

ORDINANCE 23-2022

AN ORDINANCE AMENDING CERTAIN SECTIONS AND ADDING A NEW SECTION TO CHAPTER 158 (ZONING CODE) OF THE CITY OF HOPKINSVILLE, KENTUCKY CODE OF ORDINANCES TO DEFINE AND REGULATE THE PLACEMENT OF SOLAR ENERGY SYSTEMS

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOPKINSVILLE, KENTUCKY AS FOLLOWS:

SECTION ONE

Section 158.002 of the Hopkinsville Code of Ordinances is hereby amended as follows:

§ 158.002 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Whenever any words and phrases used herein are not defined herein but are defined in the state laws regulating the creation and function of a planning agency, any such definition therein shall be deemed to apply to the words and phrases used herein, except when the context otherwise requires.

ABANDONMENT. The relinquishment of property, or a cessation of the use of the property, by the owner with the intention neither of transferring rights to the property to another owner nor of resuming the use of the property.

ABUT. To physically touch or border upon, or to share a common property line. (See **ADJOINING LOT OR LAND** and **CONTIGUOUS**.)

ACCESS. A way or means of approach to provide physical entrance to a property.

ACCESSORY USE or **ACCESSORY STRUCTURE/DEVICE.** A use, structure or device on the same lot with, and of a nature customarily incidental and subordinate to, the principal use of a structure. Any type of satellite dish, antenna or device shall be considered an accessory device.

ACRE. A measure of land area containing 43,560 square feet.

ADDITION. A structure added to the original structure at some time after the completion of the original.

AESTHETIC. The perception of artistic elements or elements in the natural or human-made environment which are pleasing to the eye.

AGRICULTURAL GRAIN TERMINAL. A storage area or structure where grain products are temporarily stored for transferal to trucks, train cars or other forms of transportation.

AGRICULTURE. The use of land for farming, dairying, pasturage, agriculture, apiculture, horticulture, floriculture, viticulture, animal and poultry husbandry and the

necessary accessory uses for packing, treating or storing the produce; provided, however, that:

(1) The operation of any such accessory use shall be secondary to that of the normal agricultural activities;

(2) The above uses shall not include the feeding or sheltering of animals or poultry in penned enclosures within 100 feet of any residential zoning district; and

(3) The agriculture use does not include the operation or maintenance of a commercial stockyard or feedlot where large numbers of livestock are fed concentrated feeds, particularly for the purpose of fattening for market.

AIRPORT. Any location, either on land or water, or structure which is designed or used for the landing and take-off of aircraft, including all necessary buildings and facilities of aircraft operation.

AISLE. The traveled way by which cars enter and depart parking spaces.

ALLEY. A service way providing a secondary means of public access to abutting property and not intended for general traffic circulation.

ALTERATION. Any change, addition or modification in construction, or any change in the structural members of a building, such as bearing walls, columns, beams or girders.

AMENITY. A natural or human-made feature which enhances or makes more attractive or satisfying a particular property.

AMUSEMENT AND RECREATION SERVICES. Establishments engaged in providing amusement or entertainment for a fee or admission charge, and includes such activities as dance halls; studios; theatrical producers; bands, orchestras and other musical entertainment; bowling alleys, and billiard and pool establishments; commercial sports, such as arenas, rings, racetracks, public golf courses and coin-operated devices; amusement parks; membership sports and recreation clubs; amusement and bathing beaches; swimming pools; riding academies; carnival operations; expositions; game parlors; and horse shows.

AMUSEMENT ARCADE. A business establishment offering for public use, five or more of any form of game machine, instrument or apparatus operated by coin, slug or similar medium, but not including automatic machines for vending food, soft drinks or similar products.

AMUSEMENT PARK. A commercially operated park with various devices for entertainment and booths for the sale of food and drink. Outdoor games and activities may include motorized rides, water slides, miniature golf, batting cages, paint ball and the like.

AMUSEMENT PARK (INDOOR). An amusement park in which all related entertainment activities occur within the confines of a building.

ANNEXATION. The incorporation of land area into an existing community with a resulting change in the boundaries of that community.

APARTMENT HOTEL. A building in which lodging is offered for compensation, in which part of the building may be separated into individual units providing cooking facilities.

APARTMENT UNIT. A part of a building consisting of a room or suite of rooms intended, designed or used as a dwelling unit by any individual or single family.

APPROVED PLAN. A plan which has been granted final approval by the appropriate approving authority.

ASSISTED LIVING FACILITIES. A building or structure that contains three or more apartments with private bath and facilities for an individual's meal preparation (which may include refrigerator, stove, microwave oven or other appliances) and providing supportive service such as assistance with household chores, cleaning, shopping, meals, laundry, transportation, 24-hour supervision and organized social activities and not constituting a boarding and lodging house or nursing home.

AUTOMATED TELLER MACHINE (ATM). An electronic device used by the public for conducting financial transactions such as withdrawing or depositing cash from a bank, savings, credit union, credit card or similar account wherein the customer operates the device independently.

AUTOMOTIVE, MOBILE HOME, TRAVEL TRAILER, FARM IMPLEMENT, AND CONSTRUCTION MACHINERY SALES. The sale or rental of new or used motor vehicles, mobile homes, travel trailers, farm implements and construction machinery, but not including major repair work except warranty and incidental repair of same, to be displayed and sold on the premises.

BASE FLOOD ELEVATION. The highest elevation, expressed in feet above sea level, of the level of flood waters occurring in the regulatory base flood (100-year flood).

BASE MAP. A map having sufficient points of reference, such as state, county or municipal boundary lines, streets, easements and other selected physical features, to allow the plotting of other data.

BASEMENT. A space having one-half or more of its floor-to-ceiling height above the average level of the adjoining ground, and with a floor-to-ceiling height of not less than six and one-half feet.

BLOCK. A unit of land bounded by streets or by a combination of streets and public land, railroad rights-of-way, waterways or any other barrier to the continuity to development.

BOARD. The Board of Zoning Adjustment.

BOARDING HOUSE. A building, not available to transients, in which meals are regularly provided for compensation for at least three but not more than 30 persons.

BOTANICAL GARDENS. A public or private facility for the demonstration and observation of the cultivation of flowers, fruits, vegetables or ornamental plants.

BUFFER STRIP. Land area used to visibly separate one use from another, or to shield or block noise, lights or other nuisances.

BUILDING. Any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of any individual, animal, process, equipment, goods or materials of any kind or nature.

BUILDING AREA. The area of a lot remaining after the minimum yard and open space requirements of this chapter have been met.

BUILDING COVERAGE. The horizontal area measured within the outside of the exterior walls of the ground floor of all principal and accessory buildings on a lot.

BUILDING, HEIGHT OF. The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs, and to the mean height between eaves and ridges for gable, hip and gambrel roofs.

BUILDING LINE. The line established by law beyond which a building shall not extend, except as specifically provided by law.

BUILDING PERMIT. Written permission issued by the proper municipal authority for the construction, repair, alteration or addition to a structure, in accordance with Kentucky Building Codes.

BUILDING, PRINCIPAL. A building in which is conducted the main or principal use of the lot on which that building is situated.

BUILDING SETBACK LINE. The line, established by this chapter, beyond which a building shall not extend unless varied according to procedures in this chapter. Also called a **BUILDING LINE**.

BUS SHELTERS. A small, roofed structure, usually having three walls, located near a street and designed primarily for the protection and convenience of bus passengers.

BUS STATIONS. A premises for the transient housing or parking of motor driven buses and the loading and unloading of passengers.

BUSINESS, CONVENIENCE. Commercial establishments which cater to and can be located in proximity to or within residential districts without creating excessive congestion, noise or other objectionable influences. **CONVENIENCE USES** include, but need not be limited to, drugstores, beauty salons, barber shops, carryouts, dry cleaning and laundry facilities and small grocery stores, if the aggregate total floor area of such facilities does not exceed 10,000 square feet. Uses in this classification tend to serve the day-to-day needs of the neighborhood.

BUSINESS, GENERAL. Commercial uses which generally require locations on or near major arterials and/or their intersections, and which tend, in addition to serving day-to-day needs of the neighborhood, to also supply the more durable and permanent needs of the whole community. General business uses include, but need not be limited to, such activities as major supermarkets, stores that sell hardware, apparel, footwear, appliances and furniture, and various department and discount stores. Also included here may be drive-in banks.

BUSINESS, HIGHWAY. Commercial uses which generally require locations on or near major arterials and/or their intersections, and which tend to serve the motoring public. **HIGHWAY BUSINESS USES** include, but need not be limited to, such activities as filling stations, automotive sales and service, restaurants and motels and commercial recreation.

BUSINESS, OFFICE TYPE. Quasi-commercial uses which may often be transitional between retail business and/or manufacturing and residential uses. **OFFICE BUSINESS** generally accommodates such occupations as administrative, executive, professional, accounting, clerical and drafting. Institutional offices of a charitable, philanthropic, religious or educational nature are included here.

BUSINESS, SERVICES. Any profit-making activity which renders services primarily to other commercial or industrial enterprises or which services and repairs appliances and machines used in businesses and homes.

BUSINESS, WHOLESALE. Business establishments that generally sell commodities and materials in large quantities or by the piece to retailers, jobbers, other wholesale establishments or manufacturing establishments. These commodities are basically for further resale, for use in the fabrication of a product, or for use by a business service.

