Area of Boyle County)</b>	5-45	Wind or Solar Electricity Generating Facility (Cities of Danville, Junction City, Perryville)	P*													P*	P*	P*		
		Wind or Solar Electricity Generating Facility (Unincorporated Area of Boyle County)															P*	P*	P*	
<b>Mining and Pipelines</b>	5-49	Mine, Quarry, Borrow Pit	C*													P*	P*			
<b>Telecommunications Facilities</b>	5-46	Oil or Gas Production, Storage	P*													P*	P*			
	5-47	Hazardous Liquids Pipelines	P*													C*	P*	C*		
	5-49	(New or Converted)																		
<b>Telecommunications Facilities</b>	5-49	Telecommunications Support Structure	P*							P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	
		Telecommunications Facility (attached)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
<b>TEMPORARY USES (See Section 5.3)</b>																				
Temporary Use	5-50		P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	

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Use Regulations

2. **Accessory Uses.** Accessory uses may include mortuaries, crematories, chapels, offices, parking, monument sales and maintenance facilities.
3. **Examples.** Examples include commercial cemeteries, columbaria, storage vaults mausoleums, crematories and mortuaries.
4. **Exceptions.** Commercial cemeteries, crematories and mortuaries that are accessory uses to a Funeral Home are classified as Retail Sales and Service.
5. **Specific Use Standards.** Grave sites, storage vaults and any other structure must be located a minimum of 20 feet from any property line. Commercial cemeteries and crematories must be located a minimum of 100 feet from any residential district, use or structure. Burial-Related uses must be located outside the floodplain.

**D. Merchant Electric Generating Facility**

1. **Characteristics.** Merchant Electric Generating Facility. A Merchant Electric Generating Facility is one that is capable of operating at an aggregate capacity of at least 10 megawatts, and which sells the electricity it produces in the wholesale market at rates not regulated by the Public Service Commission (PSC).
2. **Accessory Uses.** Accessory uses may include parking and control, monitoring, data or transmission equipment. In Unincorporated Boyle County accessory uses may also include farming and livestock production.
3. **Examples.** Examples include Wind and Solar electricity Generating Facilities.
4. **Exceptions.**
  - a. Utility storage facilities are classified as Warehouse and Freight Movement.
5. **Specific Use Standards.** Wind and Solar electricity Generating Facilities must be located a minimum of 500 feet from any residential district, use or structure Merchant Electric Generating Facilities in the unincorporated area of Boyle County are subject to the following Specific Use Standards in all applicable zoning districts:
  - a. To allow for Merchant Electric Generating Facilities as a viable alternative energy source without potentially eliminating agricultural activities within Boyle County, as well as provide for the protection for Agricultural Land, this Ordinance shall limit

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Use Regulations

Merchant Electric Generating Facilities to a total maximum allowable coverage of 2,000 acres in Boyle County. Once the total allowable acreage has been met, no further requests for additional Merchant Electric Generating Facilities shall be considered. There shall be no variance from this.

- b. Merchant Electric Generating Facilities must adhere to all applicable local, state and federal requirements, including all procedures outlined in KRS 278.700 to KRS 278.716;
- c. Merchant Electric Generating Facilities shall only be located in Light Industrial (LI), Heavy Industrial (HI) or Industrial Business Development (IBD) District.
- d. A Site Development Plan Application and Approval is required for any proposed Merchant Electric Generating Facilities. In addition to the Site Development Plan requirements outlined in Article 3, Section 3.11.5, the Planning Commission shall consider the impact of the proposed facility upon surrounding properties and institute other site design measures so that the character of the area is protected;
- e. All Merchant Electric Generating Facilities shall be setback a minimum of ~~400~~ 500 feet from public rights-of-way and adjacent property lines. All structures shall be at least 500 feet from any residential district, adjacent residential use or adjacent residential structure. The setback distance may be increased by the Planning Commission as determined to be necessary to assure compatibility with other land uses depending on case-specific factors;
- f. Merchant Electric Generating Facilities shall not be located nearer than 750 feet from any church, synagogue, or other permanent place of worship, licensed day care center, public or private elementary, middle, or secondary school, institution of higher learning, or business college, or any park, or park-like area of open space under the control of a governmental agency;
- g. Merchant Electric Generating Facility infrastructure, except for power lines connecting the Merchant Electric Generating Facility site to regulated utility facilities shall be considered "structures" as defined in and for the purposes of this Ordinance.

