

A low-angle, upward-looking perspective of several modern skyscrapers with glass facades, creating a sense of height and architectural grandeur. The sky is a clear, deep blue.

Dinsmôre

Land Use Law Update 2025

Kentucky Commercial Real Estate
Conference





**Legislative Update-Lots of
action in Frankfort in 2025**

**New Cases-Meaning of
Meitzen; Role of
Comprehensive Plans, etc.**

**Developments in the region-
New Ordinances; Data Center
confusion**



The background is a solid blue color. Overlaid on this are several dark blue silhouettes of people in various poses, some appearing to be in a crowd or meeting. A dotted white line graph with several data points is also visible, winding across the lower half of the image. A solid yellow horizontal line is positioned above the text.

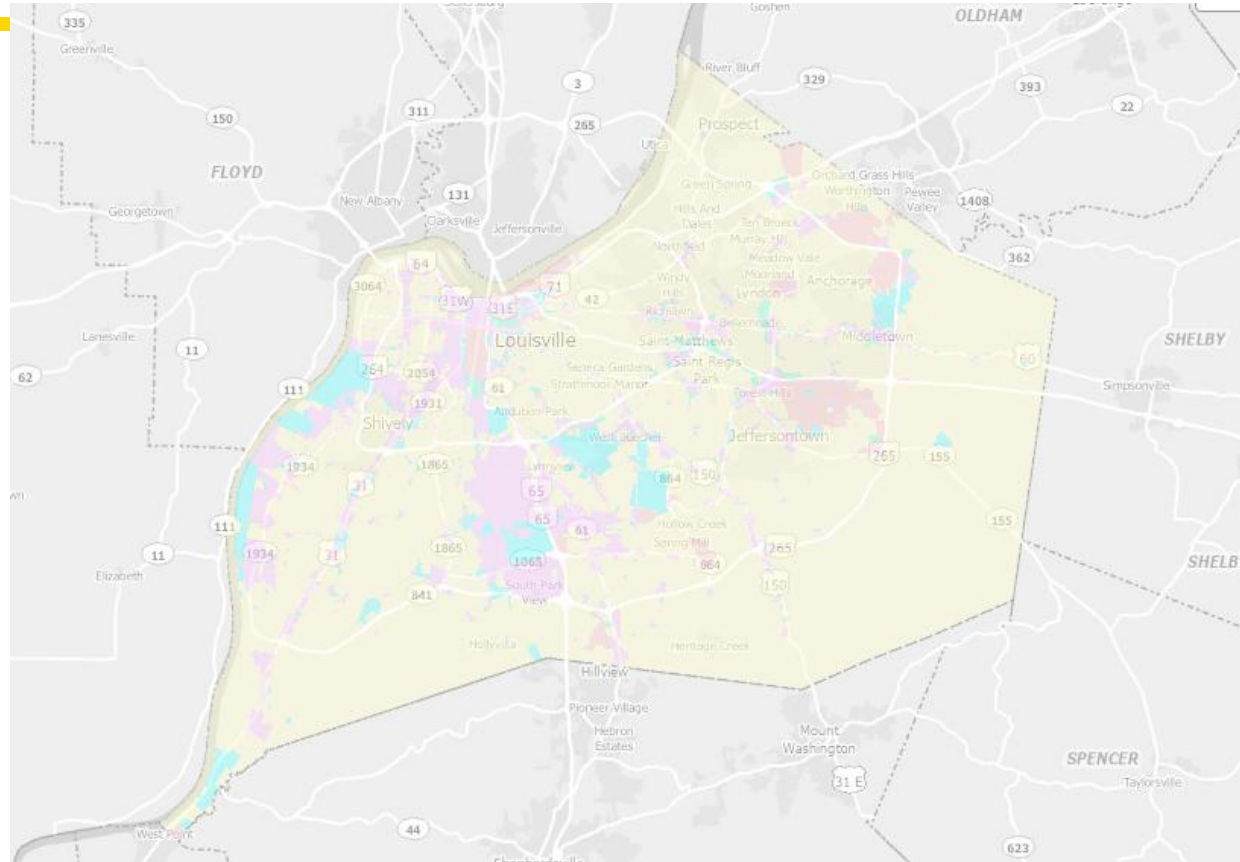
Legislative Update or “Hey, Louisville, Frankfort has some thoughts.”

The 2025 General Assembly

KRS 100.2101

- Introduced concept of “Density Development Project”—essentially any multi-family, including townhomes and apartments that will cause an increase in traffic such that roads perform at LOS D or below or which will increase emergency response times for current residents
- “Traditional Single Family Home Zone” is any zone that didn’t allow multifamily as of 1/1/2025
- In Louisville Metro, any multifamily in a Traditional Single Family Home Zone shall be subject to the typical rezoning procedure, and KRS 100.2111 shall not be used.