CARPORT. A roofed structure providing space for the parking or storage of motor vehicles and enclosed on not more than three sides.

CELLAR. A portion of the building partly underground, but having half or more of its clear height below the average grade of the adjoining ground.

CEMETERY. Land used or intended to be used for the burial of the human or animal dead and dedicated for cemetery purposes, including crematories, mausoleums and mortuaries if operated in connection with and within the boundaries of the cemetery for which perpetual care and maintenance is provided.

CENTRAL BUSINESS DISTRICT (CBD). The major shopping area within a city, usually containing, in addition to retail uses, governmental offices, service uses, professional, cultural, recreational and entertainment establishments and uses, residences, hotels and motels, appropriate industrial activities and transportation facilities.

CERTIFICATE OF USE AND OCCUPANCY. The certificate issued by the Building Official which permits the use of a building in accordance with the approved plans and specifications, and which certifies compliance with the provisions of this chapter for the use and occupancy of the building with any special stipulations or conditions of the building permit.

CERTIFICATION. A written statement by the appropriate offices that required constructions, inspections, tests or notices have been performed and comply with applicable requirements.

CHANGE OF USE. Any use which substantially differs from the previous use of a building or land.

CHANNEL. A natural or artificial watercourse of perceptible extent, with definite bed and banks to confine and conduct continuously or periodically flowing water.

CHARACTERISTICS OF USE. The use which is characteristic of the principal use of any area of land or a building or structure.

CHECK CASHING FACILITY. A business that for compensation engages, in whole or in part, in the business of cashing checks, warrants, drafts, money orders or other commercial paper serving the same purpose. **CHECK CASHING FACILITY** does not include a state or federally chartered bank, savings association, credit union or industrial loan company. **CHECK CASHING FACILITY** also does not include a retail seller engaged primarily in the business of selling consumer goods, including consumables.

CHILD CARE CENTER.

(1) **FAMILY DAY CARE CENTER.** A private establishment enrolling one to seven children.

(2) **GROUP DAY CARE CENTER.** A private establishment enrolling more than seven and less than 12 children.

CIRCULATION. Systems, structures and physical improvements for the movement of people, goods, water, air, sewage or power by such means as streets, highways, railways, waterways, towers, airways, pipes and conduits, and the handling of people and goods by such means as terminals, stations, warehouses and other storage buildings or trans-shipment points.

CLINIC. A facility for treatment of human ailments, operated by a group of physicians, dentists, chiropractors or other licensed practitioners for the treatment and examination of outpatients.

CLUB. A building or portion thereof or premises owned or operated by a person for a social, literary, political, educational or recreational purpose primarily for the exclusive use of members and their guests, but not including any organization, group or association, the principal activity of which is to render a service usually and ordinarily carried on as a business.

CLUSTER. A development design technique that concentrates buildings in specific areas on the site to allow the remaining land to be used for recreation, common open space and preservation of environmentally-sensitive features.

CODE ENFORCEMENT OFFICER. The person designated by the local government entity as being responsible for administering this chapter and compliance with all applicable codes, ordinances and laws.

COHABITATION. Households which contain two unrelated adults of opposite sexes.

COLLECTION OFFICE. The business location of any person or entity engaged in the business of collecting or receiving payment for others on any account, bill or other indebtedness.

COMMERCIAL ENTERTAINMENT FACILITY. Any profit-making activity which is generally related to the entertainment field, such as a motion picture theater, carnival, cocktail lounge, nightclub and similar entertainment activities.

COMMON ELEMENTS. Land amenities, parts of buildings, central services and utilities, and any other elements and facilities owned and used by all members of the development and designated in the master deed as common elements.

COMMUNITY CENTER. Buildings and facilities for a social, educational or recreational purpose generally open to the public, but not primarily for profit or to render a service customarily carried on as a business.

COMPOSTING FACILITY. A commercial or public solid waste processing facility where yard or garden waste is transformed into soil or fertilizer by biological decomposition.

COMPREHENSIVE (DEVELOPMENT) PLAN. A plan, or any portion thereof, adopted by the Planning Commission and the legislative authority of the city, showing the general location and extent of present and proposed physical facilities, including housing, industrial and commercial uses, parks, schools and transportation and other community facilities. The plan may also include development policy or guidelines for future growth and development.

CONCESSION STAND. A retail sales operation from a location not involving a permanent building for the purpose of housing or conducting sales using a temporary table, stand, cart or similar equipment. **CONCESSION STAND SALES** may include the sale of confections, snacks or other light meals; provided that, no inside seating, nor drive-in service is provided.

CONDEMNATION. The exercise by a governmental agency of the right to eminent domain.

CONDITIONAL USE. A special use permitted within a zoning district other than a principally permitted use, requiring a conditional use permit and approval of the Board of Zoning Adjustment. **CONDITIONAL USES** permitted in each district are listed in the Official Schedule of District Regulations or special exceptions.

CONDITIONAL USE PERMIT. A permit issued by the Zoning Inspector upon approval by the Board of Zoning Adjustment, to allow a use other than a principally permitted use to be established within the district.

CONDOMINIUM. A type of ownership or management in which the building or group of buildings, where the units are owned individually and the structure, common areas and facilities are owned by all the owners on a proportional, undivided basis.

CONSOLIDATION. The removal of lot lines between contiguous parcels.

CONTIGUOUS. Next to, abutting or touching, and having a boundary, or portion thereof, which is coterminous.

CONVERSION. A change in the use of land or a structure.

COPY SHOP. A retail establishment that provides duplicating services using photocopying, blueprint and offset printing equipment and may include the collating and binding of booklets and reports.

COST-BENEFIT ANALYSIS. An analytic method whereby the actual and hidden costs of a proposed project are measured against the benefits to be received from the project.

COURT. Any open space, unobstructed from ground to sky, other than a yard, that is on the same lot with and bounded on two or more sides by the walls of a building.

CRISIS COUNSELING CENTER. A facility or portion thereof and premises that are used for purposes of temporary emergency shelter, crisis intervention, including counseling and educational services, referral, hotline response and/or similar human social service functions. The facility may include meal preparation, distribution or service for residents of the center as well as nonresidents; merchandise distribution; or shelter, including temporary boarding or lodging. **CRISIS COUNSELING CENTERS** do not include detoxification facilities, assisted living facilities, substance abuse treatment facilities, institutions, homeless shelters, domestic violence shelters or centers in which medical treatment is provided by licensed practitioners.

CUL-DE-SAC. The turnaround and the end of a dead-end street.

CULTURAL FACILITIES. Establishments such as museums, art galleries, botanical and zoological gardens, of an historic, educational or cultural interest which are not operated commercially.

DECOMMISSIONING PLAN FOR GROUND MOUNTED SES. A plan prepared by a licensed engineer that establishes the party responsible for the decommissioning, the anticipated life of the project, the estimated cost for removal of the SES facility, the costs for restoring the land to its original condition, and all other plan information required by this section.

DEDICATION. Gift or donation of property by the owner to another party.

DEED. A legal document conveying ownership of real property.

DEMOLITION (PERMIT). A permit issued by a municipality before a building or structure or major part thereof is razed.

DENSITY. A unit of measurement; the number of dwelling units per acre of land, including public rights-of-way.

(1) **GROSS DENSITY.** The number of dwelling units per acre of the total land to be developed, including public right-of-way.

(2) **NET DENSITY.** The number of dwelling units per acre of land when the acreage involved includes only the land devoted to residential uses, excluding public right-of-way.

DETENTION (BASIN). A storage facility for the temporary storage of stormwater runoff.

DETERIORATION. The marked diminishing of the physical condition of structures or buildings.

DETOXIFICATION FACILITY (SUBSTANCE ABUSE TREATMENT FACILITY). A facility used for the purposes of temporary or long term inpatient treatment of victims of alcohol or drug use or addiction.

DEVELOPER. The legal or beneficial owner or owners of a lot or of any land included in a proposed development, including the holder of an option or contract to purchase, or other persons having enforceable proprietary interests, in the land.

DEVELOPMENT REGULATION. Zoning, subdivision, site plan, official map, floodplain regulation or other governmental regulation of the use and development of land.

DILAPIDATION. A deterioration of structures or buildings to the point of being unsafe or unfit for human habitation or use.

DISTRICT. A part of the city wherein restrictions of this chapter are uniform, as depicted on the Official Zoning Map adopted in conjunction with this chapter.

DOMESTIC VIOLENCE SHELTER or EMERGENCY AND PROTECTIVE SHELTER. Housing for adult women or men and their dependent children, if any, who are victims of domestic violence perpetrated by the spouse, domestic partner or significant other of the adult victim. **DOMESTIC VIOLENCE SHELTERS** may provide counseling and day care for shelter residents.

DOWN ZONE. To increase the intensity of use by increasing density or floor area ratio, or otherwise decreasing bulk requirements.

DRAINAGE.

(1) Surface water runoff; and

(2) The removal of surface water or groundwater from land by drains, grading or other means, which include runoff controls to minimize erosion and sedimentation during and after construction or development, the means for preserving the water supply and the prevention or alleviation of flooding.

DRAINAGE SYSTEM. Pipes, swales, natural features and human-made improvements designed to carry drainage.

