

ORDINANCE NO. 074 - 2023

AN ORDINANCE AMENDING ARTICLES 1-11, 3-13(a)-(j), 8-5(c)(11), 8-5(d)(15), 8-9(c)(10), 8-10(c)(10), 8-12(c)(1) AND (2), 8-14(c)(1), 8-15(b)(25), 8-15(c)(10), 8-16(b)(48), 8-16(c)(11), 8-17(b)(19), 8-19(b)(31), 8-21(o)(4)(e)(20), 8-21(o)(5)(e)(20), 12-3(i), 23A-5(c)(9), 23A-5(d)(10), 23A-9(b)(36), AND 28-5(h)(5)(e)(1)(b) OF THE ZONING ORDINANCE TO DEFINE AND REGULATE SHORT TERM RENTALS IN THE RESIDENTIAL, BUSINESS, MIXED USE AND INDUSTRIAL ZONES. (URBAN COUNTY COUNCIL).

WHEREAS, the Lexington-Fayette Urban County Planning Commission considered at a meeting on May 11, 2023 text amendments to Articles 1-11, 3-13(a)-(j), 8-5(c)(11), 8-5(d)(15), 8-9(c)(10), 8-10(c)(10), 8-12(c)(1) and (2), 8-14(c)(1), 8-15(c)(10), 8-15(d)(8), 8-16(c)(11), 8-16(d)(20), 8-17(b)(19), 8-19(b)(31), 8-21(o)(4)(e)(20), 8-21(o)(5)(e)(20), 12-3(i), 23A-5(c)(9), 23A-5(d)(10), 23A-9(b)(36), 28-3(d)(2), 28-4(d)(3), 28-5(d)(1) and (2), and 28-5(h)(5)(e)(1)(b) of the Zoning Ordinance to define and regulate Short Term Rentals in the residential, business, mixed use and industrial zones. The Planning Commission did recommend approval of the modified text amendment by a vote of 6-2; and

WHEREAS, this Council agrees with the recommendation of the Planning Commission, with certain amendments as set forth herein; and

WHEREAS, the recommendation of the Planning Commission is attached hereto and incorporated by reference herein.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 – That Article 1-11 of the Lexington-Fayette Urban County Government Zoning Ordinance is hereby amended in pertinent part as follows:

Sec. 1-11. Definitions.

Short Term Rental (STR) means the commercial use of a dwelling unit that is rented in whole or in part, for temporary occupancy by transient guests for a tenancy of less than thirty (30) consecutive days in duration, where no meals are served. This term does not include hotel or motel rooms, extended stay hotels, bed and breakfast facilities, boarding or lodging facilities, or farm employee dwelling units. Transient guests are those who have an established primary residence elsewhere, and this term shall not be construed to include individuals that rent a primary residence on a weekly basis.

Hosted Short Term Rental means a short term rental in which the dwelling unit utilized as the STR, or another dwelling unit on the subject property is a primary residence and a primary resident (as defined in Section 13-76 of the Code of Ordinances) continues to occupy the property while the short-term rental is being rented to a transient guest.

Un-Hosted Short Term Rental means a short term rental in which a primary

resident (as defined in Section 13-76 of the Code of Ordinances) does not occupy the property during the short term rental period.

Section 2 – That Article 3 shall be amended to add Section 3-13(a)-(j) of the Lexington-Fayette Urban County Government Zoning Ordinance as follows:

Sec. 3-13. General regulations for Short Term Rentals (STRs).

- (a) All short term rentals shall be licensed by the Division of Revenue and subject to the regulations of Section 13 of the Code of Ordinances.
- (b) Number of Dwelling Units allowed to be utilized as Short Term Rentals per Property:

Zones Allowed	Hosted (Occupancy up to 12)	Hosted (Occupancy >12)	Un-Hosted	# of Short Term Rental Units
R-1A, R-1B, R-1C, R-1D, R-1E, R-1T	Accessory Use	Conditional Use	Conditional Use	Hosted : 1 dwelling unit and 1 ADU Un-Hosted: 1 dwelling unit or 1 ADU
R-2, R-3, R-4, R-5, EAR-1, EAR-2, EAR-3	Accessory Use	Conditional Use	Conditional Use	For Single Family Lots: Hosted : 1 dwelling unit and 1 ADU Un-Hosted: 1 dwelling unit or 1 ADU For Multi-Family and Group Residential Lots: 10% max or 1, whichever is greater
B-1, P-1, MU-1, MU-2, MU-3	Accessory Use	Accessory Use	Principal Use	25% max.
B-2, B-2A, B-2B, B-4*, I-1*, I-2*, CC, B-6P, MU-3*	Principal Use	Principal Use	Principal Use	No max.

*When part of an Adaptive Reuse Project, Industrial Reuse Project, or Entertainment Mixed Use Project

- (c) Maximum Occupancy Limit (for accessory uses in residential zones): A maximum of two (2) individuals per bedroom, plus an additional four (4) individuals; or a total of 12 individuals, whichever is less. Any host or other permanent residents of the dwelling unit present during the short term rental period shall count toward the maximum occupancy.
- (d) Maximum Occupancy Limit (for conditional uses): The Board shall establish a maximum occupancy for the short term rental use in accordance with the above provision, except the Board may allow additional occupants when there is sufficient evidence that a greater occupancy will not result in overcrowding or create a nuisance.
- (e) Detached accessory structures may be used as a Short Term Rental only in a permitted Detached Accessory Dwelling Unit.
- (f) Short Term Rentals shall not be utilized for private events, such as weddings or parties, in which the number of participants exceeds the maximum occupancy limit. No private events shall occur between the hours of 11:00 p.m. and 7:00 a.m. Special events for a commercial purpose shall be prohibited at all times.
- (g) For Short Term Rentals regulated as conditional uses, the Board of Adjustment shall take into consideration:

1. The number of STRs, if any, in proximity of the property being considered for such use.
 2. The demonstrated compliance record of the applicant, if they operate other STRs in Lexington.
 3. The occupancy rate of other STRs in the general vicinity, including those operated by the applicant.
 4. Whether other STRs in the general vicinity have been cited as a nuisance, including those operated by the applicant
- (h) For any conditional use permit approved by the Board of Adjustment for a short term rental, the conditional use permit shall become null and void if the applicant's short-term rental special fee license (as regulated by the Division of Revenue and Section 13 of the Code of Ordinances) lapses or is revoked.
- (i) Any Short Term Rental operating in a principal dwelling unit prior to #ADOPTION DATE HERE#, that would hereafter be regulated as a conditional use shall be allowed to continue its operation per Article 4-7, but shall utilize the new regulations provided in Sections A, C, E, F, and H above. Such uses shall obtain the license required above from the Division of Revenue and be subject to the regulations of Section 13 of the Code of Ordinances. A change in ownership shall require a conditional use permit to be approved by the Board of Adjustment.
- (j) Any Short Term Rental operating in a principal dwelling unit prior to #ADOPTION DATE HERE# that is located in a zone that would hereafter prohibit Short Term Rentals shall be allowed to continue its operation as a non-conforming use per Article 4-3, and shall continue to operate in accordance with the definition of a dwelling unit occupied by one family or housekeeping unit, having no more than one rental contract per week, for a total of no more than 52 rentals per year and with an occupancy of no more than 4 unrelated individuals. Such uses shall obtain the license required above from the Division of Revenue and be subject to the regulations of Section 13 of the Code of Ordinances.

Section 3 – That Article 8-5(c)(11) of the Lexington-Fayette-Urban County Government Zoning Ordinance is hereby amended as follows:

Sec. 8-5. Single-Family Residential (R-1A) Zone.

- (c) *Accessory Uses.* (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)
11. Hosted Short Term Rentals for 12 or fewer occupants, as regulated in Article 3-13 of the Zoning Ordinance.

Section 4 – That Article 8-5(d)(15) of the Lexington-Fayette Urban County Government Zoning Ordinance is hereby amended as follows:

Sec. 8-5. Single-Family Residential (R-1A) Zone.

- (d) *Conditional Uses.* (Permitted only with Board of Adjustment approval.)
15. Un-Hosted Short Term Rentals and Hosted Short Term Rentals for more than 12 occupants, as regulated by Article 3-13 of the Zoning Ordinance.

Section 5 – That Article 8-9(c)(10) of the Lexington-Fayette Urban County Government Zoning Ordinance is hereby amended as follows:

Sec. 8-9. Single-Residential (R-1E) Zone.

- (c) *Accessory Uses.* (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)
10. Hosted Short Term Rentals for 12 or fewer occupants, as regulated in Article 3-13 of the Zoning Ordinance.

Section 6 – That Article 8-10(c)(10) of the Lexington-Fayette Urban County Government Zoning Ordinance is hereby amended as follows:

Sec. 8-10. Townhouse Residential (R-1T) Zone.

- (c) *Accessory Uses.* (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)
10. Hosted Short Term Rentals for 12 or fewer occupants, as regulated in Article 3-13 of the Zoning Ordinance.

Section 7 – That Article 8-12(c)(1) of the Lexington Fayette Urban County Government Zoning Ordinance is hereby amended, Article 8-12(c)(2) is deleted and Article 8-12(c)(3) is renumbered to (2) as follows:

Sec. 8-12. Planned Neighborhood Residential (R-3) Zone.

- (c) *Accessory Uses.* (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)
1. Items 1 through 3 and 6 through 11 of the permitted accessory uses in the R-1A zone.
 2. Non-commercial athletic club facilities, when accessory to another permitted or conditional use.

Section 8 – That Articles 8-14(c)(1) of the Lexington-Fayette Urban County Government Zoning Ordinance are hereby amended in pertinent part as follows:

Sec. 8-14. High Rise Apartment (R-5) Zone.

- (c) *Accessory Uses.* (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)
1. The permitted accessory uses in the R-1A zone, items 1 through 3, 6 through 9 and 11.

Section 9 – That Articles 8-15(b)(25) of the Lexington-Fayette Urban County Government Zoning Ordinance is hereby amended in pertinent part as follows:

Sec. 8-15. Professional Office (P-1) Zone.

(b) *Principal Uses.* (Other uses substantially similar to those listed herein shall also be deemed permitted.)

25. Un-Hosted Short Term Rentals, as regulated in Article 3-13 of the Zoning Ordinance.

Section 10 – That Articles 8-15(c)(10) of the Lexington-Fayette Urban County Government Zoning Ordinance is hereby amended in pertinent part as follows:

Sec. 8-15. Professional Office (P-1) Zone.

(c) *Accessory Uses.* (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)

10. Hosted Short Term Rentals, as regulated in Article 3-13 of the Zoning Ordinance.

Section 11 – That Article 8-16(b)(48) of the Lexington-Fayette Urban County Government Zoning Ordinance is hereby amended in pertinent part as follows:

Sec. 8-16. Neighborhood Business (B-1) Zone.

(b) *Principal Uses.* (Other uses substantially similar to those listed herein shall also be deemed permitted.)

48. Un-Hosted Short Term Rentals, as regulated in Article 3-13 of the Zoning Ordinance.

Section 12 – That Articles 8-16(c)(11) of the Lexington-Fayette Urban County Government Zoning Ordinance is hereby amended in pertinent part as follows:

(c) *Accessory Uses.* (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)

11. Hosted Short Term Rentals, as regulated in Article 3-13 of the Zoning Ordinance.

Section 13 – That Articles 8-17(b)(19) of the Lexington-Fayette Urban County Government Zoning Ordinance are hereby amended in pertinent part as follows:

Sec. 8-17. Downtown Business (B-2) Zone.

(b) *Principal Uses.* (Other uses substantially similar to those listed herein shall also be deemed permitted.)

19. Hosted or Un-Hosted Short Term Rentals, as regulated in Article 3-13 of the Zoning Ordinance

Section 14 – That Article 8-19(b)(31) of the Lexington-Fayette Urban County Government Zoning Ordinance is hereby amended as follows:

Sec. 8-19. Lexington Center Business (B-2B) Zone.

(b) *Principal Uses.* (Other uses substantially similar to those listed herein shall also be deemed permitted.)

31. Hosted or Un-Hosted Short Term Rentals, as regulated in Article 3-13 of the Zoning Ordinance

Section 15 – That Article 8-21(o)(4)(e)(20) of the Lexington-Fayette Urban County Government Zoning Ordinance is hereby amended as follows:

Sec. 8-21. Wholesale and Warehouse Business (B-4) Zone.

(o) *Special Provisions.*

4. Adaptive Reuse Projects may be permitted by the Planning Commission upon the approval of a final development plan, subject to the following requirements:
 - e. Principal uses in Adaptive Reuse Projects:

20. Hosted or Un-Hosted Short Term Rentals, as regulated in Article 3-13 of the Zoning Ordinance

Section 16 – That Article 8-21(o)(5)(e)(20) of the Lexington-Fayette Urban County Government Zoning Ordinance is hereby amended as follows:

(o) *Special Provisions.*

5. Industrial Reuse Projects may be permitted by the Planning Commission upon the approval of a final development plan, subject to the following requirements:
 - e. Principal uses in Industrial Reuse Projects:

20. Hosted or Un-Hosted Short Term Rentals, as regulated in Article 3-13 of the Zoning Ordinance

Section 17 – That Article 12-3(i) of the Lexington-Fayette Urban County Government Zoning Ordinance is hereby amended as follows:

Article 12 COMMERCIAL CENTER (B-6P) ZONE

Sec. 12-3. Principal permitted uses.

- (i) Hosted or Un-Hosted Short Term Rentals, as regulated in Article 3-13 of the Zoning Ordinance

Section 18 – That Appendix 23A-5(c)(9) of the Lexington-Fayette Urban County Government Zoning Ordinance is hereby amended as follows:

Sec. 23A-5. Expansion Area Residential 1 (EAR-1) Zone.

(c) *Accessory Uses.*

9. Hosted Short Term Rentals for 12 or fewer occupants, as regulated in Article 3-13 of the Zoning Ordinance.

Section 19 – That Appendix 23A-5(d)(10) of the Lexington-Fayette Urban County Government Zoning Ordinance is hereby amended by deleting the current section 10 and adding a new section 10 as follows:

Sec. 23A-5. Expansion Area Residential 1 (EAR-1) Zone.

(d) *Conditional Uses.*

10. Un-Hosted Short Term Rentals and Hosted Short Term Rentals for more than 12 occupants, as regulated in Article 3-13 of the Zoning Ordinance.

Section 20 – That Appendix 23A-9(b)(36) of the Lexington-Fayette Urban County Government Zoning Ordinance is hereby amended as follows:

Sec. 23A-9. Community Center (CC) Zone.

(b) *Principal Uses.*

36. Short Term Rentals, as regulated in Article 3-13 of the Zoning Ordinance.

Section 21 – That Article 28-5(h)(5)(e)(1)(b) of the Lexington Fayette Urban County Government Zoning Ordinance is hereby amended as follows:

Sec. 28-5. Mixed use 3: Mixed use Community Zone (MU-3).

(h) *Special Provisions.* Special provisions shall be as follows:

5. An Entertainment Mixed use Project may be permitted by the Planning Commission for a tract of land with a minimum of ten (10) acres, and recommended by the adopted Comprehensive Plan for mixed use or a nonresidential land use, upon the approval of a preliminary development plan and a final development plan as provided in Article 21 herein. In its approval of such a development plan, the Commission shall find that the location is both appropriate for the use, and compatible with neighboring land uses. The parcel shall be subject to the MU-3 zone regulations above and the following requirements:


(e) In addition to the uses otherwise permitted above in the MU-3 zone, the following uses shall also be permitted in an approved Entertainment Mixed use Project:

1. As Principal Permitted Uses:

- b. Motels, hotels, extended-stay hotels, and hosted or un-hosted short-term rentals as regulated in Article 3-13.

Section 22 – That this Ordinance shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL: July 11, 2023


MAYOR

ATTEST:


CLERK OF URBAN COUNTY COUNCIL

PUBLISHED: July 20, 2023-1t

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Recd by _____
Date: _____

RECOMMENDATION OF THE
URBAN COUNTY PLANNING COMMISSION
OF LEXINGTON AND FAYETTE COUNTY, KENTUCKY

IN RE: PLN-ZOTA-22-00001: 00001: AMENDMENT TO ARTICLE 1, 3, 8, 12, 23, & 28 SHORT TERM RENTALS – a petition for a Zoning Ordinance text amendment to define and regulate Short Term Rentals in residential, business, mixed use, and industrial zones.

Having considered the above matter on **May 11, 2023** at a Public Hearings and having voted **6-2** that this Recommendation be submitted to the Lexington-Fayette Urban County Council, the Urban County Planning Commission does hereby recommend **APPROVAL of the modified text amendment** for this matter for the following reasons:

1. The proposed text amendment with staff alternative text allows for the definition and regulation of short term rentals. In conjunction with the proposed changes to the Code of Ordinances, this text amendment will enable the LFUCG to track short term rentals and provide better enforcement when violations occur.
2. The proposed text amendment with staff alternative text provides enforceable limitations on hosted and un-hosted short term rentals in order to prevent adverse impacts on the health, safety, and welfare of the local community and visitors to the Urban County.

ATTEST: This 5th day of June, 2023.


Secretary, Jim Duncan

LARRY FORESTER
CHAIR

At the Public Hearing before the Urban County Planning Commission, this petition was represented by **Autumn Goderwis, Principal Planner in the Division of Planning.**

OBJECTORS

- | | |
|--|--|
| ▪ Walt Gaffield – 2001 Bamboo Drive | ▪ Proposed stricter limits |
| ▪ Janet Cabaniss – 704 Cumberland Road | ▪ Proposed stricter limits |
| ▪ Lynn Flynn – 518 Springhill Drive | ▪ Proposed stricter limits |
| ▪ Chris Huestis – 709 Lynn Road | ▪ Did not want limitations on short term rentals |
| ▪ Seth Hillenmeyer – 1952 Blairmore Road | ▪ Concerned about proposed maximum occupancy |
| ▪ Miranda Hinchman – 4224 Ridgewater | ▪ Concerned about proposed maximum occupancy |
| ▪ Damon Snyder – 704 Cumberland Road | ▪ Opposed to commercial business in residential |

- Brian Luftman – 360 Andover Drive
- Gregory Clarke – 3695 Military Pike
- Stephanie Clarke – 3695 Military Pike
- Emily Sharp – 661 Cooper Drive
- Gary Chidester – 832 Quirks Run Road, Danville, KY
- Sherrie Graham-Green – 272 Hillsboro
- Robert Bratton – 5997 Winchester Road
- John Grimes – 272 Sherman Drive
- James Wilcox – 3528 Brookewind Way
- Burgess Carey – 8039 Old Richmond Rd.
- Amy Clark – 628 Kastle Road
- Todd Saladin – 409 Limestone
- Stephanie Dalton 2376 Abbeywood Road
- Concerned about proposed maximum occupancy
- Believed that proposals would hurt his business
- Concerned about proposed maximum occupancy
- Concerned about proposed maximum occupancy
- Concerned about proposed maximum occupancy
- Concerned about rental spacing proposal
- Concerned about proposed maximum occupancy
- Did not want any short term rentals
- Concerned about regulations hurting the industry
- Wanted Agricultural land to be included
- Impact of short term rentals on long term housing
- Concerned about rental spacing proposal
- Concerned about implementation and timeline

VOTES WERE AS FOLLOWS:

AYES: (6) Forester, Michler, Pohl, Worth, Bell, Nicol

NAYS: (2) de Movellan, Barksdale

ABSENT: (3) Davis, Penn, Meyer

ABSTAINED: (0)

DISQUALIFIED: (0)

Motion for **Approval** of **PLN-ZOTA-23-00001** carried.

Enclosures: Application
 Council Resolution
 Staff Report
 Planning Commission Recommended Text
 Applicable excerpts of minutes of above meeting

GENERAL INFORMATION - Zoning Ordinance Text Amendment Application

1. **APPLICANT INFORMATION:**

Name: Urban County Council

Address: 200 East Main Street

City, State, Zip Code: Lexington, KY 40507

2. **ATTORNEY (Or Other Representative) INFORMATION:**

Name: Tracy Jones

Address: 200 East Main Street

City, State, Zip Code: Lexington, KY 40507

Email: tjones@lexingtonky.gov

3. **REQUESTED TEXT CHANGE:**

Zoning Ordinance Text Amendment to Articles 1, 3, 8, 12, 23, and 28 to include and regulate Short Term Rentals. (see attached for proposed language)

4. **DESCRIBE THE JUSTIFICATION FOR MAKING THIS CHANGE: (Use attachment if necessary.)**

See attached Resolution 166-2023.

RESOLUTION NO. 166 - 2023

A RESOLUTION INITIATING FOR PLANNING COMMISSION REVIEW AND RECOMMENDATION ZONING ORDINANCE TEXT AMENDMENTS TO DEFINE SHORT TERM RENTAL, HOSTED SHORT TERM RENTAL, AND UN-HOSTED SHORT TERM RENTAL; TO PROVIDE GENERAL REGULATIONS FOR SHORT TERM RENTALS; TO MAKE HOSTED SHORT TERM RENTALS AN ACCESSORY USE IN ZONES R-1A, R-1B, R-1C, R-1D, R-1E, R-1T, R-2, R-3, R-4, R-5, EAR-1, EAR-2, EAR-3, B-1, P-1, MU-1, MU-2, AND MU-3; TO MAKE HOSTED SHORT TERM RENTALS AND UN-HOSTED SHORT TERM RENTALS A PRINCIPAL USE IN ZONES B-2, B-2A, B-2B, B-4 (WHEN PART OF AN ADAPTIVE REUSE PROJECT, INDUSTRIAL REUSE PROJECT OR ENTERTAINMENT MIXED USE PROJECT), I-1 (WHEN PART OF AN ADAPTIVE REUSE PROJECT, INDUSTRIAL REUSE PROJECT OR ENTERTAINMENT MIXED USE PROJECT), I-2 (WHEN PART OF AN ADAPTIVE REUSE PROJECT, INDUSTRIAL REUSE PROJECT OR ENTERTAINMENT MIXED USE PROJECT), CC, B-6P, AND MU-3; AND TO MAKE UN-HOSTED SHORT TERM RENTALS A CONDITIONAL USE IN ZONES R-1A, R-1B, R-1C, R-1D, R-1E, R-1T, R-2, R-3, R-4, R-5, EAR-1, EAR-2, EAR-3, B-1, P-1, MU-1, MU-2, AND MU-3.

BE IT RESOLVED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 – That the amending of the zoning ordinance as provided in Exhibit A, which is attached hereto and incorporated herein by reference, to define Short Term Rental, Hosted Short Term Rental, and Un-Hosted Short Term Rental; to provide general regulations for Short Term Rentals; to make Hosted Short Term Rentals an Accessory Use in Zones R-1A, R-1B, R-1C, R-1D, R-1E, R-1T, R-2, R-3, R-4, R-5, EAR-1, EAR-2, EAR-3, B-1, P-1, MU-1, MU-2, and MU-3; to make Hosted Short Term Rentals and Un-Hosted Short Term Rentals a Principal Use in Zones B-2, B-2A, B-2B, B-4 (when part of an Adaptive Reuse Project, Industrial Reuse Project, or Entertainment Mixed Use Project), I-1 (when part of an Adaptive Reuse Project, Industrial Reuse Project, or Entertainment Mixed Use Project), I-2 (when part of an Adaptive Reuse Project, Industrial Reuse Project, or Entertainment Mixed Use Project), CC, B-6P, and MU-3; and to make Un-Hosted Short Term Rentals a Conditional Use in Zones R-1A, R-1B, R-1C, R-1D, R-1E, R-1T, R-2, R-3, R-4, R-5, EAR-1, EAR-2, EAR-3, B-1, P-1, MU-1, MU-2, And MU-3, is hereby initiated for Planning Commission review and recommendation.

