

AN ORDINANCE AMENDING ARTICLES 1-11 AND 3-10 OF THE ZONING ORDINANCE TO MODERNIZE THE DEFINITION OF "HOME-BASED BUSINESS" AND "HOME OCCUPATION" TO BETTER COMPLY WITH THE ESTABLISHED STATE REGULATIONS. (PLANNING COMMISSION).

WHEREAS, the Lexington-Fayette Urban County Planning Commission has initiated a text amendment to Articles 1-11 and 3-10 of the Zoning Ordinance to modernize the definition of "Home-based business" and "Home occupation" to better comply with the established state regulations; and

WHEREAS, the Planning Commission has considered a text amendment to Articles 1-11 and 3-10 of the Zoning Ordinance to modernize the definition of "Home-based business" and "Home occupation" to better comply with the established state regulations. The Planning Commission did recommend APPROVAL of the staff alternative text by a vote of 9-0; and

WHEREAS, this Council agrees with the recommendation of the Planning Commission; and

WHEREAS, the recommendation form 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, definitions of "Home-based business" and "Home occupation", of the Zoning Ordinance of the Lexington-Fayette Urban County Government is hereby amended to read as follows:

Sec. 1-11. – Definitions

Home-based business means a gainful occupation or profession carried on in a residence that involves:

- (a) Customers or clients coming to the residence; and/or
- (b) The use of materials or equipment that are potentially disturbing to surrounding properties due to noise, odors, flammability or some other risk factor.

Examples include, but are not limited to, individual music instruction; athletic training; counseling services; and upholstery work.

The term "home-based business" shall not include barber shops; beauty parlors; offices for escort services; massage parlors, automobile and small engine repair; medical or dental offices; palm reading or fortune telling; catering or food-handling requiring a commercial kitchen ; and uses, other than upholstery, which are first permitted in the B-

4, I-1 or I-2 zones.

Home occupation means a gainful occupation or profession carried on in a residence that does not involve customer or client visits to the residence (excluding pick-up or pre-ordered items or drop-off of items to be repaired); and materials or equipment used in the conduct of the home occupation is limited to items that have minimal potential for disturbing surrounding properties due to noise or potentially harmful chemicals. Examples include, but are not limited to, sewing, handicrafts, homebased processing, and computer graphics, and/or design.

Section 2 – That Article 3-10 of the Zoning Ordinance of the Lexington-Fayette Urban County Government is hereby amended to read as follows:

Sec. 3-10-General Regulation for operation of a home office or home occupation.

Shall be as follows:

- (a) The use shall be clearly incidental and secondary to use of dwelling purposes with no more than three hundred (300) square feet of the dwelling devoted to each use;
- (b) The use shall be operated by and shall employ only residents of the dwelling;
- (c) No commodities or merchandise shall be stored on the property other than those produced and/or repaired by the residents on the premises; any firearms being modified or repaired on the premises as part of a home occupation shall be located in a locked safe and shall never be discharged on site;
- (d) The residence shall maintain its residential character and shall not be altered or remodeled so as to change the residential appearance of the building;
- (e) No outside signage shall be permitted on the premises;
- (f) The use shall be located in the dwelling unit and not in any accessory building;
- (g) On-site sales or visits to the home by customers, clients, patrons and the general public are not allowed, excluding the pick-up or pre-ordered items or drop-off of items to be repaired;
- (h) The use does not involve potentially disturbing equipment, materials or chemicals.

These provisions are not intended to restrict offices accessory to principal permitted agricultural uses located in homes on the same agricultural property.

A home office shall not include offices for escort services.

Section 3 - That this Ordinance shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL: September 16 , 2021


MAYOR

ATTEST:


Clerk of Urban County Council

Published: September 23, 2021- 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-21-00004: AMENDMENT TO ARTICLE 1-11 AND 3-10: HOME-BASED BUSINESSES AND HOME OCCUPATIONS –a Zoning Ordinance text amendment to Article 1-11 and 3-10 of the Zoning Ordinance to modernize the definition of Home-based businesses and Home occupations to greater comply with the established state regulations.

Having considered the above matter on July 22, 2021, at a Public Hearing and having voted 9-0 that this Recommendation be submitted to the Lexington-Fayette Urban County Council, the Urban County Planning Commission does hereby recommend APPROVAL of the Staff Alternative text for this matter for the following reason:

1. The proposed text amendment supports and implements the 2018 Comprehensive Plan, in the following ways:
 - a. The amendment was developed in response to the implementation item calling for an increase in flexibility on types of home occupations allowed (Theme C, Policy #6).
 - b. The proposed changes will maximize context-sensitive employment opportunities within the opportunity zone tracts, providing equitable community development and prioritizing local residents for advancement opportunities (Theme C, Diversity Policy #5).
 - c. The amendment will encourage a diverse economic base to provide a variety of job opportunities, allowing upward mobility for lower income residents of Fayette County (Theme C, Policy #2).
 - d. The amendment will enable existing and new neighborhoods to flourish through improved regulation, expanded opportunities for neighborhood character preservation, and public commitment to expand options for mixed-use and mixed-type housing throughout Lexington-Fayette County (Theme A, Goal #3.a).
 - e. The amendment will strengthen efforts to develop a variety of job opportunities that lead to prosperity for all (Theme C, Goal #1.a).
2. The amendment will modernize the Zoning Ordinance, reconciling its requirements with relevant state laws.

ATTEST: This 13th day of August, 2021.


Secretary, Jim Duncan

LARRY FORESTER
CHAIR

At the Public Hearing before the Urban County Planning Commission, this petition was represented by Autumn Goderwis, Planner Senior, Division of Planning, Board of Adjustment.

OBJECTORS

- None
- None

VOTES WERE AS FOLLOWS:

AYES: (9) Barksdale, Bell, Davis, de Movellan, Forester, Meyer, Michler, Nicol, and Pohl

NAYS: (0)

ABSENT: (1) Penn

ABSTAINED: (0)

DISQUALIFIED: (0)

Motion for Approval of the staff alternative text of PLN-ZOTA-21-00004 carried.

Enclosures: Comprehensive Plan summary
Staff Report
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 E. Main Street
City, State, Zip Code: Lexington, KY 40507
Phone Number: 859-258-3160

2. ATTORNEY (Or Other Representative) INFORMATION:

Name: Tracy Jones
Address: 200 E. Main Street
City, State, Zip Code: Lexington, KY 40507
Phone Number: 859-258-3500

3. REQUESTED TEXT CHANGE: Date of Pre-application Conference: NA**Article. 1-11. - Definitions.**

For the purpose of this Zoning Ordinance, certain terms are herewith defined. When not inconsistent with the context, words used in the present tense include the future; words in the singular number include the plural; words in the plural number include the singular; the term "person" includes association, firm, partnership, trust, governmental body, corporation, organization, as well as an individual; the term "structure" includes building; the term "occupied" includes arranged, designed or intended to be occupied; the term "used" includes arranged, designed or intended to be used; the term "shall" is always mandatory and not merely directive; the term "may" is permissive; and the term "lot" includes plot or parcel. Other words and terms shall have the following respective meanings:

...

Home-based business means a gainful occupation or profession carried on in a residence that involves:

- (a) Customers or clients coming to the residence; and/or
- (b) The use of materials or equipment that are potentially disturbing to surrounding properties due to noise, odors, flammability or some other risk factor.

Examples include, but are not limited to, individual music instruction; athletic training; counseling services; **and upholstery work; and firearm repair.**

The term "home-based businesses" shall not include barber shops; beauty parlors; offices for escort services; massage parlors, automobile and small engine repair; medical or dental offices; palm reading or fortune telling; **home cooking and catering or food-handling requiring a commercial kitchen;** and uses, other than upholstery, which are first permitted in the B-4, I-1 or I-2 zone.

Home occupation means a gainful occupation or profession carried on in a residence that does not involve customer or client visits to the residence (excluding pick-up of pre-ordered items or drop-off of items to be repaired); ~~does not involve the handling of firearms~~; and materials or equipment used in the conduct of the home occupation is limited to items that have minimal potential for disturbing surrounding properties due to noise or potentially harmful chemicals. Examples include, but are not limited to, sewing, handicrafts, home-based processing, and computer graphics and/or design.

Article 3-10. - General regulations for operation of a home office or home occupation.

Shall be as follows:

- (a) The use shall be clearly incidental and secondary to use for dwelling purposes with no more than three hundred (300) square feet of the dwelling devoted to each use;
- (b) The use shall be operated by and shall employ only residents of the dwelling;
- (c) No commodities or merchandise shall be stored on the property other than those produced and/or repaired by the residents on the premises; any firearms being modified or repaired on the premises as part of a home occupation shall be located in a locked safe and shall never be discharged on site;
- (d) The residence shall maintain its residential character and shall not be altered or remodeled so as to change the residential appearance of the building;
- (e) No outside signage ~~related to the use~~ shall be permitted on the premises;
- (f) The use shall be located in the dwelling unit and not in any accessory building;
- (g) On-site sales or visits to the home by customers, clients, patrons and the general public are not allowed, excluding the pick-up of pre-ordered items or drop-off of items to be repaired;
- (h) The use does not involve ~~firearms or~~ potentially disturbing equipment, materials or chemicals.

These provisions are not intended to restrict offices accessory to principal permitted agricultural uses located in homes on the same agricultural property.

A home office shall not include offices for escort services.

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

To promote greater consistency between local and state law, while also allowing for greater flexibility regarding the development of home occupations and businesses.

In the continued effort to examine and modernize the Zoning Ordinance following the adoption of the 2018 Comprehensive Plan, Planning staff is currently bringing forward Zoning Ordinance text amendments to updated the regulations related to home occupations and home offices, as discussed in Theme C, Diversity Pillar, Policy #6.

Imagine Lexington's adopted goals and objectives have a strong focus on modernizing and updating aspects of the Zoning Ordinance to promote greater consistency between local and state law, while also allowing for greater flexibility regarding the development of home occupations and businesses. The modernization of the Zoning Ordinance to greater comply with the flexibility of regulations passed by the state and removing regulatory barriers to uses that are overseen by the state is supported within the Comprehensive Plan by the following Goals, Themes, and Policies:

Policies:

Theme C, Diversity Policy #5: Maximize context-sensitive employment opportunities within the opportunity zone tracts, providing equitable community development and prioritizing local residents for advancement opportunities.

Theme C, Policy #2: Encourage a diverse economic base to provide a variety of job opportunities, allowing upward mobility for lower income residents of Fayette County.

Theme C, Policy #6: Increase flexibility on types of home occupations allowed.

Goals and Objectives:

Theme A, Goal #3.a: Enable existing and new neighborhoods to flourish through improved regulation, expanded opportunities for neighborhood character preservation, and public commitment to expand options for mixed-use and mixed-type housing throughout Lexington-Fayette County.

Theme C, Goal #1.a: Strengthen efforts to develop a variety of job opportunities that lead to prosperity for all.

Timeline:

- | | |
|------------------|--|
| July 1: | Planning Commission Zoning Committee meeting |
| July 22: | Planning Commission public hearing |
| August 6: | Final report sent to Council |

Article 1 - GENERAL PROVISIONS AND DEFINITIONS

Sec. 1-1. - Adoption.

This Zoning Ordinance, enacted by the Lexington-Fayette Urban County Government, is confirmed and adopted and reads as hereinafter set out.

(Code 1983, § 1-1; Ord. No. [263-83](#), § 1, 12-15-1983; [Ord. No. 68-2015](#), § 1(1-1), 6-18-2015; [Ord. No. 166-2017](#), § 1(1-1), 11-16-2017)

Sec. 1-2. - Short title.

This Ordinance shall be known and may be cited as the "Zoning Ordinance."

(Code 1983, § 1-2; Ord. No. [263-83](#), § 1, 12-15-1983; [Ord. No. 68-2015](#), § 1(1-2), 6-18-2015; [Ord. No. 166-2017](#), § 1(1-2), 11-16-2017)

Sec. 1-3. - Purpose.

The purpose of this Zoning Ordinance is to implement the adopted Comprehensive Plan and other adopted Community Plans of Lexington-Fayette Urban County; to promote the public health, safety, morals, and general welfare; to facilitate orderly and harmonious development in the visual and historic character of Lexington-Fayette Urban County; to regulate the density of population and intensity of land use in order to provide for adequate light and air; to provide for vehicle parking and loading space; to improve the appearance of vehicular use areas and property abutting public rights-of-way; to require buffering between non-compatible land uses and to protect, preserve and promote the aesthetic appeal, character, and value of the surrounding neighborhoods; to promote public health and safety through the reduction of noise pollution, air pollution, visual pollution, air temperature, and artificial light glare; to further fair housing choice and the purposes behind the Federal Fair Housing Act; to facilitate fire and police protection; to prevent the overcrowding of land, blight, danger, and congestion in the circulation of people and commodities; to prevent the loss of life, health, or property from fire, flood, or other dangers; to protect airports, highways, and other transportation facilities, public facilities, including schools and public grounds, historic districts, central business districts, natural resources, and other specific areas of Lexington-Fayette Urban County which need special protection.

(Code 1983, § 1-3; Ord. No. [263-83](#), § 1, 12-15-1983; Ord. No. [115-97](#), § 1, 6-27-1997; [Ord. No. 68-2015](#), § 1(1-3), 6-18-2015; [Ord. No. 166-2017](#), § 1(1-3), 11-16-2017)

Sec. 1-4. - Interpretation.

In the interpretation and application of this Zoning Ordinance, the provisions herein shall be held to be the minimum or maximum requirements (as appropriate) adopted for the promotion of health, safety, morals, comfort, prosperity and general welfare. It is not intended by this Zoning Ordinance to repeal, abrogate, annul or in any way impair or interfere with any existing provisions of law, ordinance or resolution, or with any rules, regulations or permits previously adopted or issued, or which shall be adopted or issued pursuant to law relating to the use of buildings or premises, or with any private restrictions placed upon property by covenant, deed or recorded plat; provided, however, where this Zoning Ordinance imposes a greater restriction upon the use of buildings or premises or upon the heights of buildings or requires greater lot areas, larger yards, or other open spaces than are imposed or required by such existing provisions of law, ordinance or resolution, or by such rules, regulations or permits, or by such private restrictions, the provisions of this Zoning Ordinance shall control.