DRIVE-IN RESTAURANT. A building or portion thereof where food and/or beverages are sold in a form ready for consumption, and where all or a significant portion of the consumption takes place or is designed to take place outside the confines of the building, often in a motor vehicle on the site.

DUMP. A land site used primarily for the disposal by dumping, burial, burning or other means, and for whatever purposes, of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof, and other waste, scrap or discarded material of any kind.

DWELLING. A structure or portion thereof which is used exclusively for human habitation.

DWELLING, ATTACHED. A one-family dwelling attached to two or more one-family dwellings by common vertical walls.

DWELLING, DETACHED. A dwelling which is not attached to any other dwelling by any means.

DWELLING, MULTI-FAMILY. A dwelling consisting of three or more dwelling units.

DWELLING, SINGLE-FAMILY. A dwelling consisting of a single dwelling unit only, separated from other dwelling units by open space.

DWELLING, TWO-FAMILY. A dwelling consisting of two dwelling units which may be either attached side by side or one above the other, and each unit having a separate or combined entrance or entrances. Includes units sold or rented in the condominium form of ownership or management.

DWELLING UNIT. A room or group of rooms designed and equipped exclusively for use as living quarters for only one family and its household employees, including provisions for living, sleeping, cooking and eating. The term shall include mobile homes, but shall not include house trailers or recreational vehicles.

EASEMENT. An authorization or grant of land by a property owner to specific person(s) or the general public to use that land for a specific/expressed purpose(s).

EASEMENT (DRAINAGE). An easement required for the installation of stormwater sewers or drainage ditches and/or required for the preservation or maintenance of a natural stream or watercourse or other drainage facility.

EGRESS. An exit; to depart from a building or lot.

EMINENT DOMAIN. The authority of a government to take, or to authorize the taking of, private property for public use.

ENLARGEMENT. To increase the size of an existing structure.

EROSION. The detachment and movement of soil or rock fragments, or the wearing away of the land surface by water, wind, ice and gravity.

EXCAVATION. Removal or recovery by any means whatsoever of soil, rock, minerals, mineral substances or organic substances other than vegetation, from water or land, on or beneath the surface thereof, or beneath the land surface, whether exposed or submerged.

EXEMPT SOLAR ENERGY SYSTEM (EXEMPT SES). An SES that is a facility of a municipally owned electric system or public utility regulated by the Kentucky Public Service Commission or Federal Energy Regulatory Commission, which is exempt from planning and zoning requirements under KRS 100.324.

EXISTING GRADE OR ELEVATION. The vertical location of the ground surface prior to excavating or filling.

EXISTING USE. The use of a lot or structure at the time of the enactment of a zoning ordinance.

EXTENSION. An increase in the amount of existing floor area within an existing building.

EXTERIOR WALL. Any wall which defines the exterior boundaries of a building or structure.

FARM. An area used for agricultural operations, including truck gardening, forestry, the operation of a tree or plant nursery, or the production of livestock and poultry.

FARM STRUCTURE. Any building or structure used for agricultural purposes, but not for commercial retail sale.

FARM VACATION ENTERPRISES (PROFIT OR NON-PROFIT). Farms adapted for use as vacation farms, picnicking and sports areas, fishing waters, camping, scenery and nature recreational areas, hunting areas, hunting preserves and watershed projects.

FAST-FOOD RESTAURANT. An establishment whose principal business is the sale of pre-prepared or rapidly prepared food directly to the customer in a ready-to-consume state for consumption either within the restaurant building or off premises.

FENCE. A structure, including entrance and exit gates, designed and constructed for enclosure or screening.

FILL. Sand, gravel, earth or other materials of any composition whatsoever placed or deposited by humans.

FINAL APPROVAL. The last official action of the Planning Board or Board of Zoning Adjustment taken on a development plan which has been given preliminary approval, after all conditions and requirements have been met, and the required improvements have been installed or guarantees properly posted for their installation, or approval conditioned upon the posting of the guarantees.

FLEA MARKET. A market held in an open area or structure where goods are offered for sale to the general public by individual sellers from open or semi-open facilities or temporary structures.

FLOATING ZONE. An unmapped zoning district where all the zone requirements are contained in the ordinance and the zone is fixed on the map only when an application for development meeting the zone requirements is approved.

FLOOD or FLOODWATER. An overflow or inundation of normally dry lands from a stream or other body of water; the high streamflow overtopping the banks of a stream; or a high flow as measured by each stage or discharge.

FLOOD CONTROL. The prevention of floods, the control, regulation, diversion or confinement of floodwater or flood flow, and the protection therefrom, according to sound and accepted engineering practice, to minimize the extent of floods, and the death, damage and destruction caused thereby; and all things incidental thereto or connected therewith.

FLOOD HAZARD AREA. A floodplain, or portion thereof, which has not been adequately protected from floodwater by means of dikes, levees, reservoirs.

FLOODPLAIN. The relatively flat area of low land adjoining the channel of a river or stream, which has been or may be covered by flood water. The **FLOODPLAIN** includes the channel, floodway and floodway fringe.

FLOODPLAIN, 100-YEAR. A flood having a peak discharge which can be expected to be equaled or exceeded on the average of once in a 100-year period. The **100-YEAR FREQUENCY FLOOD** is equivalent to a flood having a probability of occurrence of 1% in any given year (a flood magnitude which has a 1% chance of being equaled or exceeded in any given year).

FLOODWAY. The channel of a river or stream and those portions of the floodplain adjoining the channel, which are reasonably required to carry and discharge the floodwater or flood flow of any river or stream.

FLOODWAY FRINGE. Those portions of the flood hazard areas lying outside the floodway.

FLOOR AREA, GROSS. The sum, in square feet, of the floor areas of all roofed portions of a building, as measured from the interior faces of the exterior walls. It includes the total of all space on all floors of a building. It does not include porches, garages or space in a basement or cellar when the basement or cellar space is used for storage or other such incidental uses. The **GROSS FLOOR AREA** is generally applied in residential use.

FLOOR AREA, NET. The floor area of the specified use, excluding stairs, washrooms, elevator shafts, maintenance shafts and rooms, storage spaces, display windows, fitting rooms and the like, in a nonresidential building. The **NET AREA** is used in calculating parking requirements.

FLOOR AREA RATIO. The floor area of the building divided by the area of the lots on which the building is located.

FLOOR AREA, USABLE. Same as **GROSS FLOOR AREA**.

FOOD PROCESSING. The preparation, storage or processing of food products. Examples of these activities include bakeries, dairies, canneries and the like.

FRONTAGE. That side of a lot abutting on a street; the front lot line.

GARAGE, PRIVATE. An accessory building, or an accessory portion of the principal building, used for storing or parking of automobiles, recreational vehicles and/or boats of the occupants of the premises, and wherein not more than one space is rented for parking to a person not a resident on the premises.

GARAGE, PUBLIC. A principal or accessory building other than a private or storage garage, used for parking or temporary storage of passenger automobiles, and in which no service shall be provided for remuneration.

GARAGE, STORAGE. Any building or premises used for housing only motor-driven vehicles, other than trucks and commercial vehicles.

GRADE. The average level of the finished surface of ground adjacent to the exterior walls of the building.

GRADE, FINISHED. The final elevation of the ground surface after development.

GRADE, NATURAL. The elevation of the ground surface in its natural state before human-made alterations.

GREEN AREA. Land shown on a development plan, master plan or official map for preservation, recreation, landscaping or park.

GREENHOUSE, INDUSTRIAL. Wholesale business whose principal activity is the growing and selling of plants within an enclosed building.

GROUP FAMILY HOUSEHOLD. A group of individuals not related by blood, marriage, adoption or guardianship living together in a dwelling unit as a single housekeeping unit under a common housekeeping management plan based on an intentionally structured relationship providing organization and stability.

HEALTH SPA. A place or building where active exercise and related activities are performed utilizing weight control or muscle building equipment or apparatus for the purpose of physical fitness. Also, a place or building that provides massage, exercise and related activities with or without such equipment or apparatus.

HEIGHT. The vertical distance of a structure measured from the average elevation of the finished grade within 20 feet of the structure to the highest point of the structure.

HELIPORT. An area used or intended to be used for the landing or takeoff of helicopters, and may include any or all other areas of buildings appropriate to accomplish these functions.

HELIPORT (ACCESSORY USE). An area used or intended to be used for the landing or takeoff of helicopters, and may include any or all other areas of buildings appropriate to accomplish these functions provided the heliport use is customary and incidental to the operation of a principle use permitted within the district, excluding residential and neighborhood business districts.

HIGHEST AND BEST USE. An appraisal concept that determines the use of a particular property likely to produce the greatest net return in the foreseeable future.

HISTORIC AREA. A district or zone designated by a local authority, state or federal government, within which the buildings, structures, appurtenances and places are of basic and vital importance because of their association with history, or because of their unique architectural style and scale, including color, proportion, form and architectural detail; or because of their being a part of or related to a square, park or area, the design

or general arrangement of which should be preserved and/or developed according to a fixed plan based on cultural, historical or architectural motives or purposes.