Section 2 – That this Resolution shall become effective upon the date of its passage.

PASSED URBAN COUNTY COUNCIL: March 23, 2023

Linda Gorton

MAYOR

ATTEST:

[Signature]
CLERK OF URBAN COUNTY COUNCIL

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Article 3 GENERAL ZONE REGULATIONS

Sec. 1-11. Definitions.

Short Term Rental (STR) means a dwelling unit that is rented in whole or in part, for temporary occupancy by transient guests for a tenancy of less than 30 consecutive days in duration, where no meals are served. This term does not include hotel or motel rooms, extended stay hotels, bed and breakfast facilities, boarding or lodging facilities, or farm employee dwelling units. Transient guests are those who have an established primary residence elsewhere, and this term shall not be construed to include individuals that rent a primary residence on a weekly basis.

Hosted Short Term Rental means a short term rental in which the dwelling unit utilized as the STR, or another dwelling unit on the subject property is a primary residence and a primary resident (as defined in Section 13-76 of the Code of Ordinances) continues to occupy the property while the short-term rental is being rented to a transient guest.

Un-Hosted Short Term Rental means a short term rental in which a primary resident (as defined in Section 13-76 of the Code of Ordinances) does not occupy the property during the short term rental period.

Article 3 GENERAL ZONE REGULATIONS

Sec. 3-13. General regulations for Short Term Rentals (STRs).

- a) All short term rentals shall be licensed by the Division of Revenue and subject to the regulations of Section 13 of the Code of Ordinances.
- b) Number of Dwelling Units allowed to be utilized as Short Term Rentals per Property:

Zones Allowed	Hosted	Un-Hosted	# of Short Term Rental Units
R-1A, R-1B, R-1C, R-1D, R-1E, R-1T	Accessory Use	Conditional Use	<u>Hosted</u> : 1 dwelling unit <u>and</u> 1 ADU <u>Un-Hosted</u> : 1 dwelling unit <u>or</u> 1 ADU
R-2, R-3, R-4, R-5, EAR-1, EAR-2, EAR-3	Accessory Use	Conditional Use	<u>For Single Family Lots:</u> <u>Hosted</u> : 1 dwelling unit <u>and</u> 1 ADU <u>Un-Hosted</u> : 1 dwelling unit <u>or</u> 1 ADU <u>For Multi-Family Lots:</u> 3 max.
B-1, P-1, MU-1, MU-2, MU-3	Accessory Use	Conditional Use	25% max.
B-2, B-2A, B-2B, B-4*, I-1*, I-2*, CC, B-6P, MU-3*	Principal Use	Principal Use	No max.

*When part of an Adaptive Reuse Project, Industrial Reuse Project, or Entertainment Mixed Use Project



Article 3 GENERAL ZONE REGULATIONS

- c) **Maximum Occupancy Limit (for accessory and principal uses):** A maximum of two (2) individuals per bedroom, plus an additional 4 individuals; or a total of 12 individuals, whichever is less. Any host or other permanent residents of the dwelling unit present during the short term rental period shall count toward the maximum occupancy.
- d) **Maximum Occupancy Limit (for conditional uses):** The Board shall establish a maximum occupancy for the short term rental use in accordance with the above provision, except the Board may allow additional occupants when there is sufficient evidence that a greater occupancy will not result in overcrowding or create a nuisance.
- e) **Detached accessory structures may be used as a Short Term Rental only in a permitted Detached Accessory Dwelling Unit.**
- f) **Short Term Rentals shall not be utilized for private events, such as weddings or parties, in which the number of participants exceeds the maximum occupancy limit. No private events shall occur between the hours of 11:00 p.m. and 7:00 a.m. Special events for a commercial purpose shall be prohibited at all times.**
- g) **For Short Term Rentals regulated as conditional uses, the Board of Adjustment shall take into consideration:**
 - a. **The number of STRs, if any, within 1,000 feet of the property being considered for such use.**
 - b. **The demonstrated compliance record of the applicant, if they operate other STRs in Lexington,**
 - c. **The occupancy rate of other STRs in the general vicinity, including those operated by the applicant.**
 - d. **Whether other STRs in the general vicinity have been cited as a nuisance, including those operated by the applicant**
- h) **For any conditional use permit approved by the Board of Adjustment for a short term rental, the conditional use permit shall become null and void if the applicant's short-term rental special fee license (as regulated by the Division of Revenue and Section 13 of the Code of Ordinances) lapses or is revoked.**

Sec. 8-5. Single-Family Residential (R-1A) Zone.

- (c) **Accessory Uses.** (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)
 1. **Private garages, storage sheds, and parking areas.**
 2. **Living quarters, without cooking facilities and not rented, for guests and employees of the premises.**
 3. **Swimming pools and tennis courts, including accessory structures and temporary structures associated with those uses.**
 4. **Agricultural uses, excluding commercial stock raising.**
 5. **Private, non-commercial parks and open space.**
 6. **Home offices and home occupations.**
 7. **A ground, roof or pole-mounted satellite dish antenna, as regulated by Section 15-8.**
 8. **Family childcare home.**

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9. Hiking and bicycling trails.
 10. Accessory Dwelling Units, as regulated in Article 3-12 of the Zoning Ordinance.
 11. Hosted Short Term Rentals, as regulated in Article 3-13 of the Zoning Ordinance.
- (d) *Conditional Uses.* (Permitted only with Board of Adjustment approval.)
1. Kindergartens and nursery schools for four (4) and not more than twelve (12) children, when accessory to and located in the same structure with the single-family residence occupied by the owner or operator. All kindergartens and nursery schools shall provide a fenced and screened play area, which shall contain not less than twenty-five (25) square feet per child.
 2. Kindergartens, nursery schools and childcare centers for four (4) or more children, when accessory to a place of religious assembly, school or private club as permitted herein. A fenced and screened play area shall be provided, which shall contain not less than twenty-five (25) square feet per child.
 3. Home-based businesses.
 4. Cemeteries, columbariums, and mausoleums.
 5. Outdoor commercial and non-commercial recreational facilities, such as golf courses; sportsmen's farms; riding stables and equine trails; fishing lakes and non-commercial swimming pool; tennis courts; campgrounds; and private clubs.
 6. Places of religious assembly.
 7. Schools for academic instruction.
 8. Mining of non-metallic minerals, but only when the proposal complies with the requirements of the Mining/Quarrying Ordinance (Code of Ordinances #252-91) and the conditions and requirements as set forth therein. The Board of Adjustment shall specifically consider and be able to find:
 - a. That the proposed use will not constitute a public nuisance by creating excessive noise, odor, traffic, dust, or damage to the environment or surrounding properties;
 - b. That a reasonable degree of reclamation and proper drainage control is feasible; and
 - c. That the owner and/or applicant has not had a permit revoked or bond or other security forfeited for failure to comply with any federal, state or local laws, regulations or conditions, including land reclamation, pertaining to the proposed use.
 9. Type II Childcare Center. A fenced outdoor play area shall be provided, which shall contain not less than twenty-five (25) square feet per child.
 10. Bed and breakfast facilities, limited to the rental of not more than one (1) room. The Board of Adjustment, in considering approval of such conditional use, shall consider and make a finding that the number of rooms granted shall not have an adverse effect on surrounding properties. In addition, in considering such a conditional use, the Board of Adjustment shall take into consideration the number of bed and breakfast facilities, if any, within the general neighborhood of the property being considered for such use.
 11. Historic house museums.
 12. Seasonal activities.
 13. Market gardens.
 14. The short-term rental (defined in the Code of Ordinances) of Accessory Dwelling Units, as regulated in Article 3-12 of the Zoning Ordinance. The Board of Adjustment, in considering approval of such conditional use, shall consider and make a finding that the number of rooms granted shall not have an

adverse effect on surrounding properties. In addition, in considering such a conditional use, the Board of Adjustment shall take into consideration the number of short-term rental facilities, if any, within the general neighborhood of the property being considered for such use.

15. **Un-Hosted Short Term Rentals, as regulated by Article 3-13 of the Zoning Ordinance.**

Sec. 8-6. Single-Family Residential (R-1B) Zone. Refers to R-1A

Sec. 8-7. Single-Family Residential (R-1C) Zone. Refers to R-1A

Sec. 8-8. Single-Family Residential (R-1D) Zone. Refers to R-1A

Sec. 8-9. Single-Family Residential (R-1E) Zone.

- (c) *Accessory Uses.* (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)

1. Private garages, storage sheds and parking areas.
2. Swimming pools and tennis courts.
3. Agricultural uses, excluding commercial stock raising.
4. Private, non-commercial parks and open space.
5. Home offices and home occupations.
6. A ground, roof or pole-mounted satellite dish antenna, as regulated by Section 15-8.
7. Family childcare home.
8. Hiking and bicycling trails.
9. Accessory Dwelling Units, as regulated in Article 3-12 of the Zoning Ordinance.
10. **Hosted Short Term Rentals, as regulated in Article 3-13 of the Zoning Ordinance.**

- (d) *Conditional Uses.* (Permitted only with Board of Adjustment approval.)

1. As for R-1A.

Sec. 8-10. Townhouse Residential (R-1T) Zone.

- (a) *Intent.* This zone is intended to provide for attached single-family dwellings and supporting uses. This zone should be at locations and at the density (units/acre) recommended by the Comprehensive Plan and in areas of the community where necessary services and facilities will be adequate to serve the anticipated population.

- (b) *Principal Uses.* (Other uses substantially similar to those listed herein shall also be deemed permitted.)

1. Single-Family attached residences, except that not more than twelve (12) units shall be attached.
2. Group Residential Projects, as provided in Article 9.
3. Existing single-family detached residences and single-family detached residences for which a building permit was issued or a plan approved prior to the adoption of this Zoning Ordinance.

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4. Parks and playgrounds operated by government.
 5. Temporary real estate sales offices for the sale of lots, located only within the subdivision in which said lots are located; to be removed at the end of two (2) years or when all the lots are sold, whichever comes first.
- (c) *Accessory Uses.* (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)
1. Private garages, storage sheds and parking areas.
 2. Swimming pools and tennis courts.
 3. Agricultural uses, excluding commercial stock raising.
 4. Private, non-commercial parks and open space.
 5. Home offices and home occupations.
 6. A ground, roof or pole-mounted satellite dish antenna, as regulated in Section 15-8.
 7. Family childcare home.
 8. Hiking and bicycling trails.
 9. Accessory Dwelling Units, as regulated in Article 3-12 of the Zoning Ordinance.
 10. Hosted Short Term Rentals, as regulated in Article 3-13 of the Zoning Ordinance.
- (d) *Conditional Uses.* (Permitted only with Board of Adjustment approval.)
1. As for R-1A.

Sec. 8-11. Two-Family Residential (R-2) Zone. Refers to R-1A

Sec. 8-12. Planned Neighborhood Residential (R-3) Zone.

- (a) *Intent.* This zone is primarily for multi-family dwellings and other residential uses. This zone should be at locations and at the density (units/acre) recommended by the Comprehensive Plan, and in areas of the community where necessary services and facilities will be adequate to serve the anticipated population.
- (b) *Principal Uses.* (Other uses substantially similar to those listed herein shall also be deemed permitted.)
1. The principal permitted uses in the R-2 zone.
 2. Multi-family dwellings.
 3. Dormitories.
 4. Boarding or lodging houses, assisted living facilities, and hospitality houses for up to eight (8) persons.
 5. Community residences.
 6. Group Residential Projects, as provided by Article 9.
 7. Townhouses, except that no less than three (3) and no more than twelve (12) units shall be attached.
- (c) *Accessory Uses.* (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)
1. Items 1 through 3 and 6 through ~~10~~ 11 of the permitted accessory uses in the R-1A zone.

~~2. The keeping of not more than four (4) roomers or boarders per dwelling unit by a resident family for single family or two family dwellings, except where a bed and breakfast facility is provided; then no roomers or boarders shall be permitted.~~

3. Non-commercial athletic club facilities, when accessory to another permitted or conditional use.

(d) *Conditional Uses.* (Permitted only with Board of Adjustment approval.)

1. The permitted conditional uses in the R-1A zone.

Sec. 8-13. High Density Apartment (R-4) Zone. Refers to R-3 (no changes)

Sec. 8-14. High Rise Apartment (R-5) Zone.

(a) *Intent.* This zone is primarily for multi-family dwellings and particularly for high rise apartments. The R-5 zone should be at locations and at the density (units/acre) recommended by the Comprehensive Plan, and in areas of the community where necessary services and facilities will be adequate to serve the anticipated population.

(b) *Principal Uses.* (Other uses substantially similar to those listed herein shall also be deemed permitted.)

1. Multifamily dwellings.

2. Dormitories.

3. Offices, limited to multifamily structures with six (6) or more stories, provided offices are limited to no more than the first two (2) stories with no mixing of offices and apartments on the same floor.

(c) *Accessory Uses.* (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)

1. The permitted accessory uses in the R-1A zone, items 1 through 3 ~~and~~, 6 through 9 ~~and~~ 11.

2. Athletic club facilities, when accessory to another permitted or conditional use.

(d) *Conditional Uses.* (Permitted only with Board of Adjustment approval.)

1. The permitted conditional uses in the R-3 zone.

Sec. 8-15. Professional Office (P-1) Zone.

(c) *Accessory Uses.* (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)

1. Establishments limited to the filling of prescriptions and retail sale of pharmaceutical and medical supplies.

2. Parking areas or structures.

3. Incidental retail sales or personal services, including facilities for serving food, only for employees, residents or visitors to any permitted use, and having no primary access to the exterior; and limited to a maximum of ten percent (10%) of the gross floor area of the building in which it is located, with no single such use being in excess of five thousand (5,000) square feet.

4. Sales offices for the display of merchandise and the acceptance of orders.

5. Swimming pools, tennis courts, putting greens, hiking and bicycling trails, botanical gardens, nature preserves and other similar non-commercial recreational uses.

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6. Satellite dish antennas, as further regulated by Section 15-8.
 7. One dwelling unit for owners, operators, or employees of a permitted use, provided that such dwelling unit shall be part of the building and located above, to the side, or to the rear of such permitted use.
 8. Retail sales and storage areas accessory to internet-based businesses, for which Certificates of Occupancy are issued after November 15, 2001, provided that the retail sales and storage area occupies no more than twenty-five percent (25%) of the business area, nor more than two thousand, five hundred (2,500) square feet, whichever is less; and having no display space, storage space or signs visible from the exterior of the building.
 9. Drive-through facilities for the sale of goods or products or the provision of services otherwise permitted herein, when approved by the Planning Commission on a development plan.
 10. **Hosted Short Term Rentals, as regulated in Article 3-13 of the Zoning Ordinance.**

(d) *Conditional Uses.* (Permitted only with Board of Adjustment approval.)

1. Drive-through facilities for sale of goods or products or the provision of services otherwise permitted herein.
2. Parking lots and structures.
3. Mining of non-metallic minerals, but only when the proposal complies with the requirements of the Mining/Quarrying Ordinance (Code of Ordinances #252-91) and the conditions and requirements as set forth therein. The Board of Adjustment shall specifically consider and be able to find:
 - a. That the proposed use will not constitute a public nuisance by creating excessive noise, odor, traffic, dust, or damage to the environment or surrounding properties;
 - b. That a reasonable degree of reclamation and proper drainage control is feasible; and
 - c. That the owner and/or applicant has not had a permit revoked or bond or other security forfeited for failure to comply with any federal, state or local laws, regulations or conditions, including land reclamation, pertaining to the proposed use.
4. Rehabilitation homes, when located closer than five hundred (500) feet from a residential zone.
5. Extended-stay hotels, except as permitted in a Professional Office Project.
6. Mail service facilities, except as permitted in a Professional Office Project.
7. Ecotourism activities to include equine or zip line trails; tree canopy tours; canoeing and kayaking launch sites; fishing clubs; and seasonal activities.
8. **Un-Hosted Short Term Rentals, as regulated in Article 3-13 of the Zoning Ordinance.**

Sec. 8-16. Neighborhood Business (B-1) Zone.

(c) *Accessory Uses.* (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)

1. Parking areas or structures.
2. One (1) dwelling unit for owners, operators, or employees of a permitted use, provided that such dwelling unit shall be a part of the building and located above or to the rear of such permitted uses.

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3. Warehousing, wholesaling, and storage, excluding outdoor storage; and provided that no building for such accessory use shall have openings other than stationary windows or solid pedestrian doors within one hundred (100) feet of any residential zone.
 4. The sale of malt beverages, wine or alcoholic beverages, when accessory to a restaurant permitted under Subsection (b)3. Such accessory use shall not devote more than twenty-five percent (25%) of its public floor area primarily to the preparation and service of such beverages, nor provide any separate outside entrances or separate identification signs for those areas.
 5. Satellite dish antennas, as further regulated by Section 15-8.
 6. One or two (2) pool or billiard tables within an establishment.
 7. Sidewalk cafes, when accessory to any permitted restaurant.
 8. Retail sale of liquid propane (limited to twenty pound (20 lb.) containers), when accessory to the retail sale of merchandise or an automobile service station permitted under Subsection (b) of this section.
 9. Indoor live entertainment and/or dancing, when accessory to a restaurant, brew-pub or banquet facility; but only when located more than one hundred (100) feet from a residential zone.
 10. Drive-through facilities for the sale of goods or products, or the provision of services otherwise permitted herein, when approved by the Planning Commission on a development plan.
 11. Hosted Short Term Rentals, as regulated in Article 3-13 of the Zoning Ordinance.

(d) *Conditional Uses.* (Permitted only with Board of Adjustment approval.)

1. Self-service car washes, provided that surface water from such establishments shall not drain onto adjacent property, and that adequate on-site storage lanes and parking facilities shall be provided so that no public way shall be used for such purposes.
2. The rental of trucks (single rear axle: Twenty-eight (28) feet maximum overall length), trailers and related items in conjunction with the operation of an automobile service station, provided that the service station abuts a state or federal highway. No more than five (5) trucks shall be stored for longer than forty-eight (48) hours on any service station. A site plan shall be submitted for the approval of the Board of Adjustment for the continued control of such activity and shall show the entire property, buildings, signs, parking and location of the proposed storage area.
3. A restaurant or brew-pub, without live entertainment or dancing, which devotes more than twenty-five percent (25%) of its public floor area primarily to the preparation and service of malt beverages, wine or alcoholic beverages.
4. Outdoor live entertainment and/or dancing, cocktail lounges or nightclubs, unless prohibited under Subsections (e)(14) and (15) of this section. Such uses shall be located at least one hundred (100) feet from any residential zone; and indoor uses shall be sound-proofed to the maximum extent feasible by using existing technology, with noise or other emissions not creating a nuisance to the surrounding neighborhood. The Board may also impose time restrictions to minimize nuisance to the surrounding neighborhood.
5. Indoor live entertainment and/or dancing, when accessory to a restaurant, brew-pub or banquet facility; but only when located closer than one hundred (100) feet from a residential zone.
6. Upholstery shop.

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7. Mining of non-metallic minerals, but only when the proposal complies with the requirements of the Mining/Quarrying Ordinance (Code of Ordinances #252-91) and the conditions and requirements as set forth therein. The Board of Adjustment shall specifically consider and be able to find:
 - a. That the proposed use will not constitute a public nuisance by creating excessive noise, odor, traffic, dust, or damage to the environment or surrounding properties;
 - b. That a reasonable degree of reclamation and proper drainage control is feasible; and
 - c. That the owner and/or applicant has not had a permit revoked or bond or other security forfeited for failure to comply with any federal, state or local laws, regulations or conditions, including land reclamation, pertaining to the proposed use.
 8. Gasoline pumps available to the public without an employee on site, provided a plan is approved by the Board of Adjustment for periodic inspection of the site by an employee for the following purposes:
 - a. To check all operating equipment;
 - b. To check fire suppression system(s);
 - c. To check the condition of the fire alarm(s);
 - d. To check for indications of fuel leaks and spillage;
 - e. To remove trash from the site;
 - f. To monitor the general condition of the site.
 9. Rehabilitation homes, but only when located closer than five hundred (500) feet from a residential zone, school for academic instruction or a childcare center.
 10. Temporary structures designed for use or occupancy for sixty-one (61) to one hundred eighty (180) days per 12-month period on a single property, calculating said period by cumulative consideration of the use of any and all such structures on a single property.
 11. Circuses, provided all structures are located not less than two hundred (200) feet from any residential zone; and further provided that all structures for housing animals shall be two hundred (200) feet from any residential zone, residential use, school, hospital, nursing or rest home. A circus may not displace more than twenty-five percent (25%) of the minimum required parking for the site it occupies.
 12. Automobile and vehicle refueling stations, provided such uses conform to all requirements of Article 16.
 13. Extended-stay hotels.
 14. Parking lots, provided such use conforms to the conditions of Article 16.
 15. Drive-through facilities for the sale of goods or products, or the provision of services otherwise permitted herein, except as accessory uses herein.
 16. Ecotourism activities to include zip line trails; tree canopy tours; fishing clubs; botanical gardens; nature preserves; and seasonal activities.
 17. Recreation vehicle and trailer campgrounds, but only when located within five hundred (500) feet of an interstate interchange.
 18. Hunting clubs, but only when located more than five hundred (500) feet from a residential zone.
 19. Country inns, but only when located within five hundred (500) feet of an Agricultural Rural (A-R) zone.
 20. **Un-Hosted Short Term Rentals, as regulated in Article 3-13 of the Zoning Ordinance.**

Sec. 8-17. Downtown Business (B-2) Zone.