(Code 1983, § 1-4; Ord. No. [263-83](#), § 1, 12-15-1983; [Ord. No. 68-2015](#), § 1(1-4), 6-18-2015; [Ord. No. 166-2017](#), § 1(1-4), 11-16-2017)

Sec. 1-5. - Conflict of ordinance.

Whenever these regulations, subdivision plats or development plans approved in conformance with these regulations are in conflict with other local ordinances, regulations or laws, the more restrictive ordinance, regulation, law, plat or plan shall govern and shall be enforced by appropriate local agencies. When subdivision and development plans, approved by the Planning Commission, contain setback or other features in excess of the minimum Zoning Ordinance requirements, such features as shown on the approved plan shall govern and shall be enforced by the responsible division, as established by this Zoning Ordinance. Private deed restrictions or private covenants for a subdivision, which have not been approved by the Planning Commission and made a part of the approved subdivision plan, do not fall within the jurisdiction of enforcement by any local agency and cannot be enforced by the Lexington-Fayette Urban County Government.

(Code 1983, § 1-5; Ord. No. [263-83](#), § 1, 12-15-1983; Ord. No. [122-2011](#), § 1, 9-29-2011; [Ord. No. 68-2015](#), § 1(1-5), 6-18-2015; [Ord. No. 166-2017](#), § 1(1-5), 11-16-2017)

Sec. 1-6. - Plans and construction in progress.

To avoid undue hardship, nothing in this Zoning Ordinance shall be deemed to require change in the plans, construction, or designated use of any building or premises on which an application for a certificate or permit was filed with the Division of Building Inspection prior to the date of adoption of this Zoning Ordinance or amendment thereto, provided that the application meets all zoning and other requirements in effect on the date of said application. The issuance of said certificate or permit shall be valid only if it is exercised within one hundred eighty (180) days from the date of issuance of the certificate or permit. The term "exercised," as set forth in this section, shall mean that binding contracts for the construction of the main building or other main improvement have been let; or in the absence of contracts, that the main building or other main improvement is under construction to a substantial degree or that prerequisite conditions involving substantial investments shall be under contract, in development, or completed. When construction is not a part of the use, the term "exercised" shall mean that the use is in operation in compliance with the conditions as set forth in the permit or certificate.

(Code 1983, § 1-6; Ord. No. [263-83](#), § 1, 12-15-1983; [Ord. No. 68-2015](#), § 1(1-6), 6-18-2015; [Ord. No. 166-2017](#), § 1(1-6), 11-16-2017)

Sec. 1-7. - Separability.

If any clause, sentence, subdivision, paragraph, section or part of this Zoning Ordinance be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder, thereof; but shall be confined in its operation to the clause, sentence, subdivision, paragraph, section or part thereof directly involved in the controversy in which said judgment shall have been rendered.

(Code 1983, § 1-7; Ord. No. [263-83](#), § 1, 12-15-1983; [Ord. No. 68-2015](#), § 1(1-7), 6-18-2015; [Ord. No. 166-2017](#), § 1(1-7), 11-16-2017)

Sec. 1-8. - Planning commission.

The Lexington-Fayette Urban County Planning Commission, created by Resolution Nos. 1793 and 1797 of the City of Lexington and by Resolution of the Fiscal Court of Fayette County, and referred to

prior to 1973 as the City-County Planning Commission, shall continue as the Planning Commission for Lexington-Fayette Urban County. There shall be eleven (11) members of the Planning Commission appointed by the Mayor, with approval of the Urban County Council for a term of four (4) years, ending on July 1 of the designated year, with staggered terms so that the terms of two (2) members of the Planning Commission expire each year. However, the members of the Planning Commission in office on the date of passage of the ordinance from which this Article is derived shall remain as members of the Planning Commission and shall serve until the expiration of the term to which they were originally appointed. All members shall be reimbursed for any necessary authorized expenses.

(Code 1983, § 1-8; Ord. No. [263-83](#), § 1, 12-15-1983; Ord. No. [112-86](#), § 1, 7-1-1986; [Ord. No. 68-2015](#), § 1(1-8), 6-18-2015; [Ord. No. 166-2017](#), § 1(1-8), 11-16-2017)

Sec. 1-9. - Planning unit and jurisdiction.

The Planning Unit shall include all of the territory in Fayette County (also referred to as Lexington-Fayette Urban County or Lexington-Fayette County). The area of jurisdiction of the Planning Commission shall also include all of Fayette County.

(Code 1983, § 1-9; Ord. No. [263-83](#), § 1, 12-15-1983; [Ord. No. 68-2015](#), § 1(1-9), 6-18-2015; [Ord. No. 166-2017](#), § 1(1-9), 11-16-2017)

Sec. 1-10. - Staff.

The staff of the Planning Commission shall be the Division of Planning in the Department of Administrative Services of the Lexington-Fayette Urban County Government.

(Code 1983, § 1-10; Ord. No. [263-83](#), § 1, 12-15-1983; Ord. No. [153-87](#), § 1, 7-9-1987; [Ord. No. 68-2015](#), § 1(1-10), 6-18-2015; [Ord. No. 166-2017](#), § 1(1-10), 11-16-2017)

Sec. 1-11. - Definitions.

For the purpose of this Zoning Ordinance, certain terms are herewith defined. When not inconsistent with the context, words used in the present tense include the future; words in the singular number include the plural; words in the plural number include the singular; the term "person" includes association, firm, partnership, trust, governmental body, corporation, organization, as well as an individual; the term "structure" includes building; the term "occupied" includes arranged, designed or intended to be occupied; the term "used" includes arranged, designed or intended to be used; the term "shall" is always mandatory and not merely directive; the term "may" is permissive; and the term "lot" includes plot or parcel. Other words and terms shall have the following respective meanings:

Accessory use or structure means a use or a structure subordinate to the principal use or building on a lot and serving a purpose customarily incidental thereto. No accessory structure can be constructed on a lot before a principal structure.

Adaptive reuse means the process of adapting abandoned, vacant or underutilized buildings and structures for new purposes, which amounts to a change in the structure's primary purpose, a significant change in the way in which the structure is incorporated into and operates within the exterior environment, or which incorporates a non-traditional yet compatible combination of purposes or uses within the site plan. The adaptive reuse should incorporate changes that rejuvenate and/or increase the sustainability of the site and/or neighborhood while retaining historic features of the original building(s) and/or structure(s).

Adult arcade means any place to which the public is permitted or invited, wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines,

projectors, computers or other image producing devices are maintained to show images to five (5) or fewer persons per machine at any one (1) time; and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas" as herein defined.

Adult bookstore or adult video store means any building or structure which contains or is used for the display or sale or rental of books, magazines, movie films, motion pictures, videos, computer disks and any and all printed or written materials, newspapers, photographic materials, drawings, novelties, other pictorial representations, devices and related sundry items which are distinguished or characterized by their emphasis on matters depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" as herein defined; or an establishment with the segment or section devoted to the sale or display of such material.

Adult cabaret means an establishment which features, as a principal use of its business, entertainers, waiters, or bartenders, either male or female, who expose to public view of the patrons of the establishment, at any time, the bare female breast below a point immediately above the top of the areola, human genitals, pubic region, or buttocks, even if partially or completely covered by translucent material; or human or simulated male genitals in a discernible turgid state, even if completely and opaquely covered.

Adult dancing establishment means a business wherein employees, agents, servants or independent contractors perform dance routines offered as adult oriented entertainment for viewing by patrons and spectators on the premises, and characterized by an emphasis on "specified sexual activities" defined in this Article; or exposure of any part of the male or female anatomy otherwise prohibited by Section 3-26 of the Code of Ordinances.

Adult day care center means any adult care facility, which provides part-time care, day or night, but less than twenty-four (24) hours, to at least four (4) adults who are not related to the operator by blood, marriage or adoption. The operator must be certified or licensed by a state public agency and may include personal care assistance, administering and/or assistance with medication, and social recreational activities.

Adult entertainment establishment means an "adult cabaret," "adult dancing establishment" or "sexual entertainment center."

Agricultural market means a regulated place designated exclusively for the purpose of buying and selling of agricultural/farm products, including a stockyard; and to include aquaculture, horticulture, floriculture, viticulture, forestry, dairy, live-stock, poultry, bees, and any and all forms of farm products grown, raised or made by farm producers.

Agricultural use means the use of a tract of land of at least five (5) contiguous acres for the production of agricultural or horticultural crops, including, but not limited to, livestock; livestock products; poultry; poultry products; grain; hay; pastures; soybeans; tobacco; timber; orchard fruits; vegetables; flowers or ornamental plants; including provision for dwellings for persons and their families who are engaged in the above agricultural use on the tract, but not including residential building development for sale or lease to the public.

Agricultural use, urban, means the use of a lot or portion of a lot within the urban service area that is less than five (5) acres for a community garden as regulated further in the Code of Ordinances.

Agribusiness means an agricultural business entity comprised of a person, partnership, limited partnership, corporation, limited liability company, or any other entity engaged in a business that processes raw agricultural products, including timber, or provides value-added functions with regard to raw agricultural products.

Agritourism means activities conducted on an active farm; or at an agricultural, horticultural or agribusiness operation that are offered to the public for the purpose of enjoyment, education or active involvement in the activities of the active farm or facility. These activities shall be integrated into, directly associated with, and incidental and subordinate to the principal agricultural production on the property.

Amusement park means an outdoor facility, which may include structures and buildings, for entertainment, including motorized rides, water slides, miniature golf, batting cages, performance stages or theaters, and booths or kiosks for the conduct of games or sale of items. Such uses may also include entertainment associated with a carnival.

Animal grooming facility means an establishment where domestic animals are bathed, clipped or combed for the purpose of enhancing their appearance or health, and for which a fee is charged; but not including overnight boarding of animals.

Assisted living facility means a residential facility, other than a nursing home, with multiple and separate living facilities, generally for persons who are fifty-five (55) years of age or over, meal preparation, laundry services, room cleaning, transportation, and/or recreation may also be provided, as well as some medical services, exclusively for the residents of the facility.

Athletic club facility means an establishment that provides for indoor commercial or non-commercial services and facilities that purport to improve the user's physical condition or appearance through participation in sports activities, fitness training, exercise, or body building. The establishment may offer access to the following: gymnasiums, swimming pools, tracks, ball courts, weight lifting equipment, exercise equipment or facilities, saunas, steam baths or whirlpools.

Automobile and truck repair, major, means rebuilding or reconditioning of engines or transmissions, vehicles or trailers; repair and collision service, such as body, frame, or fender straightening; painting and clear coating; upholstery; auto glass work; and the like.

Automobile and truck repair, minor, means minor repairs and routine maintenance, including oil and filter change; lubrication; engine tune-up; troubleshooting and replacement of lights; brakes and other prepackaged components; and tire rotation or replacement, but not including any operation specified under "automobile and truck repair, major."

Automobile and vehicle refueling station means a building, structure or lot used for dispensing of compressed natural gas or any liquefied petroleum gas from a storage vessel by means of a compressor or pressure booster into motor fuel cylinders in automobiles and motor vehicles. This use does not include a bulk distribution plant, but may be part of an automobile service station.

Automobile service station means a building or structure used for minor automobile and truck repair; the retail sale and dispensing of fuel, lubricants, tires, batteries, accessories, and supplies, including installation and minor services customarily incidental thereto; facilities for washing and for chassis and gear lubrication are permitted if enclosed in a building.

Banquet facility means a building made available to the public for holding meetings and social events. This use may include the sale of alcoholic beverages; indoor live entertainment; and may also include, as an accessory use, events conducted outside the main building in tents or other temporary facilities, subject to the issuance of a permit by the division of building inspection.

Bed and breakfast facility means a use which provides short-term transient lodging, including serving only breakfast to overnight lodgers, for which rent is paid and subject to the following conditions:

- (a) The use shall be clearly incidental and secondary to the use for dwelling purposes;
- (b) The use shall be carried on only by owners with at least a fifty-one percent (51%) ownership interest, and who reside on the premises;
- (c) The use shall not require external alteration of the dwelling except as may be required to meet fire and building codes;
- (d) Each room to be rented shall be designed and intended to accommodate no more than two (2) persons;
- (e) Each room shall be rented for no longer than seven (7) consecutive days. Any facility which rents rooms for more than seven (7) days shall be regulated as a boardinghouse;
- (f) The use shall not adversely affect the uses permitted in the notification area and in the immediate neighborhood by excessive traffic generation, noise and the like;

- (g) The owner-operator shall maintain a guest log and other records, which shall be subject to annual review and inspection;
- (h) The use shall not be conducted within any accessory building in a residential zone;
- (i) The conditional use permit shall become null and void upon the sale or transfer of the property;
- (j) All off-street parking areas shall be completely screened with landscaping;
- (k) The use shall be in compliance with all applicable state and local laws, including health department rules and regulations.

Boarding or lodging house means a residential building, or part thereof, for five (5) or more adults living together, not as a family or housekeeping unit. In identifying this use, one (1) or more of the following factors shall be considered:

- (a) Meals and/or food costs are typically not shared;
- (b) Rent is established by leases to individuals, or rents are based on charges assessed to each individual;
- (c) Individual mailboxes are provided;
- (d) Multiple utility meters or connections are present.

Botanical garden means a garden dedicated to the collection, cultivation and display of a wide range of plants.

Brew-pub means a restaurant with an area devoted to the accessory sale of wine or alcoholic beverages, which also houses an accessory micro-brewery without permanently installed bottling equipment, all within the same completely enclosed building.

Building means any structure for the shelter or enclosure of persons, animals or property.

Bus agency means a facility providing inter-city transportation to passengers and other bus customers, limited to loading and unloading of passengers and/or freight, and the sale of tickets and/or shipping space; but not to include activities exclusive to a passenger transportation terminal.

Business college, technical or trade school, or institution means an educational institution primarily owned and operated by an individual, partnership, or corporation offering training in business, trade, technical or related areas through residence, extension, or correspondence, for which tuition is charged. Such training shall not include any courses or instruction in which the field or occupation would not be a permitted use within the zoning category in which the institution is located.

Cable television system means any system which receives and amplifies signals broadcast by one (1) or more television and/or radio station and which transmits programming or other electronic or optical signals originated by the system itself or by another party by wire or cable to persons who subscribe to such service.

Campgrounds means an outdoor facility for short-term overnight recreational use.