HOME OCCUPATION. An occupation conducted in a dwelling unit; provided that:

(1) No more than one person other than members of the family residing on the premises shall be engaged in the occupation;

(2) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than 25% of floor area of the dwelling units shall be used in the conduct of the home occupation;

(3) There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of the home occupation other than one sign, not exceeding four square feet in area, nonilluminated, and mounted flat against the wall of the principal building;

(4) No traffic shall be generated by the home occupation in greater volume than would normally be expected in a residential neighborhood. Any need for parking generated by the conduct of the home occupation shall meet the off-street parking requirements as specified in this chapter, and shall not be located in a required front yard; and

(5) No equipment or process shall be used in the home occupation which creates noise, vibration, glare, fumes, odor or electrical interference detectable to the normal senses off the lot if the occupation is conducted in a single-family residence, or outside the dwelling unit if conducted in other than a single-family residence. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.

HOMELESS SHELTERS. An activity providing personal assistance on a nonprofit basis to individuals of an indigent status. Such assistance must include food and/or shelter and may, in addition, include religious instruction, counseling and other incidental services customarily provided by missions.

HOTEL or MOTEL. A building in which lodging, or boarding and lodging, are provided and offered to the public for compensation. As such, in that it is open to the public it is not a rooming house, boarding house, lodging house or dormitory, which are herein separately defined.

HOUSEHOLD. A family living together in a single dwelling unit, with common access to and common use of, all living and eating areas and all areas and facilities for the preparation and storage of food within the dwelling unit.

HOUSING UNIT. A room or group of rooms used by one or more individuals living separately from others in the structure, with direct access to the outside or to a public hall and containing separate toilet and kitchen facilities.

IMPROVED LOT. A lot containing an improvement.

IMPROVEMENT. Any human-made, immovable item which becomes part of, is placed upon or is affixed to real estate.

INDUSTRIAL PARK. A large tract of land that has been planned, developed and operated as an integrated facility for a number of individual industrial uses, with special attention to circulation, parking, utility needs, aesthetics and compatibility.

INDUSTRY. Those fields of economic activity including forestry, fishing, hunting and trapping, mining, construction, manufacturing; transportation, communication, electric, gas and sanitary services; and wholesale trade.

INFRASTRUCTURE. Facilities and services needed to sustain industry, residential and commercial activities.

INGRESS. Access or entry.

INSTITUTION. Building(s) and/or land designed to aid individuals in need of mental, therapeutic, rehabilitative counseling or other correctional services.

INVERSE CONDEMNATION. The taking of private property as a result of governmental activity without any formal exercise of eminent domain.

JOINT OWNERSHIP. The equal estate interest of two or more persons.

JUNK BUILDINGS, JUNK SHOPS, JUNKYARDS. Any land, property, structure, building or combination of the same, on which junk is stored or processed. **JUNK** shall include wrecked automobiles, scrap iron and other metals, paper, rags, rubber tires, bottles and the like.

KENNEL. Any premises where three or more animals over four months of age are housed, groomed, bred, boarded, trained or sold, and which may offer provisions for minor medical treatment.

LAND SURVEYOR. One who is licensed by the state as a land surveyor, and is qualified to make accurate field measurements and mark, describe and define land boundaries.

LAND USE. A description of how land is occupied or utilized.

LANDSCAPE.

- (1) An expanse of natural scenery; and
- (2) The addition of lawns, trees, plants and other natural and decorative features to land.

LIGHT INDUSTRY. Industrial uses which meet the performance standards, bulk controls and other requirements established in this chapter.

LIMOUSINE AND TAXI SERVICE - LIMOUSINE SERVICE - TAXICAB BUSINESS. A service that offers transportation in passenger automobiles and vans to persons including those who are handicapped in return for remuneration. The business may include facilities for servicing, repairing and fueling the taxicabs, limousines or vans.

LOADING SPACE, OFF-STREET. Space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used, and accessible to those vehicles when required off-street parking spaces are filled. **REQUIRED OFF-STREET LOADING SPACE** is not to be included as off-street parking space in computation of required off-street parking space. All off-street loading spaces shall be located totally outside of any street or alley right-of-way.

LOCAL AUTHORITY. Any city or other legally-authorized agency charged with administration and enforcement of land use regulations.

LOT.

(1) A lot is a parcel of land of sufficient size to meet minimum zoning requirements for use, coverage and area, and to provide such yards and other open spaces as are herein required. A **LOT** shall have frontage on an improved public street, or on an approved private street, and may consist of:

- (a) A single lot of record;
- (b) A portion of lot of record; and/or
- (c) A combination of complete lots of record, or of complete lots of record and portions of lots of record, or of portions of lots of record.

(2) The word **LOT** includes the words “plot,” “parcel” and “tract.”

LOT AREA. The area of any lot shall be determined exclusive of street, highway, alley, road or other rights-of-way.

LOT, CORNER. A lot or parcel of land abutting upon two or more streets at their intersection, or upon two parts of the same street, forming an interior angle of less than 135 degrees.

LOT COVERAGE. The ratio of enclosed ground floor area of all buildings on a lot to the horizontally projected area of the lot, expressed as a percentage.

LOT FRONTAGE. The front of a lot shall be construed to be the portion nearest the street. For the purpose of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as indicated under the definitions of yard-related terms in this section.

LOT LINE, FRONT. Lot line(s) bounding a lot as follows.

- (1) **CORNER OR THROUGH LOT.** The line separating the lot from either street.
- (2) **INTERIOR LOT.** The line separating the lot from the street.

LOT LINE, REAR. The boundary of a lot which is most distant from and is, or is most nearly, parallel to the front lot line. In the case of a triangular or irregular-shaped lot, an imaginary line between the side lot lines parallel to the front lot line, ten feet long, lying farthest from the front lot line. On a corner lot, the **REAR LOT LINE** shall be opposite the front lot line of least dimension.

LOT LINE, SIDE. Any boundary of a lot which is not a front lot line or rear lot line.

LOT, MEASUREMENT OF. A lot shall be measured as follows.

(1) **DEPTH.** The distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear.

(2) **WIDTH.** The distance between straight lines connecting front and rear lot lines at each side of the lot, measured at the building setback line.

LOT OF RECORD. A lot which is part of a subdivision recorded in the office of the County Clerk, or a lot or a parcel described by metes and bounds, the description of which has been so recorded.

LOT TYPES. Terminology used in this chapter with reference to different types of lots is as follows.

(1) **CORNER LOT.** A lot located at the intersection of two or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if tangent projections of the front lot lines drawn perpendicular at the side lot lines meet at an interior angle of less than 135 degrees in front of the lot.

(2) **INTERIOR LOT.** A lot with only one frontage on a street.

(3) **REVERSED FRONTAGE LOT.** A lot on which frontage is at right angles to the general pattern in the area. A **REVERSED FRONTAGE LOT** may also be a **CORNER LOT**.

(4) **THROUGH LOT.** A lot other than a corner lot with frontage on more than one street. **THROUGH LOTS** abutting two streets may be referred to as double frontage lots.

LOT WIDTH. The horizontal distance between the side lines of a lot measured at right angles to its depth along a straight line parallel to the front lot line at the minimum required building setback line.

MAINTENANCE AND STORAGE FACILITIES. Land, buildings and structures devoted primarily to the maintenance and storage of construction equipment and material.

MANUFACTURING, EXTRACTIVE. Any mining, quarrying, excavating, processing, storing, separating, cleaning or marketing of any mineral natural resource.

MANUFACTURING, HEAVY. Manufacturing, processing, assembling, storing, testing and similar industrial uses which are generally major operations and extensive in character; require large sites, open storage and service areas, extensive services and facilities, ready access to regional transportation; and normally generate some nuisances such as smoke, noise, vibration, dust, glare, air pollution and water pollution, but not beyond the district boundary.

MANUFACTURING, LIGHT. Manufacturing or other industrial uses which are usually controlled operations; relatively clean, quiet, and free of objectionable or hazardous

elements such as smoke, noise, odor or dust; operating and storing within enclosed structures; and generating little industrial traffic and no nuisances.

MICROBREWERY. A facility used for the production and packaging of malt beverages of low alcoholic content for distribution, retail, or wholesale, on or off premise, with a capacity of not more than 15,000 barrels per year. The development may include and constitute an accessory use to other uses such as a standard restaurant, bar or live entertainment as otherwise permitted in the zoning district.

NET AREA OF LOT. The area of the lot excluding those features or areas which the development ordinance excludes from the calculations.

NEWSSTAND. A temporary structure, manned by a vendor that sells newspapers, magazines and other periodicals.

NONCONFORMING LOT. A lot, the area, dimensions or location of which was lawful prior to the adoption, revision or amendment of this chapter, but which fails by reason of the adoption, revision or amendment to conform to the present requirements of the zoning district.

NONCONFORMING SIGN. Any sign lawfully existing on the effective date of an ordinance, or an amendment thereto, which renders the sign nonconforming because it does not conform to all the standards and regulations of the adopted or amended ordinance.

NONCONFORMING USE. A building, structure or use of land existing at the time of enactment of this chapter, and which does not conform to the regulations of the district in which it is situated.

NUISANCE. An interference with the enjoyment and use of property.

NURSERY, NURSING HOME. A home or facility for the care and treatment of babies, children, pensioners or elderly people.

NURSERY, PLANT MATERIALS. Land, buildings, structures or combination thereof for the storage, cultivation, transplanting of live trees, shrubs or plants offered for retail sale on the premises, including products used for gardening and landscaping.