- (a) *Intent.* This zone is intended to accommodate existing and future development in the Central Business District.
- (b) *Principal Uses.* (Other uses substantially similar to those listed herein shall also be deemed permitted.)
1. The principal permitted uses in the B-1 zone.
 2. Amusement enterprises, such as indoor billiard or pool halls; indoor theaters; bowling alleys; dance halls; skating rinks.
 3. Restaurants, cocktail lounges and nightclubs, with entertainment, dancing or the sale of alcoholic beverages.
 4. Establishments for the display, rental, or sale of automobiles, motorcycles, trucks not exceeding one and one-half (1½) tons, and boats limited to runabout boats, provided that the outdoor display or storage of vehicles shall conform to the requirements of Article 16.
 5. Establishments engaged in blueprinting, printing, publishing and lithographing; interior decorating; upholstering; laundering, clothes cleaning and dyeing; clothing alterations and tailoring services.
 6. Hotels and motels.
 7. Passenger transportation terminals.
 8. Any type of dwelling unit.
 9. Wholesale establishments.
 10. Minor automobile and truck repair.
 11. Establishments primarily engaged in the sale of supplies and parts for vehicles and farm equipment.
 12. Pawnshops.
 13. Stadium and exhibition halls.
 14. Telephone exchanges; radio and television studios.
 15. Cable television system signal distribution centers and studios.
 16. Athletic club facilities.
 17. Adult arcades, massage parlors, adult bookstores, adult video stores, adult cabarets, adult dancing establishments, adult entertainment establishments, and sexual entertainment centers, provided that none shall be located within a 500-foot radius of any agricultural or residential zone, any elementary or secondary school, any park attended by persons under eighteen (18) years of age, or within a 1,000-foot radius of any other similarly regulated adult business.
 18. Parking lots and structures, provided such use conforms to the conditions of Article 16.
 19. Hosted or Un-Hosted Short Term Rentals, as regulated in Article 3-13 of the Zoning Ordinance

Sec. 8-18. Downtown Frame Business (B-2A) Zone. Refers to B-2 (No change)

Sec. 8-19. Lexington Center Business (B-2B) Zone.

- (a) *Intent.* This zone is intended to ensure compatible land uses, the preservation of existing attractions compatible with the Lexington Center, and the encouragement of new uses necessary to the proper development of the Downtown Area. The permitted land uses in the zone should have some logical relation to the Lexington Center and to the downtown core, should promote tourism, should promote the economic health of the community, should provide for an aesthetically pleasing environment, and should prevent the creation of influences adverse to the prospering of the Lexington Center and the Downtown Area.
- (b) *Principal Uses.* (Other uses substantially similar to those listed herein shall also be deemed permitted.)
1. Civic Center and convention facilities.
 2. Banks, credit agencies, security and commodity brokers and exchanges, credit institutions; savings and loan companies, holding and investment companies.
 3. Offices and clinics.
 4. Schools for academic instruction.
 5. Libraries, museums, art galleries, and reading rooms.
 6. Studios for work or teaching of fine arts, such as photography, music, drama, dance or theater.
 7. Places of religious assembly.
 8. Ticket and travel agencies.
 9. Restaurants, cocktail lounges and nightclubs, including those serving alcoholic beverages and/or offering live entertainment, except as prohibited under Subsection (e) of this section.
 10. Establishments for the retail sale of primarily new merchandise.
 11. Beauty shops and barber shops.
 12. Shoe repair, clothing alterations or tailoring services.
 13. Retail sale of plant, nursery or greenhouse products, or agricultural produce.
 14. Commercial farm markets and market gardens.
 15. Hotels or motels.
 16. Any type of residential use.
 17. Antique shops.
 18. Establishments for the display, rental or sale of automobiles, motorcycles, trucks not exceeding one and one-half (1½) tons, and boats limited to runabout boats, provided that the outdoor display or storage of vehicles shall conform to the requirements of Article 16.
 19. Amusement enterprises, such as circuses; carnivals; horse racing or automobile racing, special events, festivals, and concerts provided such activity is operated on a temporary basis of a duration not exceeding two (2) weeks.
 20. Establishments engaged in blueprinting, printing, publishing, and lithography; interior decoration and upholstering; repair of household appliances.
 21. Bookstores, except as prohibited under Subsection (e) of this section.
 22. Indoor amusement enterprises, such as motion picture theaters, except as prohibited under Subsection (e) of this section; billiard or pool halls; bowling alleys; dance halls, skating rinks; and arcades.

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23. Computer and data processing centers.
 24. Telephone exchanges, radio and television studios.
 25. Cable television system signal distribution centers and studios.
 26. Private clubs, except as prohibited under Subsections (e)7, 8 and 9 of this section.
 27. Kindergartens, nursery schools and childcare centers for four (4) or more children. A fenced and screened play area shall be provided, which shall contain not less than twenty-five (25) square feet per child.
 28. Pawnshops which:
 - (1) Were in operation prior to August 31, 1990, and in compliance with the provisions of KRS 226.010 et seq. and Code of Ordinances, Sections 13-52 and 13-53; or
 - (2) Had on file with the Lexington-Fayette Urban County Government, prior to August 31, 1990, an application for a business license or certificate of occupancy.
 29. Historic house museums.
 30. Health clubs, athletic clubs and spas.
 31. **Hosted or Un-Hosted Short Term Rentals, as regulated in Article 3-13 of the Zoning Ordinance**

Sec. 8-21. Wholesale and Warehouse Business (B-4) Zone.

(o) *Special Provisions.*

1. All buildings and structures shall be at least one hundred (100) feet from any residential zone, unless the portion within that distance has no opening except stationary windows and doors that are designed and intended solely for pedestrian access.
2. Landscape buffer areas shall be required as set forth in Article 18.
3. An Office/Warehouse mixed use project may be permitted by the Planning Commission upon the approval of a final development plan, as provided in Article 21 of this Zoning Ordinance, and subject to the following requirements:

In addition to the uses permitted in Subsection (b) of this section, the following uses shall also be permitted in an Office/Warehouse Project:

As principal permitted uses:

- a. Offices, laboratories and data processing centers, limited to a maximum of seventy-five percent (75%) of the floor area of the building or project. This square footage limitation shall not apply if the project is located within the defined Infill and Redevelopment Area.

As accessory uses:

- a. Drive-through facilities for the provision of services allowed in an Office/Warehouse mixed use project;
- b. Dwelling units for on-site security personnel.

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4. Adaptive Reuse Projects may be permitted by the Planning Commission upon the approval of a final development plan, subject to the following requirements:
- a. The property must be located in or adjacent to, or across a public right-of-way from, the defined Infill and Redevelopment Area. The area of the Project will be defined by the development plan and may include noncontiguous properties that can function together as an interrelated development.
 - b. The Project must include:
 - 1. At least one (1) existing building that will be adaptively reused as a principal structure.
 - 2. Public art or a public art easement that is publicly displayed in a publicly accessible unpaid area and is visible from the adjacent street level. This is not to include a business logo or other type of advertisement.
 - c. The applicant shall provide documentation demonstrating that the Project meets at least one (1) of the following criteria:
 - 1. The site has a single building of over 30,000 square feet that is over 75 years old, or a total project of over 80,000 square feet with at least two adaptive reuse buildings over 75 years old.
 - 2. The site includes a structure individually listed on the National Register of Historic Places or is determined to be eligible for such listing; is determined to contribute to the significance of a National Register Historic District or is in an area that meets the requirements of a National Historic District; is individually listed on a state inventory of historic places; is located within an Historic District (H-1) overlay zone; or was constructed prior to 1950.
 - d. The applicant shall include at least one element from the following categories and must reach total score of 10 points:
 - 1. Primary Land Use, Building Form, and Design:
 - i. Affordable Housing (6) - Provide residential housing, at least 20% of which will be set aside for affordable housing (60% AMI) for at least 15 years.
 - ii. Affordable Housing (4) - Provide residential housing, at least 20% of which will be set aside for affordable housing (80% AMI) for at least 15 years.
 - iii. Green Rated Site Design (Sustainable Sites Initiative or similar standard) (3) - Incorporating whole of project area.
 - iv. Green Building Design (LEED or similar standard) (3) - Structures that incorporate the principles of sustainable design of adaptively reused structures.
 - v. Green Building (LEED or similar standard) (2) - New Construction vi. Green Infrastructure (2) - Manage 50% of stormwater onsite with Vegetative Low Impact Development BMPs and educational signage (must still meet LFUCG Stormwater Manuals).
 - vii. Renewable Energy (1).
 - viii. Mixed use residential and commercial site wide (1).
 - ix. Innovation Credit (1) - Provide a high degree of innovative modification of land use, building form, and/or design.
 - 2. Transit, Infrastructure, and Connectivity:

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- i. Parking Structure (4).
 - ii. Riparian Buffer Restoration (3) - Meet requirements of Stormwater Manual Table 1-7 along length of stream on lot.
 - iii. Daylighting of stream/removal of culvert (3).
 - iv. Stream channel restoration (2) - See Stormwater Manual Ch. 9 for guidance.
 - v. Accessible transit shelter and bench (2).
 - vi. Multi-use path or open space oriented amenities (2).
 - vii. Publicly accessible property to property cross-connectivity (2).
 - viii. Innovation Credit (1) - Provide a high degree of innovative modification of transit, infrastructure, and connectivity.

3. Quality of Life Components:

- i. Site is within an area that is a brownfield recovery site (4).
- ii. Increase of Canopy Coverage to 40% (4).
- iii. Increase of Canopy Coverage to 30% (3).
- iv. Increase of Canopy Coverage to 20% (2).
- v. Site is in a district that has applied for, or has obtained, special funding or similar government incentives (3).
- vi. Universal Design Standards for all ground floor space (2).
- vii. 20% Community oriented open space nonresidential (3).
- viii. 10% Community oriented open space nonresidential (2).
- ix. Community garden space (1).
- x. Innovation Credit (1) - Provide a high degree of innovative modification of quality of life components.

e. Principal uses in Adaptive Reuse Projects:

1. Any of the principal uses permitted in the underlying zone.
2. Schools; libraries; museums; art galleries; studios for work or teaching of fine arts, metal work, photography, dance, drama or theater; theaters, including movie theaters and other indoor amusements, except as prohibited under Section 8-19(e), including billiard or pool halls, bowling alleys, dance halls, skating rinks and arcades.
3. Community centers, churches and private clubs.
4. Restaurants, with or without outdoor seating and with or without live entertainment.
5. Establishments for the retail sale of food, dairy, bakery, meat, beer, liquor, wine and other food products; the retail sale of merchandise, including new or used clothing and books, gifts, toys, antiques, furnishings, housewares, jewelry, electronics and similar items.
6. Pharmacies, provided that they are within a structure containing other uses and do not occupy a separate building.
7. Banquet facilities or private clubs with live entertainment, brew-pubs, bars, cocktail lounges and nightclubs.

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8. Offices, banks or clinics.
 9. Hotels or motels.
 10. Beauty shops, barber shops, shoe repair, dressmaking or tailoring.
 11. Quick copy services not using offset printing methods.
 12. Residences of any kind.
 13. Health clubs, athletic clubs and spas.
 14. Parking lots and structures.
 15. Retail sales of plant, nursery or greenhouse products or agricultural products, produce or goods, including market gardens.
 16. Kindergartens, nursery schools and childcare centers for four (4) or more children. A fenced and screened play area shall be provided, which shall contain at least twenty-five (25) square feet per child.
 17. Indoor or outdoor amusement or entertainment enterprises such as circuses, carnivals, rodeos, horse shows or automobile shows; provided such activity is operated on a temporary basis, not to exceed two (2) weeks.
 18. Passenger transportation terminals.
 19. Publicly accessible parks.
 20. Hosted or Un-Hosted Short Term Rentals, as regulated in Article 3-13 of the Zoning Ordinance
- f. Accessory uses that are clearly incidental and subordinate to the principal uses are permitted.
- g. Prohibited uses:
1. All adult uses, as listed in Sections 8-16(e)14 through 17.
 2. Drive-through facilities.
- h. Parking:
1. For any site that is located on a transit route, there shall be a maximum of four (4) surface parking spaces per one thousand (1,000) commercial square feet.
 2. For any site that is not located on a transit route, there shall be a maximum of five (5) surface parking spaces per one thousand (1,000) commercial square feet.
 3. Structure parking shall not count toward any maximum parking requirement.
- i. Signage: Shall be as permitted under Section 17-11(n) for an MU-2 zone.
- j. Lot and Yard Requirements: No minimum.
- k. Height: No maximum height for adaptive reuse of existing buildings. New buildings shall not be more than twelve (12) feet taller than the tallest structure that is being adaptively reused, or forty-eight (48) feet, whichever is greater.
- l. The applicant shall submit a compliance statement with the development plan that specifies how the project will further the Goals and Objectives and other elements of the Comprehensive Plan.
- m. Prior to holding a hearing on the development plan, the applicant shall post a sign, with dimensions set out in Section 23B-5(b), at a visible location on the property at least fourteen (14)

days prior to the hearing, informing the public of the location, date and time of the hearing. Evidence of the sign having been posted shall be submitted to the Planning Commission at the hearing.

- n. The Planning Commission shall have the power to approve, modify or disapprove the development plan, as set out in Article 21. In addition, if the Planning Commission approves the development plan, it must adopt a finding that the development plan furthers the Goals and Objectives or other elements of the Comprehensive Plan.
 - o. For additional land to be added to an adaptive reuse project area, the new portion must be adjacent to the current project area. An updated compliance statement must be submitted, which shall implement those elements that have been applied across the project area.
 - p. For any amendment that seeks to expand the originally approved project, the added portion of the project must meet all requirements of Sec. 8-18(o)(4)(d) separate from the original project.
5. Industrial Reuse Projects may be permitted by the Planning Commission upon the approval of a final development plan, subject to the following requirements:
- a. The Planning Commission shall, with the approval of any development plan, consider the following locational and compatibility factors:
 - 1. The site shall be located outside of the defined Infill and Redevelopment Area.
 - 2. An Industrial Reuse Project shall not be located on an arterial roadway.
 - 3. The Project should be located in an area of mixed uses and zones.
 - 4. The Project should be located in a B-4 or 1-1 area in which, due to small lot size, adjacent uses, or the nature of the roadway system, it would not be appropriate to construct larger B-4 or 1-1 uses, such as truck terminals, manufacturing facilities or large warehousing facilities.
 - 5. The property has an existing building coverage that does not allow for substantial expansion of the structure or parking facilities.
 - b. The Project must include:
 - 1. At least one existing building that will be adaptively reused as a principal structure.
 - 2. Public art or a public art easement that is publicly displayed in an accessible unpaid area and is visible from the adjacent street level. This is not to include a business logo or other type of advertisement.
 - c. The applicant shall provide documentation demonstrating that the Project meets at least one of the following criteria:
 - 1. The site includes a building lot coverage of 65% or greater and contains a building that is over 75 years old.
 - 2. The site includes a single building of over 30,000 square feet that is over 75 years old, or a total project of over 80,000 square feet with at least two adaptive reuse buildings over 75 years old.
 - 3. The site includes a structure individually listed on the National Register of Historic Places or is determined to be eligible for such listing; is determined to contribute to the significance of a National Register Historic District or is in an area that meets the requirements of a National Historic District; is individually listed on a state inventory of historic places; is located within an Historic District (H-1) overlay zone; or was constructed prior to 1950.

d. The applicant shall include at least one element from the following categories and must reach total score of 10 points:

1. Primary Land Use, Building Form, and Design:

- i. Affordable Housing (6) - Provide residential housing, at least 20% of which will be set aside for affordable housing (60% AMI) for at least 15 years.
- ii. Affordable Housing (4) - Provide residential housing, at least 20% of which will be set aside for affordable housing (80% AMI) for at least 15 years.
- iii. Green Rated Site Design (Sustainable Sites Initiative, etc.) (3) - Incorporating whole of project area.
- iv. Green Rated Site Design (Sustainable Sites Initiative or similar standard) (3) - Incorporating whole of project area.
- v. Green Building Design (LEED or similar standard) (3) - Structures that incorporate the principles of sustainable design of adaptively reused structures.
- vi. Green Building (LEED or similar standard) (2) - New Construction.
- vii. Renewable Energy (1).
- viii. Mixed use residential and commercial site wide (1).
- ix. Innovation Credit (1) - Provide a high degree of innovative modification of land use, building form, and/or design.

2. Transit, Infrastructure, and Connectivity:

- i. Parking Structure (4).
- ii. Riparian Buffer Restoration (3) - Meet requirements of Stormwater Manual Table 1-7 along length of stream on lot.
- iii. Daylighting of stream/removal of culvert (3).
- iv. Stream channel restoration (2) - See Stormwater Manual Ch. 9 for guidance.
- v. Accessible transit shelter and bench (2).
- vi. Multi-use path or open space oriented amenities (2).
- vii. Publicly accessible property to property cross-connectivity (2).
- viii. Innovation Credit (1) - Provide a high degree of innovative modification of transit, infrastructure, and connectivity.

3. Quality of Life Components:

- i. Site is within an area that is a brownfield recovery site (4).
- ii. Increase of Canopy Coverage to 40% (4).
- iii. Increase of Canopy Coverage to 30% (3).
- iv. Increase of Canopy Coverage to 20% (2).
- v. Site is in a district that has applied for, or has obtained, special funding or similar government incentives (3).
- vi. Universal Design Standards for all ground floor space (2).

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- vii. 20% Community oriented open space nonresidential (3).
 - viii. 10% Community oriented open space nonresidential (2).
 - ix. Community garden space (1).
 - x. Innovation Credit (1) - Provide a high degree of innovative modification of quality of life components.
- e. Principal uses in Industrial Reuse Projects:
- 1. Any of the principal uses permitted in the underlying zone.
 - 2. Schools; libraries; museums; art galleries; studios for work or teaching of fine arts, metal work, photography, dance, drama or theater; theaters, including movie theaters and other indoor amusements, except as prohibited under Section 8-19(e), including billiard or pool halls, bowling alleys, dance halls, skating rinks and arcades.
 - 3. Community centers, places of religious assembly and private clubs.
 - 4. Restaurants, with or without outdoor seating and with or without live entertainment.
 - 5. Establishments for the retail sale of food, dairy, bakery, meat, beer, liquor, wine and other food products; the retail sale of merchandise, including new or used clothing and books, gifts, toys, antiques, furnishings, housewares, jewelry, electronics and similar items.
 - 6. Pharmacies, provided that they are within a structure containing other uses and do not occupy a separate building.
 - 7. Banquet facilities or private clubs with live entertainment, brew-pubs, bars, cocktail lounges and nightclubs.
 - 8. Offices, banks or clinics.
 - 9. Beauty shops, barber shops, shoe repair, dressmaking or tailoring.
 - 10. Residences of any kind.
 - 11. Health clubs, athletic clubs and spas.
 - 12. Retail sales of plant, nursery or greenhouse products or agricultural products, produce or goods, including market gardens.
 - 13. Kindergartens, nursery schools and child care centers for four (4) or more children. A fenced and screened play area shall be provided, which shall contain at least 25 square feet per child.
 - 14. Indoor or outdoor amusement or entertainment enterprises such as circuses, carnivals, rodeos, horse shows or automobile shows; provided such activity is operated on a temporary basis, not to exceed two weeks.
 - 15. Publicly accessible park.
 - 20. Hosted or Un-Hosted Short Term Rentals, as regulated in Article 3-13 of the Zoning Ordinance
- f. Accessory uses that are clearly incidental and subordinate to the principal uses are permitted.
- g. Conditional Uses:
- 1. Drive-through facilities.

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- h. Prohibited uses:
 - 2. All adult uses, as listed in Sections 8-16(e)(14 through 17).
 - i. Parking:
 - 1. For any site that is located on a transit route, there shall be a maximum of four (4) surface parking spaces per one thousand (1,000) commercial square feet.
 - 2. For any site that is not located on a transit route, there shall be a maximum of five (5) surface parking spaces per one thousand (1,000) commercial square feet.
 - 3. Structure parking shall not count toward any maximum parking requirement.
 - j. Signage Shall be as permitted under Article 17-7(0) for an MU-2 zone.
 - k. Lot and Yard Requirements - No minimum.
 - l. Height No maximum height for adaptive reuse of existing buildings. New buildings shall not be more than 12 feet taller than the tallest structure that is being adaptively reused on the same lot or the adjacent lot, or 48 feet, whichever is greater.
 - m. The applicant shall submit a compliance statement with the development plan that specifies how the project will further the Goals and Objectives and other elements of the Comprehensive Plan.
 - n. Prior to holding a hearing on the development plan, the applicant shall post a sign, with dimensions set out in Article 23B-5(b), at a visible location on the property at least 14 days prior to the hearing, informing the public of the location, date and time of the hearing. Evidence of the sign having been posted shall be submitted to the Planning Commission at the hearing.
 - o. The Planning Commission shall have the power to approve, modify or disapprove the development plan, as set out in Article 21. In addition, if the Planning Commission approves the development plan, it must adopt a finding that the development plan furthers the Goals and Objectives or other elements of the Comprehensive Plan.
 - p. For additional land to be added to an Industrial Reuse Project area, the new portion must be adjacent to the current project area. An updated compliance statement must be submitted, which shall implement those elements that have been applied across the project area.
 - q. For any amendment that seeks to expand the originally approved project, the added portion of the project must meet all requirements of Sec. 8-18(c)(4)(d) separate from the original project.
 - r. Flex Space Projects that have been approved prior to August 1, 2021, shall be regulated per the approved development plan.

Sec. 8-22. Light Industrial (I-1) Zone.

- (a) *Intent.* This zone is intended for manufacturing, industrial and related uses not involving a potential nuisance in terms of smoke, noise, odor, vibration, heat, light or industrial waste. In addition, the Comprehensive Plan recognizes that it is important to promote adaptive reuse of older industrial areas and to allow Adaptive Reuse Projects and Industrial Reuse Projects. The Comprehensive Plan should be used to determine appropriate locations for this zone. Consideration should be given to the relationship of this zone to the surrounding land uses and to the adequacy of the street system to serve the anticipated traffic needs.
- (b) *Principal Uses.* (Other uses substantially similar to those listed herein shall also be deemed permitted.)
 - 1. The principal permitted uses in the B-4 zone.

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2. The manufacturing, compounding, assembling, processing, packaging, or similar treatment of articles of merchandise from the following previously prepared materials: asbestos, bone, canvas, cellophane, cellulose, cloth, cork, feather, felt, fiber, fur, glass, hair, horn, leather, paper, plastics, precious and semi-precious metals, precious and semi-precious stones, rubber, sheet metal (excluding large stampings), shell, textiles, tobacco, wax, wire, wood (excluding sawmills, planing mills), and yarn.
 3. The manufacturing, compounding, assembling, processing, packaging, or similar treatment of such products as: bakery goods; billboards; candy; ceramics; cosmetics; drafting instruments; electrical parts; appliances; electric or neon signs; electronic instruments; food products; meat packaging; ice cream; medical and dental instruments; musical instruments; pharmaceuticals; pottery, china, or figurines; radios; record players; rubber and metal stamps; rubber products; scientific instruments and equipment; shoes; television receivers; toiletries, soaps and detergents; toys; and watches and clocks.
 4. Other industrial and manufacturing uses, such as auto parts rebuilding; battery manufacturing; beverage manufacturing; micro-brewery as regulated by KRS 243.157 and KRS 243.150; Class B (craft) distillery as defined in KRS 243.120; dairy and non-dairy and food and non-food product bottling plants; box and crate assembly; building materials sales; rental storage yard; bag, carpet and rug cleaning and dyeing; cabinet shop; cannery; cooperage; columbariums and crematories; dextrine and starch manufacturing; enameling, lacquering, and japanning; felt manufacturing; electric foundry; furniture manufacturing; heating equipment manufacturing; inflammable underground liquid storage; iron works (ornamental), and wire drawing; parcel delivery stations; phonograph record manufacturing; public utility service yard; radium extraction; railway or truck terminal; stone monument works; tool manufacturing; vehicle storage yards for which occupancy permits were issued prior to May 1, 1985; welding, and other metal working shops.
 5. Recycling, sorting, baling and processing of glass and nonferrous metals, including copper; brass; aluminum; lead and nickel, but not including automobile wrecking yard; building materials salvage; junk yards or other uses first permitted in the I-2 zone. Recycling, and processing of paper shall be permitted only when wholly conducted in a completely enclosed building.
 6. Adaptive Reuse Projects, as set out in Section 8-21(b)23 and Section 8-21(o)4.
 7. Industrial Reuse Projects, as set out in Section 8-21 (b)26 and Section 8-21 (o)5.
 8. Commercial wood lots, provided that:
 - a. All wood storage and processing activities are located at least three hundred (300) feet from the nearest residential zone;
 - b. Wood piles are no greater than fifteen (15) feet in height, no greater than twenty (20) feet in width, no greater than one hundred (100) feet in length, and are spaced no less than twenty (20) feet from any property line; and
 - c. Cutting and splitting of timber takes place only between the hours of 8:00 a.m. and 5:00 p.m. on weekdays.
- (c) *Accessory Uses.* (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)
1. Off-street parking areas and structures; loading facilities.
 2. Dwelling units for watchmen or caretakers, provided that such facilities shall be located on the same premises as the permitted use.
 3. Outdoor storage of products manufactured on the premises or materials to be used in manufacture on the premises.

