

AN ORDINANCE OF THE CITY OF VILLA HILLS IN KENTON COUNTY, KENTUCKY AMENDING SECTIONS 2.07, 4.05, 5.08, 7.04, 7.06, 11.09, and 14.02 OF THE VILLA HILLS ZONING CODE.

WHEREAS, Kentucky Revised Statutes (KRS) 100.203 authorizes legislative bodies to provide text for zoning; and

WHEREAS, The City of Villa Hills desires to update various sections of the zoning code for clarity and to correct typos; and

WHEREAS, The City desires to amend its regulations regarding solar panels and fencing; and

WHEREAS, the Kenton County Planning Commission, after holding a public hearing on the application (PC2301-0002) on March 2, 2023 at 6:15 P.M. pursuant to the requirements of KRS 100.211, voted to recommend approval of the proposed text amendment updating sections 2.07, 4.05, 5.08, 7.04, 7.06, 11.09, and 14.02; now therefore

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VILLA HILLS, KENTON COUNTY, KENTUCKY.

Section I Amendment

That sections 2.07, 4.05, 5.08, 7.04, 7.06, 11.09, and 14.02 of the City of Villa Hills, Kentucky Official Zoning Code, as adopted by Ordinance 2021-2 and amended, are hereby amended as found in exhibit A attached hereto and incorporated by reference and are adopted consistent with the findings and recommendations, and additional information, of the Kenton County Planning Commission, Number PC2301-0002, which are attached hereto and incorporated by reference as exhibit B.

Section II – Provisions Severable

The provisions of this ordinance are severable; and the invalidity of any provision of this ordinance shall not affect the validity of any other provision thereof; and such other provisions shall remain in full force and effect as long as they remain valid in the absence of those provisions determined to be invalid.

Section III – Conflicting Ordinances Repealed

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

Section IV – Effective Date

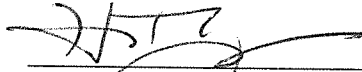
This ordinance shall be effective as soon as possible according to law.

Section V – Publication

This ordinance shall be published in summary pursuant to KRS 83A.060 (9).

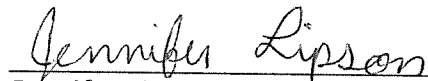
Passed by the City Council this 15th day of March, 2023.

City of Villa Hills, Kentucky
A Municipal Corporation of the Home Rule Class



Heather H. Jansen, Mayor

ATTEST:



Jennifer Lipson, City Clerk

Sponsor: Stover

First Reading: March 8, 2023

Second Reading: March 15, 2023

Ayes: Stover, Thompson, Cahill, Walsh, Ringo

Nays: 0

Abstentions: 0

Absent: Wadsworth

Published: _____

EXHIBIT A to ORDINANCE 2023-2 (draft ORDINANCE 2023-B)

AMENDMENT #1

ARTICLE 2 APPLICABILITY & CONFORMITY

2.07 Nonconformities

A. Generally

1. Any parcel of land, use, easement, structure, sign or feature lawfully existing on the date of any text change in this Ordinance, or on the date of a zoning map amendment initiated by a public body that does not conform to the requirements of the district in which it is located may be continued and maintained in accordance with the provisions of this article and other applicable provisions of this Ordinance. Nonconformities may continue as prescribed, but the provisions of this article are designed to curtail substantial investment in nonconformities and to bring about their eventual conformity or elimination.
2. When there is a timeframe associated required for the reestablishment, repair, or restoration of a nonconformity, the timeframe begins when notice is given by the Zoning Administrator.

AMENDMENT #2

ARTICLE 4 USE REGULATIONS

4.05 Use-Specific Standards

J. Accessory Use Structures

2. Accessory Dwellings

- a. See Section 7.04, Character Standards for additional standards.
- b. Accessory dwellings are included in the cumulative floor area limitations established in Subsection 3 below.
- c. Where permitted, only one accessory dwelling unit may be established per single-family or two-family lot.
- d. Where permitted, accessory dwelling units may only be established on lots with a size equal to or greater than [5] 10,000 square feet.
- e. Accessory dwelling units are exempt from the lot area per unit and maximum density standards of Section 3.04, Zoning District.
- f. Accessory dwelling units may be attached to or detached from the primary dwelling unit by zone or by table.
- g. For attached accessory dwelling units:

1. Only one entrance is permitted on the front of the primary dwelling unit. An additional entrance is permitted on the side or rear of the primary structure.
 2. The accessory dwelling unit shall conform to the setbacks required for primary structures.
- h. Setbacks for detached accessory dwelling units shall conform to setbacks for other accessory structures.
- i. ~~[The maximum size of an accessory dwelling unit is 75 percent of the living area of the primary dwelling unit or 1200 square feet, whichever is less.]~~
The cumulative floor area of an accessory dwelling shall not exceed 650 square feet or 20 percent of the rear yard, whichever is less.
- j. The accessory dwelling unit shall not exceed the height of the primary structure.
- k. The property owner shall occupy either the primary dwelling unit or the accessory dwelling unit.
- l. Where short term rentals are permitted, accessory dwelling units may be used as short-term rentals subject to the provisions of Section 4.05, F., 2., Short Term Rentals.

