

ATTACHMENT A

Proposed Text Amendments to the Kenton County Zoning Ordinance
Words to be **deleted** are ~~lined through~~ - Words to be **added** are underlined.

ZONING ORDINANCE - KENTON COUNTY, KY

ARTICLE VII DEFINITIONS

SECTION 7.0 WORDS AND PHRASES:

For the purposes of this ordinance, certain terms, phrases, words, and their derivatives are herewith defined as follows:

Words used in the future tense include the present;

Words used in the present tense include the future;

Words used in the singular include the plural;

Words used in the plural include the singular;

Words used in the masculine include the feminine;

Words used in the feminine include the masculine;

The word "shall" is mandatory;

The word "may" shall be deemed as permissive.

ACCESSORY BUILDING OR USE, CUSTOMARY: A "customary accessory building or use" is one which:

- a. Is subordinate to and serves the principal building or principal use;
- b. Is subordinate in area, extent, or purpose to the principal building or principal use served;
- c. Contributes to the comfort, convenience, or necessity of occupants of the principal building or principal use served; and
- d. Is located on the same lot as the principal building or principal use served, with the single exception of such accessory off - street parking facilities as are permitted to locate elsewhere than on the same lot with the building or use served.

ACCESS POINT: An access point is:

- a. A driveway, a local street, or a collector street intersecting an arterial street;
- b. A driveway or a local street intersecting a collector street; or
- c. A driveway or a local street intersecting a second local street.

AGRICULTURE: The use of land for major agricultural purposes, including agriculture, dairying, farming, floriculture, horticulture, pasturage, viticulture, and animal and poultry husbandry and the necessary accessory uses for packing, treating, or storing the produce; provided, however, that the operation of any such accessory use shall be secondary to that of the normal agricultural activities.

AGRICULTURAL BUILDING: A building or structure used in connection with, or which would ordinarily be incidental to or reasonably necessary for agricultural activity on agricultural land or buildings used for equipment storage, livestock or agricultural production and sales on an operating farm.

[Ord. # 930.5, Adding definition, 01/24/2023]

Effective on: 1/24/2023

AGRI-TOURISM: Any agricultural, horticultural, or agribusiness operation for the purpose of education, active involvement, or enjoyment in the activities of the farm. These activities must be directly related to agricultural production or natural resources of an operating farm. Celebration venues are permitted which utilize agricultural buildings and/or settings of an operating farm.

[Ord. # 930.5, Amending definition, 01/24/2023]

Effective on: 1/24/2023

AIR RIGHTS: The ownership or control of that area of space at and above a horizontal plane over the ground surface of land. This horizontal plane shall be at a height above the existing or proposed development (depending on the individual property in question) which is reasonably necessary or legally required for the full and free use of the ground surface.

ALLEY: Public rights - of - way which normally affords a secondary means of access to abutting property.

AMERICAN ASSOCIATION OF NURSERYMEN, INC. (STANDARDS): The Association's Horticultural Standards Committee maintains and revises horticultural standards (see American Standards for Nursery Stock) to comply with the standards procedures of the American National Standards Institute.

AMERICAN STANDARD FOR NURSERY STOCK (ANSI Z60.1 - 1990): An American National Standard implies a consensus of those substantially concerned with its scope and provisions. An American National Standard is intended as a guide to aid the manufacturer, the consumer, and the general public.

APARTMENT: A portion of a building consisting of a room or suite of rooms intended, designed, or used as a permanent residence by an individual or one (1) family.

APARTMENT HOUSE: See DWELLINGS, MULTI - FAMILY.

AUTOMOBILE LAUNDRY: A building or portion thereof, containing facilities for washing more than two (2) automobiles, using production line methods. The use of personnel for one or more phases of this operation in conjunction with or without complete automatic or mechanical devices does not alter its classification. For the purpose of this ordinance, coin operated devices, of the above nature, which are operated on a self - service basis shall be construed to be the same.

AUTOMOBILE AND TRAILER SALES AREAS: Any area used for the display, sale, or rental of new or used automobiles or trailers, and where only minor incidental repair of such automobiles or trailers may take place.

BASAL AREA: The total cross sectional area of a tree trunk measured at Diameter at Breast Height (DBH).

BASEMENT: That portion of a building between floor and ceiling, which is so located that the vertical distance from the average level of the adjoining grade to the floor below is greater than the vertical distance from the average level of the adjoining grade to the ceiling.

BED AND BREAKFAST ESTABLISHMENT: An establishment in which breakfast or other meals may be served to guests and whose innkeeper resides on the premises or property adjacent to the premises during periods of occupancy. Bed and breakfasts are typically small scale and in an agriculture or small community setting.

BILLBOARD: a sign, having an area greater than twenty-five (25) square feet, and which meets any one or more of the following criteria:

- a. a permanent structure sign which is used for the display of offsite commercial messages;
- b. a permanent structure sign which constitutes a principal, separate or secondary use, as opposed to an accessory use, of the parcel on which it is located; or

- c. an outdoor sign used as advertising for hire, i.e., on which display space is made available to parties, other than the owner or operator of the sign or occupant of the parcel (not including those who rent space from the sign owner, when such space is on the same parcel as the sign), in exchange for a rent, fee or other consideration.

BOARD OF ADJUSTMENTS: Board of Adjustments of the county.

BUFFER AREA: Areas so planned and/or zoned which act as a buffering or separation area between two (2) or more uses or structures not compatible, due to design, function, use, or operation.

BUILD-OUT STUDY YEAR: A point in time two years after a proposed development is expected to be completed.

BUILDING: A structure enclosed within exterior walls or firewalls for the shelter, housing, support, or enclosure of persons, animals, or property of any kind.

BUILDING, ALTERATION OF: Any change or rearrangement in the supporting members (such as bearing walls, beams, columns, or girders) of a building, or any addition to a building, or movement of a building from one location to another.

BUILDING AREA OR LOT COVERAGE BY BUILDING: That portion of a lot or building site that can be legally occupied by the ground floor of the principal building or use and all permitted accessory uses.

BUILDING, COMPLETELY ENCLOSED: A building separated on all sides from the adjacent open space, or from other buildings or other structures, by a permanent roof and by exterior walls or party walls, pierced only by windows and normal entrance or exit doors.

BUILDING, DETACHED: A building surrounded by open space on the same lot or tract of land.

BUILDING, HEIGHT OF: The vertical distance measured from average elevation of the finished grade adjoining the building at the front building line to the highest point of the roof surfaces, if a flat roof; to the deck line of a mansard roof; and to the average height level between eaves and ridge for gable, hip, and gambrel roofs.

BUILDING INSPECTOR: The official or officials appointed by the legislative body to administer and enforce the building codes.

BUILDING PERMIT: A permit issued by the legislative body's building inspector authorizing the construction or alteration of a specific building, structure, sign, or fence.

BUILDING, PRINCIPAL: The building on a lot used to accommodate the primary use to which the premises are devoted.

BUILDING SETBACK LINE: A line parallel to the front, side, and/or rear lot line and set back from the lot line a distance to provide the required minimum yard space, as specified in this ordinance.

BUILDING SITE: One contiguous piece of land that meets all of the provisions of the legislative body's ordinances, regulations, and codes for building on said site.

CALIPER: The measurement of the tree trunk taken six (6) inches above the ground up to and including four (4) inch caliper size, or twelve (12) inches above the ground for larger trees.

CAMPING/VACATION MOBILE UNIT: Any coach, cabin, house trailer, house car or other vehicle or structure intended for, designed for, and used for temporary human habitation or sleeping purposes, mounted upon wheels or supports, or supported and/or capable of being moved by its own power or transported by another vehicle.

CANOPY (MARQUEE): A roof - like structure open on three (3) sides serving the purpose of protecting pedestrians from rain, snow, sun, or hail, which structure projects from a building.

CANOPY COVER: The area that a tree or trees' canopy covers which generally corresponds to a percentage of ground surface area.

CARPORT: See GARAGE, PRIVATE.

CHANGEABLE COPY SIGN, AUTOMATIC: "Automatic changeable copy sign" means a type of sign on which the copy changes automatically through the use of electronic or electro-mechanical technology. All changeable copy shall be included within the allotted face of sign square footage.

CHANGEABLE COPY SIGN, MANUAL: "Manual changeable copy sign" means any sign on which copy for all or a portion of the sign can be changed by a human being removing or rearranging letters, symbols or numerals. All changeable copy shall be included within the allotted face of sign square footage.

CHILD DAY CARE CENTER: See NURSERY SCHOOL.

CITIZEN MEMBER: Any member of the Planning Commission or Board of Adjustments who is not an elected or appointed official or employee of the legislative body.

CLINIC, ANIMAL: A building used by medical persons for the treatment of small animals on an out - patient basis only, without animal runs.

CLINIC, HUMAN CARE: A building used by medical persons for the treatment of persons on an out - patient basis only.

CLUB: An association of persons for some common objective, usually jointly supported and meeting periodically.

COMMERCIAL MESSAGE: Words, symbols, logos, pictures or any combination thereof that identify which directs attention to a business, commodity, service or entertainment sold or offered for sale or a fee.

COMMISSION (PLANNING COMMISSION OR PLANNING AND ZONING COMMISSION): The Kenton County and Municipal Planning and Zoning Commission, Kenton County, State of Kentucky.

COMPATIBILITY STANDARDS: Standards that have been enacted by a local government under the authority of this section for the purpose of protecting and preserving the monetary value of real property located within the local government's jurisdiction.

COMPLEX (COMMERCIAL): Multiple sites that do not meet the definition of "Center, integrated" but that meet all of the following criteria: the sites are cumulatively contiguous; the sites form a defined geographic area, typically extending to public streets, highways, waterways or other natural or human-built geographic boundaries; the owners or agents for the owners of the sites have common interests in promoting business and other activity in the defined geographic area.

COMPREHENSIVE (MASTER) PLAN: A guide for public and private actions and decisions to assure the development of public and private property in the most appropriate relationships. It shall contain, as a minimum, the following elements:

- A. A statement of goals and objectives, principles, policies, and standards;
- B. A land use plan element;
- C. A transportation plan element;
- D. A community facilities plan element;
- E. May include any additional elements such as, without being limited to, community renewal, housing, flood control, pollution, conservation, natural resources, regional impact, historic preservation, and others.

CONCEALED LIGHTING: An artificial light source intended to illuminate the face of a sign, the direct source of which is shielded from public view and surrounding properties.

CONDITIONAL USE: A use which is essential to or would promote the public health, safety, or welfare in one or more zones, but which would impair the integrity and character of the zone in which it is located, or in adjoining zones, unless restrictions on location, size, extent, and character of performance are imposed in addition to those imposed within this ordinance.

CONDITIONAL USE PERMIT: Legal authorization to undertake a conditional use, issued by the zoning administrator, pursuant to authorization by the board of adjustments, consisting of two parts:

- a. A statement of the factual determination by the board of adjustments which justifies the issuance of the permit; and
- b. A statement of the specific conditions which must be met in order for the use to be permitted.

CONFORMING USE: Any lawful use of a building, structure, lot, sign, or fence, which complies with the provisions of this ordinance.

CONSTRUCTION LIMITS: The area affected by the grade changes only.

COUNTY: Unincorporated Kenton County, State of Kentucky.

CURB CUT: Any interruption, or break in the line of a street curb in order to provide vehicular access to a street. In the case of streets without curbs, curb cuts shall represent construction of any vehicular access which connects to said street.

CUT-OFF: A light fixture shielded in such a manner that no more than 2.5 percent of the light it emits is projected above the horizontal as determined by photometric test or certified by the manufacturer.

DECIBEL: A unit of measurement of the intensity (loudness) of sound. Sound level meters which are employed to measure the intensity of sound are calibrated in "decibels".

DECIDUOUS TREE: Not persistent; annual shedding of leaves.

DEVELOPMENT: Any man made change to improve or unimproved real estate including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.

DEVELOPMENT PLAN: Written and graphic material for the provision of a development, including any or all of the following: location and bulk of buildings and other structures, intensity of use, density of development, streets, ways, parking facilities, signs, drainage of surface water, and all other conditions agreed to by the applicant.

DIAMETER AT BREAST HEIGHT (DBH): The diameter, in inches, of a tree trunk, measured four and one-half (4-1/2) feet above the existing grade.

DISTRICT: For purposes of this ordinance, synonymous with "ZONE".

DISTURBED LIMITS: The site area affected by grading changes plus an additional twenty (20) foot area on the perimeter.

DORMITORY: A residence hall providing rooms for individuals or groups.

DWELLING: Any building which is completely intended for, designed for, and used for residential purposes, but for the purposes of this ordinance, shall not include a hotel-motel, hotel, motel, nursing home, tourist cabins, college or university dormitories, or military barracks.

DWELLING, ATTACHED, SINGLE - FAMILY: A dwelling unit which is attached to one or more dwelling units, each of which has independent access to the outside of the building to ground level and which has no less than two (2) exterior walls fully exposed and not in common with the exterior walls of any other unit.

DWELLING, DETACHED, SINGLE - FAMILY: A dwelling standing by itself and containing only one (1) dwelling unit, separate from other dwellings by open space, but shall not include mobile homes **and manufactured homes. This definition includes Manufactured Homes, Qualified.**

DWELLING, TRAILER: See MOBILE HOME.

DWELLING, TWO - FAMILY: A residential building designed, arranged, or used exclusively by two (2) families, living independently of each other.

DWELLING, MULTI - FAMILY: A residential building having three (3) or more dwelling units, as separate housekeeping units.

DWELLING UNIT: A building, or portion thereof, providing complete housekeeping facilities for one (1) person or one (1) family.

EASEMENT: A right, distinct from the ownership of the land, to cross property with facilities such as, but not limited to, sewer lines, water lines, and transmission lines, or the right, distinct from the ownership of the land, to reserve and hold an area for drainage or access purposes.

EASEMENT, LANDSCAPING OR PLANTING: The area in which planting must be installed and the setback for buffering between land uses, zones, vehicular use areas, and public or private streets.

EATING ESTABLISHMENTS -- RESTAURANTS: A restaurant is an establishment selling food items ordered from a menu and prepared on the premises for immediate consumption.

- A. Carry - out -- A fast service restaurant which does not have sit down eating arrangements and consumption of food on the premises is prohibited (or discouraged).
- B. Drive - in -- A restaurant where consumption of food on the premises is encouraged (in car, no seating facilities) and where food is provided by "car - hop" or self - service.
- C. Sit - Down Restaurants -- Those restaurants which provide seating arrangements.
- D. Combination -- A restaurant which provides any combination of sit down, carry out, and/or drive - in services.

ESSENTIAL SERVICES: The erection, construction, alteration, or maintenance, by public utilities or municipal or other governmental agencies, of underground or overhead gas, electrical, steam, or water transmission or distribution systems, collection, communication, supply, or disposal systems; including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, traffic signals, hydrants, and other similar equipment and accessories reasonably necessary for furnishing adequate service or for the public health, safety, or general welfare.

FAMILY: Shall consist of one individual, or any number of individuals related by genetics, adoption, marriage, or any number of unrelated individuals occupying a dwelling unit as a single housekeeping unit. The term shall include individuals residing in a residential care facility as defined in KRS 100.984, state licensed adult family homes, homes for the disabled, and foster homes. The term shall not include group homes licensed for juvenile offenders, or other facilities, whether or not licensed by the state, where individuals are incarcerated or otherwise required to reside pursuant to court order under the supervision of paid staff and personnel.

FAMILY CHILD-CARE HOME: Family child-care home means a private home that is the primary residence of an individual who provides full or part-time care day or night for six (6) or fewer children who are not the children, siblings, stepchildren, grandchildren, nieces, nephews, or children in legal custody of the provider.

[Ord. # 532.24, Adding definition, 10/29/2024]

Effective on: 10/29/2024

FARM PRODUCTS: Fruits, vegetables, mushroom, herbs, nuts, shell eggs, honey, or other bee products, flowers, nursery stock, livestock food products (including meat, milk, cheese, and other dairy products, and fish.

FARMERS MARKET: An indoor or outdoor market, open to the public, operated by a one or more Producers, at which (a) at least 75% of the products sold are Farm Products or Value-Added Farm products, and, (b) at least 75% of the vendors regularly participating during the market's hours of operation are Producers, or family members or employees of Producers.

FENCE: A structure made of wire, wood, metal, masonry, or other material, including hedges.

FILLING STATION: See SERVICE STATION.

FLOOD: A general and temporary condition of partial or complete inundation of normally dry land areas from: (a) the overflow of inland waters; (b) the unusual and rapid accumulation of runoff of surface waters from any source; and (c) mudslides (i.e., mudflows) which are proximately caused or precipitated by accumulations of water on or under the ground.

FLOOD - 100 YEAR FREQUENCY: The highest level of flooding that, on the average, is likely to occur once every 100 years.

FLOODPLAIN OR FLOOD PRONE AREA: Any normally dry land area that is susceptible to being inundated by water from any source.

FLOODPROOFED: Water - tight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

FLOODWAY: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the 100 - year flood without cumulatively increasing the water surface elevation more than one foot at any point.

FLOODWAY ENCROACHMENT LINES: The lines marking the limits of floodways on the official zoning map.

FLOOR AREA, GROSS: The sum of the gross horizontal area of the several floors of a dwelling unit or units exclusive of porches, balconies, and garages, measured from the exterior faces of the exterior walls or from the centerline of walls or partitions separating dwelling units.

For uses other than residential, the gross floor area shall be measured from the exterior faces of the exterior walls or from the centerlines of walls or partitions separating such uses and shall include all floors, lofts, balconies, mezzanines, cellars, basements, and similar areas devoted to such uses.

The gross floor area shall not include floors used for parking space when such parking pertains to a residential, commercial, or office used in the same structure.

FOOT CANDLE: A unit of measure referring to illumination incident to a single point. One foot candle is equal to one lumen uniformly distributed over an area of one square foot.

FRATERNITY OR SORORITY: A club or social activity officially associated with and recognized and supervised by an institution for higher education whose membership is limited exclusively to students of the said institution.

FRATERNITY/SORORITY HOUSE: A building used by a fraternity or sorority to provide living quarters for some or all members as well as to provide study, meeting, recreational and other facilities.

FRONTAGE: All the property abutting one (1) side of the right-of-way of a street, measured along the right-of-way line of the street between the intersecting lot lines. In no case shall the line along an alley be considered as acceptable frontage. For purposes of this definition, frontage for a building wall shall be measured for the wall that is most nearly parallel to that street. In no case shall the same building wall be considered to have more than one frontage.

GARAGE, PRIVATE: A building used for the storage of vehicles and clearly accessory to the principal use permitted.

HOLIDAY DECORATIONS: Decorative elements of a temporary nature intended for the acknowledgement of a holiday or holiday season, exclusive of decorations, which contain business, product sales, or service advertising content. Holiday decorations shall not be considered “signs.”

HOME OCCUPATION: An accessory use customarily conducted entirely within a dwelling, as permitted herein and further meeting all requirements of this ordinance.

HOSPITAL (HUMAN CARE): A building used by medical persons for treatment of persons generally on an in - patient basis.

HOSPITAL (ANIMAL): A building used by medical persons for treatment of animals generally on an in-patient basis and may have outside runs.

HOTEL-MOTEL: A building or buildings to be used for the temporary abiding place for travelers and transient guests.

HOUSE TRAILER: See MOBILE HOME.

INTERIOR LANDSCAPING: All landscaping surrounded by the perimeter landscaping, including all vehicular use landscaping.

JUNK YARD: An open area where waste materials are bought, sold, exchanged, stored, shredded, baled, packed, disassembled, etc., including, but not limited to, scrap metals, paper, rags, rubber tires, bottles, inoperative motor vehicles, etc.

KENNEL: Any area specifically used for the raising, boarding, or harboring of small domestic animals.

LABORATORY, MEDICAL OR DENTAL: A building or a portion of a building used for providing bacteriological, biological, medical, x-ray, pathological, and similar analytical or diagnostic services to doctors or dentists.

LAUNDROMAT: A business that provides washing, drying, and/or ironing machines for hire to be used by customers on the premises.

LEASABLE AREA, GROSS: The floor area occupied exclusively by tenant, including finished basement and mezzanine areas and excluding such areas as elevators, stairways, corridors, and lobbies.

LEGIBLE: A sign or message is “Legible” when it can be understood by a person with an eighth-grade education (or more). Where this Article requires a determination of “visibility” or “legibility,” the standard shall be based on the eyesight of an adult eligible to receive a Kentucky driver’s license (wearing any corrective lenses required by such license). Where the height of the person is material to the determination, the person shall be presumed to be more than five feet and less than six feet tall.

LEGISLATIVE BODY: The Fiscal Court of Kenton County.

LEVEL OF SERVICE: A qualitative measure describing operational conditions within a traffic stream, based on service measures such as speed and travel time, freedom to maneuver, traffic interruptions, and comfort and convenience.

LIVESTOCK: Domestic animals of types customarily raised or kept on farms for profit or other productive purposes.

LOADING AND/OR UNLOADING SPACE: A space used for the temporary standing, loading and/or unloading of vehicles.

LOT: A parcel of land or any combination of several lots of record, occupied or intended to be occupied by a principal building or a building group, as permitted herein, together with their accessory buildings or uses and such access, yards, and open spaces required under this ordinance.