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4. Facilities for serving food only for employees and visitors; having no direct access to the exterior, and having no signs visible from the exterior of the building. Mobile food unit vendors may also serve this purpose, and be parked outside of a building to serve employees and visitors, provided that the requirements of Section 15-11 of the Code of Ordinances are met.
 5. Offices.
 6. Recreational facilities, except as prohibited herein.
 7. Sale of manufactured goods.
 8. Sale of finished products related or incidental to the principal use, provided that the area set aside for sales of these related or incidental items does not constitute more than thirty percent (30%) of the total floor and storage area.
 9. Satellite dish antennas, as further regulated by Section 15-8.
 10. Beauty salons where accessory to an athletic club facility, provided that the area of the salon shall not constitute more than ten percent (10%) of the total floor area, that the salon has no separate external entrance, nor separate business signage.
 11. Retail sale of liquid propane (limited to twenty-pound (20-lb.) containers), when accessory to retail sale of building materials and lumber permitted under Section 8-21(b)(18).
- (d) *Conditional Uses.* (Permitted only with Board of Adjustment approval.)
1. Automobile, truck, ATV, motorcycle, bicycle motocross, or other vehicle or bicycle race tracks.
 2. Public utilities and public service uses and structures.
 3. Penal or correctional institutions.
 4. Grain drying, when operated in a fully enclosed building at least three hundred (300) feet from the nearest residential, business, or professional office zone.
 5. The above- or below-ground storage for resale of any flammable or nonflammable gas or oxidizer in liquid or gaseous form; the storage of any empty container that contained any gas in any form; and the receiving of or dispensing of any gas in any form, unless in association with an automobile and vehicle refueling station or limited by Subsection (e) of this section; and provided such operations conform to the standards prescribed by the National Fire Protection Association, the Kentucky Occupational Safety and Health Standards for General Industry, and any requirements of the Fire Marshall. Such conformance shall be certified in writing by the Fire Marshall, and any required protective measures for the containers shall be met in all ways.
 6. Banks, with or without drive-through facilities, except as provided as part of an Adaptive Reuse Project or an Industrial Reuse Project, provided:
 - a. The site lies within the area of a development plan approved by the Planning Commission, having a minimum one hundred (100) acres zoned industrial;
 - b. There shall be an on-site stacking capacity of a minimum of twenty (20) cars for each bank having drive-through facilities;
 - c. The site shall not have direct access to an arterial street;
 - d. There exists, within the development plan area, industrial businesses having a full-time, non-seasonal, on-site total employee population of at least five hundred (500) employees;

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- e. There exists, within a one-mile radius of the property boundaries of the proposed site, industrial businesses having a full-time, non-seasonal, on-site total employee population of at least two thousand, five hundred (2,500) employees;
 - f. A site development plan is submitted to, and approved by, the Board of Adjustment and the Planning Commission.
7. Concrete mixing and concrete products, but only when the proposal complies with the requirements of the Mining/Quarrying Ordinance (Code of Ordinances #252-91) and the conditions and requirements as set forth therein, and only under the following conditions:
- a. That no concrete mixing operation be conducted closer than one thousand (1,000) feet from any existing residence on another lot under different ownership.
 - b. Noise, Air and Water Quality: The facility shall be operated at all times in compliance with applicable federal, state and local laws and regulations on noise, air, and water quality, including the LFUCG Noise Ordinance (Sections 14-70 through 14-80), Section 6-7, Stormwater Disposal Standards, and Chapter 16 of the Code of Ordinances.
 - c. Development Plan: The development plan shall indicate all existing contours, shown with intervals sufficient to show existing drainage courses, retention, stormwater and sedimentation basins; and the names and locations of all streams, creeks, or other bodies of water within five hundred (500) feet.
 - d. Drainage and Erosion Control: All operations shall have adequate drainage, erosion, and sediment control measures incorporated in the site/development plan(s). If, in the event that adequate drainage, erosion, and sediment control cannot be provided, permits may be denied.
 - e. Roads: All access roads that intersect with a State highway or public street shall be paved with an all-weather surface of either asphalt or concrete for the entire length of road from State highway or street to the active loading point. Internal roads may be unpaved, provided dust is adequately controlled.
 - f. Screening: Screening shall be provided as defined in accordance with LFUCG Article 18 of this Zoning Ordinance.
 - g. Transportation Plan: A Transportation Plan shall be planned (in relationship to the arterial roadway system) to minimize the impact of traffic, dust, and vehicle noise on areas outside the site and shall include the following information:
 - 1) Product shipping and deliveries;
 - 2) Mode of transportation;
 - 3) Route(s) to and from the site;
 - 4) Schedule and frequency of shipments;
 - 5) Delivery and shipping spillage control methods;
 - 6) Employee parking.
 - h. Storage: Storage and/or stockpiles of hazardous materials shall be in a completely closed building. Outdoor storage, except aggregate, sand and recycled asphalt material, shall be enclosed on at least three (3) sides by a solid wall or fence, not less than six (6) feet nor greater than eight (8) feet in height, and shall be placed at designated site(s) on the development plan. At the cessation of operation, all storage piles and/or stockpiles shall either be removed or graded and covered with a minimum of eighteen (18) inches of topsoil and/or other soil-making materials, and planted in accordance with Article 18 of this Zoning Ordinance.

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- i. **Excess Product and Waste:** Excess product and waste, when disposed of on-site, shall be in a designated area so as to prevent erosion and contamination of streams and waterways. At the cessation of operation, all outdoor storage piles and/or stockpiles shall either be removed or graded and covered with a minimum of eighteen (18) inches of topsoil and/or other soil-making materials, and planted in accordance with Article 18 of this Zoning Ordinance.
 8. Cable television system facilities, including transmitting towers; antennas; earth stations; microwave dishes; relays; business offices; television studios; and storage facilities.
 9. Vehicle storage yards, for which occupancy permits were applied for on or after May 1, 1985.
 10. Commercial composting, provided that the following requirements are met:
 - a. That all such composting shall be conducted in a fully enclosed building.
 - b. That a permit-by-rule or letter of intent from the Division of Waste Management of the Kentucky Natural Resources and Environmental Protection Cabinet be obtained prior to submission of any application to the Board of Adjustment for a conditional use permit.
 - c. That a development plan, indicating access points and circulation routes; proposed signage; screening and landscaping; fencing and other significant geological or physical features of the property, be submitted as part of any application.
 - d. That the Board specifically consider and be able to find that the proposed use will not constitute a public nuisance by creating excessive noise, odor, traffic or dust.
 11. Helistops and heliports, provided such facilities conform to the requirements of all appropriate federal, state and local regulations.
 12. Mining of non-metallic minerals, but only when the proposal complies with the requirements of the Mining/Quarrying Ordinance (Code of Ordinances #252-91) and the conditions and requirements as set forth therein. The Board of Adjustment shall specifically consider and be able to find:
 - a. That the proposed use will not constitute a public nuisance by creating excessive noise, odor, traffic, dust, or damage to the environment or surrounding properties;
 - b. That a reasonable degree of reclamation and proper drainage control is feasible; and
 - c. That the owner and/or applicant has not had a permit revoked or bond or other security forfeited for failure to comply with any federal, state or local laws, regulations or conditions, including land reclamation, pertaining to the proposed use.
 13. Places of religious assembly, Sunday schools, and schools for academic instruction, when affiliated with a place of religious assembly or a religious entity, except as provided as part of an Adaptive Reuse Project.
 14. Retail sale, except as provided as part of an Adaptive Reuse Project, of furniture and household-related items, such as antiques; fabrics; fixtures; furnishings; glassware and china, when accessory to its storage, refinishing, repairing or upholstery on the same premises.
 15. Community centers, except as provided as part of an Adaptive Reuse Project.
 16. Childcare centers, except as provided as part of an Adaptive Reuse Project.
 17. Agricultural market and market gardens.
 18. Temporary structures designed for use or occupancy for sixty-one (61) to one hundred eighty (180) days per 12-month period on a single property, calculating said period by cumulative consideration of the use of any and all such structures on a single property.

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19. Circus, provided all structures are located not less than two hundred (200) feet from any residential zone; and further provided that all structures for housing animals shall be two hundred (200) feet from any residential zone, residential use, school, hospital, nursing home or rest home. A circus may not displace more than twenty-five percent (25%) of the minimum required parking for the site it occupies.
 20. Day shelters.
 21. Ecotourism activities to include campgrounds, commercial hiking, bicycling, and zip line trails; tree canopy trails; canoeing and kayaking launch sites; recreational outfitters; fishing and hunting clubs; botanical gardens; nature preserves; and seasonal activities.
- (e) *Prohibited Uses.* (All uses other than those listed as principal, accessory, or conditional uses or substantially similar to principal, accessory or conditional uses shall be prohibited. The uses below are provided for illustration purposes and for the purpose of limiting permitted uses, and are not intended to be a total listing of all the uses that are prohibited.)
1. The prohibited uses in the B-4 zone, Section 8-21(e)3 through 11, and 14 through 16.
 2. All uses first permitted in the I-2 zone, except as specifically permitted herein.
 3. A facility for the storage and distribution of gas by railroad tank cars, through gas piping, or by tank trucks, which each have a water capacity in excess of four thousand (4,000) gallons.
 4. Slaughterhouses.
 5. Equine trails, children's rides, pony rides and petting zoos.
- Lot, Yard, and Height Requirements. (See Articles 3 and 15 for additional regulations.)
- (f) *Minimum Lot Size.* No limitation.
- (g) *Minimum Lot Frontage.* No limitation.
- (h) *Minimum Front Yard.* Twenty (20) feet.
- (i) *Minimum Each Side Yard.* No limitation, except as provided in Subsection (o) of this section.
- (j) *Minimum Rear Yard.* No limitation, except as provided in Subsection (o) of this section.
- (k) *Minimum Useable Open Space.* No limitation.
- (l) *Maximum Lot Coverage.* No limitation.
- (m) *Maximum Height of Building.* Seventy-five (75) feet, except when a side or rear yard abuts a Professional Office or Residential zone, then a 3:1 height-to-yard ratio.
- (n) *Off-Street Parking.* (See Articles 16 and 18 for additional parking regulations.)
- No minimum requirements.
- Conditional Uses: The Board of Adjustment may establish additional requirements, as needed.
- (o) *Special Provisions.*
1. All industrial uses shall be conducted in a completely enclosed building, except for outdoor storage uses, which shall be enclosed on all sides by a solid wall or fence not less than six (6) feet in height.
 2. All buildings and structures shall be at least one hundred (100) feet from any residential zone, unless the portion within that distance has no openings except stationary windows and doors that are designed and intended solely for pedestrian access.
 3. Landscape buffer areas shall be required as set forth in Article 18.

(Code 1983, § 8-22; Ord. No. 263-83, § 1, 12-15-1983; Ord. No. 89-86, § 21, 5-29-1986; Ord. No. 35-87, §§ 1, 2, 3-5-1987; Ord. No. 154-88, § 1, 7-7-1988; Ord. No. 93-89, § 1, 6-1-1989; Ord. No. 154-89, § 1, 8-31-1989; Ord. No. 58-91, § 2, 4-4-1991; Ord. No. 84-91, § 2, 5-2-1991; Ord. No. 93-91, § 1, 5-16-1991; Ord. No. 30-92, §§ 14, 15, 3-3-1992; Ord. No. 134-92, § 3, 7-9-1992; Ord. No. 213-94, § 8, 1-20-1994; Ord. No. 31-95, § 1, 2-9-1995; Ord. No. 258-96, § 1, 12-12-1996; Ord. No. 7-99, § 1, 1-28-1999; Ord. No. 50-2004, § 1, 3-18-2004; Ord. No. 339-2006, §§ 1-6, 11-21-2006; Ord. No. 43-2007, § 1, 2-22-2007; Ord. No. 227-2008, §§ 7, 8, 10-23-2008; Ord. No. 1-2011, § 8, 1-13-2011; Ord. No. 99-2011, § 9, 8-25-2011; Ord. No. 100-2011, § 9, 8-25-2011; Ord. No. 114-2011, § 2, 8-25-2011; Ord. No. 153-2012, § 1, 12-6-2012; Ord. No. 5-2013, § 2, 1-31-2013; Ord. No. 89-2013, § 1, 8-15-2013; Ord. No. 155-2013, § 2, 12-10-2013; Ord. No. 68-2015, § 1(8-22), 6-18-2015; Ord. No. 137-2016, § 2(8-22), 7-7-2016; Ord. No. 166-2017, § 3(8-22), 11-16-2017; Ord. No. 060-2021, § 2, 7-6-2021; Ord. No. 43-2022, § 1, 5-26-2022; Ord. No. 113-2022, § 3, 10-27-2022)

Sec. 8-22. Light Industrial (I-1) Zone.

(Refers to B-4, No Change)

Sec. 8-23. Heavy Industrial (I-2) Zone.

(Refers to B-4, No Change)

Article 12 COMMERCIAL CENTER (B-6P) ZONE

Sec. 12-3. Principal permitted uses.

The principal permitted uses in a B-6P zone shall be as follows:

- (a) The principal permitted uses in the B-1 and P-1 zones.
- (b) Indoor theaters.
- (c) Parking lots and structures.
- (d) Offices of veterinarians, animal hospital or clinic, provided all exterior walls are completely soundproofed and all animal pens are completely within the principal building and used only for the medical treatment of small animals.
- (e) Self-service car wash, provided that such uses shall be located at least one hundred (100) feet from any residential zone; and that surface water from such establishment shall not drain onto adjacent property, and that adequate on-site storage lanes and parking facilities shall be provided so that no public way shall be used for such purposes.
- (f) Multifamily dwellings.
- (g) Restaurants, cocktail lounges, brew-pubs, nightclubs, and discotheques offering live entertainment and/or dancing, unless otherwise prohibited. Such uses shall be located at least one hundred (100) feet from any residential zone and shall be soundproofed to the maximum extent feasible by using existing technology, with noise emissions not creating a nuisance to the surrounding neighborhood.
- (h) Hotels, extended-stay hotels, and motels. Such uses shall only be permitted within a commercial center zone with a minimum of ten (10) acres.
- (i) Hosted or Un-Hosted Short Term Rentals, as regulated in Article 3-13 of the Zoning Ordinance

APPENDIX 23A. ZONING CATEGORIES AND RESTRICTIONS

Sec. 23A-5. Expansion Area Residential 1 (EAR-1) Zone.

- (a) *Intent.* This zone is intended to provide a mixture of low density residential uses which will serve as a transition between the more intensely developed suburban neighborhoods and the Rural Service Area.
- (b) *Principal Uses.*
 1. Single-family, two-family, multifamily, and townhouse dwellings.
 2. Community residences.
 3. Golf courses and common open spaces.
 4. Places of religious assembly when located adjacent to a street that has the functional classification of collector/boulevard or arterial.
- (c) *Accessory Uses.*

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1. Private garages and parking areas.
 2. Accessory Dwelling Units, as regulated in Article 3-12.
 3. Swimming pools and tennis courts, which may include a clubhouse, as approved by the Planning Commission on a final development plan, for the use and enjoyment of the surrounding neighborhood, which may also include weight training and exercise rooms, restrooms, meeting rooms, or similar facilities.
 4. Home offices and home occupations.
 5. Family childcare home.
 6. The keeping of not more than two (2) roomers or boarders by a resident family.
 7. Childcare facilities and schools for academic instruction when accessory to a place of religious assembly on the same property.
 8. Non-commercial hiking and bicycling trails.
 9. **Hosted Short Term Rentals, as regulated in Article 3-13 of the Zoning Ordinance.**

(d) *Conditional Uses.*

1. Home-based businesses.
2. Type II Childcare Center. A fenced outdoor play area shall be provided, which shall contain not less than twenty-five (25) square feet per child.
3. Temporary Real Estate Sales Offices for the sale of lots located only within the subdivision in which the sales office is located, to be removed at the end of two (2) years or when all the lots are sold, whichever comes first.
4. Clubhouse, with sale of food and merchandise, when accessory to a golf course.
5. Historic house museums.
6. Schools for academic instruction, except as permitted herein, but only when located on a lot adjacent to a street that has the functional classification of collector/boulevard or arterial.
7. Equine trails.
8. Seasonal activities.
9. Market gardens.
10. **The short-term rental (defined in the Code of Ordinances) of Accessory Dwelling Units, as regulated in Article 3-12 of the Zoning Ordinance. The Board of Adjustment, in considering approval of such conditional use, shall consider and make a finding that the number of rooms granted shall not have an adverse effect on surrounding properties. In addition, in considering such a conditional use, the Board of Adjustment shall take into consideration the number of short-term rental facilities, if any, within the general neighborhood of the property being considered for such use.**
11. **Un-Hosted Short Term Rentals, as regulated in Article 3-13 of the Zoning Ordinance.**

Sec. 23A-6. Expansion Area Residential 2 (EAR-2) Zone. (Refers to EAR-1, no change)

Sec. 23A-7. Expansion Area Residential 3 (EAR-3) Zone. (Refers to EAR-2, no change)

Sec. 23A-9. Community Center (CC) Zone.

- (a) *Intent.* The intent of this zone is to implement the Community Center land use designation in the Expansion Area Master Plan by providing a mixture of residential uses and nonresidential uses which serve the needs of the surrounding residential neighborhoods.
- (b) *Principal Uses.*
1. As for EAR-3.
 2. Banks, credit agencies, security and commodity brokers and exchanges, credit institutions, savings and loan companies, holding and investment companies.
 3. Offices for business, professional, governmental, civic, social, fraternal, political, religious, and charitable organizations, including but not limited to, real estate sales offices.
 4. Places of religious assembly.
 5. Libraries, museums, art galleries, and reading rooms.
 6. Medical and dental offices, clinics, and laboratories.
 7. Studios for work or teaching of fine arts, such as photography; music; drama; dance and theater.
 8. Community centers and private clubs.
 9. Nursing and personal care facilities, and rehabilitation homes.
 10. Computer and data processing centers.
 11. Ticket and travel agencies.
 12. Kindergartens, nursery schools and childcare centers for four (4) or more children. A fenced and screened play area shall be provided, which shall contain not less than twenty-five (25) square feet per child.
 13. Business colleges, technical or trade schools or institutions.
 14. Establishments for the retail sale of food products, such as supermarkets; dairy, bakery, meat, beer, liquor, and wine and other food product stores; and provided that production of food products is permitted only for retail sale on the premises.
 15. Restaurants, except as prohibited under Section 8-16(e)(14) and (15), which offer no live entertainment or dancing.
 16. Establishments for the retail sale of merchandise, including clothing; shoes; fabrics; yard goods; fixtures, furnishings, and appliances, such as floor covering, radios, TV, phonograph products and other visual and sound reproduction or transmitting equipment; furniture; kitchen and laundry equipment; glassware and china; and other establishments for the retail sale of hardware and wallpaper, lawn care products; paint and other interior or exterior care products; hobby items; toys; gifts; antiques; newspapers and magazines, stationery and books; flowers; music; cameras; jewelry and luggage; business supplies and machines; prescription and non-prescription medicines and medical supplies.

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17. Beauty shops, barber shops, shoe repair, self-service laundry, or laundry pick-up station, including clothes cleaning establishments of not more than 40 pounds capacity and using a closed system process.
 18. Automobile service stations, provided such use conforms to all requirements of Article 16.
 19. Repair of household appliances.
 20. Retail sale of plant nursery or greenhouse products, except as prohibited herein.
 21. Outdoor miniature golf or putting courses.
 22. Quick copy services utilizing xerographic or similar processes, but not utilizing offset printing methods.
 23. Carnivals, special events, festivals, and concerts on a temporary basis, and upon issuance of a permit by the Divisions of Planning and Building Inspection, which may restrict the permit in terms of time; parking; access; or in other ways to protect public health, safety, or welfare, or deny such if public health, safety, or welfare are adversely affected. A carnival, special events, festivals, and concerts may not displace more than twenty-five percent (25%) of the minimum required parking for the site it occupies.
 24. Indoor theaters.
 25. Rental of equipment whose retail sale would be permitted elsewhere in this zone.
 26. Arcades, including pinball, and electronic games.
 27. Athletic club facilities.
 28. Swimming pools; tennis courts; putting greens; hiking, bicycling and equine trails; and other similar commercial and non-commercial recreational uses.
 29. Brew-pub.
 30. Day shelters.
 31. Commercial farm markets.
 32. Market gardens.
 33. Banquet facilities.
 34. Offices of veterinarians, animal hospitals or clinics, provided that:
 - (a) All exterior walls are completely soundproofed;
 - (b) Animal pens are located completely within the principal building; and
 - (c) Boarding is limited to only animals receiving medical treatment.
 35. Hotels and motels
 36. **Short Term Rentals, as regulated in Article 3-13 of the Zoning Ordinance.**

Sec. 28-3. Mixed use 1: Neighborhood Node Zone (MU-1).

Mixed use 1: "Neighborhood Node Zone (MU-1)" is hereby created and regulated as follows:

- (a) *Location Criteria.* MU-1 shall only be permitted on parcels which meet all of the following criteria:
1. The parcel must contain a combined total frontage of at least one hundred (100) feet of the intersection of two (2) streets, one (1) of which has the functional classification of arterial or collector, and must be located inside the Urban Service Area boundary.
 2. The parcel must contain at least five thousand (5,000) square feet and may not exceed a maximum of one-half (½) acre.
 3. The parcel must be designated in a Medium, High, or Very High Density Residential, or Commercial Land Use Category in the Comprehensive Plan or currently zoned for commercial use.
- (b) *Principal Permitted Uses.* The following shall be principal permitted uses in the MU-1 zone:
1. Dwelling units.
 2. The principal permitted uses of the P-1 and B-1 zones, except as specifically prohibited hereinbelow.
- (c) *Accessory Uses.* The following shall be considered accessory uses in the MU-1 zone:
1. The accessory uses permitted in the P-1 and B-1 zone except for drive-through facilities.
- (d) *Conditional Uses.* The following shall be conditional uses in the MU-1 zone:
1. Temporary structures designed for use or occupancy for sixty-one (61) to one hundred eighty (180) days per 12-month period on a single property, calculating said period by cumulative consideration of the use of any and all such structures on a single property.
 2. **Un-Hosted Short Term Rentals, as regulated in Article 3-13 of the Zoning Ordinance.**

Sec. 28-4. Mixed use 2: Neighborhood Corridor Zone (MU-2).