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- h. Outdoor storage of materials, equipment, or supplies associated with a Merchant Electric Generating Facility is not allowed, unless otherwise allowed by the underlying zoning;
- i. All Merchant Electric Generating Facilities shall comply with the landscape requirements set forth in Article 4, Section 4.6.8.D. The minimum landscape buffer width for Merchant Electric Generating Facilities shall be 50 feet along all rights-of-way and adjacent to other residential land uses;
- j. All Merchant Electric Generating Facilities loading and unloading areas shall be oriented away from public streets and in the rear of any structure.
- k. Merchant Electric Generating Facilities shall not be located within a floodplain;
- l. Measures must be taken to ensure that all Merchant Electric Generating Facilities are undertaken in a manner which minimizes increased traffic congestion on existing streets, roads and intersections. All facility construction and/or service entrances shall be located on a public street with a minimum pavement width of at least 18 feet; and
- m. All Merchant Electric Generating Facilities must submit all applicable local, state or federal construction-related permits to the Planning Commission prior to commencement of the project construction. Zoning Permit Applications are not required for a Merchant Electric Generating Facilities. Additionally, public water lines and hydrants shall be available to the project area sufficient to meet the fire protection standards in accordance with the appropriate Fire Department. In lieu of meeting the water line and hydrant requirement, an alternative fire protection plan, prepared by a professional engineer meeting the appropriate NFPA specifications, may be submitted to the appropriate Fire Department for review and approval. Alternative fire protection plans shall be forwarded to the Planning Commission prior to commencement of the project construction.
- n. DECOMMISSIONING PLAN – A decommissioning plan shall be submitted that meets the requirements of KRS 278.706(2)(m).

**E. Mining and Pipelines**





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**MINUTES OF THE DANVILLE-BOYLE COUNTY PLANNING & ZONING COMMISSION**

**Regular Meeting, May 22, 2024, 2024, 9:00 a.m.**

**DANVILLE CITY HALL, 445 W. Main Street, Danville, KY**

**\*\*\* \*\***

*Commissioner's present: Jim Boyd, Chair, Dan Nolet, Terry Manon, Steve Griffin, Rita Douglas, and Ken Alexander*

*Also present: Counsel Henry Smith, Director Mikaela Gerry, and Lisa Bowman, Administrative Assistant.*

- A. CALL TO ORDER / INVOCATION** – After a delay was called to gather quorum, Chair Boyd opened this May 22, 2024, regular meeting of the Danville-Boyle County Planning and Zoning Commission at the approximate hour of 9:50 AM. Chair then led the invocation.
- B. APPROVAL OF MINUTES** – Commissioner Nolet made A motion to approve the minutes of the April 24, 2024, meeting as presented. The motion was seconded by Commissioner Manon and passed by unanimous vote of the Commission.
- C. FINANCIAL REPORT** – Commissioner Manon presented the April 2024 Financial Report (Exhibit A).  
Commissioner Nolet made a motion to approve the April 2024 Financial Report as submitted. The motion was seconded by Commissioner Alexander and passed by unanimous vote.
- D. CONSTRUCTION SURETIES** – Director Gerry presented the April 2024 construction sureties (Exhibit B).
1. Stonegate Developers LLC, Stonegate Development – Accept initial Letter of Credit in amount of \$275,829.00 (20% bonding option that includes 10% project contingency) from Construction Bond Estimate and authorize Chairman to sign Developer Construction Contract.
    - a. Director Gerry presented Stonegate Development's Letter of Credit in the amount of \$275,829.00, which consists of 20% bonding and 10% project contingency, as surmised from the construction bond estimate. Action taken also authorizes the Chair to sign the Developer Construction Contract.



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Commissioner Alexander made a motion to accept Stonegate Development's Letter of Credit and grant the Chair authority to sign the construction contract. The motion was seconded by Nolet and approved by unanimous vote of the Commission.

2. Hycliff Properties LLC, Brooks Acres – Accept initial Letter of Credit in amount of \$863,516 (includes 10% project contingency) from Construction Bond Estimate and authorize Chairman to sign Developer Construction Contract.
  - a. Director Gerry presented Hycliff Properties' Letter of Credit in the amount of \$863,516, which consists of 10% project contingency, as surmised from the construction bond estimate. Action taken also authorizes the Chair to sign the Developer Construction Contract.