LOT AREA: The total area of a horizontal plane bounded by the front, side, and rear lot lines, but not including any area occupied by rights - of - way, the waters of any lake or river, and shall be in one (1) zone only.

LOT, CORNER: A "corner lot" is a lot situated at the intersection of two streets or on a curved street on which the interior angle of such intersection or curved streets does not exceed one hundred thirty - five (135) degrees.

LOT, DEPTH OF: The distance measured in the mean direction of the side lot lines from the midpoint of the front lot lines to the midpoint of the rear lot lines.

LOT, DOUBLE FRONTAGE: A lot other than a corner lot that has frontage on more than one (1) street.

LOT, INTERIOR: A lot, other than a corner lot, with only one (1) frontage on a deeded and occupied public right - of - way.

LOT LINE, FRONT: The common boundary line of a lot and a street right - of - way line. In the case of a corner lot or a double frontage lot, the common boundary line and that street right - of - way line toward which the principal or usual entrance to the main building faces.

LOT LINE, REAR: The boundary line of a lot which is most nearly opposite the front lot line of such lot. In the case of a triangular or wedge shaped lot, for measurement purposes only, a line ten (10) feet in length within the lot parallel to and at the maximum distance from the front lot line. In the case of a corner lot, providing that all requirements for yard space are complied with, the owner may choose either side not abutting a street as the rear lot line, even though it is not opposite the front lot line. Once the choice has been made, it cannot be changed unless all requirements for yard space can be complied with.

LOT LINE, SIDE: Any boundary line of a lot, other than a front lot line or rear lot line.

LOT OF RECORD: A designated fractional part or subdivision of a block, according to a specific recorded plat or survey, the map of which has been officially accepted and recorded in the office of the appropriate county clerk, state of Kentucky.

LOT WIDTH: The width of the lot as measured along the building front setback line.

MANSARD ROOF: A four-sided gambrel-style hip roof. The upper slope is positioned at a shallow angle, while the lower slope is steep.

MANUFACTURED HOME: A single-family residential dwelling constructed after June 15, 1976, in accordance with the National Manufactured Home Construction and Safety Standards Act of 1974, 42 U.S.C. Section 5401, et seq., as amended, and designed to be used as a single-family residential dwelling with or without permanent foundation when connected to the required utilities, and which includes the plumbing, heating, air conditioning, and electrical systems contained therein and installed in accordance with KRS 227.570 by a Kentucky certified installer.

MINIMUM FRONT YARD DEPTH: The minimum distance required by this ordinance to be maintained within the lot between a line parallel to the front lot line, as defined herein, and the front lot line.

MINIMUM REAR YARD DEPTH: The minimum distance required by this ordinance to be maintained within the lot between a line parallel to the rear lot line, as defined herein, and the rear lot line.

MINIMUM SIDE YARD WIDTH: The minimum distance required by this ordinance to be maintained within the lot between a line parallel to the side lot line, as defined herein, and the side lot line.

MOBILE HOME: A structure manufactured prior to June 15, 1976, which was not required to be constructed in accordance with the federal act, which is transportable in one (1) or more sections, which, in the traveling mode, is eight (8) body feet or more in width and forty (40) body feet or more in length, or, when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. Mobile homes must be installed in accordance with KRS 227.570 by a Kentucky certified installer.

MOBILE HOME PARK: Any lot, parcel, or premises, subdivided, designed, maintained, intended, and/or used to accommodate ten (10) or more mobile homes, and meets the requirements as specified in this ordinance. For the purpose of this ordinance, any lot or premises used for the wholesale or retail sale of mobile homes shall not be included within this definition. Double width mobile structures, which are fabricated on individual chassis with wheels and are designed to be joined shall be considered a mobile home for purposes of this ordinance.

MODULAR HOUSING: Housing manufactured off - site, often mass - produced, and designed so that sections are interchangeable. For purposes of this ordinance, this definition shall not include mobile homes.

N/A: Where used in the sign regulations, the particular requirement is “not applicable.”

NEIGHBORHOOD: A geographical area containing residences or a combination of residences and businesses, which geographical area meets all of the following criteria:

- a. The area shall consist of at least 20 acres that are geographically contiguous;
- b. The area shall have direct access from local streets to one or more collector and/or arterial streets;
- c. The area shall not be part of another designated neighborhood for which permits for which permanent entrance signs have been issued; and
- d. The area shall either have been developed as one planned complex, subdivision or center, or it shall have established its identity as a neighborhood through activities of a community association, neighborhood festivals or other continuing activities separate from the desire for an entrance sign.

NITA measure of luminance. One nit is equal to one candela per square meter (1cd/m²). Ten thousand nits are equal to one stilb. A candela, on which the definition is based, is a unit of measurement of the intensity of light. Part of the SI system of measurement, one candela (cd) is the monochromatic radiation of 540THz with a radiant intensity of 1/683 watt per steradian in the same direction. Another way of putting it is that an ordinary wax candle generates approximately one candela.

NONCONFORMING LOT: A lot which was lawfully created but which does not conform to the minimum area or dimensional requirements specified for the zone in which it is located.

NONCONFORMING USE OR STRUCTURE: An activity or a building, sign, fence, structure, or a portion thereof, which lawfully existed before the adoption or amendment of this ordinance, but which does not conform to all of the regulations contained in this ordinance, or amendments thereto, which pertain to the zone in which it is located.

NOXIOUS MATTER OR MATERIALS: Matter or material which is capable of causing injury to living organisms by chemical reaction or is capable of causing detrimental effects upon the physical or economic well-being of individuals as determined by the appropriate health department.

NURSERY: Any building or lot, or portion thereof, used for the cultivation or growing of plants and including all accessory buildings.

NURSERY SCHOOL: Any building used for the daytime care or education of preschool age children with or without compensation, and including all accessory buildings and play areas.

NURSING HOME: A health establishment which provides nursing care under the direction of a Kentucky licensed physician to patients who, for reason of illness or physical infirmities, are unable to care for themselves properly.

OCTAVE BAND: A means of dividing the range of sound frequencies into octaves in order to classify sound according to pitch.

OCTAVE BAND FILTER: An electrical frequency analyzer designed according to standards formulated by the American Standards Association and used in conjunction with a sound level meter to take measurements in specific octave intervals.

ODOROUS MATTER: Any matter or material that yields an odor which is offensive in any way to a person with reasonable sensitivity.

OPERATING FARM: Any agribusiness conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or home use.

[Ord. # 930.5, Adding definition, 01/24/2023]

Effective on: 1/24/2023

OWNER - OCCUPANT: The property owner who will occupy the residence.

PARKING AREA, OFF - STREET: An open, surfaced area, other than the right - of - way of a street, alley, or place, used for temporary parking of motor vehicles.

PARKING BUILDING OR GARAGE: A building, or portion thereof, designed, intended, and used exclusively for the temporary parking of motor vehicles which may be publicly or privately owned and/or operated.

PARTICULATE MATTER: Any material, except uncombined water, which exists in a finely divided, suspended form as a liquid or solid at standard conditions.

PDS: Planning and Development Services of Kenton County.

PEAK HOUR: The one-hour period during the day when the highest volume of vehicles is utilizing the roadway. It is typical to have separate a.m. and p.m. peak hours.

PERFORMANCE STANDARDS: Criteria established to control building enclosure, landscaping, noise, odorous matter, exterior lighting, vibration, smoke, particulate matter, gasses, radiation, storage, fire, and explosive hazards, and humidity, heat, or glare generated by or inherent in, uses of land or buildings.

PERIMETER LANDSCAPING: The landscaping surrounding a land use or a vehicular use area.

PERMANENT FOUNDATION: A system of supports that is: (1) capable of transferring, without failure, into soil or bedrock, the maximum design load imposed by or upon the structure; (2) constructed of concrete; and (3) placed at a depth below grade adequate to prevent frost damage.

PLANNED UNIT DEVELOPMENT (PUD): A large scale, unified land development which permits a mixture of land uses, clustering of residential units of varying types, and common recreation/open spaces, through flexible regulations which encourage creative design to preserve the natural features and foliage of the site.

PRODUCER: A person or entity that raises or produces Farm Products on land that the person or entity farms and owns, rents, or leases.

QUALIFIED MANUFACTURED HOME: A manufactured home that meets all of the following criteria:

- A. ~~Is manufactured on or after July 15, 2002;~~ Is manufactured on a date not to exceed five (5) years prior to the date of installation and has all parts to operate only during transport removed;
- B. Is affixed to a permanent foundation ~~as~~and is connected to the appropriate facilities and is installed in compliance with KRS 227.570;
- C. Has a width of at least twenty (20) feet at its smallest width measurement or is two (2) stories in height and oriented on the lot or parcel so that its main entrance door faces the street; and
- D. Has a minimum total living area of nine hundred (900) square feet;
- E. A manufactured home that does not meet the minimum width of 20 feet or minimum total living area of 900 square feet may be treated as a qualified manufactured home for purposes of this definition if:
 - 1. The setback requirements or lot dimensions would not reasonably accommodate a home meeting these minimum dimensions;
 - 2. The home is the maximum width and square footage that could reasonably fit on the lot while complying with all applicable setback requirements and other zoning regulations; and
 - 3. The home otherwise meets all other requirements of a qualified manufactured home under this definition.
- ~~E. Is not located in a manufactured home land lease community; and~~
- F. ~~Is compatible, in terms of assessed value, with existing housing located immediately adjacent to: (1) either side of the proposed site within the same block front; (2) adjacent to the rear; or (3) within a one-eighth (1/8) mile radius or less from the proposed location of the qualified manufactured home]~~

RAILROAD RIGHTS - OF - WAY: A strip of land within which the railroad tracks and auxiliary facilities for track operation are normally located, but not including freight depots or stations, loading platforms, train sheds, warehouses, car or locomotive shops, or car yards.

REPLACEMENT TREE: Any tree planted to meet the requirements of this ordinance, either for landscaping or tree density purposes.

RESIDENTIAL CLUSTER DEVELOPMENT (RCD): A large scale, unified land development which permits a clustering of attached and detached single - family residential dwellings, with common recreation/open spaces, through flexible regulations which encourage creative design to preserve the natural features, foliage, and other characteristics of the site.

REST HOME: Any building, institution, residence, or home used as a place of abode for the reception and care of three (3) or more persons, who by reasons of age, mental, or physical infirmities, are not capable of properly caring for themselves.

ROADSIDE STAND: A direct marketing operation with or without a permanent structure featuring the sale of products that are raised, produced, and processed on the premises.

SCHOOLS, PAROCHIAL: An institution or a place for instruction or education belonging to and maintained by a religious organization.

SCHOOLS, PRIVATE: An institution or a place for instruction or education belonging to and maintained by a private organization.

SCHOOLS, PUBLIC: An institution or place for instruction or education belonging to and maintained under public authority and open to the public for their attendance.

SEPARATE (LIGHTING OR ILLUMINATION): A prohibition on separate illumination for a sign does not prohibit indirect, incidental illumination that spills over from a light serving another lawful purpose.

SERVICE FACILITIES, PUBLIC UTILITIES: Service facilities include all facilities of public utilities operating under the jurisdiction of the Public Service Commission, or the Department of Motor Transportation, or Federal Power Commission, and common carriers by rail, other than office space, garage and warehouse space and include office space, garage space and warehouse space when such place is incidental to a service facility.

SERVICE STATION: Any building, structure, or land, used for the dispensing, sale, or offering for sale, at retail, of any automobile fuels, oils, or accessories and in connection with which is performed general automotive servicing other than body work.

SHORT TERM RENTAL, OWNER OCCUPIED: A dwelling unit or room that is rented, leased, or assigned for a tenancy of less than thirty consecutive days in duration and where no meals are served or provided by the host to any guest. The owner/operator of the short-term rental resides on the premises. This term shall not include hotel or motel rooms, extended stay lodging facilities, bed and breakfast inns, or boarding and lodging rooms.

SHORT-TERM RENTAL, NON-OWNER OCCUPIED: A dwelling unit or room that is rented, leased, or assigned for a tenancy of less than thirty consecutive days in duration and where no meals are served or provided by the host to any guest. The owner/operator of the short-term rental does not reside on the premises. This term shall not include hotel or motel rooms, extended stay lodging facilities, bed and breakfast inns, or boarding and lodging rooms.

SIGN: Any device, fixture, placard or structure, including its component parts, which by display of a visual image draws attention to an object, product, place, activity, opinion, idea, person, institution, organization or place of business, or which identifies or promotes the interests of any person, and which is visible from any public street, road, highway, right-of-way or parking area.

SIGN, ANIMATED: a sign which uses movement or change of lighting to simulate action or motion.

SIGN, DETACHED: Any sign erected on a freestanding frame, foundation, mast or pole and not attached in any way to any building. Every face of a freestanding sign shall be considered as a separate sign for purposes of computing the sign area.

SIGN, DIRECTORY: Any sign providing way-finding information by identifying occupants of specific buildings or units within a building and, where necessary, providing directions for finding such building or unit

SIGN, PRINCIPAL: The main freestanding sign on a site. The term is used to distinguish such a sign from other freestanding signs that may be allowed on multi-tenant or large sites.

SIGN, TEMPORARY: A sign which is not permanently affixed. This definition is intended to include all devices such as banners, pennants, flags, searchlights, twirling or sandwich type signs, sidewalk or curb signs and balloons or other air or gas filled figures.

SIGN, WINDOW: A sign affixed to or installed inside a window and clearly legible to persons outside the building. Note that signs that are installed behind windows but that are legible from other private property or from driving lanes of adjacent streets will be subject to limitations on window signs but will also be regulated as wall signs.

SITE: One or more lots or parcels of land that, for purposes of the Zoning Ordinance, are used as a single unit. As an example, but not by way of limitation, a site may include more than one “lot” as shown on a subdivision plat, but, for zoning purposes, the permissible use, setbacks and yard requirements are determined for the larger “site” and not for the individual “lots.”

SITE TRIP DISTRIBUTION: Distribution of the development generated site trips to the study area intersections. It is a prediction of the direction in which vehicle trips will access the development.

SOUND LEVEL METER: An instrument standardized by the American Standards Association for measurement of intensity of sound.

STORY: That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between such floor and the ceiling next above it. For purposes of this ordinance, a basement shall not be counted as a story.

STORY, HALF: A story under a gable, hip, or gambrel roof, the wall plates of which on at least two (2) opposite exterior walls are not more than three (3) feet above the floor of such story.

STREET, PRIVATE: A paved private roadway which affords access to abutting property for private users of such property. For the purposes of density calculations, a private street shall constitute the areas of its paved surface and sidewalks or the private right - of - way if designated on the recorded plat.

STREET, PUBLIC: A public roadway, constructed within the boundaries of an officially deeded and accepted public right - of - way, which affords principal means of access to abutting property. For purposes of density calculations, a public street shall constitute all of the area within the public right - of - way.

STREET, ARTERIAL: Public thoroughfares which serve the major movements of traffic within and through the community, as identified in the adopted comprehensive plan.

STREET, COLLECTOR: Public thoroughfares which serve to collect and distribute traffic, primarily from local to arterial streets.

STREET, EXPRESSWAY: A divided arterial highway for through traffic with full or partial control of access, and generally with grade separations at major intersections.

STREET, FREEWAY: A divided multi - lane highway for through traffic with all crossroads separated in grades and with full control of access.

STREET, FRONTAGE ROAD (SERVICE OR ACCESS ROAD): A street adjacent to a freeway, expressway, or arterial, street separated therefrom by a dividing strip and providing access to abutting properties.

STREET, LOCAL: Roadways which are designed to be used primarily for direct access to abutting properties and feeding into the collector street system.

STRUCTURAL ALTERATION (SIGNS): As it applies to signs, any change in supporting members of a building or structure, such as foundation, bearing walls, columns, beams or girders. For a sign, any change in or replacement of supporting members of a sign structure, such as foundation, columns, beams or girders shall be considered a structural alteration.

STRUCTURE: Anything constructed or erected, the use of which requires permanent location in or on the ground or attachment to something having a permanent location in or on the ground, including such as: buildings, mobile homes, signs, fences, etc.

SUBDIVISION: The division of a parcel of land into two or more lots or parcels for the purpose, whether immediate or future, of sale, lease, or building development, or if a new street is involved, any division of a parcel of land; providing that a division of land for agricultural purposes into lots or parcels of five acres or more and not involving a new street shall not be deemed a subdivision. The term includes resubdivision and when appropriate to the context shall relate to the process of subdivision or to the land subdivided.

SWIMMING POOL, OUTDOOR: Any structure or device of any kind that is intended for swimming purposes, including but not limited to: any pool or tank of any material or type of construction, or any depression or excavation in any natural or constructed material, or any dike or berm of any material or type of construction; including all appurtenances to such structure or device and all appliances used in connection therewith; which structure or device is intended to cause, or would cause, if completely filled, the retaining of water to a greater depth than eighteen (18) inches at any point. Any such structure or device shall be deemed to be included within the meaning of the term "structure" as used in this ordinance.

Outdoor swimming pools shall be deemed to consist of the following classes: private, semi - public, public, and commercial, as follows:

- a. Private: when consisting of an accessory structure appurtenant to a one - family or a two - family dwelling and used only as such by persons residing on the same lot and their private guests.
- b. Semi - public: when consisting of an accessory structure appurtenant to a multiple dwelling, hotel, motel, church, school, club, etc., and used only as such by persons who reside or are housed on the same lot or who are regular members of such organizations.
- c. Public: a swimming pool operated by a unit of government for the general public.
- d. Commercial: a swimming pool operated for profit, open to the public upon payment of a fee.

TAVERN: Any establishment selling alcoholic and nonalcoholic beverages by the drink for consumption on the premises.

TRAILER: See CAMPING/VACATION MOBILE UNIT.

USE, PERMITTED: A use which may be lawfully established, if permitted, in a particular zone provided it conforms with all requirements of such zone.

VALUE-ADDED FARM PRODUCT: Any product processed by a Producer from a Farm Product, such as baked goods, jams, and jellies.

VARIANCE: A departure from dimensional terms of this ordinance pertaining to the height, width, or location of structures, and the size of yards and open spaces where such departure meets the requirements of KRS 100.241 to 100.247.

VEHICLE: Any device meeting the definition of “motor vehicle” under KRS. §186.010.

VEHICULAR USE AREA: Any area containing more than one thousand five hundred (1,500) square feet and used by two or more vehicles for parking, sales, or service, exclusive of driveways.

YARD DEPTH, FRONT: An area extending the full width of the lot or building site measured between a line parallel to the street right - of - way line intersecting the foremost point of any building excluding steps and unenclosed porches and the front lot line, as defined herein.

YARD DEPTH, REAR: An area extending across the full width of the lot and measured between a line parallel to the rear lot line, as defined herein, which intersects the rearmost point of any building excluding steps and unenclosed porches and the rear lot line.

YARD WIDTH, SIDE: An area between any building and the side lot line, as defined herein, extending from the front to the rear yard, or on through lots or building sites from one front lot line to the other front lot line.

ZONE: An established area within the city for which the provisions of this ordinance are applicable. (Synonymous with the word "DISTRICT".)

ZONING ADMINISTRATOR: The official or officials appointed by the county to administer and enforce the provisions of this ordinance.

ARTICLE IX GENERAL REGULATIONS

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~~SECTION 9.32 COMPATABILITY STANDARDS FOR QUALIFIED MANUFACTURED HOUSING~~

~~PURPOSE: The purpose of compatibility standards for manufactured housing is:~~

1. To permit local governments to adopt and enforce, as part of its zoning regulations, compatibility standards governing the placement of qualified manufactured homes in residential zones, within the local government's jurisdiction, designed to ensure that when a qualified manufactured home is placed in a residential zone, it is compatible, in terms of assessed value, with existing housing located immediately adjacent to (1) either side of the proposed site within the same block front; (2) adjacent to the rear, or (3) within a one-eighth (1/8) mile radius or less from the proposed location of the qualified manufactured home.
- A. A qualified manufactured home that meets the compatibility standards as set forth in Subsections D. 5., and D. 6., of this section, as well as the regulations of the zone in which it is proposed, shall be allowed as a permitted use and as a primary family residence in any residential zone permitting detached single family residential uses.
- B. Applications must be submitted to the zoning administrator demonstrating that the compatibility standards as set forth in Subsections D., 5. and D. 6., have been met and contending that the proposed construction, installation, or relocation of the qualified manufactured home is similar and comparable in exterior appearance, building materials, and living area to other dwelling units that have been constructed on adjacent tracts, lots, and parcels.
- C. The procedures for approval shall be in accordance with the requirements of ARTICLE XVI and the following:
 1. Applications for the placement of qualified manufactured homes shall be submitted with a nonrefundable application fee on a form or forms developed for that purpose to the city zoning administrator. Qualified manufactured homes may not be constructed until after an application has been accepted and approved in accordance with these regulations.
 2. The application shall include (1) only information reasonably necessary to make determination as to conformity with the provisions of this Section of this ordinance; (2) recent photographs of the front, side and rear of the qualified manufactured home exterior finish (whichever is applicable); (3) pictures taken from the proposed site of the dwelling unit in the northerly, easterly, southerly, and westerly directions, and pictures of any adjacent dwelling units. The photographs shall be taken within 30 days prior to the submittal of the application. In addition, each application shall be accompanied by a site plan or plot plan containing appropriate information including, but not limited to, the following:
 - a. Location of all existing buildings, structures, easements, and boundary lines;
 - b. North arrow, scale, city and land lot;
 - c. Existing use of adjacent property;
 - d. Location of all proposed buildings, structures, and land uses.
 3. Applications shall be first reviewed for completeness. If the application is rejected for not being complete, the applicant shall be notified of the reasons for the rejection. The applicant shall be responsible for the satisfaction of all of the comments prior to the resubmission of the revised application.
 4. The application shall be reviewed for compatibility with architectural appearance and similarity with:
 - a. adjacent development or surrounding developments;
 - b. development within the same zone or general area;
 - c. proposed development permitted in the same zone or general area; and;
 5. Compatibility with architectural appearance shall be based on the following:
 - a. floor living space and setbacks;
 - b. siding and exterior materials;
 - c. roof pitch;
 - d. square footage;
 - e. general aesthetic appearance.
 6. Compatibility with the orientation and location of existing structures shall be based on the following:

- a. building height;
- b. building width;
- c. building depth;
- d. building setbacks;

7. A decision of approval, conditional approval or disapproval of a complete application shall be made and the applicant shall be notified in writing. Conditional approval shall require that the specific conditions and the reasons therefore be stated in writing and be agreed to by the applicant; such conditions shall be binding upon the applicant upon agreement. In the case of disapproval, the reasons therefore shall be specifically stated in writing by designating each specific provision of this section or other applicable ordinance that is not met and an explanation as to the reason or reasons why each such provision is not met.]