- (b) *Principal Permitted Uses.* The following shall be principal permitted uses in the MU-2 zone:
1. Dwelling units.
 2. The principal permitted uses of the P-1 and B-1 zone except as specifically prohibited hereinbelow.
- (c) *Accessory Uses.* The following shall be accessory uses in the MU-2 zone:
1. The accessory uses permitted in the P-1 and B-1 zones, except for drive-through facilities.
- (d) *Conditional Uses:* The following shall be conditional uses in the MU-2 zone:
1. Drive-through facilities as an adjunct to a permitted use.
 2. Temporary structures designed for use or occupancy for sixty-one (61) to one hundred eighty (180) days per 12-month period on a single property, calculating said period by cumulative consideration of the use of any and all such structures on a single property.
 3. **Un-Hosted Short Term Rentals, as regulated in Article 3-13 of the Zoning Ordinance.**



Sec. 28-5. Mixed use 3: Mixed use Community Zone (MU-3).

- (b) *Principal Permitted Uses.* The following shall be principal permitted uses in the MU-3 zone:
1. Dwelling units.
 2. The principal permitted uses of the P-1 and B-1 zones, except as specifically prohibited hereinbelow.
- (c) *Accessory Uses.* The following shall be accessory uses in the MU-3 zone:
1. The accessory uses permitted in the P-1 and B-1 zones, including drive-through facilities, except as prohibited under Subsection (e) of this section, below.
- (d) *Conditional Uses.* ~~The conditional uses in the B-1 zone except as prohibited under Subsection (e) of this section, below.~~
1. ~~The conditional uses in the B-1 zone except as prohibited under Subsection (e) of this section, below.~~
 2. **Un-Hosted Short Term Rentals, as regulated in Article 3-13 of the Zoning Ordinance.**
- (h) *Special Provisions.* Special provisions shall be as follows:
6. An Entertainment Mixed use Project may be permitted by the Planning Commission for a tract of land with a minimum of ten (10) acres, and recommended by the adopted Comprehensive Plan for mixed use or a nonresidential land use, upon the approval of a preliminary development plan and a final development plan as provided in Article 21 herein. In its approval of such a development plan, the Commission shall find that the location is both appropriate for the use, and compatible with neighboring land uses. The parcel shall be subject to the MU-3 zone regulations above and the following requirements:
 - (a) Subdivision of land in an Entertainment Mixed use Project is permitted, subject to the following regulations:
 1. There shall be no minimum lot size, lot frontage, yard or open space, nor maximum lot coverage or height requirements for each subdivided lot; however, all said requirements for the approved final development plan shall be applicable to the subdivision.
 2. Each subdivided lot shall have access to adjacent streets or joint parking areas, as provided by appropriate easements shown on the final development plan and the final record plan.
 - (b) At least twenty-five percent (25%) of the combined floor area of all buildings constructed within an Entertainment Mixed use Project shall be located on the second or higher floor.
 - (c) Where multiple principal structures are proposed within an Entertainment Mixed use Project:
 1. Mixing within a single structure shall not be required within the first forty percent (40%) of floor area for commercial use, or after the fifteen percent (15%) minimum mix of residential to nonresidential uses has been achieved in multiple-use structures. Once the project has reached fifteen thousand (15,000) square feet of commercial use, additional commercial square footage will not be required.

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2. The front building wall of at least fifteen percent (15%) of all buildings shall be required to be built at the zero-foot setback line.
- (d) Buildings within an Entertainment Mixed use Project may be a maximum of eighty (80) feet in height, regardless of location, provided a 1:1 height-to-yard ratio is maintained from any residential zone.
 - (e) In addition to the uses otherwise permitted above in the MU-3 zone, the following uses shall also be permitted in an approved Entertainment Mixed use Project:
 1. As Principal Permitted Uses:
 - a. Restaurants, cocktail lounges and nightclubs, with entertainment, dancing, and/or sale of malt beverages, wine or alcoholic beverages.
 - b. Motels, hotels, ~~and~~ extended-stay hotels, and short-term rentals as regulated in Article 3-13.
 - c. Indoor amusements, such as billiards or pool halls, skating rinks, theaters, or bowling alleys.
 - d. Athletic club facilities.
 - e. Drive-in restaurants, provided that all outside food service shall be at least one hundred (100) feet from any residential zone.
 - f. Animal hospitals or clinics, including offices of veterinarians, provided that such structures or uses, not including accessory parking areas, shall be at least one hundred (100) feet from any residential zone.
 - g. Grandstands associated with horse race tracks with allotted race meets, including simulcast facilities, accessory restaurants and/or the serving of alcoholic beverages provided that such structures or uses, not including accessory parking areas, shall be at least one hundred (100) feet from any residential zone.



STAFF REPORT ON PETITION FOR ZONING ORDINANCE TEXT AMENDMENT

PLN-ZOTA-22-00018: AMENDMENT TO ARTICLES 5 AND 7 REGARDING ZONING ENFORCEMENT

APPLICANT: URBAN COUNTY COUNCIL

PROPOSED TEXT: SEE ATTACHED (Note: Red text indicates an addition to the existing Zoning Ordinance; text ~~stricken through~~ indicates a deletion.)

STAFF ALTERNATIVE: SEE ATTACHED (Note: Red text indicates an addition to the existing Zoning Ordinance; Blue text indicates staff alternative text; text ~~stricken through~~ indicates a deletion)

STAFF REVIEW:

On March 23, 2023 the Urban County Council passed a resolution initiating a text amendment to the Zoning Ordinance for Planning Commission review and recommendation regarding defining and regulating short term rentals (Resolution 166-2023). Within the resolution, the Council provided language that would define hosted and un-hosted short term rentals, provide general regulations for short term rentals and to establish short term rentals as an accessory use in certain zones and as a conditional use in certain zones. The following report reviews the proposed Zoning regulations for short term rentals in our community and makes recommendations to modify the proposed Zoning Ordinance text.

Short term rentals have existed in our community for a number of years without a regulatory framework that responds to the unique aspects of this type of use. Based on data from AirDNA, which tracks the performance data of short term rental listings on Airbnb and VRBO, there are at least 1,065 active short term rentals in Fayette County, each having had at least one reserved or available date in the last month. 94% of those rentals are "Entire Home" rentals and 6% are "Private Room" rentals.

Historically, the Division of Planning has considered short term rentals to be allowed under the definition of a "dwelling unit": *one room or rooms connected together, constituting a separate, independent housekeeping establishment for occupancy by a family as owner, by rental or lease on a weekly, monthly, or longer basis; physically separated from any other rooms or dwelling units which may be in the same building, and containing independent kitchen and sleeping facilities.* Utilizing this definition, staff's interpretation has been that one rental contract per week (or 52 in a year) to a "family or housekeeping unit," as defined in the Zoning Ordinance, is an allowable use of a dwelling unit. From time to time, Zoning Enforcement staff has received complaints from neighbors regarding short term rentals and has notified operators of the above interpretation. However, since the use has not been formally distinguished from any other dwelling unit, it has been quite difficult to track the locations of short term rentals and to enforce the limitation on the number of rentals and occupancy limit of one family.



This ZOTA is one piece of a two-part initiative to regulate short term rentals in our community. A Council Workgroup, first established in 2019 has put forth this ZOTA, as well as proposed changes to the Code of Ordinances to address both land use and revenue concerns. While the Planning Commission does not have purview with regard to Code of Ordinance changes, it is important to also summarize that component of the project and explain how the two components work together.

In January, 2019, the topic of short term rentals was placed in the Planning and Public Safety Committee of the Council. Drafted Code of Ordinance language was scheduled to receive first reading on March 17, 2020, but was tabled pending a return to in-person meetings due to the coronavirus pandemic. In March 2022, a workgroup led by Councilmembers James Brown and Liz Sheehan began meeting to resume the discussions on short term rentals. On November 29, 2022, a special meeting of the Planning and Public Safety Committee was held to allow public comment on a new draft which included changes to both the Code of Ordinances and the Zoning Ordinance. Following edits to that draft, the workgroup (now assigned to the General Government and Planning Committee) reported the draft out to the full Council, which then acted to initiate the ZOTA on March 23, 2023. Between March 2022 and February 2023, the workgroup held 15 meetings with stakeholder groups including both short term rental operators and representatives from neighborhoods with a concentration of short term rentals. Planning staff attended various meetings throughout this process and acted as staff to the workgroup, assisting in the development of the initiated ZOTA as directed by the workgroup.

When the ZOTA was initiated, Council also tabled the draft changes to the Code of Ordinances until such time that those changes and the Zoning Ordinance changes can be advanced together. The Code of Ordinances proposal establishes a special fees license for short term rentals, including provisions for a fee structure, relevant definitions, collection of taxes, duties of a licensee, as well as procedures for enforcement, appeals, and revocation of the special fees license. As part of the licensure process, the licensee must demonstrate that they are operating in accordance with the Zoning Ordinance. Violation of the Zoning Ordinance may result in revocation of the special fees license. Continuance of the short term rental's operation following the revocation of a license may result in fees and a lien on the property owned by the licensee.

The Zoning Ordinance text developed by the Council workgroup includes definitions to establish two kinds of short term rentals, hosted and un-hosted; lays out which zones are appropriate for short term rentals; and provides general regulations related to the operations of short term rentals. Staff is generally supportive of much of the text as initiated, but has provided staff alternative language (attached) in a few locations throughout the draft. Below is an outline and assessment of the body of the ZOTA, as well as staff's alternative text.

It is important to note that the current ZOTA only addresses urban zones and does not provide for short term rentals in the agricultural zones. It is unlikely that short term rental regulations in our agricultural zones will need to be the same as those in our urban zones, as the impact and desired types of short term rentals will likely be different in the two contexts. Agritourism uses like "farmstays," which are defined by the State may be more appropriate in agricultural zones. Additionally, farm employee dwelling units are allowed in the agricultural zones, but currently can only be rented to relatives of the farm's operator and employees of the farm. It will be important for the Rural Land Management Board to weigh in on any proposed changes to the uses allowed in the



Rural Service Area and staff anticipates that another ZOTA to address short term rentals in this portion of our community will be forthcoming, and will involve considerable discussion.

The regulatory regime proposed in this ZOTA distinguishes between two type of short term rentals, hosted and un-hosted. A “hosted” short term rental is one in which a primary resident resides full-time in or on the same property as the dwelling unit being utilized as the short term rental, and is present during the short term rental period. An “un-hosted” short term rental is one in which there is no primary resident associated with the short term rental operation living on the property. It is expected that hosted short term rentals will have a lesser likelihood of creating nuisance issues in neighborhoods, since a full-time resident will be on-site and available to address any issues that may arise. As such, the proposal recommends that hosted short term rentals be regulated as accessory uses in residential zones and less intense mixed-use zones. Un-hosted short term rentals are proposed to be regulated as conditional uses, requiring approval by the Board of Adjustment in most zones, except for higher intensity mixed-use zones, where they may be the principal use. Additionally, the number of hosted and un-hosted short term rentals allowed on a property are delineated by zone. Staff recommends alternative text for the number of short term rental units allowed in multi-family residential zones for multi-family and group residential lots. The initiated text allows for a maximum of three units; however, because the number of units in multi-family structures and on group residential lots can vary greatly, staff is proposing a maximum of 10% or one unit, whichever is greater. This will reduce the impact that short term rentals could have on lower density multi-family buildings.

The drafted general regulations for short term rentals include an occupancy limit of a maximum of two individuals per bedroom, plus an additional four individuals, or a total of 12 individuals, whichever is less. It also allows the BOA to establish a different occupancy for short term rentals regulated as conditional uses. Staff has some concerns regarding this provision and has provided alternative text to modify the occupancy limitations proposed. Because short term rentals are a commercial use occurring in a dwelling unit, it is reasonable for them to be regulated differently than a traditional residential use. However, there are concerns that allowing a commercial use of a dwelling unit to have a higher occupancy cap than that unit would have as a dwelling unit may be in conflict with the Fair Housing Act. While the definition of “family or housekeeping unit” does not limit the number of related individuals who may occupy a dwelling unit, only four unrelated individuals may live together, unless they have a disability, as outline in the Fair Housing Act. In our residential zones, up to eight individuals who have a disability, including sober living arrangements for those recovering from alcohol or substance abuse, may occupy one dwelling unit. For numbers greater than eight, a conditional use is required in most residential zones. Staff feels that an occupancy cap of eight individuals would be more consistent with the existing provisions of the Zoning Ordinance and will not create a conflict with the Fair Housing Act. Staff is proposing that all short term rentals, hosted or un-hosted with a desired occupancy greater than eight be regulated as conditional uses.

The text also includes provisions related to the use of accessory structures as short term rentals, the use of short term rentals for parties or gatherings, and specific considerations that shall be taken into account by the Board of Adjustment in their assessment of conditional use applications. Staff is generally supportive of these provisions. While some other conditional uses in our Zoning Ordinance include additional requirements or considerations, the majority do not, and the Board is tasked with evaluating each request on a case by case basis. While staff does not feel that such codified guidance is completely necessary as the Board must always evaluate each application based on its



own specific circumstances, the items listed for the Board's consideration provide helpful guidance, not only to the Board, but to applicants who are considering applying for a conditional use and will help inform staff's recommendations to the Board.

Staff is proposing two additional sections related to short term rentals that are currently in operation based on Planning's interpretation of weekly rentals of dwelling units. Typically, when a use that has been allowed is further defined or the Zoning Ordinance establishes new regulations for that use, existing operations may continue as legal non-conforming uses, provided they were operating in accordance with earlier regulations and do not expand their operations. In this case, that would mean that existing short term rentals operating with no more than 52 rentals per year to one family or housekeeping unit per rental contract could continue to do so. However, because the proposed regulations are more permissive in some ways, there has been a desire expressed by the Council workgroup to allow existing operators that would now be regulated as a conditional use to be "grandfathered" in, while still being able to take advantage of some of the new flexibility offered in these new regulations. With the proposed staff alternative language in Article 3-13(i), existing, legally operating un-hosted short term rentals that would now require a conditional use would be granted the ability to have more than 52 rentals in a year and to utilize the new occupancy cap of eight individuals until there is a change in ownership. Article 3-13(j) essentially reiterates the provisions of Article 4-3 related to non-conforming uses for existing short term rentals operating in zones which will not specifically list short term rentals as a principal, accessory, or conditional use in this ZOTA. However, such non-conforming uses must operate in accordance with Planning's earlier interpretation of weekly rentals of dwelling units and must comply with the licensure requirements provided in the Code of Ordinances draft. It is expected that this section will be modified once another ZOTA is developed to address short term rentals within the agricultural zones.

Staff is supportive of this effort to modernize the uses in the Zoning Ordinance to reflect a relatively new and popular use that has both residential and commercial qualities and historically been difficult to categorize and regulate, not only in our community, but in cities across the county. Nationally, short term rentals are a controversial topic, with concerns relating to housing affordability, the ability of a homeowner to supplement their income on their property, tourism, and even interstate commerce. Many cities have attempted to regulate short term rentals, with varying degrees of success. It is not uncommon for jurisdictions to adopt regulations for short term rentals and then quickly modify them. The proposed ZOTA in conjunction with the proposed changes to the Code of Ordinances will greatly improve the LFUCG's ability to track short term rentals and to provide better enforcement of nuisance issues related to this type of use. Hosted short term rentals in particular can provide value in our neighborhoods by allowing individuals to utilize their property to a greater extent to supplement their income or to allow them to age in place rather than downsizing. Un-hosted short term rentals do pose more concern as they utilize otherwise available housing stock for a commercial purpose rather than providing needed housing to our growing population. However, the proposed regulations will help to insure that neighborhoods are not overwhelmed by an influx of un-hosted short term rentals by requiring a conditional use permit. The conditional use process requires notification of nearby property owners and includes a public hearing, giving neighbors the opportunity to provide input regarding short term rentals in their neighborhoods. The proposed changes clarify an existing use that has been difficult to monitor and should result in better communication between short term rental operators and the neighborhoods in which they operate, while also enabling the LFUCG to track short term rentals and provide better enforcement when violations occur.



The Staff Recommends: Approval of the proposed text amendment with staff alternative text to the Zoning Ordinance, for the following reasons:

1. The proposed text amendment with staff alternative text allows for the definition and regulation of short term rentals. In conjunction with the proposed changes to the Code of Ordinances, this text amendment will enable the LFUCG to track short term rentals and provide better enforcement when violations occur.
2. The proposed text amendment with staff alternative text provides enforceable limitations on hosted and un-hosted short term rentals in order to prevent adverse impacts on the health, safety, and welfare of the local community and visitors to the Urban County.



PLANNING COMMISSION RECOMMENDED TEXT May 11, 2023

Article 3 GENERAL ZONE REGULATIONS

Sec. 1-11. Definitions.

Short Term Rental (STR) means the commercial use of a dwelling unit that is rented in whole or in part, for temporary occupancy by transient guests for a tenancy of less than thirty (30) consecutive days in duration, where no meals are served. This term does not include hotel or motel rooms, extended stay hotels, bed and breakfast facilities, boarding or lodging facilities, or farm employee dwelling units. Transient guests are those who have an established primary residence elsewhere, and this term shall not be construed to include individuals that rent a primary residence on a weekly basis.

Hosted Short Term Rental means a short term rental in which the dwelling unit utilized as the STR, or another dwelling unit on the subject property is a primary residence and a primary resident (as defined in Section 13-76 of the Code of Ordinances) continues to occupy the property while the short-term rental is being rented to a transient guest.

Un-Hosted Short Term Rental means a short term rental in which a primary resident (as defined in Section 13-76 of the Code of Ordinances) does not occupy the property during the short term rental period.

Article 3 GENERAL ZONE REGULATIONS

Sec. 3-13. General regulations for Short Term Rentals (STRs).

- a) All short term rentals shall be licensed by the Division of Revenue and subject to the regulations of Section 13 of the Code of Ordinances.
- b) Number of Dwelling Units allowed to be utilized as Short Term Rentals per Property:

Zones Allowed	Hosted (Occupancy up to 12)	Hosted (Occupancy >12)	Un-Hosted	# of Short Term Rental Units
R-1A, R-1B, R-1C, R-1D, R-1E, R-1T	Accessory Use	Conditional Use	Conditional Use	<u>Hosted</u> : 1 dwelling unit <u>and</u> 1 ADU <u>Un-Hosted</u> : 1 dwelling unit <u>or</u> 1 ADU
R-2, R-3, R-4, R-5, EAR-1, EAR-2, EAR-3	Accessory Use	Conditional Use	Conditional Use	<u>For Single Family Lots:</u> <u>Hosted</u> : 1 dwelling unit <u>and</u> 1 ADU <u>Un-Hosted</u> : 1 dwelling unit <u>or</u> 1 ADU <u>For Multi-Family and Group Residential Lots:</u> 10% max or 1, whichever is greater
B-1, P-1, MU-1, MU-2, MU-3	Accessory Use	Conditional Use	Conditional Use	25% max.
B-2, B-2A, B-2B, B-4*, I-1*, I-2*, CC, B-6P, MU-3*	Principal Use	Principal Use	Principal Use	No max.

*When part of an Adaptive Reuse Project, Industrial Reuse Project, or Entertainment Mixed Use Project

PLANNING COMMISSION RECOMMENDED TEXT May 11, 2023

Article 3 GENERAL ZONE REGULATIONS

- c) Maximum Occupancy Limit (for accessory and principal uses): A maximum of two (2) individuals per bedroom, plus an additional four (4) individuals; or a total of 12 individuals, whichever is less. Any host or other permanent residents of the dwelling unit present during the short term rental period shall count toward the maximum occupancy.
- d) Maximum Occupancy Limit (for conditional uses): The Board shall establish a maximum occupancy for the short term rental use in accordance with the above provision, except the Board may allow additional occupants when there is sufficient evidence that a greater occupancy will not result in overcrowding or create a nuisance.
- e) Detached accessory structures may be used as a Short Term Rental only in a permitted Detached Accessory Dwelling Unit.
- f) Short Term Rentals shall not be utilized for private events, such as weddings or parties, in which the number of participants exceeds the maximum occupancy limit. No private events shall occur between the hours of 11:00 p.m. and 7:00 a.m. Special events for a commercial purpose shall be prohibited at all times.
- g) For Short Term Rentals regulated as conditional uses, the Board of Adjustment shall take into consideration:
 - 1) The number of STRs, if any, in proximity of the property being considered for such use.
 - 2) The demonstrated compliance record of the applicant, if they operate other STRs in Lexington.
 - 3) The occupancy rate of other STRs in the general vicinity, including those operated by the applicant.
 - 4) Whether other STRs in the general vicinity have been cited as a nuisance, including those operated by the applicant
- h) For any conditional use permit approved by the Board of Adjustment for a short term rental, the conditional use permit shall become null and void if the applicant's short-term rental special fee license (as regulated by the Division of Revenue and Section 13 of the Code of Ordinances) lapses or is revoked.
- i) Any Short Term Rental operating in a principal dwelling unit prior to #ADOPTION DATE HERE#, that would hereafter be regulated as a conditional use shall be allowed to continue its operation per Article 4-7, but shall utilize the new regulations provided in Sections A, C, E, F, and H above. Such uses shall obtain the license required above from the Division of Revenue and be subject to the regulations of Section 13 of the Code of Ordinances. A change in ownership shall require a conditional use permit to be approved by the Board of Adjustment.
- j) Any Short Term Rental operating in a principal dwelling unit prior to #ADOPTION DATE HERE# that is located in a zone that would hereafter prohibit Short Term Rentals shall be allowed to continue its operation as a non-conforming use per Article 4-3, and shall continue to operate in accordance with the definition of a dwelling unit occupied by one family or housekeeping unit, having no more than one rental contract per week, for a total of no more than 52 rentals per year and with an occupancy of no more than 4 unrelated individuals. Such uses shall obtain the

Article 3 GENERAL ZONE REGULATIONS

license required above from the Division of Revenue and be subject to the regulations of Section 13 of the Code of Ordinances.

Sec. 8-5. Single-Family Residential (R-1A) Zone.