Campgrounds, primitive, means a lot or parcel of land without amenities, such as water or electricity, to individual camp sites upon which tents are placed. Shared bathroom facilities and parking areas are permitted.

Campgrounds, recreational vehicle or trailer, means a lot or parcel of land upon which two (2) or more recreational vehicle sites are located for occupancy by recreational vehicles, trailers or tents. Water and electricity to individual camp sites is typical.

Carnival means a temporary outdoor amusement use in a business or industrial zone lasting no longer than ten days per calendar year that includes mechanical rides, with or without inflatables. Such uses may also include games, live music, games of chance, live entertainment (other than typically associated with a "circus," defined herein), booths, food service, merchandise sales, pony rides and/or a petting zoo intended for children. A carnival does not include a circus, activities conducted at the state-designated county fair or events at a fairgrounds designated for that activity. Carnivals may not be

conducted on any property during the state-designated county fair, or during the two (2) weeks immediately prior to the county fair.

Cellular telephone transmitting facility, temporary, means any system of wires, poles, rods, reflecting disks, or similar devices used for the transmission or reception of electromagnetic waves, not meeting the definition of a "structure" as defined by this Zoning Ordinance.

Childcare center means any facility which provides full- or part-time care, other than family childcare, day or night, to children who are not the children, grandchildren, nieces, nephews, or children in legal custody of the operator, as regulated by the Commonwealth of Kentucky.

Childcare, family, means an incidental and subordinate use within a dwelling and not an accessory structure, where full- or part-time care is provided by a resident of the dwelling, for a fee, to children, as regulated by the Commonwealth of Kentucky.

Children's rides means a temporary outdoor amusement device, not involving a permanent structure, primarily designed for persons less than five (5) feet in height or less than thirteen (13) years of age, including mechanical rides and/or inflatables. Such uses may also include pony rides and/or petting zoos.

Circus means a temporary use or special event lasting no longer than ten (10) days per calendar year that is intended or likely to attract substantial crowds to view entertainment and animal performances or displays (other than a petting zoo intended for children and/or outdoor pony rides), and which is not usually associated with the principal use of the property where the special event is to be located. Such uses may or may not also include rides, games, booths, food service and merchandise sales. No accessory structure associated with a circus can be constructed or erected on a lot without a principal structure thereon.

Clinic, medical, means a building, or part thereof, designed and used for the diagnosis and treatment of human patients that does not include overnight care facilities.

Club, private, means buildings and facilities, the purpose of which is to render a social, educational, or recreational service to members and their guests; and not primarily to render a service customarily carried on as a business or to render a profit. The term "private club" shall include country club.

Cocktail lounge means a commercial establishment dispensing and serving alcoholic beverages for consumption on the premises and in which live entertainment, exclusive of dancing, is permitted.

Commercial composting means the aerobic or anaerobic decomposition of solid, organic materials to produce a stabilized, humus-like material that can be recycled to the land as a soil conditioner and low grade fertilizer, and primarily for use or distribution off the production site.

Commercial greenhouse means an establishment primarily engaged in propagating and growing plants in containers, in soil or in other growing medium for the purpose of being sold and transplanted. The term "commercial greenhouse" shall include sale of the following items: plants grown on the premises or tended in a controlled environment of the greenhouse or plant nursery; sale of fungicides, insecticides, chemicals, peat moss, humus, mulches, and fertilizer, all to be used in the soil or upon the live plant to preserve the life and health of the plants sold; landscape counseling, site planning and contracting services when not the primary activity and when using plants grown or tended on the premises of the greenhouse or plant nursery.

Note: The term "commercial greenhouse" applies only to land use as provided for in the zoning ordinance and subdivision regulations and is not intended to affect the status of any business with regard to any federal or state tax laws or similar statutes.

Commissary means premises used for preparation of food for restaurant use.

Commission means Lexington-Fayette Urban County Planning Commission.

Community center means buildings and facilities for a social, educational, or recreational purpose, operated by a non-profit organization, which are generally open to the public and which do not render a service customarily carried on as a business.

Community residence means a building or group of buildings for up to eight (8) children or adults, not receiving counseling or recovering from drug or alcohol abuse or a psychiatric disorder and not assigned to the home as a condition of parole or probation, who by virtue of their physical or mental needs must reside temporarily in a supervised home. More than eight (8) such residents shall be permitted only as a rehabilitation home.

Comprehensive plan means the adopted plan for Lexington-Fayette County, which serves as a guide for public and private actions and decisions to ensure the development of public and private property in the most appropriate relationships. Such plan shall include all elements, whether expressed in words, graphics, or other forms.

Corn maze means a recreational facility that creates a labyrinth utilizing an agricultural product intended to be harvested, such as corn, to create a system of paths. The term "corn maze" shall apply to "hay mazes" as well.

Country inn means a private facility located in a rural setting that has six (6) or more guest rooms or suites for transient occupancy, in which breakfast and other meals may be served to the guests, and whose innkeeper resides on the premises or property adjacent to the premises during periods of occupancy. This definition does not include boarding or lodging houses, bed and breakfast facilities, motels, hotels, or extended-stay hotels.

Courtyard means an open area, partially or completely surrounded by buildings, used as outdoor common area, generally paved and/or landscaped, and primarily for private use. This may also be used to meet the open space requirement of the zoning ordinance as herein defined.

Cultural tourism means activities associated with geographical places, artifacts, architecture and/or past events that represent the stories and people of the past offered to the public for the purpose of education and enjoyment. These activities should not diminish the place, element or feature for future generations.

Day shelter means facilities which provide on a free or not-for-profit basis access to indoor shelter, generally during the hours encompassing dawn to dusk, and which may also provide in conjunction therewith personal support services, primarily to, or intended for, persons who otherwise may not have access to indoor shelter if only available on a cost or for profit basis. The term "day shelter" shall not include temporary emergency heating or cooling shelters which operate only during extreme weather periods.

Development improvements means physical changes made to raw land, and structures placed on or under the land surface, in order to make the land more useable for human activities. Typical development improvements referenced in these regulations are grading, street pavement, curbs, gutters, drainage ditches, storm and sanitary sewer facilities, utility lines of all types, street name signs, property number signs, trees, etc., as used herein, development improvements may also be referred to as development or improvements.

Diamond mesh wire means a fencing material typically used in rural areas which, by its strength and construction, is effective in prevention of climbing and in control of animal movement. The term shall also be construed to include fencing commonly referred to as "v" mesh fencing. The term "diamond mesh wire" does not include chain link fencing.

Division of engineering manuals (also known as the engineering manuals, or the manuals) is a set of seven (7) documents to provide standards for the design, review, construction, and inspection of infrastructure. The engineering technical manuals are construction inspection (also known as the inspection manual), geotechnical, roadway, sanitary sewer and pumping station, stormwater, and structures. In addition to the six (6) technical manuals, a procedures manual for infrastructure development (also known as the procedures manual) establishes the responsibilities and procedures to be used by the Lexington-Fayette Urban County government, the land developer and the project engineer. These manuals are hereby adopted by the urban county government and incorporated into this Zoning Ordinance by reference. From time to time, the urban county government may revise, modify, or amend the manuals in conformance with the procedure established in the procedures manual. When any

of the engineering manuals are cited by this Zoning Ordinance, the current edition, latest revision, shall be referenced.

Dormitory means a building containing sleeping rooms operated by a school for academic instruction, or by a business college, technical or trade school, for which admission to residency is limited exclusively to students of such an institution, school or college. Where kitchen facilities or provisions for such are provided, such rooms shall be deemed dwelling units.

Driveway, for single-family and two-family dwellings, means a private paved vehicular access, a maximum of twenty-four (24) feet in width, or ten (10) feet in width when inside the infill and redevelopment area, extending on the shortest reasonable path through the front yard or side street side yard to the required off-street parking area. All other areas paved for vehicular use within any front or side street side yard shall be considered additional parking and shall be subject to the area limitations and landscaping requirements of this Zoning Ordinance.

Dwelling means a building, or portion thereof, occupied exclusively for residential purposes, not including a mobile home or trailer.

Dwelling, multiple-family, means a building, or portion thereof, occupied exclusively for residential purposes by more than two (2) families or more than two (2) housekeeping units.

Dwelling, single-family, means a building occupied exclusively for residential purposes by one (1) family or one (1) housekeeping unit. Townhouses are included in this definition.

The term "dwelling" also includes a building occupied by five (5) or more unrelated individuals at any time within five (5) years prior to January 1, 2010, subject to the following:

- (a) The occupancy is restricted to six (6) or less unrelated individuals;
- (b) The use of the building as a rental dwelling has not been abandoned;
- (c) The building shall not be enlarged or expanded beyond the existing square footage as of January 1, 2010:
 1. By more than twenty-five percent (25%) unless the building has been expanded by twenty-five percent (25%) or more under a building permit issued on or after January 1, 2005, in which case, then by no more than five percent (5%); or
 2. Unless approved by the board of adjustment as a conditional use after January 1, 2010.

Dwelling, two-family, means a building occupied exclusively for residential purposes by two (2) families or two (2) housekeeping units, commonly known as a duplex. Townhouses are not included in this definition.

The term "dwelling, two-family" also includes a building occupied by five (5) or more unrelated individuals in a unit at any time within five (5) years prior to January 1, 2010, subject to the following:

- (a) The occupancy of each unit is restricted to six (6) or less unrelated individuals;
- (b) The use of the building as rental dwellings has not been abandoned;
- (c) The building shall not be enlarged or expanded beyond the existing square footage as of January 1, 2010:
 1. By more than twenty-five percent (25%) unless the building has been expanded by twenty-five percent (25%) or more under a building permit issued on or after January 1, 2005, in which case, then by no more than five percent (5%); or
 2. Unless approved by the board of adjustment as a conditional use after January 1, 2010.
- (d) The limitation on enlargement of the building set forth in Subsection (c) of this definition, above shall not apply in the case of the addition of a second unit in a Two-Family (R-2) Zone, provided that both units thereafter conform to the limitation of four (4) unrelated persons per dwelling unit.

Dwelling unit means one (1) 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.

Dwelling unit, farm employee means any accessory residence located in an agricultural zone, maintained exclusively for the occupancy of employees and their families or the owner's immediate family, in connection with an agricultural use on the property.

Ecotourism means activities conducted in natural, greenspace, or environmentally sensitive areas that are offered to the public for the purpose of enjoyment, education, and active involvement in the activities of the site. These activities shall safeguard the integrity of a natural feature, habitat or ecosystem.

Elderly housing means multiple-family structures containing at least twenty-four (24) units and solely devoted to housing families consisting of two (2) or more persons, of which the head (or his spouse) is sixty-two (62) years of age or over, or is handicapped; and single persons who are sixty-two (62) years of age or over, or are handicapped.

Engineer, project, means a person currently licensed to practice engineering in the State of Kentucky and in good standing with the Kentucky board of registration for professional engineers and land surveyors; or a firm in good standing as an engineering company in Kentucky, if the work is to be accomplished other than as a sole practitioner. Work performed under the supervision or at the direction of the project engineer, including, but not limited to, preparation of plans, inspections, reports, testing, and directives or orders regarding work pursuant to these subdivision regulations, shall be considered to be the work of the project engineer. Whenever qualifications are questioned, the commission will consult with the bluegrass chapter of the Kentucky society of professional engineers or the consulting engineers council of Kentucky.

Engineer, urban county, means the director of the Lexington-Fayette Urban County Government Division of Engineering.

Entertainment, live, means any performance at a restaurant, cocktail lounge, or night club by any person, including, but not limited to, a patron of such establishment if such performance is part of a regularly occurring event. The term "live entertainment" includes, but is not limited to, singing, dancing, musical performance, comedy acts, magic acts, variety acts, or performance contests engaged in by patrons.

Entrance, primary, means entrance used as the main pedestrian access point of a structure and along the front lot line.

Equine hospital means a veterinary hospital used primarily for the treatment and care of horses, which may include office facilities and the storage of medicinal supplies when accessory to the primary use.

Established grade means the finished elevation, at any point, of the ground level at the base of a fence, wall or projection.

Extended-stay hotel means multiple-family dwelling(s) with rental or lease of less than one (1) week, provided such rentals or leases of less than one (1) week shall comprise less than fifty percent (50%) of the total dwelling units within the structure(s).

Family or housekeeping unit means a person living alone, or any of the following groups living together and sharing common living and kitchen facilities:

- (a) Any number of persons related by blood, marriage, adoption, guardianship, or other duly authorized custodial relationship;
- (b) Four (4) or fewer unrelated persons;
- (c) Two (2) unrelated persons and any children related to either of them or under their care through a duly authorized custodial relationship;

- (d) Not more than eight (8) persons who are:
 - 1. Residents of a "home-like" residence, as defined in KRS 216b.450;
 - 2. The term "handicapped" as defined in the Fair Housing Act, 42 USC § 3602(h). This definition does not include those currently illegally using or being addicted to a "controlled substance" as defined in the Controlled Substances Act, 21 USC § 802(6).
- (e) Not more than six (6) unrelated individuals when in compliance with the provisions of the definitions of "dwelling, single-family" or "dwelling, two-family," as contained in this Article.
- (f) A functional family as defined and regulated

Family, functional, means a group of five (5) or more persons, not otherwise meeting the definition of "family," who desire to live as a stable and permanent single housekeeping unit and who have received a conditional use permit from the board of adjustment. The term "functional family" does not include:

- (a) Residents of a boarding or lodging house;
- (b) Fraternity, sorority or dormitory;
- (c) Any lodge, combine, federation, coterie or like organization;
- (d) Any group of individuals whose association is temporary or seasonal in nature;
- (e) Any group of individuals who are in a group living arrangement as a result of criminal offenses.

Farm gift shop means an accessory retail facility limited to a maximum of five hundred (500) square feet in size that offers for sale farm products grown or raised on the premises, and/or memorabilia representative of the farm products grown or raised on the premises, such as hats, shirts, and souvenirs.

Farm market, commercial, means an occasional or periodic market held in an open area or in a structure where groups of individual sellers offer for sale to the public primarily agricultural products such as fresh produce, seasonal fruits, fresh plants or flowers, value-added products, arts and crafts items, and food and beverages (but not to include second-hand goods) dispensed from booths located on-site. The term "farm market" shall not include the sale of livestock.

Farm producers means any person, persons or legal entities who are actually engaged in the business of producing/growing farm-raised products they sell at the market.