OCCUPANCY PERMIT. A required permit allowing occupancy of a building or structure after it has been determined that the building meets all the requirements of applicable codes and ordinances.

OCCUPANT. The individual or individuals in actual possession of a premises.

OFFICE BUILDING. A building used primarily for conducting the affairs of a business, profession, service, industry or government, or like activity, that may include ancillary services for office workers, such as a restaurant, coffee shop, newspaper or candy stand.

OFF-SITE. Located outside the lot lines of the lot in question, but within the property (of which the lot is a part) that is the subject of a development application, or within a contiguous portion of a street or other right-of-way.

OFF-STREET PARKING SPACE. A temporary storage area for a motor vehicle that is directly accessible to an access aisle and which is not located on a dedicated street right-of-way.

ON-SITE. Located on the lot that is the subject of an application for development.

OPEN SPACE. A public or private outdoor area expressly set aside for the use and benefit of many unrelated people. The area may include, along with the natural environmental features, water areas, swimming pools, tennis courts and other recreational facilities that the Planning Commission deems permissive. Streets, parking areas, structures for habitation and the like shall not be included in open space area calculations.

ORDINANCE. Any legislative action, however denominated, of a local government which has the force of law, including any amendment or repeal of any ordinance.

PARKING SPACE, OFF-STREET. For the purpose of this chapter, an **OFF-STREET PARKING SPACE** shall consist of an area adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room; but shall be located totally off public right-of-way. Includes, but is not limited to, parking spaces, off-street garages, carports and parking pads.

PARKING STALL. The area required for parking one automobile, with its attendant maneuvering room. The area required for a parked car is to be ten feet wide and 22 feet long.

PARTY WALL. A wall starting from the foundation and extending continuously through all stories to or above the roof, which separates one building from another and is in joint use by each building.

PEDESTRIAN. An individual who travels on foot.

PERFORMANCE BOND or SURETY BOND. An agreement by a subdivider or developer of the city for the amount of the estimated construction cost, guaranteeing the completion of physical improvements according to plans and specifications within the time prescribed by the subdivider's agreement.

PERFORMANCE STANDARDS. A set of criteria or limits relating to nuisance elements which a particular use or process may not exceed.

PERMIT. Written governmental permission issued by an authorized official, empowering the holder thereof to do some act not forbidden by law, but not allowed without such authorization.

PERSON. An individual, firm, association, organization, partnership, trust, company, corporation or any other legal entity.

PERSONAL SERVICES. Any enterprise conducted for gain which primarily offers services to the general public such as shoe repair, watch repair, barber shops, beauty parlors and similar activities.

PHILANTHROPIC ORGANIZATION. An organization not for profit which engages in charitable actions or efforts to promote the well-being of humankind in general.

PHYSICAL CONSTRUCTION (SES FACILITY). The excavation or movement of earth, erection of forms or structures, or similar activities undertaken in the construction of an SES facility. This term does not include any activity or construction undertaken prior to the issuance of a zoning/building permit pursuant to this chapter and the issuance of all required approvals and permits, if any, as required under KRS 278 and other applicable state statutes.

PICNIC AREA. A lot or use containing two or more picnic tables designed for use by ten or more persons and which may include barbecue stands and a roofed shelter.

PLANNED UNIT DEVELOPMENT. An area of land in which a variety of residential, commercial and industrial uses are planned and developed as a whole according to comprehensive and detailed plans with more flexible standards, such as lot sizes and setbacks, than those restrictions that would normally apply under these regulations.

PLAT.

(1) A map representing a tract of land, showing the boundaries and location of individual properties and streets.

(2) A map of a subdivision or site plan.

PORTABLE STORAGE. A temporary structure, trailer or pod to be used, or intended to be used, for the private non-commercial, non-industrial storage by an occupant prior to the location to or relocation from a residence. **PORTABLE STORAGE UNITS** may not be located within a front yard for more than 72 hours. A **PORTABLE STORAGE UNIT** located within a rear or side yard may not be located on a lot for more than 90 days and shall not be located closer than five feet from any property line.

PREMISES. One or more lots which are in the same ownership and are contiguous or separated only by a road or water body, including all buildings, structures and improvements.

PRINCIPAL BUILDING. The building in which the principal use of the lot is conducted.

PRINCIPAL USE. The primary use to which the premises are devoted and the main purpose for which the premises exist.

PROFESSIONAL ACTIVITIES. The use of offices and related spaces for such professional services as are provided by medical practitioners, lawyers, architects, engineers and similar professions.

PROHIBITED USE. The use marked as prohibited for a certain district in the schedule of uses, Appendix A to this chapter; and which is not to be allowed to locate in that district except as specified under nonconformities.

PUBLIC AREAS. Public parks, playgrounds, trails, paths and other recreational areas and other public open spaces; scenic and historic sites; schools and other public buildings and structures.

PUBLIC DOMAIN. All lands owned by government.

PUBLIC HEARING. A meeting announced and advertised in advance and open to the public, with the public given an opportunity to talk and participate.

PUBLIC NOTICE. The advertisement of a public hearing in a paper of general circulation in the area and through other media sources, indicating the time, place and nature of the public hearing.

PUBLIC RIGHT-OF-WAY. A general term denoting land, property or interest therein, usually in a strip, acquired for or devoted to a transportation facility.

PUBLIC SERVICE FACILITY. The erection, construction, alteration, operation or maintenance of buildings, power plants or substations, water treatment plants or pumping stations, sewage disposal or pumping plants, and other similar public service structures, by a public utility, by a railroad, whether publicly or privately owned, or by a municipal or other governmental agency; including the furnishing of electrical, gas, rail transport, communications, water and sewerage services.

PUBLIC USES. Public parks, schools, administrative and cultural buildings and structures, not including public land or buildings devoted solely to the storage and maintenance of equipment and materials and public service facilities.

PUBLIC UTILITY. Any person, firm or corporation duly authorized to furnish electricity, gas, steam, telephone, telegraph, water or sewerage systems to the public under public regulation.

QUASI-PUBLIC USE. Churches, Sunday schools, parochial schools, colleges, public parks, public libraries, playgrounds, licensed day care centers, hospitals and other facilities of an educational, religious, charitable, philanthropic or non-profit nature, or any other place(s) of business where the majority of its business consists of minors of school age or where the principal business transacted consists of the selling of schoolbooks, or school supplies.

RECREATION CAMPGROUND. An area of land on which two or more recreational vehicles, including campers, tents or other similar temporary recreational structures are regularly accommodated with or without charge, including any building, structure or fixture of equipment that is used or intended to be used in connection with providing the accommodations.

RECREATIONAL EQUIPMENT, MAJOR. Equipment which must be hauled on a trailer with two or more wheels or which has two or more wheels attached, or which is self-propelled with wheels; including boats, trailers and recreational vehicles.

RECREATIONAL FACILITIES. Public or private facilities that may be classified as either extensive or intensive depending upon the scope of services offered and the extent of use.

(1) Extensive facilities generally require and utilize considerable areas of land, and include, but need not be limited to, hunting, fishing and riding clubs and parks.

(2) Intensive facilities generally require less land (used more intensively), and include, but need not be limited to, miniature golf courses, amusement parks, stadiums and bowling alleys.

RECREATIONAL VEHICLE. A vehicle primarily designed as temporary living quarters for recreation, camping or travel, either with its own motor power, or mounted on or towed by another powered vehicle.

RECYCLING COLLECTION CENTER. A facility for the drop-off and temporary holding of materials such as paper, cardboard, glass, metal, plastic, batteries and motor oil. Processing of materials is limited to glass breaking and separation. Recycling materials are not sold to a recycling drop-off center. A recycling drop-off center is intended for household or consumer use. Use by commercial or industrial establishments is not included. Unattended drop-off stations for single materials, such as newsprint, are also not included.

RECYCLING PLANT. A facility that is not a salvage yard and in which recoverable resources, such as newspapers, magazines, books and other paper products, glass, metal cans and other products are recycled, reprocessed and treated to return such products to a condition in which they may again be used for production.

REHABILITATION. The upgrading of a building previously in a dilapidated or substandard condition, for human habitation or use.

RELIGIOUS USE. A structure or place in which worship, ceremonies, rituals and education pertaining to a particular system of beliefs are held.

RELOCATE. To move an individual, household, use or building from its original place to another location.

REPLACEMENT COST. The sum of money which would be required to re-erect a structure identical to the one in question.

RESEARCH ACTIVITIES. Research, development and testing related to such fields as chemical, pharmaceutical, medical, electrical, transportation and engineering. All research, testing and development shall be carried on within entirely enclosed buildings, and no noise, smoke, glare, vibration or odor shall be detected outside of the buildings.

RESIDENCE. A home, abode or place where an individual is actually living at a specific point in time.

RESIDENTIAL DENSITY. The number of dwelling units per acre of residential land.

RESTORATION. The relocation or reconstruction of a building's original architectural features.

RESTRICTION. A limitation on property which may be created in a property deed, lease, mortgage, through certain zoning or subdivision regulations or as a condition of approval of an application for development.

RESTRICTIVE COVENANT. A restriction on the use of land usually set forth in the deed.

RETAIL SERVICES. Establishments providing services or entertainment, as opposed to products, to the general public; including eating and drinking places, hotels and motels, finance, real estate and insurance, personal services, motion pictures, amusement and recreation services, health, educational and social services, museums and galleries.