- (c) *Accessory Uses.* (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)
1. Private garages, storage sheds, and parking areas.
 2. Living quarters, without cooking facilities and not rented, for guests and employees of the premises.
 3. Swimming pools and tennis courts, including accessory structures and temporary structures associated with those uses.
 4. Agricultural uses, excluding commercial stock raising.
 5. Private, non-commercial parks and open space.
 6. Home offices and home occupations.
 7. A ground, roof or pole-mounted satellite dish antenna, as regulated by Section 15-8.
 8. Family childcare home.
 9. Hiking and bicycling trails.
 10. Accessory Dwelling Units, as regulated in Article 3-12 of the Zoning Ordinance.
 11. Hosted Short Term Rentals for 12 or fewer occupants, as regulated in Article 3-13 of the Zoning Ordinance.
- (d) *Conditional Uses.* (Permitted only with Board of Adjustment approval.)
1. Kindergartens and nursery schools for four (4) and not more than twelve (12) children, when accessory to and located in the same structure with the single-family residence occupied by the owner or operator. All kindergartens and nursery schools shall provide a fenced and screened play area, which shall contain not less than twenty-five (25) square feet per child.
 2. Kindergartens, nursery schools and childcare centers for four (4) or more children, when accessory to a place of religious assembly, school or private club as permitted herein. A fenced and screened play area shall be provided, which shall contain not less than twenty-five (25) square feet per child.
 3. Home-based businesses.
 4. Cemeteries, columbariums, and mausoleums.
 5. Outdoor commercial and non-commercial recreational facilities, such as golf courses; sportsmen's farms; riding stables and equine trails; fishing lakes and non-commercial swimming pool; tennis courts; campgrounds; and private clubs.
 6. Places of religious assembly.
 7. Schools for academic instruction.
 8. Mining of non-metallic minerals, but only when the proposal complies with the requirements of the Mining/Quarrying Ordinance (Code of Ordinances #252-91) and the conditions and requirements as set forth therein. The Board of Adjustment shall specifically consider and be able to find:

PLANNING COMMISSION RECOMMENDED TEXT May 11, 2023

- a. That the proposed use will not constitute a public nuisance by creating excessive noise, odor, traffic, dust, or damage to the environment or surrounding properties;
 - b. That a reasonable degree of reclamation and proper drainage control is feasible; and
 - c. That the owner and/or applicant has not had a permit revoked or bond or other security forfeited for failure to comply with any federal, state or local laws, regulations or conditions, including land reclamation, pertaining to the proposed use.
9. Type II Childcare Center. A fenced outdoor play area shall be provided, which shall contain not less than twenty-five (25) square feet per child.
 10. Bed and breakfast facilities, limited to the rental of not more than one (1) room. The Board of Adjustment, in considering approval of such conditional use, shall consider and make a finding that the number of rooms granted shall not have an adverse effect on surrounding properties. In addition, in considering such a conditional use, the Board of Adjustment shall take into consideration the number of bed and breakfast facilities, if any, within the general neighborhood of the property being considered for such use.
 11. Historic house museums.
 12. Seasonal activities.
 13. Market gardens.
 14. The short-term rental (defined in the Code of Ordinances) of Accessory Dwelling Units, as regulated in Article 3-12 of the Zoning Ordinance. The Board of Adjustment, in considering approval of such conditional use, shall consider and make a finding that the number of rooms granted shall not have an adverse effect on surrounding properties. In addition, in considering such a conditional use, the Board of Adjustment shall take into consideration the number of short-term rental facilities, if any, within the general neighborhood of the property being considered for such use.
 15. Un-Hosted Short Term Rentals and Hosted Short Term Rentals for more than 12 occupants, as regulated by Article 3-13 of the Zoning Ordinance.

Sec. 8-6. Single-Family Residential (R-1B) Zone. Refers to R-1A

Sec. 8-7. Single-Family Residential (R-1C) Zone. Refers to R-1A

Sec. 8-8. Single-Family Residential (R-1D) Zone. Refers to R-1A

Sec. 8-9. Single-Family Residential (R-1E) Zone.

- (c) *Accessory Uses.* (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)
 1. Private garages, storage sheds and parking areas.
 2. Swimming pools and tennis courts.
 3. Agricultural uses, excluding commercial stock raising.
 4. Private, non-commercial parks and open space.
 5. Home offices and home occupations.

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6. A ground, roof or pole-mounted satellite dish antenna, as regulated by Section 15-8.
7. Family childcare home.
8. Hiking and bicycling trails.
9. Accessory Dwelling Units, as regulated in Article 3-12 of the Zoning Ordinance.
10. Hosted Short Term Rentals for 12 or fewer occupants, as regulated in Article 3-13 of the Zoning Ordinance.

(d) *Conditional Uses.* (Permitted only with Board of Adjustment approval.)

1. As for R-1A.

Sec. 8-10. Townhouse Residential (R-1T) Zone.

(c) *Accessory Uses.* (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)

1. Private garages, storage sheds and parking areas.
2. Swimming pools and tennis courts.
3. Agricultural uses, excluding commercial stock raising.
4. Private, non-commercial parks and open space.
5. Home offices and home occupations.
6. A ground, roof or pole-mounted satellite dish antenna, as regulated in Section 15-8.
7. Family childcare home.
8. Hiking and bicycling trails.
9. Accessory Dwelling Units, as regulated in Article 3-12 of the Zoning Ordinance.
10. Hosted Short Term Rentals for 12 or fewer occupants, as regulated in Article 3-13 of the Zoning Ordinance.

(d) *Conditional Uses.* (Permitted only with Board of Adjustment approval.)

1. As for R-1A.

Sec. 8-11. Two-Family Residential (R-2) Zone. Refers to R-1A

Sec. 8-12. Planned Neighborhood Residential (R-3) Zone.

(c) *Accessory Uses.* (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)

1. Items 1 through 3 and 6 through ~~10~~ 11 of the permitted accessory uses in the R-1A zone.
2. ~~The keeping of not more than four (4) roomers or boarders per dwelling unit by a resident family for single family or two-family dwellings, except where a bed and breakfast facility is provided; then no roomers or boarders shall be permitted.~~

3. Non-commercial athletic club facilities, when accessory to another permitted or conditional use.
- (d) *Conditional Uses.* (Permitted only with Board of Adjustment approval.)
 1. The permitted conditional uses in the R-1A zone.

Sec. 8-13. High Density Apartment (R-4) Zone. Refers to R-3 (no changes)

Sec. 8-14. High Rise Apartment (R-5) Zone.

- (a) *Intent.* This zone is primarily for multi-family dwellings and particularly for high rise apartments. The R-5 zone should be at locations and at the density (units/acre) recommended by the Comprehensive Plan, and in areas of the community where necessary services and facilities will be adequate to serve the anticipated population.
- (b) *Principal Uses.* (Other uses substantially similar to those listed herein shall also be deemed permitted.)
 1. Multifamily dwellings.
 2. Dormitories.
 3. Offices, limited to multifamily structures with six (6) or more stories, provided offices are limited to no more than the first two (2) stories with no mixing of offices and apartments on the same floor.
- (c) *Accessory Uses.* (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)
 1. The permitted accessory uses in the R-1A zone, items 1 through 3 ~~and~~ 6 through 9 ~~and~~ 11.
 2. Athletic club facilities, when accessory to another permitted or conditional use.
- (d) *Conditional Uses.* (Permitted only with Board of Adjustment approval.)
 1. The permitted conditional uses in the R-3 zone.

Sec. 8-15. Professional Office (P-1) Zone.

- (c) *Accessory Uses.* (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)
 1. Establishments limited to the filling of prescriptions and retail sale of pharmaceutical and medical supplies.
 2. Parking areas or structures.
 3. Incidental retail sales or personal services, including facilities for serving food, only for employees, residents or visitors to any permitted use, and having no primary access to the exterior; and limited to a maximum of ten percent (10%) of the gross floor area of the building in which it is located, with no single such use being in excess of five thousand (5,000) square feet.
 4. Sales offices for the display of merchandise and the acceptance of orders.
 5. Swimming pools, tennis courts, putting greens, hiking and bicycling trails, botanical gardens, nature preserves and other similar non-commercial recreational uses.
 6. Satellite dish antennas, as further regulated by Section 15-8.
 7. One dwelling unit for owners, operators, or employees of a permitted use, provided that such dwelling unit shall be part of the building and located above, to the side, or to the rear of such permitted use.

8. Retail sales and storage areas accessory to internet-based businesses, for which Certificates of Occupancy are issued after November 15, 2001, provided that the retail sales and storage area occupies no more than twenty-five percent (25%) of the business area, nor more than two thousand, five hundred (2,500) square feet, whichever is less; and having no display space, storage space or signs visible from the exterior of the building.
9. Drive-through facilities for the sale of goods or products or the provision of services otherwise permitted herein, when approved by the Planning Commission on a development plan.
10. **Hosted Short Term Rentals for 12 or fewer occupants, as regulated in Article 3-13 of the Zoning Ordinance.**

(d) *Conditional Uses.* (Permitted only with Board of Adjustment approval.)

1. Drive-through facilities for sale of goods or products or the provision of services otherwise permitted herein.
2. Parking lots and structures.
3. Mining of non-metallic minerals, but only when the proposal complies with the requirements of the Mining/Quarrying Ordinance (Code of Ordinances #252-91) and the conditions and requirements as set forth therein. The Board of Adjustment shall specifically consider and be able to find:
 - a. That the proposed use will not constitute a public nuisance by creating excessive noise, odor, traffic, dust, or damage to the environment or surrounding properties;
 - b. That a reasonable degree of reclamation and proper drainage control is feasible; and
 - c. That the owner and/or applicant has not had a permit revoked or bond or other security forfeited for failure to comply with any federal, state or local laws, regulations or conditions, including land reclamation, pertaining to the proposed use.
4. Rehabilitation homes, when located closer than five hundred (500) feet from a residential zone.
5. Extended-stay hotels, except as permitted in a Professional Office Project.
6. Mail service facilities, except as permitted in a Professional Office Project.
7. Ecotourism activities to include equine or zip line trails; tree canopy tours; canoeing and kayaking launch sites; fishing clubs; and seasonal activities.
8. **Un-Hosted Short Term Rentals and Hosted Short Term Rentals for more than 12 occupants, as regulated in Article 3-13 of the Zoning Ordinance.**

Sec. 8-16. Neighborhood Business (B-1) Zone.

- (c) *Accessory Uses.* (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)
1. Parking areas or structures.
 2. One (1) dwelling unit for owners, operators, or employees of a permitted use, provided that such dwelling unit shall be a part of the building and located above or to the rear of such permitted uses.
 3. Warehousing, wholesaling, and storage, excluding outdoor storage; and provided that no building for such accessory use shall have openings other than stationary windows or solid pedestrian doors within one hundred (100) feet of any residential zone.
 4. The sale of malt beverages, wine or alcoholic beverages, when accessory to a restaurant permitted

under Subsection (b)3. Such accessory use shall not devote more than twenty-five percent (25%) of its public floor area primarily to the preparation and service of such beverages, nor provide any separate outside entrances or separate identification signs for those areas.

5. Satellite dish antennas, as further regulated by Section 15-8.
6. One or two (2) pool or billiard tables within an establishment.
7. Sidewalk cafes, when accessory to any permitted restaurant.
8. Retail sale of liquid propane (limited to twenty pound (20 lb.) containers), when accessory to the retail sale of merchandise or an automobile service station permitted under Subsection (b) of this section.
9. Indoor live entertainment and/or dancing, when accessory to a restaurant, brew-pub or banquet facility; but only when located more than one hundred (100) feet from a residential zone.
10. Drive-through facilities for the sale of goods or products, or the provision of services otherwise permitted herein, when approved by the Planning Commission on a development plan.
11. Hosted Short Term Rentals for 12 or fewer occupants, as regulated in Article 3-13 of the Zoning Ordinance.

(d) *Conditional Uses.* (Permitted only with Board of Adjustment approval.)

1. Self-service car washes, provided that surface water from such establishments shall not drain onto adjacent property, and that adequate on-site storage lanes and parking facilities shall be provided so that no public way shall be used for such purposes.
2. The rental of trucks (single rear axle: Twenty-eight (28) feet maximum overall length), trailers and related items in conjunction with the operation of an automobile service station, provided that the service station abuts a state or federal highway. No more than five (5) trucks shall be stored for longer than forty-eight (48) hours on any service station. A site plan shall be submitted for the approval of the Board of Adjustment for the continued control of such activity and shall show the entire property, buildings, signs, parking and location of the proposed storage area.
3. A restaurant or brew-pub, without live entertainment or dancing, which devotes more than twenty-five percent (25%) of its public floor area primarily to the preparation and service of malt beverages, wine or alcoholic beverages.
4. Outdoor live entertainment and/or dancing, cocktail lounges or nightclubs, unless prohibited under Subsections (e)(14) and (15) of this section. Such uses shall be located at least one hundred (100) feet from any residential zone; and indoor uses shall be sound-proofed to the maximum extent feasible by using existing technology, with noise or other emissions not creating a nuisance to the surrounding neighborhood. The Board may also impose time restrictions to minimize nuisance to the surrounding neighborhood.
5. Indoor live entertainment and/or dancing, when accessory to a restaurant, brew-pub or banquet facility; but only when located closer than one hundred (100) feet from a residential zone.
6. Upholstery shop.
7. Mining of non-metallic minerals, but only when the proposal complies with the requirements of the Mining/Quarrying Ordinance (Code of Ordinances #252-91) and the conditions and requirements as set forth therein. The Board of Adjustment shall specifically consider and be able to find:
 - a. That the proposed use will not constitute a public nuisance by creating excessive noise, odor, traffic, dust, or damage to the environment or surrounding properties;
 - b. That a reasonable degree of reclamation and proper drainage control is feasible; and
 - c. That the owner and/or applicant has not had a permit revoked or bond or other security forfeited

for failure to comply with any federal, state or local laws, regulations or conditions, including land reclamation, pertaining to the proposed use.

8. Gasoline pumps available to the public without an employee on site, provided a plan is approved by the Board of Adjustment for periodic inspection of the site by an employee for the following purposes:
 - a. To check all operating equipment;
 - b. To check fire suppression system(s);
 - c. To check the condition of the fire alarm(s);
 - d. To check for indications of fuel leaks and spillage;
 - e. To remove trash from the site;
 - f. To monitor the general condition of the site.
9. Rehabilitation homes, but only when located closer than five hundred (500) feet from a residential zone, school for academic instruction or a childcare center.
10. Temporary structures designed for use or occupancy for sixty-one (61) to one hundred eighty (180) days per 12-month period on a single property, calculating said period by cumulative consideration of the use of any and all such structures on a single property.
11. Circuses, provided all structures are located not less than two hundred (200) feet from any residential zone; and further provided that all structures for housing animals shall be two hundred (200) feet from any residential zone, residential use, school, hospital, nursing or rest home. A circus may not displace more than twenty-five percent (25%) of the minimum required parking for the site it occupies.
12. Automobile and vehicle refueling stations, provided such uses conform to all requirements of Article 16.
13. Extended-stay hotels.
14. Parking lots, provided such use conforms to the conditions of Article 16.
15. Drive-through facilities for the sale of goods or products, or the provision of services otherwise permitted herein, except as accessory uses herein.
16. Ecotourism activities to include zip line trails; tree canopy tours; fishing clubs; botanical gardens; nature preserves; and seasonal activities.
17. Recreation vehicle and trailer campgrounds, but only when located within five hundred (500) feet of an interstate interchange.
18. Hunting clubs, but only when located more than five hundred (500) feet from a residential zone.
19. Country inns, but only when located within five hundred (500) feet of an Agricultural Rural (A-R) zone.
20. Un-Hosted Short Term Rentals and Hosted Short Term Rentals for more than 12 occupants, as regulated in Article 3-13 of the Zoning Ordinance.

Sec. 8-17. Downtown Business (B-2) Zone.

- (a) *Intent.* This zone is intended to accommodate existing and future development in the Central Business District.
- (b) *Principal Uses.* (Other uses substantially similar to those listed herein shall also be deemed permitted.)
 1. The principal permitted uses in the B-1 zone.
 2. Amusement enterprises, such as indoor billiard or pool halls; indoor theaters; bowling alleys; dance

- halls; skating rinks.
3. Restaurants, cocktail lounges and nightclubs, with entertainment, dancing or the sale of alcoholic beverages.
 4. Establishments for the display, rental, or sale of automobiles, motorcycles, trucks not exceeding one and one-half (1½) tons, and boats limited to runabout boats, provided that the outdoor display or storage of vehicles shall conform to the requirements of Article 16.
 5. Establishments engaged in blueprinting, printing, publishing and lithographing; interior decorating; upholstering; laundering, clothes cleaning and dyeing; clothing alterations and tailoring services.
 6. Hotels and motels.
 7. Passenger transportation terminals.
 8. Any type of dwelling unit.
 9. Wholesale establishments.
 10. Minor automobile and truck repair.
 11. Establishments primarily engaged in the sale of supplies and parts for vehicles and farm equipment.
 12. Pawnshops.
 13. Stadium and exhibition halls.
 14. Telephone exchanges; radio and television studios.
 15. Cable television system signal distribution centers and studios.
 16. Athletic club facilities.
 17. Adult arcades, massage parlors, adult bookstores, adult video stores, adult cabarets, adult dancing establishments, adult entertainment establishments, and sexual entertainment centers, provided that none shall be located within a 500-foot radius of any agricultural or residential zone, any elementary or secondary school, any park attended by persons under eighteen (18) years of age, or within a 1,000-foot radius of any other similarly regulated adult business.
 18. Parking lots and structures, provided such use conforms to the conditions of Article 16.
 19. Hosted or Un-Hosted Short Term Rentals, as regulated in Article 3-13 of the Zoning Ordinance

Sec. 8-18. Downtown Frame Business (B-2A) Zone. Refers to B-2 (No change)

Sec. 8-19. Lexington Center Business (B-2B) Zone.

- (a) *Intent.* This zone is intended to ensure compatible land uses, the preservation of existing attractions compatible with the Lexington Center, and the encouragement of new uses necessary to the proper development of the Downtown Area. The permitted land uses in the zone should have some logical relation to the Lexington Center and to the downtown core, should promote tourism, should promote the economic health of the community, should provide for an aesthetically pleasing environment, and should prevent the creation of influences adverse to the prospering of the Lexington Center and the Downtown Area.
- (b) *Principal Uses.* (Other uses substantially similar to those listed herein shall also be deemed permitted.)
 1. Civic Center and convention facilities.
 2. Banks, credit agencies, security and commodity brokers and exchanges, credit institutions; savings and loan companies, holding and investment companies.

3. Offices and clinics.
4. Schools for academic instruction.
5. Libraries, museums, art galleries, and reading rooms.
6. Studios for work or teaching of fine arts, such as photography, music, drama, dance or theater.
7. Places of religious assembly.
8. Ticket and travel agencies.
9. Restaurants, cocktail lounges and nightclubs, including those serving alcoholic beverages and/or offering live entertainment, except as prohibited under Subsection (e) of this section.
10. Establishments for the retail sale of primarily new merchandise.
11. Beauty shops and barber shops.
12. Shoe repair, clothing alterations or tailoring services.
13. Retail sale of plant, nursery or greenhouse products, or agricultural produce.
14. Commercial farm markets and market gardens.
15. Hotels or motels.
16. Any type of residential use.
17. Antique shops.
18. Establishments for the display, rental or sale of automobiles, motorcycles, trucks not exceeding one and one-half (1½) tons, and boats limited to runabout boats, provided that the outdoor display or storage of vehicles shall conform to the requirements of Article 16.
19. Amusement enterprises, such as circuses; carnivals; horse racing or automobile racing, special events, festivals, and concerts provided such activity is operated on a temporary basis of a duration not exceeding two (2) weeks.
20. Establishments engaged in blueprinting, printing, publishing, and lithography; interior decoration and upholstery; repair of household appliances.
21. Bookstores, except as prohibited under Subsection (e) of this section.
22. Indoor amusement enterprises, such as motion picture theaters, except as prohibited under Subsection (e) of this section; billiard or pool halls; bowling alleys; dance halls, skating rinks; and arcades.
23. Computer and data processing centers.
24. Telephone exchanges, radio and television studios.
25. Cable television system signal distribution centers and studios.
26. Private clubs, except as prohibited under Subsections (e)7, 8 and 9 of this section.
27. Kindergartens, nursery schools and childcare centers for four (4) or more children. A fenced and screened play area shall be provided, which shall contain not less than twenty-five (25) square feet per child.
28. Pawnshops which:
 - (1) Were in operation prior to August 31, 1990, and in compliance with the provisions of KRS 226.010 et seq. and Code of Ordinances, Sections 13-52 and 13-53; or

- (2) Had on file with the Lexington-Fayette Urban County Government, prior to August 31, 1990, an application for a business license or certificate of occupancy.
- 29. Historic house museums.
- 30. Health clubs, athletic clubs and spas.
- 31. **Hosted or Un-Hosted Short Term Rentals, as regulated in Article 3-13 of the Zoning Ordinance**

Sec. 8-21. Wholesale and Warehouse Business (B-4) Zone.

(o) *Special Provisions.*

- 1. All buildings and structures shall be at least one hundred (100) feet from any residential zone, unless the portion within that distance has no opening except stationary windows and doors that are designed and intended solely for pedestrian access.
- 2. Landscape buffer areas shall be required as set forth in Article 18.
- 3. An Office/Warehouse mixed use project may be permitted by the Planning Commission upon the approval of a final development plan, as provided in Article 21 of this Zoning Ordinance, and subject to the following requirements:

In addition to the uses permitted in Subsection (b) of this section, the following uses shall also be permitted in an Office/Warehouse Project:

As principal permitted uses:

- a. Offices, laboratories and data processing centers, limited to a maximum of seventy-five percent (75%) of the floor area of the building or project. This square footage limitation shall not apply if the project is located within the defined Infill and Redevelopment Area.

As accessory uses:

- a. Drive-through facilities for the provision of services allowed in an Office/Warehouse mixed use project;
 - b. Dwelling units for on-site security personnel.
- 4. Adaptive Reuse Projects may be permitted by the Planning Commission upon the approval of a final development plan, subject to the following requirements:
 - a. The property must be located in or adjacent to, or across a public right-of-way from, the defined Infill and Redevelopment Area. The area of the Project will be defined by the development plan and may include noncontiguous properties that can function together as an interrelated development.
 - b. The Project must include:
 - 1. At least one (1) existing building that will be adaptively reused as a principal structure.
 - 2. Public art or a public art easement that is publicly displayed in a publicly accessible unpaid area and is visible from the adjacent street level. This is not to include a business logo or other type of advertisement.
 - c. The applicant shall provide documentation demonstrating that the Project meets at least one (1) of the following criteria:

1. The site has a single building of over 30,000 square feet that is over 75 years old, or a total project of over 80,000 square feet with at least two adaptive reuse buildings over 75 years old.
 2. The site includes a structure individually listed on the National Register of Historic Places or is determined to be eligible for such listing; is determined to contribute to the significance of a National Register Historic District or is in an area that meets the requirements of a National Historic District; is individually listed on a state inventory of historic places; is located within an Historic District (H-1) overlay zone; or was constructed prior to 1950.
- d. The applicant shall include at least one element from the following categories and must reach total score of 10 points:
1. Primary Land Use, Building Form, and Design:
 - i. Affordable Housing (6) - Provide residential housing, at least 20% of which will be set aside for affordable housing (60% AMI) for at least 15 years.
 - ii. Affordable Housing (4) - Provide residential housing, at least 20% of which will be set aside for affordable housing (80% AMI) for at least 15 years.
 - iii. Green Rated Site Design (Sustainable Sites Initiative or similar standard) (3) - Incorporating whole of project area.
 - iv. Green Building Design (LEED or similar standard) (3) - Structures that incorporate the principles of sustainable design of adaptively reused structures.
 - v. Green Building (LEED or similar standard) (2) - New Construction vi. Green Infrastructure (2) - Manage 50% of stormwater onsite with Vegetative Low Impact Development BMPs and educational signage (must still meet LFUCG Stormwater Manuals).
 - vii. Renewable Energy (1).
 - viii. Mixed use residential and commercial site wide (1).
 - ix. Innovation Credit (1) - Provide a high degree of innovative modification of land use, building form, and/or design.
 2. Transit, Infrastructure, and Connectivity:
 - i. Parking Structure (4).
 - ii. Riparian Buffer Restoration (3) - Meet requirements of Stormwater Manual Table 1-7 along length of stream on lot.
 - iii. Daylighting of stream/removal of culvert (3).
 - iv. Stream channel restoration (2) - See Stormwater Manual Ch. 9 for guidance.
 - v. Accessible transit shelter and bench (2).
 - vi. Multi-use path or open space oriented amenities (2).
 - vii. Publicly accessible property to property cross-connectivity (2).
 - viii. Innovation Credit (1) - Provide a high degree of innovative modification of transit, infrastructure, and connectivity.
 3. Quality of Life Components:
 - i. Site is within an area that is a brownfield recovery site (4).