SECTION 9.3~~2~~³ REGULATIONS OF SEXUALLY ORIENTED BUSINESSES

- A. The Fiscal Court of Kenton County, after consultation among the mayors, councils, commissioners and staffs of the municipalities and the county within the County, found that a substantial need exists to revise significantly the ordinances regarding sexually oriented businesses within Kenton County.
- B. The Fiscal Court, in association with Planning and Development Services of Kenton County and the Fiscal Court of adjacent Campbell County its cities in the Northern Kentucky Community, retained Duncan Associates to conduct a study of existing sexually oriented uses and related businesses in Kenton and Campbell Counties, which is part of a single, larger community.
- C. Duncan Associates assigned two nationally-known planners, Eric Damian Kelly, FAICP and Connie B. Cooper, FAICP, to conduct that study
- D. Kelly and Cooper have completed that study, including the following elements:
 - 1. Field study, involving visits to all identified existing sexually oriented businesses in Kenton and Campbell Counties;
 - 2. Meetings with stakeholder groups involved in these businesses;
 - 3. Consultation with the Kenton County, Campbell County Attorney, and the city attorneys for certain cities, and the community at large on this issue;
 - 4. Consultation with the professional staff of Planning and Development Services of Kenton County on this issue;
 - 5. Review of studies and litigation concerning sexually oriented businesses in other communities;
 - 6. Investigation of regulatory approaches to massage therapy;
 - 7. Review of existing ordinances in Kenton and Campbell Counties;
 - 8. Review of similar ordinances in a number of communities outside the Commonwealth of Kentucky;
 - 9. Review of Kentucky statutes related to regulating sexually oriented businesses.
- E. Duncan Associates has summarized this work and presented recommendations to Planning and Development Services of Kenton County and Kenton and Campbell Counties and their cities in an August 2003 report entitled "Site Visit Analysis: Sexually Oriented and Related Businesses in Kenton and Campbell Counties" (hereinafter called simply the "Kelly and Cooper Study").
- F. That study has also been made available to the legislative bodies of Kenton and Campbell Counties for their consideration and use.
- G. That study has been accepted and used by the Fiscal Court of Kenton County in adopting the countywide licensing ordinance, Kenton County Ordinance No. 451.9, as amended, establishing licensing requirements for sexually oriented businesses and service oriented escort bureaus in 2004.

- H. The United States Supreme Court in *City of Renton v. Playtime Theater, Inc.*, 475 U.S. 41 (1986), held that local governments may rely upon the experiences of other cities as well as on its own studies in enacting local legislation to regulate sexually oriented businesses;
- I. The United States Supreme Court in *Renton* and other cases has held that a local government may regulate such uses through content-neutral, time, place, and manner restrictions, so long as said regulations are designed to serve the government interest and do not unreasonably omit avenues of communication, and are aimed not at the content of protected speech within said establishments but rather at the secondary effects of said establishments on the surrounding communities.
- J. The study by Kelly and Cooper found extensive physical interaction between patrons and dancers at many of the establishments in both Kenton and Campbell Counties.
- K. Covington, the only municipality in Kenton County that has had sexually oriented businesses within its border, from January 1, 2002, to February 11, 2004, the police made a total of 469 calls to sexually oriented businesses in the city. The crimes committed at these establishments during this time period included robbery, assault, fraud, malicious mischief, public intoxication, and possession of illegal drugs. In addition, on June 13, 2003, Covington police arrested three individuals for prostitution-related charges at Liberty's Show Lounge, a sexually oriented cabaret in the city.
- L. As the Sixth Circuit Court of Appeals noted in a decision addressing issues related to the Adult Entertainment ordinance in the City of Newport (Campbell County), there is a long history underlying efforts to regulate sex businesses in Northern Kentucky:
- Defendant City of Newport ("City" or "Newport") long ago gained a reputation as home to a veritable smorgasbord of vice, attracting patrons from across the nation. For decades, the small city was considered the Midwest's answer to Las Vegas, and leaders of organized crime were said to operate its gambling casinos and nightclubs.
- In the 1960's, public pressure began to demand that Newport be cleaned up. This pressure has continued until the present, with varying degrees of success.
- A 1986 report generated by the Newport Alcoholic Beverage Control Administrator indicated that of 28 adult bars opened since 1978 (including successive bars at the same site), 21 had had at least one prostitution-related conviction, and 18 had had multiple convictions. Def. Ex. K, p. 2. The report explained that "all of the prostitution in businesses with adult entertainment involved an alcoholic beverage as the median [sic] of exchange and the solicitation of such drinks by 'mixers.'" Id. In all, 98% of prostitution arrests in Newport occurred in the vicinity of these bars. Id. Adult entertainment establishments, which constituted 12% of all businesses serving alcohol, accounted for 17% of all police runs. Def. Ex. K, p. 21.
- A later review, conducted in 1990 by the Newport License Inspector, documented the continued prostitution arrests occurring at several adult dancing establishments. Def. Ex. G. Moreover, the City determined that over \$ 70,000 was expended in 1990 to target, patrol and prosecute the illicit behavior occurring in and around the bars. Def. Ex. H.
- Several of Newport's citizens, merchants and church groups also opposed the presence of the semi-nude dancing clubs. These groups generally believed that the adult entertainment clubs were "clouds over [the] neighborhood that keep [it] from growing in the [right] direction." See Def. Ex. I (letter to Mayor from Taylors Landing Business District). Complaints commonly expressed were that the seamy establishments deterred other merchants from locating in Newport's business district, deterred shoppers, served a poor example for the City's youth, and generally tarnished the City's image. Id.
- Bright Lights, Inc., v. City of Newport*, 830 F. Supp. 378, 380-81 (E. D. Ky. 1993).
- Based on those findings, the court went on to hold in relevant part:

Having considered the matter carefully, the court concludes that some leeway must be afforded the reform efforts of the City Council of Newport. This body has been elected by the citizens to attempt to "clean up the image" of the City.

To do this, it must overcome the sleazy impression of Newport and Northern Kentucky that survives from "the heyday" when things ran wide open; reform candidates were literally drugged and framed for morals offenses by public officials and police officers; the members of reform citizens groups were vilified and harassed; and a "liberal" in local parlance was a person favoring the continued open and notorious violation of the gambling and morals laws.

To illustrate that the Council's perception of a need to clean up the image of the City is not paranoid, the court notes the following statements in a national magazine's satirical Chapter on Newport's big sister, the city of Cincinnati.

"The city's streets fairly shine; the odd litterer draws a scornful stare. Wide avenues, bosky side streets, the most inviting of thoroughfares. And clean. So clean. No X-rated movie theaters, no adult-book stores, no bare-breasted night joints soil these streets, all of them long ago jettisoned over to the Kentucky side of the river."

Peter Richmond, "Town Without Pity," *Gentlemen's Quarterly*, July 1993, at 102, 104.

This court holds that the City of Newport has the right to secede as Cincinnati's combat zone.

The court holds that the City has "an important and substantial governmental interest" in advancing these reform goals, which interest is furthered by the ordinances in question. Barnes, 111 S. Ct. at 2461. The court further finds and holds that in the case of the City of Newport, given its unique history, the ordinances' "incidental restriction on alleged First Amendment freedoms is no greater than is essential to the furtherance of that interest." *Id.* (quoting O'Brien, 391 U.S. at 376-77, 88 S. Ct. at 1678-79).

Newport's image affects that of all of Northern Kentucky, a community of nearly 300,000 people. That City and its community have the right to project a progressive and decent image. The nudity ordinances contribute to the enhancement of this interest and will be upheld. 830 F.Supp. at 384;

- M. The Supreme Court had earlier noted in upholding another regulation in Newport, "it is plain that, as in *Bellanca*, the interest in maintaining order outweighs the interest in free expression by dancing nude." *Newport v. Iacobucci*, 479 U.S. 92, 97, 93 L. Ed. 2d 334, 340, 107 S. Ct. 383, 386 (1986). Although the significance of the opinion itself is now questionable (see *J&B Social Club # 1 v. City of Mobile*, 966 F. Supp. 1131, 1135 (S.D. Ala. 1996)), the quoted part of the opinion stands unchallenged.
- N. The cities of Covington and Newport continue their efforts to improve their image. Since 1985, Covington has redeveloped its riverfront, creating several new office towers, high-end condominiums, hotels, and a convention center. In Newport, in conjunction with private development and Southbank Partners, Inc., the City has built a major entertainment center along the river. This initiative has promoted improved pedestrian and transit connections in Northern Kentucky's river cities to and from the stadiums and other attractions along the Cincinnati riverfront.
- O. Despite these efforts, the areas of downtown Covington and Newport away from the riverfront continue to suffer in many ways. The study by Kelly and Cooper found in the area near to existing sexually oriented uses a number of building vacancies and building maintenance falling far short of that found in the revitalized areas near the river.
- P. The Kenton County Fiscal Court respects the Constitutional rights of its citizens, including the right to present certain types of entertainment that may not appeal to the entire population. Through this ordinance, it is the desire of the Kenton County Fiscal Court to balance the Constitutional rights of businesses that present sexually oriented entertainment with the Kenton County Fiscal Court interests in ensuring that this community not suffer from the same sorts of adverse effects that Covington and Newport have long suffered.
- Q. From long experience in Covington and Newport, as well as from the following studies and others not listed, the Kenton County Fiscal Court also finds that such businesses may have primary and secondary effects involving

crimes related to the activities in the establishments, of which prostitution and crimes of violence are those of greatest concern. See for example:

1. "Final Report to the City of Garden Grove: The Relationship between Crime and Adult Business Operations on Garden Grove Boulevard," Richard W. McCleary, Ph.D., James W. Meeker, J.D., Ph.D., October 23, 1991.
 2. "Survey of Appraisers: Fort Worth and Dallas – Effects of Land Uses on Surrounding Property Values," Duncan Associates, Eric Damian Kelly, FAICP, and Connie B. Cooper, FAICP, September 2004.
 3. "Adult Entertainment Businesses in Indianapolis, An Analysis," 1984.
 4. "Adult Business Study," by City of Phoenix Planning Department, May 25, 1979.
 5. "Effects on Surrounding Area of Adult Entertainment Businesses in Saint Paul," June 1978, City of Saint Paul Division of Planning, Department of Planning and Management; and Community Crime Prevention Project, Minnesota Crime Control Planning Board.
 6. "Staff Report, Whittier City Planning Commission; Subject: Adult Business Regulations," July 11, 1994.
 7. "Adult Entertainment Study," Department of City Planning, City of New York, Second Printing, November 1994.
 8. "Adult Use Study," Newport News Department of Planning and Development, March 1996.
 9. "A Report on the Secondary Impact of Adult Use Businesses in the City of Denver," prepared by multiple city departments for Denver City Council, January 1998.
 10. "Survey of Appraisers in Monroe County, New York," Summer 2000. For detailed results of the survey, see Kelly and Cooper, Everything You Always Wanted to Know about Regulating Sex Businesses, Planning Advisory Service Report No. 495-96. Chicago: American Planning Association, 2000; pages 51-57.
 11. The Tucson "study" consisting of two memos: one from the Citizens Advisory Planning Committee, addressed to the Mayor and City Council, and dated May 14, 1990; and the other from an Assistant Chief of Police to the City Prosecutor, regarding "Adult Entertainment Ordinance," dated May 1, 1990.
- R. The Kenton County Fiscal Court recognizes that some of the cited studies included bars without sexually oriented entertainment among the businesses studied; the Kenton County Fiscal Court finds, nevertheless, that addressing the establishments that have live, sexually oriented entertainment is a more critical local issue than that of bars without such entertainment, for three reasons:
1. Bars in Kentucky are already regulated by the Commonwealth, and those state regulations directly address many of the concerns that arise with the service of alcohol;
 2. The local history of prostitution and sex-related crimes has largely been related to businesses with live, sexually oriented entertainment, and not with other establishments that serve alcohol; and
 3. The interaction between dancers who are paid to work with very limited clothing and the customers who pay to see them work in the establishments with live entertainment creates a sexually charged environment and the opportunity to negotiate for the provision of additional services that do not involve dancing or other protected expression and that are simply unacceptable under the standards of the County and its citizens.
- S. As noted earlier in these findings, there is a long local history of prostitution and sex-related crimes at or incident to the operation of establishments with live, sexually oriented entertainment. Further, the studies shown herein provide further evidence of the potential crime-related secondary effects from such businesses. Although the methodologies and quality of these studies vary somewhat, local experience has demonstrated to the Kenton County Fiscal Court that the relationship between crime and such establishments is a fact in Northern Kentucky and not just a theory published in a study.
- T. The Kenton County Fiscal Court has reviewed evidence and testimony presented at public meetings before the County, and information based on the past experiences of the Kenton and Campbell Counties and the cities of Covington and Newport, the experiences of the County Attorneys' offices prosecuting numerous and varied offenses that have occurred in and around the sexually oriented entertainment establishments, and based upon

the documented experiences of other governmental units within Kentucky and elsewhere in dealing with the impact of sexually oriented entertainment, that such businesses can, if not properly regulated, be deleterious to said community.

- U. The Kenton County Fiscal Court finds that the countywide licensing ordinance related to sexually oriented businesses and service oriented escort bureaus adopted by the Fiscal Court of Kenton County is an effective tool for addressing the many operational issues that can arise with such businesses.
- V. The Kenton County Fiscal Court finds that amendments to the city's Zoning Ordinance regarding the location and design of such businesses are important variables in the nature and extent of adverse secondary effects of sexually oriented businesses on the community, and further finds that location and design are among the types of issues that are typically addressed through zoning.
- W. Based on the recommendations of Kelly and Cooper, which are based on their experience in other communities and their review of the studies cited above and other local efforts to address such secondary effects, the Kenton County Fiscal Court finds that the following principles are essential to effective zoning controls of sexually oriented businesses:
 - 1. Sexually oriented businesses should, to the maximum extent practicable, be separated from one another by a distance that is greater than a convenient walking distance, because experience elsewhere has shown that the location of such businesses near one another may increase the adverse secondary effects, particularly those related to crime, by a greater than arithmetic factor;
 - 2. Although there are currently several such businesses located near one another in Covington's downtown area, the Covington City Commission has determined that the City will not attempt to require these existing businesses be relocated;
 - 3. Sexually oriented businesses have the greatest adverse effect on residential neighbourhoods and should thus be separated to the maximum extent practicable from residential neighbourhoods;
 - 4. Sexually oriented businesses are likely to attract criminal elements that prey on "soft targets," including children, and it is thus important to separate sexually oriented businesses from schools, parks, recreation centers, and religious institutions, all of which are places where children are likely to congregate, often without parental protection;
 - 5. Also because of the tendency of sexually oriented businesses to attract criminal elements that prey on soft targets, it is important to seek locations for such businesses that are not located along pedestrian routes, where young people, old people and others who are vulnerable, are likely to walk in going about their day-to-day business. Thus, locations to which the primary access is by automobile minimize the risk of persons going about their daily business encountering persons who are visiting or even loitering around the sexually oriented business;
 - 6. Experiences in other communities show that private booths, back rooms, "VIP" rooms and other small and private spaces in sexually oriented businesses create the opportunity for casual sexual activity and create logistical difficulties and risks of physical endangerment for police officers responsible for dealing with such activities. For that reason, it is essential that movies, performances and other activities at sexually oriented businesses should be permitted only in large rooms that are open and visible to management, other patrons and code and police officers who may visit the establishment during operating hours.
- X. FINDINGS: The facts and other matters set forth in the previous clauses that form the preamble to this ordinance are hereby adopted as findings of fact in support of the legislative action of the Kenton County Fiscal Court in adopting this amendment to the Zoning Ordinance. Upon adoption of this zoning amendment, these shall be incorporated into the Zoning Code by reference as if fully set forth therein to the adopting Resolution.

Y. DEFINITIONS:

CABARET OR THEATER, SEXUALLY ORIENTED – a building or portion of a building which provides or allows the provision of sexually oriented entertainment to its customers or which holds itself out to the public as an

establishment where sexually oriented entertainment is available. Signs, advertisements or an establishment name including verbal or pictorial allusions to sexual stimulation or gratification or by references to “adult entertainment,” “strippers,” “showgirls,” “exotic dancers,” “gentleman’s club,” “XXX” or similar terms, shall be considered evidence that an establishment holds itself out to the public as an establishment where sexually oriented entertainment is available.

CUSTOMER – any person who:

- a. Is allowed to enter a business in return for the payment of an admission fee or any other form of consideration or gratuity; or
- b. Enters a business and purchases, rents, or otherwise partakes of any material, merchandise, goods, entertainment, or other services offered therein; or
- c. Enters a business other than as an employee, vendor, service person, or delivery person.

DAY CARE CENTER – a licensed facility providing care, protection and supervision for children 12 years old or younger or for any individual who is deemed mentally challenged.

DISPLAY PUBLICLY – the act of exposing, placing, posting, exhibiting, or in any fashion displaying in any location, whether public or private, an item in such a manner that it may be readily seen and its content or character distinguished by normal unaided vision viewing it from a street, highway, or public sidewalk, or from the property of others or from any portion of the premises where items and material other than sexually oriented media are offered for sale or rent to the public.

ENCOUNTER CENTER, SEXUALLY ORIENTED – a business or enterprise that, as one of its principal purposes, offers: physical contact between two or more persons when one or more of the persons is in a state of nudity or semi-nudity.

ENTERTAINER, SEXUALLY ORIENTED – any person paid as an employee, contractor, subcontractor, or agent of the operator of a cabaret who frequently appears in a state of semi-nudity at any establishment regulated by this chapter.

ENTERTAINMENT, SEXUALLY ORIENTED – any of the following activities, when performed by a sexually oriented entertainer at a sexually oriented business that is required to be licensed: dancing, singing, talking, modeling (including lingerie or photographic), gymnastics, acting, other forms of performing, or individual conversations with customers for which some type of remuneration is received.

ESCORT – a person who is held out to the public to be available for hire for monetary consideration in the form of a fee, commission, or salary, and who for said consideration consorts with or accompanies or offers to consort with or accompany, another or others to or about social affairs, entertainments, or places of amusement or within any place of public resort or within any private quarters, and shall include a “service oriented escort;” for purposes of this ordinance, the term “escort” shall not include any person who would be understood by a reasonably prudent person as providing “babysitting” services or working as an assisted living companion to the elderly, infirm, disabled, or handicapped, and shall further not include licensed health professionals.

ESCORT, SERVICE ORIENTED – an escort that:

- a. operates from an open office;
- b. does not advertise that sexual conduct will be provided to the patron or work for an escort bureau that so advertises; and
- c. does not offer to provide sexual conduct.

ESCORT BUREAU, SERVICE ORIENTED – an escort bureau that

- a. maintains an open office at an established place of business;

- b. otherwise operates in full accordance with the countywide licensing ordinance, Kenton County Ordinance No. 451.9, establishing licensing requirements for sexually oriented businesses and service oriented escort bureaus, as such ordinance may be amended from time to time.

ESCORT, SEXUALLY ORIENTED – an escort who:

- a. works for (either as an agent, employee, or independent contractor), or is referred to a patron by a sexually oriented escort bureau; or,
- b. either advertises that sexual conduct will be provided, or works for (either as an employee, agent, or independent contractor), or is referred to a patron by an escort bureau that so advertises; or,
- c. offers to provide or does provide acts of sexual conduct to an escort patron, or accepts an offer or solicitation to provide acts of sexual conduct for a fee from an escort patron or a prospective escort patron.