Farm tour means an accessory use to a working or active farm or other agricultural use that permits visitors a way to see and experience on-going agricultural operations and facilities, but shall not include overnight accommodations.

Festival means a temporary public or commercial gathering lasting no longer than ten (10) days per calendar year where entertainment, food, crafts, and the like are offered for viewing or for sale.

Fishing or hunting club means areas reserved for public or private hunting of wildlife, fishing, and accessory structures in support of those activities, but shall not include overnight accommodations, or rifle or other firearm ranges.

Fishing lake means a body of water that is located on private property where a fee is paid in order to fish.

Floor area means the sum of the gross areas of the several floors of a building or buildings measured from the exterior faces of exterior walls or from the centerlines of walls separating two (2) buildings. In particular, floor area includes:

- (a) Basement space at least seven and one-half (7½) feet in height;
- (b) Elevator shafts or stairwells at each floor;
- (c) Penthouses;
- (d) Attic space (whether or not a floor has been laid) providing structural headroom of seven and one-half (7½) feet or more; interior balconies, mezzanines, hallways, lobbies;

- (e) Floor space in accessory buildings not used for off-street parking;
- (f) Laundry rooms, game rooms, or other spaces designed for the common use of the occupants;
- (g) Any other floor space not specifically excluded.

However, the floor area of a building shall not include:

- (a) Non-habitable basement space which is less than seven and one-half (7½) feet in height;
- (b) Elevator or stair bulkheads;
- (c) Accessory water tanks, or cooling towers;
- (d) Outside steps that are uncovered;
- (e) Attic space (whether or not a floor has been laid) providing structural headroom of less than seven and one-half (7½) feet;
- (f) Mechanical equipment space;
- (g) Interior space used exclusively as parking space for motor vehicles.

Floor area, parking, means the floor area of a structure as defined herein, exclusive of any covered pedestrian area in a mall, less storage and warehouse areas, laundry rooms, game rooms, or other spaces designed for the common use of the occupants, and used principally for non-public purposes of said structure. Any basement or cellar space used for retailing shall be included in the parking floor area for the purpose of calculating requirements for accessory off-street parking spaces and accessory off-street loading berths.

Floor area ratio means floor area of buildings on a lot divided by pre-development net ground area of the lot on which it is located.

Fraternity or sorority house means a building used as a living and/or gathering quarters for students of a college, university or seminary (not living in a "dormitory" as defined herein) who are members of a fraternity or sorority that has been or is seeking to be officially recognized by the college, university or seminary; or their guests. In identifying such use, the following factors shall be among those considered, regardless of number of occupants:

- (a) Signage or other indications that the building is used by a fraternity or sorority;
- (b) Fraternity- or sorority-sponsored social activities, such as meetings; parties; dances or other gatherings; and
- (c) Events to which fraternity or sorority alumni or prospective members are invited.

The term "family or housekeeping unit" or "boarding or lodging house" as defined herein are excluded, unless the use demonstrates specific characteristics of use as set forth above.

Garage, community, means a structure or structures only for the storage of passenger vehicles or trailers of residents of the neighborhood.

Garage, private, means a space or structure, including a carport, on the same lot with or in the building to which it is accessory, primarily for storage of passenger vehicles of the residents of the premises, with no facilities of a commercial or public nature.

Garden center means establishments used primarily for the sale of live plants, including greenhouses and plant nurseries. When accessory to the sale of plants, the sale of the following items shall be allowed: cut plants, cut trees and wreaths, bulbs and seeds which may have been transported to the premises for the purpose of resale; ground covers; fungicides, insecticides, chemicals, peat moss, humus, mulches and fertilizers; lawn statuary, furniture, bird baths, bird feeders, birdhouses and pottery; pots and containers for plants; artificial flowers; home lawn and garden equipment, including manual and automatic grass cutting devices, grass seeding devices, mulchers, thatchers, tillers, but not including farm tractors and machinery; garden landscape devices, including railroad ties, stepping stones, fencing, edging, trellises, plastic and burlap; hand tools such as sprayers, shovels, dusters, rakes, hoes, and

watering devices; firewood; landscape planning and contracting services incidental to the garden center to include contractual services for lawn and garden sprigging, maintenance, fertilizing, spraying and mowing.

Garden, market, means an area of land less than five (5) contiguous acres in size for the cultivation of food and/or non-food crops by an individual or a group of individuals to be sold on site. Such a garden may be located on the ground, in raised beds, or on rooftops; and may utilize greenhouses, hoop houses, high tunnels, vertical gardens, hydroponic systems or aquaponics systems alone or in combination with other techniques for growing food or non-food crops.

Greenway means an area defined as a "greenway" in the comprehensive plan or other adopted plan.

Hazardous materials means any chemical, biological or radiological compound, gas, oil, gasoline, lubricant or other petroleum products, substances, solution or mixture which, because of its quality; quantity; concentration; physical or infectious characteristics; or any combination thereof, when released into the environment, presents or may present harmful or potentially harmful effects to human health or welfare or the environment.

Height of building means the vertical distance from the established grade in front of the lot or from the average natural grade at the base of the front building wall, if higher, to the average height of the top of the cornice of flat roofs, or roof line or to the deck line of a mansard roof, or to the middle height of the highest gable or dormer in a pitched or hipped roof; or if there are no gables or dormers, to the middle height of such pitched or hipped roof. See Article 15 for general height regulations.

Height-to-yard ratio means height of building as related to minimum rear and each side yard permitted; i.e., for 2:1 ratio, a 40-foot building must have a minimum rear and each side yard of twenty (20) feet.

Heliport means a facility used exclusively for helicopter operations, including landing; takeoff; loading; discharging; fueling; maintenance; and/or transient storage of helicopters.

Helistop means a facility used exclusively for helicopter landing, take-off, loading, discharging, and/or transient storage of helicopters; but not including facilities for maintenance, fueling or long-term storage of helicopters.

Historic district, local, means a designation that carries with it a design review process, within the purview of the board of architectural review, that is based on specific design guidelines for exterior work and changes to the property. Properties that are within a local historic district carry an H-1 Overlay Zone in addition to the underlying zoning category.

Historic district, national register, means a federal designation, awarded by the Department of the Interior, which provides recognition of a property's archaeological, architectural or historical significance.

Historic house museum means a building currently or formerly used as a residence, having public significance by reason of its architecture or former use or occupancy; designed for preserving and exhibiting artistic, historical, scientific, natural or manmade objects of interest. This use may also include, as an accessory use, the sale of objects collected and memorabilia; the sale of crafts and artwork; and the holding of meetings and social events.

Home-based business means a gainful occupation or profession carried on in a residence that involves:

- (a) Customers or clients coming to the residence; and/or
- (b) The use of materials or equipment that are potentially disturbing to surrounding properties due to noise, odors, flammability or some other risk factor.

Examples include, but are not limited to, individual music instruction; athletic training; counseling services; and upholstery work; ~~and firearm repair~~.

The term "home-based businesses" shall not include barber shops; beauty parlors; offices for escort services; massage parlors, automobile and small engine repair; medical or dental offices; palm reading or

fortune telling; ~~home cooking and~~ catering or food-handling requiring a commercial kitchen; and uses, other than upholstery, which are first permitted in the B-4, I-1 or I-2 zone.

Home occupation means a gainful occupation or profession carried on in a residence that does not involve customer or client visits to the residence (excluding pick-up of pre-ordered items or drop-off of items to be repaired); ~~does not involve the handling of firearms~~; and materials or equipment used in the conduct of the home occupation is limited to items that have minimal potential for disturbing surrounding properties due to noise or potentially harmful chemicals. Examples include, but are not limited to, sewing, handicrafts, home-based processing, and computer graphics and/or design.

Home office means an office for record-keeping and administration of work.

Hospice means a facility that provides support and care for persons in the last stage of an incurable disease or condition, and to their families. Overnight, in-patient and out-patient facilities may be included, as well as offices, storage and an associated pharmacy. Medical care, palliative care, counseling and education may be provided.

Hospitality house means a multifamily residence or boarding facility operated strictly on a non-profit basis, by a non-profit organization and utilized solely for the provision of temporary lodging for the immediate family and/or legal guardians of an individual undergoing treatment within a local hospital.

Hotel means a building or group of buildings containing individual sleeping or living units, designed for the temporary occupancy of transient guests; and including hotels, tourist courts, motor lodges, motor hotels or auto courts, but not including boarding or lodging houses.

Infill and redevelopment areas means areas located within the urban service area of Lexington-Fayette County, generally characterized by lots that were established prior to 1934. Excluded from these areas are lots that are located in an identified national register historic district where average residential lot sizes are greater than nine thousand, five hundred (9,500) square feet, and as more particularly described in the adopted comprehensive plan map of the infill and redevelopment areas.

Infrastructure development agreement means an agreement for a project in which infrastructure improvements are proposed to be constructed among the LFUCG, the developer, and the project engineer, which specifies the obligations and requirements of the parties. The infrastructure development agreement shall be in a form and contain the requirements set forth in the procedures manual.

Junk yard means an outdoor area where waste or discarded or salvaged materials or inoperable vehicles are bought, sold, exchanged, stored, baled, cleaned, packed, disassembled, or handled, including auto wrecking yards, used lumber yards and places or yards for use of salvaged house wrecking and structural steel materials and equipment; but excluding such uses when conducted entirely within a completely enclosed building. The term "junk yard" does not include recycling drop-off centers, pawn shops, establishments for the sale, purchase or storage of used cars in operable condition, salvaged machinery, used furniture and household equipment; the processing of used, discarded or salvaged materials as part of manufacturing operations; and vehicle storage yards.

Kennel means commercial business for the sale or temporary boarding of more than three (3) dogs, but not including the ownership and occasional sale of dogs at, in, or adjoining a private residence.

Kitchen facilities means equipment arranged in a room or some other space in a structure which facilitates the preparation of food, including, but not limited to, a combination of two (2) or more of the following: a range, microwave oven, dishwasher, kitchen sink, or refrigerator.

Lighting cutoff means any shielding that conceals the source of lighting visible from the property lines of a site.

Lot means a parcel of land of at least sufficient size to meet the minimum zone requirements for use, coverage and area, and to provide such yards and open spaces as required under this Zoning Ordinance.

Lot area means the amount of surface land contained within the property lines of a lot, including land within easements on the lot, but excluding any land within street right-of-way.

Lot, corner, means a lot abutting upon two (2) or more streets at their intersection or upon two (2) parts of the same street; and where, in either case, the interior angle formed by intersection of the street lines does not exceed one hundred thirty-five (135) degrees.

Lot coverage means the computed ground area occupied by all buildings within a lot.

Lot depth means the mean horizontal distance between the front and rear lot lines.

Lot frontage means the distance between the side lot lines measured along the front building line of the lot, as determined by the prescribed front yard requirement of the zone in which the lot is located, or as designated by the final record plat, whichever is greater.

Lot lines means the property lines bounding the lot.

Lot line, front, means in the case of a lot abutting upon only one (1) street or alley, the line separating such lot from such street. In the case of any other lot, the owner shall, for the purpose of this Zoning Ordinance, have the privilege of electing any street lot line as the front lot line, provided that such choice, in the opinion of the division of planning or the division of building inspection, as appropriate, will not be injurious to the existing, or to the desirable future development of adjacent properties.

Lot line, rear, means ordinarily, that lot line which is opposite and most distant from the front lot line. In the case of an irregular, triangular or gore-shaped lot, a line ten (10) feet in length entirely within the lot, parallel to and most distant from the front lot line shall, for the purpose of this ordinance, be considered the rear lot line. In other cases not covered herein, the division of planning or the division of building inspection, as appropriate, shall designate the rear lot line.

Lot line, side, means any lot line other than a front or rear lot line.

Lot line, street or alley, means a lot line separating the lot from a street or alley.

Lot width means the mean horizontal distance across the lot, measured at right angles to the depth.

Mail order business means a business engaged in the sale of manufactured products, goods, merchandise and finished products primarily through means of mail or telephone orders, including the administrative offices of such business.

Mail service facility means a commercial establishment that conducts the retail sale of stationery products, provides packaging and mail services to retail customers, and provides mailboxes for lease.

Massage parlor means an establishment where, for any form of consideration, massage, alcohol rub, fomentation, electric or magnetic treatment, or similar treatment or manipulation of the human body is administered, unless such treatment is administered by a medical practitioner; chiropractor; acupuncturist; physical therapist or similar professional person licensed by the Commonwealth of Kentucky or another state. This definition does not include an athletic club facility, health club, school, gymnasium, reducing salon or similar establishment where massage or similar manipulation of the human body is offered as an incidental or accessory service.

Micro-brewery means a facility within a completely enclosed building which is intended for the production of up to twenty-five thousand (25,000) barrels per year of malt beverages, under the terms and conditions specified by KRS 243.157, KRS 243.150, and other applicable laws.

Mining means underground excavation made into the earth from which to extract materials produced for sale, exchange or commercial use.

Mixed-income housing unit means a dwelling unit provided for sale to an owner-occupant household with an income that does not exceed one hundred percent (100%) of median income (adjusted for family size), or for rent to a household with an income that does not exceed eighty percent (80%) of the median income (adjusted for family size) for Lexington-Fayette County. A unit shall be deemed a mixed-income housing unit for an owner-occupant if the total amount of principal, interest, taxes and insurance does not exceed thirty-six percent (36%) of the household's income; and a unit shall be deemed affordable to a rental household if the total rent, including any tenant-paid utilities, does not exceed thirty percent (30%) of the household's income. In the alternative, a fixed price may be set for a mixed-income housing unit for sale to an owner-occupant if the total principal and interest (for a thirty-year (30-year) mortgage) does not

exceed thirty percent (30%) of the total household income for a family of four (4) at eighty percent (80%) of the median income for Lexington-Fayette County; also, if the unit is for rent, then the maximum monthly rent may not exceed one percent (1%) of a household income that is at eighty percent (80%) of the median income for Lexington-Fayette County.

Mobile home means any factory-built structure, with or without a permanent foundation, as defined in KRS 227.550, which is designed and constructed on a permanent chassis to permit occupancy for dwelling or sleeping purposes, either permanent or temporary, when connected to the required utilities; and includes the plumbing, heating, air-conditioning and electrical systems contained therein. These are also known as "manufactured homes," which are regulated by the federal government and the state fire marshal, and are required to carry only a "HUD" seal applied by the manufacturer.