- ii. Increase of Canopy Coverage to 40% (4).
 - iii. Increase of Canopy Coverage to 30% (3).
 - iv. Increase of Canopy Coverage to 20% (2).
 - v. Site is in a district that has applied for, or has obtained, special funding or similar government incentives (3).
 - vi. Universal Design Standards for all ground floor space (2).
 - vii. 20% Community oriented open space nonresidential (3).
 - viii. 10% Community oriented open space nonresidential (2).
 - ix. Community garden space (1).
 - x. Innovation Credit (1) - Provide a high degree of innovative modification of quality of life components.
- e. Principal uses in Adaptive Reuse Projects:
- 1. Any of the principal uses permitted in the underlying zone.
 - 2. Schools; libraries; museums; art galleries; studios for work or teaching of fine arts, metal work, photography, dance, drama or theater; theaters, including movie theaters and other indoor amusements, except as prohibited under Section 8-19(e), including billiard or pool halls, bowling alleys, dance halls, skating rinks and arcades.
 - 3. Community centers, churches and private clubs.
 - 4. Restaurants, with or without outdoor seating and with or without live entertainment.
 - 5. Establishments for the retail sale of food, dairy, bakery, meat, beer, liquor, wine and other food products; the retail sale of merchandise, including new or used clothing and books, gifts, toys, antiques, furnishings, housewares, jewelry, electronics and similar items.
 - 6. Pharmacies, provided that they are within a structure containing other uses and do not occupy a separate building.
 - 7. Banquet facilities or private clubs with live entertainment, brew-pubs, bars, cocktail lounges and nightclubs.
 - 8. Offices, banks or clinics.
 - 9. Hotels or motels.
 - 10. Beauty shops, barber shops, shoe repair, dressmaking or tailoring.
 - 11. Quick copy services not using offset printing methods.
 - 12. Residences of any kind.
 - 13. Health clubs, athletic clubs and spas.
 - 14. Parking lots and structures.
 - 15. Retail sales of plant, nursery or greenhouse products or agricultural products, produce or goods, including market gardens.
 - 16. Kindergartens, nursery schools and childcare centers for four (4) or more children. A fenced and screened play area shall be provided, which shall contain at least twenty-five (25) square feet per child.
 - 17. Indoor or outdoor amusement or entertainment enterprises such as circuses, carnivals,

18. rodeos, horse shows or automobile shows; provided such activity is operated on a temporary basis, not to exceed two (2) weeks.
 19. Passenger transportation terminals.
 20. Publicly accessible parks.
 21. **Hosted or Un-Hosted Short Term Rentals, as regulated in Article 3-13 of the Zoning Ordinance**
- f. Accessory uses that are clearly incidental and subordinate to the principal uses are permitted.
 - g. Prohibited uses:
 1. All adult uses, as listed in Sections 8-16(e)14 through 17.
 2. Drive-through facilities.
 - h. Parking:
 1. For any site that is located on a transit route, there shall be a maximum of four (4) surface parking spaces per one thousand (1,000) commercial square feet.
 2. For any site that is not located on a transit route, there shall be a maximum of five (5) surface parking spaces per one thousand (1,000) commercial square feet.
 3. Structure parking shall not count toward any maximum parking requirement.
 - i. Signage: Shall be as permitted under Section 17-11(n) for an MU-2 zone.
 - j. Lot and Yard Requirements: No minimum.
 - k. Height: No maximum height for adaptive reuse of existing buildings. New buildings shall not be more than twelve (12) feet taller than the tallest structure that is being adaptively reused, or forty-eight (48) feet, whichever is greater.
 - l. The applicant shall submit a compliance statement with the development plan that specifies how the project will further the Goals and Objectives and other elements of the Comprehensive Plan.
 - m. Prior to holding a hearing on the development plan, the applicant shall post a sign, with dimensions set out in Section 23B-5(b), at a visible location on the property at least fourteen (14) days prior to the hearing, informing the public of the location, date and time of the hearing. Evidence of the sign having been posted shall be submitted to the Planning Commission at the hearing.
 - n. The Planning Commission shall have the power to approve, modify or disapprove the development plan, as set out in Article 21. In addition, if the Planning Commission approves the development plan, it must adopt a finding that the development plan furthers the Goals and Objectives or other elements of the Comprehensive Plan.
 - o. For additional land to be added to an adaptive reuse project area, the new portion must be adjacent to the current project area. An updated compliance statement must be submitted, which shall implement those elements that have been applied across the project area.
 - p. For any amendment that seeks to expand the originally approved project, the added portion of the project must meet all requirements of Sec. 8-18(o)(4)(d) separate from the original project.
5. Industrial Reuse Projects may be permitted by the Planning Commission upon the approval of a final development plan, subject to the following requirements:
 - a. The Planning Commission shall, with the approval of any development plan, consider the following locational and compatibility factors:

1. The site shall be located outside of the defined Infill and Redevelopment Area.
 2. An Industrial Reuse Project shall not be located on an arterial roadway.
 3. The Project should be located in an area of mixed uses and zones.
 4. The Project should be located in a B-4 or 1-1 area in which, due to small lot size, adjacent uses, or the nature of the roadway system, it would not be appropriate to construct larger B-4 or 1-1 uses, such as truck terminals, manufacturing facilities or large warehousing facilities.
 5. The property has an existing building coverage that does not allow for substantial expansion of the structure or parking facilities.
- b. The Project must include:
1. At least one existing building that will be adaptively reused as a principal structure.
 2. Public art or a public art easement that is publicly displayed in an accessible unpaid area and is visible from the adjacent street level. This is not to include a business logo or other type of advertisement.
- c. The applicant shall provide documentation demonstrating that the Project meets at least one of the following criteria:
1. The site includes a building lot coverage of 65% or greater and contains a building that is over 75 years old.
 2. The site includes a single building of over 30,000 square feet that is over 75 years old, or a total project of over 80,000 square feet with at least two adaptive reuse buildings over 75 years old.
 3. The site includes a structure individually listed on the National Register of Historic Places or is determined to be eligible for such listing; is determined to contribute to the significance of a National Register Historic District or is in an area that meets the requirements of a National Historic District; is individually listed on a state inventory of historic places; is located within an Historic District (H-1) overlay zone; or was constructed prior to 1950.
- d. The applicant shall include at least one element from the following categories and must reach total score of 10 points:
1. Primary Land Use, Building Form, and Design:
 - i. Affordable Housing (6) - Provide residential housing, at least 20% of which will be set aside for affordable housing (60% AMI) for at least 15 years.
 - ii. Affordable Housing (4) - Provide residential housing, at least 20% of which will be set aside for affordable housing (80% AMI) for at least 15 years.
 - iii. Green Rated Site Design (Sustainable Sites Initiative, etc.) (3) - Incorporating whole of project area.
 - iv. Green Rated Site Design (Sustainable Sites Initiative or similar standard) (3) - Incorporating whole of project area.
 - v. Green Building Design (LEED or similar standard) (3) - Structures that incorporate the principles of sustainable design of adaptively reused structures.
 - vi. Green Building (LEED or similar standard) (2) - New Construction.
 - vii. Renewable Energy (1).

- viii. Mixed use residential and commercial site wide (1).
 - ix. Innovation Credit (1) - Provide a high degree of innovative modification of land use, building form, and/or design.
2. Transit, Infrastructure, and Connectivity:
- i. Parking Structure (4).
 - ii. Riparian Buffer Restoration (3) - Meet requirements of Stormwater Manual Table 1-7 along length of stream on lot.
 - iii. Daylighting of stream/removal of culvert (3).
 - iv. Stream channel restoration (2) - See Stormwater Manual Ch. 9 for guidance.
 - v. Accessible transit shelter and bench (2).
 - vi. Multi-use path or open space oriented amenities (2).
 - vii. Publicly accessible property to property cross-connectivity (2).
 - viii. Innovation Credit (1) - Provide a high degree of innovative modification of transit, infrastructure, and connectivity.
3. Quality of Life Components:
- i. Site is within an area that is a brownfield recovery site (4).
 - ii. Increase of Canopy Coverage to 40% (4).
 - iii. Increase of Canopy Coverage to 30% (3).
 - iv. Increase of Canopy Coverage to 20% (2).
 - v. Site is in a district that has applied for, or has obtained, special funding or similar government incentives (3).
 - vi. Universal Design Standards for all ground floor space (2).
 - vii. 20% Community oriented open space nonresidential (3).
 - viii. 10% Community oriented open space nonresidential (2).
 - ix. Community garden space (1).
 - x. Innovation Credit (1) - Provide a high degree of innovative modification of quality of life components.
- e. Principal uses in Industrial Reuse Projects:
- 1. Any of the principal uses permitted in the underlying zone.
 - 2. Schools; libraries; museums; art galleries; studios for work or teaching of fine arts, metal work, photography, dance, drama or theater; theaters, including movie theaters and other indoor amusements, except as prohibited under Section 8-19(e), including billiard or pool halls, bowling alleys, dance halls, skating rinks and arcades.
 - 3. Community centers, places of religious assembly and private clubs.
 - 4. Restaurants, with or without outdoor seating and with or without live entertainment.
 - 5. Establishments for the retail sale of food, dairy, bakery, meat, beer, liquor, wine and other food products; the retail sale of merchandise, including new or used clothing and books, gifts, toys, antiques, furnishings, housewares, jewelry, electronics and similar items.

6. Pharmacies, provided that they are within a structure containing other uses and do not occupy a separate building.
7. Banquet facilities or private clubs with live entertainment, brew-pubs, bars, cocktail lounges and nightclubs.
8. Offices, banks or clinics.
9. Beauty shops, barber shops, shoe repair, dressmaking or tailoring.
10. Residences of any kind.
11. Health clubs, athletic clubs and spas.
12. Retail sales of plant, nursery or greenhouse products or agricultural products, produce or goods, including market gardens.
13. Kindergartens, nursery schools and child care centers for four (4) or more children. A fenced and screened play area shall be provided, which shall contain at least 25 square feet per child.
14. Indoor or outdoor amusement or entertainment enterprises such as circuses, carnivals, rodeos, horse shows or automobile shows; provided such activity is operated on a temporary basis, not to exceed two weeks.
15. Publicly accessible park.
20. Hosted or Un-Hosted Short Term Rentals, as regulated in Article 3-13 of the Zoning Ordinance

Sec. 8-22. Light Industrial (I-1) Zone.

(Refers to B-4, No Change)

Sec. 8-23. Heavy Industrial (I-2) Zone.

(Refers to B-4, No Change)

APPENDIX 23A. ZONING CATEGORIES AND RESTRICTIONS

Article 12 COMMERCIAL CENTER (B-6P) ZONE

Sec. 12-3. Principal permitted uses.

The principal permitted uses in a B-6P zone shall be as follows:

- (a) The principal permitted uses in the B-1 and P-1 zones.
- (b) Indoor theaters.
- (c) Parking lots and structures.
- (d) Offices of veterinarians, animal hospital or clinic, provided all exterior walls are completely soundproofed and all animal pens are completely within the principal building and used only for the

- medical treatment of small animals.
- (e) Self-service car wash, provided that such uses shall be located at least one hundred (100) feet from any residential zone; and that surface water from such establishment shall not drain onto adjacent property, and that adequate on-site storage lanes and parking facilities shall be provided so that no public way shall be used for such purposes.
 - (f) Multifamily dwellings.
 - (g) Restaurants, cocktail lounges, brew-pubs, nightclubs, and discotheques offering live entertainment and/or dancing, unless otherwise prohibited. Such uses shall be located at least one hundred (100) feet from any residential zone and shall be soundproofed to the maximum extent feasible by using existing technology, with noise emissions not creating a nuisance to the surrounding neighborhood.
 - (h) Hotels, extended-stay hotels, and motels. Such uses shall only be permitted within a commercial center zone with a minimum of ten (10) acres.
 - (i) Hosted or Un-Hosted Short Term Rentals, as regulated in Article 3-13 of the Zoning Ordinance

APPENDIX 23A. ZONING CATEGORIES AND RESTRICTIONS

Sec. 23A-5. Expansion Area Residential 1 (EAR-1) Zone.

- (a) *Intent.* This zone is intended to provide a mixture of low density residential uses which will serve as a transition between the more intensely developed suburban neighborhoods and the Rural Service Area.
- (b) *Principal Uses.*
 - 1. Single-family, two-family, multifamily, and townhouse dwellings.
 - 2. Community residences.
 - 3. Golf courses and common open spaces.
 - 4. Places of religious assembly when located adjacent to a street that has the functional classification of collector/boulevard or arterial.
- (c) *Accessory Uses.*
 - 1. Private garages and parking areas.
 - 2. Accessory Dwelling Units, as regulated in Article 3-12.
 - 3. Swimming pools and tennis courts, which may include a clubhouse, as approved by the Planning Commission on a final development plan, for the use and enjoyment of the surrounding neighborhood, which may also include weight training and exercise rooms, restrooms, meeting rooms, or similar facilities.
 - 4. Home offices and home occupations.
 - 5. Family childcare home.
 - 6. The keeping of not more than two (2) roomers or boarders by a resident family.
 - 7. Childcare facilities and schools for academic instruction when accessory to a place of religious assembly on the same property.
 - 8. Non-commercial hiking and bicycling trails.
 - 9. Hosted Short Term Rentals for 12 or fewer occupants, as regulated in Article 3-13 of the Zoning Ordinance.

(d) *Conditional Uses.*

1. Home-based businesses.
2. Type II Childcare Center. A fenced outdoor play area shall be provided, which shall contain not less than twenty-five (25) square feet per child.
3. Temporary Real Estate Sales Offices for the sale of lots located only within the subdivision in which the sales office is located, to be removed at the end of two (2) years or when all the lots are sold, whichever comes first.
4. Clubhouse, with sale of food and merchandise, when accessory to a golf course.
5. Historic house museums.
6. Schools for academic instruction, except as permitted herein, but only when located on a lot adjacent to a street that has the functional classification of collector/boulevard or arterial.
7. Equine trails.
8. Seasonal activities.
9. Market gardens.
10. ~~The short term rental (defined in the Code of Ordinances) of Accessory Dwelling Units, as regulated in Article 3-12 of the Zoning Ordinance. The Board of Adjustment, in considering approval of such conditional use, shall consider and make a finding that the number of rooms granted shall not have an adverse effect on surrounding properties. In addition, in considering such a conditional use, the Board of Adjustment shall take into consideration the number of short term rental facilities, if any, within the general neighborhood of the property being considered for such use.~~
101. Un-Hosted Short Term Rentals and Hosted Short Term Rentals for more than 12 occupants, as regulated in Article 3-13 of the Zoning Ordinance.

Sec. 23A-6. Expansion Area Residential 2 (EAR-2) Zone. (Refers to EAR-1, no change)

Sec. 23A-7. Expansion Area Residential 3 (EAR-3) Zone. (Refers to EAR-2, no change)

Sec. 23A-9. Community Center (CC) Zone.

- (a) *Intent.* The intent of this zone is to implement the Community Center land use designation in the Expansion Area Master Plan by providing a mixture of residential uses and nonresidential uses which serve the needs of the surrounding residential neighborhoods.
- (b) *Principal Uses.*
1. As for EAR-3.
 2. Banks, credit agencies, security and commodity brokers and exchanges, credit institutions, savings and loan companies, holding and investment companies.
 3. Offices for business, professional, governmental, civic, social, fraternal, political, religious, and charitable organizations, including but not limited to, real estate sales offices.
 4. Places of religious assembly.
 5. Libraries, museums, art galleries, and reading rooms.
 6. Medical and dental offices, clinics, and laboratories.

7. Studios for work or teaching of fine arts, such as photography; music; drama; dance and theater.
8. Community centers and private clubs.
9. Nursing and personal care facilities, and rehabilitation homes.
10. Computer and data processing centers.
11. Ticket and travel agencies.
12. Kindergartens, nursery schools and childcare centers for four (4) or more children. A fenced and screened play area shall be provided, which shall contain not less than twenty-five (25) square feet per child.
13. Business colleges, technical or trade schools or institutions.
14. Establishments for the retail sale of food products, such as supermarkets; dairy, bakery, meat, beer, liquor, and wine and other food product stores; and provided that production of food products is permitted only for retail sale on the premises.
15. Restaurants, except as prohibited under Section 8-16(e)(14) and (15), which offer no live entertainment or dancing.
16. Establishments for the retail sale of merchandise, including clothing; shoes; fabrics; yard goods; fixtures, furnishings, and appliances, such as floor covering, radios, TV, phonograph products and other visual and sound reproduction or transmitting equipment; furniture; kitchen and laundry equipment; glassware and china; and other establishments for the retail sale of hardware and wallpaper, lawn care products; paint and other interior or exterior care products; hobby items; toys; gifts; antiques; newspapers and magazines, stationery and books; flowers; music; cameras; jewelry and luggage; business supplies and machines; prescription and non-prescription medicines and medical supplies.
17. Beauty shops, barber shops, shoe repair, self-service laundry, or laundry pick-up station, including clothes cleaning establishments of not more than 40 pounds capacity and using a closed system process.
18. Automobile service stations, provided such use conforms to all requirements of Article 16.
19. Repair of household appliances.
20. Retail sale of plant nursery or greenhouse products, except as prohibited herein.
21. Outdoor miniature golf or putting courses.
22. Quick copy services utilizing xerographic or similar processes, but not utilizing offset printing methods.
23. Carnivals, special events, festivals, and concerts on a temporary basis, and upon issuance of a permit by the Divisions of Planning and Building Inspection, which may restrict the permit in terms of time; parking; access; or in other ways to protect public health, safety, or welfare, or deny such if public health, safety, or welfare are adversely affected. A carnival, special events, festivals, and concerts may not displace more than twenty-five percent (25%) of the minimum required parking for the site it occupies.
24. Indoor theaters.
25. Rental of equipment whose retail sale would be permitted elsewhere in this zone.
26. Arcades, including pinball, and electronic games.
27. Athletic club facilities.
28. Swimming pools; tennis courts; putting greens; hiking, bicycling and equine trails; and other similar commercial and non-commercial recreational uses.

29. Brew-pub.
30. Day shelters.
31. Commercial farm markets.
32. Market gardens.
33. Banquet facilities.
34. Offices of veterinarians, animal hospitals or clinics, provided that:
 - (a) All exterior walls are completely soundproofed;
 - (b) Animal pens are located completely within the principal building; and
 - (c) Boarding is limited to only animals receiving medical treatment.
35. Hotels and motels
36. **Short Term Rentals, as regulated in Article 3-13 of the Zoning Ordinance.**

Sec. 28-3. Mixed use 1: Neighborhood Node Zone (MU-1).

Mixed use 1: "Neighborhood Node Zone (MU-1)" is hereby created and regulated as follows:

- (a) *Location Criteria.* MU-1 shall only be permitted on parcels which meet all of the following criteria:
 1. The parcel must contain a combined total frontage of at least one hundred (100) feet of the intersection of two (2) streets, one (1) of which has the functional classification of arterial or collector, and must be located inside the Urban Service Area boundary.
 2. The parcel must contain at least five thousand (5,000) square feet and may not exceed a maximum of one-half (½) acre.
 3. The parcel must be designated in a Medium, High, or Very High Density Residential, or Commercial Land Use Category in the Comprehensive Plan or currently zoned for commercial use.
- (b) *Principal Permitted Uses.* The following shall be principal permitted uses in the MU-1 zone:
 1. Dwelling units.
 2. The principal permitted uses of the P-1 and B-1 zones, except as specifically prohibited hereinbelow.
- (c) *Accessory Uses.* The following shall be considered accessory uses in the MU-1 zone:
 1. The accessory uses permitted in the P-1 and B-1 zone except for drive-through facilities.
- (d) *Conditional Uses.* The following shall be conditional uses in the MU-1 zone:
 1. Temporary structures designed for use or occupancy for sixty-one (61) to one hundred eighty (180) days per 12-month period on a single property, calculating said period by cumulative consideration of the use of any and all such structures on a single property.
 2. **Un-Hosted Short Term Rentals and Hosted Short Term Rentals for more than 12 occupants, as regulated in Article 3-13 of the Zoning Ordinance.**

Sec. 28-4. Mixed use 2: Neighborhood Corridor Zone (MU-2).

- (b) *Principal Permitted Uses.* The following shall be principal permitted uses in the MU-2 zone:
1. Dwelling units.
 2. The principal permitted uses of the P-1 and B-1 zone except as specifically prohibited hereinbelow.
- (c) *Accessory Uses.* The following shall be accessory uses in the MU-2 zone:
1. The accessory uses permitted in the P-1 and B-1 zones, except for drive-through facilities.
- (d) *Conditional Uses:* The following shall be conditional uses in the MU-2 zone:
1. Drive-through facilities as an adjunct to a permitted use.
 2. Temporary structures designed for use or occupancy for sixty-one (61) to one hundred eighty (180) days per 12-month period on a single property, calculating said period by cumulative consideration of the use of any and all such structures on a single property.
 3. **Un-Hosted Short Term Rentals and Hosted Short Term Rentals for more than 12 occupants, as regulated in Article 3-13 of the Zoning Ordinance.**

Sec. 28-5. Mixed use 3: Mixed use Community Zone (MU-3).