3. Accessory Structures ~~[Except]~~ Including Accessory Dwellings

- a. Accessory structures in all districts:
1. Cumulative floor area as used in this section includes all accessory buildings and accessory dwellings.
 2. No accessory structure shall be in any front yard or side yard.
 3. See Article 7 for additional standards for garages and carports.
- b. Accessory structures in the Residential Rural Estate, Agriculture, and Conservation districts:
1. Shall meet **the required side yard setback, and shall have a minimum 20 foot rear yard setback** ~~[all setback requirements]~~. See Section 5.08 for exceptions for small buildings.
 2. The cumulative floor area of all accessory buildings located in the rear yard shall not exceed 20 percent of the rear yard area.
 3. The cumulative floor area of all accessory buildings located in the side yard (where permitted) shall not exceed 20 percent of the side yard area.
- c. Accessory buildings in the Residential Conventional Subdivision, Residential Compact Subdivision, Residential Large Lot Subdivision:
1. Shall meet **the required side yard setback, and shall have a minimum 20 foot rear yard setback** ~~[all setback requirements]~~. See Section 5.08 for exceptions for small buildings.
 2. The cumulative floor area of all accessory buildings located in the rear yard shall not exceed 650 square feet or 20 percent of the rear yard, whichever is less.

3. The cumulative floor area of all accessory buildings located in the side yard (where permitted) shall not exceed 650 square feet or 20 percent of the side yard, whichever is less.
 4. In all cases, the cumulative floor area of all accessory buildings shall not exceed the floor area of the primary structure.
- d. Accessory buildings in the Residential Multi-Family and non-residential districts (excluding the Agriculture and Conservation districts):
1. Shall meet all setback requirements.
 2. In the Residential Multi-Family, Mixed-use, and all commercial districts, accessory structures shall use exterior materials and forms similar to the primary structure(s).
 3. In all employment districts, accessory structures shall be compatible with the surrounding non-residential area.

10. Solar Panels

a. Solar Panel General Regulations

1. Solar Energy Systems shall be permitted in all the zones in the City. Small solar panels not connected to the electrical system of the structure on the property or to the electrical grid in any way, such as solar security lighting or decorative yard lights and where the solar panel area measures less than two square feet, are exempt from these regulations. All solar panel regulations shall apply to any solar system that is connected to the electrical system of a structure or to the electrical grid in any way.
2. The installation of any solar energy system will require a zoning, building, and electrical permit, **and a report from a structural engineer indicating the roof can support the solar panel system. The electrical disconnect must be easily visible on the outside of the house.** A site plan shall be included with any application.
3. The primary purpose of the solar energy system will be to provide power for the principal use of the property whereon the system is located and shall not be for the generation of power for commercial purposes for resale, other than as permitted by net metering laws. In addition, the following conditions and standards apply:
 - a. Installation of solar energy system shall comply with the currently adopted sections of NFPA 70, article 690 and applicable sections of the National Electric Code adopted by the Commonwealth of Kentucky.
 - b. Solar panels and equipment shall not be installed on or structurally supported by any structures that is not regulated by the Kentucky Residential Code or Kentucky Building Code such as small accessory/storage structures, play houses etc.
 - c. Any electric/utility lines connecting solar energy equipment to the primary use structure that would be strung between the

structure and separately located solar equipment, including storage batteries, or would otherwise run along the ground shall be buried.

- d. If solar storage batteries are included as part of the solar collector system, they must be placed in a secure container or enclosure meeting the requirements of the Kentucky State Building Code when in use.
- e. All solar panels shall be equipped with a non-reflective finish/coating.
- f. Any approval of a solar energy system does not create any actual or inferred solar energy system easement against adjacent property and/or structures. The owner and/or property owner of a solar energy system shall not infer or claim any rights to protective writs to any caused shadows or operating ineffectiveness against future development adjacent to or higher than the property location of the solar energy system.
- g. **A final building and electrical inspection must be completed before the system is put into service.**
- h. **If any of the solar panels are added, removed and/or replaced for any reason, a reinspection is required.**