Motel means a building or group of buildings, containing individual sleeping or living units, designed for the temporary occupancy of transient guests and including hotels; tourist courts; motor lodges; motor hotels or auto courts; but not including boarding or lodging houses.

Nature preserve means an area intended to remain in a predominantly natural or undeveloped state to provide resource protection, which may include possible opportunities for passive recreation and environmental education for present and future generations.

Neighborhood Design Overlay Zone means an overlay zone, applied in addition to the underlying zoning category, whereby key characteristics of a particular neighborhood or area are preserved for either new building (infill) construction or replacement of existing structures.

Nightclub means a commercial establishment for dancing and live entertainment, which may or may not include dispensing and serving alcoholic beverages for consumption on the premises.

Nursing home means a facility for which four (4) or more persons may be admitted for periods exceeding twenty-four (24) hours to receive treatment and/or medication for bodily illness, including convalescence from illness.

Open space, useable, means outdoor area of a lot or tract which is designated and used for outdoor living, recreation, pedestrian access or planting. Such areas may be ground or roof space seventy-five percent (75%) open to the sky, balconies a minimum of five (5) feet wide, an enclosed deck, porch, or ground floor portions of a building constructed on columns. Off-street parking and loading areas, driveways, vehicular use area perimeter landscaping and interior landscaping, unenclosed fire escapes, or required front and side street side yard areas do not qualify as useable open space; provided, however, that those portions of the required side street side yard may qualify as useable open space, as long as such open space is separated from the street right-of-way by a fence or solid screen planting.

Parking lot, area, or structure means an area not within a building for temporary (less than 24-hour) off-street parking, loading or unloading of vehicles, whether required or permitted by this Zoning Ordinance; including driveways, access ways, aisles, and maneuvering areas; but not including a loading dock or any public or private street right-of-way.

Passenger transportation terminal means a facility used by one (1) or more bus companies in providing inter-city transportation of passengers and goods, including, but not limited to, vehicle storage and maintenance, continuous use by multiple buses, and services for bus transients, such as food, restrooms, and waiting areas, as well as activities permitted as a bus agency.

Paved area means an area of concrete, asphalt, brick, permeable pavers or other suitable hard surface materials; excluding loose aggregate or other types of gravel.

Pawnshop means any establishment which loans money on deposit of personal property, or which deals in the purchase of personal property on condition of selling the property back again at a stipulated price; or which makes a public display at its place of business of the sign generally used by pawnbrokers to denote their business; or which publicly exhibits a sign advertising money to loan on personal property for deposit.

Permeable paving materials means paving materials that permit the movement of water under ordinary hydrostatic pressure. This does not include gravel or loose aggregate.

Personal care facility means a long-term facility with resident beds, devoted primarily to the care of aged or invalid persons who do not require the level of intensive care normally provided in a hospital or nursing home; but who do require care in excess of room, board and laundry.

Personal service or personal service establishment means commercial business providing services to individuals, such as beauty and barber shops, shoe repair, dressmaking and tailoring.

Petting zoo means a collection of farm animals or domesticated animals for children to pet and feed.

Plant nursery means an establishment engaged in the outdoor cultivation of only trees and shrubs for transplanting. A greenhouse may be an accessory structure when used to propagate and prepare the trees or plants for planting on the premises.

Plaza means a public square or extra wide sidewalk (e.g., on a street corner) that allows for special events, outdoor seating, sidewalk sales, and similar pedestrian activities (similar to a courtyard; however, primarily for public, as opposed to private, use).

Pool or billiard hall means any establishment which has, as part of its operation, three (3) or more pool or billiard tables on the premises.

Primary entrance means the place of ingress and egress for a structure used most frequently by the public.

Principal structure means a building in which is conducted a principal or conditional use. In any residential zone, any structure containing a dwelling unit shall be deemed a principal structure on the lot on which the same is located. Where a non-conforming use is the primary use on the property, the building in which it is located shall be deemed a principal structure.

Private walkway means a paved area used for pedestrian activity outside of the public right-of-way.

Quarrying means surface excavation for the extraction of any non-metallic mineral, excluding coal, which is produced for sale, exchange, or commercial use.

Recreation, active, means recreational activities involving moderate to high intensity use requiring modification of natural landforms and the provision of service facilities, playing fields or equipment. These activities include, but are not limited to, playground equipment, sports fields, surfaced courts, volleyball courts, batting cages, swimming pools, skateboard facility, skating rinks, equine-related training and riding facilities.

Recreation, commercial, means any recreational activity or facility in which a fee is collected or tickets are sold.

Recreation, non-commercial, means any recreational activity or facility which is available at no cost; or is available as an amenity for members, employees, residents or other special populations.

Recreation, passive, means recreational activities that do not require strenuous physical effort and may occur in a natural setting requiring minimal development, minimal alteration of vegetation, and providing areas for informal activities, including: walking, hiking, bird watching or other natural observation, photography, primitive camping, picnicking, archaeological or historic preservation, and fishing.

Recreational outfitter means an establishment that provides equipment and supplies for the pursuit of recreational activities; such as canoeing, hiking, fishing or trail riding. Recreational outfitters may offer services for outdoor tourism including guide services and transportation services,

Recreational vehicle means a vehicle primarily designed as temporary living quarters for recreational camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle, including travel trailers, camping trailers, truck campers, motor homes and park vehicles.

Recycling drop-off center means a facility for the collection of waste paper, rags, scrap metal, or other discarded material; not to include used furniture and household equipment, used cars or used lumber.

Rehabilitation home means a building or group of buildings providing a supervised residence for persons recovering from the effects of drug or alcohol abuse, psychiatric disorders, or as a condition of their parole or probation. Such homes may provide counseling in educational, vocational, or other areas by a paid or volunteer staff and generally have 24-hour-a-day supervision. This definition does not apply to uses regulated by KRS 100.982.

Residential infill means construction of new residential building(s) on vacant or by-passed land within the urban service area.

Restaurant means an eating establishment where food is served and/or consumed primarily within the building and where consumption of food in motor vehicles on the premises is not encouraged.

Note: A restaurant may only include drive-through facilities (where food is served to patrons while in their motor vehicles through a window or other facilities and consumption on the premises in motor vehicles is not encouraged) as permitted and regulated in the zone in which the restaurant is located.

Restaurant, drive-in, means an eating establishment where food is served by employees or by self-service outside the building and is consumed on the premises, principally in a motor vehicle.

Retail sales establishment means a commercial enterprise that provides goods and/or services directly to the consumer, where such goods are available for immediate purchase and removal from the premises by the purchaser.

Retail sales establishment, bulk merchandise, means a retail establishment engaged in selling goods or merchandise to the general public, as well as to other retailers, contractors or businesses rendering services incidental to the sale of such goods. Bulk retail involves a high volume of sales of related and/or unrelated products in a warehouse setting and may include membership warehouse clubs. Bulk retail is differentiated from general retail by the following characteristics: items for sale include large, categorized products (e.g., lumber, appliances, household furnishings, electrical and heating fixtures and supplies, wholesale and retail nursery stock) and may also include a variety of carryout goods (e.g., groceries, household and personal care products).

Riding stable means a structure or land use in which equines are kept for boarding, riding or training.

Roadside stand means a temporary structure designed or used for the display or sale of agricultural products grown on the premises upon which such a stand is located.

Satellite dish antenna means an accessory structure, consisting of a parabolic-shaped antenna structure used to receive television signals from satellites or other objects in terrestrial orbit.

Satellite dish antenna, ground-mounted, means a satellite dish antenna mounted and anchored at grade so that the distance from the highest edge of the dish to the existing grade does not exceed twelve (12) feet.

Satellite dish antenna, pole-mounted, means a satellite dish antenna mounted and anchored to the ground by a pole so that the distance from the highest edge of the dish to the existing grade exceeds twelve (12) feet.

Satellite dish antenna, roof-mounted, means a satellite dish antenna mounted directly upon the roof of a structure and not attached to any appurtenance such as a chimney, tower, or spire.

Scenic byway means a state designated roadway maintained by a local government that has roadsides or view sheds of aesthetic, cultural, historical, or archaeological value worthy of preservation, restoration, protection or enhancement.

Scenic highway means a state designated, state-maintained roadway or highway that has roadsides or view sheds of aesthetic, cultural, historical, or archaeological value worthy of preservation, restoration, protection or enhancement.

Seasonal activities means any activity which is performed or operated temporarily during one (1) season of a calendar year, for a period not to exceed ninety (90) days with a maximum of two (2) times per calendar year. Such activities may include a pumpkin u-pick farm, corn maze, or the like.

Schools for academic instruction means all schools offering primarily classroom instruction with participation of teachers and students, limited to elementary, junior and middle high schools, high schools, junior colleges, colleges, theological seminaries, bible colleges, and universities; but not including business colleges, technical or trade schools.

Sexual entertainment center means an establishment, not otherwise specifically defined in this Article, which makes available material, services, or entertainment appealing to adult sexual interests, including, but not limited to, a bath house; swingers' club; or similar establishment if the establishment or its entertainment, services, or goods are advertised by or on behalf of the establishment in a manner patently designed to appeal to such adult sexual interests.

Specified anatomical areas means:

- (a) Less than completely and opaquely covered:
 - (1) Human genitals;
 - (2) Pubic region;
 - (3) Buttocks;
 - (4) Female breast below a point immediately above the top of the areola;
- (b) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified sexual activities means:

- (a) Human genitals in a state of sexual stimulation or arousal;
- (b) Acts of human masturbation, sexual intercourse, sodomy, oral sex (real or simulated), fondling or other erotic touching of human genitals, pubic region, buttocks or female breasts, or sexual contact between humans and animals.

Sportsmen's farm means an outdoor recreation facility for archery; paintball; skeet, trap rifle and other firearm sports.

Stockyard means an establishment or facility commonly known as stockyards; conducted, operated or managed for profit or nonprofit as a public market for livestock producers, feeders, market agencies and buyers; consisting of pens or other enclosures and their appurtenances, in which live cattle, sheep, swine, horses, mules, goats or other farm animals are received, held or kept for sale or shipment in commerce.

Storage means the keeping, either indoors or outdoors, of equipment, vehicles, or supplies used in the conduct of a trade, business, or profession.

Story means that portion of a building, other than a cellar or mezzanine, included between the surface of any floor and the surface of the floor next above it; or, if there is no floor above it, then the space between the floor and ceiling next above it.

Street means any vehicular way. The term "street" is a general term used to describe right-of-way, which provides a channel for vehicular and pedestrian movement between certain points in the community, which may provide for vehicular and pedestrian access to properties adjacent to it, and which may also provide space for the location of under- or above-ground utilities. Streets are classified by function as follows:

Expressways hold the first rank in the classification of streets, and are used only for movement of vehicles, providing for no vehicular or pedestrian access to adjoining properties; interchange of traffic between an expressway and other streets is accomplished by grade separated interchanges with merging deceleration and acceleration lanes, and no at-grade intersections are permitted. Expressways generally carry higher volumes, require greater right-of-way width, and permit higher speed limits than any other class of street, and should be depressed in urban or urbanizing areas. Arterials are the only class of street which generally should be connected with expressways at interchange points.

Arterials hold the second rank in the classification, and should be used only for the movement of vehicles, and preferably should not provide for vehicular access to adjacent properties. Interruption of traffic flow should be permitted only at street intersections, which should contain medians, deceleration lanes, and left turn storage lanes. Arterials are the link between expressways and collectors, and rank next to expressways in traffic volume, speed limit, and right-of-way width.

Collectors/connectors hold the third rank in the classification of streets, and are used both for movement of vehicles and for providing access to adjacent properties. Access to adjoining properties should be planned and controlled so that minimum disturbance is made to the traffic moving efficiency of the collector/connector street. Intersections should contain medians, deceleration lanes, and left turn storage lanes. Collectors/connectors are the link between arterials and local streets. Collectors/connectors generally rank next to arterials in traffic volume, speed limit, and right-of-way width.

Locals hold the fourth rank in the classification of streets, and are used primarily for providing access to adjacent properties. Vehicles moving on these streets should have an origin or destination in the immediate vicinity, and all types of through traffic should be eliminated through initial design of its connections with other streets. Local streets are the primary link between trip generation points (homes, offices, stores, work) and collector streets. Locals have the least right-of-way, the lowest speed limit, and the least amount of vehicular traffic. Local streets can be subdivided further into the following sub-classes:

Continuing streets means local streets having two (2) open ends; each end generally connects with different streets; one (1) or more other street may intersect it between its two (2) open ends, and property fronts on both sides of the streets.

Service roads means local streets which are parallel to a street with a higher classification on one (1) side and are parallel to properties requiring access on the other side. A service road generally has two (2) or more open ends, connecting at intersections with streets that run perpendicular to the service road and its adjacent street of higher classification. In this way, a service road provides an access route to properties adjacent to higher classification streets; while, at the same time, reducing the number of access points from these properties onto the higher classification street. Generally, in a given block, one (1) or no access points are provided directly to the higher classification streets, but multiple access points are provided to the adjacent properties.

Loop streets means local streets having two (2) open ends; each end generally connects with the same street; no other streets generally intersect between its two (2) ends, and property fronts on both sides of the street.

Close streets means close streets are one-way local streets forming a "u" shape and having two (2) open ends; each end generally connects with the same street. Property fronts on the outside of the "u," but the interior of the "u" should be natural or landscaped open space. This interior area should generally be between fifty (50) and one hundred (100) feet wide. The close street is a neo-traditional street design used as an alternative to cul-de-sacs in areas where it is difficult to provide a through street.

Cul-de-sac streets means local streets having only one (1) open end providing access to another street; the closed end provides a turnaround circle for vehicles; no other street generally intersects between the two (2) ends, and property fronts on both sides of the street.

Dead-end streets are similar to cul-de-sacs, except that they provide no turnaround circle at their closed end and are not permitted as streets in any proposed subdivision. Stub streets planned for future connection are not considered to be dead-end streets.

Alleys means streets which generally have two (2) open ends; each end connects with different streets, and property generally backs onto both sides of the alley. Special permission from the commission is required whenever alleys are used.

Rural roads means local streets providing access to properties in the rural service area, as well as providing for movement between certain points in the community. A rural roadway includes a right-of-way, the street pavement, and may include paved shoulders and drainage ditches.