ESCORT BUREAU, SEXUALLY ORIENTED – an escort bureau that operates in any of the following manners:

- a. engages in fraudulent, misleading, or deceptive advertising that is designed to make the prospective client believe that acts of prostitution (as defined under Kentucky law) will be provided; or,
- b. collects money (whether paid in advance or paid after the promised proscribed act) for the promise of acts of prostitution by its escorts; or,
- c. uses as escorts persons known to have violated the law regarding prostitution, and refuses to cease the use of such a person; or,
- d. operates an escort bureau as a “call girl” prostitution operation; or,
- e. advertises that sexual conduct will be provided to a patron or customer, or that escorts which provide such sexual conduct will be provided, referred, or introduced to a patron or customer; or,
- f. solicits, offers to provide, or does provide acts of sexual conduct to an escort patron or customer; or,
- g. employs or contracts with a sexually oriented escort, or refers or provides to a patron a sexually oriented escort.

ESTABLISHMENT – any business regulated by this Section.

EXPLICIT SEXUAL MATERIAL – any pictorial or three dimensional material depicting human masturbation, deviate sexual intercourse, sexual intercourse, direct physical stimulation of unclothed genitals, sadomasochistic abuse, or emphasizing the depiction of post-pubertal human genitals; provided, however, that works of art or material of anthropological significance shall not be deemed to fall within the foregoing definition.

FLOOR AREA, GROSS PUBLIC – the total area of the building accessible or visible to the public, including showrooms, motion picture theaters, motion picture arcades, service areas, behind-counter areas, storage areas visible from such other areas, restrooms (whether or not labeled “public”), areas used for cabaret or similar shows (including stage areas), plus aisles, hallways, and entryways serving such areas.

FREQUENTLY – two or more times per month.

MASSAGE – touching, stroking, kneading, stretching, friction, percussion, and vibration, and includes holding, positioning, causing movement of the soft tissues and applying manual touch and pressure to the body (excluding an osseous tissue manipulation or adjustment).

MASSAGE PARLOR – any business offering massages that is operated by a person who is not a state licensed “massage therapist” or that provides massages by persons who are not state licensed massage therapists.

MASSAGE THERAPY – the profession in which a certified massage therapist applies massage techniques with the intent of positively affecting the health and well being of the client.

MASSAGE THERAPIST – a person licensed as a massage therapist in accordance with the provisions of Kentucky Rev. Statues §309.350 et seq.

MEDIA – anything printed or written, or any picture, drawing, photograph, motion picture, film, videotape or videotape production, or pictorial representation, or any electrical or electronic reproduction of anything that is or may be used as a means of communication. Media includes but shall not necessarily be limited to books, newspapers, magazines, movies, videos, sound recordings, CD-ROMS, DVDs, other magnetic media, and undeveloped pictures.

MEDIA, SEXUALLY ORIENTED – magazines, books, videotapes, movies, slides, CDs, DVDs or other devices used to record computer images, or other media which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to “specified sexual activities” or “specified anatomical areas.”

MEDIA STORE WITH SOME SEXUALLY ORIENTED MEDIA – a retail book, video or other media store that has sexually explicit media that constitutes more than 10 percent but not more than 40 percent of its inventory or that occupies more than 10 percent but not more than 40 percent of its gross public floor area.

MEDIA STORE, SEXUALLY ORIENTED – an establishment that rents and/or sells sexually oriented media, and that meets any of the following three tests:

- a. More than forty percent (40%) of the gross public floor area is devoted to sexually oriented media; or
- b. More than forty percent (40%) of the stock in trade consists of sexually oriented media; or
- c. It advertises or holds itself out in any forum as a “XXX,” “adult” or “sex” business, or otherwise as a sexually oriented business, other than sexually oriented media outlet, sexually oriented motion picture theater, or sexually oriented cabaret.

MODELING STUDIO, SEXUALLY ORIENTED – an establishment or business that provides the services of live models modeling lingerie, bathing suits, or similar wear to individuals, couples, or small groups in a space smaller than 600 feet.

MOTEL, SEXUALLY ORIENTED – a hotel, motel, or similar commercial establishment that meets any of the following criteria:

- a. Offers accommodations to the public for any form of consideration and provides patrons with sexually oriented entertainment or transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas;”
- b. Marketed as or offered as “adult,” “XXX,” “couples,” or “sexually oriented.”

MOTION PICTURE ARCADE, SEXUALLY ORIENTED – a building or portion of a building wherein coin-operated, slug-operated, or for any other form of consideration, electronically, electrically, or mechanically controlled still or motion picture machines, projectors, video or laser disc players, or other image-producing devices are maintained to show images of “specified sexual activities” or “specified anatomical areas.”

MOTION PICTURE ARCADE BOOTH, SEXUALLY ORIENTED – any booth, cubicle, stall, or compartment that is designed, constructed, or used to hold or seat customers and is used for presenting motion pictures or viewing publications by any photographic, electronic, magnetic, digital, or other means or medium (including, but not limited to, film, video or magnetic tape, laser disc, CD-ROMs, books, DVDs, magazines or periodicals) to show images of “specified sexual activities” or “specified anatomical areas” for observation by customers therein. The term “booth,” “arcade booth,” “preview booth,” and “video arcade booth” shall be synonymous with the term “motion picture arcade booth.”

MOTION PICTURE THEATER, SEXUALLY ORIENTED – a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are frequently shown that are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas” or that are marketed as or offered as “adult,” “XXX,” or sexually oriented. Frequently shown films, motion

pictures, videocassettes, slides or other similar photographic reproductions as characterized herein do not include sexually oriented speech and expressions that take place inside the context of some larger form of expression.

NUDE MODELING STUDIO – any place where a person who appears in a state of nudity or semi-nudity and is to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. “Nude model studio” shall not include a proprietary school licensed by the Commonwealth of Kentucky or a college, junior college, or university supported entirely or in part by public taxation; a private college or university that maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation.

NUDITY OR STATE OF NUDITY – the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the areola or nipple, or the showing of the covered male genitals in a discernibly turgid state. See, also, Semi-nude.

OPERATOR – any person operating, conducting, or maintaining a business regulated under this Chapter.

OWNER(S) – the individual owner of an establishment, or if the legal owner is a corporation, partnership, or limited liability company, the term shall include all general partners, any limited partner with a financial interest of ten percent (10%) or more, all corporate officers and directors, and any shareholder or member with a financial interest of ten percent (10%) or more. “Owner” includes the spouse(s) of any of the above individuals.

PERSON – an individual, firm, partnership, joint-venture, association, independent contractor, corporation (domestic or foreign), limited liability company, trust, estate, assignee, receiver or any other group or combination acting as a unit.

PREMISES – the physical location at which a business operates; as used in this Chapter, the term shall include all parts of that physical location, both interior and exterior, which are under the control of the subject business, through ownership, lease or other arrangement.

PRIMARY ENTERTAINMENT – entertainment that characterizes the establishment, as determined (if necessary) from a pattern of advertising as well as actual performances.

PROTECTED LAND USE – residential zoning district, school, religious institution, park, library, public recreation area, or day care center.

PUBLIC AREA – a portion of a sexually oriented business, excluding sexually oriented motels, that is accessible to the customer, excluding restrooms, while the business is open for business.

SADOMASOCHISTIC PRACTICES – flagellation or torture by or upon a person clothed or naked, or the condition of being fettered, bound, or otherwise physically restrained on the part of one so clothed or naked.

SEMI-NUDE OR IN A SEMI-NUDE CONDITION – the showing of the female breast below a horizontal line across the top of the areola at its highest point. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast, exhibited by a dress, blouse, skirt, leotard, bathing suit, or other apparel, provided the areola is not exposed in whole or in part.

SEX SHOP – an establishment offering goods for sale or rent and that meets any of the following tests:

- a. It offers for sale items from any two (2) of the following categories: sexually oriented media; lingerie; leather goods marketed or presented in a context to suggest their use for sadomasochistic practices; sexually oriented novelties; and the combination of such items constitute more than ten percent (10%) of its stock in trade or occupies more than 10 percent (10%) of its floor area;
- b. More than five percent (5%) of its stock in trade consists of sexually-oriented toys or novelties; or

- c. More than five percent (5%) of its gross public floor area is devoted to the display of sexually oriented toys or novelties.

SEXUALLY ORIENTED BUSINESS – an inclusive term used to describe collectively the following businesses: sexually oriented cabaret or theater; sexually oriented entertainment; sexually oriented motion picture theater; sexually oriented motion picture arcade; sexually oriented encounter center; sexually oriented media store; sexually oriented escort bureau; bathhouse; massage parlor; sex shop; sexually oriented modeling studio; or any other such business establishment whose primary purpose is to offer sexually oriented entertainment or materials. This collective term does not describe a specific land use and shall not be considered a single use category for purposes of the County or any applicable municipal zoning code or other applicable ordinances.

SEXUALLY ORIENTED BUSINESS LICENSE – any license applied for under the countywide licensing ordinance, Kenton County Ordinance No. 451.9 as amended, establishing licensing requirements for sexually oriented businesses and service oriented escort bureaus, adopted in 2004.

SEXUALLY ORIENTED TOYS OR NOVELTIES – instruments, devices, or paraphernalia either designed as representations of human genital organs or female breasts or designed or marketed primarily for use to stimulate human genital organs.

SPECIFIED ANATOMICAL AREAS – include:

- a. Less than completely and opaquely covered human genitals, pubic region, or the areola or nipple of the female breast; and
- b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered; and
- c. Areas of the human anatomy included in the definitions of “nude” or “nudity.”

SPECIFIED SEXUAL ACTIVITIES – Acts of human masturbation, sexual intercourse, or sodomy. These activities include, but are not limited to the following: bestiality, erotic or sexual stimulation with objects or mechanical devices, acts of human anilingus, cunnilingus, fellatio, flagellation, masturbation, sadism, sadomasochism, sexual intercourse, sodomy, or any excretory functions as part of or in connection with any of the activities set forth above with any person on the premises. This definition shall include apparent sexual stimulation of another person’s genitals whether clothed or unclothed.

Z. PROHIBITED USES: The following uses are prohibited in the Kenton County Fiscal Court and county-wide under Kenton County Ordinance No. 451.9, establishing licensing requirements for sexually oriented businesses and service oriented escort bureaus. No Zoning Permit shall be issued for the following prohibited businesses:

1. Sexually oriented motion picture arcade or booth;
2. Sexually oriented encounter center;
3. Sexually oriented motel;
4. Sexually oriented massage parlor or any business offering massages that is operated by a person who is not licensed as a massage therapist in accordance with the provisions of Kentucky Rev. Statutes §309.350 et seq.;
5. Sexually oriented modeling studio;
6. Sexually oriented nude modeling studio; and
7. Sexually oriented escort bureau.

AA. PERMITTED USES: The following uses are permitted if they hold an approved Zoning Permit and a valid License approved under the county-wide Kenton County Ordinance No. 451.9, establishing licensing requirements for sexually oriented businesses and service oriented escort bureaus:

1. Media store with some sexually oriented media (not subject to licensing);

2. Sexually oriented media store;
3. Sex shop;
4. Service oriented escort bureau;
5. Sexually oriented motion picture theatre; and
6. Sexually oriented cabaret or theatre.

AB. PERMITTED ZONING DISTRICTS:

1. A media store carrying some sexually oriented media is permitted in any zoning district where other retail establishments are permitted.
2. A sexually oriented media store, sex shop or service oriented escort bureau is permitted in the following zoning districts if it holds an approved Zoning Permit and a valid License approved under the county-wide Kenton County Ordinance No. 451.9, establishing licensing requirements for sexually oriented businesses and service oriented escort bureaus:
 - a. SC (Shopping Center) Zone
3. A sexually oriented business featuring on-premise entertainment such as sexually oriented motion picture theatre, cabaret or theatre is permitted in the following zoning districts if it holds an approved Zoning Permit and a valid Kenton County Sexually Oriented Business License:
 - a. HC-1 (Highway Commercial One) Zone
 - b. HC-3 (Highway Commercial Three) Zone
 - c. LHS (Limited Highway Service) Zone
 - d. LSC (Limited Service Commercial) Zone
 - e. SC (Shopping Center) Zone
 - f. All Industrial (I) Zones, except for the IP (Industrial Park) Zone

AC. ZONING PERMIT: Any application for a sexually oriented business Zoning Permit shall be processed in accordance with [ARTICLE XVI](#) of the Zoning Ordinance with the following additional requirements:

1. Zoning Permit and License Required
 - a. Permit and license required. Each sexually oriented business or service oriented escort bureau is required to obtain a Zoning Permit under the City of Covington's Zoning Code and License under the countywide licensing ordinance, Kenton County Ordinance No. 451.9 as amended, establishing licensing requirements for sexually oriented businesses and service oriented escort bureaus. However, no license is required for a media store with some sexually oriented media.
 - b. Order of submissions. For a new sexually oriented business or service oriented escort bureau, the process is designed for the applicant to apply for a Zoning Permit first and Kenton County License second.
 - c. Application Contents: In addition to the other requirements of an application for a Zoning Permit, the applicant shall submit to the Zoning Administrator at least the following:
 1. A complete description of the exact nature of the business to be conducted;
 2. A location plan, showing the location of the property and the applicant's identification of any school, religious institution, public recreation area, park or day care center within 1,500 feet of the property;
 3. A sketch of the exterior and interior of the premises, showing all areas that will be open to the public and their purposes, the dimensions of such areas, all entrances and exits, the location of the screen for a motion picture theatre, the location and dimensions of the stage for a cabaret or theatre;
 4. A parking plan; and

5. A lighting and signage plan, showing fixtures that are adequate in number, design and location to meet the lighting requirements and applicable provisions of the countywide licensing ordinance, Kenton County Ordinance No. 451.9 as amended, establishing licensing requirements for sexually oriented businesses and service oriented escort bureaus.

AD. GENERAL STANDARDS:

1. General Standards related to sexually oriented businesses and service oriented escort bureaus.
 - a. Separation distances. No retail-only sexually oriented business (sexually oriented media store or sex shop) or service oriented escort bureau shall be located within 500 feet of any area within the zoning districts having the designation of “residential” as the district classification or within 500 feet of any parcel of land occupied by a school, religious institution, park, library, public recreation area, or day care center (considered “protected uses”) in any other district.
 - b. Separation distances. No sexually oriented business offering on-premise entertainment (sexually oriented motion picture theatre, cabaret or theatre) shall be located within 1000 feet of any area within the zoning districts having the designation of “residential” as the district classification or within 1000 feet of any parcel of land occupied by a school, religious institution, park, library, public recreation area, or day care center in any other district.
 - c. Separation distances. No sexually oriented business shall be located within 1,000 feet of any other sexually oriented business or service oriented escort bureau; this restriction shall require such a separation regardless of whether it is located within the city or within the county.
 - d. Single use. There shall be no more than one type of sexually oriented business or service oriented escort bureau at any one location.
 - e. Nonconformity. No legally established and permitted sexually oriented business or service oriented escort bureau shall become nonconforming through subsequent establishment of a school, religious institution, park, library, public recreation area, or day care center (protected uses); nor shall a Zoning Permit for a sexually oriented business or service oriented escort bureau be denied based on the filing of a Zoning Permit application for a protected use after the filing of such application for a sexually oriented business.
 - f. Measurement method. Where this section requires that one use be separated from another use, measurements shall be made in accordance with this subsection. For a use which is the only use or the principal use on a lot or parcel, the measurement shall be made from property line to property line from a point nearest to the use for which the measurement is being made. If the use is located in a multi-tenant building, then the distance shall be measured from the portion of the building of the leasehold or other space actually controlled or occupied that is nearest to the use for which the measurement is being made. Measurements between properties or spaces under this section shall be made by the shortest distance between the two properties and/or spaces.
2. Standards for Parking: An Off-Street Parking Plan shall be submitted as a part of the application for a Zoning Permit. All off-street parking shall be in accordance with [ARTICLE XI](#) with specific standards related as follows:
 - a. A sexually oriented media store, sex shop or service oriented escort bureau: 5.5 spaces per 1,000 square feet of gross public floor area.
 - b. A sexually oriented cabaret or theatre: 1 parking space for each 100 square feet of floor area used for dancing or assembly, or 1 space for each 4 persons based on design capacity, whichever is greater, plus 1 space for each 2 employees on shift of largest employment.
 - c. A sexually oriented motion picture theatre: 1 parking space for each 4 seats, based on a maximum seating capacity, plus 1 additional space for each 2 employees on shift of largest employment.

3. Standards for Exterior Lighting and Signage: An Exterior Lighting and Signage Plan shall be submitted with the application for a Zoning Permit. The required lighting shall be as follows:
 - a. Exterior lighting of the entries and private parking areas shall be a minimum of 15 footcandles as measured 3 feet from the ground or paving.
 - b. For a business on a single lot or parcel, no lighting shall illuminate any property not in control of the business by more than 5 footcandles as measured at the nearest adjacent property.
 - c. All signage shall be in accordance with the [ARTICLE XIV](#).

AE. INDIVIDUAL BUSINESS STANDARDS:

1. Standards for a Service Oriented Escort Bureau: A service oriented escort bureau shall be subject to the following additional standards:
 - a. Room size. The establishment shall operate all business in an open area of at least 600 square feet of floor area. No walls, dividers, curtains, screens, shades or other similar devices shall be used to obscure any part of the room where customers are located.
 - b. Lighting. The area occupied by customers shall be well lit at a lighting level of least 30 footcandles measured 3 feet from the floor.
2. Standards for a Media Store with Some Sexually Oriented Media: A retail book, video or other media store that has sexually explicit media that constitutes more than 10 percent but not more than 40 percent of its inventory or that occupies more than 10 percent but not more than 40 percent of its gross public floor area shall not be classified as a sexually oriented business but shall be subject to the following standards:
 - a. Separate room. The sexually explicit media shall be kept in a separate room from the rest of the inventory of the store and shall not visible outside the room;
 - b. Age limit. Sexually explicit media shall be available only to persons 18 years or older;
 - c. Access. Access to the room shall be through a solid door, accessed by an electronic control device monitored by the clerk or manager on duty through direct visual control;
 - d. Visibility. Customers and activities in the room shall be visible at all times to the clerk or manager on duty through a video system located at the clerk's or manager's counter; and
 - e. Lighting. The area occupied by customers shall be well lit at a lighting level of least 30 footcandles measured 3 feet from the floor.
3. Standards for a Sexually Oriented Media Store or Sex Shop: A sexually oriented media store or sex shop shall be subject to the following additional standards:
 - a. Room size. The establishment shall operate all business in an open area of at least 600 square feet of floor area. No walls, dividers, curtains, screens, shades or other similar devices shall be used to obscure any part of the room where customers are located;
 - b. Displays. No displays of sexually explicit media or images shall be visible from the exterior of the buildings; and
 - c. Lighting. The area occupied by customers shall be well lit at a lighting level of least 30 footcandles measured 3 feet from the floor.
4. Standards for a Sexually Oriented Motion Picture Theatre: A sexually oriented motion picture theater shall be subject to the following additional standards:
 - a. Presentation area. All screenings and presentations of motion pictures, videos or other media shall occur in a room open to all customers of the establishment and containing at least 1000 square feet of floor area. No walls, dividers, curtains, screens, shades or other similar devices shall be used to obscure any part of the room.

- b. Lighting. The lighting level in the area occupied by customers shall be at least 5 footcandles as measured at the floor.
 - c. Seating. Seating shall consist of individual, theater-style chairs, with solid arms separating the chairs. No couches, benches, portable chairs, beds, loose cushions or mattresses, or other forms of seating may be provided. Separate spaces for wheelchairs shall be provided in accordance with the applicable provisions of the building code and the Americans with Disabilities Act.
5. Standards for a Sexually Oriented Cabaret or Theatre: A sexually oriented cabaret or theater shall be subject to the following additional standards:
- a. Presentation area. All entertainment shall occur in an unobstructed room of at least 600 square feet of floor area with a person in any part of such room having a clear view of all entertainment areas;
 - b. Performance stage. All entertainment shall take place on stage elevated at least 24 inches above the surrounding floor area, with a minimum area of 100 square feet, and with a horizontal separation of at least 60 inches between the edge of the stage and the nearest space to which customers have access—the horizontal separation shall be physically enforced by a partial wall, rail, or other physical barrier, which may be located either on the stage (to keep the entertainers back from the edge) or on the floor (to keep the customers back from the stage);
 - c. Lighting. The lighting level in the area occupied by customers shall be at least 15 footcandles as measured 3 feet from the floor.
 - d. Seating. Seating shall consist of chairs or open booths; no couches, beds, or loose cushions or mattresses, or of any form shall be provided.

AF. ZONING ADMINISTRATOR REVIEW AND EXPIRATION OF ZONING PERMIT:

- 1. Determination of Completeness: Within 5 business days of submission of the sexually oriented land use permit application, the Zoning Administrator shall determine if the application is complete. If the application is incomplete, the Zoning Administrator shall return the application to the applicant with a letter or form specifying the items that are missing. The application shall not be further processed unless and until the applicant submits a complete application.
- 2. Review, Decision: If the Zoning Administrator determines that an application is complete, the Zoning Administrator shall review the application and, within 20 calendar days of submittal of the complete application, grant or deny the permit. If the permit is denied, the denial shall be made in writing, by letter or on a form, and shall specify the reasons why the application was denied, citing the specific provisions of this ordinance or other provisions of the City's ordinances that provide the basis for such denial. If the Zoning Administrator fails to act on a complete application within the 20-day period, the application is deemed denied. Upon denial or deemed denial, the applicant may appeal that denial to the Board of Adjustment.
- 3. The applicant may, at its option, pursue other or additional administrative remedies available under the zoning ordinance; by doing so, applicant shall be deemed to have waived any right to a decision within a particular time period and shall be subject to all of the terms, conditions and timelines applicable to such administrative remedies under the zoning ordinance.
- 4. Expiration of Zoning Permit: The issuance of the Zoning Permit shall be conditioned on the applicant obtaining and retaining a Kenton County Occupational License for the use represented by the Zoning Permit. If a no license has been granted within 6 months after the issuance of the Zoning Permit, then the Zoning Permit shall expire; provided, however, that the expiration date for the Zoning Permit shall be extended until 30 days after the end of any administrative or judicial appeal of the Zoning Permit.