**Most of the
county is
“traditional
single family
home zone”**



The 2025 General Assembly

KRS 100.275

- **Subdivisions and Development Plans are to be evaluated by objective standards applied ministerially**
- **Not applicable if a waiver is sought or if there is a finding that the “objective standards would pose a specific threat to public health, safety, or welfare in the affected area.”**

The 2025 General Assembly

KRS 100.346

- **Requires training for members of Planning Commission and Board of Adjustment**
- **Requires training for zoning administrators and members of planning department**
- **Members may lose their seats and staff their jobs if they don't complete training**

The 2025 General Assembly

KRS 100.347

- Changed class of appellants from “any person who claims to be injured or aggrieved” to include “and that owns property within the same zone where the property that is the subject of the final action is located.”
- “within the same zone” is subject to interpretation

The 2025 General Assembly

KRS 100.408

- **Affects binding elements**
- **Will not allow Planning Commissions to waive or amend binding elements placed on a plan by a legislative body**

Recent Kentucky Cases affecting Land Use and Zoning



Louisville v. Friends of 42, LLC

Kentucky Court of Appeals
2024 WL 4310854

The right to build in accordance with underlying zoning is not subject to a discretionary review.

- **Developer proposed to construct apartment community on land zoned R-6 Multifamily. Planning Commission had a hearing and determined the plan complied with Land Development Code requirements.**
- **Appellants claimed that, because the Comprehensive Plan was referred to in the LDC, the Planning Commission should have reviewed against it.**

Louisville v. Friends of 42, LLC

Kentucky Court of Appeals
2024 WL 4310854

The right to build in accordance with underlying zoning is not subject to a discretionary review.

- **Circuit Court agreed with Appellants that Comprehensive Plan should have been reviewed.**
- **Court of Appeals overturned Circuit Court finding: “under the current statutory scheme, a local government first adopts a comprehensive plan and *then* that local government enacts various zoning plans.”**

City of Prospect v. Louisville Metro Gov't., et al.

Kentucky Court of Appeals
2024 WL 4714979

Meitzen is back and for real...

- After Metro approved “Prospect Cove 2,” the City of Prospect appealed, raising issues expressed by its citizens
- Circuit Court dismissed based on a lack of allegations of a particular injury to the City itself, not its residents.
- Court of Appeals affirmed, holding that “because of the City’s failure to state a claim of how the City was injured or aggrieved, the Circuit Court did not have jurisdiction of the case.”

Louisville Historical League, Inc. v. Louisville Jefferson County Metro Gov't, et al.

Kentucky Supreme Court

709 S.W.3d 213

Subject Matter Jurisdiction v. Particular Case Jurisdiction or “we can but we can’t.”

- Court determines that courts in general have constitutional ability to review administrative decisions
- Court recognizes that legislature can curtail jurisdiction for particular cases
- Important because subject matter jurisdiction cannot be waived, while particular case jurisdiction can

Preserve Madison County v. Madison County Board of Adjustment, et al.

2025 Ky. App. Unpublished
LEXIS 477, decided
10/10/2025

Court of Appeals finds “subject matter jurisdiction” in case brought by Preserve Madison County on behalf of its members.

Allegations of injury were general in nature “new proposed industrial development will create odor, noise, and other environmental nuisance conditions for neighboring residents...”

Rogers v. LFUC Board of Adj., et al.

2025 Ky. App. Unpub. LEXIS
287, decided 6/20/2025

Rogers sought approval for a short term rental and, when denied, filed an appeal.

Board moved to dismiss based on Rogers' failure to name a required party—her husband.

Court of Appeals agreed that all owners of a property must be named in order to comply with statute.

Billy C. Justice, et al. v. Lexington Fayette Urban County Gov't. Council

Kentucky Court of Appeals

2024 WL 4795607

Final action needed before appeal may be taken

- **Urban County Council rejects recommendation of Urban County Planning Commission on urban service boundary and directs UCPC to find additional land to add to it.**

Billy C. Justice, et al. v. Lexington Fayette Urban County Gov't. Council

Kentucky Court of Appeals

2024 WL 4795607

Final action needed before appeal may be taken

- **Before UCPC can take action on the directive from the Urban County Council, parties appeal.**
- **Court finds that no final action has taken place and that none of the appealing parties has been injured.**
- **Policy v. administrative action**
- **Can one appeal the first domino to fall?**

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Developments in the Region and trends

Data Centers

Different Communities =
Different definitions and
requirements

**Louisville Metro regulates as
“Telecommunications Hotel” and
subjects to design requirements in
zones which allow them**

**Oldham County regulated as “private
utility,” a conditional use in all zones
but a permitted use in no zones, but
is considering new regulations**

**Boone County has definition and
allows as conditional use in two
industrial zones but specifically
prohibits crypto mining**

New Louisville Ordinances

**Affordable Housing development
plans get extra time (5 years v. 2
years)**

**Cases with unanimous Planning
Commission support can avoid Metro
Council review**



What of Missing Middle Housing?

Mixed Housing is still supported, just not by right.

“By right” means a use type allowed in a given zone.

Louisville Metro’s attempt at making certain “middle housing” permissible “by right” led to reaction by General Assembly prohibiting Louisville Metro from adopting any version of it.

Urban/Suburban Divide

Or Keep the Suburbs
Suburban.

More and more housing policy is encouraging density in the urban core of Louisville

Controversy about Lexington's urban service boundary

KRS 100.2101

A low-angle, upward-looking shot of a modern skyscraper, likely the Petronas Towers, with a strong blue color grade. The building's facade features a repeating pattern of windows and structural elements, creating a sense of height and architectural rhythm. The sky is a clear, solid blue.

Accomplish m^ore.SM