RETAIL TRADE. Establishments engaged in selling goods or merchandise to the general public for personal or household consumption, and rendering services incidental to the sale of the goods.

RETAINING WALL. A structure constructed to hold back or support an earthen bank.

RETENTION BASIN. A pond, pool or basin used for the permanent storage of water runoff.

REZONE. To change the zoning classification of particular lots or parcels of land.

RIGHT OF ACCESS. The legal authority to enter or leave a property.

RIGHT-OF-WAY.

(1) A strip of land acquired by reservation, dedication, forced dedication, prescription or condemnation, and intended to be occupied, or occupied, by a road, crosswalk, railroad, electric transmission lines, oil or gas pipeline, water line, sanitary storm sewer and other similar uses.

(2) Generally, the right of one to pass over the property of another.

ROADSIDE STAND. A temporary structure designed or used for the display or sale of agricultural and related products, or novelties and other items of interest, to the motoring public.

ROOMING HOUSE (BOARDING HOUSE, DORMITORY, LODGING HOUSE). A dwelling or part thereof, other than a hotel, motel or restaurant, where meals and/or lodging are provided for compensation for three or more unrelated persons, where no cooking or dining facilities are provided in the individual rooms.

SANITARY SEWAGE. Any liquid waste containing animal or vegetable matter in suspension or solution, or the water-carried waste resulting from the discharge of water closets, laundry tubs, washing machines, sinks, dishwashers or any other source of water-carried waste of human origin or containing putrescible material.

SANITARY SEWERS. Pipes that carry only domestic or commercial sewage and into which storm surface and ground waters are not intentionally admitted.

SCREENING. A structure erected or vegetation planted for concealing an area from view.

SEAT. For purposes of determining the number of off-street parking spaces for certain uses, the number of seats is the number of seating units installed or indicated, or each 24 lineal inches of benches, pews or space for loose chairs.

SEPTIC SYSTEM. An underground system with a septic tank used for the decomposition of domestic wastes.

SERVICE STATION, AUTOMOBILE. Any land, building, structure or premises used for the sale at retail of motor vehicle fuels, oils or accessories, or for servicing or lubricating motor vehicles, or for installing or repairing parts and accessories; but not including, the repairing or replacing of motors, bodies or fenders of motor vehicles or painting motor vehicles, public garages and the open storage of rental vehicles or trailers.

SES FOOTPRINT. An area calculated by drawing a perimeter around the outermost SES panels and any equipment necessary for the equipment to function, such as transformers and inverters. The footprint does not include perimeter fencing or visual buffers, nor transmission lines or portions thereof that are required to connect the SES to a utility or customer outside the SES perimeter.

SETBACK LINE. A line established by this chapter, generally parallel with and measured from the lot line (property line), defining the limits of a yard in which no building, other than accessory building, or structure may be located aboveground, except as may be provided in this chapter.

SEWERS, CENTRAL OR GROUP. An approved sewage disposal system which provides a collection network and disposal system and central sewage treatment facility for a single development, community or region.

SEWERS, ON-SITE. A septic tank or similar installation on an individual lot which utilizes an aerobic bacteriological process or equally satisfactory process for the elimination of sewage and provides for the proper and safe disposal of the effluent, subject to the approval of health and sanitation officials having jurisdiction.

SIDEWALK. The portion of the road right-of-way outside the roadway, which is improved for the use of pedestrian traffic.

SIGN. An identification, description, illustration or device which is affixed to or represented directly or indirectly upon a building, structure or land, and which directs attention to a product, place, activity, service, person, institution or business.

SIGN, ILLUMINATED. Any sign illuminated by electricity, gas or other artificial light, including reflecting or phosphorescent light.

SIGN LIGHTING DEVICE. Any light or group of lights located or arranged so as to cast illumination on a sign.

SIGN, OFF-PREMISES. Any sign unrelated to a business or profession conducted, or to a commodity or service sold or offered upon, the premises where the sign is located.

SIGN, ON-PREMISES. Any sign related to a business or profession conducted, or a commodity or service sold or offered upon, the premises where the sign is located.

SIGN, PROJECTING. Any sign which projects from the exterior of a building.

SITE PLAN. The development plan for one or more lots on which is shown the existing and proposed conditions of the lot, including topography, vegetation, drainage, floodplains, marshes and waterways; open spaces, walkways, means of ingress and egress, utility services, landscaping, structures and signs, lighting and screening

devices, and any other information that reasonably may be required in order that an informed decision can be made by the approving authority.

SITING BOARD REGULATED SES. An SES that constitutes a “merchant electric generating facility” under KRS 278.700(2), the construction and siting of which is subject to review and approval of the Kentucky State Board on Electric Generation and Transmission Siting. A merchant electric siting facility is an electricity generating facility or facilities that, together with all associated structures and facilities are capable of operating at an aggregate capacity of ten megawatts (10 MW) or more and sell the electricity produced in the wholesale market, at rates and charges not regulated by the Kentucky Public Service Commission.

SKATE PARKS. A public facility that is designed for use by persons riding skateboards, in-line skates or roller skates.

SOLAR ENERGY SYSTEM (SES). A device, including its components and subsystems, that collects solar energy for electricity generation, consumption, or transmission, or for thermal applications. SESs are in turn divided into three types depending on how the system is incorporated into the existing land use:

- (1) **INTEGRATED SOLAR ENERGY SYSTEM (INTEGRATED SES).** An SES where the solar materials are incorporated into the building materials, such that the building and solar system are reasonably indistinguishable, or where the solar materials are used in place of traditional building components, such that the SES is structurally an integral part of the house, building, or other structure. An Integrated SES may be incorporated into, among other things, a building façade, skylight, shingles, canopy, light, or parking meter.
- (2) **ROOFTOP SOLAR ENERGY SYSTEM (ROOFTOP SES).** An SES that is structurally mounted to the roof of a house, building, or other structure and does not qualify as an Integrated SES.
- (3) **GROUND MOUNTED SOLAR ENERGY SYSTEM. (GROUND MOUNTED SES).** An SES that is structurally mounted to the ground and does not qualify as an Integrated SES. Ground Mounted SESs are subcategorized as follows:
 - (a) **Small Scale Ground Mounted Energy System (Small Scale SES)** which is a Ground Mounted SES with a footprint of less than 2,500 square feet.
 - (b) **Intermediate Scale Ground Mounted Energy System (Intermediate Scale SES)** which is a Ground Mounted SES with a footprint of between 2,501 square feet and ten (10) acres.
 - (c) **Large Scale Ground Mounted Solar Energy System (Large Scale SES)** means a Ground Mounted SES with a footprint of more than ten (10) acres.

SPOUSE ABUSE CENTER. An organization operated by trained professional counselors for the purpose of providing temporary assistance to those family members who have been physically or emotionally harmed or threatened with physical harm.

STORY. The part of a building between the surface of a floor and the ceiling immediately above; or, if there is a floor above, the portion of a building between the surface of any floor and the surface of the floor next above. The basement shall be counted as a **STORY**. A cellar shall not be counted as a **STORY**.

STREET. A general term denoting a public way for purposes of vehicular travel, including the entire area within the right-of-way. The term **STREET** also includes the terms “highway”, “parkway”, “road”, “thoroughfare”, “avenue”, “boulevard”, “land”, “court”, “place” and other such terms. The recommended usage is: “highway” or “street” in urban areas; “highway” or “road” in rural areas.

(1) **ALLEY.** A street intended to provide access to the rear or side of lots or to buildings in urban areas and not intended for the purpose of through vehicular traffic.

(2) **ARTERIAL.** A system of streets and roads which form an integrated network of continuous routes primarily for through traffic. The arterial system is stratified into major and minor categories.

(a) **MAJOR.** A street intended to collect and distribute traffic from service areas such as community-commercial areas, primary and secondary educational plants, hospitals, major recreational areas, churches and offices.

(b) **MINOR.** A street intended to move traffic from local roads to major arterials.

(3) **CUL-DE-SAC.** A local street open at one end only and with a special provision for vehicles turning around.

(4) **DEAD-END.** A local street open at one end only and without a special provision for vehicles turning around.

(5) **FRONTAGE.** A local street or road auxiliary to and located on the side of an arterial for service to abutting property and adjacent areas and for control of access.

(6) **HIGHWAY.** A term applied to streets and roads that are under the jurisdiction of the state’s Department of Transportation.

(7) **LOCAL.** A system of streets and roads which primarily provides land access service and access to higher order systems.

(8) **LOOP.** A local street with both terminal points on the same street of origin.

(9) **PARTIAL.** A dedicated right-of-way providing only a portion of the required street width, usually along the edge of a subdivision or tract of land.

(10) **PERIMETER.** Any existing street to which the parcel of land to be subdivided abuts on only one side.

(11) **PRIVATE.** A local street that is not accepted for public use or maintenance, which provides vehicular and pedestrian access.

(12) **PUBLIC.** A street under the control of and kept by the public, established by regular governmental proceedings for the purpose, or dedicated by the owner of the land and accepted by the proper authorities, and for the maintenance of which they are responsible.

STREET VENDING AND CARTING. A portable stand and any related accessory appurtenance such as an awning, canopy or seating, used for the retail sales of goods, including, but not limited to, beverages, food and flowers.