Structure means anything constructed, the use of which requires permanent or continuous location on the ground, or attached to something having permanent location on the ground.

Tattoo parlor means a commercial establishment whose principal business activity is the practice of placing designs, letters, figures, symbols or other marks upon or under the skin of any person, using ink or other substances that result in the permanent coloration of the skin, using needles or other instruments designed to contact or puncture the skin.

Temporary structure means anything constructed and placed on the ground without a permanent foundation and consisting of four hundred (400) square feet or more in size, the use of which is designed for use or occupancy for only one hundred eighty (180) days or fewer per 12-month period. Any structure intended to remain in place in excess of that time period must be permitted as a permanent structure. For purposes of regulating the use of such structures, any limitation stated in this ordinance shall be calculated by the cumulative consideration of the use of any and all such structures on a single property. This use must also be consistent with the requirements and limitations, if any, of the Kentucky Building Code.

Topsoil means the surface layer and its underlying materials that have properties capable of producing desirable reclamation and vegetation.

Townhouse means a single-family attached dwelling, each dwelling designed and erected as a unit, separated from one another by a common wall, and capable of being subdivided into separate lots.

Trailer means any portable structure having no foundation other than wheels, jacks, or skirtings; or any vehicle so designed or constructed as to permit:

- (a) Temporary occupancy for dwelling or sleeping purposes;
- (b) The conduct of any business, trade, occupation, profession, or use as a selling or advertising device; or
- (c) The transportation of personal property; and including automobile trailers, campers, and tourist trailers, but not including a mobile home.

Transfer station means a facility, as defined in KRS 224.01(010), for the compacting and reloading of solid waste as defined in KRS 109.012(9) prior to its transportation to a permanent disposal site.

Tree canopy tour means a guided aerial exploration or transit of the forest canopy, most commonly by means of a series of zip lines or aerial walkways with platforms constructed within the trees generally for scenic views, education, interpretation and recreation.

Truck terminal means land and buildings used as a relay station for the transfer of freight from one (1) truck to another; or for the parking or storage of semi-trailers for longer than twenty-four (24) hours, including tractor and/or trailer units. The terminal cannot be used for permanent or long-term accessory storage for principal land uses at other locations. A truck terminal may include areas for the washing or repair of trucks associated with the terminal, but does not include an establishment solely for the display, rental, sale and minor repair of trucks.

Value-added product sales means the sale of items that have been produced in a manner that enhances their value (such as organically), or items that have had a change in the physical state or form of the product (such as milling wheat into flour, making strawberries into jam, pressure canning vegetables, making salsa or producing honey) from an agricultural resource.

Vehicle storage yard means a place where vehicles, which have a current vehicle registration and bear a current license plate in accordance with state law, and not used in the conduct of a trade; business; or profession are kept for twenty-four (24) hours or longer. A vehicle storage yard does not include a yard for storage of dismantled or partially dismantled automobiles, storage of inoperable vehicles for longer than sixty (60) days, a parking lot, truck terminal, automobile wrecking, or junk yards.

Wall plane, primary, means a building wall or facade that faces the public right-of-way or street that provides the lot frontage. On through lots, corner lots or lots with multiple frontages on public rights-of-way, only one (1) such wall plane shall be required.

Wall plane, rear, means a building wall or facade that is ordinarily opposite to the primary wall plane.

Wall plane, side, means a building wall or facade on the side of a structure, other than the primary or rear wall plane.

Wholesale establishment means an establishment or place of business primarily engaged in selling and/or distributing merchandise to retailers; to industrial, institutional or professional business users; or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

Wholesale establishment with warehouse means the display, storage and sale of goods to other firms for resale, as well as activities involving significant movement and storage of products or equipment, including truck terminal or bus servicing facilities; motor freight transportation; moving and storage facilities; warehousing and storage activities.

Woodlot, commercial, means premises, or portions thereof, used for seasoning and storage of firewood and for cutting and splitting of timber to produce firewood for later resale (excluding sawmills, planing mills).

Yard, front, means an open space extending the full width of the lot between a building and the front lot line, unoccupied and unobstructed from the ground upward except as herein specified. The depth of a front yard is the shortest distance, measured horizontally, between any part of a building, exclusive of such parts herein excepted, and the front lot line.

Yard, rear, means an open space extending the full width of a lot between a building and the rear lot line, unoccupied and unobstructed from the ground upward except as herein specified. The depth of a rear yard is the shortest distance, measured horizontally, between any part of a building, exclusive of such parts herein excepted, and the rear lot line.

Yard, side, means an open space between a building and a side lot line, unoccupied and unobstructed from the ground upward, except as herein specified. The width of a side yard is the shortest distance, measured horizontally, between any part of a building, exclusive of such parts herein excepted, and the nearest side lot line.

Yard, side street side, means a yard abutting the side street of a corner lot, unoccupied and unobstructed from the ground upward, except as herein specified, and extending from the front yard line to the rear lot line, and being the least distance between the lot line abutting the side street and the building.

Youth camp means a facility for the primary purpose of providing activities for children, including social, recreational, spiritual and/or educational activities, including accessory and incidental food service, and operated for five (5) or more consecutive days during one (1) or more seasons of the year.

Zip line means a cable or rope line suspended between support structures enabling a person attached to a pulley to traverse from one point to another.

Zip line trail means an aerial trail system providing recreation and education that enables people to traverse terrain by means of a series of zip lines and platforms supported by manmade towers or ground anchors.

Zone means a portion of the territory within Lexington-Fayette Urban County within which certain regulations and requirements apply under the provisions of this Zoning Ordinance.

Zone, agricultural, means A-R, A-B, A-N or A-U zone.

Zone, business, means B-1, B-2, B-2A, B-2B, B-3, B-4, B-5P, B-6P or CC zone.

Zone, industrial, means an I-1, I-2 or ED zone.

Zone, mixed use, means an MU-1, MU-2 or MU-3 zone.

Zone, residential, means an 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 or PUD-1 zone.

Zoological garden means a park-like area in which live animals are kept in cages or large enclosures for public exhibition.

(Code 1983, 1-11; Ord. No. [263-83](#), § 1, 12-15-1983; Ord. No. [28-84](#), § 1, 3-8-1984; Ord. No. [89-86](#), §§ 1—4, 5-29-1986; Ord. No. [174-86](#), § 1, 8-28-1986; Ord. No. [198-86](#), § 1, 9-18-1986; Ord. No. [35-87](#), §§ 5, 6, 3-5-1987; Ord. No. [152-87](#), § 1, 7-9-1987; Ord. No. [153-87](#), § 1, 7-9-1987; Ord. No. [110-88](#), § 1, 6-2-1988; Ord. No. [112-88](#), § 1, 6-2-1988; Ord. No. [159-88](#), § 1, 7-7-1988; Ord. No. [154-89](#), § 1, 8-31-1989; Ord. No. [232-89](#), § 1, 12-7-1989; Ord. No. [1-90](#), § 1, 1-11-1990; Ord. No. [152-91](#), § 1, 7-18-1991; Ord. No. [30-92](#), § 1, 3-3-1992; Ord. No. [56-92](#), § 1, 5-14-1992; Ord. No. [86-92](#), § 1, 5-28-1992; Ord. No. [33-93](#), § 1, 3-11-1993; Ord. No. [44-93](#), § 1, 3-25-1993; Ord. No. [213-94](#), § 1, 1-20-1994; Ord. No. [55-94](#), § 1, 4-14-1994; Ord. No. [256-95](#), § 1, 1-30-1995; Ord. No. [30-95](#), § 1, 2-9-1995; Ord. No. [31-95](#), § 1, 2-9-1995; Ord. No. [42-95](#), § 1, 2-23-1995; Ord. No. [292-95](#), § 1, 12-7-1995; Ord. No. [71-96](#), § 1, 5-16-1996; Ord. No. [85-96](#), § 1, 5-30-1996; Ord. No. [155-97](#), § 1, 7-10-1997; Ord. No. [214-97](#), § 1, 10-16-1997; Ord. No. [13-98](#), § 1, 1-22-1998; Ord. No. [187-98](#), § 1, 7-2-1998; Ord. No. [226-98](#), § 1, 8-27-1998; Ord. No. [72-99](#), § 1, 3-25-1999; Ord. No. [211-99](#), § 1, 7-8-1999; Ord. No. [231-99](#), § 1, 8-26-1999; Ord. No. [324-2000](#), § 1, 11-9-2000; Ord. No. [371-2000](#), § 1, 12-14-2000; Ord. No. [83-2001](#), § 1, 4-5-2001; Ord. No. [307-2002](#), § 1, 12-5-2002; Ord. No. [207-2003](#), § 1, 8-28-2003; Ord. No. [50-2004](#), § 1, 3-18-2004; Ord. No. [133-2004](#), § 1, 6-24-2004; Ord. No. [203-2004](#), § 1, 8-26-2004; Ord. No. [295-2004](#), § 1, 12-2-2004; Ord. No. [286-2005](#), § 1, 10-20-2005; Ord. No. [299-2005](#), § 1, 11-3-2005; Ord. No. [341-2006](#), § 1, 12-7-2006; Ord. No. [240-2007](#), § 1, 11-1-2007; Ord. No. [61-2008](#), § 1, 4-10-2008; Ord. No. [227-2008](#), § 1, 10-23-2008; Ord. No. [129-2009](#), §§ 1—5, 7-2-2009; Ord. No. [96-2010](#), §§ 1—6, 6-10-2010; Ord. No. [99-2011](#), §§ 1, 2, 8-25-2011; Ord. No. [100-2011](#), § 1, 8-25-2011; Ord. No. [122-2011](#), § 2, 9-29-2011; Ord. No. [138-2012](#), § 1, 11-15-2012; Ord. No. [5-2013](#), § 1, 1-31-2013; Ord. No. [21-2013](#), § 1, 3-7-2013; Ord. No. [91-2013](#), § 1, 8-29-2013; Ord. No. [103-2013](#), § 1, 9-12-2013; Ord. No. [104-2013](#), § 1, 9-12-2013; Ord. No. [119-2013](#), § 1, 10-10-2013; Ord. No. [129-2013](#), § 1, 10-24-2013; Ord. No. [155-2013](#), § 1, 12-10-2013; Ord. No. [68-2015](#), § 1(1-11), 6-18-2015; Ord. No. [137-2016](#), § 1(1-11), 7-7-2016; Ord. No. [22-2017](#), § 1, 3-2-2017; Ord. No. [166-2017](#), § 1(1-11), 11-16-2017; Ord. No. [102-2020](#), §§ 1, 2, 10-22-2020)

Article 3 - GENERAL ZONE REGULATIONS

Sec. 3-1. - Application of zone regulations.

The regulations set by this Zoning Ordinance within each zone shall be minimum or maximum limitations, as appropriate to the case, and shall apply uniformly to each class or kind of structure or land, except as hereinafter provided:

- (a) No building, structure, or land shall hereafter be used or occupied; and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered except in conformity with all of the regulations herein specified for the zone in which it is located unless otherwise specifically permitted in this Zoning Ordinance.
- (b) No building or other structure shall hereafter be erected or altered:
 - (1) To exceed the height, bulk or floor area ratio;
 - (2) To accommodate or house a greater number of families;
 - (3) To occupy a greater percentage of lot area;

- (4) To have narrower or smaller rear yards, front yards, side yards, or other open spaces; or
- (5) To have less perimeter and interior lot landscaping for vehicular use area and non-compatible land uses than herein required, or in any other manner be contrary to the provisions of this Zoning Ordinance.
- (c) No part of a yard, open space, off-street parking, loading space or other special use area required about or in connection with any building or land, for the purpose of complying with this Zoning Ordinance, shall be included as part of a yard, open space, off-street parking, loading space or other special use area similarly required for any other building or land unless otherwise specifically permitted in this Zoning Ordinance.
- (d) No yard or lot existing at the time of adoption of this Zoning Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the adoption of this Zoning Ordinance shall meet at least the minimum requirements established by this Zoning Ordinance.
- (e) There shall be no more than one (1) principal structure and its accessory structures on any lot or parcel of land in an agricultural zone or in any residential zone, unless otherwise specifically permitted as a Group Residential Project or a Planned Unit Development in this Zoning Ordinance. In all other zones, more than one (1) principal building shall be permitted only if a development plan is approved by the Commission, as provided by Article 21.
- (f) Only those uses specifically named as principal, accessory, or conditional uses or substantially similar to principal, accessory or conditional uses are permitted in each zone. All uses not specifically permitted or substantially similar to permitted uses are prohibited. Prohibited uses shall include, but not be limited to, those specifically named as prohibited.

(Code 1983, 3-1; Ord. No. [263-83](#), § 1, 12-15-1983; Ord. No. [153-87](#), § 1, 7-9-1987; [Ord. No. 22-2017](#), § 2(3-1), 3-2-2017; [Ord. No. 166-2017](#), § 2(3-1), 11-16-2017)

Sec. 3-2. - Conversion of structures.

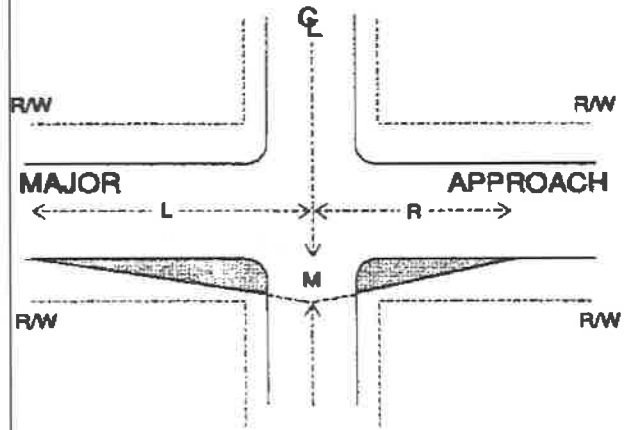
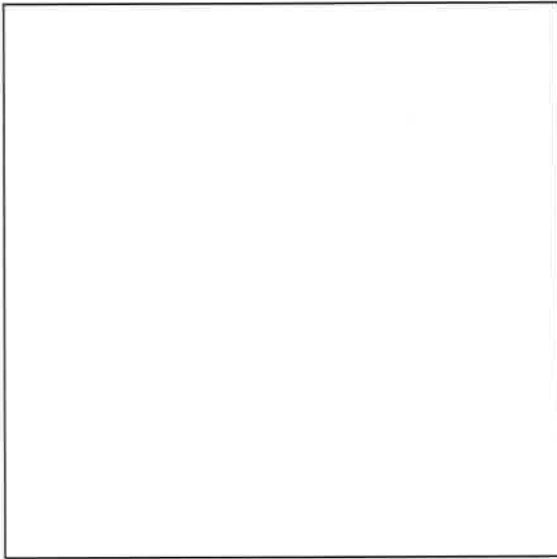
The conversion of any structure or structures, either residential or nonresidential, so as to accommodate an increased number of dwelling units or families, or another permitted use, shall be permitted only within a zone in which a new building for similar occupancy would be permitted under this Zoning Ordinance. The resulting occupancy shall comply with all requirements governing new construction in such zone, including, but not limited to, floor area, floor area ratios, dimension of yards, open spaces, and off-street parking. The aforesaid requirements with respect to yards shall not apply if the conversion involves no exterior structural changes to a principal building, but shall apply if an accessory building is converted to a principal building.