AG. APPEAL PROCEDURES:

- 1. Appeals to Board of Adjustment

- a. Appeals to the Board of Adjustment may be taken by any person or entity claiming to be injuriously affected or aggrieved by an official action, order, requirement, interpretation, grant, refusal, or decision of the Zoning Administrator. Such appeal shall be taken within 10 calendar days after such action, order, requirement, interpretation, grant, refusal, or decision of the Zoning Administrator, by filing with the Zoning Administrator and with the Board a notice of appeal specifying the grounds thereof, and giving notice of such appeal to any and all parties of record. A fee, as required by § 158.007, shall also be paid to the Zoning Administrator at this time. The Zoning Administrator shall forthwith transmit to the Board all papers constituting the record on which the action appealed from was taken and shall be treated as and be the respondent in such further proceedings. At the public hearing on the appeal held by the Board, an interested person may appear and enter his or her appearance, and all shall be given an opportunity to be heard.
- b. The Board of Adjustment shall hear the appeal within 30 calendar days of its filing with the Zoning Administrator and give public notice in accordance with KRS Chapter 424, as well as written notice to the appellant and the Zoning Administrator at least 7 calendar days prior to the hearing. The affected parties may appear at the hearing in person or by an attorney. The Board of Adjustment shall hear the matter and render a decision within 36 days after the filing of the appeal. If the Board of Adjustment fails to act within such time, the application is deemed denied.

2. Appeals from the Board of Adjustment

- a. Any person or entity claiming to be injured or aggrieved by any final action of the Board of Adjustment shall appeal from the action to the circuit court of the county in which the property which is the subject of the action of the Board of Adjustment lies. Such appeal shall be taken within 30 calendar days after the final action of the Board of Adjustment. The Board of Adjustment shall be a party in any such appeal filed in the circuit court. All final actions which have not been appealed within 30 days shall not be subject to judicial review and shall become final.
- b. After the appeal is taken, the procedure shall be governed by the Rules of Civil Procedure. When an appeal has been filed, the Clerk of the Circuit Court shall issue a summons to all parties, including the Board of Adjustment in all cases, and shall cause it to be delivered for service as in any other law action.

AH. SEVERABILITY: It is hereby declared to be the intention of the Kenton County Fiscal Court that the sections, paragraphs, sentences, clauses and phrases of this Chapter are severable, and if any phrase clause, sentence, paragraph or section of this Chapter shall be declared unconstitutional or invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Chapter, since the same would have been enacted by the Kenton County Fiscal Court without the incorporation in this Code of any such unconstitutional or invalid phrase, clause, sentence, paragraph or section.

SECTION 9.3[4] DEVELOPMENT REGULATIONS FOR CONSERVATION SUBDIVISIONS

A. PURPOSE

1. To enhance subdivision value and reduce development costs through conservation and cluster designs.
2. To promote and preserve interconnected green space as a nonstructural stormwater runoff and watershed protection measure, and a means to promote convenient walking and/or biking paths to reduce reliance on automobiles.
3. To preserve interconnected and contiguous green space as habitat and water quality protection measures.
4. To promote environmentally-sensitive and efficient uses of land by clustering houses on less environmentally-sensitive soils, reducing the need for infrastructure such as paved surfaces and utility

easements, and reducing erosion and sedimentation by minimizing land disturbance and removal of vegetation.

5. To preserve unique or sensitive natural resources such as groundwater, floodplains, wetlands, streams, slopes, woodlands, and wildlife habitats.
6. To ensure interaction within the community by orienting houses closer to the street and providing public gathering spaces, parks, and community facilities.
7. To ensure interconnected street designs that reduce traffic speeds and reliance on more highly-classified streets.
8. To promote community character and diversity through a mixture of housing types and lot sizes.

B. HOUSING DENSITY DETERMINATION

The number of lots to be permitted within a conservation subdivision shall be determined through the development of a yield plan. Yield plans illustrate the maximum number of lots that can be created in a conventional subdivision based on the existing zone. Yield plans do not have to meet formal design plan requirements but must be capable of being constructed given site features and all applicable regulations.

C. APPLICATION AND PROCESSING

Pre-application meeting - Prior to filing for development plan review, the developer, petitioner, applicant, or property owner must attend a scheduled pre-application meeting with staff to discuss the yield plan and other requirements of the development review process.

The following information will be identified for traffic studies at the pre-application meeting: study area, site trip generation, site trip distribution, build-out study year, future highway projects within the study area, and other concurrent development occurring within the study area.

No person may rely upon any comment concerning a proposed development plan, or any expression of any nature about the proposal made by any participant at the pre-application meeting as a representation or implication that the proposal will be ultimately approved or rejected in any form. This meeting is intended to review the development plan and identify any issues in applying the conservation subdivision regulations.

Stage II Development Plan – A Stage II Development Plan shall be prepared in accordance with the requirements of [SECTION 9.20, B.](#), and submitted to the planning commission’s duly-authorized representative, for its review and approval. The planning commission, or its duly-authorized representative, shall take final action to approve, approve with conditions, or disapprove the Stage II Development Plan. This action letter shall be forwarded to the legislative body’s administrative official, or his/her duly authorized representative.

The planning commission, or its duly authorized representative, shall review the submitted Stage II Development Plan with regard to its compliance with the required elements of [SECTION 9.20, B.](#), for Stage II plans, and other applicable elements and regulations. Upon approval of the Stage II Development Plan by the planning commission, or its duly authorized representative, a copy of the plan shall be forwarded to the legislative body’s zoning administrator, who shall grant permits only in accordance with the approved Stage II Development Plan and other requirements of this ordinance.

D. RESIDENTIAL USES AND DENSITIES: The base density of dwelling units in a conservation subdivision shall be determined from the yield plan.

1. Density Bonus: A density bonus shall be granted if any of the following criteria are met, collectively up to a maximum of a 30 percent density bonus:
 - a. Density Bonus for Open Space – a density bonus shall be permitted for providing:
 1. An additional five percent open space – an additional two percent in dwelling units per net acre;

2. An additional ten percent open space – an additional five percent in dwelling units per net acre;
 3. An additional 15 percent open space – an additional ten percent in dwelling units per net acre; and
 4. An additional 20 percent or more open space – an additional 20 percent indwelling units per net acre
- b. Density Bonus For Increased Setbacks Along Street Frontage – an increase of five percent in dwelling units per net acre shall be permitted if the setback along a collector, arterial, or interstate, as identified in the Area-wide Comprehensive Plan, is increased to a minimum of 100 feet.

Additional open space provided may count towards additional open space/recreational area, but not areas contained within the original required perimeter setbacks around the development.

- c. Density Bonus For Public Access To Common Open Space – an additional five percent in dwelling units per net acre shall be permitted if access to the required common open space areas is granted to the general public.
- d. Density Bonus For Preserving/Reusing Historic Structures Or Buildings – an additional five percent in dwelling units per net acre shall be permitted for preserving/reusing historic structures or buildings.

Examples of Density Bonuses						
Total acres	Mandatory open space	# of lots	Additional Open Space	Density bonus	Additional lots	Total lots
100	30	100	-	-	-	100
100	30	100	10	5%	5	105
100	30	100	20	20%	20	120
100	30	100	-	Access to open space (5%)	25	125

2. Maximum Density: the gross density shall not exceed 2.6 dwelling units per acre of land and the net density shall not exceed 1.3 dwelling units per acre of land.

E. REQUIRED COMMON OPEN SPACE AREA: at least 30 percent of the total area of a conservation subdivision shall be retained as common open space. Riparian and viewshed protection areas may be counted towards the common open space requirement. Required perimeter setbacks around the development, streets, parking areas, driveways, and/or development lots shall be counted towards satisfying common open space requirements.

Passive Open Space: a minimum of 50 percent of the required common open space area shall be passive open space. Such open space areas shall be used to protect natural resource areas on the site. Riparian and viewshed protection areas may be counted towards the required passive open space.

Active Open Space: the remaining required common open space may be improved with active or semi-active recreational amenities available to, and usable by all residents of the development. Amenities may include swimming pools, play areas, ball fields, picnic tables and shelters, or fitness or walking/biking trails. They may also include small public squares or outdoor rooms.

An easement document pertaining to the use of the passive open space area shall be included on the plat and in each owner’s deed.

F. ACCESSORY USES: accessory uses shall be as specified within the existing zone.

G. CONDITIONAL USES: conditional uses, including customary accessory structures and uses shall be as specified within the existing zone and subject to the approval of the Board of Adjustment as set forth in Sections 9.14 and 18.7 of this ordinance.

H. AREA REQUIREMENTS: conservation subdivisions shall not be permitted on less than five acres of land. An area of less than five acres may be developed as a conservation subdivision, however, provided it is adjacent to an area approved for or developed as a conservation subdivision.

I. HEIGHT, YARD AND SETBACK REGULATIONS:

1. Minimum Building Site Width: 100 feet
2. Minimum site perimeter setback: 50 feet.
3. Maximum building height shall be as specified in the existing zone.

All other requirements shall be as approved in the plan.

J. TRAFFIC STUDY:

1. PURPOSE: It is the intent of this section to set forth regulations regarding the completion of traffic studies within the limits of a conservation subdivision. A traffic study shall be completed for any conservation subdivision. The purpose of these regulations is to:
 - a. Ensure that the existing transportation infrastructure is adequate for the proposed development.
 - b. Mitigate any negative traffic impacts to the surrounding transportation network caused by the development.
 - c. Ensure safe and adequate access points to the development.
 - d. Provide a consistent set of requirements and thresholds which can be applied to all development within conservation subdivisions .
2. GOALS: The goals of the traffic study shall be:
 - a. Return all intersections within the study area to the Level of Service existing prior to the development's inception.
 - b. Provide for improvements to the study area such as turn lanes, traffic signal modifications, and sight distance clearing in order to maintain the existing Level of Service where necessary.
3. THRESHOLDS: Only one of the following study types will be required based on the following conditions:
 - a. Traffic Assessment Report: A Traffic Assessment Report will be required for any development generating less than 60 vehicle trips per hour (vph) during the peak hour of the roadway network.
 - b. Traffic Impact Analysis Report: A Traffic Impact Analysis Report will be required for any development generating 60 or more vehicle trips per hour during the peak hour of the roadway network.

All trip generation data shall be based on the latest edition of the *Trip Generation Manual* published by the Institute of Transportation Engineers. All trip generation data shall be based on the final density of the development, inclusive of all granted density bonuses and any anticipated public use of any open space.

4. RESPONSIBILITY: The applicable traffic study is the responsibility of the applicant of the subject property. The report shall be completed under the direct supervision of a licensed professional Engineer licensed within the Commonwealth of Kentucky. Each report shall contain the professional engineer's stamp, along with their signature and date.
5. REQUIREMENTS: This section outlines the study requirements for each type of traffic study. The type of study required is based on the threshold requirements set forth in this ordinance.
 - a. Traffic Assessment Report Requirements: The contents of a traffic assessment report shall be presented in the form of a letter. The letter shall be a brief and concise presentation of the following information: introduction, existing traffic conditions, build-out traffic conditions (without site traffic), trip generation data, and build-out traffic conditions (with site traffic). An appendix to the report shall be provided that includes all site maps, figures and computer analyses.

- b. Traffic Impact Analysis Report Requirements: The contents of a traffic impact analysis report shall be presented in report form including the following sections:
 - 1. Executive Summary: summarizes study findings
 - 2. Introduction: provides all background information pertinent to study.
 - 3. Existing Traffic Conditions: provides all information and figures relevant to existing traffic condition analysis.
 - 4. Build-out Traffic Conditions (without site traffic): provides all information and figures relevant to build-out traffic conditions, not including proposed development traffic.
 - 5. Trip Generation: provides all information relevant to the trip generation data used in the analyses.
 - 6. Build-out Traffic Conditions (with site traffic): provides all information and figures relevant to build-out traffic conditions, including proposed development traffic.
 - 7. Signal Warrants Analysis (applicable only if a traffic signal is proposed as part of the development): provides all information relevant to the signal warrant analysis process as outlined in the latest edition of the *Manual of Uniform Traffic Control Devices*.
 - 8. Appendix: include all computer analyses conducted as part of the report.
- K. NATURAL RESOURCE PROTECTION: Hillside, viewshed and riparian protection shall be planned and applied in accordance with Section 9.34 of this ordinance.
- L. FENCES, WALLS, AND SIGNS: The location, height, and type of all fences, walls, and signs, shall be as approved in the plan.
- M. EROSION AND SEDIMENTATION CONTROL: Effective erosion and sedimentation controls shall be planned and applied in accordance with SECTION 9.7 of this ordinance.
- N. CRITERIA: Evaluation of the proposed development plan shall be based upon the following criteria:
 - 1. Extent to which the proposed development complies with the various elements of the Comprehensive Plan and where applicable any plan officially adopted by the legislative body.
 - 2. Extent to which the proposed development plan is consistent with the purpose of these conservation subdivision regulations.
 - 3. Extent to which the proposed site is adequate considering such factors as its configuration and the extent to which it is formed by boundaries based on topography, natural features, streets, and relationship to adjacent uses.
 - 4. Extent to which the proposed development is coordinated with existing and/or proposed contiguous development in terms of intensity, coordination of vehicular and pedestrian circulation, scale, open space and setbacks, screening or utilizing natural features, and impact on adjacent land uses.
 - 5. Extent to which non-traditional street designs (i.e. roundabouts, alleys, etc.) are used to provide for the efficient and safe movement of traffic.
 - 6. Extent to which necessary public utilities and facilities are available to serve the development. Where deficiencies exist, the extent to which improvements shall be considered.
- O. AMENDMENTS: Amendments to plans shall be made in accordance with the procedure required by Subsection C.
- P. UTILITIES: All utilities in a conservation subdivision shall be located underground.

SECTION 9.34¹⁵ NATURAL RESOURCE PROTECTION REGULATIONS

- A. PURPOSE: Natural resource protection areas include hillsides, riparian areas and viewsheds. The purposes of these regulations are to:

1. Establish development standards to protect functions and values of environmentally-sensitive features.
2. Protect the general public and public resources and facilities from injury, loss of life, property damage or financial loss due to flooding, erosion, landslides, soil subsidence or steep slope failures.
3. Protect unique, fragile and valuable elements of the environment by maintaining and promoting native biodiversity.
4. Prevent cumulative adverse environmental impacts on water quality, ground water, wetlands and aquatic areas.

B. APPLICABILITY

These regulations shall apply only to the Eco Commerce Park (ECP) Zone and to the development of conservation subdivisions within the Agriculture Two (A-2) Zone.

C. CONFLICT WITH OTHER REGULATIONS

If the provisions of these regulations conflict with other requirements of the Kenton County Zoning Ordinance, the more restrictive provision will apply.

D. HILLSIDE PROTECTION

1. Hillside protection is intended to ensure that when development is proposed on slopes of 20 percent or greater and/or underlying Kope formations, it is designed in a manner harmonious with adjacent lands so as to minimize problems of connectivity, drainage, erosion, earth movement, and other natural hazards.
2. Purpose
 - a. To permit a reasonable amount of development on hillsides while conserving and promoting the health, safety and general welfare by minimizing pollution from run-off and sedimentation.
 - b. To encourage best management practices of design, landscape architecture, architecture and planning to preserve, protect, enhance the existing and future appearance and resources of hillside areas.
 - c. To preserve and enhance the natural beauty of the landscape by encouraging maximum retention of the natural topographic features such as natural drainage swales, springs, streams, tree stands and other vegetative cover, and scenic vistas.
3. Areas of land on which development may be restricted due to hillside slopes shall be limited according to the following requirements:
 - a. No excavation, removal, or placement of any soil, foundation placement, or construction of buildings or structures of any nature within these areas may occur until plans and specifications have been submitted in development plan form and approval has been granted per [SECTION 9.7](#) of this ordinance.
 - b. Areas with slopes of 20 percent or greater shall meet the following requirements:
 1. The following information shall be shown on the Stage II Development Plan:
 - Existing topography and vegetation;
 - Proposed physical changes necessary for construction including grading (cutting and filling);
 - Areas to be cleared of vegetation;
 - Any pertinent actions which will change the natural physical features of the site or general area.
 2. A geo-technical report containing the following information shall be submitted for review with the Stage II Development Plan:
 - Results of subsurface investigation of the area under consideration, including test borings, laboratory tests, engineering tests, and a geological analysis.

Such investigation shall be made by a qualified, licensed civil engineer or a geologist, indicating that any structural or physical changes proposed in the area will be completed in a manner which will minimize hillside slippage and/or soil erosion.

4. The development plan and other information required by this Section shall be reviewed by the planning commission, or its duly authorized representative, to determine the impact of the proposed development on drainage, soil erosion and/or hillside slippage.

The planning commission, or its duly authorized representative, may authorize use of the site in accordance with the submitted plans. Prior to the issuance of a Certificate of Occupancy for the site, the planning commission, or its duly authorized representative, shall require written authorization from a qualified, licensed civil engineer that the proposed development was completed in compliance with the specifications and recommendations contained in the geo-technical report.

5. If, after review of the plans required by this section, the planning commission, or its duly authorized representative, determines that the proposed plans will not minimize hillside slippage and/or soil erosion, the Stage II Development Plan shall be denied.

6. CRITERIA: Evaluation of the proposed development plan shall be based upon the following criteria:

- a. PUBLIC POLICY:

1. Development in hillside areas should be designed to preserve the natural drainage and character of the land to the greatest extent possible. Deep and/or extensive excavations and fills which scar the landscape should be avoided.
2. Excessive cutting and filling should be avoided in the construction of hillside roadways.
3. Roadways constructed on hillsides should follow the contours of the land wherever possible or climb the slopes with a gentle grade.

- b. CHARACTER OF DEVELOPMENT:

1. The use of large, flat grading planes should be minimized and techniques such as terracing and landscaping earth berms should be explored.
2. Yards and parking areas should be designed to follow natural contours, drainage patterns, and vegetation.
3. The natural slope line of the hill, as seen in profile, should be retained.
4. Existing native vegetation should be preserved, and when disturbed, should be supplemented with new native vegetation.
5. Trees should be planted in random clusters, not in rows, to compliment the natural pattern of tree distribution.
6. All cuts, fills, and other earth modifications should be replanted with appropriate native vegetation.
7. The risk of off-site geologic property damage should be minimized by locating development away from areas vulnerable to sliding.
8. Grading for buildings, driveways, outdoor use areas, utilities, etc., should be minimized to preserve a site's natural topography.
9. When grading operations are necessary, the smallest practical areas of land should be exposed at any one time and the length of exposure should be kept to the shortest practicable amount of time.

E. RIPARIAN PROTECTION

1. Purpose: It is the intent of this sub-section to establish riparian buffer areas adjacent to all perennial streams and rivers in Kenton County to: protect public and private water supplies; trap sediment and other

pollutants in surface runoff; promote bank stabilization; protect riparian wetlands; minimize the impacts of flooding; prevent decreases in base flow; protect wildlife habitat; and maintain water quality.

2. DEFINITIONS: Notwithstanding other definitions within this ordinance, the following definitions shall apply only to this sub-section:

BEST MANAGEMENT PRACTICES: Conservation practices or management measures which control soil loss and reduce water quality degradation caused by nutrients, animal wastes, toxins, sediment and runoff.

RIPARIAN BUFFER: A vegetated area that includes trees, shrubs and herbaceous vegetation and exists or is established to protect a stream system.

STREAM, INTERMITTENT: A body of water flowing in a natural or man-made channel that contains water only part of the year, depicted as a dotted blue line on a USGS topographic map.

STREAM, PERENNIAL: A body of water flowing in a natural or man-made channel year-round except during periods of drought, depicted as a solid blue line on a USGS topographic map.

3. ESTABLISHMENT OF RIPARIAN BUFFER AREAS

The following are exempt from the terms and protection of these regulations: grassy swales, roadside ditches, drainage ditches created at the time of a subdivision to convey stormwater to another system, tile drainage systems, and stream culverts.