b. **Roof Mounted Systems**

- 1. ~~{Solar energy equipment shall be located on a rear or side-facing roof [as] seen from the fronting street. Under no circumstances shall solar equipment be mounted on [the front face of a] any roof visible unless that system utilizes stealth technology such as solar shingles.}~~ **Solar panels must be continuous in area.**
- 2. The height of r[R]oof mounted solar energy equipment shall not extend ~~[higher than]~~ **above** the ridge level of a roof on a structure with a gable, hip or gambrel roof. In no event shall the placement of the solar panels result in the total height, including the building and panels, exceeding what is permitted in the zoning district.
- 3. Solar Equipment shall be located no less than 3-feet from ~~[the]~~ **all edges and or ridges** of the roof. In no instance shall any part of the system extend ~~[beyond]~~ to be within three feet of any ~~[the]~~ **edge or ridge** of the roof.
- 4. Any capping ~~[or]~~, framing **and solar panels** shall be ~~[compatible with the color of the roof or structure]~~ **the same basic color as the roof. For example: most solar panels are black; therefore, the shingles should also be black.**

5. All exterior electrical and/or plumbing lines must be painted in a color scheme that matches as closely as reasonably possible the color of the structure and/or the materials adjacent to the lines. Electrical and/or plumbing lines can only be painted when the applicable codes would allow such items to be painted. All labels and certifications shall not be painted.
6. **Solar panels must remain well maintained. Decommissioning of the collectors is required once they cease to function or if they are abandoned. Solar panels not in service for a period of 180 days shall be removed and the property on which they are located must be restored to its original condition within 60 days.**

c. **Ground Mounted Systems**

1. Ground-mounted solar equipment, arrays, and systems are permitted uses within any zoning district on parcels greater than or equal to three acres. Ground-mounted solar equipment, arrays, and systems are only allowed as accessory uses to a permitted use on parcels less than three acres.
2. Solar Energy Equipment shall be located only in the rear portion of a property. For corner lots, Solar Equipment shall not be located closer to the side street right-of-way than the primary building line of the structure.
3. Ground mounted solar energy equipment shall meet the minimum setbacks for permitted uses within the zoning district on parcels greater than three (3) acres, and shall meet the minimum setbacks for accessory use structures on parcels less than three acres.
4. Such systems shall not exceed ten feet in height.
5. Systems shall be located and installed so that the sun glare is directed away from an adjoining property line or public right of way,
6. Solar energy equipment must be protected from unauthorized access or tampering by appropriate fencing and/or plantings. All Solar equipment shall be shielded from sight from any street, public way or neighboring parcel by a barrier of a height equal to the maximum height of fencing for the zoning district they are located. The buffers shall be constructed of fencing, hedges, bushes or combinations of these items.
7. There shall be no signs that are visible from any public road posted on a solar energy system or any associated building, except for the manufacturer's or installer's identification, appropriate warning signs, or owner identification. Solar energy systems shall not be used for displaying any advertising except for small and reasonable identification of the manufacturer or operator of the system. In no case shall any identification sign be visible from a property line. Warning signage required by the utility company, building, electric or fire codes shall be installed as regulated by such codes or utility company / regulations.

- d. **Additional Regulations for Residential Zones and ~~Residential~~ Residential Uses in Mixed Use Zones**
1. Solar equipment and systems are not permitted on the vertical sides of buildings, nor on fences or walls.
 2. When installed on a flat or shed roof, solar equipment shall be mounted flush with or within 12-inches of the plane of the roof.
 3. Ground-mounted solar energy systems shall not exceed one-third of the applicable rear yard.
- e. **Additional Regulations for Non-Residential Zones and Non-~~Residential~~ Residential Uses in Mixed Use Zones**
1. Roof Mounted Systems
 - a. If located on a flat roof, then adequate screening should be provided in order to not be visible from the public right-of-way, parking lots and adjacent property.
 2. Ground Mounted Systems
 - a. Solar energy equipment shall not block any required driveway, parking entrances or walkways.
 - b. Ground-mounted solar energy systems shall not exceed one-third of the applicable rear yard.

AMENDMENT #3

ARTICLE 5 DIMENSIONAL REQUIREMENTS

5.08 Permitted Encroachments

E. Other Permitted Setback Encroachments

1. Walls and perimeter fencing as regulated in Section 7.06, Fences and Walls.
2. Sidewalks, multi-use paths and other pedestrian amenities.
3. Driveways and other vehicular access points, which are addressed in Article 10, Parking & Loading Standards, **provided they are not closer than one foot to the property line to which they run approximately parallel.**
4. Landscaping as regulated by Section 7.07, Landscaping, Screening, and Buffers.
5. **Flag poles that don't exceed the max height of the zone, or 40 feet if the zone does not have a maximum height.**

AMENDMENT #4

ARTICLE 7 DEVELOPMENT STANDARDS

7.04 Character Standards

C. Character Standards—Services, Utilities, and Minor Accessory Uses

To subordinate the appearance of services, utilities, and minor accessory uses on individual sites and throughout the City's jurisdiction, the following standards shall apply.