- (b) *Principal Permitted Uses.* The following shall be principal permitted uses in the MU-3 zone:
1. Dwelling units.
 2. The principal permitted uses of the P-1 and B-1 zones, except as specifically prohibited hereinbelow.
- (c) *Accessory Uses.* The following shall be accessory uses in the MU-3 zone:
1. The accessory uses permitted in the P-1 and B-1 zones, including drive-through facilities, except as prohibited under Subsection (e) of this section, below.
- (d) *Conditional Uses.* ~~The conditional uses in the B-1 zone except as prohibited under Subsection (e) of this section, below.~~
1. **The conditional uses in the B-1 zone except as prohibited under Subsection (e) of this section, below.**
 2. **Un-Hosted Short Term Rentals and Hosted Short Term Rentals for more than 12 occupants, as regulated in Article 3-13 of the Zoning Ordinance.**
- (h) *Special Provisions.* Special provisions shall be as follows:
6. An Entertainment Mixed use Project may be permitted by the Planning Commission for a tract of land with a minimum of ten (10) acres, and recommended by the adopted Comprehensive Plan for mixed use or a nonresidential land use, upon the approval of a preliminary development plan and a final development plan as provided in Article 21 herein. In its approval of such a development plan, the Commission shall find that the location is both appropriate for the use, and compatible with neighboring land uses. The parcel shall be subject to the MU-3 zone regulations above and the following requirements:
 - (a) Subdivision of land in an Entertainment Mixed use Project is permitted, subject to the following regulations:

1. There shall be no minimum lot size, lot frontage, yard or open space, nor maximum lot coverage or height requirements for each subdivided lot; however, all said requirements for the approved final development plan shall be applicable to the subdivision.
 2. Each subdivided lot shall have access to adjacent streets or joint parking areas, as provided by appropriate easements shown on the final development plan and the final record plan.
- (b) At least twenty-five percent (25%) of the combined floor area of all buildings constructed within an Entertainment Mixed use Project shall be located on the second or higher floor.
- (c) Where multiple principal structures are proposed within an Entertainment Mixed use Project:
1. Mixing within a single structure shall not be required within the first forty percent (40%) of floor area for commercial use, or after the fifteen percent (15%) minimum mix of residential to nonresidential uses has been achieved in multiple-use structures. Once the project has reached fifteen thousand (15,000) square feet of commercial use, additional commercial square footage will not be required.
 2. The front building wall of at least fifteen percent (15%) of all buildings shall be required to be built at the zero-foot setback line.
- (d) Buildings within an Entertainment Mixed use Project may be a maximum of eighty (80) feet in height, regardless of location, provided a 1:1 height-to-yard ratio is maintained from any residential zone.
- (e) In addition to the uses otherwise permitted above in the MU-3 zone, the following uses shall also be permitted in an approved Entertainment Mixed use Project:
1. As Principal Permitted Uses:
 - a. Restaurants, cocktail lounges and nightclubs, with entertainment, dancing, and/or sale of malt beverages, wine or alcoholic beverages.
 - b. Motels, hotels, ~~and~~ extended-stay hotels, ~~and hosted or un-hosted short-term rentals as regulated in Article 3-13.~~
 - c. Indoor amusements, such as billiards or pool halls, skating rinks, theaters, or bowling alleys.
 - d. Athletic club facilities.
 - e. Drive-in restaurants, provided that all outside food service shall be at least one hundred (100) feet from any residential zone.
 - f. Animal hospitals or clinics, including offices of veterinarians, provided that such structures or uses, not including accessory parking areas, shall be at least one hundred (100) feet from any residential zone.
 - g. Grandstands associated with horse race tracks with allotted race meets, including simulcast facilities, accessory restaurants and/or the serving of alcoholic beverages provided that such structures or uses, not including accessory parking areas, shall be at least one hundred (100) feet from any residential zone.

- V. **ZONING ITEMS** - The Zoning Committee met on May 4, 2023, at 1:30 p.m. to review zoning map amendments and Zoning Ordinance text amendments. The meeting was attended by Commission members Bruce Nicol, Larry Forester, and Robin Michler. Staff members present were; Traci Wade, Autumn Goderwis, Tom Martin, Daniel Crum, Boyd Sewe, Bill Sheehy, Tracy Jones and Evan Thompson; Department of Law.

A. **ABBREVIATED PUBLIC HEARINGS ON ZONING MAP AMENDMENTS**

The staff will call for objectors to determine which petitions are eligible for abbreviated hearings.

Abbreviated public hearings will be held on petitions meeting the following criteria:

- The staff has recommended approval of the zone change petition and related plan(s)
- The petitioner concurs with the staff recommendations
- Petitioner waives oral presentation, but may submit written evidence for the record
- There are no objections to the petition

B. **FULL PUBLIC HEARINGS ON ZONE MAP AMENDMENTS** - Following abbreviated hearings, the remaining petitions will be considered.

The procedure for these hearings is as follows:

- Staff Reports (30 minute maximum)
- Petitioner's report(s) (30 minute maximum)
- Citizen Comments
 - (a) Proponents (10 minute maximum OR 3 minutes each)
 - (b) Objectors (30 minute maximum) (3 minutes each)
- Rebuttal & Closing Statements
 - (a) Petitioner's comments (5 minute maximum)
 - (b) Citizen objectors (5 minute maximum)
 - (c) Staff comments (5 minute maximum)
- Hearing closed and Commission votes on zone change petition and related plan(s).

C. **PUBLIC HEARINGS ON ZONING ORDINANCE TEXT AMEMENDMENTS**

1. **PLN-ZOTA-23-00001: AMENDMENT TO ARTICLE 1, 3, 8, 12, 23, & 28 SHORT TERM RENTALS** – a petition for a Zoning Ordinance text amendment to define and regulate Short Term Rentals in residential, business, mixed use, and industrial zones.

INITIATED BY: URBAN COUNTY COUNCIL

PROPOSED TEXT: Copies are available from the staff.

The Zoning Committee Recommended: **Approval of the staff alternative text.**

The Staff Recommends: **Approval of the proposed text amendment with staff alternative text** to the Zoning Ordinance, for the following reasons:

1. The proposed text amendment with staff alternative text allows for the definition and regulation of short term rentals. In conjunction with the proposed changes to the Code of Ordinances, this text amendment will enable the LFUCG to track short term rentals and provide better enforcement when violations occur.
2. The proposed text amendment with staff alternative text provides enforceable limitations on hosted and un-hosted short term rentals in order to prevent adverse impacts on the health, safety, and welfare of the local community and visitors to the Urban County.

Staff Presentation – Ms. Goderwis presented the text amendment that had been initiated by the Urban County Council, and shared the staff alternative to that suggested amendment. She began the presentation by pointing out facts regarding the short term rentals that are currently in Lexington, and the regulations that are in place. She described the timeline of the short term rental text amendment that began in June, 2019. She detailed the changes that were suggested regarding the definitions of short-term rentals, general regulations related to the operation of short term rentals, and the

zones that were determined to be appropriate for them. She also pointed out that another ZOTA would be drafted in the coming months for short term rentals in the Rural Service Area. She noted the items that had staff alternative language – Article 3-13 (c) related to the maximum occupancy limit, Article 3-13 (i) related to licensing and conditional use permits, and Article 3-13(i) and (j) related to current short term rentals becoming non-conforming uses.

Commission Questions – Mr. Nicol asked Ms. Goderwis to repeat the options of the Planning Commission regarding this ZOTA and timeline. Ms. Goderwis responded by pointing out that there was a sixty day deadline for the Planning Commission to act on the proposal, so it had to be done at this meeting. She told the Commission that they could approve the initiated text, staff alternative text, or modify it during the meeting, but they had to send something to the Council. Mr. Nicol asked if the Planning Commission would hear the item again, and Ms. Goderwis replied that they would not.

Ms. Worth asked about density in neighborhoods and if there could be an occupancy requirement limited by distance. Ms. Goderwis replied that the Planning Commission could add this to the draft, but staff was comfortable with the suggested wording that gave the Board of Adjustment the flexibility to grant a conditional use, because a measured distance would have a different impact in higher density versus lower density areas of the community.

Mr. Bell asked for clarification of the maximum occupancy that was being suggest in Article 3-13 (c). Ms. Goderwis explained how the original suggestion of a maximum of 12 people was consistent with surrounding cities. She further explained that many neighborhoods felt that 12 was too many, so a maximum of 8 was suggested by staff.

Mr. Pohl asked Ms. Goderwis to elaborate on enforcement procedures. Ms. Goderwis explained that the Code of Ordinances would be updated to included follow up to verified complaints. She detailed the steps that a verified complaint would follow as being investigated by zoning enforcement, and then sent to the Department of Revenue. If a property received two complaints, their license from Revenue would be revoked. If an appeal was not granted, and applicant would need to wait a year to reapply for their business license, as well as their conditional use permit. Mr. Pohl asked what steps would be taken if the revocation was ignored. Ms. Goderwis replied that fees would be assessed, and eventually a lien by the Division of Revenue could be placed.

Ms. Barksdale asked if the occupancy rule could be changed if a home had more bedrooms. Ms. Goderwis replied that the applicant could go to the Board of Adjustment to receive a higher occupancy allowance. Ms. Barksdale further inquired about the neighbors' concerns. Ms. Goderwis stated that their concerns were mostly addressing parties, noise, and parking.

Mr. Bell asked how this information had been collected. Ms. Goderwis told the Commission that staff had attended a Fayette County Neighborhood Council (FCNC) meeting where roughly 60 people attended, and there have been many emails received. She also said that Council had roughly 15 neighborhood meetings. She also said that an earlier draft of the suggested text amendment had been heard during a Council public input meeting, where some neighbors had also voiced their concerns. She believed that the Council meeting had a higher attendance than were present at this meeting.

Mr. de Movellan asked about any property that had a non-conforming status being sold. Ms. Goderwis said that the non-conforming use would end and a new owner would have to get a conditional use permit.

Staff Comments – Evan Thompson, Law Department, reiterated the consequences if citations and fees were ignored. He also mentioned that any of these citations and fees could be appealed to a board or further to the Court of Appeals.

Commission Questions - Mr. Pohl asked if any of these provisions for Short Term Rentals were currently in place. Mr. Thompson said they were entirely new.

Mr. Michler asked about the difference between short term rentals and Bed & Breakfasts. Ms. Goderwis replied that in a Bed & Breakfast, the owner must live at the property, there are restrictions on the number of bedrooms that can be used, and a meal is provided. She also stated that a Bed & Breakfast has several regulations that must be followed and it is one of the more difficult conditional use permits to obtain.

Mr. Nicol asked why the short term rentals were not being addressed within the Rural Service Area, and asked if it could be included now. Ms. Goderwis replied that the rural stakeholders had not been part of the short term rental discussions. She further noted that because the Planning Commission had 60 days to respond to this text amendment initiated by Council, there was not enough time to include them or their concerns. She said that staff had concluded that it would be better for the Rural Land Management Board to come up with their own proposal that was tailored to the agricultural zones. She also stated that their proposals would come in the form of another ZOTA. Mr. Nicol shared his concern that there was not sufficient time for the text to be discussed or shared.

Mr. Bell requested information regarding the 15 neighborhood meetings that had been held since 2019. Ms. Goderwis replied that Planning did not become involved in the process until the summer of 2022. She stated that there were neighborhood associations involved with the Council work group that worked on this text amendment. Mr. Bell asked if there were any other public meetings that addressed the short term rentals. Ms. Goderwis said that there was a special meeting of the Public Safety Committee in November, 2022 where residents and operators were able to voice their concerns. Mr. Bell further asked what the role of Planning staff was in the process. Ms. Goderwis replied that they advised the Council Work Group with text suggestions, and helped write the original draft, so that it would fit with the Zoning Ordinance.

Council Comments – Urban County Councilmembers James Brown and Liz Sheehan spoke to the Commission members about the ZOTA that they initiated. Mr. Brown stated that they had been receiving calls from their constituents regarding concerns about short term rentals. He stated that they were working on a registry of short term rentals, but hadn't addressed the land use portion of them. He said that there were several meetings with both operators and neighbors. He said he believed that, while some changes would most likely be needed, this policy would begin to protect both the operators and neighborhoods. He shared his concern about the staff alternative text for a lower maximum occupancy. He said that there are some neighborhoods that could handle a higher capacity, while others could not. He also said that their original draft had no occupancy limit, but they changed it to 12 after several concerns were heard. He said he believed that the policies that they put forward would best address the concerns of the neighborhoods. Councilmember Brown also stated that there needed to be a registry and policy in place so that they could see if they are working correctly, and only then should there be changes made.

Ms. Sheehan reiterated the time and work that was put into the process. She stated that their original text, especially regarding the occupancy rate was very specific and thought out, with the comments that had been heard from the public.

Mr. Brown said that he believed if a conditional use didn't carry forward to new owners, the property could be devalued. He also explained that the new budget did include funding for software to track and monitor short term rentals.

Citizen Comments – Mr. Walt Gaffield, president of the Fayette County Neighborhood Council; Janet Cabaniss, 704 Cumberland Road, and Lynn Flynn, 518 Springhill Drive shared a presentation stating the position and concerns of the Fayette County Neighborhood Council. They were concerned with the maximum occupancy numbers being too high, and asked for any occupancy over 4 people to require a Condition Use Permit. They also asked that all short term rentals would be at least 600 feet apart. They believed that no permits should carry forward to new owners. There was concern that small neighborhoods wouldn't have the financial resources to confront concerns with the short term rentals in their area.

Chris Huestis, 709 Lynn Road, believed that the short term rentals were already being regulated, and that they put significant money into the local economy. He asked that the text amendment not be passed.

Seth Hillenmeyer, 1952 Blairmore Road, owns several short term rentals in Lexington. He believes that the regulations are important. He was concerned about the maximum occupancy and the distance requirements being proposed. He mentioned that many people that use his rentals are local.

Miranda Hinchman, 4224 Ridgewater Way, does not want any of the proposed changes, specifically the occupancy restrictions. She pointed out the benefits of short term rentals over hotels.

Damon Snyder, 704 Cumberland Road, opposed commercial business in a neighborhood. He stated that all neighbors need to be informed when a short term rental is being requested.

Brian Luftman, 360 Andover Drive, explained the benefits of large short term rentals and requested no occupancy limitations. He pointed out that they are good for all local business and tourism.

Gregory Clarke, 3695 Military Pike, believed that the suggested proposals would hurt his business, and felt that crime was a more important issue.

Stephanie Clarke, 3695 Military Pike, spoke in support of short term rentals. She believed that there was no way to verify the number of guests in a rental, and that the suggested occupancy maximum would hurt small business owners.

Emily Sharp, 661 Cooper Drive, stated that limiting the number of people in a rental home would be limiting her business. She further stated that she screens her renters and has no complaints in the time that she has owned her short term rental homes.

Gary Chidester, 832 Quirks Run Road, Danville, KY, was present to represent The Farm LLC. He told the Planning Commission that all of the properties he represented are large and an occupancy limitation would hurt his business. He requested that there be an exemption for children in the occupancy limits.

Sherrie Graham-Green, 272 Hillsboro Avenue, expressed her concern over the proposed distance between short term rental properties as well as the 52 rentals per year. She explained her current business taxes and requested that the Planning Commission not approve the proposal. She used a map that pointed out how difficult a distance restriction would be for her business.

Robert Bratton, 5997 Winchester Road, expressed the benefits of short term rentals on the city of Lexington and the employees who work for them. He was opposed to the maximum occupancy.

John Grimes, 272 Sherman Drive, shared his concerns with the short term rentals that were already in his neighborhood. His concerns were the safety, trash, noise, and parking. He felt that hotels were adequate to meet the needs, and that the economy would not be harmed if there were no short term rentals.

James Wilcox, 3528 Brookewind Way, spoke about the positive impact of Short term rentals in Lexington. He pointed out the benefits to local business and the extra income for home owners. He believed that short term rentals promote urban renewal.

Burgess Carey, 8039 Old Richmond Road, spoke for the Clays Ferry Neighborhood Association. He was concerned that the rural areas were being left out of the short term rental conversation. He felt that the Rural Land Management Board should not be the sole decision maker for short term rentals in the rural areas.

Amy Clark, 628 Kastle Road, does not believe that the ZOTA is in agreement with the Comprehensive Plan, and she is concerned with the impact of Short term rentals on the housing shortage.

Todd Saladin, 409 Limestone, shared that two of his short term rentals were next door to each other and is concerned about the density requirements being proposed.

Beth Overman, Purchase of Development Rights Director, spoke about why the rural area was not included in this proposed ZOTA. She also shared the work that had begun to address the particular issues in the rural area and said they would report back in the fall with their findings.

Stephanie Dalton, 2376 Abbeywood Road, stated that she was concerned about the details of implementation and the timeline.

Mr. Davis left the meeting at 2:47 p.m.

Staff Rebuttal – Ms. Goderwis clarified that hotels are significantly regulated at the state level, and because they are not located in residential areas, there is a vast difference between them and short term rentals. She also reminded the Commission that the sunset clause would only take effect if the property had been grandfathered in as

a non-conforming use, because they had not been to the Board of Adjustment. She clarified the definition of a primary resident, and stated that they did not have to be the owner. Ms. Goderwis also explained that, while the owners are currently required to have a business license, there was no way to know how many properties there were or their locations. She said that staff had been in discussion with the Division of Building Inspection, and they had no objection to the occupancy being 8 or 12. She also stated that they would not have to be regulated under commercial building code, because they are addressed in the residential building code. She reminded the Commission that all existing operators would be considered a legal non-conforming use and would not have to sell their properties. She specifically mentioned that they would get to increase their occupancy as well as the number of rentals per year, while not be subject to any spacing requirements.

Commission Questions – Mr. Nicol asked for clarification on Article 3-13 (g) “the Board of Adjustment shall take into consideration...the number of STRs within 1,000 feet”. Ms. Goderwis explained that the Board could look at each property and make a decision based on what is in the surrounding areas. She added that even if the 1,000 feet consideration was removed, staff would most likely consider it anyway, because the conditions surrounding any property is evaluated with each request to the Board of Adjustment.

Mr. de Movellan asked about the occupancy allowance for an owner living in the home versus a short term rental. Ms. Goderwis clarified that the definition of family applies to the home. The only changes being made were for the short term rental occupancy. Mr. de Movellan then asked if there was anything preventing an existing owner from going to the Board of Adjustment to get a Certificate of Occupancy so that they could transfer the use to a buyer. Ms. Goderwis replied that there was nothing preventing that.

Mr. Pohl asked if there was any information regarding the percentage of units that had received complaints from the community. Ms. Goderwis replied that while a majority of the complaints received had been residents that did not want a short term rental near them, most complaints were difficult to track at this time.

Ms. Worth shared her thoughts about density and distance. She expressed concern over neighborhoods having their community hurt, but also expressed understanding about short term rentals that are existing and close together already. She suggested a density number that adjusted based on the amount of dwelling units in the area. Ms. Goderwis stated that the Board of Adjustment could be the answer to those concerns, as they look at each property on a case by case basis.

Ms. Barksdale asked if a Conditional Use Permit would allow a larger house to have a higher occupancy allowance. Ms. Goderwis replied that 3-13 (d) would allow to Board of Adjustment to increase occupancy if there was evidence that the greater occupancy would not cause a nuisance or create overcrowding. Ms. Barksdale asked if the square footage of a home was considered in the occupancy allowance. Ms. Goderwis replied that only the number of bedrooms determined the occupancy, and that was fairly consistent with other communities.

Mr. Michler pointed out that it seemed Article 3-13 (i) and (j) gave current operators more flexibility. Ms. Goderwis affirmed that they would be able to operate as they had been previously or go the Board of Adjustment to receive the Conditional Use Permit. He then asked for clarity about the hosted or un-hosted rentals and their occupancy limits. He also asked if Bed & Breakfasts had an occupancy maximum. Ms. Goderwis replied that Bed & Breakfasts were allowed 2 people per bedroom. He suggested that maybe a hosted rental could be the higher occupancy of 12, but an un-hosted rental could default to the Board of Adjustment.

Mr. Bell asked Councilmember Sheehan how the Council concluded that 12 should be the maximum occupancy. She replied that they felt that while some operators did have large numbers of guests, some did not like having more than 4. They felt like 12 was good middle ground.

Mr. de Movellan asked if large homes with extra sleeping spaces would be treated differently. Ms. Goderwis stated that staff was concerned that long term renters would not be given the same flexibility as short term renters.

There was some discussion among the Commission members about whether they should make a motion or continue to another day. Mr. Duncan stated that if they did not come to a decision, then they could continue to the following week’s work session where they would have to make a decision.

Mr. Nicol suggested that he could make a motion but wanted to make some changes. He wanted to change the occupancy to accept Council’s original maximum occupancy number of 12, and make a change to the space between the rentals.

* - Denotes date by which Commission must either approve or disapprove request, unless agreed to a longer time by the applicant.

Mr. Bell made comments about short term rentals in the Agricultural areas. He believed that they are a wonderful opportunity to share the rural areas with visitors. He also stated that he was in favor of accepting the Council's version of the amendment.

Mr. Pohl stated that the suggestion to put the occupancy maximum at 8 while excluding children was a good idea. He also suggested wording for the distance between short term rentals as follows: "The Board of Adjustment should take into consideration the proximity of other short term rentals to the property being considered for such use".

Mr. de Movellan reiterated his concerns regarding rentals with a higher number of bedrooms because they could not be used in a similar way, proportionally.

Mr. Bell was concerned that the Planning Commission had not had enough time to consider the details, while the Council members had worked with the operators for a significant period of time and had looked at all the details very carefully. He stated that he wanted to be fair to those who were already operating these rentals.

Ms. Worth stated that she would like to continue to the following week's work session so that the Planning Commission members had more time to come to an agreement.

Mr. Michler said he was ready to move forward with the staff recommended language.

Ms. Barksdale echoed Mr. de Movellan's concerns regarding larger houses. She felt that occupancy limits without regard to the property was arbitrary.

Mr. Forester was concerned that some of the operators were not aware of all the language being suggested. He also felt that many of the members would be absent at the work session. He asked staff if there was enough time to work with the operators on text revisions. Ms. Goderwis replied that there was some time, but felt that the staff heard the general concerns and could work with the Planning Commission on alternative language at that time, and suggested taking a short recess to do so.

Mr. de Movellan asked if there could be language about current non-hosted rentals having the 2 per bedroom plus 4, with no cap occupancy, while future rentals would have to go to the Board of Adjustment to request that occupancy. Ms. Goderwis replied that it was possible.

Mr. Forester called for a 5 minute recess at 4:39 p.m.

The Meeting resumed at 4:44 p.m.

Action - Mr. Nicol made a motion, and seconded by Mr. Bell, to approve **PLN-ZOTA-23-00001: AMENDMENT TO ARTICLES 1, 3, 8, 12, 23, & 28 SHORT TERM RENTALS**, staff alternative text, changing 3-13(c) to say "12", per initiated text, and 3-13 (g)(1) to say "in proximity to" replacing 1,000 feet.

There was some discussion among the Planning Commission to clarify the wording that was being suggested in each section.

Continued Action - The motion carried 6-2 (de Movellan and Barksdale opposed, Davis, Penn, and Meyer, absent).

Ms. Worth stated that she hoped that Council could find a better solution for the density issue.

Mr. Bell said that this was a beginning point that could be changed.

VI. COMMISSION ITEMS

Mr. Duncan reminded the Planning Commission of the upcoming Work Session on May 18, 2023 and that it would be held in the Council chambers.

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VII. ADJOURNMENT – The meeting was adjourned at 4:49 p.m.