The following shall apply to the riparian buffer:

- a. The minimum riparian buffer shall include and interpreted from the LINK-GIS blueline stream layer, plus an additional 50 feet for residential uses and 75 feet for non-residential uses on either side of the stream.
- b. Where the 100-year floodplain is wider than the riparian buffer on either or both sides of the stream, the riparian buffer shall be extended to the outer edge of the 100-year floodplain. The 100-year floodplain width shall be reflective of and interpreted from the Federal Insurance Administration’s Flood Insurance Study floodplain boundaries, and regulated per SECTION 9.25 of this Ordinance.
- c. The following adjustment for steep slopes shall be integrated into the riparian buffer calculation for width determination to account for the influence of gradient on the stream:

Average percent slope within the riparian buffer	Additional buffer requirements
= >15% and < 25%	Add 25 feet
> 25%	Add 50 feet

- d. The applicant shall be responsible for delineating the riparian buffer and identifying this setback on all subdivision plats, development plans, and/or zoning permit applications. No approvals or permits shall be granted prior to the determination of the riparian buffer in conformance with these regulations.
- e. Prior to any land disturbance activity, the riparian buffer shall be clearly delineated with construction fencing or other suitable material by the applicant on site, and such delineation shall be maintained throughout soil-disturbing activities. The delineated area shall be maintained in an undisturbed state unless otherwise permitted by these regulations. All fencing shall be removed when a development project is completed.

4. PERMITTED USES: All land within the riparian buffer shall be subject to the following standards and regulations. Except as otherwise provided in these regulations, the riparian buffer shall remain in a natural

condition, or, if in a disturbed condition, including agricultural activities, at the time of the adoption of this ordinance, may be restored to a natural condition.

- a. Existing land uses, except:
 1. when the existing land use, or any building or structure involved in that use is enlarged, increased or extended to occupy a greater area of land; or
 2. when the existing land use, or any building or structure is involved in that use is moved (in whole or in part) to another portion of the property; or
 3. when the existing land use ceases for a period of more than one year; or
 4. when the existing land use involves agricultural production and management, in which case it shall be consistent with all state and federal laws, all regulations within the Kentucky Agriculture Water Quality Act and best management practices established by the Kentucky Division of Conservation.
- b. Open space uses that are primarily passive in character shall be permitted to extend into the riparian buffer provided the vegetation and remaining area of buffer is maintained. Such uses include wildlife sanctuaries, nature preserves, forest preserves, fishing areas, and game farms.
- c. Multiple use recreation trails provided they are located at least 20 feet from the stream and constructed of pervious materials.
- d. Fences for which a permit has been issued by the Zoning administrator provided they are not located within the floodway boundary.
- e. Timber cutting when accomplished under the advice and guidance of an appropriate government agency and necessary to preserve the forest from pest infestation, disease infestation or fire threat. Removal of individual trees that are in danger of falling and causing damage to structures or causing blockage to the stream flow.
- f. Stream crossings when designed and constructed according to Kentucky Division Of Water standards. All roadway crossings shall mitigate and remediate any necessary disturbance to the riparian buffer.
- g. Revegetation and/or reforestation of the riparian buffer. Information pertaining to species of shrubs and vines recommended for stabilizing flood prone areas along streams may be obtained at the Kenton County Conservation District.
- h. Stream bank stabilization or erosion control when accomplished according to best management practices and permitted uses by local, state and federal government regulations that emphasize the use of native plant species where practical and available. Stream bank stabilization/erosion control practices shall only be undertaken with approval from Sanitation District No.1.
- i. Structures which by their nature must be located within the riparian buffer. These include docks, boat launches, public water supply intake structures, facilities for water quality treatment and purification, utility transmission lines, and public wastewater treatment plant sewer lines and outfalls.

F. VIEWSHED PROTECTION

1. Purpose: The purpose of the these regulations is to protect and enhance the aesthetic character of areas that are highly visible from arterials and collectors, and to ensure the protection of natural resources such as hillsides and streams. These natural resources have a significant impact on the views along public rights of way.
2. For the purposes of these regulations, areas located 400 feet on either side of an existing arterial and 200 feet on either side of an existing collector street, measured from the edge of the right of way, shall be considered viewshed protection areas.

If the applicant can demonstrate that the boundaries of the viewshed protection area are inappropriate due to topographic conditions, the applicant shall submit a proposed viewshed protection area and include the justification for the proposed change.

3. For new developments proposed in viewshed protection areas, the following measures either individually or in combination may be used to meet the purposes of these regulations:

- a. Existing vegetation on the site along the arterial or collector street shall be preserved for a minimum depth of 75 feet as measured perpendicular to the right of way. If the existing vegetation is less than 75 feet in depth or is insufficient to serve as a visual buffer, then a combination of at least one other technique shall be used. These areas may count towards any open space or riparian buffer requirement.

All areas with existing vegetation proposed to be protected shall be clearly identified on Stage II Development Plans; photographs may be submitted to show that the areas proposed for protection meet the intent of this ordinance.

The applicant shall submit a tree protection/planting plan that identifies areas with trees for preservation and describes protection methods to be used during construction. This plan may be a part of the required landscape plan and shall include the following information:

1. Location of trees to be preserved;
 2. Contour lines; and
 3. Limits of clearing, trenching, access routes for heavy equipment, etc. that may be dangerous to the tree(s).
- b. A landscaped earth berm with a maximum slope of three to one, rising at least four feet above the existing grade shall be provided. The earth berm shall be landscaped with evergreen trees, deciduous understory trees, and evergreen shrubs. A difference in elevation between areas requiring screening does not constitute an earth mound.
 - c. A minimum setback of 150 feet shall be provided from the edge of the right of way to the closest structure. These areas may count towards any open space requirements.
 - d. Landscaping or reforestation techniques shall be used when none of the other listed viewshed protection options is feasible. A minimum planting strip of 75 feet shall be provided with 1 tree per 35 feet of linear boundary, or fraction thereof, from either List A (shade trees) or List B (flowering and non-flowering trees), plus a single row hedge from either List D (deciduous shrubs) or List E (evergreen/broadleaf shrubs) from the Planting Manual and Landscape Regulations Guidelines.

Alternatively, a reforestation program may be established for a minimum area 75 feet in depth as measured perpendicular to the right-of-way. A detailed description with plans shall be submitted along with the Stage II Development Plan. The reforestation program shall be prepared by a licensed forester or a licensed landscape architect.

ARTICLE X ZONES

SECTION 10.1 A-1 (AGRICULTURAL-ONE) ZONE

A. PERMITTED USES:

1. Agricultural uses;
2. Single-family residential dwellings (detached);
3. Mobile homes, subject to the requirements of [SECTION 9.26](#) of this ordinance;

4. Roadside stands for the sale of products that are raised, produced, and processed on the premises, provided that no roadside stands of any type for the sale or display of agricultural products shall be permitted within fifty (50) feet from any road or highway;
5. Greenhouses and nurseries, including both wholesale and retail sales of products grown on the premises;
6. Stables and riding academies.
7. Bed and breakfast establishments

~~8. Qualified manufactured homes, subject to the compatibility standards established in SECTION 9.32 of this ordinance~~

~~8~~⁹ Owner-Occupied Short-Term Rentals, subject to additional development controls in Section 10.1, F., 6.

B. ACCESSORY USES:

1. Customary accessory buildings and uses;
2. Fences and walls, as regulated by [ARTICLE XIII](#);
3. Home occupations, subject to the restrictions and limitations established in [SECTION 9.11](#) of this ordinance;
4. Signs, as regulated by [ARTICLE XIV](#).
5. Farmers Markets, subject to the following restrictions:
 - a. An accessory use permit is completed and recorded on file at the office of the PDS.
 - b. At least 75% of the products sold are Farm Products or Value-Added Farm products, as defined in Article 7, which have been produced, processed, or grown within the boundaries of the Commonwealth of Kentucky.
 - c. At least 75% of the vendors regularly participating during the market's hours of operation are Producers, as defined in Article 7, or family members or employees of Producers.
 - d. The owner of the premises on which the farmers market is located shall be a producer.
 - e. All Farmers' Markets and their vendors shall comply with all applicable federal, state, and local laws and regulations pertaining to the operation, use, and enjoyment of the market premises.
 - f. Minimum Lot Size: Three (3) Acres
 - g. Minimum Front Yard Setback: Forty (40) Feet
 - h. Minimum Side (on each side of lot), and Rear Yard Setback: Fifty (50) Feet
 - i. Minimum Setback from nearest residence: Two-Hundred (200) Feet
 - j. Parking: No parking shall be allowed in or on any right-of-way or within any site triangle as defined in [SECTION 9.17.,G.,2](#).
 - k. Site Distance for Access Points shall be regulated in [SECTION 11.3.,E](#).
 - l. Location of Access points shall be as regulated in [SECTION 11.3.,F](#).
 - m. Signage shall be allowed subject to the following restrictions:
 1. Maximum Signage Area: 32 square feet
 2. Maximum Sign Height: 12 feet
 3. No sign shall be located within any site triangle as defined in [SECTION 9.17.,G.,2](#).
 4. No sign shall interfere with any vehicular traffic movement nor shall any sign affect the general health, safety, or welfare of the public within or moving through the surrounding areas.
 5. Illuminated signage shall be prohibited
6. Agri-Tourism, subject to the following restrictions:

- a. PURPOSE: The purpose of permitting agri-tourism activities is to provide regulations and guidance in the agricultural-one zone to open opportunities for farmland owners to promote their land for agricultural operations. Only the proposed activities accomplishing this objective shall be permitted. Agri-tourism applications should only involve structures in keeping with an agricultural zone so as to preserve the agricultural viewscape of the rural community.
 - b. An accessory use permit is completed and recorded on file at the office of the PDS.
 - c. Parking: No parking shall be allowed in or on any right-of-way or within any site triangle as defined in [SECTION 9.17.,G.,2.](#)
 - d. Site Distance for Access Points shall be regulated in [SECTION 11.3.,E.](#)
 - e. Location of Access points shall be as regulated in [SECTION 11.3.,F.](#)
 - f. Signage shall be allowed subject to the following restrictions:
 1. Maximum Signage Area: 32 square feet
 2. Maximum Sign Height: 12 feet
 3. No sign shall be located within any site triangle as defined in [SECTION 9.17.,G.,2.](#)
 4. No sign shall interfere with any vehicular traffic movement nor shall any sign affect the general health, safety, or welfare of the public within or moving through the surrounding areas.
 5. Illuminated signage shall be prohibited
 - g. Structures erected for agri-tourism must fit an agricultural building definition.
 - h. The farm owner or their designee shall be on the premises when an agri-tourism activity or event is taking place.
 - i. Permitted agri-tourism uses:
 1. Seasonal activities: farm rides, farm stands, u-pick operations, pumpkin patches, corn mazes, Christmas tree farms, nature trails, farm tours, and fishing ponds
 2. Agricultural marketing activities: local farmers' markets and the direct sale of products produced on local farms
 3. Celebration venues: weddings, reunions, and community gatherings
 4. Educational activities: petting farms, classes, seminars, field trips, historical exhibits, product tasting, and farm tours
 - j. All permitted agri-tourism uses are limited to a 500 person maximum capacity.
- C. CONDITIONAL USES: The following uses or any customary accessory buildings and uses, subject to the approval by the board of adjustments, as set forth in [SECTION 9.14](#) and [SECTION 18.7](#) of this ordinance:
1. Cemeteries;
 2. Churches and other buildings for the purpose of religious worship, providing they are located adjacent to an arterial or collector street;
 3. Governmental offices;
 4. Nursery schools;
 5. Police and fire stations, provided they are located adjacent to an arterial or collector street;
 6. Public and parochial schools;
 7. Veterinarians' offices for large and small animals, including outside runs;
 8. Publicly owned and/or operated parks, playgrounds, golf courses, community recreational centers, including public swimming pools and libraries;
 9. Recreational uses, other than those publicly owned and/or operated, as follows:

- a. Golf courses;
 - b. Country clubs;
 - c. Swimming pools;
 - d. Tennis courts/clubs;
 - e. Fishing lakes;
 - f. Gun clubs and ranges;
10. Sanitary landfills, as regulated by [SECTION 9.27](#) of this ordinance;
 11. Funeral homes, providing they are located adjacent to an arterial street.
 12. Non-Owner Occupied Short Term Rentals, subject to additional development controls in Section 10.1, F., 6.
- D. AREA AND HEIGHT REGULATIONS FOR PERMITTED USES: No buildings shall be erected or structurally altered hereafter, except in accordance with the following regulations:
1. Minimum Lot Area - One (1) acre.
 2. Minimum Lot Width at Building Setback Line - One hundred (100) feet.
 3. Minimum Front Yard Depth - Forty (40) feet.
 4. Minimum Side Yard Width - Total: Thirty-eight (38) feet; One Side: Twelve (12) feet.
 5. Minimum Rear Yard Depth - Twenty-five (25) feet.
 6. Maximum Building Height - Thirty-five (35) feet.
- E. AREA AND HEIGHT REGULATIONS FOR CONDITIONALLY PERMITTED USES: No conditional building and/or use shall be erected or structurally altered hereafter, except in accordance with the following regulations:
1. Minimum Lot Area - Twenty-two thousand five hundred (22,500) square feet.
 2. Minimum Lot Width at Building Setback Line - One hundred fifty (150) feet.
 3. Minimum Front, Side (on each side of lot), and Rear Yards - Fifty (50) feet.
 4. Maximum Building Height - Thirty-five (35) feet.
- F. OTHER DEVELOPMENT CONTROLS:
1. Off-street parking and loading and/or unloading shall be provided in accordance with [ARTICLE XI](#) and [ARTICLE XII](#).
 2. No outdoor storage of any material (usable or waste) shall be permitted in this zone, except within enclosed containers.
 3. No lighting shall be permitted which would glare from this zone onto any street, or into any adjacent property.
 4. Screening and landscaping shall be provided, as regulated by [SECTION 9.17](#) of this ordinance. In no case shall the minimum planting strip be required to exceed the minimum setback requirement established for this zone.
 5. The following shall apply to bed and breakfast establishments:
 - a. The owner shall live in the dwelling unit and operate the bed and breakfast establishment.
 - b. Food service may be provided for resident guests only.
 - c. No exterior alterations and/or additions shall be permitted for the purpose of increasing the number of guest rooms.
 - d. Interior alterations should maintain the unique characteristics of the structure, if possible.
 - e. One parking space per guest room and two parking spaces for the owner shall be provided on site. Parking shall be limited to the side and rear yards, screened from adjacent properties with a six (6) foot high masonry or wood fence, or dense vegetation.

- f. A site plan, as regulated by [SECTION 9.19](#) of this ordinance, shall be required.
- 6. The following shall apply to owner-occupied and non-owner occupied short-term rentals:
 - a. **PURPOSE:** The purpose of the short-term rental regulations is to provide regulations and guidance for short-term rental usage in unincorporated Kenton County. Short-term rentals are intended to be temporary lodging which allows property owners to leverage the agricultural community and natural resources of the area, maintain rural character and encourage Agri-tourism and tourism.
 - b. Must obtain any required building permit, zoning permit, and occupational license.
 - c. Site Distance for Access Points shall be regulated by [ARTICLE XI](#).
 - d. The maximum length of each stay shall be 29 days.
 - e. No lease shall be rented less than 1 night's stay.
 - f. There shall be no external evidence of a short-term rental. The street address must clearly be visible from the right-of-way.
 - g. Short-term rentals shall not adversely affect the character of the neighborhood nor shall the use generate noise, vibration, glare, odors, or other effects that unreasonably interfere with any person's enjoyment of his or her property.
 - h. Short-term rentals are permitted in the primary structure and/or one accessory structure. Owner Occupied Short-term rentals shall be clearly incidental and commonly associated with the operation of the primary residential household living use.
 - i. Short-Term rentals shall not be located in mobile homes, recreational vehicles, travel trailers, tents, campgrounds, sheds, garages, or barns or any other structure typically not used as a residence.
 - j. Short-term rentals must provide one (1) parking space for each sleeping room or suite and one (1) for the caretaker of the property.
- 7. The following shall apply to agri-tourism activities:
 - a. Agri-tourism activities shall end by 10 p.m. Sunday through Thursday and midnight on Friday and Saturday nights.
 - b. No agri-tourism use shall produce odors, light, noise, or dust that are or will be observable beyond the parcel boundary. As per Right to Farm regulations, this does not include normal farm operations.
 - c. Lighting requirements shall meet the following:
 - 1. All lighting shall be fully shielded from above, with no light being emitted above the horizontal plane.
 - 2. The maximum illumination at the property line shall not exceed 1 foot candle.
 - 3. Free standing lights shall not exceed fifteen (15) feet in height including base and/or pedestal.
 - d. Noise requirements shall meet the following: The sound pressure of noise radiated continuously shall not exceed 60 dB between 7:00 a.m. and 10:00 p.m. and 50 dB between 10 p.m. and 7 a.m. at the property line.

[Ord. # [930.5](#), Amendments to the Agri-tourism regulations, including adding a purpose statement, requiring any structure to be an agricultural building, requiring an owner or designee to be on the premises during an event, specifying allowed agri-tourism activities, limiting the capacity of events, and adding time, odor, lighting, noise and dust regulations, 01/24/2023]

[SECTION 10.2 R-RE \(RESIDENTIAL RURAL ESTATE\) ZONE](#)

A. PERMITTED USES

- 1. Single-family residential dwellings (detached)

2. Agricultural uses;
3. Sale of products that are raised, produced, and processed on the premises, provided that no roadside stands of any type for the sale or display of agricultural products shall be permitted within fifty (50) feet from any street;
4. Greenhouses and nurseries, including both wholesale and retail sales of products grown on the premises provided that the storage of manure shall not be permitted nearer than one hundred (100) feet from the front of a street, road, highway, or right-of-way line, or not nearer than fifty (50) feet from a side lot line;
5. Stables and riding academies, both public and private.
6. Bed and breakfast establishments
- ~~7. Qualified manufactured homes, subject to the compatibility standards established in SECTION 9.32 of this ordinance.~~

B. ACCESSORY USES

1. Customary accessory buildings and uses
2. Fences and walls, as regulated by ARTICLE XIII
3. Home occupations regulated in SECTION 9.11
4. Signs, as regulated by ARTICLE XIV

C. CONDITIONAL USES: The following uses, or any customary accessory buildings and uses, subject to the approval by the board of adjustment, as set forth in SECTION 9.14 and SECTION 18.7 of this ordinance:

1. Cemeteries
2. Churches and other buildings for the purpose of religious worship, providing they are located adjacent to an arterial street
3. Funeral homes, provided they are located adjacent to an arterial street
4. Governmental offices
5. Nursery schools;
6. Police and fire stations, provided they are located adjacent to an arterial street
7. Public and parochial schools;
8. Publicly owned and/or operated parks, playgrounds, golf courses, community recreational centers, including public swimming pools and libraries;
9. Recreational uses, other than those publicly owned and/or operated as follows:
 - a. Golf courses;
 - b. Country clubs;
 - c. Swimming pools;
 - d. Tennis courts/clubs;
 - e. Fishing lakes and clubs;
 - f. Gun clubs and ranges;

10. Family child-care homes

- a. Family child-care homes shall be subject to the area and height regulations for permitted uses

D. AREA AND HEIGHT REGULATIONS FOR PERMITTED USES: No buildings shall be erected or structurally altered hereafter, except in accordance with the following regulations:

1. Minimum lot area - One (1) acre
2. Minimum lot width at building setback line - One hundred (100) feet

3. Minimum front yard depth - Forty (40) feet
 4. Minimum side yard width - Total: Thirty-eight (38) feet; One Side: Twelve (12) feet
 5. Minimum rear yard depth - Twenty-five (25) feet
 6. Maximum building height - Thirty-five (35) feet
- E. AREA AND HEIGHT REGULATIONS FOR CONDITIONALLY PERMITTED USES: No conditional building and/or use shall be erected or structurally altered hereafter, except in accordance with the following regulations:
1. Minimum lot area - Twenty-two thousand five hundred (22,500) square feet
 2. Minimum lot width at building setback line - One hundred fifty (150) feet
 3. Minimum front, side (on each side of lot), and rear yards - Fifty (50) feet
 4. Maximum building height - Thirty-five (35) feet
- F. OTHER DEVELOPMENT CONTROLS
1. Off-street parking and loading and/or unloading shall be provided in accordance with ARTICLE XI and ARTICLE XII.
 2. No outdoor storage of any material (usable or waste) shall be permitted in this zone, except within enclosed containers.
 3. No lighting shall be permitted which would glare from this zone onto any street, or into any adjacent property.
 4. Screening and landscaping shall be provided, as regulated by SECTION 9.17 of this ordinance. In no case shall the minimum planting strip be required to exceed the minimum setback requirement established for this zone.
 5. The following shall apply to bed and breakfast establishments:
 - a. The owner shall live in the dwelling unit and operate the bed and breakfast establishment.
 - b. Food service may be provided for resident guests only.
 - c. No exterior alterations and/or additions shall be permitted for the purpose of increasing the number of guest rooms.
 - d. Interior alterations should maintain the unique characteristics of the structure, if possible.
 - e. One parking space per guest room and two parking spaces for the owner shall be provided on site. Parking shall be limited to the side and rear yards, screened from adjacent properties with a six (6) foot high masonry or wood fence, or dense vegetation.
 6. A site plan, as regulated by SECTION 9.19 of this ordinance, shall be required.