(Code 1983, § 3-2; Ord. No. [263-83](#), § 1, 12-15-1983; Ord. No. [109-87](#), § 1, 6-11-1987; Ord. No. [307-2002](#), § 1, 12-5-2002; [Ord. No. 166-2017](#), § 2(3-2), 11-16-2017)

Sec. 3-3. - Sight triangles for traffic visibility.

Except as permitted herein, in any zone, at any street intersection, railroad crossing, or any driveway intersection, no fence, structure or planting, other than ground cover, shall be erected or installed within the sight distance triangle as shown in the table and the illustrations below.

MAJOR APPROACH



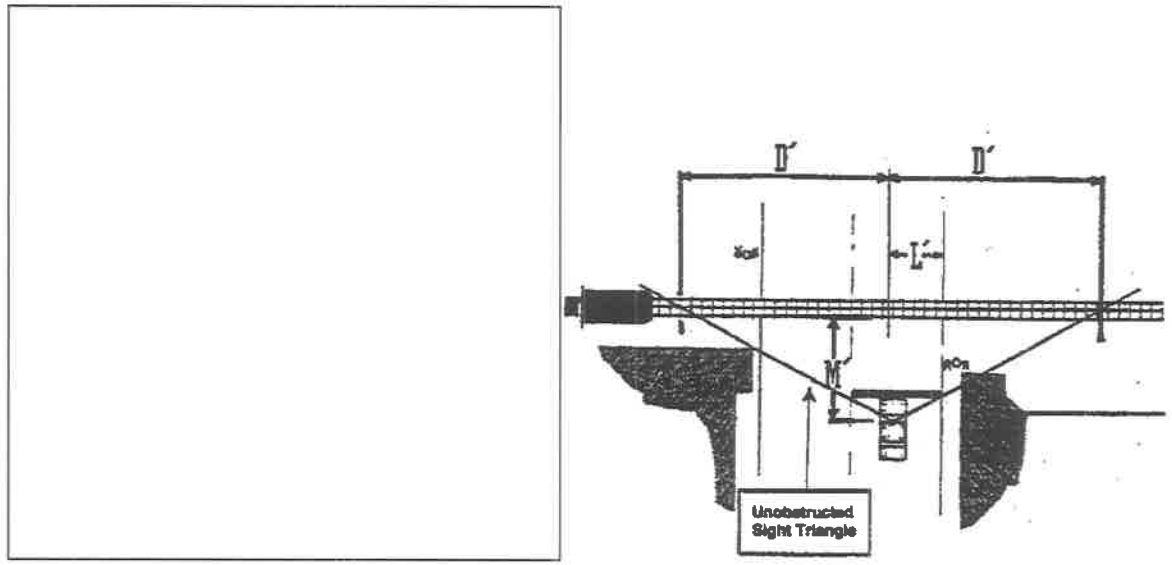
SIGHT TRIANGLES AT INTERSECTIONS 1, 2, 3

MINOR APPROACH

		PUBLIC OR PRIVATE STREET	DRIVEWAY
MAJOR APPROACH	Major Arterial	L = 325 feet	L = 325 feet
		R = 150 feet	R = 150 feet
		M = 15 feet	M = 15 feet
	Minor Arterial	L = 325 feet	L = 275 feet
		R = 150 feet	R = 150 feet
		M = 15 feet	M = 15 feet
	Collector	L = 200 feet	Nonresidential
		R = 150 feet	L = 200 feet
		M = 15 feet	R = 150 feet
			M = 15 feet
		Residential	

			L = 150 feet
			R = 120 feet
			M = 15 feet
	Local Street	L = 175 feet	L = 75 feet
		R = 130 feet	R = 55 feet
		M = 15 feet	M = 10 feet

UNOBSTRUCTED SIGHT TRIANGLE



SIGHT TRIANGLES AT RAILROAD CROSSINGS 1, 2, 3
APPROACH

	PRIVATE OR PUBLIC STREET OR HIGHWAY	ANY TYPE OF PRIVATE DRIVEWAY
Railroad Approach	D = 725' M = 35' or 9 feet behind stop bar, whichever is greater L = 8'	D = 325' M = 25' L = 6'

Where D' =	Distance along rail	Distance along rail
Where M' =	Distance from rail/stop bar	Distance from rail
Where L' =	Distance from edge of pavement	Distance from edge of pavement

¹ The table assumes right angle intersections and straight major approach movements within the sight distance. Situations involving skewed intersections, curvilinear streets and other mitigating factors shall have sight distances, as determined by the Urban County Traffic Engineer.

² In the B-2, B-2A, and B-2B zones, the sight triangle may be modified at signalized intersections, as determined by the Urban County Traffic Engineer.

³ Wire or chain link fences may be located within the sight triangle when approved by the Division of Traffic Engineering and the Division of Building Inspection upon a finding that visibility would not be impaired.

(Code 1983, § 3-3; Ord. No. [263-83](#), § 1, 12-15-1983; Ord. No. [158-88](#), § 1, 7-7-1988; Ord. No. [29-2006](#), §§ 1, 2, 2-9-2006; [Ord. No. 166-2017](#), § 2(3-3), 11-16-2017)

Sec. 3-4. - Agricultural land use exemptions.

Notwithstanding any other provision of this Zoning Ordinance, land which is used solely for agricultural use, as defined herein, shall have no regulations imposed as to building permits, certificates of occupancy, height, yard, or location requirements for agricultural buildings, except that a setback line of thirty (30) feet shall be required for agricultural buildings for the protection of existing and proposed streets and highways; and that all buildings or structures in a designated floodway or floodplain, or which tend to increase flood heights or obstruct the flow of floodwaters, may be fully regulated. Any parcel of land used for an urban agricultural use with the Urban Service Area, as defined herein, shall also be exempt from use restrictions listed in each zone, but buildings proposed for such uses shall be subject to building permit, zoning setback, floodplain setback and certificate of occupancy requirements contained herein.

(Code 1983, § 3-4; Ord. No. [263-83](#), § 1, 12-15-1983; Ord. No. [143-95](#), § 1, 6-29-1995; Ord. No. [211-99](#), § 1, 7-8-1999; [Ord. No. 22-2017](#), § 2(3-4), 3-2-2017; [Ord. No. 166-2017](#), § 2(3-4), 11-16-2017)

Sec. 3-5. - Fallout shelters.

Fallout shelters, as defined by this Zoning Ordinance, shall be permitted as principal or accessory uses in all zones subject to applicable yard, height, area, and other regulations for principal or accessory structures for the zone in which such shelter is located.

(Code 1983, § 3-5; Ord. No. [263-83](#), § 1, 12-15-1983; [Ord. No. 166-2017](#), § 2(3-5), 11-16-2017)

Sec. 3-6. - Mixed-income housing bonuses.

Units that are designated as Mixed-Income Housing Units in order to receive either additional density, parking reductions or additional floor area shall be restricted by the developer exclusively to mixed-income housing for a minimum period of five (5) years. Further, such units shall be identified separately in the Certificate of Land Use Restriction filed for the development where the units are located; and such units shall be subject to a deed restriction in favor of the Lexington-Fayette Urban County Government, which shall restrict the use of the property and shall establish monitoring procedures to ensure that the units remain affordable during the period. Affordable housing units within the defined Expansion Area shall be subject to Article 23A-2(w).

(Code 1983, § 3-6; Ord. No. 129-2009, § 6, 7-2-2009; Ord. No. 166-2017, § 2(3-6), 11-16-2017)

Sec. 3-7. - General regulations for cemetery protection.

Existing private family cemeteries shall be permitted to remain in all zones. Upon the filing of a development plan or subdivision plan, a private family cemetery shall be preserved and protected in its existing location or relocated within Fayette County unless specifically requested by family or other heirs, and shall be regulated as follows:

- (a) Disinterment and relocation of graves shall be accomplished in accordance with all applicable local and state requirements and with the knowledge and approval of the Kentucky Office of Vital Statistics.
- (b) Preservation and protection of a cemetery, either left in place or once relocated, shall be subject to the following requirements:
 - (1) No construction or disturbance of any kind shall occur within fifty (50) feet of a cemetery boundary, regardless of property lines or ownership, except as provided herein (fence, wall, access easement or landscaping).
 - (2) Screening and landscaping shall be provided as stated in Section 18-3(a)(1). If a cemetery is located on a larger tract of property, then screening shall be located adjacent to the cemetery fence inside the 50-foot buffer area.
 - (3) When a cemetery is identified on land proposed for development, the cemetery boundary shall be established based on historic records, fence lines, gravesite locations or other criteria, as determined by a certified archeologist, prior to any construction or disturbance.
 - (4) A cemetery boundary study performed by a certified archeologist shall be submitted with any development plan, preliminary subdivision plan, and minor or major subdivision plat for land with identified cemeteries or burial grounds. Such study shall include a map that portrays the location and orientation of graves within the cemetery and the associated geographic coordinates, and a written description of field and archival methods used to document the cemetery.
 - (5) Any existing cemetery fence, wall and/or gate on the subject property shall be maintained and repaired prior to any site work or disturbance on any surrounding property. Where none exists, a new permanent fence shall be erected prior to any site work or disturbance on the subject property. Such fence shall be constructed of durable and weather-resistant materials (i.e., brick, stone, iron and/or steel).
 - (6) A statement of maintenance and permanent ownership shall be made on any development plan.
 - (7) Access shall be provided to the cemetery with a minimum ten-foot-wide access easement.

(Code 1983, § 3-7; Ord. No. 5-2010, § 1, 1-14-2010; Ord. No. 166-2017, § 2(3-7), 11-16-2017)

Sec. 3-8. - General regulations for vehicle repairs accessory to a residential use.

Shall be regulated as follows:

- (a) Vehicles being repaired shall be parked/stored on a paved surface or on a permitted or legally non-conforming gravel surface if a paved surface is not available.
- (b) Major repairs shall be confined to the interior of a garage or other enclosed building, and shall not include any finish painting or clear coating operations.
- (c) At outdoor locations, including any unenclosed structure such as a carport, only minor repairs are allowed. Only one (1) vehicle per dwelling at an outdoor location can be under repair at any given time, and repairs must be completed within three (3) days.
- (d) Repairs are only allowed on vehicles that are registered to an occupant of the dwelling on the subject property.
- (e) Repairs may not be conducted as a business or as part of a commercial operation of any kind.
- (f) All waste oil and fluids shall be recycled or disposed of at an approved off-site location in compliance with local, state and federal environmental regulations. Auto parts and tires shall be recycled or disposed of in accordance with current LFUCG Division of Waste Management guidelines and in compliance with local, state and federal environmental regulations.

(Code 1983, § 3-8; Ord. No. 103-2013, § 2, 9-12-2013; Ord. No. 166-2017, § 2(3-8), 11-16-2017)

Sec. 3-9. - Parking and storage of business vehicles, trailers, equipment and materials in residential zones.

Shall be regulated as follows:

- (a) One business vehicle per dwelling is permitted, provided it has no more than two (2) axles and a GVWR (gross vehicle weight rating) of no greater than fourteen thousand pounds (14,000 lbs.) and is used for daily transportation to and from work. Such a vehicle must be parked on a permitted paved surface or on a legal non-conforming (existed prior to December 5, 2002) gravel surface. Dump trucks, box trucks, cube vans, high-roof cargo vans (greater than eight-foot height, as measured from ground to top of roof), earth-moving machinery, tow trucks, transport wreckers, semi-trucks and tractor-trailers, concession trucks and vans, and flat-bed trucks are specifically prohibited, even if they technically comply with the above limits.
- (b) One business trailer per dwelling (open or closed), used in conjunction with an allowed business vehicle, may be parked or stored on a permitted paved surface or legal non-conforming gravel surface. Any such trailer is limited to a length of no greater than twelve (12) feet. Concession trailers are specifically excluded from this category of allowable trailers, even if they technically comply with axle and length limitations.
- (c) Trailers, equipment or materials shall not be parked or stored on any public or private street.
- (d) Construction materials (such as siding or brick) and salvaged items (such as used appliances or scrap metal) may not be stored.
- (e) Business activities (e.g., selling of merchandise or customer visits) shall not take place on the premises, except as allowed by home office provisions or as authorized by a conditional use approved by the Board of Adjustment. Corollary business activities, such as the storage of merchandise or having employees report to the property, are also prohibited.

(Code 1983, § 3-9; Ord. No. 104-2013, § 2, 9-12-2013; Ord. No. 166-2017, § 2(3-9), 11-16-2017)

Sec. 3-10. - General regulations for operation of a home office or home occupation.

Shall be as follows:

- (a) The use shall be clearly incidental and secondary to use for dwelling purposes with no more than three hundred (300) square feet of the dwelling devoted to each use;
- (b) The use shall be operated by and shall employ only residents of the dwelling;
- (c) No commodities or merchandise shall be stored on the property other than those produced and/or repaired by the residents on the premises; any firearms being modified or repaired on the premises as part of a home occupation shall be located in a locked safe and shall never be discharged on site
- (d) The residence shall maintain its residential character and shall not be altered or remodeled so as to change the residential appearance of the building;
- (e) No outside signage ~~related to the use~~ shall be permitted on the premises;
- (f) The use shall be located in the dwelling unit and not in any accessory building;
- (g) On-site sales or visits to the home by customers, clients, patrons and the general public are not allowed, excluding the pick-up of pre-ordered items or drop-off of items to be repaired;
- (h) The use does not involve ~~firearms or~~ potentially disturbing equipment, materials or chemicals.