3. All dumpster, trash and recycling receptacle storage areas shall be located in the side or rear yard. [~~Dumpsters~~] **Dumpsters** shall also be screened per Section 7.07, N.

7.06 Fences and Walls

A. General Regulations

The following standards shall apply to all fences and walls in all zoning districts unless otherwise noted.

1. Fences and walls shall be maintained in good order.
2. Fences shall not contain advertising, signs, logos or other lettering unless it complies with the sign regulations.
3. Where a fence or wall is used as part of required screening, all required vegetation shall be planted on the exterior side of the fence or wall (exterior to the lot). See Section 7.07, Landscaping, Screening, and Buffers.
4. **Fences are permitted to locate on the property line.** Any fence located within a required sight triangle shall not exceed three feet in height.
5. Fences and walls shall be constructed such that the "finished" part of the fence or wall is located to the exterior of the property.
6. Walls and fences used for landscaping or screening shall be constructed of masonry, stone, wood, vinyl or a material similar in composition and appearance as the principal building. Such walls and fences shall be opaque.
7. Nothing in this subsection shall preclude the installation of temporary fences around construction works, erected or maintained pursuant to the International Building Code or Soil Erosion and Sedimentation Control Act requirements.
8. Prohibited Fences
 - a. Fences or walls topped with or containing broken glass or similar material are prohibited.
 - b. Fences constructed of readily flammable material (traditional wood fences excluded) such as paper, cloth, or canvas are prohibited.
 - c. Fence material not listed in Table 7.2, Fence and Wall Types Described and Illustrated are not permitted unless approved by the Zoning Administrator as a like-material that meets or exceeds the intent of the fence standards.
9. Barbed wire and electric fencing are permitted only in the Agriculture district where it is accessory to a permitted agricultural use.

~~[10.] The construction of walls or fences is allowed on a property with no principal structure provided that a principal structure or principal use with the same ownership as the vacant property abuts the vacant property (without a street or alley separating). The fence constructed must meet all regulations of this section. Fence material must be consistent all the way around the property. Chain-link fences are prohibited on vacant properties in all Residential and Commercial Districts.~~

~~[11]~~10. In addition to a zoning permit, certain walls and fences may also require a building permit.

B. Materials and Design

5. Retaining Walls

- a. Walls greater than six feet in height must be terraced or offset **by a minimum distance equal to twice the height of the lower wall** to prevent sheer vertical walls.

7. Fences on Corner Lots and Double Frontage Lots

Corner lots and double frontage lots are restricted to the front yard fence regulations within ~~any~~ **the front yard area adjacent to a street upon which the front of the house faces**, with side yard fences permitted in all other yard areas]. Rear yard fences are ~~only~~ permitted within the rear yard areas, as defined within Article 14, for corner lots **and within the front yard area adjacent to the street upon which the front of the house does not face subject to the following conditions:**

- a. **The fence in the front yard not adjacent to the front of the house is limited to four feet in height.**
- b. **The fence shall only be placed in that area of the front yard that would be considered the rear yard if the property was not a corner or double frontage lot.**

AMENDMENT #5

ARTICLE 11 SIGNS

11.09 Signs Requiring a Permit Allowed Signs

A. Sign Requirements by District

~~[The following table contains relevant regulations by sign type for signs requiring a permit.]~~ **The following table contains relevant regulations for signs within each district. A sign permit is required, unless identified in Sections 11.06 and 11.07.**

AMENDMENT #6

ARTICLE 14 DEFINITIONS

14.02 Definitions

~~Agritourism – [The cultivation or raising of crops or livestock for the purpose of attracting visitors to the farm for educational or entertainment-based activities. These establishments can include a number of activities, including but not limited to include a corn maze, produce sales, and fruit picking.] (1)~~

“Agritourism” means the act of visiting: (a) A farm or ranch; or (b) Any agricultural, horticultural, or agribusiness operation; for the purpose of enjoyment, education, or active involvement in the activities of the farm, ranch, or operation;

~~Mobile Food Sales – [This industry comprises establishments primarily engaged in preparing and serving meals and snacks for immediate consumption from motorized vehicles or nonmotorized carts. The establishment is the central location from which the caterer route is serviced, not each vehicle or cart. Included in this industry are establishments primarily engaged in providing food services from vehicles, such as hot dog carts and ice cream trucks (NAICS 722330).] **A temporary establishment engaged in the retail sale of prepared food for consumption, on site or offsite, from a movable vehicle, portable structure, or pushcart.**~~