[Ord. # 532.24, Adding Family Child Care Homes as a conditional use, 10/29/2024]

SECTION 10.3 R-1A (RESIDENTIAL ONE-A) ZONE

A. PERMITTED USES

1. Single-family residential dwellings (detached)
2. Qualified manufactured homes, subject to the compatibility standards established in SECTION 9.32 of this ordinance

B. ACCESSORY USES

1. Customary accessory buildings and uses
2. Fences and walls, as regulated by ARTICLE XIII
3. Home occupations, subject to the restrictions and limitations established in SECTION 9.11 of this ordinance
4. Signs, as regulated by ARTICLE XIV of this ordinance

C. **CONDITIONAL USES:** The following uses, or any customary accessory buildings or uses, subject to the approval of the board of adjustment, as set forth in [SECTION 9.14](#) and [SECTION 18.7](#) of this ordinance:

1. Cemeteries
2. Churches and other buildings for the purpose of religious worship, providing they are located adjacent to an arterial street
3. Fire and police stations, providing they are located adjacent to an arterial street
4. Funeral homes, provided they are located adjacent to an arterial street
5. Governmental offices
6. Institutions for higher education, providing they are located adjacent to an arterial street
7. Institutions for human medical care - hospitals, clinic sanitariums, convalescent homes, nursing homes, and homes for the aged, providing they are located adjacent to an arterial street
8. Nursery schools;
9. Public and parochial schools;
10. Publicly owned and/or operated parks, playgrounds, golf courses, community recreation centers, swimming pools and libraries;
11. Recreational uses other than those publicly owned and/or operated, as follows:
 - a. Golf courses;
 - b. Country clubs;
 - c. Swimming pools;
12. Family child-care homes
 - a. Family child-care homes shall be subject to the area and height regulations for permitted uses

D. **AREA AND HEIGHT REGULATIONS FOR PERMITTED USES:** No buildings shall be erected or structurally altered hereafter, except in accordance with the following regulations:

1. Minimum lot area - One (1) acre
2. Minimum lot width at building setback line - One hundred (100) feet
3. Minimum front yard depth - Forty (40) feet
4. Minimum side yard width - Total: Thirty-eight (38) feet; One Side: Twelve (12) feet
5. Minimum rear yard depth - Twenty-five (25) feet
6. Maximum building height - Thirty-five (35) feet

E. **AREA AND HEIGHT REGULATIONS FOR CONDITIONALLY PERMITTED USES:** No conditional building and/or use shall be erected or structurally altered hereafter, except in accordance with the following regulations:

1. Minimum lot area - Twenty-two thousand five hundred (22,500) square feet
2. Minimum lot width at building setback line - One hundred fifty (150) feet
3. Minimum front, side (on each side of lot), and rear yards - Fifty (50) feet
4. Maximum building height - Thirty-five (35) feet

F. **OTHER DEVELOPMENT CONTROLS**

1. Off-street parking and loading and/or unloading shall be provided in accordance with [ARTICLE XI](#) and [ARTICLE XII](#).
2. No outdoor storage of any material (usable or waste) shall be permitted in this zone, except within enclosed containers.
3. No lighting shall be permitted which would glare from this zone onto any street, or into any adjacent property.

4. Screening and landscaping shall be provided, as regulated by SECTION 9.17 of this ordinance. In no case shall the minimum planting strip be required to exceed the minimum setback requirement established for this zone.

[Ord. # 532.24, Adding Family Child Care Homes as a conditional use, 10/29/2024]

SECTION 10.4 R-1B (RESIDENTIAL ONE-B) ZONE

A. PERMITTED USES

1. Single-family residential dwellings (detached)

~~[2. Qualified manufactured homes, subject to the compatibility standards established in SECTION 9.32 of this ordinance]~~

B. ACCESSORY USES

1. Customary accessory buildings and uses
2. Fences and walls, as regulated by ARTICLE XIII
3. Home occupations, subject to the restrictions and limitations established in SECTION 9.11 of this ordinance
4. Signs, as regulated by ARTICLE XIV of this ordinance

C. CONDITIONAL USES: The following uses, or any customary accessory buildings or uses, subject to the approval of the board of adjustment, as set forth in SECTION 9.14 and SECTION 18.7 of this ordinance:

1. Cemeteries
2. Churches and other buildings for the purpose of religious worship, providing they are located adjacent to an arterial street
3. Fire and police stations, providing they are located adjacent to an arterial street
4. Funeral homes, provided they are located adjacent to an arterial street
5. Governmental offices
6. Institutions for higher education, providing they are located adjacent to an arterial street
7. Institutions for human medical care - hospitals, clinic sanitariums, convalescent homes, nursing homes, and homes for the aged, providing they are located adjacent to an arterial street
8. Nursery schools;
9. Public and parochial schools;
10. Publicly owned and/or operated parks, playgrounds, golf courses, community recreation centers, swimming pools and libraries;
11. Recreational uses other than those publicly owned and/or operated, as follows:
 - a. Golf courses;
 - b. Country clubs;
 - c. Swimming pools;
12. Family child-care homes
 - a. Family child-care homes shall be subject to the area and height regulations for permitted uses

D. AREA AND HEIGHT REGULATIONS FOR PERMITTED USES:

1. Minimum lot area - One-half (1/2) acre
2. Minimum lot width at building setback line - One hundred (100) feet

3. Minimum front yard depth - Forty (40) feet
4. Minimum side yard width - Total: Twenty-five (25) feet; One Side: Ten (10) feet
5. Minimum rear yard depth - Twenty-five (25) feet
6. Maximum building height - Thirty-five (35) feet

E. AREA AND HEIGHT REGULATIONS FOR CONDITIONALLY PERMITTED USES:

1. Minimum lot area - Twenty-two thousand five hundred (22,500) square feet
2. Minimum lot width at building setback line - One hundred fifty (150) feet
3. Minimum front, side (on each side of lot), and rear yards - Fifty (50) feet
4. Maximum building height - Thirty-five (35) feet

F. OTHER DEVELOPMENT CONTROLS

1. Off-street parking and loading and/or unloading shall be provided in accordance with ARTICLE XI and ARTICLE XII.
2. No outdoor storage of any material (usable or waste) shall be permitted in this zone, except within enclosed containers.
3. No lighting shall be permitted which would glare from this zone onto any street, or into any adjacent property.
4. Screening and landscaping shall be provided, as regulated by SECTION 9.17 of this ordinance. In no case shall the minimum planting strip be required to exceed the minimum setback requirement established for this zone.

[Ord. # 532.24, Adding Family Child Care Homes as a conditional use, 10/29/2024]

SECTION 10.4A R-1BB (RESIDENTIAL ONE-BB) ZONE

A. PERMITTED USES

1. Single-family residential dwellings (detached)
2. Two-family residential dwellings

~~3. Qualified manufactured homes, subject to the compatibility standards established in SECTION 9.32 of this ordinance~~

B. ACCESSORY USES

1. Customary accessory buildings and uses
2. Fences and walls, as regulated by ARTICLE XIII
3. Home occupations, subject to the restrictions and limitations established in SECTION 9.11 of this ordinance
4. Signs, as regulated by ARTICLE XIV
5. Quarters for live-in domestic help to include such accessory uses as caretakers, gardeners, maids, and nursing care, where said quarters are clearly accessory to and located within the principle use

C. CONDITIONAL USES: The following uses, or any customary accessory buildings or uses, subject to the approval of the board of adjustment, as set forth in SECTION 9.14 and SECTION 18.7 of this ordinance:

1. Cemeteries
2. Churches and other buildings for the purpose of religious worship, providing they are located adjacent to an arterial street
3. Fire and police stations, providing they are located adjacent to an arterial street
4. Funeral homes, provided they are located adjacent to an arterial street

5. Governmental offices
6. Institutions for higher education, providing they are located adjacent to an arterial street
7. Institutions for human medical care - hospitals, clinic sanitariums, convalescent homes, nursing homes, and homes for the aged, providing they are located adjacent to an arterial street
8. Nursery schools
9. Public and parochial schools;
10. Publicly owned and/or operated parks, playgrounds, golf courses, community recreational centers, including public swimming pools and libraries;
11. Recreational uses other than those publicly owned and/or operated, as follows:
 - a. Golf courses;
 - b. Country clubs;
 - c. Swimming pools;
12. Family child-care homes
 - a. Family child-care homes shall be subject to the area and height regulations for permitted uses

D. AREA AND HEIGHT REGULATIONS FOR PERMITTED USES

1. Minimum lot area -
Single-family: One-half (1/2) acre
Two-family: Three-quarters (3/4) acre
2. Minimum lot width at building setback line - One hundred (100) feet
3. Minimum front yard depth – Forty (40) feet
4. Minimum side yard width - Total: Twenty-five (25) feet; One Side: Ten (10) feet
5. Minimum rear yard depth - Twenty-five (25) feet
6. Maximum building height - Thirty-five (35) feet

E. AREA AND HEIGHT REGULATIONS FOR CONDITIONALLY PERMITTED USES

1. Minimum lot area - Twenty-two thousand five hundred (22,500) square feet
2. Minimum lot width at building setback line - One hundred fifty (150) feet
3. Minimum front, side (on each side of lot), and rear yards - Fifty (50) feet
4. Maximum building height - Thirty-five (35) feet

F. OTHER DEVELOPMENT CONTROLS

1. Off-street parking and loading and/or unloading shall be provided in accordance with ARTICLE XI and ARTICLE XII.
2. No outdoor storage of any material (usable or waste) shall be permitted in this zone, except within enclosed containers.
3. No lighting shall be permitted which would glare from this zone onto any street, or into any adjacent property.
4. Screening and landscaping shall be provided, as regulated by SECTION 9.17 of this ordinance. In no case shall the minimum planting strip be required to exceed the minimum setback requirement established for this zone.

[Ord. # [532.24](#), Adding Family Child Care Homes as a conditional use, 10/29/2024]

SECTION 10.5 R-1C (RESIDENTIAL ONE-C) ZONE

A. PERMITTED USES

1. Single-family residential dwellings (detached)

~~2. Qualified manufactured homes, subject to the compatibility standards established in SECTION 9.32 of this ordinance~~

B. ACCESSORY USES

1. Customary accessory buildings and uses

2. Fences and walls, as regulated by ARTICLE XIII

3. Home occupations, subject to the restrictions and limitations established in SECTION 9.11 of this ordinance

4. Signs, as regulated by ARTICLE XIV of this ordinance

C. CONDITIONAL USES: The following uses, or any customary accessory buildings or uses, subject to the approval of the board of adjustment, as set forth in SECTION 9.14 and SECTION 18.7 of this ordinance:

1. Cemeteries

2. Churches and other buildings for the purpose of religious worship, providing they are located adjacent to an arterial street

3. Fire and police stations, providing they are located adjacent to an arterial street

4. Funeral homes, provided they are located adjacent to an arterial street

5. Governmental offices

6. Institutions for higher education, providing they are located adjacent to an arterial street

7. Institutions for human medical care - hospitals, clinic sanitariums, convalescent homes, nursing homes, and homes for the aged, providing they are located adjacent to an arterial street

8. Nursery schools;

9. Public and parochial schools;

10. Publicly owned and/or operated parks, playgrounds, golf courses, community recreation centers, swimming pools and libraries;

11. Recreational uses other than those publicly owned and/or operated, as follows:

a. Golf courses;

b. Country clubs;

c. Swimming pools;

12. Family child-care homes

a. Family child-care homes shall be subject to the area and height regulations for permitted uses

D. AREA AND HEIGHT REGULATIONS FOR PERMITTED USES:

1. Minimum lot area - Twelve thousand five hundred (12,500) square feet

2. Minimum lot width at building setback line - Eighty (80) feet

3. Minimum front yard depth - Thirty-five (35) feet

4. Minimum side yard width - Total: Twenty (20) feet; One Side: Seven (7) feet

5. Minimum rear yard depth - Twenty-five (25) feet

6. Maximum building height - Thirty-five (35) feet

E. AREA AND HEIGHT REGULATIONS FOR CONDITIONALLY PERMITTED USES:

1. Minimum lot area - Twenty-two thousand five hundred (22,500) square feet

2. Minimum lot width at building setback line - One hundred fifty (150) feet
3. Minimum front, side (on each side of lot), and rear yards - Fifty (50) feet
4. Maximum building height - Thirty-five (35) feet

F. OTHER DEVELOPMENT CONTROLS

1. Off-street parking and loading and/or unloading shall be provided in accordance with ARTICLE XI and ARTICLE XII.
2. No outdoor storage of any material (usable or waste) shall be permitted in this zone, except within enclosed containers.
3. No lighting shall be permitted which would glare from this zone onto any street, or into any adjacent property.
4. Screening and landscaping shall be provided, as regulated by SECTION 9.17 of this ordinance. In no case shall the minimum planting strip be required to exceed the minimum setback requirement established for this zone.

[Ord. # 532.24, Adding Family Child Care Homes as a conditional use, 10/29/2024]

SECTION 10.6 R-1D (RESIDENTIAL ONE-D) ZONE

A. PERMITTED USES

1. Single-family residential dwellings (detached)
2. Qualified manufactured homes, subject to the compatibility standards established in SECTION 9.32 of this ordinance

B. ACCESSORY USES

1. Customary accessory buildings and uses
2. Fences and walls, as regulated by ARTICLE XIII
3. Home occupations, subject to the restrictions and limitations established in SECTION 9.11 of this ordinance
4. Signs, as regulated by ARTICLE XIV

C. CONDITIONAL USES: The following uses, or any customary accessory buildings or uses, subject to the approval of the board of adjustment, as set forth in SECTION 9.14 and SECTION 18.7 of this ordinance:

1. Cemeteries
2. Churches and other buildings for the purpose of religious worship, providing they are located adjacent to an arterial street
3. Fire and police stations, providing they are located adjacent to an arterial street
4. Funeral homes, provided they are located adjacent to an arterial street
5. Governmental offices
6. Institutions for higher education, providing they are located adjacent to an arterial street
7. Institutions for human medical care - hospitals, clinic sanitariums, convalescent homes, nursing homes, and homes for the aged, providing they are located adjacent to an arterial street
8. Nursery schools
9. Public and parochial schools;
10. Publicly owned and/or operated parks, playgrounds, golf courses, community recreational centers, including public swimming pools and libraries;
11. Recreational uses other than those publicly owned and/or operated, as follows:

- a. Golf courses;
 - b. Country clubs;
 - c. Swimming pools;
12. Family child-care homes
- a. Family child-care homes shall be subject to the area and height regulations for permitted uses

D. AREA AND HEIGHT REGULATIONS FOR PERMITTED USES

- 1. Minimum lot area - Nine thousand (9,000) square feet
- 2. Minimum lot width at building setback line - Seventy (70) feet
- 3. Minimum front yard depth - Thirty (30) feet
- 4. Minimum side yard width - Total: Eighteen (18) feet; One Side: Six (6) feet
- 5. Minimum rear yard depth - Twenty-five (25) feet
- 6. Maximum building height - Thirty-five (35) feet

E. AREA AND HEIGHT REGULATIONS FOR CONDITIONALLY PERMITTED USES

- 7. Minimum lot area - Twenty-two thousand five hundred (22,500) square feet
- 1. Minimum lot width at building setback line - One hundred fifty (150) feet
- 2. Minimum front, side (on each side of lot), and rear yards - Fifty (50) feet
- 3. Maximum building height - Thirty-five (35) feet

F. OTHER DEVELOPMENT CONTROLS

- 1. Off-street parking and loading and/or unloading shall be provided in accordance with ARTICLE XI and ARTICLE XII.
- 2. No outdoor storage of any material (usable or waste) shall be permitted in this zone, except within enclosed containers.
- 3. No lighting shall be permitted which would glare from this zone onto any street, or into any adjacent property.
- 4. Screening and landscaping shall be provided, as regulated by SECTION 9.17 of this ordinance. In no case shall the minimum planting strip be required to exceed the minimum setback requirement established for this zone.

[Ord. # 532.24, Adding Family Child Care Homes as a conditional use, 10/29/2024]

SECTION 10.7 R-1DD (RESIDENTIAL ONE-DD) ZONE

A. PERMITTED USES

- 1. Single-family residential dwellings (detached)
- 2. Two-family residential dwellings

~~[3. Qualified manufactured homes, subject to the compatibility standards established in SECTION 9.32 of this ordinance]~~

B. ACCESSORY USES

- 1. Customary accessory buildings and uses
- 2. Fences and walls, as regulated by ARTICLE XIII
- 3. Home occupations, subject to the restrictions and limitations established in SECTION 9.11 of this ordinance
- 4. Signs, as regulated by ARTICLE XIV

C. **CONDITIONAL USES:** The following uses, or any customary accessory buildings or uses, subject to the approval of the board of adjustment, as set forth in SECTION 9.14 and SECTION 18.7 of this ordinance:

1. Cemeteries
2. Churches and other buildings for the purpose of religious worship, providing they are located adjacent to an arterial street
3. Fire and police stations, providing they are located adjacent to an arterial street
4. Funeral homes, provided they are located adjacent to an arterial street
5. Governmental offices
6. Institutions for higher education, providing they are located adjacent to an arterial street
7. Institutions for human medical care - hospitals, clinic sanitariums, convalescent homes, nursing homes, and homes for the aged, providing they are located adjacent to an arterial street
8. Nursery schools
9. Public and parochial schools;
10. Publicly owned and/or operated parks, playgrounds, golf courses, community recreational centers, including public swimming pools and libraries;
11. Recreational uses other than those publicly owned and/or operated, as follows:
 - a. Golf courses;
 - b. Country clubs;
 - c. Swimming pools;
12. Family child-care homes
 - a. Family child-care homes shall be subject to the area and height regulations for permitted uses

D. **AREA AND HEIGHT REGULATIONS FOR PERMITTED USES**

1. Minimum lot area -
Single-family: Nine thousand (9,000) square feet
Two-family: Thirteen thousand five hundred (13,500) square feet
2. Minimum lot width at building setback line -
Single-family: Seventy (70) feet
Two-family: Eighty (80) feet
3. Minimum front yard depth - Thirty (30) feet
4. Minimum side yard width - Total: Eighteen (18) feet; One Side: Six (6) feet
5. Minimum rear yard depth - Twenty-five (25) feet
6. Maximum building height - Thirty-five (35) feet

E. **AREA AND HEIGHT REGULATIONS FOR CONDITIONALLY PERMITTED USES**

1. Minimum lot area - Twenty-two thousand five hundred (22,500) square feet
2. Minimum lot width at building setback line - One hundred fifty (150) feet
3. Minimum front, side (on each side of lot), and rear yards - Fifty (50) feet
4. Maximum building height - Thirty-five (35) feet

F. **OTHER DEVELOPMENT CONTROLS**

1. Off-street parking and loading and/or unloading shall be provided in accordance with ARTICLE XI and ARTICLE XII.
2. No outdoor storage of any material (usable or waste) shall be permitted in this zone, except within enclosed containers.
3. No lighting shall be permitted which would glare from this zone onto any street, or into any adjacent property.
4. Screening and landscaping shall be provided, as regulated by SECTION 9.17 of this ordinance. In no case shall the minimum planting strip be required to exceed the minimum setback requirement established for this zone.

[Ord. # 532.24, Adding Family Child Care Homes as a conditional use, 10/29/2024]

SECTION 10.8 R-1E (RESIDENTIAL ONE-E) ZONE

A. PERMITTED USES

1. Single-family residential dwellings (detached)
- ~~2. Qualified manufactured homes, subject to the compatibility standards established in SECTION 9.32 of this ordinance~~

B. ACCESSORY USES

1. Customary accessory buildings and uses
2. Fences and walls, as regulated by ARTICLE XIII
3. Home occupations, subject to the restrictions and limitations established in SECTION 9.11 of this ordinance
4. Signs, as regulated by ARTICLE XIV

C. CONDITIONAL USES: The following uses, or any customary accessory buildings or uses, subject to the approval of the board of adjustment, as set forth in SECTION 9.14 and SECTION 18.7 of this ordinance:

1. Cemeteries
2. Churches and other buildings for the purpose of religious worship, providing they are located adjacent to an arterial street
3. Fire and police stations, providing they are located adjacent to an arterial street
4. Funeral homes, provided they are located adjacent to an arterial street
5. Governmental offices
6. Greenhouses, nurseries, and related facilities for landscaping contractors including the wholesaling of trees, plants, and mulch. All equipment shall be stored within enclosed structures. No such facility shall be located on less than a minimum lot size of ten (10) acres
7. Institutions for higher education, providing they are located adjacent to an arterial street
8. Institutions for human medical care - hospitals, clinic sanitariums, convalescent homes, nursing homes, and homes for the aged, providing they are located adjacent to an arterial street
9. Nursery schools
10. Public and parochial schools;
11. Publicly owned and/or operated parks, playgrounds, golf courses, community recreational centers, including public swimming pools and libraries;
12. Recreational uses other than those publicly owned and/or operated, as follows:
 - a. Golf courses;

- b. Country clubs;
- c. Swimming pools;
- 13. Family child-care homes
 - a. Family child-care homes shall be subject to the area and height regulations for permitted uses

D. AREA AND HEIGHT REGULATIONS FOR PERMITTED USES

- 1. Minimum lot area - Seven thousand five hundred (7,500) square feet
- 2. Minimum lot width at building setback line - Sixty (60) feet
- 3. Minimum front yard depth - Thirty (30) feet
- 4. Minimum side yard width - Total: Fifteen (15) feet; One Side: Five (5) feet
- 5. Minimum rear yard depth - Twenty-five (25) feet
- 6. Maximum building height - Thirty-five (35) feet

E. AREA AND HEIGHT REGULATIONS FOR CONDITIONALLY PERMITTED USES

- 1. Minimum lot area - Twenty-two thousand five hundred (22,500) square feet
- 2. Minimum lot width at building setback line - One hundred fifty (150) feet
- 3. Minimum front, side (on each side of lot), and rear yards - Fifty (50) feet
- 4. Maximum building height - Thirty-five (35) feet

F. OTHER DEVELOPMENT CONTROLS

- 1. Off-street parking and loading and/or unloading shall be provided in accordance with ARTICLE XI and ARTICLE XII.
- 2. No outdoor storage of any material (usable or waste) shall be permitted in this zone, except within enclosed containers.
- 3. No lighting shall be permitted which would glare from this zone onto any street, or into any adjacent property.
- 4. Screening and landscaping shall be provided, as regulated by SECTION 9.17 of this ordinance. In no case shall the minimum planting strip be required to exceed the minimum setback requirement established for this zone.