STRUCTURE. Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Includes, but is not limited to, buildings, walls, fences, signs, radio towers, TV antennas and satellite TV disks.

SUPPLY YARD. A commercial establishment storing and offering for sale building supplies, steel, coal, heavy equipment, feed and grain and similar goods.

SWIMMING POOL. A pool, pond, lake or open tank containing at least 18 inches of water at any point and maintained by the owner or manager.

SWIMMING POOL, COMMUNITY. A swimming pool for the benefit of the general public, operated with a charge for admission; a principal use.

SWIMMING POOL, PRIVATE. A swimming pool used exclusively without paying an additional charge for admission, by the residents and guests of a single household, a multi-family development, a community, the members and guests of a club, or the patrons of a motel or hotel; an accessory use.

TATTOO AND BODY PIERCING, TATTOO PARLOR/BODY-PIERCING STUDIO. An establishment whose principal business activity, either in terms of operation or as held out to the public, is the practice of one or more of the following:

(1) The act of producing scars on a human being or the act of inserting pigment under the surface of the skin of a human being, by pricking with a needle or otherwise, to produce indelible marks or figures visible through the skin, including the application of permanent makeup; and/or

(2) The act of penetrating the skin or body part of a human being to make a hole, mark or scar.

TEMPORARY CONSTRUCTION WORKER HOUSING. Housing, generally provided in portable or mobile units, for workers engaged in the construction of permitted onsite building(s) and/or other improvement(s). **TEMPORARY CONSTRUCTION WORKER HOUSING** is limited to no more than 365 days and must be discontinued upon completion of the onsite building(s) and/or improvement(s).

TEMPORARY USE. A use established for a fixed period of time, with the intent to discontinue the use upon the expiration of the time period.

TRANSITION ZONE. A zoning district permitting transitional uses.

TRANSITIONAL AREA.

(1) An area in the process of changing from one use to another or changing from one racial or ethnic occupancy to another.

(2) An area which acts as a buffer between two land uses of different intensity.

TRANSPORTATION PLAN. The portion of the comprehensive plan adopted by the city's Planning Commission indicating the general location recommended for arterial, collector and local streets and roads within the appropriate jurisdiction.

UPZONE. To reduce the intensity of use by decreasing density or lowering the floor area ratio or otherwise increasing bulk requirements.

USE. The specific purposes for which land or a building is designated arranged, intended, or for which it is or may be occupied or maintained.

USED or OCCUPIED. Includes the words "intended, arranged or designed to be used or occupied".

VACANCY. Any unoccupied land, structure or part thereof which is available and suitable for occupancy.

VARIANCE. A modification of the strict terms of the relevant regulations of this chapter where the modification will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of this chapter would result in unnecessary and undue hardship.

VETERINARY ANIMAL HOSPITAL OR CLINIC. A place used for the care, diagnosis and treatment of sick, ailing, infirm or injured animals, and those who are in need of medical or surgical attention, and may include overnight accommodations on the premises for treatment, observation and/or recuperation. It may also include boarding that is incidental to the principal activity or use.

VICINITY MAP. A drawing located on the plat which sets forth, by dimensions or other means, the relationship of the proposed subdivision or use to other nearby developments or landmarks and community facilities and services within the general area, in order to better locate and orient the area in question.

WALKWAY. A public way, four feet or more in width, for pedestrian use only whether along the side of a street or not.

YARD. An open space, other than a court, on a lot, unoccupied and unobstructed from the ground upward, except as otherwise provided in this chapter.

YARD, FRONT. A yard across the full width of the lot extending from the front lot line of the principal building to the front of the lot. On corner lots, the **FRONT YARD** shall face the shortest street dimension of the lot, except that if the lot is square or almost square, then the front yard may face either street.

YARD, REAR. A yard extending the full width of the lot between a principal building and the rear lot line or lines.

YARD, SIDE. A yard between the principal building and side lot line and extending from the front yard line to the rear yard line.

YARD SALE. The occasional sale of over five items of personal property at a residence conducted by one or more families in a neighborhood. **YARD SALES** do not exceed four consecutive days in length and are not conducted more often than three times per year. **YARD SALES** include any sale entitled garage sale, lawn sale, attic sale, rummage sale or any other similar casual sale of personal property. Sales exceeding four consecutive days in length and/or occurring more often than three times per year are classified as perpetual yard sales and are prohibited on residentially used or zoned property.

ZERO LOT LINE. The location of a building on a lot in such a manner that one or more of the building's sides rest directly on a lot line.

ZONING. The division of an area into districts, and the public regulation of the character and intensity of the use of the land and of the buildings and structures which may be located thereon, in accordance with a comprehensive plan.

ZONING ORDINANCE. A legal tool for accomplishing the objectives of a land use plan. It is an effective regulatory measure designed to encourage high standards of development and to foster the cost efficient use of land.

ZONING PERMIT. A document issued by the Zoning Inspector, authorizing the use of lots, structures, land and buildings, and the characteristics of the use.

SECTION TWO

A new section, entitled "Requirements for Solar Energy Systems (SES)" is hereby added to Chapter 158 to read as follows:

§158.045 REQUIREMENTS FOR SOLAR ENERGY SYSTEMS (SES)

(A) **PURPOSE.** The purpose of this section is to facilitate the siting, development, construction, installation, and decommissioning of solar energy systems (SESs) in the City of Hopkinsville in a predictable manner that promotes and protects the safety, health, and welfare of the community. This section encourages the appropriate siting of SESs to bolster local economic development and job creation, diversify the state's energy portfolio, strengthen energy and grid security, and reduce other environmental impacts. This section also establishes standards and requirements to assure that the use and enjoyment of lands located adjacent to and in the proximity of SESs are fully protected.

The requirements of this section are intended to be supplemental to any safety, health, or environmental requirements of federal, state, or local laws and regulations.

(B) **APPLICABILITY.** This section applies to the siting, construction, installation, and decommissioning of any new SESs within the City of Hopkinsville on or after the effective date of these provisions. An SES in operation, or which has begun physical construction prior to this section's effective date, shall be considered to have legal

nonconforming status in accordance with KRS 100.253 and §158.090 of this chapter.

The following are not subject to this section:

- (1) Modification to an existing SES that alone or in combination increases the total SES Footprint by no more than 5% of the original Footprint;
- (2) Routine maintenance and repair, including replacement of solar panels, not increasing the SES Footprint;
- (3) Any SES exempted by the provisions of KRS 100.324. Any Exempt SES shall provide the Planning Commission information concerning service facilities which have been located on and relocated on private property in accordance with KRS 100.324(3).

Notwithstanding the exemptions provided by this subsection, an SES shall comply with all applicable federal, state, and local laws, regulations, and permitting and other requirements, and applicable building, fire, electrical, and plumbing codes.

(C) **PERMIT REQUIRED.** A zoning/building permit is required prior to the physical construction of a Solar Energy System in the City of Hopkinsville. Prior to the issuance of a zoning/permit, Ground Mounted SESs are subject to the site plan review requirements of §§158.255 through 158.261 and, where applicable, the conditional use permit requirements of §§158.110 through 158.118 of this chapter.

(D) **GENERAL REQUIREMENTS APPLICABLE TO INTEGRATED AND ROOFTOP SOLAR ENERGY SYSTEMS.** Integrated SESs and Rooftop SESs are permitted in all districts and on all lands within the City of Hopkinsville subject to the following requirements:

- (1) **SOLAR ACCESS.** Consistent with KRS 381.200(2), a property owner may obtain a solar easement from another property owner for the purpose of ensuring adequate exposure to sunlight for an Integrated or Rooftop SES. Where obtained, such easements shall be platted and recorded.
- (2) **TREE REMOVAL.** The removal of trees or natural vegetation for an Integrated or Rooftop SES and solar easements shall not conflict with the provisions of §§158.210 through 158.228 of this chapter.
- (3) **HEIGHT RESTRICTIONS.** A rooftop SES shall conform to the height restrictions of the applicable zoning district. A rooftop SES shall be positioned on the roof so as not to extend above or beyond the edge of any ridge, hip, valley, or eave, provided that where it is mounted on a sloped roof, the SES shall not vertically exceed the highest point of the roof to which it is attached by more than five (5) feet.

- (4) **LIGHTING.** Integrated and Rooftop SESs shall not be illuminated and shall be designed and installed to prevent off-site glare.
- (5) **HISTORIC PRESERVATION.** Where an integrated or rooftop SES is proposed to be installed on a property located within the Mount Pleasant Historic District, the South Virginia Street Alumni-Latham-Mooreland Historic District, or any historic district hereafter created by city council, the proposed installation shall be coordinated with any review required under the historic preservation guidelines applicable to such district.

(E) **GENERAL REQUIREMENTS APPLICABLE TO GROUND MOUNTED SES.**
Ground mounted SESs are permitted in accordance with the provisions of this subsection and the provisions of Appendix A of this chapter.

