

ORDINANCE NO. 920.24

AN ORDINANCE AMENDING THE ZONING ORDINANCE TEXT AS IT RELATES TO MERCHANT ELECTRIC GENERATING FACILITIES FOR THE JOINT ZONING ORDINANCE 920.7 FOR BOYLE COUNTY KENTUCKY

WHEREAS, the Fiscal Court of the County of Boyle, Commonwealth of Kentucky, has heretofore adopted a zoning ordinance.

WHEREAS, the Danville-Boyle Planning and Zoning Commission, the duly appointed administrative agency of the County to administer and enforce its zoning ordinance, has conducted a public hearing on requested amendments to the zoning ordinance text as it relates to Merchant Electric Generating Facilities and made certain findings, and presented recommendations for consideration by the Fiscal Court of the County of Boyle, Commonwealth of Kentucky; and,

WHEREAS, the Fiscal Court of the County of Boyle, Commonwealth of Kentucky, has reviewed the minutes of the public hearing conducted by the Planning & Zoning Commission on May 22, 2024, and considered the findings and recommendations of the Commission as proposed and presented by Mikaela Gerry, Director Danville-Boyle County Planning & Zoning Commission; and,

WHEREAS, the Danville-Boyle County Planning & Zoning Commission, Kentucky did conduct a public hearing for the Text Amendments of the Zoning Ordinance (text amendment attached) as prescribed in the Zoning Ordinance of Boyle County, Kentucky, and KRS 100; and,

NOW, THEREFORE, BE IT RESOLVED by the Boyle County Fiscal Court, Commonwealth of Kentucky, as follows:


1. Articles 4 and 5 of the Zoning Ordinance titled **Boyle County Zoning Ordinance** are hereby amended, approved, and re-adopted as if copied in full (attached).
2. **Applicability** - the provisions of this amendment shall apply to incorporated and unincorporated limits of Boyle County, Commonwealth of Kentucky.
3. **Effective Date** - Unless otherwise specifically stated, the provisions of this Ordinance shall become effective immediately upon passage and publication as required by law.
4. **Conflict with Other Regulations** - In the event that the provisions of this Amendment are inconsistent with another or if the provisions of the Zoning Ordinance or Zoning Map conflict with the provisions found in other adopted ordinances, the more restrictive shall control.
5. **Severability** - If a court declares the provisions of this Amendment in any part to be invalid, that ruling shall not affect the validity of the remainder of this Ordinance.

This Ordinance is adopted pursuant to KRS 67 in that it was introduced on June 11, 2024, and given final reading on June 25, 2024, and said Ordinance shall be in full force and effect upon signature, recordation, and publication in summary pursuant to KRS 424 and KRS 67.

ATTESTATION:

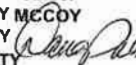
BOYLE COUNTY FISCAL COURT


Katina Wesley, Boyle Fiscal Clerk


Trille L. Bottom
Boyle County Judge/Executive

PUBLICATION DATE:

July 2, 2024

FILE #: _____ FEE: \$0.00
TITLE #: AMENDING ZONING 920.7
RECORDED: June 27, 2024 02:58:00 PM
COUNTY CLERK: CASEY MCCOY
DEPUTY CLERK: BECKY 
COUNTY: BOYLE COUNTY

B. Property Development Standards.

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

	LI	HI	IBD
Lot Area (minimum) Public Sewer Septic System	5,000 sf N/A*	5,000 sf N/A*	217,800 sf N/A*
Lot Width (min at bldg line)	50 ft	50 ft	100 ft
Lot Frontage (minimum)	50 ft	50 ft	50 ft
Lot Coverage (maximum)	90%	90%	80%
Setback (minimum) Front Yard Side Yard Rear Yard	25 ft 0 ft 0 ft	25 ft 0 ft 0 ft	25 ft 0 ft 0 ft
Height , (maximum)	100 ft	100 ft	100 ft
Residential Uses Allowed?	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.

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Use Regulations

AG (Agriculture) RR (Rural Residential) R1 (Single Family Residential) RM-2 (Two Family Residential) RM-3 (Multi-Family Residential) RM-4 (Multi-Family Residential)			NB (Neighborhood Business) GB (General Business) CB (Central Business) HB (Highway Business) OP (Office and Professional) ICD (Institutional Campus Development)							P (Public) LI (Light Industrial) HI (Heavy Industrial) IBD (Industrial Business Development) HD (Historic Overlay)									
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
P = Permitted Use C = Conditional Use * = Specific Use Standards Apply																			
OTHER (See Section 5.2.6)																			
Agriculture	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*	
Aviation, Surface Passenger Terminals	5-44	Light Aviation	C*												P*	P*	P*	P*	
		Commercial Aviation	C*												P*	P*	P*	P*	
		Ground Transportation									P		P			P	P		P
Burial Related Use	5-44	Commercial Cemeteries and Crematories	C*							P*	P*	P*				P*	P*		
Merchant Electric Generating Facility (Unincorporated Area of Boyle County)	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*
Mining and Pipelines	5-49	Mine, Quarry, Borrow Pit	C*													P*	P*		
Telecommunications Facilities	5-46	Oil or Gas Production, Storage	P*													P*	P*		
	5-47	Hazardous Liquids Pipelines (New or Converted)	P*													C*	P*	C*	
	5-49																		
Telecommunications Facilities	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
TEMPORARY USES (See Section 5.3)																			
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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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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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