[Ord. # 532.24, Adding Family Child Care Homes as a conditional use, 10/29/2024]

SECTION 10.9 R-1EE (RESIDENTIAL ONE-EE) ZONE

A. PERMITTED USES

- 1. Single-family residential dwellings (detached)
- 2. Two-family residential dwellings
- ~~3. Qualified manufactured homes, subject to the compatibility standards established in SECTION 9.32 of this ordinance~~

B. ACCESSORY USES

- 1. Customary accessory buildings and uses
- 2. Fences and walls, as regulated by ARTICLE XIII
- 3. Home occupations, subject to the restrictions and limitations established in SECTION 9.11 of this ordinance
- 4. Signs, as regulated by ARTICLE XIV

C. **CONDITIONAL USES:** The following uses, or any customary accessory buildings or uses, subject to the approval of the board of adjustment, as set forth in [SECTION 9.14](#) and [SECTION 18.7](#) of this ordinance:

1. Cemeteries
2. Churches and other buildings for the purpose of religious worship, providing they are located adjacent to an arterial street
3. Fire and police stations, providing they are located adjacent to an arterial street
4. Funeral homes, provided they are located adjacent to an arterial street
5. Governmental offices
6. Institutions for higher education, providing they are located adjacent to an arterial street
7. Institutions for human medical care - hospitals, clinic sanitariums, convalescent homes, nursing homes, and homes for the aged, providing they are located adjacent to an arterial street
8. Nursery schools
9. Public and parochial schools;
10. Publicly owned and/or operated parks, playgrounds, golf courses, community recreational centers, including public swimming pools and libraries;
11. Recreational uses other than those publicly owned and/or operated, as follows:
 - a. Golf courses;
 - b. Country clubs;
 - c. Swimming pools;
12. Family child-care homes
 - a. Family child-care homes shall be subject to the area and height regulations for permitted uses

D. **AREA AND HEIGHT REGULATIONS FOR PERMITTED USES**

1. Minimum lot area -
Single-family: Seven thousand five hundred (7,500) square feet
Two-family: Eleven thousand five hundred (11,500) square feet
2. Minimum lot width at building setback line -
Single-family: Sixty (60) feet
Two-family: Eighty (80) feet
3. Minimum front yard depth - Thirty (30) feet
4. Minimum side yard width - Total: Fifteen (15) feet; One Side: Five (5) feet
5. Minimum rear yard depth - Twenty-five (25) feet
6. Maximum building height - Thirty-five (35) feet

E. **AREA AND HEIGHT REGULATIONS FOR CONDITIONALLY PERMITTED USES**

1. Minimum lot area - Twenty-two thousand five hundred (22,500) square feet
2. Minimum lot width at building setback line - One hundred fifty (150) feet
3. Minimum front, side (on each side of lot), and rear yards - Fifty (50) feet
4. Maximum building height - Thirty-five (35) feet

F. **OTHER DEVELOPMENT CONTROLS**

1. Off-street parking and loading and/or unloading shall be provided in accordance with ARTICLE XI and ARTICLE XII.
2. No outdoor storage of any material (usable or waste) shall be permitted in this zone, except within enclosed containers.
3. No lighting shall be permitted which would glare from this zone onto any street, or into any adjacent property.
4. Screening and landscaping shall be provided, as regulated by SECTION 9.17 of this ordinance. In no case shall the minimum planting strip be required to exceed the minimum setback requirement established for this zone.

[Ord. # 532.24, Adding Family Child Care Homes as a conditional use, 10/29/2024]

SECTION 10.10 R-1F (RESIDENTIAL ONE-F) ZONE

A. PERMITTED USES

1. Single-family residential dwellings (detached)
2. Qualified manufactured homes, subject to the compatibility standards established in SECTION 9.32 of this ordinance

B. ACCESSORY USES

1. Customary accessory buildings and uses
2. Fences and walls, as regulated by ARTICLE XIII
3. Home occupations, subject to the restrictions and limitations established in SECTION 9.11 of this ordinance
4. Signs, as regulated by ARTICLE XIV

C. CONDITIONAL USES: The following uses, or any customary accessory buildings or uses, subject to the approval of the board of adjustment, as set forth in SECTION 9.14 and SECTION 18.7 of this ordinance:

1. Cemeteries
2. Churches and other buildings for the purpose of religious worship, providing they are located adjacent to an arterial street
3. Fire and police stations, providing they are located adjacent to an arterial street
4. Funeral homes, provided they are located adjacent to an arterial street
5. Governmental offices
6. Institutions for higher education, providing they are located adjacent to an arterial street
7. Institutions for human medical care - hospitals, clinic sanitariums, convalescent homes, nursing homes, and homes for the aged, providing they are located adjacent to an arterial street
8. Nursery schools
9. Public and parochial schools;
10. Publicly owned and/or operated parks, playgrounds, golf courses, community recreational centers, including public swimming pools and libraries;
11. Recreational uses other than those publicly owned and/or operated, as follows:
 - a. Golf courses;
 - b. Country clubs;
 - c. Swimming pools;
12. Family child-care homes

a. Family child-care homes shall be subject to the area and height regulations for permitted uses

D. AREA AND HEIGHT REGULATIONS FOR PERMITTED USES

1. Minimum lot area - Six thousand (6,000) square feet
2. Minimum lot width at building setback line - Fifty (50) feet
3. Minimum front yard depth - Twenty-five (25) feet
4. Minimum side yard width - Total: Ten (10) feet; One Side: Five (5) feet
5. Minimum rear yard depth - Twenty-five (25) feet
6. Maximum building height - Thirty-five (35) feet

E. AREA AND HEIGHT REGULATIONS FOR CONDITIONALLY PERMITTED USES

1. Minimum lot area - Twenty-two thousand five hundred (22,500) square feet
2. Minimum lot width at building setback line - One hundred fifty (150) feet
3. Minimum front, side (on each side of lot), and rear yards - Fifty (50) feet
4. Maximum building height - Thirty-five (35) feet

F. OTHER DEVELOPMENT CONTROLS

1. Off-street parking and loading and/or unloading shall be provided in accordance with ARTICLE XI and ARTICLE XII.
2. No outdoor storage of any material (usable or waste) shall be permitted in this zone, except within enclosed containers.
3. No lighting shall be permitted which would glare from this zone onto any street, or into any adjacent property.
4. Screening and landscaping shall be provided, as regulated by SECTION 9.17 of this ordinance. In no case shall the minimum planting strip be required to exceed the minimum setback requirement established for this zone.

[Ord. # 532.24, Adding Family Child Care Homes as a conditional use, 10/29/2024]

SECTION 10.10A R-1G (RESIDENTIAL ONE-G) ZONE

A. PERMITTED USES

1. Single-family residential dwellings (detached)
2. Qualified manufactured homes, subject to the compatibility standards established in SECTION 9.32 of this ordinance

B. ACCESSORY USES

1. Customary accessory buildings and uses
2. Fences and walls, as regulated by ARTICLE XIII
3. Home occupations, subject to the restrictions and limitations established in SECTION 9.11 of this ordinance
4. Signs, as regulated by ARTICLE XIV

C. CONDITIONAL USES: The following uses, or any customary accessory buildings or uses, subject to the approval of the board of adjustment, as set forth in SECTION 9.14 and SECTION 18.7 of this ordinance:

1. Cemeteries
2. Churches and other buildings for the purpose of religious worship, providing they are located adjacent to an arterial street

3. Fire and police stations, providing they are located adjacent to an arterial street
 4. Funeral homes
 5. Governmental services
 6. Institutions for higher education, providing they are located adjacent to an arterial street
 7. Institutions for human medical care - hospitals, clinic sanitariums, convalescent homes, nursing homes, and homes for the aged, providing they are located adjacent to an arterial street
 8. Nursery schools
 9. Public and parochial schools;
 10. Publicly owned and/or operated parks, playgrounds, golf courses, community recreational centers, including public swimming pools and libraries;
 11. Recreational uses other than those publicly owned and/or operated, as follows:
 - a. Golf courses;
 - b. Country clubs;
 - c. Semi-public swimming pools;
 12. Family child-care homes
 - a. Family child-care homes shall be subject to the area and height regulations for permitted uses
- D. AREA AND HEIGHT REGULATIONS FOR PERMITTED USES: No buildings shall be erected or structurally altered hereafter, except in accordance with the following regulations:
1. Minimum lot area - Five thousand (5,000) square feet
 2. Minimum lot width at building setback line - Fifty (50) feet
 3. Minimum front yard depth - Twenty-five (25) feet
 4. Minimum side yard width on each side of lot - Five (5) feet
 5. Minimum rear yard depth - Twenty-five (25) feet
 6. Maximum building height - Thirty-five (35) feet
- E. AREA AND HEIGHT REGULATIONS FOR CONDITIONALLY PERMITTED USES: No conditional building and/or use shall be erected or structurally altered hereafter, except in accordance with the following regulations:
1. Minimum lot area - Twenty-two thousand five hundred (22,500) square feet
 2. Minimum lot width at building setback line - One hundred fifty (150) feet
 3. Minimum front, side (on each side of lot), and rear yards - Fifty (50) feet
 4. Maximum building height - Thirty-five (35) feet
- F. OTHER DEVELOPMENT CONTROLS
1. Off-street parking and loading and/or unloading shall be provided in accordance with [ARTICLE XI](#) and [ARTICLE XII](#).
 2. No outdoor storage of any material (usable or waste) shall be permitted in this zone, except within enclosed containers.
 3. No lighting shall be permitted which would glare from this zone onto any street, or into any adjacent property.
 4. Screening and landscaping shall be provided, as regulated by SECTION 9.17 of this ordinance. In no case shall the minimum planting strip be required to exceed the minimum setback requirement established for this zone.

[Ord. # [532.24](#), Adding Family Child Care Homes as a conditional use, 10/29/2024]

SECTION 10.29 A-2 (AGRICULTURAL-TWO) ZONE

A. PERMITTED USES:

1. Agricultural uses;
2. Conservation subdivision subject to the requirements of SECTION 9.3~~3~~⁴ of this ordinance;
3. Single-family residential dwellings (detached);
4. Mobile homes, subject to the requirements of SECTION 9.26 of this ordinance;
5. Roadside stands for the sale of products that are raised, produced, and processed on the premises, provided that no roadside stands of any type for the sale or display of agricultural products shall be permitted within fifty (50) feet from any road or highway;
6. Greenhouses and nurseries, including both wholesale and retail sales of products grown on the premises;
7. Stables and riding academies;
8. Bed and breakfast establishments;
- ~~9. Qualified manufactured homes, subject to the compatibility standards established in SECTION 9.32 of this ordinance;~~
- ~~9~~¹⁰. Owner-Occupied Short-Term Rentals, subject to additional development controls in Section 10.29, F., 6.

B. ACCESSORY USES:

1. Customary accessory buildings and uses;
2. Fences and walls, as regulated by ARTICLE XIII;
3. Home occupations, subject to the restrictions and limitations established in SECTION 9.11 of this ordinance;
4. Signs, as regulated by ARTICLE XIV.
5. Farmers Markets, subject to the following restrictions:
 - a. An accessory use permit is completed and recorded on file at the office of the PDS.
 - b. At least 75% of the products sold are Farm Products or Value-Added Farm products as defined in Article 7, which have been produced, processed, or grown within the boundaries of the Commonwealth of Kentucky.
 - c. At least 75% of the vendors regularly participating during the market's hours of operation are Producers, as defined in Article 7, or family members or employees of Producers.
 - d. All Farmers' Markets and their vendors shall comply with all applicable federal, state, and local laws and regulations pertaining to the operation, use, and enjoyment of the market premises.
 - e. Minimum Lot Size: Three (3) Acres
 - f. Minimum Front, Side (on each side of lot), and Rear Yard Setback: Fifty (50) Feet
 - g. Minimum Setback from nearest residence: Two-Hundred (200) Feet
 - h. Parking: No parking shall be allowed in or on any right-of-way or within any site triangle as defined in SECTION 9.17.,G.,2.
 - i. Site Distance for Access Points shall be regulated in SECTION 11.3.,E.
 - j. Location of Access points shall be as regulated in SECTION 11.3.,F.
 - k. Signage shall be allowed subject to the following restrictions:
 1. Maximum Signage Area: 32 square feet
 2. Maximum Sign Height: 12 feet
 3. No sign shall be located within any site triangle as defined in SECTION 9.17.,G.,2.

4. No sign shall interfere with any vehicular traffic movement nor shall any sign affect the general health, safety, or welfare of the public within or moving through the surrounding areas.
5. Illuminated signage shall be prohibited
6. Agri-Tourism, subject to the following restrictions:
 - a. PURPOSE: The purpose of permitting agri-tourism activities is to provide regulations and guidance in the agricultural-one zone to open opportunities for farmland owners to promote their land for agricultural operations. Only the proposed activities accomplishing this objective shall be permitted. Agri-tourism applications should only involve structures in keeping with an agricultural zone so as to preserve the agricultural viewscape of the rural community.
 - b. An accessory use permit is completed and recorded on file at the office of the PDS.
 - c. Parking: No parking shall be allowed in or on any right-of-way or within any site triangle as defined in SECTION 9.17.,G.,2.
 - d. Site Distance for Access Points shall be regulated in SECTION 11.3.,E.
 - e. Location of Access points shall be as regulated in SECTION 11.3.,F.
 - f. Signage shall be allowed subject to the following restrictions:
 1. Maximum Signage Area: 32 square feet
 2. Maximum Sign Height: 12 feet
 3. No sign shall be located within any site triangle as defined in SECTION 9.17.,G.,2.
 4. No sign shall interfere with any vehicular traffic movement nor shall any sign affect the general health, safety, or welfare of the public within or moving through the surrounding areas.
 5. Illuminated signage shall be prohibited
 - g. Structures erected for agri-tourism must fit an agricultural building definition.
 - h. The farm owner or their designee shall be on the premises when an agri-tourism activity or event is taking place.
 - i. Permitted agri-tourism uses:
 1. Seasonal activities: farm rides, farm stands, u-pick operations, pumpkin patches, corn mazes, Christmas tree farms, nature trails, farm tours, and fishing ponds
 2. Agricultural marketing activities: local farmers' markets and the direct sale of products produced on local farms
 3. Celebration venues: weddings, reunions, and community gatherings
 4. Educational activities: petting farms, classes, seminars, field trips, historical exhibits, product tasting, and farm tours
 - j. All permitted agri-tourism uses are limited to a 500 person maximum capacity.
- C. CONDITIONAL USES: The following uses or any customary accessory buildings and uses, subject to the approval by the board of adjustments as set forth in SECTION 9.14 and SECTION 18.7 of this ordinance:
 1. Cemeteries;
 2. Churches and other buildings for the purpose of religious worship, providing they are located adjacent to an arterial street;
 3. Governmental offices;
 4. Nursery schools;
 5. Police and fire stations, provided they are located adjacent to an arterial or collector street;
 6. Public and parochial schools;

7. Veterinarians' offices for large and small animals, including outside runs;
 8. Publicly-owned and/or operated parks, playgrounds, golf courses, community recreational centers, including public swimming pools and libraries;
 9. Recreational uses, other than those publicly owned and/or operated, as follows:
 - a. Golf courses;
 - b. Country clubs;
 - c. Swimming pools;
 - d. Tennis courts/clubs;
 - e. Fishing lakes;
 - f. Gun clubs and ranges;
 10. Sanitary landfills, as regulated by [SECTION 9.27](#) of this ordinance;
 11. Funeral homes, providing they are located adjacent to an arterial street.
 12. Non-Owner Occupied Short Term Rentals, subject to additional development controls in Section 10.29, F., 6.
- D. AREA AND HEIGHT REGULATIONS FOR PERMITTED USES: Except as provided for in [SECTION 9.33](#), no buildings shall be erected or structurally altered hereafter, except in accordance with the following regulations:
1. Minimum lot area - one acre;
 2. Minimum lot width at building setback line - 100 feet;
 3. Minimum front yard depth - 40 feet;
 4. Minimum side yard width - total: 38 feet; one side: 12 feet;
 5. Minimum rear yard depth - 25 feet;
 6. Maximum building height - 35 feet.
- E. AREA AND HEIGHT REGULATIONS FOR CONDITIONALLY PERMITTED USES: No conditional building and/or use shall be erected or structurally altered hereafter, except in accordance with the following regulations:
1. Minimum lot area - 22,500 square feet;
 2. Minimum lot width at building setback line - 150 feet;
 3. Minimum front, side (on each side of lot), and rear yards - 50 feet;
 4. Maximum building height - 35 feet.
- F. OTHER DEVELOPMENT CONTROLS:
1. Off-street parking and loading and/or unloading shall be provided in accordance with [ARTICLE XI](#) and [ARTICLE XII](#).
 2. No outdoor storage of any material (usable or waste) shall be permitted in this zone, except within enclosed containers.
 3. No lighting shall be permitted which would spill from this zone onto any street, or into any adjacent property.
 4. Screening and landscaping shall be provided, as regulated by [SECTION 9.17](#) of this ordinance. In no case shall the minimum planting strip be required to exceed the minimum setback requirement established for this zone.
 5. The following shall apply to bed and breakfast establishments:
 - a. The owner shall live in the dwelling unit and operate the bed and breakfast establishment;
 - b. Food service may be provided for resident guests only;
 - c. No exterior alterations and/or additions shall be permitted for the purpose of increasing the number of guest rooms;

- d. Interior alterations should maintain the unique characteristics of the structure, if possible;
 - e. One parking space per guest room and two parking spaces for the owner shall be provided on site; parking shall be limited to the side and rear yards, screened from adjacent properties with a six (6) foot high masonry or wood fence, or dense vegetation;
 - f. A site plan, as regulated by [SECTION 9.19](#) of this ordinance.
6. The following shall apply to owner-occupied and non-owner occupied short-term rentals:
- a. **PURPOSE:** The purpose of the short-term rental regulations is to provide regulations and guidance for short-term rental usage in unincorporated Kenton County. Short-term rentals are intended to be temporary lodging which allows property owners to leverage the agricultural community and natural resources of the area, maintain rural character and encourage Agri-tourism and tourism.
 - b. Must obtain any required building permit, zoning permit, and occupational license.
 - c. Site Distance for Access Points shall be regulated by [ARTICLE XI](#).
 - d. The maximum length of each stay shall be 29 days.
 - e. No lease shall be rented less than 1 night's stay.
 - f. There shall be no external evidence of a short-term rental. The street address must clearly be visible from the right-of-way.
 - g. Short-term rentals shall not adversely affect the character of the neighborhood nor shall the use generate noise, vibration, glare, odors, or other effects that unreasonably interfere with any person's enjoyment of his or her property.
 - h. Short-term rentals are permitted in the primary structure and/or one accessory structure. Owner Occupied Short-term rentals shall be clearly incidental and commonly associated with the operation of the primary residential household living use.
 - i. Short-Term rentals shall not be located in mobile homes, recreational vehicles, travel trailers, tents, campgrounds, sheds, garages, or barns or any other structure typically not used as a residence.
 - j. Short-term rentals must provide one (1) parking space for each sleeping room or suite and one (1) for the caretaker of the property.
7. The following shall apply to agri-tourism activities:
- a. Agri-tourism activities shall end by 10 p.m. Sunday through Thursday and midnight on Friday and Saturday nights.
 - b. No agri-tourism use shall produce odors, light, noise, or dust that are or will be observable beyond the parcel boundary. As per Right to Farm regulations, this does not include normal farm operations.
 - c. Lighting requirements shall meet the following:
 - 1. All lighting shall be fully shielded from above, with no light being emitted above the horizontal plane.
 - 2. The maximum illumination at the property line shall not exceed 1 foot candle.
 - 3. Free standing lights shall not exceed fifteen (15) feet in height including base and/or pedestal.
 - d. Noise requirements shall meet the following: The sound pressure of noise radiated continuously shall not exceed 60 dB between 7:00 a.m. and 10:00 p.m. and 50 dB between 10 p.m. and 7 a.m. at the property line.

[Ord. # [930.5](#), Amendments to the Agri-tourism regulations, including adding a purpose statement, requiring any structure to be an agricultural building, requiring an owner or designee to be on the premises during an event, specifying allowed agri-tourism activities, limiting the capacity of events, and adding time, odor, lighting, noise and dust regulations, 01/24/2023]