Commissioner Manon made a motion to accept Hycliff Properties' Letter of Credit and grant the Chair the authority to sign the construction contract. The motion was seconded by Commissioner Alexander and passed by unanimous vote.

**E. SUBDIVISION APPROVALS –**

1. Shelby Green Ltd. Has applied for the subdivision of a 11.113-acre parcel of land located at 0 Breathitt Avenue, Junction City. The property is zoned R1-A. All technical review matters have been remedied.

A motion to approve the Major Plat for Shelby Green LTD., for Shelby Green Section II Tract 3 was made by Commissioner Griffin and seconded by Commissioner Nolet. The motion passed by unanimous vote of the Commission.

2. Christopher Berenstern has applied for the subdivision of a 72.001-acre parcel of land located at 0 Elk Cave Road, Boyle County. The property is zoned AG. Technical review adjustments are in process.

A motion to approve this Major plat for the development of 72.001 acres on Elk Cave Road, contingent upon tech corrections, was made by Commissioner Griffin and seconded by Commissioner Nolet. The motion was approved by unanimous vote of the commission.

**F. PUBLIC HEARINGS –**

1. Dipak Patel, for Sky Touch Hospitality, f/k/a Shree Sai, has applied for a Site Plan Amendment for the construction of two (2) new commercial structures, related landscaping, utility requirements, and parking requirement, on 1.50-acres, zoned Highway Business (HB), and located at 3663 & 3773 Danville Bypass, Danville.



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- a. A motion was made at the April 24, 2024, PZC meeting to table the application for Dipak Patel until a complete application and readvertisement fee has been supplied to the PZ office and an up-to-date notice is posted. No action is required.
  2. **Tabled from April 24, 2024**, The Danville-Boyle County Planning and Zoning Commission has filed an application to amend Articles 4 and 5 of the Joint Zoning Ordinance, in relation to The Merchant Electric Generating Facility use in the unincorporated areas of Boyle County.

A motion to recover this item from its tabled status was made by Commissioner Alexander. It was seconded by Commissioner Griffin and passed by unanimous vote of the committee.

- a. Director Gerry presented proposed amendments to Article 4, altering the requirement that all Industrial Districts be on sewer, and Article 5 of the Joint Ordinance addressing merchant electric facilities, be they solar or wind, within the unincorporated area of Boyle County. The amendments have been heretofore reviewed and altered, on the suggestions of the PZC Advisory Committee and the Commission's review/discussion at the regular meeting April 24, 2024, with the updated amendments attached and marked as Exhibit D.
  - The Director presented suggestions for the updated ordinance amendment, as discussed with PZ Counsel, Henry Smith, same shown as Option 1 Added sentence in Article 4, at the end of selected Option 1: "Any subsequent installation of plumbing shall require connection to public sewer."
- b. Chair Boyd announces this matter is up for public hearing. He then asks if anyone would like to speak either for or against the amendments.
  - i. Mr. Mike Morgan came to the podium to say he supports P&Z's current pathway for uses not listed as permissible by right or not permitted outright, which is the process of obtaining a Conditional Use through the Board of Adjustments. He stated how he feels a CUP will be more pliable when conditioning things such as traffic, decommissioning, and more. Mr. Morgan stated that he sees how the preservation of farmland, when conducted among other residential and/or business districts, can cause issues with traffic count and narrow road width.
- c. Chair Boyd closed the public hearing.



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- A motion to approve the amendments to Articles 4 and 5 of the Joint Ordinance was made by Commissioner Griffin, who added to Article 4, at the end of selected Option 1: "Any subsequent installation of plumbing shall require connection to public sewer." And justifies his approval stating:

"The proposed regulation is intended to protect prime farmland, and to allow for the regulation of a developing technology."

Said motion was seconded by Commissioner Manon. The motion then passed by a vote of 5-1.

**NEW BUSINESS**

1. Advisory Committee Report – none
2. Budget Committee Report – none
3. Personnel Committee Report – none
4. Other New Business
5. Announcements

**G. ADJOURN** - A motion to adjourn this meeting of the Danville/Boyle PZC was made by Commissioner Griffin and seconded by Commissioner Manon. The motion passed unanimously.

Transcribed by

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LISA BOWMAN, Administrative Specialist II

Duly signed by Jim Boyd, Chairman of the Danville/Boyle Co. PZC on this the \_\_\_\_\_ day of \_\_\_\_\_, 2024.

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JAMES (JIM) BOYD, PZC CHAIR