- (1) **SOLAR ACCESS.** Consistent with KRS 381.200(2), a property owner may obtain a solar easement from another property owner for the purpose of ensuring adequate exposure to sunlight for a Ground Mounted SES. Where obtained, such easement shall be platted and recorded.
- (2) **TREE REMOVAL.** The removal of trees or natural vegetation for a Ground Mounted SES and solar easements shall not conflict with the provisions of §§158.210 through 158.228 of this chapter nor the provisions of this subsection.
- (3) **LIGHTING.** Lighting of a Ground Mounted SES shall be limited to the minimum necessary for safe operation, and shall be directed downward, incorporate full cut-off features, and incorporate motion sensors where feasible. Lighting shall be designed to avoid light trespass. Nothing in this section is intended to preclude installation of lighting required by the Federal Aviation Administration.
- (4) **HEIGHT REQUIREMENTS FOR GROUND MOUNTED SES.** A Ground Mounted SES shall not exceed twenty (20) feet in height as measured from the highest natural grade below each solar panel. The height restriction excludes utility poles, storage batteries, substation structures, and antennas constructed for the project.
- (5) **SITING RESTRICTIONS FOR GROUND MOUNTED SES.**
 - (a) Small Scale Ground Mounted Energy Systems as measured from the outer edge of the nearest panel are not permitted in a required front yard and shall be setback a minimum of thirty (30) feet from any lot line.
 - (b) An Intermediate or Large Scale Ground Mounted SES, measured from the closer of the outer edge of the nearest panel or perimeter fencing, shall be located:

- 1) At least one-hundred (100) feet from the nearest lot line of any property zoned EST-1, R-1, R-2, R-3, R-4, R-5, B-1 or P-1;
 - 2) At least one-hundred (100) feet from the nearest lot line of any property containing a residential use (excluding residential uses located on the same lot as the SES);
 - 3) At least fifty (50) feet from the right-of-way boundary of any public road; and
 - 4) Where not addressed by parts 1), 2), and 3) above, at least thirty (30) feet from any lot line.
- (c) Setbacks are not required where the property line is shared by two (2) or more participating landowners.
- (d) Setback requirements may be expanded by the Board of Zoning Adjustment as a condition of approval of a conditional use permit, where deemed necessary to assure effective screening or separation between uses.
- (e) Notwithstanding the provisions of subsection (5)(b) above, the SES Footprint of a Large Scale Ground Mounted SES facility which constitutes a Siting Board Regulated SES as defined herein or any Large Scale SES having a Footprint occupying an aggregate of forty (40) or more contiguous acres shall be located:
- 1) At least one-thousand (1,000) feet from any lot line;
 - 2) At least two-thousand (2,000) feet from the nearest lot line of any property zoned EST-1, R-1, R-2, R-3, R-4, R-5, B-1 or P-1; and
 - 3) At least two-thousand (2,000) feet from the nearest lot line of any property containing a residential use or quasi-public use.
- (f) A variance from the setbacks required by parts (b) or (e) of this subsection may be granted by the Board of Zoning Adjustment pursuant to §158.307 or, in the case of zoning map amendment, by the Planning Commission pursuant to §158.243 of the City of Hopkinsville, Kentucky Code of Ordinances, as amended.
- (6) **SCREENING.** Excluding Small Scale Ground Mounted Energy Systems, perimeter screening shall be provided. Screening shall:
- (a) Consist of an eight (8) foot tall fence and a double row of staggered evergreen trees (minimum five (5) feet in height at planting and maturing to a minimum of fifteen (15) feet in height);

- (b) Evergreen trees shall be planted exterior to the fence and shall be setback no less than fifteen (15) feet from any property line;
- (c) Screening shall achieve an opacity of 90% to a height of no less than eight (8) feet within three (3) years of planting;
- (d) Screening shall be installed within one hundred eighty (180) days of the start of physical construction and shall be maintained until the decommissioning of the SES is completed; and
- (e) All unhealthy, dead, or noncompliant plantings shall be repaired or replaced within ninety (90) days of such occurrence.

Exception: Unless required as part of a conditional use permit, the planting provisions of this part do not apply along a property or SES footprint boundary in the following instances:

- (a) Existing tree lines or plantings are retained on the site which achieve the opacity and minimum planting height as specified above;
 - (b) The affected property boundary (excluding a right-of-way boundary) abuts property that is zoned I-2 (Heavy Industrial District) and the SES footprint is located not less than one-hundred (100) feet from the property line; or
 - (c) The SES development involves the use of berms or natural grade of a height comparable to vegetative screening and effectively obscures visibility from an adjoining property or public right-of-way.
- (7) **SIGNAGE.** A Ground Mounted SES may include such signage as is required by law to provide safety information, and other signage as may be allowed under this chapter.
- (8) **DECOMMISSIONING.** Other than as specifically approved by the Board of Zoning Adjustment, decommissioning shall begin no later than twelve (12) months after a Ground Mounted SES has ceased to generate electricity or thermal energy. All structures and facilities associated with the SES shall be removed within six (6) months of the beginning of decommissioning. All materials shall be recycled or otherwise reused to the extent reasonably practicable and the disturbed areas shall be reclaimed, revegetated, and restored.
- (9) **APPLICATION REQUIRED; Supplemental Information and Exhibits.** In addition to the application requirements of §158.110 et seq. (Conditional Use Permit), §158.255 et seq. (Plan Review), and §158.275 et seq. (Zoning/Building Permit), an application to establish or enlarge an Intermediate or Large Scale Ground Mounted SES shall include:

- (a) Documentation, such as a deed, lease, or other agreement with the landowner, demonstrating the applicant's right to use and control the property;
- (b) A description of the project, including the maximum number of modules, mounting type (fixed-tilt or tracking), system height, system capacity, total land area covered by the system, and information on all associated structures and facilities, and substations. The site plan shall also identify existing and proposed temporary or permanent roads, drives, and parking, fencing or other methods to ensure public safety, and a visual buffer plan demonstrating how proposed buffers will effectively screen the proposed SES from adjacent properties and public rights-of-way;
- (c) For projects with an SES Footprint located within five hundred (500) feet of an airport property or within an airport's approach zones or airport imaginary surfaces as defined by the United States Code of Federal Regulations or within one thousand (1,000) feet of a SUD41A zoning district, the applicant must complete and provide the results of a glare analysis through a qualitative analysis of potential impact, field test demonstration, or geometric analysis of ocular impact in consultation with the Federal Aviation Administration Office of Airports, the Kentucky Airport Zoning Commission, the Hopkinsville-Christian County Airport, and the United States Army, Fort Campbell Directorate of Public Works;
- (d) Proof of adequate casualty and liability insurance covering installation and operation of the SES. The owner or operator shall maintain a current general liability policy covering bodily injury and property damage and shall be required to name the City of Hopkinsville as an additional insured with a dollar amount limit not less than \$2,000,000 per occurrence, \$5,000,000 in the aggregate, and a deductible which is reasonably available and which is mutually suitable to the applicant or successor and the city;
- (e) In addition to the exhibits required by Chapter 56 (Erosion Prevention and Sediment Control) and Chapter 155 (Storm Water Management and Control), a description of the measure that will be taken to minimize erosion and sedimentation, and to promptly stabilize and revegetate disturbed areas with native vegetation; and
- (f) A decommissioning plan prepared by a registered professional engineer, and updated not less than once every five (5) years, containing the following:
 - 1) The anticipated life of the project and defined conditions upon which decommissioning will be initiated;

- 2) The estimated decommissioning costs, including removal of the SES and related foundations, pads, underground collector lines and roads, transmission lines, and the revegetation and restoration of the property, including soils, to its original condition and all calculations supporting the decommissioning estimate;
 - 3) The manner in which the project will be decommissioned, including provision and a timetable for the removal of all structures and foundations, and for the revegetation and restoration of the property to its original condition;
 - 4) The manner of SES component disposal including the estimated recycle value of components;
 - 5) The party responsible for decommissioning; and
 - 6) A copy of any lease containing specific agreements regarding decommissioning with the landowner.
- (g) A surety instrument in an amount and form acceptable to the Planning Commission sufficient to cover the costs of decommissioning the SES in accordance with the approved plan in the event the applicant defaults in its decommissioning obligations. The surety instrument shall be updated and revised in conjunction with a resubmitted decommissioning plan not less than once every five (5) years.

The posting of a surety instrument by an applicant does not alleviate the property owner, lessee, or any other responsible party from its obligations to decommission the SES in accordance with the approved plan, or otherwise transfer to the city, the Hopkinsville-Christian County Planning Commission, or its employees or agents any responsibility or claim against it under law. The posting of a surety instrument does not preclude or otherwise constrain the ability of the city or its authorized agents to pursue enforcement action as is authorized by the City of Hopkinsville, Kentucky Code of Ordinances, as amended, or seek other remedies to ensure compliance or abate any violations as is authorized by law.

SECTION THREE

Appendix A to Chapter 158 of the Hopkinsville Code of Ordinances is amended as set forth on Exhibit A, attached hereto and incorporated herein by reference.

SECTION FOUR

If any section, subsection, sentence clause or phrase of this ordinance is held unconstitutional or otherwise invalid, such infirmity shall not affect the validity of the remaining portions of this ordinance.

SECTION FIVE

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

SECTION SIX

This ordinance shall take effect upon passage and publication according to law.

ORDINANCE 23-2022

AMEND CHAPTER 158, ZONING CODE (SOLAR ENERGY SYSTEMS)

PUBLICLY READ AND PASSED FIRST TIME: _____

PUBLICLY READ AND PASSED SECOND TIME: _____

APPROVED: _____

**Wendell A. Lynch
Mayor**

ATTEST: _____

**Christine M. Fletcher, MMC
City Clerk**