These provisions are not intended to restrict offices accessory to principal permitted agricultural uses located in homes on the same agricultural property.

A home office shall not include offices for escort services.

([Ord. No. 166-2017](#), § 2(3-10), 11-16-2017)

Sec. 3-11. - General regulations for operation of a home-based business.

Shall be as follows:

- (a) All activities shall comply with the provisions outlined in section 3-10(a) through (f) above;
- (b) Any conditions regarding the use of firearms or potentially disturbing equipment, materials or chemicals (e.g., soundproofing or other safety measures) shall be as determined to be appropriate by the Board of Adjustment;
- (c) Limitations on hours of operation and frequency of customer/client visits shall be as determined to be appropriate by the Board of Adjustment;
- (d) No additional paving for parking shall be permitted;
- (e) The use does not adversely affect surrounding properties by excessive traffic generation, noise or odors that might be associated with equipment, materials or chemicals used in the operation of the home-based business.

([Ord. No. 166-2017](#), § 2(3-11), 11-16-2017)



STAFF REPORT ON PETITION FOR ZONING ORDINANCE TEXT AMENDMENT

**PLN-ZOTA-21-00004: AMENDMENT TO ARTICLES 1-11 AND 3-10:
HOME OCCUPATIONS AND HOME-BASED BUSINESSES**

APPLICANT: Urban County Planning Commission

PROPOSED TEXT: See attached documentation
(Note: Text underlined indicates an addition to the existing Zoning Ordinance;
text ~~stricken through~~ indicates a deletion.)

STAFF REVIEW:

The Zoning Ordinance currently regulates businesses operated in a residence under three categories (with the exception of in-home childcare). Each of these categories is defined in Article 1 and further regulated in Article 3. Home Offices and Home Occupations are currently regulated as principal permitted uses in residential zones. Home-Based Businesses are conditional uses, subject to review and approval by the Board of Adjustment. Home-based work has been regulated in the Zoning Ordinance for many years with success, but regular revisions are important to insure that access to this type of employment is equitable and to mitigate potential negative impacts on neighbors.

The 2018 Comprehensive Plan specifically calls for an update to the Zoning Ordinance to “increase flexibility on types of home occupations allowed” (Theme C, Policy #6). The attached language has been developed to modernize the regulations related to home-based work and to promote greater consistency between local and state laws. In particular, the proposed amendment will reconcile the Zoning Ordinance with state laws related to firearms and “home-based processing.”

The Board of Adjustment sees home-based business conditional use applications related to firearms with some regularity. These businesses are generally related to gunsmith work, including repairs and modifications, but have also included the appraisal of rare and antique firearms. Because they generally do not involve customers coming into the home, these are types of home-based work that would typically be considered home occupations, if they were handling items other than firearms. In recent years, it has come to light that the Zoning Ordinance’s current regulation of home-based work related to firearms is in conflict with state laws preventing local governments from regulating firearms related businesses differently than other businesses. KRS 100.325 and KRS 65.870 specifically limit local governments’ abilities to enact regulations related to firearms. KRS 65.870 states that “no local government may occupy any part of the regulation of the manufacture, sale, purchase, taxation, transfer, ownership, possession, carrying, storage, or transportation of firearms, ammunition, components of firearms, components of ammunition, firearms accessories, or combination thereof.” KRS 100.325 specifically addresses zoning laws, stating that no local government shall “utilize the zoning process to prohibit a federally licensed firearms manufacturer, importer, or dealer from locating at any place within the jurisdiction at which any other business may locate.”



Due to these state laws, conditional use applications for home-based businesses related to firearms have become fraught, as the Board of Adjustment does not have the authority to disapprove or add significant conditions to an application solely because it involves the handling of firearms. Staff recommends the proposed changes to Article 1 and 3 to remove references to firearms to insure that they are treated the same as any other item which might be repaired, modified, or appraised as part of a home occupation or home-based business. It is important to note that any business dealing with firearms is required to secure a Federal Firearms License (FFL), which is regulated by the Federal Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF).

The proposed changes also modify an existing prohibition on home-cooking, which has historically been prohibited due to the necessity for a commercial kitchen, installation of which could represent a substantial change to the residential character of a house. Laws which took effect in 2019 related to home-based processing and home-based micro-processing programs were developed by the state in order to allow for small-scale production of certain food products deemed safe to produce without a commercial kitchen. These programs are run by the Food Safety Branch within the Cabinet for Health and Family Services and allow for home-based production of a specific list of food items, examples of which include, but are not limited to cookies, cakes, candy, jams, and granola made with dried grains. Food items with a higher risk of food-borne illness are prohibited including, but not limited to custard pies, cheesecakes, and pureed baby foods. Currently, at least 59 individuals in Fayette County have received licenses from the state to operate as home-based processors, and 5 individuals are licensed as home-based microprocessors. Staff recommends the proposed text changes in order to allow those individuals to come into compliance with the Zoning Ordinance.

In addition to reconciling the Zoning Ordinance with relevant state laws, the proposed modifications to Articles 1 and 3 are in agreement with the 2018 Comprehensive Plan. Theme C, Diversity Pillar, Policy #6 explicitly calls for an increase in flexibility on types of home occupations allowed. Providing opportunities for individuals to conduct business in their homes by processing food items that are specifically limited by the state's regulations will allow for a significant number of individuals to come into compliance with the Zoning Ordinance and will allow others to establish this type of business legally. This will create flexible job opportunities further allowing individuals to utilize their homes for work in ways that are unlikely to have significant impacts on the surrounding neighborhood, allowing context-sensitive employment opportunities and upward mobility (Theme C, Diversity Policy #5, Theme C, Policy #2, Theme A, Goal #3.a, Theme C, Goal #1a).

Applicable Goals, Objectives, and Policies:

Theme A, Goal #3.a: Enable existing and new neighborhoods to flourish through improved regulation, expanded opportunities for neighborhoods character preservation, and public commitment to expand options for mixed-use and mixed-type housing throughout Lexington-Fayette County.

Theme C, Goal #1.a: Strengthen efforts to develop a variety of job opportunities that lead to prosperity for all.

Theme A, Goal #3.a: Enable existing and new neighborhoods to flourish through improved regulation, expanded opportunities for neighborhood character preservation, and public commitment to expand options for mixed-use and mixed-type housing throughout Lexington-Fayette County.



Theme C, Diversity Policy #5: Maximize context-sensitive employment opportunities within the opportunity zone tracts, providing equitable community development and prioritizing local residents for advancement opportunities.

Theme C, Policy #2: Encourage a diverse economic base to provide a variety of job opportunities, allowing upward mobility for lower income residents of Fayette County.

Theme C, Policy #6: Increase flexibility on types of home occupations allowed.

The Staff Recommends: Approval of the proposed Text Amendment to the Zoning Ordinance, for the following reasons:

1. The proposed text amendment supports and implements the 2018 Comprehensive Plan, in the following ways:
 - a. The amendment was developed in response to the implementation item calling for an increase in flexibility on types of home occupations allowed (Theme C, Policy #6).
 - b. The proposed changes will maximize context-sensitive employment opportunities within the opportunity zone tracts, providing equitable community development and prioritizing local residents for advancement opportunities (Theme C, Diversity Policy #5).
 - c. The amendment will encourage a diverse economic base to provide a variety of job opportunities, allowing upward mobility for lower income residents of Fayette County (Theme C, Policy #2).
 - d. The amendment will enable existing and new neighborhoods to flourish through improved regulation, expanded opportunities for neighborhood character preservation, and public commitment to expand options for mixed-use and mixed-type housing throughout Lexington-Fayette County (Theme A, Goal #3.a).
 - e. The amendment will strengthen efforts to develop a variety of job opportunities that lead to prosperity for all (Theme C, Goal #1.a).
2. The amendment will modernize the Zoning Ordinance, reconciling its requirements with relevant state laws.

AMG/HB/TLW

6/29/21

Planning Services/Staff Reports/ZOTA/2021/PLN-ZOTA-21-00004 Home Occupations.doc



C. PUBLIC HEARINGS ON ZONING ORDINANCE TEXT AMENDMENTS

1. **PLN-ZOTA-21-00004: AMENDMENT TO ARTICLE 1-11 AND 3-10: HOME-BASED BUSINESSES AND HOME OCCUPATIONS** – petition for a Zoning Ordinance text amendment to Article 1-11 and 3-10 of the Zoning Ordinance to modernize the definition of Home-based businesses and Home occupations to greater comply with the established state regulations.

INITIATED BY: URBAN COUNTY PLANNING COMMISSION

PROPOSED TEXT: Copies are available from the staff.

The Zoning Committee Recommended: Approval.

The Staff Recommends: Approval of the Staff Text, for the following reason:

1. The proposed text amendment supports and implements the 2018 Comprehensive Plan, in the following ways:
 - a. The amendment was developed in response to the implementation item calling for an increase in flexibility on types of home occupations allowed (Theme C, Policy #6).
 - b. The proposed changes will maximize context-sensitive employment opportunities within the opportunity zone tracts, providing equitable community development and prioritizing local residents for advancement opportunities (Theme C, Diversity Policy #5).
 - c. The amendment will encourage a diverse economic base to provide a variety of job opportunities, allowing upward mobility for lower income residents of Fayette County (Theme C, Policy #2).
 - d. The amendment will enable existing and new neighborhoods to flourish through improved regulation, expanded opportunities for neighborhood character preservation, and public commitment to expand options for mixed-use and mixed-type housing throughout Lexington-Fayette County (Theme A, Goal #3.a).
 - e. The amendment will strengthen efforts to develop a variety of job opportunities that lead to prosperity for all (Theme C, Goal #1.a).
2. The amendment will modernize the Zoning Ordinance, reconciling its requirements with relevant state laws.

Staff Text Amendment Presentation – Ms. Autumn Goderwis, Senior Planner for the Board of Adjustment, presented and summarized the staff report and recommendations for this text amendment. She said that this text amendment was initiated by the 2018 Comprehensive Plan, in regards to Theme C, Policy #6, which called for the increase in flexibility on the types of home occupations that are allowed. She said that currently there are three tiers of home based work in the Zoning Ordinance. The tiers include: a) home office, which is for record-keeping and administration of work; b) home occupation, where producing a product and selling them at another location, with no customers coming to the house; and c) home-based business, which include customers coming to the house or the use of disturbing materials to the surrounding properties. She said that home offices and home occupations are regulated as accessory uses to the residential use of the property. Home-based businesses are regulated as a conditional use and must be reviewed by the Board of Adjustment. The Board holds a public hearing and can conditional approve a permit for a home-based business. She added that in all of these businesses there are not any employees on the site.

Ms. Goderwis said that the proposed text amendment will incorporate some new Kentucky State regulations. She said that the staff is expecting a second part of this amendment with a more comprehensive review of home-based businesses and home occupations. She said that there are two categories being reviewed at this time, the first is home-based businesses and home occupations related to firearms. She said that currently the Zoning Ordinance states that any business with firearms is a home-based business, rather than a home-occupation, no matter if customers are coming to the house or not, and the Board of Adjustment must hear these as conditional uses. She added that there are state regulations that prohibit local jurisdictions from regulating the manufacture, sale, purchase, taxation, transfer, ownership, possession, carrying, storage, or transportation of firearms, ammunition, components of firearms and ammunition, firearms accessories, or combination thereof. She said that this text amendment would eliminate the extra regulation of firearm related home occupations, so that they will not be treated any differently than any other type of item or product. The second category of this text amendment is related to home-based processing, which would allow individual farm owners to produce some food products on their property to be sold to the public. She said that the Zoning Ordinance has historically prohibited catering and home cooking as home-based business, because of the need for a commercial kitchen. In 2019, the state added flexibility for individuals, not on a farm and who don't have a commercial kitchen to produce certain food items in their homes to sell. These food items include:

- a) Foods listed in KRS 217.015(56); including but not limited to dried herbs, spices, nuts, candy, dried grains, whole fruit and vegetables, mixed-greens, jams, jellies, sweet sorghum syrup, preserves, fruit butter, bread, fruit pies, cakes, or cookies, and who has a gross income of no more than sixty thousand dollars (\$60,000) annually from the sale of the products;
- b) Dried or freeze dried whole fruits or vegetables;
- c) Candy that shall be:
 1. Produced without added alcohol; and
 2. Made with no bare-hand contact;
- d) Maple syrup;

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

- e) Pecan pies;
- f) Granola that may be made with dried grains;
- g) Trail or snack mix that may be made with dried fruit, nuts, or seeds; and
- h) Popcorn that may be plain or have added seasonings.

Ms. Goderwis said that home-based microprocessing, which includes but is not limited to acid foods, formulated acid food products, acidified food products, or low-acid canned foods. She said that the following foods shall not be processed or offered for sale by a home-based processor or home-based microprocessor:

- a) Crème filled pies;
- b) Custard;
- c) Custard pies;
- d) Pies with meringue topping;
- e) Cheesecake;
- f) Cream, custard, or meringue pastries;
- g) Raw seed sprouts;
- h) Garlic-in-oil products; and
- i) Pureed baby foods.

Ms. Goderwis said that the proposed text also includes a provision which says that a home occupation may include the pick-up of pre-ordered items or drop-off of items to be repaired, which will not be considered as a customer visiting the home because they won't be spending any length of time at the house. She said the proposed text also provides a provision that firearms being modified or repaired on the premises as part of a home occupation shall be located in a locked safe and shall never be discharged on site, which is related to an ATF regulation that requires licenses to ensure that all firearms are accounted for at all times. She added that the staff is recommending approval of this text amendment.

Commission Question – Mr. de Movellan asked if there is a limit of the number of people that can work inside of the home. Ms. Goderwis said that only the individuals that reside in the home can work there. She said that there are no employees coming to the home to work.

Citizen Comment – There were no citizens present to speak to this application.

Motion – A motion was made by Ms. Meyer, seconded by Mr. Pohl, and carried 9-0 (Penn absent) to approve PLN-ZOTA-21-00004: AMENDMENT TO ARTICLE 1-11 AND 3-10: HOME-BASED BUSINESSES AND HOME OCCUPATIONS, for the reason provided by the staff.

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